



# Council

Monday 9<sup>th</sup> December  
2013  
7.00 pm

Council Chamber  
Town Hall  
Redditch



[www.redditchbc.gov.uk](http://www.redditchbc.gov.uk)

# Access to Information - Your Rights

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The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council's Website:  
[www.redditchbc.gov.uk](http://www.redditchbc.gov.uk)

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**If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact  
Ivor Westmore  
Democratic Services**

**Town Hall, Walter Stranz Square, Redditch, B98 8AH  
Tel: (01527) 64252 (Extn. 3269) Fax: (01527) 65216  
e.mail: [ivor.westmore@bromgroveandredditch.gov.uk](mailto:ivor.westmore@bromgroveandredditch.gov.uk)**

# Welcome to today's meeting.

## Guidance for the Public

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### **Agenda Papers**

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

### **Chair**

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

### **Running Order**

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

**Refreshments** : tea, coffee and water are normally available at meetings - please serve yourself.

### **Decisions**

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

### **Members of the Public**

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

### **Special Arrangements**

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

### **Further Information**

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

### **Fire/ Emergency instructions**

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

**Do Not stop to collect personal belongings.**

**Do Not use lifts.**

**Do Not re-enter the building until told to do so.**

The emergency **Assembly Area** is on **Walter Stranz Square**.





# Council

9<sup>th</sup> December 2013

7.00 pm

Council Chamber Town Hall

## Agenda

### Membership:

Cllrs:	Wanda King (Mayor)	Carole Gandy
	Pat Witherspoon (Deputy Mayor)	Adam Griffin
	Joe Baker	Bill Hartnett
	Roger Bennett	Pattie Hill
	Rebecca Blake	Roger Hill
	Michael Braley	Gay Hopkins
	Andrew Brazier	Alan Mason
	Juliet Brunner	Phil Mould
	David Bush	Brenda Quinney
	Michael Chalk	Mark Shurmer
	Simon Chalk	Yvonne Smith
	Greg Chance	Luke Stephens
	Brandon Clayton	Debbie Taylor
	John Fisher	Derek Taylor
	Andrew Fry	

<b>1. Welcome</b>	The Mayor will open the meeting and welcome all present.
<b>2. Apologies</b>	To receive any apologies for absence on behalf of Council members.
<b>3. Declarations of Interest</b>	To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
<b>4. Minutes</b> (Pages 1 - 12) Chief Executive	To confirm as a correct record the minutes of the meeting of the Council held on 14 <sup>th</sup> October 2013. <b>(Minutes attached)</b>
<b>5. Announcements</b>	To consider Announcements under Procedure Rule 10: a) Mayor's Announcements b) Leader's Announcements c) Chief Executive's Announcements.  (Oral report)

<p><b>6. Questions on Notice</b> Chief Executive</p>	<p>No questions have been submitted to date under Procedure Rule 9.2.</p>
<p><b>7. Motions on Notice</b> (Pages 13 - 14) Chief Executive</p>	<p>To consider the following Motion submitted by Councillor Bill Hartnett:</p> <p>Freedom of the Borough.</p> <p>(Motion attached)</p>
<p><b>8. Executive Committee</b> (Pages 15 - 46) Chief Executive</p>	<p>To receive the minutes and consider the recommendations and/or referrals from the following meetings of the Executive Committee:</p> <p><u>15<sup>th</sup> October 2013</u></p> <ul style="list-style-type: none"><li>• There are no matters requiring the Council's consideration – the two recommendations included within these minutes were both the subject of the Council's Urgent Business procedures in order to expedite the business.</li></ul> <p><u>12<sup>th</sup> November 2013</u></p> <p>Matters requiring the Council's consideration include:</p> <ul style="list-style-type: none"><li>• Redditch Borough Council Response to the Greater Birmingham and Solihull Local Enterprise Partnership Spatial Plan for Recovery and Growth Consultation Draft</li></ul> <p><u>26<sup>th</sup> November 2013</u></p> <p>Matters requiring the Council's consideration include:</p> <ul style="list-style-type: none"><li>• Redditch United Football Club – Ground Relocation</li></ul> <p>(Reports and decisions attached.)</p> <p><b>(Minutes circulated in Minute Book 5 – 2013/14)</b></p>

## 9. Regulatory Committees

Chief Executive

To formally receive the minutes of the following meetings of the Council's Regulatory Committees:

Audit & Governance Committee - 26<sup>th</sup> September 2013

Licensing Committee - 11<sup>th</sup> November 2013

Planning Committee - 23<sup>rd</sup> October 2013

Standards Committee - 24<sup>th</sup> October 2013

**(Minutes circulated in Minute Book 5 – 2014/15)**

## 10. Urgent Business - Record of Decisions

Chief Executive

To note the following decision taken in accordance with the Council's Urgency Procedures since the last ordinary meeting of the Council:

1. Use of Housing Revenue Account Reserves to Fund Activity as a Syndicated Partner in the Government Mortgage Rescue Scheme within the Borough

(Deputy Chief Executive / Executive Director, Finance and Resources)

Consideration was given to a proposal that the Council become a syndicated partner in the Government Mortgage Rescue Scheme. There was a need to get the agreement for funding of this Scheme approved as soon as possible in order that the Council might maximise the opportunity to access the very significant grant funding available through the HCA.

**RESOLVED that**

**authority be delegated to the Executive Director of Finance and Resources and the Head of Housing Services to use up to £400,000 from Housing Revenue Account Reserves for the Government Mortgage Rescue Scheme and support.**

**(Council Decision)**

2. Voluntary and Community Sector Grants Programme 2014/15

(Deputy Chief Executive / Executive Director, Finance and Resources)

Consideration was given to agreeing the Voluntary and Community Sector Grants Programme prior to it being publicly launched towards the end of October. The deadline for applications through the Grants process is 4<sup>th</sup> December 2013. An urgent decision was required in order that the Council might maintain its timetable for the Grants Programme and ensure that voluntary and community sector groups have the opportunity to apply for and potentially gain funding through this process in time for the coming financial year.

**RESOLVED that**

**the following themes and percentages of funding be allocated for the 2014/15 voluntary and community sector grants process: (see report for details on themes: these themes link into the Strategic Purposes for Redditch Borough Council – See chart - Appendix 1 to the Executive Committee report)**

- **Independent Communities = £130,000**  
– see 3.3.1
- **Community Development = £ 55,000**  
– see 3.3.2
- **Thriving Communities = £ 20,000**  
– see 3.3.3
- **Community Welfare = £ 20,000**  
– see 3.3.4
- **Stronger Communities Grant Programme = £ 15,000**  
– see 3.3.5
- **£1,000 be allocated from the Grants budget for the use by the Grants Team to deliver:**
  - a) **networking and promotional events;**
  - b) **advertising and communication support;**
  - c) **newsletters.**

**(Council decision)**

(No separate reports attached)



