

Colin Duke

Importance: High

From: Colin Duke xxxxxxxxxxxxxxxxxxxxxxxx
Sent: 26 August 2016 12:19
To: 'P.Lewis@coinweb.lgo.org.uk'
Subject: 16 006 194
Importance: High

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Dear Mr Lewis

I need to speak to urgently regarding complaint prior to writing to you in full

I understand you may have spoken to Bradford Council and been directed to Richard Winters a solicitor under instruction and with substantial conflict of professional interest being also involved with appropriation and subsequent conveyancing outside the required process.

I also note that your reason on proximity can only have been arrived at by information given to you by your contact with Bradford council for avoidance of doubt in the matter of Woodside Play Area I live 150 m away from the same The information you are being given is misleading , inaccurate and likely sourced by a key individual subject of concern on maladministration

I understand the information been given to you is wholly incorrect

1. Public Open Space is a right enjoyed by everyone and the manner in which council undertakes its disposal is a required process
2. In one instance that process has been incorrectly undertaken and in another not undertaken at all
3. In the matter of complaint whilst we are dealing allegedly with disposal of council assets outside legal process which is unlawful it is the circumstances that have precipitated from maladministration and discrimination that have been materially harmful to myself
4. You have been wholly misinformed the three pieces of land in question which 2 are no more than 150 m from my home which in any case is irrelevant to the way in which Bradford Council have acted with prejudice and discrimination
5. The council have failed to comply with the requisites of a [FOI \(link \)](#) because in one instance the officer signing off the land was not a Proper Officer
The council failed to provide a copy of petition which they alleged supported the process of appropriation Objectors made request to see the wording locality relating to petition for car parking expressly at this site and the proximity of respondents in respect of any test made. The petition was made significantly prior to advertised appropriation and outside the process of

I draw to your attention to the role of LGO have in investigating mal-administration [Bolsover Council Link](#)

In summary the Complaint deals with 3 key investigative issues

1. Mal-administration surrounding appropriation of POS (Public Open Space)
2. Individual prejudice and discrimination and service denial (likely from individuals who have failed to comply with process and acted *ultra vires*)
3. Historic evidence supporting obstruction , discrimination and acting unlawfully to prevent

The test is clear . Did anything the council do amount to mal-administration and in doing so did the council act with prejudices and discrimination resulting in bias and if so was there adverse consequences for the complainant .

I therefore will deal with your 3 key points briefly .

1. You imply the process of Appropriation (Re Site Wibsey Fairground) was done correctly and claimed that the council reviewed it . I put it to you that the council are not going to admit particularly Mr Winters that there are gaping anomalies in process. The process of approving a Corporate decision which had already been recommended is not that which accords to the requisites appropriation , The subsequent reviewing at "call in " by a Cllr who understood the process to be flawed was also prejudiced by the solicitor whose role it would properly be in head of property conveyancing to ensure the law was met

In the **technical matter of appropriation breaches of process where seen to occur**

- (a) The statutory notice was made in error (acknowledged) in so far as was advertised to comment on lease which objectors were not privy to and is that made outside contract
- (b) That none of the objectors who responded to the process were contacted in respect of the process
- (c) That the council failed to demonstrate land was no longer required for the *intended purpose* . Guidelines require that its demise be unequivocal 56 residents objected on planning file by petition to loss of POS
- (d) That the council have not confirmed the Strategic Director of the Disposing Directorate was at the time a proper officer , and had delegated power of authority under the relevant act
- (e) That the basis decision making should not be for financial motive . I refer to the officer report at Corporate Meeting which states precisely that , that if the decision was not made through this unconventional route then sequestered funding concealed on a 3 year year

In **terms of the constitutional process referred** to substantive breaches of process where seen to occur

1. Objectors were not notified that this item was to be heard at the Councils Corporate committee and only learned of it by way of the press
2. Points of order . The members attending the committee had substantive conflict of interest. Many of those who chose to sit on the panel had secured funding for this revenue car parking project
3. The process was called in to the environmental scrutiny panel on the concerns of an elected member that the process was flawed again . members with conflict of interest sat on the panel
4. At that panel Mr Winters informed members that Objectors had been consulted for avoidance of doubt that does not include a planning application made 1-2 years prior and distinctly outside the lawful appropriation of s122 of the LGA

