

Our ref: TOTA-3-7
Your ref: RM/069636
Date: 11 May 2023

Cornwall Council

BY EMAIL

Rebecca Mabelle Rebecca.Mabelle@cornwall.gov.uk

Dear Madam

Highway works at Newham Road

Thank you for your email of 11 May 2023 in which you seek a response to certain matters raised in your letter dated 28 April 2023 and in which you respond to our earlier letter of 11 May 2023.

1. Our client

1.1. We are instructed by Totally Truro Limited. Totally Truro Limited is the entity that oversees both the Truro BID and the Newham BID. We are instructed by a director of Totally Truro Limited.

2. Correspondence with Members

2.1. We have asked our client not to speak directly with Members. However, we note that in the final paragraph of your letter of 28 April 2023 you state that the Council considers the matter closed. That would seem to put our client in an odd position in that the Council at once considers the matter of threatened litigation closed and yet seeks to prevent our client from having direct contact with Members because parties are legally represented in on-going litigation. Please would you clarify your position.

3. Press

3.1. The Council is of course entitled to decide not to liaise with the press. Again, in your letter, there is an inconsistency: You feel that our client, as a party to litigation, should not air its grievances in public and yet the Council considers the matter closed. If the Council's legal team deems the matter closed and Members will not communicate with our client, the Council has effectively left our client with little choice but to communicate through the press.

4. Privilege

4.1. At the Council's request we have asked our client to remove the Council's correspondence from the internet. However, we fail to see how privilege attaches to a letter that the Council has sent by way of reply.

5. Our request for documents

5.1. We have stated who our client is, but I fail to see why the Council feels the need to identify a named individual before it will respond to a request for documents.

5.2. The Council is a public body and so subject to requests for information under either or both the Freedom of Information Act and the Environmental Information Regulations. In any event, a large number of the documents associated with the Truro Loops are already published on the Council's consultation portal and so we fail to see why the Council would object to the disclosure of documents that support a decision to spend public funds.

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5.3. The duty of candour is engaged and it is surely in the interests of justice that if the Council holds documents that answer the questions that our client has about this scheme and satisfactorily demonstrate that the Council has indeed followed a lawful and reasonable process in making the decision to narrow the road it should disclose them now. The alternative would seem to be entirely unsatisfactory if the Council suddenly produced in defence of a claim documents that we are requesting now that might have dissuaded our client from filing the claim in the first place.

Yours sincerely,

Duncan Tilney
Partner
For and on behalf of STEPHENS SCOWN LLP

