

Colin Duke

From: Colin Duke [ogden@dial.pipex.com]
Sent: 10 June 2016 13:00
To: 'ceo.admin@bradford.gov.uk'
Subject: CONFIDENTIAL - FAO Kirsten England in Person Service by Registered Post to Follow - URGENT- NOT to be cc'd by anyone other than the CEO

Importance: High

46 Meadway
Woodside
Bradford
BD6 2SP

(0793) 1717608

Ms England

I write to you, after careful consideration, regarding the failure of the Council to adhere to the process of lawful appropriation of Wibsey Fair. This matter is being passed to you and you only in your capacity of CEO and I anticipate a reply with your signature on it

I draw to your attention the failure of Transport & Highways in this matter who have not acted impartially

The matter of Appropriation is a legal matter to be dealt with by The Office of The City Solicitor not Andrew Smith Highways Officer and I refer to documentation wherein he has acted ultra vires to allude to curtailment of objection duly made. In the matter of making the Order that is solely a function of the City solicitor it is also an Executive Decision made by Cabinet and not solely the decision of Mr Hartley. I therefore request under the scheme of delegation for officers you to provide evidence that such delegated powers were given to Mr Gelder or Mr Smith Highways Transport Officers who appear to be dealing with this matter

- (i) The process of appropriation under SS122 of The LGA is not in any way associated with Matters of Planning or any documents associated with the planning file
- (ii) The order as required under the Act was not duly advertised and related solely to a lease, a lease being a contractual document made outside process and not available to objectors to comment on
- (iii) That no discussion information or dialogue relating to objections duly made has ever taking place in accordance with process
- (iv) That no alternative in lieu has ever been made
- (v) That no exhaustive document has been provided indicating why this land is no longer required in its current function
- (vi) That no consideration regarding the Royal Prerogative has been made by legal and democratic service or no wider consultation made with any other person or persons granted leave to use the site by any inherent prerogative
- (vii) That in the meaning of Fair no regard has been given to the context and right to sell lawful goods or not the misnomer to go round in circles on a wheel looking at the stars
- (viii) That the only consulted Fairground represented was engaged as the only contracted fair licensed to operate in the City of Bradford and not any wider audience who have by the grace of Royal prerogative the right to so do

I draw attention to the sequestering of funds over a 3 year period to the extent of £80 K on this project

In the matter of Planning 3 material objections were duly made of a highways nature

- (i) That the access and egress was with 2 m of a Main Road Junction
- (ii) That the access and egress would interrupt tactile paving made for the blind and disabled
- (iii) That a significant Road Traffic Order (Double Yellow circumvented the sit)

I have spoken with Richard Gelder who advised me that these are not material planning considerations and where Not reported on the Highways Officers report to planning committee. I put it to you that the omission may have affected the planning decision and lawful precedent indicates information given incorrectly or in part may invalidate a committee decision

- (i) Matters of Highway Safety are paramount material considerations
- (ii) Matters of access affecting disability users are a material consideration under the Equalities Act
- (iii) Cost of remediating the project in the event of permission granted eg £5 K to redact TRO etc

I therefore put it to you that the Receiving Directorate Highways acted overtly with prejudice . The Directorate appropriating failed to engage objectors and the Objections , who duly made concerns . I put it to you that monies given to the Community of South Bradford are not opportunities to spend on Revenue raising projects or monies that are sequestered and could be spent elsewhere on more worthy causes Parking Congestion Woodside Primary. I therefore ask you did Mr Andrew Smith return documentation relating to the matter to your office as requested , that being properly a lawful matter dealt with by cabinet as made clear in the constitution and to provide an explanation as to what lawful basis Mr Smith has in his letter sent to objectors to curtail the process

In the matter of complaint and concern regarding these matters and matters specific to the Officer and Members Code of Conduct I attempted a number times on the day Wednesday, 08 June 2016 to bring a process of complaint against parties failing to undertake their duty whilst in public office , failing to so do , whilst in public office being misconduct . These complaints also included members conduct. Can you please in your response identify why the appropriate and confidential channels where not opened to be able to do this expediently and trust you understand the seriousness of preventing this

I therefore put it to you if I have not heard expediently from you by close of business Friday 8th June 2016 having Asked Mr Smith to serve the documents relating to this matter to your office and asked to meet with you some weeks ago regarding this matter then you leave no option to raise charges of misconduct against you and the apparent failure to adhere to process set out in SS122 of The Local government Act . I have also asked Ms Parveen Acktar City Solicitor to contact me with immediate effect and to provide details of the legal corporate of otherwise advising on this matter . I note also the 01264 434619 Scrutiny for Legal & Democratic Service number was taken out of use shortly after seeking complaint and no channels on Member Complaint have been opened

For avoidance of doubt no council officer contacted ourselves, nor where we given details of any officer appointed to deal with this lawful process and our lawful participation in it. We have made clear throughout that our objections lawfully made stand. We have not been kept informed , been provided with relevant documents including why the council believe it is not in use (For avoidance of doubt that does not include a petition made some months years previously with questionable wording and passed around ale houses in the evening , and made outside the order making process and to which parties where and are not objectors in the context of appropriation process and to which Mr Smith included prejudicially in Mr Harleys Port folio on the matter) . No alternative in lieu has been suggested by the council and no information or exploration and legal brief on Royal Prerogative has been made.