Adverse Consequences

1. That the local authority adopted a position of discrimination and prejudice to representations that Mr Duke was making
2. That such a position and subsequent acts were made by officers who sought to abuse their position because of substantial oversight in adverse consequence
3. That such concerns impinge on the local authorities responsibility to adhere to duty
4. That failing in those duties had substantial impact on Mr Duke in the following ways
 - (i) That the continued failure for the authority to accept , acknowledge or communicate on issues which they were obliged to do so resulted in Lawful representation embodied in the councils Constitution being denied (FOI Request). Request to see petition wording on the alleged petition on planning application and locality of respondents taken to imply for the process of appropriation that the land was no longer required for intended purpose when

this was a general document , draughted some years prior where both the wording and locality of the appellants questionable

- (ii) That continued vetting and interference by certain officers resulted in a position of service denial those officers being correctly identified as proper officers materially identified as holding a duty in regard to concerns duly raised as part of council administration
- (iii) That the councils assumption by general members of staff mentored , instructed by the above (whether instructed or assumed) that every legitimate or reasonable contact had to be deferred , stonewalled was detrimental to Mr Duke and constitutional and human rights
- (iv) I draw attention to the failure to respond to simple requests in the time afforded by the law can only be discriminatort or prejudicial . I put it to you the council did not respond because (1) the signatory office to the Wibsey fair Site did not have lawful authority (2) The process of s122 of the LGA was not undertaken for a Play area and Open Space valued by residents resulting in denial of representation
- (v) That both historically and currently that prejudice has perpetuated over some time as consequence of political interference resulting in significant damage to the reputation of Mr Duke as an Environmental Consultant and his capacity to determine the environment in which he lives (ECHR applies)
- (vi) That the continued failure to acknowledge that the council had not handled a sett disposal properly and to deny process coast sunstantial time and effoirt to the detriment of Duke and the chariable work he administers and in his capacity of environmental consultant as well as undue stress and inconvenience arising out of service denial

Evidential presentation

It would be my intention now to submit documents where Council Officers have failed to materially respond to process in regard to s122 of the LGA when requested to do so

Failed to follow through requests when they said they would and did not

Further historical evidence that unlawful instruction was made by key personnel within the council and remained in error on the council system resulting in significant prejudice

Other circumstances that are wholly contradictory , misleading or given as a misnomer

Corporate Committee meetings where recommendations have already been made , are exclusive from the legal requisites of what is required in terms of s122 of the LGA .. To claim that attendance of the same was participatory event in respect of what the local authority are obliged to do is a misnomer

Contact for any relevant witnesses (by agreement) that were also part of the process and contrary to the councils assertion that they where engaged and notified

Communication

You will now receive PDF documents relating to my concern

I will attempt to group them into generic headers in the email

These may take 3-5 days to convert but will arrive in due course

My Contact xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Wednesbury Test On Reasonableness

Under the Wednesbury Principle , it is unreasonable to expect objectors duly made , to make representation on information that has been withheld or not given as part of due process, the requirement of the act is to give notice clearly , it is not reasonable to advertise a lawful process with an error and ask to comment on a lease which is not written or available or in the alternative a contract made outside process. It is also unreasonable not to have consulted objectors or provided reason by exhaustive document as to why the land is no longer required . In the context of the requirement of the Act it was unreasonable not to have offered any alternative in lieu as required and unreasonable to have excluded objectors during the entire course of determining material fact to which they are a lawful party in raising . No involvement or input was sought from the Council throughout the process. It is not reasonable on both to have precluded public engagement either through officer led decision for the purpose of funding procurement when the Council Constitution affords the right to representation under the LDF or the requirements of satisfying the Act "LGA 1972 " which are known and obligate to the council as a duty , a duty being that required in law. It would be unreasonable for an executive member with a previous history of involvement either on a panel (approving an area plan , granting planning permission or attaining funding for the site) to participate in a decision influencing the outcome of appropriation when they have had a previous involvement with matters associated with it

References

http://localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=4688%3Aappropriate-for-planning-purposes&catid=63%3Aplanning-articles&Itemid=31

<http://www.blplaw.com/expert-legal-insights/articles/appropriate-appropriation>

*The case of **R (on the application of Goodman) v Secretary of State for Environment, Food and Rural Affairs** [2015] EWHC 2576 (Admin) has reinforced this, and underlines the importance to the process of appropriation of a local authority properly deliberating whether the relevant land is no longer required for the purpose for which it is held (All land in question being entered on the RUDP as Public Open Space)*

N= 58 residents on planning permission upheld the land as open space

N=1500 on a General petition calling for car parking but was not express on the site or locality of respondents and was alleged to have been undertaken in the ale house of Wiibseyin the evening. Council failed to provide a copy of the wording for the same

N=5 Statutory Objectors responded to notice duly made

The land continues in its current form as an annual Fairground as such taking part thereof it has not been satisfactorily demonstrated that it was no longer used for its intended urpose