<b>11. Urgent Business - general (if any)</b>	<p>To consider any additional items exceptionally agreed by the Mayor as Urgent Business in accordance with the powers vested in her by virtue of Section 100(B)(4)(b) of the Local Government Act 1972.</p> <p>(This power should be exercised only in cases where there are genuinely special circumstances which require consideration of an item which has not previously been published on the Order of Business for the meeting.)</p>
<b>12. Exclusion of the Public</b>	<p>Should it be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting in relation to any items of business on the grounds that exempt information is likely to be divulged it may be necessary to move the following resolution:</p> <p><b>“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter(s) on the rounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs (<i>to be specified</i>) of Part 1 of Schedule 12 (A) of the said Act, as amended.”</b></p> <p><b>[Subject to the “public interest” test, information relating to:</b></p> <ul style="list-style-type: none"><li><b>• Para 1 – <u>any individual</u>;</b></li><li><b>• Para 2 – <u>the identity of any individual</u>;</b></li><li><b>• Para 3 – <u>financial or business affairs</u>;</b></li><li><b>• Para 4 – <u>labour relations matters</u>;</b></li><li><b>• Para 5 – <u>legal professional privilege</u>;</b></li><li><b>• Para 6 – <u>a notice, order or direction</u>;</b></li><li><b>• Para 7 – <u>the prevention, investigation or prosecution of crime</u>;</b></li></ul> <p><b>may need to be considered as ‘exempt’.]</b></p>

# Council

9<sup>th</sup> December 2013

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(Note: Anyone requiring copies of any previously circulated reports, or supplementary papers, should please contact Committee Services Officers in advance of the meeting.)

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## Council

14<sup>th</sup> October 20123

## MINUTES

### Present:

Councillor Wanda King (Mayor), Councillor Pat Witherspoon (Deputy Mayor) and Councillors Joe Baker, Roger Bennett, Rebecca Blake, Michael Braley, Juliet Brunner, David Bush, Michael Chalk, Simon Chalk, Greg Chance, Brandon Clayton, John Fisher, Andrew Fry, Carole Gandy, Bill Hartnett, Pattie Hill, Roger Hill, Gay Hopkins, Alan Mason, Phil Mould, Mark Shurmer, Yvonne Smith, Luke Stephens, Debbie Taylor and Derek Taylor

### Also Present:

Mr R McColl, Ms S Duffin, Mrs E Daykin and Mr R Daykin

### Officers:

A Darroch, K Dicks, C Felton, C Flanagan and S Hanley

### Committee Services Officer:

I Westmore

### 52. APOLOGIES

Apologies for absence were received on behalf of Councillors Andrew Brazier, Adam Griffin and Brenda Quinney.

### 53. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 54. MINUTES

#### RESOLVED that

**the minutes of the meeting of the Council held on 9<sup>th</sup> September 2013 be agreed as a correct record and signed by the Mayor.**

.....  
Chair

**55. ANNOUNCEMENTS**

(a) The Mayor's communications and announcements were as follows:

i) Former Councillor Tom Wareing

It was with great sadness that the Mayor formally advised the Council of the death in mid-September of former Councillor Tom Wareing. The Mayor paid tribute to former Councillor Wareing and welcomed his widow, Beryl and one of his four sons, Paul, to the meeting.

Members of the Council were invited to offer up words they might wish to offer in memory of former Councillor Wareing and of his services to the Borough.

The Leader of the Opposition commenced the tributes to former Councillor Wareing, commenting on the active part he played in the life of the Borough, being a regular writer of letters to the local newspapers and providing advice to her and her colleagues up until recent times. The high regard in which Councillor Wareing had been held was attested by the numbers who had been present at the commemorative service to celebrate his life.

The Leader of the Council then led other Members in expressing their thoughts on the character and achievements of former Councillor Wareing. The consistency of Councillor Wareing's views and his faith were commented on by a number of Members. The meeting was advised that the decision had been taken on this occasion to fly the flag at half-mast over the Town Hall given the significant role former Councillor Wareing had played on the Council.

Members observed a minute's silence as a mark of respect and it was subsequently

**RESOLVED that**

**the Council formally place on record its gratitude to former Councillor Tom Wareing for his service to the Council and to the community.**

ii) Mayoral Functions

The Mayor advised that since the last meeting of the Council she and the Deputy Mayor had attended a number of engagements, including her own Civic Service in September, Education Awards at NEW College, an Apple Day at

Headless Cross Community Orchard, welcoming some Palestinian visitors to Woodrow First School, the County Harvest Service in Worcester, a Shrievalty Service at Worcester Cathedral, the Friends of Gruchet Quiz Night, Reading Challenge Awards at Redditch Library, an event with the Severn Freewheelers Emergency Voluntary Service at the Alexandra Hospital and Pershore Civic Service the previous day.

iii) Forthcoming Events

The Mayor advised that forthcoming events included the Mayor of Evesham's Indian buffet, a Business Breakfast with the local MP, her own Skittles Evening on Friday, the opening of a new business unit, the opening of a new bridge at Redditch Golf Club, the Remembrance Day Service and the Council's Bonfire Night Display.

iv) Births

The Mayor congratulated Councillor Simon Chalk on the recent birth of his baby son and Town Centre Manager, Lindsey Berry on the recent birth of her first child.

(b) The Leader's announcements were as follows:

i) Special Olympics Redditch

The Leader led the Council in congratulating the Special Olympics Redditch Team which had competed at the recent Special Olympics at Bath and had come away with a haul of 20 Medals. The Council was honoured to have six of the athletes and a number of the organisers of the Team in attendance at the meeting. Sarah Duffin, Chair of Special Olympics Redditch, spoke about the organisation, commenting that it was a charitable body which had been formed 25 years previously by Elaine Daykin as a provider of sports provision for people with intellectual disabilities. Special Olympics Redditch competed at both a national and international level and was privileged to be one of the current Mayor's charities.

ii) Mental Health and Well-Being Week

The Leader commended Councillor Rebecca Blake and Harriet Ernstsons from the Redditch Standard for organising a recent series of events to publicise the issue of Mental Health awareness.

iii) MacMillan Coffee Morning

The Leader thanked Councillor Pattie Hill and others for running a very successful MacMillan Cancer Support Coffee Morning at the Town Hall in late September.

iv) Alzheimer's Society

The Leader informed the Council that there was a newly established Alzheimer's Society branch in the Redditch area and added that a number of Customer Services staff were to avail themselves of the opportunity to undertake training in dealing with customers with Alzheimer's and other forms of dementia.

v) Redditch Keralan Society

The Leader advised that he and other Members had enjoyed a very enjoyable social event organised by the local Keralan Society recently.

vi) Bandstand Festival

The Leader reported that he had attended the final weekend of the Bandstand Festival and reflected on an excellent series of events throughout the summer.

vii) Redditch Magistrates' Court Open Day

The Leader advised that he and many other local people had attended a very interesting open day at Redditch Magistrates' Court.

viii) Alexandra Hospital

The Leader reported that Members had been instrumental in gaining responses to the CCG engagement process on the Alexandra Hospital and that 300 had been returned thus far.

ix) New Town Celebrations

The Leader reported that he had attended a recent event at the Palace Theatre celebrating 50 Years of Redditch New Town, noting that additional events had been organised to reflect the interest locally in the anniversary.

**56. QUESTIONS ON NOTICE**

The Leader responded to five questions submitted in accordance with Procedure Rule 9.2 from Councillors David Bush, Michael Chalk and Adam Griffin and Mr Robert McColl as detailed below.

- (i) Borough of Redditch Local Plan No.4 – Proposal for Houses off Far Moor Lane

Councillor Brunner, on behalf of Councillor Griffin, who had submitted his apologies for the meeting, asked the following question:

Would the Leader of the Council agree with me that openness and transparency in local government is important?

