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Our Ref: RP/Legal
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FIRST CLASS POST
D Orr Esq
15 Tamar Avenue
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Dear Mr Orr

Killams and Mountfield Critiquing Panel October 2011

I write further to your recent communication with the Council in relation to the above event. As you will recall, some of your questions were dealt with as requests for information under the Freedom of Information legislation. I understand that you have also had separate communication with Councillor Edwards on some specific related matters. I would advise that this letter is intended as a comprehensive response to (a) the issues which you have raised with Councillor Edwards and also (b) the issues which were not directly addressed by the Council's FOI response (which you were advised would be dealt with by me separately). I hope this approach is satisfactory.

By way of a preamble, you may already be aware that the Killams and Mountfield Critiquing Panel (held in October 2011) formed part of a multi-stage consultation process arranged by the applicant, which also included two public exhibitions (held on 15 June 2010 and 15 July 2010), as well as meetings with ward councillors, residents associations and Council officers (March 2010) and with relevant campaign groups (April 2010).

The Consensus Statement of Community Involvement (July 2010 to March 2012) identifies the purpose of the Critiquing Panel as follows: *"In October 2011, Summerfield Developments invited a panel of planning officers, development designers and other property related specialists to participate in a workshop aimed at revising and honing the emerging design layout and the core principles that would guide and inform the elements which would add additional commercial, social and aesthetic value to the scheme".*

Officers from the Borough Council were formally invited to this event via an email sent by Consensus on 17 October 2011 – Matthew Bale responded on 20 October. In anticipation of your request for sight of this exchange of emails, I am pleased to enclose a copy with this letter – you will note that Mr Bale's response to Consensus states *"As likely development management case officer, I think that I should be present: however, I will have to caveat all of my involvement on the basis that I cannot prejudice my consideration of the planning application"*.

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Turning to your specific questions:

Did any Councillors attend the Panel in October 2011?

The Council has no record of any Borough Councillors attending the Killams and Mountfield Critiquing Panel. Matthew Bale, who was present, does not recall any Members being there, and the list of invited persons for this event as included in the Consensus Statement of Community Involvement does not include any Councillors.

Do Councillors have to obtain permission to attend events sponsored by a gaining developer? If so, please provide copies of any authorisations showing the name and role of the authorising person

As no Borough Councillors attended the Killams and Mountfield Critiquing Panel, there was no need for any formal authorisation/s of attendance to be issued in this instance.

However, under the Planning Committee Members' Code of Good Practice – which is considered in more detail below – Members may only attend such events (a) if an officer is present or (b) if the event has been organised by officers.

Are any attending Councillors at such events required to declare their attendance? If so, please disclose these declarations?

As no Borough Councillors attended the Panel, there was no need for any declarations of attendance to be provided in this instance.

In general terms, Members of the Planning Committee who attended such an event would ordinarily declare that they had done so in the relevant part of the Planning Committee meeting at which the relevant application was to be considered.

Are Councillors who sit on Planning Committees bound by additional rules regarding conflicts of interest?

Councillors who are Members of the Planning Committee are subject to the Member Code of Conduct, and – in the planning context - are also expected to comply with the Planning Committee Members' Code of Good Practice, which forms part of the Borough Council's Constitution.

The Code of Good Practice does not prevent or inhibit contact between Council representatives and applicants during the application process, stating *"Discussions between a potential applicant and a Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged"*.

Section 4 of the Members' Code of Good Practice is entitled "Contact with Applicants, Developers and Objectors", and provides that Members are only to attend a planning presentation if (a) an officer is present or (b) it has been organised by officers. The Code also reminds Members that the presentation is not part of the formal process of debate and determination of any subsequent application, that presentation is "a form of lobbying" and that Members should not express any strong view or state how they or other members might vote.

Lobbying itself is subject to Section 5 of the Code of Good Practice, which refers to *"the realisation that councillor engagement in pre application discussions on major development is necessary"* in order to enable Members to fulfil their roles as champions of their local communities.

