

OBJECTION TO REDDITCH HOUSING GROWTH CONSULTATION

Mr A.J.Warby
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Please note that I wish for this document to appear in full as a response to the Housing Growth Consultation and for it to be available for the Inspectorate stages of the process.

I am writing to object to the Housing Growth Consultation, on the grounds of procedural flaws that have occurred in bringing the Consultation in to the public domain.

The process in which the Consultation, and in particular the Consultation documentation, has been voted through Council for release to the Public has broken the Councils own Constitutional Rules.

The Housing Growth Consultation documents were recommended by Executive Committee, to be put to Full Council for approval. However, at Full Council on 18th February 2013, the vote went against the Consultation, so it was not approved to commence.

Discussions at that meeting suggested changes/improvements to, in particular, the public leaflet/documentation, that would represent a fairer and more democratic approach, giving Redditch residents a number of options to consider and consult on, rather than the rigid 'selective' information that was on the existing paperwork. Out of 20 sites considered, only 2 appear on the literature.

However, Councillors nor Officers took this opportunity to re-look at the content of the leaflet or associated documentation. In the meantime, Bromsgrove Council, aware of the vote not to start the Consultation, wrote to Redditch Council on 21st February regarding their duty to co-operate.

At the next Executive Council meeting (12th March), the Bromsgrove Council letter was disclosed.

Following this meeting, Labour Councillors chose to propose for the Consultation to appear again at the next Full Council Meeting, and in order to enable this, 7 Members signed a form which would invoke Constitution Rule 15, allowing a previous decision to be revoked (the non-approval of the Housing Growth Consultation), and submitted it to the Monitoring Officer.

When Full Council then met on 25th March 2013, a vote was taken on the motion to rescind the previous decision on the Housing Growth Consultation, which Labour proceeded to win, to allow the Consultation process to commence, using the original documentation.

However, in doing so, they had failed to meet the requirement of 9 clear working days notice which the Constitution requires for submission of non-procedural motions. A motion to rescind a previous decision is not a procedural motion. This is evidenced by the fact that 7 Labour Members deemed it necessary to sign the paperwork on the 12th March to enable this rescinding of the previous decision.

I raised this with the Chief Executive of Redditch Borough Council, detailing the relevant sections of the Constitution, but his view of the process seems to ignore the exact wording of the Constitution, claiming that they did not require the stated notice period, and that in his opinion they have gone beyond their Constitutional requirements on this matter.

The emails between us are attached below.

In addition, the fact that the Council sat back and did nothing after the original rejection of the Consultation, rather than writing to Bromsgrove Council, amending the public documentation or other practical tasks, they waited for their neighbour to take the lead and write to them, putting Redditch effectively on the back foot, and allowing us to be dictated to by Bromsgrove.

My objections are essentially:

- *The Council did not follow its own Constitutional Rules to bring the Consultation to the Public*
- *The Council failed to follow a democratic process and review documentation after the initial vote against going to consultation with the existing paperwork*
- *Redditch Council have, by their own actions, allowed Bromsgrove Council to dictate events, which relate to Redditch and its residents, thus failing in its duty to them*
- *The Labour Group have essentially been allowed to overturn and force a decision through Council, purely because they did not agree with the original outcome, despite the democratic vote which sanctioned it*
- *Management has not only failed to provide valid explanations for the procedural errors, but has also expressed views that the Council has gone above and beyond their Constitutional obligations on this matter, despite the fact it is clear they have not*
- *The overall effect of the above is that the Council has been able to push through a Consultation process which does not provide choice or options for residents, and which does not provide readily available, concise details of the 20 potential sites that are relative to the public consultation process*
- *If this is the manner in which the delivery of the public consultation has been handled, it brings in to question the entire consultation process, including the evidence base behind it.*

Copies of Emails between Mr A. J. Warby and Kevin Dicks, Chief Executive of Redditch Borough Council:

From: Andrew Warby [mailto:andrew.warby@blueyonder.co.uk]
Sent: 02 April 2013 16:34
To: Kevin Dicks
Cc: Claire Felton
Subject: Council Constitution Procedural Rules breach

Dear Mr Dicks -

As you will be aware, on 25th March 2013 the Council voted on a motion to rescind a decision previously taken regarding the Redditch Growth Proposal being put out to consultation, under Procedural Rule 15.