In this spirit of openness could he please explain to this Council why residents in my ward of Winyates Green have not been consulted about the proposal to build houses off Far Moor Lane?

Furthermore could he explain why the inclusion of this in LP4 was not discussed at PAP or in any other forum with Councillors?

Would he confirm whether any Winyates Councillors were briefed about this proposal? If so when was this briefing and why was I not included when it occurred?

What will he do to ensure residents of Winyates Green are made aware of this major housing proposal? More importantly, will he commit to keeping the residents of Winyates Green updated on any such proposals?

The Leader replied as follow:

Yes I agree that openness and transparency in local government is important

Officers have confirmed and advised that the item which discussed the inclusion of lands in the A435 corridor came to and was discussed at the Planning Advisory Panel on 18 September 2012.

Since then the sites were featured in the April 2013 version of the draft Local Plan No.4. There have been no changes to the background report 'A Review of the A435 and Adjoining Lands' since it was brought to Planning Advisory Panel and therefore featured in the latest Proposed Submission Local Plan No.4.

Residents in all wards were consulted in line with the adopted procedures in the Councils Statement of Community Involvement. The future stages of the Plan's progression will also follow these procedures, to ensure residents and others are kept up to date.

Councillors were briefed about the contents of the Proposed Submission Plan on 29<sup>th</sup> August 2013 (a Conservative group meeting at which I understand you were in attendance) and 6<sup>th</sup>

September 2013 (a Labour group meeting at which Councillors Yvonne Smith and Phil Mould were in attendance).

There was no supplementary question.

(ii) Council-owned Housing Land

Councillor Michael Chalk asked the following question:

- a) Will the leader inform this council of every piece of land in the Borough that this council owns and can be used for housing?
- b) Will he detail which is for sale or potential sale?
- c) Will he give assurances to this Council and the residents of this town and outline how he proposes to explore all avenues to sell land rather than give it away for nothing.
- d) How does he propose to ensure that this Council gets best value for the sale of this land?

The Leader replied as follows:

- a) Worcestershire County Council Property Services are able to identify all RBC land and building assets, but details of non building related assets are only held electronically on the GIS mapping system, or on CRA transfer plans, and identification is not at site level but based upon Title / transfer records.

As such each land asset covers a swathe of area which may include built and non built areas, operational, investment and leisure sites.

As a result, the Council does not hold one definitive list detailing all sites owned by the Council which may be suitable for housing development, and to create one would take time and resources.

However, Officers have identified a number of sites considered suitable for housing development subject to planning.

A number of these sites have been declared and agreed to be surplus.

- b) The following sites have been declared surplus:-

Middle House Lane – joint owned RBC/WCC  
Auxerre Avenue  
Upper Norgrove House  
Ipsley 3



Hewell Road Pool (subject to planning)  
Wirehill Drive (Planning refused)  
Loxley Close  
Clifton Close  
Fladbury Close  
Mordiford Close (Planning refused)  
Skilts Avenue/Lodge Pool Drive (Planning refused)

- c) A detailed report entitled 'Delivering New Affordable Housing' will be considered by Redditch Borough Council Executive Committee when it next meets on 15<sup>th</sup> October 2013.

The report outlines the opportunities, financial risks and challenges associated with increasing housing stock in the Borough and it also contains a series of recommendations for increasing the supply of affordable homes in Redditch.

The Executive have the opportunity to ask officers to report back with more detail on each of these options and recommendations, so that the Council can be satisfied that it has fully explored all avenues before taking any specific future proposals forwards.

- d) When assessing best value it is important to consider the roles and responsibilities of the Council not just the monetary element of the disposal of land.

The Council as the Local Strategic Housing Authority has a number of roles and responsibilities which it needs to consider when disposing of land and what constitutes best value.

These roles and responsibilities include assessing and planning for the current and future housing needs of the local population, planning and facilitating new supply, making the best use of the existing housing stock, planning and commissioning housing support services which link homes and housing support services and working in partnership to secure effective housing and neighbourhood management on an on-going basis.

The Council also has a Strategic Purpose of 'Help me find somewhere to live in my locality' and the disposal of land to a Registered Provider to enable the supply of new affordable housing, with the Council receiving nomination rights to the properties, may provide better value than just the sale of a site for the highest capital receipt.

There was no supplementary question.

(iii) Local Plan No. 4 – Statement of Community Involvement

Mr Robert McColl asked the following question:

The Council's Statement of Community Involvement sets out a clear statement that Community Involvement is fundamental to the development of The Local Plan.

The draft Local Plan No 4 also states that the plan has been 'influenced by the local community', as well as stakeholders and developers. The statement adds that it aims to help the local community see that the housing growth can re-vitalise the area.

To date, there is little evidence that either of these claims have been robustly pursued. To the contrary, to date the Council have only given one example of direct communication, which was a letter to a Winyates Green resident, mistakenly referenced as a member of a group that was disbanded more than a decade ago.

Similarly, it has not been made clear which part of this strip of loved greenbelt and special wildlife site, or the residential area of the Green is in need of re-vitalisation.

Can the residents of Winyates Green be given the opportunity to influence this plan? Can meaningful consultation take place, giving us the time and opportunity to fully understand the proposals and its implications? Can we have an exhibition jointly hosted by the Council and local residents in the Winyates Green Community Centre?

The Leader replied as follows:

Residents in all wards were consulted in line with the adopted procedures in the Council's Statement of Community Involvement. This current stage of the Plan process requires residents to indicate what part or parts of the Plan are 'unsound' and officers are available to help anyone to understand the forms that need to be filled in to register the residents' comments.

Officers have advised that this strip of land is not green belt and not a special wild life site (SSI)

Planning Officers will be available to assist any resident in procedures to complete Representation Forms at Redditch Town Hall during the following surgery sessions at the Town Hall which are held at various times, day and night, on week days and at weekends. In total some 34 sessions will be held between 30 September and 11 November.

Monday to Friday 10am to 4pm (ask at Main Reception)

Tuesday (22<sup>nd</sup> Oct and 5<sup>th</sup> Nov) 4pm to 8pm (in these Committee Rooms)  
Saturday (26<sup>th</sup> Oct and 9<sup>th</sup> Nov) 9.00am to 11.30am (again, in these Committee Rooms)

There was no supplementary question.

(iv) Proposal for Houses off Far Moor Lane

Mr Robert McColl asked the following question:

In 2001, Stratford on Avon submitted a planning application to build housing along this strip of land. It was refused for many reasons, but I would like to focus on one in particular, it relates to access to the housing estate from Far Moor Lane. It was turned down in 2001.

[At time of writing, Council planning experienced difficulty locating the documented reasons that road access to the site was refused]

Access to a housing estate from Far Moor Lane now appears to be considered by planning to be acceptable. Can the Council clarify what has changed, and why the original ruling has been overturned?

The Leader replied as follows:

The site subject to the Planning Application considered in 2001 was at Winyates Green Triangle and not the strip of land you are referring to.

However, the current proposed access to the Winyates Green Triangle area is not from Far Moor Lane.

