

Complaint to Richmond Council about decision to terminate early the lease of Pensford Field

16 October 2024

This complaint is being brought by the Trustees of the Pensford Field Environmental Trust ("PFET"). The background to this complaint can be found in the following documents:

1. [Richmond Council's Equality Impact and Needs Analysis \("EINA"\) dated 4 July 2024;](#)
2. [Letter from PFET to the Leader of the Council, Councillor Gareth Roberts, \("the Leader"\) dated 12 September 2024;](#)
3. [Letter from the Leader to PFET dated 23 September 2024;](#)
4. [Letter from PFET to the Leader dated 28 September 2024;](#)
5. [Transcript of Richmond Council meeting on 1 October 2024;](#)
6. [Summary of current usage of Pensford Field by schools, children's nurseries and Dose of Nature;](#)
7. [Summary of talks and events held at Pensford Field in 2024;](#)
8. [Notice of Termination dated 20 September 2024 requiring vacant possession on 29 September 2025.](#)
9. [Compact Statement Richmond upon Thames](#)
10. [Richmond Climate Emergency Strategy](#)

The substance of this complaint is that this decision to terminate the lease of Pensford Field three years early was made by the Council without access to the salient facts. It was made without prior consultation with PFET, local schools, children's nurseries and local residents. The local community has looked after the field for the past 32 years at no cost to the Council and has been praised by many council officials and external organisations for its activities. These include winning the London in Bloom award as the Best Small Conservation Site of 2024.

Pending the receipt of a response to the Freedom of Information ("FOI") request made in its letter dated 12 September, PFET has no understanding of the forum in which the decision was made and on what basis, other than as set out in the EINA. However, it was made from only one viewpoint which arose because of failing to consult.

The Leader, at the Council meeting on 1 October, accepted there had been no prior consultation with any stakeholders, including PFET, but said that there was a pressing need to ensure that mental health services in the Borough are maximised. Also, that there was a need to prevent a valued provision from leaving the Borough - PFET has not seen the evidence to support either of these statements – see below.

The Council is still not in possession of the salient facts and, given the decision was made back in July 2024, as evidenced by the EINA, but was not communicated to PFET until 5 September, there was sufficient time for the Council to establish the full facts before issuing the Notice of Termination on 20 September 2024. There is still time to consult prior to the termination of the notice period on 29 September 2025 and prior to award of a new lease to Dose of Nature.

Pending a response to the FOI request, the only Council document available to PFET about the decision is the EINA dated 4 July 2024. This makes several misleading statements that may or may not have been drawn from information provided by Dose of Nature ("DoN"). For example:

1. PFET has not at any time over the past 2 years "restricted" access of Dose of Nature to the field.
2. That Dose of Nature ("DoN") would provide a "better service to the community" and

“Its intent is to expand wider community use of the field beyond mental health work and to a far greater extent than the current provision.” These statements were not verified in any way by the Council and in total ignorance of all the activities currently run by PFET. There is absolutely no reference in the EINA to the conservation role of PFET and the role of the field as a Site of Importance to Nature Conservation. These are the primary requirements for the PFET Lease from the Council. At the meeting with Council officials on 5 September to advise PFET of the decision, the Council was not aware of the usage of the field by local schools and nurseries – see Document 6. The Council was also not aware of all the talks and events that are held in the field – see Document 7. Therefore, the statements in the EINA that the change in the leaseholder would result in wider community use were made without any reference points whatsoever.

This lack of relevant information has led the Council to make up on the hoof solutions to the issues raised by recent protesting voices, in order to stick to its decision. Now the new lease (which has yet to be written) is to include provisions to preserve the rights of schools, nurseries and local residents. The allocation of scarce resources is to be managed by the current dominant user, DoN. This user currently has access to the studio and field on three weekdays each week as shown in Document 6. It has consistently sought increased exclusive access to the field from PFET. No consideration has been given to the clear conflict of interest between the charitable objectives of DoN (focused on mental and human health) and the interests of other users, not forgetting the wildlife (both flora and fauna).

Provisions in the new lease we are assured are to be included to require DoN to maintain the natural environment, but no one has explained how the hundreds of hours currently spent by volunteers maintaining the field are to be resourced by a mental health charity with no proven capability in this sphere.