The motion to rescind a previous decision had been submitted following the Executive Committee Meeting on 12th March 2013, duly signed by 7 Members as required under Rule 15.

However, I would like to draw your attention to another section of the Constitutions Procedural Rules below:

11.1 Except for procedural motions which can be moved without notice under Rule 12, written notice of every motion shall be delivered to the Monitoring Officer by post or electronic means not later than close of business 9 clear working days before the date of the meeting.

Motions to rescind previous decisions are not listed as 'procedural' under section 12.

The constitution also defines how time for such matters is calculated in section 28:

"Working Day" shall not include a Saturday, Sunday, Bank Holiday, public holiday or other day on which the Town Hall is closed.

"Clear Day" shall not include the date on which notice is given, or the date of the meeting itself.

Taking the above in to account, the date of submission for the motion to rescind a previous decision only allows for **8 clear working days** ahead of the meeting on the 25th March, and not the 9 required in the rules.

As far as I can determine, from the clear facts above, this means that the motion should not have been accepted for tabling at the meeting on the 25th, as to do so would have broken the Procedural Rules of the Council Constitution.

This means that **the Council is in breach of its own regulations** if it upholds the result of the motion to rescind the previous decision on this matter and continues with the Local Growth Consultation in its current form.

The mere fact that Labour Councillors determined they should invoke Rule 15 for this purpose is questionable – discussions at the various meetings proposed alterations to the consultation documents that might offer a better 'choice' of sites for residents to consult on – so such changes could have been implemented and a modified proposal voted on, rather than the un-democratic approach that was taken here. I fully understand the Council is under pressure from a duty to co-operate perspective with Bromsgrove District Council, but there was enough time for changes to be made and approved, which would have represented a far more open approach to the process, and still enabled the duty of co-operation to be maintained.

Instead of which, a motion has been 'forced' through Full Council, without concern for the Procedural Rules or the democratic process they are in place to uphold.

I would like to receive a written response from you on this matter and how you intend to deal with it with some urgency.

I have also copied this letter to your Head of Legal Services, and will also be seeking legal advice on the matter myself.

Yours Faithfully

Mr A J Warby

From: [Kevin Dicks](#)
Sent: Wednesday, April 03, 2013 12:49 PM
To: [Andrew Warby](#)
Cc: [Claire Felton](#) ; [Susan Tasker](#)
Subject: RE: Council Constitution Procedural Rules breach

Dear Mr Warby,

Thank you for your email. I do appreciate that the Council Procedure Rules can be confusing and the language that we use, albeit fairly standard nationally, isn't helpful to members of the public. I do intend to ask officers to look at this.

The Council Procedure Rules set out the framework within which items of business can be debated and determined at Full Council meetings.

The Council is required by law to give 5 clear days notice of any meeting by posting the details of the meeting on the Council website.

Copies of the agenda and reports for the meetings are provided electronically and available for inspection at the Town Hall at least 5 clear days before a meeting.

This is so that the public can have access to the business that is to be debated and it is a matter of law.

The constitution sets out the way in which business can be placed on the agenda and the way in which it can be debated and determined.

There are a number of ways in which business can appear on the agenda. One being a 'Motion on Notice'.

This is where any member of the Council can request that a particular issue or topic be debated and voted on by Councillors. There are very specific rules governing the type of issue or business that fall into this category and the manner in which members can submit and subsequently debate it.

In addition to Motions on Notice the Constitution details other legitimate methods by which business can be placed on an agenda for Full Council. One is 'Consideration of Recommendations from Executive Committee and Reports. This is detailed at item 14 in the Council Procedure Rules and relates to the item on the agenda of the meeting that you refer to on Cross Border Growth.

Executive recommendations are ones that are agreed at the meeting of the Councils Executive Committee in the form of a recommendation. They then move on automatically to Full Council for debate and determination.

