

Response to OSP Questions regarding Pleasurama Site Development

	Cllr Driver Questions:	Answer
1	Letter from Nat West Bank page 182. This letter confirms that Nat West Bank would provide SSP Ventures (UK) Ventures with a business development loan of approximately £18 million. The loan offer was made on 1 August 2007 and valid for 2 years. The report which included the due diligence went to Council of 23 rd July 2009 so the offer period was almost at an end. What steps did the Council take to ensure that the Nat West offer was still valid, or that Nat West would make a new offer following the expiry of the current offer. Was Nat West ever contacted by the Council about this issue?	The offer letter was taken to still be valid as the date on the letter indicated. No further check was made.
2	Letter from SFP Ventures UK Ltd dated 2 June 2009 page 27. This letter states that Wetmore Investments will be funding the construction of the hotel through a £5million investment. What checks did the Council make into the validity of this claim e.g. obtaining copies of development agreements with SFP and what steps did the Council take to check the bona-fides of Wetmore Investments e.g. securing information about company registration and ownership of Wetmore Investments and copies of its accounts? Was Wetmore Investment ever contacted by the Council?	External solicitors were used to validate the ability of Wetmore to provide the agreed level of finance, and that a binding legal agreement was in existence.
3	Draft Letter from SBP Banque to TDC page 186: Was contact made with SBP Bank to check the authenticity of this letter? Were checks made into the status of the SBP Bank by the Council? What was the date of this	This letter was not used by the Council to validate the position of the funders; instead external solicitors were used.

	letter? Who wrote this letter? Why was such an obviously suspicious letter ever accepted by the council as being genuine and why was it presented to members without comment on its origins and its validity?	
4	<p>One final question:-The letter from SBP dated 16 September (page 181) appears to have a fax number 01473327340 which I believe is Ipswich, Kesgrave or Hadleigh at the bottom of the page. The transmission date of the fax appears to be September 8th at 14.04pm. This document therefore appears to have been transmitted before the date which appears on it (16th September 2008).</p> <p>At the top of the page there is a fax imprint dated 16 September at 14.37. The fax number is the SBP Banqu fax number. This suggests to me that the letter was drafted in England then faxed to the SBP Banque on 8 September and then faxed by SBP Banque to TDC on 16th September. I am unaware that bank clients are able to draft or sign letters on their bankers. This would undermine confidence in the banking system and the due diligence process and could suggest fraudulent collusion. Could you tell me if Council officers checked these suspicious fax imprints and if so what action was taken?</p>	<p>See above.</p> <p>Point of information – the copy fax provided in the papers was not fully reproduced and had cut off a portion of the date that the fax was sent, which was actually shown as 16 Sept 08.</p> <p>The fax number fits with it having been sent by Mr David Clark, then of Prettys Solicitors, who were acting on behalf of the developer and worked out of offices in Ipswich.</p>
	Richard Nicholson	
1	Letter from Nat West Bank page 182: This letter confirms that Nat West Bank would provide SFP Ventures (UK) Ltd with a business development loan of approximately £18 million. The loan offer was made on 1 August 2007 and included a 2 year repayment term. The report which included this due	<p>See Ian Driver response no. 1</p> <p>Contact has been made with Natwest to check the validity of the letter and although no written reply has been received, the Natwest staff indicated that there was nothing to suggest that it was fraudulent; and it was left with them to investigate and take action</p>

	<p>diligence document went to Council of 23rd July 2009 so the offer was almost 2 years old at the time it was considered by councillors. What steps did the Council take to ensure that the Nat West offer was still valid, or that Nat West would make a revised offer? Was Nat West ever contacted by the Council about this issue? My concern is that accepting a 2 year old letter from the bank as evidence of funding is a high risk. I am also concerned that the letter appears to be "open-ended". In my experience a formal letter of offer by a bank would include terms and conditions and a disclaimer to the effect that "Nat West reserves the right to withdraw the offer at any time". Without such caveats I am I am very suspicious of this letter's provenance and think it should be investigated further. Do we have original letter?</p>	<p>as appropriate if their checks indicated that the document was a forgery.</p>
2	<p>Letter from SFP Ventures UK Ltd dated 2 June 2009 page 27: This letter states that Wetmore Investments will be funding the construction of the hotel through a £5million investment. What checks did the Council make into the validity of this claim e.g. obtaining copies of development agreements with SFP, and what steps did the council take to check the bona-fides of Wetmore Investments e.g. securing information about company registration and ownership of Wetmore Investments and copies of its accounts. Was Wetmore Investment ever contacted by the council?</p>	<p>See Ian Driver response no. 2</p>
3	<p>Draft Letter from SBP Banque to TDC page 186: Was contact made with SBP Bank to check the authenticity of this letter. Were checks made into the status of the SBP Bank by the Council? What was the date of this</p>	<p>See answer above.</p>