The present sites for potential residential development have not been looked at as potential sites before this Plan period, and therefore have no highways history. When preparing the 'Review of the A435 and Adjoining Lands' report, County highways officers were consulted about the sites and their potential for access; this consultation led to a refinement of the development areas, but County highways officers raised no objection.

Mr McColl asked a supplementary question of the Leader relating to the road access to the potential residential development site at Winyates Green which, it was contended, was still from Far Moor Lane.

The Leader responded that he would need to consult with Planning Officers on very specific elements of the proposals contained within Local Plan No.4 and requested that Mr McColl provide a detailed version of his question following the meeting to which an answer would be provided.

(v) Overview and Scrutiny Committee consideration of draft budget proposals

Councillor David Bush asked the following question as Chairman of the Overview and Scrutiny Committee:

Would the Leader of the Council agree with me that the Overview and Scrutiny Committee has assisted the work of this Council and produced several recommendations that the Executive Committee has accepted and implemented change?

Does he recognize the important role this Committee plays?

Will he consider sending the controlling group's budget to Overview and Scrutiny, as the Conservatives did prior, in order consideration and any recommendations can be made to Executive?

And if so can we have sufficient lead time for considerations to take place?

The Leader replied as follows:

Yes I would agree Overview and Scrutiny over the years has assisted the work of the Council and has an important role.

As in previous years Overview and Scrutiny will have the opportunity to review the proposed budgets during the period from December 2013 – January 2014 prior to Full Council final approval in February 2014.

The Director of Finance will present the financial position during this time to ensure Overview and Scrutiny has the opportunity to review any bids or savings that may be proposed.

Last year, when I was Leader, the budget was considered by Overview and Scrutiny in January 2013 and February 2013. This was due to the lateness of the financial settlement from Central Government which prevented earlier consideration which otherwise would have been considered in December 2013.

There was no supplementary question.

**57. MOTIONS ON NOTICE**

No motions had been submitted.

**58. EXECUTIVE COMMITTEE**

The Council considered the minutes of the meeting of the Executive Committee held on 17<sup>th</sup> September 2013. With respect to the recommendation from the Committee in relation to Executive Committee Minute 52 – Options for 54 South Street (Previous REDI Centre) – amended recommendations were circulated following contact from a community group seeking to register the property as an Asset of Community Value.

(The Council adjourned at 7.52pm to allow Members the time to consider the amended recommendations. The Council reconvened at 8.00pm)

**RESOLVED that**

**the minutes of the meeting of the Executive Committee held on 17<sup>th</sup> September 2013 be received and all recommendations adopted, subject to in respect of Minute 52 - Options for 54 South Street (Previous REDI Centre), it being RESOLVED that**

- 1) prior to any action being taken on the recommendations at 2 and 3 below, Executive Committee consider the application for 54 South Street to be registered as an Asset of Community Value;**
- 2) in the event of any community groups not being successful in submitting an appropriate business case for the property (within 6 months of being notified of the intention to sell) that it be marketed for disposal; and**
- 3) the Head of Finance and Resources agree the final details of any sale, following the receipt of any bids / expressions of interest, following consultation with the Portfolio Holder for Corporate Management.**

**59. REGULATORY COMMITTEES**

Members received the minutes of recent meetings of the Planning Committee.

**RESOLVED that**

**the minutes of the meetings of the Planning Committee held on 28<sup>th</sup> August and 25<sup>th</sup> September 2013 be received and adopted.**

**60. URGENT BUSINESS - RECORD OF DECISIONS**

There were no Urgent Decisions to note.

**61. URGENT BUSINESS - GENERAL (IF ANY)**

There were no separate items of urgent business to consider at this meeting.

The Meeting commenced at 7.00 pm  
and closed at 8.21 pm

.....  
Chair

REDDITCH BOROUGH COUNCIL**COUNCIL**9<sup>th</sup> December 2013**NOTICE OF MOTION – FREEDOM OF THE BOROUGH**

Relevant Portfolio Holder(s)	Cllr John Fisher, Portfolio Holder for Corporate Management
Relevant Head of Service	Head of Legal, Equalities & Democratic Services
Not a Key Decision	

The following Notice of Motion has been submitted by Councillor Bill Hartnett:

*“Redditch Borough Council wishes to place on record its appreciation of the voluntary service of men and women from the Borough who serve with the 37 Signal Regiment based at Kohima House in Redditch.*

*We propose to confer the Freedom of the Borough of Redditch on the 37 Signal Regiment and delegate authority to the Chief Executive following consultation with the Mayor and Group Leaders to notify the Commanding Officer of the Regiment of the Council’s decision and seek her view, and in the event that her view is positive:*

- *Make arrangements for a Special Meeting of the Council to confer the Freedom of the Borough;*
- *Utilise existing funds within the corporate civic budget up to £1,500 to cover the costs of the associated reception and production of two copies of a commemorative framed scroll;*
- *Make arrangements for a ceremonial parade to be held in the Borough on an appropriate date.”*

Proposed by: Cllr Bill Hartnett

Seconded by: Cllr Juliet Brunner





REDDITCH BOROUGH COUNCIL

**COUNCIL**

9<sup>th</sup> December 2013

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78. **REDDITCH BOROUGH COUNCIL RESPONSE TO THE GREATER BIRMINGHAM AND SOLIHULL LOCAL ENTERPRISE PARTNERSHIP (GBSLEP) SPATIAL PLAN FOR RECOVERY AND GROWTH CONSULTATION DRAFT (SEPTEMBER 2013)**

**RECOMMENDED that**

**the Redditch Borough Council response to the GBSLEP Spatial Plan for Recovery and Growth Consultation Draft (September 2013) (Appendix I to the report) be approved.**



**EXECUTIVE  
COMMITTEE**

Date 12/11/13

**REDDITCH BOROUGH COUNCIL RESPONSE TO THE GREATER BIRMINGHAM  
AND SOLIHULL LOCAL ENTERPRISE PARTNERSHIP SPATIAL PLAN FOR  
RECOVERY AND GROWTH CONSULTATION DRAFT (SEPTEMBER 2013)**

Relevant Portfolio Holder	Councillor Greg Chance
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ruth Bamford
Ward(s) Affected	All Wards
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

This Report seeks approval of the Redditch Borough Council response to the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Spatial Plan for Recovery and Growth Consultation Draft (September 2013) (App. 1).

**2. RECOMMENDATIONS**

The Executive Committee is asked to **RECOMMEND** that

**the Redditch Borough Council response to the GBSLEP Spatial Plan for Recovery and Growth Consultation Draft (September 2013) (Appendix 1) be approved.**

**3. KEY ISSUES****Financial Implications**

3.2 There are no financial implications associated with this report.

**Legal Implications**

3.3 The Localism Act 2011 requires each Local Authority to discharge the Duty to Cooperate. The Duty to Cooperate is a legal requirement to ensure cooperation between Local Planning Authorities, County Councils and prescribed bodies. One way of discharging the duty is for collaborative working within the LEP. This report ensures continuous involvement in the activities of the LEP and therefore will assist in discharging the Duty to Cooperate.

**Service / Operational Implications**

3.4 The Draft Spatial Plan being consulted upon is the strategic spatial framework plan for the LEP area. It looks at the scale, broad distribution and directions of growth and the component elements which make up that growth. It is intended that once finalised it will provide a strategic steer and coherence to the individual development plans across the LEP area.

