

Strictly Private and Confidential

Complaint Customer Feedback reference: CP-46045

Bathampton Meadows

Stage 1 – Additional Clarifications

Complaint made by: Mr Graham Pristo

Commissioning Manager:

Sophie Broadfield, Director of Sustainable Communities

Investigating Officer:

Jon Evans, Senior Associate, Bath & North East Somerset Council

Respondent on Councillor Conduct:

Michael Hewitt, Head of Legal & Democratic Services & Monitoring
Officer

Report Completion: 18th May 2022

a) Introduction

Following an initial Stage 1 Complaint response Mr Pisto further corresponded with the Director of Sustainable Communities on the **13th April 2022**.

He advised that there were aspects of the response which he did not consider were sufficient or raised further questions.

As a result of this he asked that his complaint be elevated to Stage 2 of the Councils Customer Feedback policy.

Following discussion with the Customer Feedback & Standards Manager it was felt that it would be best responded to within the relevant service as additional clarifications of the Stage 1 process.

Mr Pisto was advised of the intention to do this on the **3rd May 2022** with an expected response by the **27th May 2022**. The Investigating officer then undertook further enquiries.

For clarity these applied to **questions 3-7**.

Additionally, upon reading, some elements relate to Councillor conduct (which falls under a different process). The relevant protocols which informed this position can be found via [Make a Complaint](#) on the Councils website.

It was felt helpful rather than separating these to refer them to the Monitoring Officer for appropriate responses to be included in the report.

For clarity this applied to **questions 1 & 2**.

The Investigating Officer coordinated overall responses.

For ease Mr Pistos points have been transposed in full, with clarification offered below each.

b) Questions / Requests for Clarification

1. **Query:** *'First, given the prospect of transferring the land to the NT was clearly a possibility before he took office, and under active official consideration from at least July 2019, why did Cllr Guy not register his interest in Deepair Ltd, the owner of the adjoining Land which the NT was making clear it wanted to acquire alongside the Council's land? Why did the Monitoring Officer not require Cllr Guy to register this interest so after being informed in June 2020?'*

Clarification: Maintaining an accurate register of interests is a personal matter for each Councillor.

The Monitoring Officer has no power to require a councillor to register an interest.

2. **Query:** *‘Secondly, what evidence is there of advice being sought by Cllr Guy in June? Where is this recorded and how was this communicated within the Council? Cllr Guy’s pecuniary interest in the ownership of the adjoining land was not added to the Register until February 2022. If Cllr Guy, as is claimed, agreed he had a pecuniary interest in June 2020, why did he not add this to the Register of Interests?’*

Clarification: Advice provided by the Monitoring Officer (M.O), at that time, is contained in an e-mail exchange with Cllr Guy. M.O advice is personal advice and legally privileged. Consequently, such advice is not communicated within the Council save that the deputy Monitoring Officer was made aware of this advice. Cllr Guy agreed to waive privilege to enable the Investigator to view this for the purpose of this investigation.

3. **Query:** *‘Thirdly, given the lack of any recorded interest, how can residents be confident that subsequent decisions taken by officers and other Council committees and scrutiny panels were made in a sound fashion?’*

Clarification: The Community Asset Transfer (CAT) process was fully documented through the different stages required by the policy. This ultimately culminated in a Single Member decision to allow the transfer which was recommended by officers.

A valid CAT must consider it as a discrete matter relating to the existing situation of the land or property. For clarity the considerations needing to be made in order to recommend the Single Member decision were independent of New Leaf Farm.

Any formal papers going before Members are subject to the normal monitoring to allow them into the Democratic process. The documentation relating to the decision has been published, is clear and is in the public domain, available for public scrutiny.

4. **Query:** *‘Fourthly, the Business Case under which the decision was taken contains two maps (referenced above) which clearly show the NT’s intention to purchase both parcels of land.*

What discussions, if any, were held to challenge the NT over whether the stated business case required the additional private land to be in ownership to deliver the stated benefits? Who was party to these discussions? Where are

these matters recorded? Were officers aware of the NT wishing to acquire the neighbouring parcel of land, and at a commercial price?’

Clarification: The Business Case did not require additional private land to be in National Trust ownership in order to deliver the stated benefits. The CAT process requires that any potential transfer has validity matched against policy in its own right. The transfer of Bathampton Meadows accorded with this.

The Business Case in describing the ‘value’ of the land in terms of public amenity and in particular accessibility notes car parking (including provision for the disabled) and a toilet block.