	letter? Who wrote this letter? Why was such an obviously suspicious letter ever accepted by the council as being genuine and why was it presented to members without comment on its origins and its validity?	
4	Could you tell me whether any Cabinet members or Councillors or Council officers raised questions about any the due diligence documents presented in the 2009 reports to Cabinet and Council? What were these questions and what action did the Council take to investigate the questions raised?	No questions were raised as far as I recall.
	Roz Binks	
	<p>At the Full Council Meeting of 5 December 2002, a presentation was made by Mr Terence Painter as Agent, Peter Rutter and Ray Welsh as architects for SFP Ventures Partners Ltd.</p> <p>Following a Q & A session for Members, a Cabinet recommendation was proposed and approved as follows:</p> <ol style="list-style-type: none"> 1. SFP Ventures Partners Ltd offer and proposals for the site be accepted subject to satisfactory resolution of the legal documentation. 2. Delegated authority to resolve any amendments to the proposals during negotiation of legal documentation be given to the Director of Support Services, in conjunction with the Leader of the Council and the Cabinet member with portfolio for Regeneration and Economic Development. 	

	3. Authority be given to employ Eversheds as our solicitors acting on this matter, with legal costs to be met by the purchasers.	
1	On what evidence did the Cabinet Members of December 2002 base their recommendation, in addition to the presentation that night?	Don't know - Officers who were party to the 2002 decisions are no longer employed by the Council; and no records exist that refer to this.
2	Since the proposal contains no mention of financial documentation, the assumption must be that this aspect of the decision had already been satisfied. What documents did the 2002 administration see that satisfied this point?	See above.
3	Delegated authority to resolve any amendments to the proposal during negotiation of legal documentation was passed to one TDC officer and two councillors: one assumes that the Director of Support Services was sufficiently qualified to consider any amendments, but is there any evidence of a discussion in full Council with regard to the qualifications of the two Members, that enabled them to consider and possibly decide on any amendments to a large development project during highly complex legal negotiations?	See above.
4	Is there any evidence to show that TDC officers at the time considered this to be a prudent delegation of responsibility for decision-taking?	See above.
5	<i>"The Audit Commission carried out an investigation in 2001/02 into issues relating to the Council's handling of the disposal of the Pleasurama site in Ramsgate. During the course of the investigation, we identified a number of weaknesses in the Council's arrangements which could have had serious repercussions. We made a number of recommendations to the council to</i>	Cllr C Hart, Cllr D Green and Cllr I Johnston were all on the Cabinet in 2002. (other cabinet members were: R Nicholson, P Rollins, M Derrane, K Gregory, M Harrison).

	<p><i>strengthen the corporate governance arrangements, which we set out in an action plan.</i>" (Ref: TH004 The Pleasurama Site Project Follow-up Report Date: January 2005)</p> <p>From the above it is clear that the Audit Commission found failings in the administration of the council, which were not picked up by the 2002 Cabinet. Are any Members of that 2002 Cabinet currently in a position within TDC to make decisions on long-term large development projects?</p>	
6	<p>Can you confirm that expenses with regard to legal work and documentation for this development have so far been covered by the developer? If not, how much has been paid by TDC? If known, what percentage is this of the total bill?</p>	<p>All external legal fees that were incurred in drafting the original agreement and the revised agreement in 2009 have been reimbursed by the Developer.</p>
7	<p>Statements have been aired publicly regarding the construction costs borne by the developer. Does TDC have any proof of this expenditure? If so, how much in total and has it been justified as reasonable?</p>	<p>Over £600k has been spent on reinforcing the cliff facing wall; TDC undertook this work which was paid for by the Developer. Road and drainage works have been undertaken by the developer – TDC have no detailed costs for these works. Site works including laying the foundations – we do not have detailed costs for these works. A sum of £1 million has been paid to the council as a bond in relation to the completion of the hotel. There are professional fees for a significant number of aspects of the development – but the council do not have the detailed costs of these. The developer has indicated that the total of these costs to be between £4- £5m, but the exact sum has not been a major issue as the significant sums obviously invested demonstrate a serious intent with regard to the site.</p>

8	Has the developer been asked recently to provide documents to prove that the developing company is solvent? If so, when?	The developer has been asked to provide the necessary information to support the financial viability of the project – to be presented at the point that any revision to the agreement is to be agreed.
9	Bearing in mind the size and nature of SFP, have any personal guarantees or evidence of independent references and proof of personal wealth of the key directors been provided by the directors of the company? If so, when?	£1m has been provided to the Council on account as a goodwill bond. This sum is currently held in a TDC bank account and is forfeited if the development is not completed. The personal wealth of the director of SFP has never been a key factor as the development is dependent on external funding. However, the current investment in the site, as indicated above, is based primarily on funding provided by the director.
10	Were TDC officers aware of the conflict of interest arising between the Swiss Bank and their client due to the client's part ownership of the bank? If so, who knew and were any Members informed?	Not known
11	Did the developer make that conflict of interest known when providing documentation? If so, when and to whom?	Not known
12	Was any due diligence (or research of any kind) carried out on the Swiss banking entity? If so, by whom and when?	It was a condition of the Council that any monies would have to be paid through the British banking clearing system, which requires the bank to undertake thorough due diligence checks on the fund's source.