**EXECUTIVE  
COMMITTEE**Date 12/11/13

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- 3.5 Redditch is part of the GBSLEP and are fully supportive of the principles contained within the Spatial Plan. This Spatial Plan for Recovery and Growth Consultation Draft seeks to provide a steer to the growth needed in the LEP area. The Borough Council is supportive of this but aware that further work is currently being completed regarding the scale of growth required for Birmingham and understands this work will need to inform the emerging plan. This work will also inform the options available for dealing with this growth. Therefore at this stage no response can be provided on the best approach for dealing with the growth until more information regarding the scale of growth is known.
- 3.6 A positive response to the GBSLEP Spatial Plan for Recovery and Growth Consultation Draft (Appendix 1) has been prepared by Officers. This response is considered appropriate at this time as Redditch is a member of and supports the role of the GBLEP and is fully supportive of the principles contained within the Spatial Plan as they accurately reflect the Councils emerging Local Plan.

**Customer / Equalities and Diversity Implications**

- 3.7 It is important for the development of Local Plan No.4 for there to be continuous involvement in the work of the GBSLEP as this will ensure that the development of the Local Plan is appropriate for the community of Redditch.

**4. RISK MANAGEMENT**

If the response is not submitted this could potentially appear unsupportive of GBSLEPs continuing work, this could jeopardise future working relationships.

**5. APPENDICES**

Appendix 1 - Redditch Borough Council response to Greater Birmingham and Solihull Local Enterprise Partnership Spatial Plan for Recovery and Growth Consultation Draft (September 2013)

**6. BACKGROUND PAPERS**

Greater Birmingham and Solihull Local Enterprise Partnership Spatial Plan for Recovery and Growth Consultation Draft (September 2013)

**7. KEY**

GBSLEP - Greater Birmingham and Solihull Local Enterprise Partnership

**AUTHOR OF REPORT**

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**DRAFT**

**LEP Executive**

Greater Birmingham & Solihull LEP  
Baskerville House,  
Centenary Square,  
Broad Street,  
Birmingham,  
B1 2ND

**Councillor Bill Hartnett**  
Leader of the Council  
Redditch Borough Council

Dear Sir/ Madam

**Redditch Borough Council response to Greater Birmingham and Solihull Local Enterprise Partnership Spatial Plan for Recovery and Growth Consultation Draft (September 2013)**

Redditch Borough Council would like to support the emerging Spatial Plan for Recovery and Growth. The Borough Council notes that further work is currently being completed regarding the scale of growth required for Birmingham and understands this work will need to inform the emerging plan. This work will also inform the options available for dealing with this growth. Therefore at this stage no response can be provided on the best approach for dealing with the growth until more information regarding the scale of growth is known. Notwithstanding this at this point the Borough Council endorses the contents of the emerging plan and wishes to see it continue to formal approval.

Kind regards

Bill Hartnett  
Leader of the Council  
Redditch Borough Council



REDDITCH BOROUGH COUNCIL

**COUNCIL**

9<sup>th</sup> December 2013

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**87. REDDITCH UNITED FOOTBALL CLUB – GROUND RELOCATION**

**RECOMMENDED that**

**in the meantime, in order to ensure the continued community benefits currently being afforded to the Borough, that the Executive Committee acknowledges the justification for there to be no increase of rent applied in the current rent review of the Valley Stadium site and the rent of £2,000 per annum be maintained until the expiry of the Lease in 2017.**





**Executive Committee**26<sup>th</sup> November 2013**REDDITCH UNITED FOOTBALL CLUB – GROUND RELOCATION**

Relevant Portfolio Holder	Cllr Phil Mould
Portfolio Holder Consulted	Yes
Relevant Head of Service	John Godwin – Leisure & Cultural Services
Wards Affected	<b>All</b>
Ward Councillor Consulted	N/A
Key Decision	YES

**1. SUMMARY OF PROPOSALS**

- 1.1 This report examines the impact on Council assets and their future management in relation to the proposals and business case put forward by Redditch United Football Club (RUFC) with regard to their desire to relocate the club from the current Valley Stadium location on the Bromsgrove Road to a new purpose built site off Icknield Street Drive, toward Washford.
- 1.2 The Lease of the Valley Stadium is currently under review. Members are asked to consider their approach to future rent from the site.

**2. RECOMMENDATIONS**

**The Executive Committee is asked to RESOLVE either that**

- 1) the Council's assets should be deployed to support the implementation of the business proposals of the Redditch United Football Club; OR**
- 2) the Council's assets should not be deployed to support the implementation of the business plan of the Redditch United Football Club**

**AND**

- 3) there shall be no increase of rent applied in the current rent review of the Valley Stadium site and the rent of £2,000 per annum be maintained until the expiry of the Lease in 2017.**

**3. KEY ISSUES****Background**

- 3.1 As members will be aware, officers have been in discussions with the football club for a little over 2 years concerning the financial difficulties that the club face and the extent to which the Council as Landlord of the Ground and deliverer of Leisure Services within the Borough can work together with the club to ensure where possible the provision of community based football.

**Executive Committee**26<sup>th</sup> November 2013

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- 3.2 In November 2012 the club presented officers with an indicative business proposal that would result in the relocation of the football club from its existing Council owned ground to Council owned land within the Arrow Valley Park.
- 3.3 It is clear from the business case submitted that the club seek to engage with the Council in a formal business arrangement. This arrangement requires both the sale of Council assets and the future financial investment of the Council to generate sufficient capital for the scheme to be viable.
- 3.4 In legal terms the Council has limited ability to engage in such a proposal. The extent to which community benefit would be achievable needs to be established in an open and transparent way and any potential schemes will need to be considered within the legal and financial framework in which local government operates when expending public money.
- 3.5 Indeed it is fair to say that the extent to which the Council can seek to provide assistance to the club outside of the provision of the ground at a reduced rent, whilst the club are continuing to deliver community based sporting activity, are limited by the club being a commercial entity.
- 3.6 Since November 2012 Officers have met with the club on several occasions to review these matters and to seek to explore options that might support the club moving forward. Officers have also worked closely with the club and the FA to aid and assist where possible.
- 3.7 In addition to this, officers have sought to provide assistance to the club in validating their proposals. At the same time they have reiterated the restrictive environment within which local authorities operate.
- 3.8 Members are advised that as a result of these discussions the club has presented a business case which they have to date refused to allow within the public domain.
- 3.9 The club's proposals are predicated on RBC selling the Council owned site at the Valley Stadium to a housing developer. This would enable the Council to obtain a capital receipt large enough to cover the new site's costs and also provided a return to RBC.
- 3.10 Within the overall proposal there are a number of keys issues that will need to be revisited as follows:

**Executive Committee**26<sup>th</sup> November 2013

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**Financial Implications****Valuation**

