

## **The presence of actual or perceived bias. actual or perceived perversions of the planning process**

The company wanting to reopen the site was set up by two councillors. On 19 March 2020, Wycombe District Council accessed its contingency funds and used the money to grant the company £20,000 to use to reopen the site including to fund the necessary “permissions”. This grant was effectively made by the Council to secure permissions that the Council would itself determine.

It is difficult to understand how and why the Council was able to make a sizeable grant, from its contingency funds and the start of a national pandemic to help a private company reopen a waste site that it decided to close because it was inefficient and poorly located.

What is the significance of the grant being made before the planning hearing to fund getting the “permissions” and in anticipation of the application being passed ?. A prudent body would either make the grant after the permission was granted or make it conditional on planning, rather than having to wait five years for repayment.

### **Perceived or actual bias and predetermination in the planning process:**

The application process appears to have been streamlined for and tilted in favour of the applicant, the principal promoters of which – Mrs Bendyshe-Brown and Etholen - are councillors.

In particular, we cite the:

- a. waiver of surveys normally required of any applicant;
- b. unconstrained grant of council funds without due diligence;
- c. apparently accelerated application and lease approval process;
- d. pre-negotiation of aspects of the permission and lease;
- e. ease of access to council decision makers;
- f. the failure to offer the HRC site publicly.

The question to be asked is, do the circumstances lead a fair minded and informed observer to conclude that there was a real possibility that the decision maker was biased. Accordingly, both actual and perceived bias are covered. See *Porter v Magill* (2002) 2AC 357. It is axiomatic that each case will turn on its own facts, but the reasoning in *Kelton v Wiltshire Council* (2015) EWHC 2853 at Paras 46-53 is particularly instructive in the context of these submissions.

### **Predetermination**

The arguments for bias also feed the perception that the outcome of the process has been pre-determined. Why, otherwise, would the Council have made a £20,000 grant to the CIC or agreed lease terms for the site before planning consent had been granted? How is the average person expected to interpret the waiver of normally required planning surveys?



## WYCOMBE DISTRICT COUNCIL

### Decision taken by Cllr Ms Katrina Wood Executive Leader of the Council

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The Member has taken the following decision.

The decision will take effect on 19 March 2020.

#### **Title**

Approval of Grant Award of £20,000 to Bledlow Ridge Household Recycling Centre Community Interest Company

#### **Decision Taken**

That a grant of £20,000 funded via a virement from the Council's Contingency Budget (CGMB10) to the Community Grant Budget CCCC11 D770 to Bledlow Ridge HRC CIC for the creation of a household waste recycling centre at Bledlow be approved.

#### **Date of Publication**

19 March 2020

#### **Reasons for Decision**

To award £20,000 to Bledlow Ridge HRD CIC for the operation of a household waste recycling centre at Bledlow Ridge.

Decision taken as a specific decision recommended by the Cabinet Member for Finance and approved by the Leader of the Council.

#### **Consultation Undertaken**

No consultation undertaken.

#### **Officer Contact**

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