There are a number of areas of business that work in this way and generally fall under the headings of budget or policy setting. In this situation, because it forms part of a process that will lead to the Councils development framework and local plan, then it is legitimate for it to follow this decision making path. The Full Council has the ultimate responsibility for this, albeit that the Executive have a responsibility to place it into a context.

These rules explain how items can be properly placed on an agenda for debate and acknowledge that there are different ways in which this can be done legitimately, each with rules to support this.

In addition the Constitution requires that when there is a motion, the effect of which is to rescind a decision made at a meeting of Council within the past six months, before it can be moved it must be signed by at least seven members of the Council.

It is arguable that a recommendation from the Cabinet did not actually require the seven signatures and that it was legitimate for it to stand alone from this requirement in respect of motions. As there is no distinction between motions and recommendations for the purposes of this section members decided that it would be more thorough to complete a form.

Some authorities specifically exclude the need for members to sign a document where the effect of an item would be to rescind a decision within the last six months where the item is as a result of an Executive recommendation. This is because it is clearly a legitimate route for business to flow from Executive to Council – indeed it would be impossible for the Council to function if it did not.

In short I think that the Council has exceeded its constitutional requirements in this regard.

I realise that the rules surrounding this are detailed and complex but I hope that I have been able to set out how the decision making process has been followed in this matter.

I hope this helps clarify the matter

Kind regards Kevin

Kevin Dicks
Chief Executive of Bromsgrove District and Redditch Borough Councils

From: Andrew Warby [mailto:andrew.warby@blueyonder.co.uk]
Sent: 05 April 2013 14:59
To: Kevin Dicks
Cc: Susan Tasker; Claire Felton
Subject: Re: Council Constitution Procedural Rules breach
Importance: High

Dear Mr Dicks -

Thankyou for your response, although I must conclude that I find some of its content a little condescending.

Perhaps the content of my letter, being from a mere member of the public was written too plainly – but I can assure you that I can read the Councils rules and procedures, and understand the wording clearly.

I fully understand the process you describe in the first twelve paragraphs of your letter, and also that the matter of the Growth Consultation Proposal came under the 'Consideration of Recommendations from Executive Committee and Reports' heading.

In case it is not clear, I can also confirm that I do not actually question this fact in my letter. How the item arrives on the agenda is not really the concern at all. It is what happens when the item is approved or rejected that is where I have grave issues.

When the Council originally met on 18th February, to 'consider' the recommendation from Executive Committee to endorse the Redditch Growth Plan material for public consultation, a vote was taken, resulting in a *decision* being made not to proceed with the Executive Committees recommendation to adopt the Redditch Growth Consultation material.

The Leader of Bromsgrove District Council, Councillor Hollingworth, when writing to Redditch Borough Council on 21st February, following the RBC meeting, regarding the duty to co-operate agreement, starts his second paragraph with the wording '*In response to the decision taken by Redditch Borough Council on the 18th February not to endorse.....*'

It seems then, without question, that a decision was made on this matter by the Council – after all, I am confident that Councillor Hollingworth fully understands the 'confusing language' that you use.

The wording of Procedure Rule 15 remains pretty clear to me...

*"A motion, the effect of which is to rescind a decision made at a meeting of Council, within the past six months, cannot be moved unless the Notice of Motion is signed by **at least 7** members of the Council."*

The rule makes no mention of being dependant on how the item being decided upon came to be placed on the agenda, or of any specific exclusions that allow this rule to be waived. It purely refers to rescinding a previous decision – which is exactly what the Labour Group were intending to do when they signed the motion form on the evening of 12th March. Indeed, I fail to see how you can suggest it is 'arguable that a recommendation from the Cabinet did not actually require the seven signatures'. It is the fact that a decision was made on the 18th February not to adopt the Growth Plan Consultation, which prompted and necessitated the adoption of Rule 15 by the Labour Group if they were intent on reversing this, as they were.

Councillor Hollingworth saw the matter as a *decision*, and so do I, as am I confident would any other member of the public.