On the basis of Wednesbury it is unreasonable in the highest orders to expect objectors to attend a meeting to make a representation on facts that the council have failed to provide either as requested or as a matter of process and in the alternative to exclude them from the process or in the alternative not involve them with the process under the constitutional remit of the council

Additionally can you tell me why Mr Gelder was in a position to assert that this project will go ahead outside process and why the three material planning considerations (confirmed independently by 5 other local authority Highway Officers to be material planning matters) were not reported to members on the Planning Panel at the time any application was made For avoidance or doubt that given above. *There is also the issue of sequestering funding of £80*

K over a number of years on year on accumulation and its allocation and visibility to the District Auditor and its use and value to other citizens in this Constituency namely the children at Woodside PS

Finally I refer to my contact with your HR department seeking to confirm the process of Disciplinary procedures and to the council in general regarding the making of complaint in accordance with Officer and Members Code of Conducts and for that matter why one member of that department hung up referring to a letter to be dispatched from the Office of City Solicitor , and why that letter seems to be impeding lawful contact with the council subject of complaint and for that matter why the number of the Legal and Scrutiny Complaints Officer became temporarily unavailable after complaint concerns were raised. I put it to you that the failure this authority to take complaint particular in regard to Member Conduct in the light of this year's election and non payment of council tax has significantly prejudiced process

I also refer to Cllr Greens comments in the T&A regarding the matter . Can you please confirm whether Cllr Green is under investigation or not and whether it is appropriate for him to have made comment given the Cabinet meeting on Tuesday

For avoidance off doubt I will be in attendance in the meeting at Tuesday and request to speak. I also request that in accordingly that we be allowed to document the Cabinet decision on Video, If you or the chair have any objection to this please provide it before Tuesday . For avoidance of doubt the last time I booked signed and waited to and attended a Planning Meeting to speak I was told to sit down by a labour member who was not the chair of the committee because the incompetent chair failed to allocate time , despite having 20 minutes on the morning agenda to have heard it . I trust you understand why it is necessary to document behaviour like this particular when there is a vested political interest in this matter

I am also in recent of correspondence from Richard Winter who is of the belief that the process is sound . That is not the case according to our brief . Can you please advise *who the legal appointed by the council to advise is or was as Mr Winters claims he is only a manager* . I will write separately dealing with Mr Winters points . The process is not to invite Objectors to a meeting to let them know that you , the Council have already made a decision or recommendation without dealing with the relevant matters or by excluding objectors from the process , for avoidance of doubt Covenant , Prerogative , or any of a number of relevant concerns to this unusual historic site of significant value to the City of Bradford it is to communicate issues raised duly by objection ,but to liase , inform and offer the objectors alternative in lieu and to provide an exhaustive document as to why the land is not required and what can be given in lieu etc . The requirement of the Act is that it is to be *clearly advertised* I put it to you that this not the case in the advertisement which made reference to a lease which is a contract that occurs outside of process and to which Objectors where not informed of its terms . On the basis of Wednesbury it is impossible to object to something that you have not seen or in the alternative not been made .

**CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL
LOCAL GOVERNMENT ACT 1972 (AS AMENDED)
PROPOSED APPROPRIATION OF LAND AT TENNYSON ROAD/FAIR
ROAD WIBSEY BRADFORD**

City of Bradford Metropolitan District Council proposes to appropriate land at Tennyson Road/Fair Road to be laid out for use as car parking.

The land to be appropriated forms part of an area of land which is an open space within the meaning of the Local Government Act 1972.

A plan of the land affected is available for inspection in Room 301, Property Law Section, 3rd Floor, City Hall, Bradford BD1 1HY.

Any objection to the grant of the lease of the land should be made to me not later than 4 September 2015, stating the grounds of objection and quoting reference LEG.PL.KES.D32946

Suzan Hemingway, City Solicitor, City Hall, Bradford BD1 1HY

Additionally . In the matter of any concerns on the transfer of Public Land I have asked this Morning Mr Winters to qualify whether land at the Woodside Play area sold by auction 2015 was lawfully appropriated and advertised as such being open Space held by Sport and recreation and for that matter whether land associated with Housing Stock that transferred in 2003 also was duly advertised and appropriated. In such circumstances the lawful process would therefore not accommodate the Councils Procedure on transfer where a a tenant only vote was used to mediate land transfer . I trust I will get a simple and clear answer to these particular questions which in the context reflect the overall issue of Transfer of land Assests with monetary consideration. I draw attention members who refused to represent constituents on this matter because they were of the belief they had a conflict of interest but did manage to procure £60 K of Government Playbuilder monies to develop the site as an Open Space Play Area before allowing it to be sold at auction

Finally I must bring to your attention the historic discrimination that this council has shown in regard to diverse matters lawfully made in my capacity running a Heritage Charity and Environmental Consultant , the refusal of Mrs Hemmingway throughout her tenure to investigate an unlawful instruction put in place by an executive council officer resulting in a number of negative consequences . including interception, prejudice and service denial and the continuation of any instruction whether written formally given or misconstrued by any member of your staff or in one case used by members to defease representation at community meetings or that which was not redacted when the council admitted liability . These issue will be addressed to you as a separate matter as there is a substantial evidence and documentary trail on it . I made it clear to both Ms Hemmingway and Mr Pearson that if this instruction persisted or in the alternative any officer failed in their capacity to undertake duties lawfully requested as a result of such discrimination there would be substantial implications for the council .

I remain

Colin Duke

Recipient

'ceo.admin@bradford.gov.uk'

'claire.wilde@telegraphandargus.co.uk'

'DEBBIE FITZPATRICK'

'mark.kirkham@mazars.co.uk'

Read

Read: 10/06/2016 13:01

Read: 10/06/2016 18:42