

BY DX

Mr M Rice
Head of Legal and Democratic Services
Selby District Council
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SELBY

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21 June 2006

*WITHOUT PREJUDICE EXCEPT AS TO COSTS
SUBJECT TO CONTRACT*

Dear Mr Rice

TADCASTER TOWN CENTRE - s106 AGREEMENT

I am writing to place on record our concern on behalf of Samuel Smith Old Brewery (Tadcaster) at the continuing delay on the part of Selby District Council in responding to our letters over recent months.

As you will know from the Council's file and from your predecessor as Head of Legal Services, Peter Burns, we were both optimistic last December that after months spent refining and approving the terms of the s106 Agreement, it would be sealed and exchanged before Christmas. That prospect was shattered by the decision at the full Council meeting on 13 December which, as reported by Peter Burns (though he himself unfortunately did not attend that meeting) appeared to have completely ignored the draft Agreement negotiated between us; yet at the same time the local press were briefed by Councillors including the Leader of the Council, that a deal had been agreed between Selby and SSOBT and was set to go ahead. I refer you to my letter to him on the subject dated 19 December 2005 which received no reply.

Peter Burns' employment as Head of Legal Services ended at Christmas and he left for an extended holiday in New Zealand. On 4 January 2006, therefore I wrote enquiring with whom I should correspond ~~at~~ at Selby in future about the s106 Agreement. Again I received no reply. However on his return from New Zealand, he resumed his post temporarily at Selby pending your arrival and, in reply to my reminder of 30 January 2006 he responded on 6 February with a few suggested amendments which indicated that the Agreement was back on track; but before we could obtain instructions he had left Selby's employment again as confirmed by Selby's letter purporting to be signed by him on 22 February asking that all future correspondence be addressed to you.

I have in the 4 months which followed written to you on no less than 6 occasions, my letters being dated 15 March, 17 March (returning the travelling draft Agreement amended for your approval), 29 March, 5 April, 8 May and 2 June. Throughout that period I have received no communications from you whatever except for a two line reply on 3 April promising to 'respond as soon as possible'. No explanation has been offered for your failure since then to fulfil that promise or to acknowledge and answer any of my subsequent letters.

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You are presumably aware of the Administrative Court Order made by Sir Michael Harrison as long ago as 25 January 2005 in which he granted SSOBT permission to bring Judicial Review proceedings to challenge Selby's planning permission for its scheme to re-lay the Central Car Park at Tadcaster. By the same Order he adjourned the case to enable the parties to seek to achieve a resolution of the matter, but warned that failure to reach agreement would be relevant to an ultimate decision on the payment of the costs of any such proceedings.

SSOBT has throughout demonstrated its commitment to reaching agreement but the Council's assurance to the press 6 months ago are belied by your failure to respond to our repeated attempts since then to progress the matter. If your failure is due to lack of instructions from the Council, would you at least let us know the position. If not, then what is the reason for the inordinate delay on your part? Both we and our clients hope that you will now as a matter of urgency approve and return the travelling draft Agreement so that progress can be made towards exchange of Agreements thus enabling the works contemplated in the Agreement to go ahead as Councillor Crane told the press last December. It must surely be in everyone's interest to bring these negotiations to an early and successful conclusion.

Yours sincerely



David Evans
Consultant