

Your Reference: PR01/21691.3/ROBIN
Our Reference: LT/C11/10
Enquiries to: Lisa Tremble
Direct Dial: (01768) 212249
Email: lisa.tremble@eden.gov.uk
Date: 8 January 2019



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Burgess Salmon LLP
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By Email only: Patrick.robinson@burgess-salmon.com

Dear Mr Robinson

Judicial Review Pre-Action Protocol

Thank you for your letters dated 19 December 2018 and 4 January 2019.

In your letter dated 19 December 2018 you have requested disclosure of specific categories of documents under the judicial review Pre-Action Protocol. We have considered the request in the context of your proposed claim as formulated in the original Pre-Action Protocol Letter ("PAPL") in order to keep matters focused, manageable and proportionate to the issues at hand. We should also note that judicial review proceedings have not been issued yet, nor have you been able to identify a decision by the Council which is said to be unlawful.

In relation to these documents (for ease I have mirrored your lettering):

- a.) is considered relevant to this matter and the Council will consider the documents we have and disclose them in due course,
- b.) I am instructed the Council designed the survey internally and thus there is no correspondence to disclose in relation to your request, and
- c.) I am of the opinion that this does not fall within the scope of the threatened Judicial Review as set out in your PAPL. The independence of the consultants who prepared the Masterplan is not an issue raised in the PAPL.

The meeting of the Council on 10 January 2019 is distinct from the decision making process about which your client expressed concern in the PAPL. It is beginning to appear that you are attempting to take advantage of our offer to disclose information in order to prepare for a matter unrelated to the Judicial Review proceedings.

The indicative list of documents that we intend to provide you with is intended to provide you with information in relation to a potential Judicial Review of an as yet unidentified decision. We would reiterate our position that no decision has yet been taken in relation to the Masterplan and thus any Judicial Review would be premature.

Nonetheless, we recognise that we offered to provide an indicative list of documents. In our view, this was intended to avoid even more protracted correspondence and hopefully

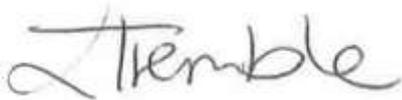
would make it clear to your client that any judicial review claim would be premature and without merit. I shall forward to you a draft indicative list of documents tomorrow, as requested.

The Council remains concerned about the amount of officer time and resources, (which is funded by the tax payer,) that this matter is requiring, particularly in light of the fact that you have not yet clearly set out the matter that you are challenging nor have you initiated proceedings.

Finally, in relation to ongoing correspondence between the parties, the Council has concerns in that it appears that copies of ongoing correspondence are being supplied to the press. Whilst the Council has no issue with the content of the letters that we send to you, the Council feels that this action by your client may potentially undermine any possible resolution as it may stifle any full and frank discussions due to the perceived risk of the discussions being disclosed to the press. I would welcome your comments in relation to this.

I look forward to hearing from you in relation to above.

Yours sincerely,

A handwritten signature in black ink that reads "Lisa Tremble". The signature is written in a cursive, flowing style.

Lisa Tremble
Assistant Director Legal Services