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Roddy Macdonald
Eversheds
By email

6 Dec 2011

Dear Roddy,

You sent me Sunderland Council Cabinet Committee papers for tomorrow's meeting last Wednesday evening and invited comment by 4pm today.

That is a very tight timescale and at this stage I would like to make the following comments:-

- The stated reason for wishing to go down the S237 route, that Tesco wish to start work in January, is only a valid reason if no allowance is made for a Judicial Review of the decision. While Sunderland City Council may hold the view that is unlikely to arise, it is presumptuous to assume it won't.
- The other possible advantage to Tesco in choosing the S237 route, as stated to me by GL Hearn, is that the compensation is likely to be lower than under the S236 option. In view of the uncertainty associated with the timing of the S237 route, this is possibly and arguably probably the main reason for choosing the S237 route at this stage.
- Had there been certainty that the S237 route would have succeeded, it would have made much more sense to initiate it sooner so that the Judicial Review period could have passed by the time that the Blockbuster interest had been acquired by S236 or negotiation. Why did the Council put Farmfoods through the time and expense of a S236 Compulsory Purchase Order if it was their intention to choose the S237 route? This implies to me that either the S236 route, as chosen, was a disproportionate use of public power or else there is a belief on the Council's part that S237 does not actually empower them to acquire the rights they need.
- I have taken legal advice and do not believe that S237 would empower the Council to acquire the rights which they need at this time.
- I suspect the Council is seeking to abuse its power to reduce the compensation that may become payable by Tesco and I think all dealings between Tesco and the Council should be disclosed under the Freedom of Information Act, including the Vaux Brewery purchase – details of which have been kept confidential.

Yours sincerely,

Willie

Willie McCreadie
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