Putting provisions in a lease is now turning into a panacea for all the unfortunate consequences of the Council’s decision, with very little thought as to what this means in practice and whether the Council has the resources to ensure the obligations are honoured. Enforcement proceedings would take months if not years and those suffering prejudice (or dereliction in the case of the wildlife) would have no direct rights. The conservation value of the site with its bats, badgers, bees and other endangered species could be severely diminished in the meantime.

At a time when the World Wide Fund for Nature is reporting a 73% reduction in the wildlife populations in the last 50 years, it is staggering that this decision was made by the Council with no evident consideration of the impact on wildlife. Pensford Field is one of the few sites in Richmond currently managed with conservation at its core – the Leader was unable to name another equivalent site at the Council meeting on 1 October. The Council itself has declared a Climate Emergency and is preparing a new Climate Strategy. The environment is meant to be at the heart of local decision making. Where is the evidence of this? Conservation did not get a mention in the EINA.

The Council is obliged to comply with Section 123 of the Local Government Act 1972 and to demonstrate the consideration is the best that can reasonably be obtained. PFET has asked why the site has not been competitively tendered (as has been the Grimwood Road site) but has not received a reply. Such a tender should have stated what the Councils objectives for the site are and allowed all interested parties to bid. Then a ‘best consideration’ could have been objectively demonstrated. Further the Council is obliged by Section 123 to advertise the disposal of open land and consider any objections which may be made to them. This has not

been done as far as PFET is aware. However, this provision means the Council cannot make up its mind definitively before considering any objections. The statements made at the Council on 1 October demonstrated that the Council was not maintaining an “open mind” on the disposal.

The Council has established a Compact with the voluntary sector and is in breach of several principles contained within it, for example, ensuring that change is managed well and active partnership working and collaboration. It is astonishing how much money and time is spent by the Council on drafting policies and strategies that are then completely disregarded.

The Leader’s response at the Council meeting on 1 October referred to the number of people supported by Dose of Nature – three hundred adults and one hundred young people. Also, he said that there was a real risk of losing this valuable service provider. These “facts” are repeated in the EINA. Given that the Chief Executive of DoN and many of its volunteers live in Kew, was this put to any test or was it simply transcribed without any due diligence like the misleading statements referred to above? Does the Council know how many of the adults and young people treated by DoN are from the Borough of Richmond? If DoN’s operations moved, say to Osterley, was any evaluation of the effect on current and future clients?

The question many of our friends and supporters have posed is why the existing arrangements could not continue? DoN already have 60% of the premium time valued by other users (three weekdays a week). The Chief Executive of DoN has recently stated in an email to a former Chair of PFET that they expect to see only four extra people in Pensford Field a week after the change is made. Could this not have been accommodated within existing arrangements? PFET have frequently accepted additional bookings from DoN for training days, yoga sessions, parties etc. Why did the Council not approach PFET and look for other solutions? DoN has recently told PFET that they wish to build an office by the studio and construct at least one human shelter in the field itself but none of these plans are transparent nor have been shared with local stakeholders. The community deserves a proper explanation as to what is intended, both as regards development on the site and how some of the difficult issues raised above are to be managed sympathetically and effectively.

In conclusion, this decision should be reversed because:

- a proper consultation exercise was not conducted;
- the decision was based on misleading information with no verification of the facts;
- the Council is attempting to reverse engineer the adverse impacts of its decision in a sub-optimal manner through the new lease;
- conservation is meant to be at the heart of the Council’s decision-making but did not feature in any way whatsoever;
- the Council is in breach of the Local Government Act 1972 to obtain best consideration and has not to date advertised the disposal of open land in accordance with the Act;
- the Council was in breach of its own Compact with the voluntary sector;
- the Council has not been transparent about potential developments on the site, why the current arrangements could not continue and how the difficult issues raised in this complaint are to be managed effectively.

The Council has also failed to respond to the FOI request within 20 days and should respond forthwith.

In the light of the above, is the Leader of the Council (who on his own admission at the Council meeting of the 1 October is “not often wrong” but was prepared to admit to a mistake) prepared

to acknowledge that this the lack of consultation was such a serious omission that the Council needs to go back to basics and carry out a proper and meaningful consultation?

We will not accept a bland reiteration of the Council Leader's apology that the Council didn't consult with PFET before the decision was made. We expect a timely line by line reply to all the issues raised above and for it to be openly shared with all the stakeholders – the residents of the Borough and PFET on behalf of the wildlife. If this is not forthcoming, we will refer this matter to the Local Government and Social Care Ombudsman.