By choosing to adopt Rule 15 and sign the form accordingly, it seems clear to me that the Labour Group knew it was the only correct and legal route to follow in order to achieve their goal of overturning the original *decision*. Unfortunately the timing of events did not quite fit the notice period detailed within the constitution for submission of a motion – possibly this was a simple oversight, but however you look at it, the Councils Rules are clearly worded as far as I can see, and were broken. Moreover, your response seems more like an attempt to disguise the error by inferring that it is difficult for the general public to understand Council

business, or, to suggest that because other Councils may do things differently, it is fine for Redditch Council to pick and choose when they follow the rules.

As far as I am aware, as I am sure the majority of the general public would agree, a written rule is there to be followed 'to the letter'. This does not normally include letters and words that are not included in the text, as your response appears to allude to. If there is no 'distinction' documented, then surely the inference of the wording is all encompassing, i.e. without distinction. Submitting the motion to rescind a previous decision, however that decision came about, therefore required the documented 9 clear working days, which in this case were not met.

I would be interested to see examples of the constitutions of these other Councils incidentally, to examine their wording, albeit the wording of another Councils Rules are irrelevant in support of your argument.

I, as no doubt are other Redditch voters, am only interested in what happens in my local Council – and expect them to follow their own rules and procedures to ensure not only that they are compliant, but also that decisions are made in a democratic way.

Your suggestion that the Council has 'exceeded its constitutional requirements in this regard' does not sit at all easily with me. I am deeply concerned that as Chief Executive, you are content with your response, especially on a matter which will in the long term have vast implications for the residents of Redditch.

As I stated in my original letter, when the original Growth Plan Consultation documents were rejected, there was ample time for some of the amendments discussed by Councillors at the meeting to be incorporated, the main thrust being to make it easy for everyone to understand more about, or at least identify the 20 sites assessed by Officers, rather than just the two on the public literature. Why such a simple, constructive, democratic option as this was not taken up also leaves many unanswered questions.

My focus however, remains on the failure of the Council to follow its own rules in relation to the motion to rescind a previous decision, and, what I deem to be your inadequate response to date.

I hope I have explained my position clearly enough, and look forward to a reply confirming how you intend to deal with this serious unresolved matter.

Yours Faithfully

Andrew Warby

From: [Kevin Dicks](#)
Sent: Monday, April 08, 2013 10:06 AM
To: [Andrew Warby](#)
Cc: [Susan Tasker](#) ; [Claire Felton](#)

Subject: RE: Council Constitution Procedural Rules breach

Dear Mr Warby

Thank you for your email. I apologise that you found my email condescending – the rules are very complicated and difficult to explain in a few sentences however this is what I was trying to achieve in my email.

The main area of confusion from what I can gather from your email would be the difference between Motions on Notice and the requirement for seven signatures to a motion the effect of which would be to rescind a previous decision. I am clear that the rules have been followed and I have tried to articulate the reasons for this.

I accept that you are very upset about the decision that has been made to consult and I am happy to do what I can to explain why this has happened. Rather than try to explain via email it may be better to meet with myself and Claire Felton in her role as Monitoring Officer so that we can discuss this further.

If you would like to meet please let me know and I will get my PA to contact you to arrange a suitable time.

Regards Kevin

Kevin Dicks

Chief Executive of Bromsgrove District and Redditch Borough Councils

From: [Andrew Warby](#)

Sent: Tuesday, May 14, 2013 12:27 PM

To: [Kevin Dicks](#)

Cc: c.felton@bromsgroveandredditch.gov.uk ; susan.tasker@bromsgroveandredditch.gov.uk

Subject: Re: Council Constitution Procedural Rules breach

Dear Mr Dicks -

Thankyou for your offer to meet, but I do not feel in this instance that there will be anything to gain, as you have explained your reasoning within your emails below.

A verbal explanation of your reasoning will not act to change my view on this matter, that the due process was not properly followed, and on this basis I will be lodging my concerns as an official objection to the Housing Growth Consultation on procedural grounds.

Yours Faithfully

Andrew Warby