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E: 29/03/2019

29th March 2019

Sent by email only:

Dear Ms Gosling

Investment Committee Conditions of funding for the Brighton Valley Gardens Phase 3 project ("VG3") Planning Advice

We are instructed by Valley Gardens Forum CIC ("VGF").

We refer to DMH Stallard's letter to you dated 18 March 2019 and to your brief email reply dated 19 March 2019.

Investment Committee funding conditions

We are of the position, notwithstanding the City Council's 18 March 2019 letter from Abraham Ghebre-Ghiorghis, that the conditions set by the LEP in its letter dated 1 February 2019 have not been met and that the LEP could not reasonably conclude that they have been met.

You advise that the LEP will be considering "in due course" whether or not the conditions it has set have been met.

1. Please advise when this consideration will be taking place.
2. Will the above consideration be by way of a meeting of the Investment Committee or of the Board or otherwise?

FOI and ADR

We await your response to our client's query about the status of the LEP as a FOIA body (or otherwise) and as to our client's proposal for a discussion as a means of ADR.

MHCLG National Local Growth Assurance Framework

The MHCLG National Local Growth Assurance Framework provides at paragraph 148 that a range of documents (a-e) should be made available to LEP Boards in advance of project and investment funding decisions.

Our client is concerned that this range of documents a-e does not appear to have been made available to the LEP Board prior to its meeting and conditional approval of VG3 funding on 22 January 2019.

3. Please comment and, insofar as these documents were made available to the LEP Board, please provide us with copies.
4. Please provide us with evidence that the LEP has checked that its 22 January 2019 approval (and the execution of any funding agreement for VG3) was made (and would be done) in accordance with the process set out in its Local Assurance Framework.

The LEP Board's approval on 22 January 2019 was inchoate, in that it was conditional and in that it required a further and separate meeting to confirm or otherwise that the LEP's conditions have been met. Moreover, even if that further and separate meeting decides that the conditions have been met it would still remain for a funding agreement to be executed. In the circumstances, our client takes the position that the inchoate approval on 22 January 2019 does not represent a concluded decision properly subject to a judicial review claim and that the time for filing any judicial review claim against the LEP will not commence unless and until a funding agreement has been executed.

5. Please confirm that you agree with this position.

We would stress that our client hopes very much that it can avoid filing a judicial review claim against the LEP.

We await hearing from you by 4pm on 2 April 2019.

Yours sincerely

Gemma Penny
Associate
For and on behalf of asb law LLP