The Business Case was subject to review during its development and was checked and endorsed by Environmental Consultants. It was published along with the Single Member decision and the transfer made accordingly. The financial business case was clear and was considered satisfactory.

It was transparent at the time from the publication of the Business Plan alongside the Single Member decision that officers were aware of the NT’s wish to acquire New Leaf Farm. The terms were a private matter for the owners and the NT and not of direct relevance to the Single Member Decision.

5. **Query:** *‘Fifthly, the report states that a CAT requires the applicant to consult adequately and demonstrate this in its business proposals. The report states that the NT proposal “references the Bathampton Meadows Alliance as the main consultee in the decision process”. What due diligence was undertaken by the Council on the BMA before accepting this as meeting the CAT requirements? Was any research undertaken on how the BMA is funded, by whom and how it controlled, and how representative it actually is? Also, importantly, how independent, or otherwise it is of sitting Councillors, officers and Cabinet members?’*

Clarification: In order to complete due diligence checks on the community asset transfer at the time, a full evaluation was undertaken following a pro-forma drawing from best practice employed by other councils. The primary purpose of the evaluation was to consider the National Trust and its proposal.

Officers sought to form a view on the adequacy of consultation. Public sentiment in terms of not developing Bathampton Meadows had been made very clear in relation to a planned Eastern Park & Ride. All political parties had made a commitment in this regard prior to election and this was picked up by the incumbent administration in light of its promise.

The Business Case set out that the Bathampton Meadowside Alliance (BMA) and Avon Wildlife Trust were specific consultees. The BMA was formed in 2016 and was clear in its wish to avoid development on the site. This position was stated well prior to the current Administration coming into force. There was little other public opposition to the CAT of Bathampton Meadows and it is

known that the relevant Parish Councils have been engaged. Given this context, officers did not conduct further scrutiny of the BMA specifically.

Notably as part of the proposals the NT has committed to undertaking additional consultation to ensure the 'fine tuning' of the Meadows future to meet the wishes of its users.

In recommending the Single Member decision officers judged that the consultation was adequate.

6. **Query:** *'Sixthly, in answer to my Q5.5, the report states that letters were sent to Ward councillors Cllr Warren and Cllr Guy in January 2020 to inform them of the expression of interest submitted by the National Trust. Cllr Warren, the report states, responded to say she was happy with the proposal but for Cllr Guy the report says: "It is not thought Cllr Guy responded." I was disappointed and surprised to see that the investigating officer was not able to establish whether or not Cllr Guy responded to the expression of interest, let alone what he said.'*

Clarification: No record has been found of any response from Cllr Guy. As part of progression of the CAT it was indicated that no objections had been raised by the Ward Cllrs following the notification of interest. Contextually in any case it needs to be understood that in large part communication with Ward Cllrs at this point of the process was done as a courtesy rather than because it was required for the CAT.

7. **Query:** *'Finally, I am dissatisfied with the explanation given as to why the section on "conflict of interest of consulted parties" is blank in the Decision Report. The Decision Report notes that Ward councillors were consulted. The fact that no conflict of interest is noted - given Cllr Guy's apparently verbally expressed pecuniary interest almost a year earlier - is surprising, to say the least.'*

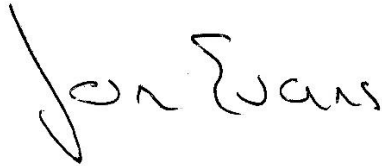
Clarification: The Decision report would rightly reference a pecuniary interest if a Cllr involved in the decision making relating to it had such an interest. In actuality this would be unlikely as the Cllr potentially involved would have exempted themselves. Cllr Samuel was being asked to make a Single Member decision and had no such pecuniary interest. Cllr Guy was not involved in the decision making and therefore this was not part of the report.

c) Recommended outcome

The information researched continues to indicate that there was adherence to policy, procedure and process in the transfer of Bathampton Meadows. It therefore continues to be recommended that the complaints should not be upheld.

d) Conclusions

Mr Pristos concerns continue to be understood as well as the challenge that he has made. It is hoped that in reading the response there will be further reassurance of what has been done in relation to Bathampton Meadows and the probity of the Community Asset Transfer of it to the National Trust.

A handwritten signature in black ink, appearing to read 'Jon Evans'. The signature is written in a cursive, slightly slanted style.

Signed:

Date: 18th May 2022

Senior Associate.