- 3.11 Members are advised that the business proposals are dependent on the Council releasing its current asset Valley Stadium for sale. The funds that would be realised from this transaction would then have to be reinvested in a new club facility. The new facility would need to be sited on Council owned land.
- 3.12 The business proposals put forward by the Club have put values on this hypothetical sale which are not agreed by the District Valuer, who has made an assessment of them on behalf of the Council and has indicated that the financial gain may fall short of the anticipated income
- 3.13 The business case proposal is that the capital receipts from the sale of the Valley Stadium site would be re-invested by the Council in building a football stadium at the alternative Council owned site at Arrow Valley Park for occupation by the club. Based on 3.12 the shortfall would have to be met by the Council, which represents a considerable financial commitment. This may not represent the best use of Council resources at a time when budgets are becoming increasingly squeezed, and the financial and budgetary landscape is so uncertain.
- 3.14 Similarly, the costs required to develop the Arrow Valley Park would commit the Council to expending considerable sums in a facility that would be of limited functionality. If the scheme were not to succeed there is a risk that the Council would own and manage a facility that could be underused, costly to maintain and potentially difficult to dispose of.
- 3.15 The Financial Business case from the club makes a number of assumptions in relation to the operational costs and revenue that may be generated over the next 4 years. The income estimations are relatively optimistic over a period of economic recovery and the validity of these assumptions and their associated risks would need to be considered as part of any feasibility review.
- 3.16 Members will appreciate that officers have been working with the club in an attempt to establish a viable proposal that might further the club's ability to continue in a viable form.
- 3.17 This has led to officers working with the club to properly scope the extent to which community activities might be delivered by the club
- 3.18 Members are advised that under the terms of the current lease to the club of the Valley Stadium ground there is a rent review pending.

**Executive Committee**26<sup>th</sup> November 2013

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- 3.19 The club has asked the Council not to increase the current rental charge for the remainder of the term. The Council recognises the health and leisure benefits to the community of the sporting opportunities provided by the club, including a broad spectrum of teams for juniors, women and those with disabilities. This contribution to the well-being of the community enable the Council to let the site at less than best consideration and not require the Council to demand the market rent.
- 3.20 It is fair to say that there is a degree of public interest in the site and the club and it is for this reason that officers are appraising members of the current position. The club have chosen to make their desire to develop a new stadium very public and that this has led to a very confused picture within the public domain, particularly in relation to what this Council can and cannot do.
- 3.21 In the circumstances, officers believe that it is important for the reputation of the Council for the public to be made aware of the restrictive environment that the Council quite properly operate within.
- 3.22 Members are therefore being asked to note the current position of the club and to consider the continuance of the current rental for the duration of the term of the lease.

**Legal & Planning Implications**

- 3.23 Council operates within a very restrictive financial framework that severely restricts its ability to provide financial assistance to commercial organisations unless very clear and accountable community benefits can be established.
- 3.24 The Council currently leases the Valley Stadium to the Club at a less-than-commercial rent. The power to fix a less than best consideration rent is derived from the general Consent (England) Regulations 2003 (made under the Local Government Act 2000)
- 3.25 There is a restrictive covenant placed against the whole of Arrow Valley Park which precludes development that leads to the loss of public open space (POS) so that if the Council were to develop the land as envisaged in the club's scheme, it would breach the restrictive covenants. Although there is an issue as to whether they would be enforceable against the Council, this could impact on the Council's ability to borrow or attract funding for the land to carry out enhancement works that are directly linked to the breach.
- 3.26 In addition, if the Council is at any time minded to engage in activities with third party providers, then there must be a clear and transparent mechanism for determining who those providers are.

**Service / Operational Implications**

- 3.27 There are no direct Service or Operational Implications contained within this report.

**Executive Committee**26<sup>th</sup> November 2013

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**Customer / Equalities and Diversity Implications**

3.28 None.

**4. RISK MANAGEMENT**

4.1 Even if the legal obstacles to progressing the RUFC proposals were to be overcome, there are considerable risks to the Council associated with the proposals:

- Both parcels of land are designated as primarily green space or public open space and would need to be changed to leisure and residential use in order to progress the scheme through the planning process and this is not certain of success.
- The Arrow Valley park site has restrictive covenants placed upon it that would need to be either broken or formally addressed to progress the project.
- Political and reputational impacts in the localities would need to be considered given previous planning histories and opposition to developments.
- There are a number of costs associated with the scheme that need to be incurred by the Council and outside of any formal process for achieving this both in terms of best value and competitive marketing the Council would not be able to proceed.

4.2 The Council is obliged to manage its assets in accordance with the needs of the Borough and the wider community benefits to the Council Tax payer. In this regard there would need to be detailed works carried out to assess the need within the District for such a facility and a formal procurement exercise in relation to the provider.

- RUFC have stated that the current position of the club is financially unsustainable and potentially the Chairman could place the club up for sale if this scheme is not progressed.
- The continued existence of the club is uncertain.

## Executive Committee

26<sup>th</sup> November 2013

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### 5. APPENDICES

1. Redditch Borough Council letter to Redditch United Football Club dated 26<sup>th</sup> September 2013
2. District Valuer statement on the Arrow Valley Stadium site **(To Follow)**
3. Financial appraisal of relocation – exempt
4. Financial appraisal of relocation – RBC input – exempt
5. Legal advice on covenant restriction
6. Valley Stadium plan

### 6. BACKGROUND PAPERS

These papers are exempt under paragraph 3 of Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

Business Plan Summary Spread Sheet – June 13  
Sketch Scheme Costs May 13 & RUFC Relocation Assessment  
RUFC Risk Register June 13  
Proposed Site Plan  
Proposed Club House Layout  
Proposed Stadium Layout  
Club Development Plan Existing  
Club development Plan New Facility  
Developer Offer at Valley Stadium  
E-mail from RUFC to Sue Hanley dated 27<sup>th</sup> September 2013  
Letter from RUFC to Sue Hanley dated 28<sup>th</sup> October 2013

### 7. KEY

RUFC – Redditch United Football Club  
FA – Football Association  
DV – District Valuer

### AUTHOR OF REPORT

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**CONFIDENTIAL**

Mr. C. Swan  
Chairman  
Redditch United FC

Please contact: Sue Hanley  
Direct Line: (01527) 534118

26<sup>th</sup> September 2013

Dear Chris

**RUFC - Relocation/Club Proposals**

It was good to meet with you and colleagues on the 16<sup>th</sup> September 2013. As agreed, I am writing to provide you with the detailed overview of Member and Officer views, following consideration of your proposals in greater depth.

Councillors are very grateful to you and your team for meeting and providing the level of detail in your presentation of proposed plans which has enabled them to consider the proposals comprehensively.

Councillors, who you and your team met with, have now had the opportunity to meet with Officers from a range of disciplines including Leisure, Planning, Financial and Property Services to receive detailed advice and information.

Whilst your ambitions and plans for the Club are to be given the greatest credit, having considered all aspects of the proposals there are significant risks to the Council which we consider could not be mitigated to the degree the Council would require to proceed to a next stage.

As advised the principle issues are as follows:-

- The land parcels proposed for the relocation of the club/stadium are designated as primarily green space or public open space and would need to be changed to leisure and residential use in order to progress the scheme.
- Arrow Valley Park site has restrictive covenants placed upon it, that would potentially need to be breached to progress the project.
- There are a number of costs associated with the scheme that need to be incurred upfront to progress the scheme, all of which would fall to the Council. There are risks associated with the external funding figures from a finance cost model perspective but also an on-going risk to RBC as a third party would be delivering outcomes on the Council's behalf.

