

Representation 3

From: [REDACTED]

Sent: 18 December 2018 16:15

To: Priest, Susan <Susan.Priest@folkestone-hythe.gov.uk>; Committee <Committee@folkestone-hythe.gov.uk>

Subject: Exclusion of the public - cabinet meeting 30 January 2019

Dear Dr Priest

I am writing on behalf of the 481 members of Save Princes Parade to object to the proposal to hold part of the 30 January 2019 Cabinet meeting (namely the consideration of the Princes Parade Business plan/Case) wholly or partly in private.

Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972

In order to exclude the public from the meeting the council is relying on paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

However, before making the decision that the information that would be disclosed is exempt, the council must first carry out a public interest test.

In this case, given the controversy surrounding the proposed development of Princes Parade and given the potentially large risk to public funds it is clear that the public interest in publishing the information outweighs the need for the council to keep the information private for reasons of commercial confidentiality.

We note that Judge Taylor reporting on the Biggins Wood Information Tribunal stated in para 43 that: *"To conclude, on balance, when considering all the factors set out above and in all the circumstances of the case, the public interest in disclosing the information that is the subject of this appeal outweighs the public interest in maintaining the exception that is set out in reg.12(5)(e) (Confidentiality of commercial or industrial information). We find disclosure of the disputed information would both be unlikely to have caused and to cause such a degree of commercial prejudice so as to justify withholding it in the public interest. Conversely, on the facts of this case, there is an overriding public interest in the disclosure of the disputed information to ensure public participation in environmental decision-making. This is heightened by considerations of Value for Money where legitimate questions are raised in respect of significant costs spent by a public authority that clearly has limited means. The interest is additionally weighty given the nature and history of the land in question, which has been contaminated and neglected."*

This argument is equally applicable to Princes Parade.

Local Government Act 1972 and Regulation 3 of the Town & Country Planning General Regulations 1992

The Local Government Act 1972 as amended by The Local Government (Access to Information) (Variation) Order, 1992, states that information falling within any paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 is not exempt if it relates to proposed development for which the local planning authority can grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992 (S.I. 1992 No. 1492).

Whilst there may be a decision in principle to grant consent subject to the Environment Agency withdrawing its objection (which it has not) no planning permission has been

Representation 3

Issued, and therefore legally a planning permission does not exist, and the application remains undetermined.

Given that no permission yet exists, the whole of the Business Case/Plan is very relevant to the determination of the application and so should be published in full and the public allowed to attend the meeting at which it will be discussed.

The requirements of the Local Government Act 1972 and Regulation 3, applies to the information, regardless of whether the meeting at which it is to be discussed will be the meeting at which the application will be determined.

I hope therefore that you will reconsider the decision to exclude the public from the meeting and that you will publish all the relevant reports the required number of days ahead of the meeting. The public have a right to see how decisions are made on our behalf and in order to retain the confidence of the public the council have a duty to be as transparent as possible in their decision making.

Please acknowledge receipt of this email.

Kind regards

[REDACTED]