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If any Councillors attended, did any of these also attend Planning Committee in April 2013 when permission for the revised Killams scheme was granted? If so, should those Members have been allowed to debate and vote?

As stated above, there is no record of any Borough Councillor attending the October 2011 Panel.

However, as the Planning Committee Members' Code of Good Practice makes clear, Members who attend meetings with developers and public presentations are not precluded from subsequent involvement in the decision making process.

Is the level of engagement by TDBC officers, and the TDBC officer time (involved in attendance at the October 2011 Panel) contributed free of charge, and is the same facility afforded to all developers in Taunton?

The Council made no charge for officers' attendance at the Killams and Mountfield Critiquing Panel held in October 2011. The same facility would be afforded to any developers inviting officers to attend such events.

Why was no EIA required for this development?

The development of the site was screened for EIA in 2010 in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. At the time the proposed development was for around 500 dwellings and it was determined that the development was not EIA development.

When application 38/12/0203 was submitted, the proposal was screened again in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. I enclose a copy of that screening opinion confirming that no EIA was required.

Why is there no listed attendance at the October 2011 Panel by Ward Councillors or the South Road and Area Residents' Association? Why were they not included as key local stakeholders?

The Panel was an event arranged solely by Consensus on behalf of the applicant, and the Borough Council would have had no involvement in these arrangements or in the identification of appropriate invitees. Therefore any queries as to the non-inclusion of particular invitees are perhaps best directed at Consensus.

From the Statement of Community Involvement, it appears that Consensus had a specific purpose in mind for the Panel – namely the *"revising and honing [of] the emerging design layout and the core principles that would guide and inform the elements which would add additional commercial, social and aesthetic value to the scheme"* – which they presumably felt should be attended by *"planning officers, development designers and other property related specialists"*.

As stated above, the Killams and Mountfield Critiquing Panel was part of a multi stage consultation process undertaken on behalf of the applicants, and described in detail in the Consensus Statement of Community Involvement. By October 2011, this consultation process had already included a meeting with ward councillors and residents' associations held in March 2010, as well as other events. Therefore, residents' associations and ward councillors had already been included in an earlier part of the consultation process.

What rules govern the inherent conflict of interest involved in officers attending events that support a gaining developer in obtaining planning permission?

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It is not accepted that Matthew Bale's attendance at the October 2011 Panel gave rise to a conflict of interest on his part. As stated above, his acceptance of the invitation to the Panel made the terms of his attendance entirely clear, i.e. *"As likely development management case officer, I think that I should be present: however, I will have to caveat all of my involvement on the basis that I cannot prejudice my consideration of the planning application"*.

It is standard practice for planning officers – and other officers involved in the planning process – to attend events arranged by developers. I am not aware of any difficulties – professional or otherwise – which would preclude an officer from attending such an event if his or her attendance could potentially contribute to improvements in the design, layout or principles of the scheme. I would also imagine that the representatives of the County Council, the Environment Agency, the South West Design Review Panel, the Eden Project and the Taunton Civic Society who were also invited to the Panel would have had the same positive view.

Do officers have to obtain permission to attend events sponsored by a gaining developer? (If so, can copies of all authorisations be provided?)

No permission is required, although senior managers were fully aware of the event and encouraged attendance by the relevant Council officers.

Where do officers make such declarations of interest? Please provide copies of all such declarations.

The event was considered to be part of the normal process of pre-application discussion and accordingly it was not necessary to make any such declaration.

Matthew Bale attended the October 2011 Panel and then made the recommendation for conditional approval for the Killams application. How did TDBC address this inherent conflict of interest on the part of Mr Bale?

For the reasons stated above, the Council does not regard Matthew Bale's attendance at the October 2011 Panel as leading to any conflict of interest on his part in his subsequent analysis of the Killams application.

I hope the above information clarifies your understanding of the respective positions of Members and officers with regard to the Killams and Mountfield Critiquing Panel, but please do not hesitate to contact me if you have further concerns in this regard.

Yours sincerely

**Roy Pinney
Legal Services Manager
Taunton Deane Borough Council**