- RBC will take all the risk within this project and should expenditure rise, or resale not be achieved, RBC would be placed in the position of financial difficulty.
- RBC may have to fund all preliminary work and surveys from balances until the capital receipt is received and should the scheme not go ahead such funding could be lost.
- The proposed size of the scheme raises concerns to Officers.
- Planning implications would need to be addressed including providing leisure use outside of the Town Centre area and meeting the sequential test.
- The club development plan, whilst ambitious, has some limitations and requires additional work to be regarded as one which supports the wider community.
- Maintenance is not factored and would need to be agreed to ensure RBC's investment is maintained.
- Land values are vastly different from that advised by the District Valuer and the value placed on the land by the developer. The variance in financial terms is significant.

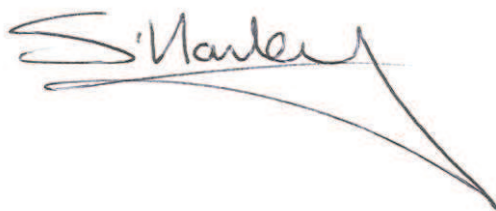
The Leadership of the Council acknowledges the substantial benefits which could be realised from a relocation, all of which have been considered in great detail, however consider the risks with the proposed scheme unfortunately do outweigh the benefits to the borough and its communities.

The Council wishes to continue to have a close working relationship with yourself and RUFC and have asked Officers to continue to provide support and on-going dialogue with the Club. Councillors have asked to be regularly appraised of any developments in the future.

I have shared this letter with Councillors and the Senior Management team and will provide further feedback once we have had the further opportunity to meet and discuss the issues in respect of the existing site and stadium.

I hope this is helpful to you and will be in contact in the near future.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Hanley', with a long, sweeping underline that extends to the right and then curves downwards.

Sue Hanley  
**Deputy Chief Executive & Executive Director for  
Leisure, Environment & Community Services**

c.c. K. Dicks, J. Godwin, Cllr. B. Hartnett, Cllr. G. Chance, Cllr. P. Mould



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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Document is Restricted



Document is Restricted





[www.redditchbc.gov.uk](http://www.redditchbc.gov.uk)

**For: Redditch Borough Council**  
**Matter: Arrow Valley Park, Redditch**  
**Date: 7 May 2013**

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## LEGAL OPINION

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1. I have been asked to provide a legal opinion in respect of a *restrictive covenant* contained in a Conveyance dated 21 March 1974 made between (1) Redditch Development Corporation and (2) The Urban District Council of Redditch (the "1974 Conveyance"); and in particular how that *restrictive covenant* affects proposals for the use of Arrow Valley Park.
2. The *restrictive covenant* is set out in clause 2 of the 1974 Conveyance in the following terms:

"The Council hereby covenants with the Corporation that the Council and its successors in title will at all times hereafter use the land hereby conveyed (with the exception of the two bungalows shown coloured pink on the said plan annexed hereto) for public open space purposes only with buildings reasonably ancillary thereto"
3. The land conveyed by the 1974 Conveyance and referred to in the *restrictive covenant* consists of:

"ALL THOSE pieces or parcels of land situate at Redditch in the County of Worcester containing in the whole Sixty-six point two five acres or thereabouts and which are for the purpose of identification only more particularly delineated on the plan annexed hereto and thereon edged red TOGETHER WITH the two bungalows erected thereon or on some part thereof as coloured pink on the said plan annexed hereto and any other buildings or erection on the land..."

The plan annexed to the 1974 Conveyance is attached for your information.

*The Proposal*

4. I understand that the Council are considering relocating Redditch United Football Club from its current base at Valley Stadium, off Bromsgrove Road to Arrow Valley Park. This proposal would involve the construction of a new '3G' stadium comprising a '3G' football pitch surrounded by a structure supporting spectator stands or seating. It is understood that the new stadium would predominately be a private facility for Redditch United Football Club.
5. I am therefore asked to consider:
  - (a) *whether the Proposal would cause a breach of the restrictive covenant; and*
  - (b) *the enforceability by successors in title to Redditch Development Corporation of the restrictive covenant against the Council.*

*Whether the Proposal would cause a breach of the restrictive covenant?*

6. It is my opinion that the Proposal would be a clear breach of the *restrictive covenant*.

This is based firstly upon the ordinary meaning given to the words "public open space" and secondly if you look to statute for guidance on the meaning of "public open space" of particular relevance here are the Town and Country Planning Act 1990, section 336(1) and the Open Spaces Act 1906, section 20.

The Town and County Planning Act 1990, section 336(1) states that:

"“open space” means any land laid out as a public garden, or is used for the purposes of public recreation, or land which is a disused burial ground”

The Open Spaces Act 1906, section 20 provides that:

“The expression “open space” means any land, whether inclosed or not, on which there are no buildings or of which not more than one-twentieth part is covered with buildings, and the whole or the remainder of which is laid out as a garden or is used for the purposes of recreation, or lies waste and unoccupied.”

The *restrictive covenant* only permits “buildings reasonably ancillary” to “public open space purposes only” and therefore given that use as a private football ground falls outside what would be regarded as “public open space” the construction of a new stadium would be a contravention of this *restrictive covenant*.

*The enforceability by successors in title to Redditch Development Corporation of the restrictive covenant against the Council.*

7. I understand that as a designated new town, Redditch was removed from local authority control and placed under the supervision of a Development Corporation, namely Redditch Development Corporation, which was established by the New Towns Act 1959.

Redditch Development Corporation was later disbanded and its assets split between the Council and the Commission for New Towns. The Commission for New Towns and the Urban Regeneration Agency (set up by the Leasehold Reform, Housing and



Urban Development Act 1993) as two entirely independent bodies set up under separate statutes became known as English Partnerships.

By virtue of:

- (a) The Housing and Regeneration Act 2008;
- (b) The Housing and Regeneration Act 2008 (Commencement No. 1 and Transitional Provisions) Order 2008 (SI 2008 No. 2358 (c.103)) dated 2 September 2008;
- (c) The Housing and Regeneration Act 2008 (Commencement No. 2 and Transitional, Saving and Transitory Provisions) Order 2008 (SI 2008 No c 3068 (c.132)) dated 26 November 2008; and
- (d) Homes and Communities Agency, Tenants Services Authority and the Welsh Ministers Transfer Scheme

all assets, liabilities and interests were transferred from Commission for the New Towns and The Urban Regeneration Agency to Homes and Communities Agency with effect from 1 December 2008.

