

Representation 2

From: [REDACTED]
Sent: 18 December 2018 22:55
To: Priest, Susan <Susan.Priest@folkestone-hythe.gov.uk>
Cc: Committee <Committee@folkestone-hythe.gov.uk>
Subject: Princes Parade Business Plan is NOT EXEMPT

Dear Susan

I have just seen the Authority's notice of an intention to exclude the public from part of the 30th January 2019 Cabinet meeting that will be discussing the Princes Parade Business Plan.

The reason given by the council is that the Business Plan is Exempt because it includes "*Information relating to the financial or business affairs of any particular person (including the authority holding that information). 'Financial or business affairs' includes contemplated as well as current activities*" (Ref A).

Please be aware that [Ref A] is not a valid reason for claiming that the Princes Parade Business Plan contains Exempt information.

As stated correctly in your notice: "*Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town & Country Planning General Regulations 1992(a)*" (Ref B).

It is therefore entirely clear from the legislation that the Business Plan is NOT exempt since it **relates to** a proposed development for which the Authority has yet to grant itself planning permission and is following a process that may lead to the grant of such permission. Further, the Exempt designation applies to the **Information itself**; that designation does not depend on an intention to hold a meeting at which it is to be discussed. The Princes Parade Business Plan and related documents are therefore rendered disclosable according to the legislation because they exist in relation to the possible granting of planning consent irrespective of what, if any, meetings take place.

For the avoidance of doubt:

- (i) When the latter condition (Ref B) applies, it totally over-rides Ref A, which consequently becomes irrelevant.
- (ii) Any claim that might be put forward by the council that the Business Plan is "Confidential" would similarly not be valid since it does not conform to the definition of "Confidential" laid out within the council's own Constitution.
- (iii) Even though it has been claimed that "*in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information*", I would, were it found to be necessary, challenge the validity of that claim since it fails to take into account the well-known circumstance in which the public have sound reasons to consider the proposed development non-viable.

In conclusion:

The actions of your council in repeatedly withholding information relating to the proposed Princes Parade development, whether it be in respect of meetings or FOI(EIR) requests, is unnecessary, unreasonable and unlawful.

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I ask that you now please release all financial information relating to the Princes Parade Business Plan, and in turn open up the Cabinet for attendance by the public.

All best wishes

[REDACTED]

[REDACTED]