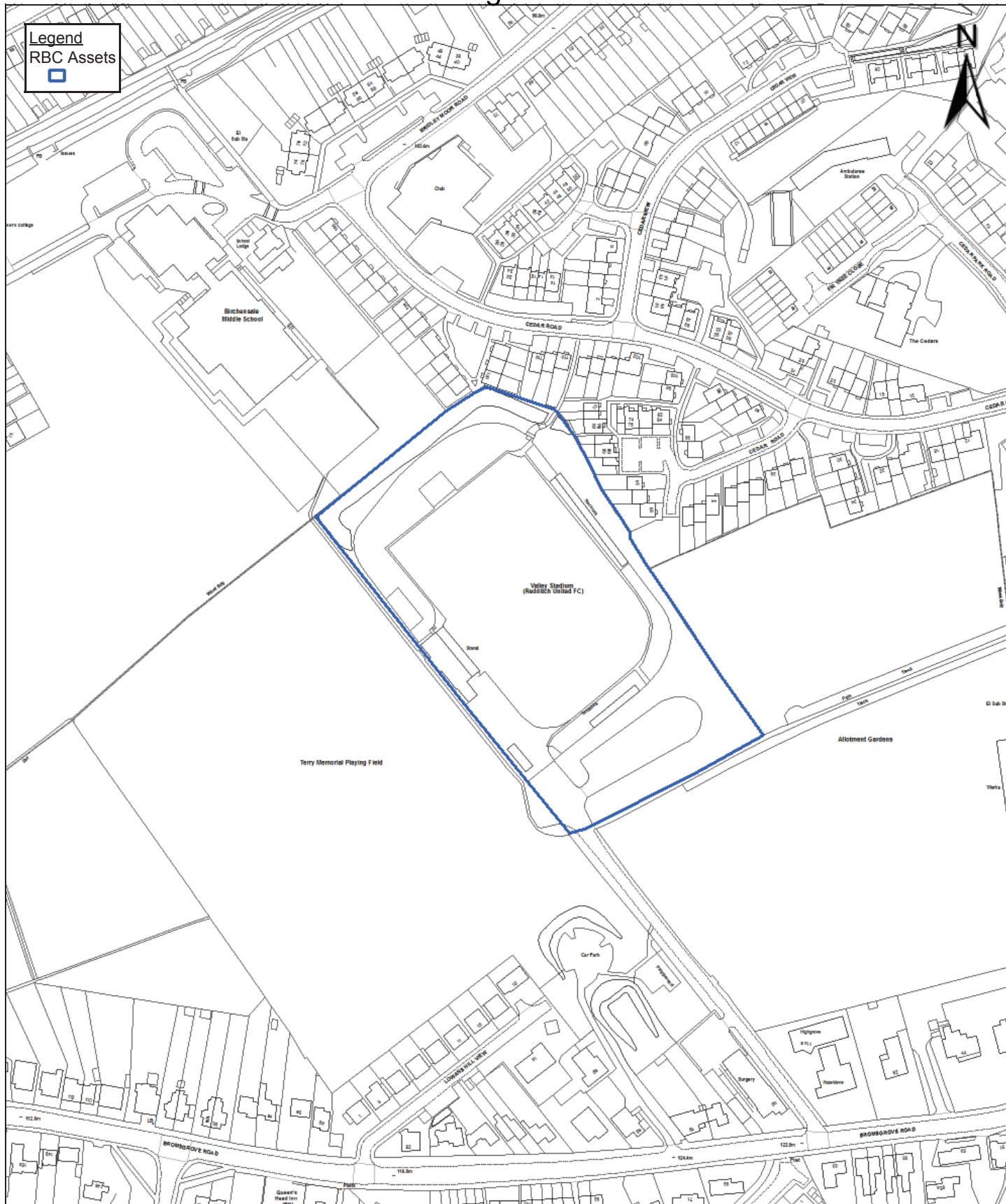
The Homes and Communities Agency (HCA) are therefore the successors of Redditch Development Corporation and appear to be the only entity able to enforce the *restrictive covenant*.

- 8. As a general rule, a covenant may be enforced between original parties simply as a matter of contract. However, where either the benefitted land or the burdened land, or both has changed hands, the successors in title must show that they are entitled to the benefit and are bound by the burden respectively.
- 9. The burdened land can clearly be identified from the 1974 Conveyance, and is the land described in paragraph 3 above, with the exception of the two bungalows shown coloured pink on the attached plan.
- 10. In order to enforce the *restrictive covenant*, HCA would need to show that they are entitled to the benefit of it. This question was examined in the case of *Crest Nicholson Residential (South) Ltd v McAllister* [2004] EWCA Civ 410; [2005] 1 WLR 2409. This case emphasised the importance of clearly identifying which land has the benefit of the covenant. In this regard the 1974 Conveyance is deficient for reason that there are no words to indicate that any particular land is protected. The *restrictive covenant* is merely expressed to be with Redditch Development Corporation.
- 11. The question is whether the land intended to be benefitted can be identified (from a description, plan or other reference itself, but aided, if necessary by external evidence to identify the land so described, depicted or otherwise referred to) so as to enable statutory annexation under section 78(1) of the Law of Property Act 1925 to have effect. Consideration would need to be given to whether Redditch Development Corporation was the owner of adjoining land at the time that the covenant was imposed; in which case this may be sufficient to indicate land intended to have the benefit of the *restrictive covenant*. However, as there is no such reference on the 1974 Conveyance to enable the Council to identify the land benefitting from the *restrictive covenant* it is unlikely that HCA would be able to enforce the *restrictive covenant*; unless they are able to produce some other form of admissible evidence identifying the benefitting land.

12. Generally, if the land with the benefit cannot be identified then the *restrictive covenant* cannot be enforced. This principle is supported by a number of decisions in the Lands Tribunal relating to applications under section 84 of the Law of Property Act 1925 to modify or discharge a restrictive covenant. This includes the decisions in *Hutchinson, Re 1 Captains Gorse* [2009] UKUT and *Norwich City College of Further and Higher Education v McQuillan and anr* [2009] UKUT and in the Court of Appeal decision in *Perkins and Anr v Mclver and Ors* [2012] EWCA Civ 735. On this basis there would be grounds to challenge the enforceability of the *restrictive covenant*.
13. It does not appear that this *restrictive covenant* was registered as a D(ii) land charge; but as the Council are the original owner of the burdened land the failure to enter the *restrictive covenant* would only be material if there had been a disposition for value. I understand that an application for voluntary registration to the Land Registry has been submitted and/or completed, where an entry in respect of this *restrictive covenant* will have been made in the Charges Register of the title to the property. This entry nonetheless will not affect the enforceability of the *restrictive covenant* against the Council.
14. In addition to this it is noted that the *restrictive covenant* is expressed to bind the Council and its successors in title, but the benefit to be with the Corporation. Here you will note that there is no reference to successors in title and therefore it could be argued that the *restrictive covenant* was only intended to be for the benefit of Redditch Development Corporation. Accordingly, when Redditch Development Corporation was disbanded the benefit of the *restrictive covenant* was lost as there is no one who could now enforce it, as it is expressed only for the benefit of Redditch Development Corporation. Notwithstanding this, Redditch Development Corporation could have validly assigned the benefit of this *restrictive covenant* before it was disbanded – there is no way of knowing whether such an assignment had taken place and the burden of proof would rest with the party attempting to enforce the *restrictive covenant*.
15. *Conclusion*

On the basis of the points raised above, it is clear that the Proposal would be a breach of the terms of the *restrictive covenant*. However, the uncertainty lies in whether the HCA would be able to enforce the *restrictive covenant* against the Council. Given that the land with the benefit of the *restrictive covenant* cannot be identified and that the *restrictive covenant* is expressed to be with Redditch Development Corporation with no reference to successors in title, it is my opinion that the HCA would be unlikely to be able to enforce the *restrictive covenant* against the Council.

Prepared by: [REDACTED]



**Legend**  
RBC Assets  
□



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Ordnance Survey 100024230.

0 10 50 100 metres

Valley Stadium, Redditch



Indicative Scale: 1:2,500

Worcestershire County Council  
County Hall  
Spetchley Road  
Worcester  
WR5 2NP

Date Printed: 1/5/2013

