

Address provided in email as this letter will be circulated to all signatories of Petition.

4th February 2018

Dear Members of the Cabinet

Potential Closure of Deangate Ridge Golf Club – Request to postpone discussions and decision making proposed for Cabinet Meeting 6th February 2018

Breach of Medway Council Constitution, breach of HMRC Business development Guidelines, breach of CIPFA Good Governance, breach of Cabinet Code of Corporate Governance

Medway Council have published on various forums and on the Agenda for the Medway Cabinet Meeting to be held 6th February 2018 that they will be making a decision with regards to the potential closure of Deangate Ridge Golf Club, Hoo.

The Agenda and supplementary report (Cabinet Report – Deangate Ridge – Agenda Item 10) which will form the basis for these discussions have been reviewed by members of the public. The report recommends approval for the closure of Deangate Ridge Golf Club on 31st March 2018 and for funding to carry out investigations into constructing a new sports facility elsewhere in Medway.

This letter requests that this decision be delayed until the Officers of the council have produced a compliant Business Case reviewing ALL options available for the future of the Golf Club.

An online petition to 'Save Deangate Ridge' has been signed over 2000 times by the public since Thursday 1st February 2018. The number of signatories continues to rise and final figures will be emailed to all members of the Cabinet the morning of the Cabinet meeting.

The petition can be found at <http://chn.ge/2EoF8Vs>

Aside from the loss of public amenities, impact on the wildlife and birds in the locality and lack of infrastructure to support redevelopment of the Deangate Ridge site (which are all of major concern), initially the rushed nature of this recommendation, lack of consultation and weak supporting evidence of the ONLY options reviewed and identified by the Officers of the Council are of major concern for the public.

It is the responsibility of the Medway Council Officers to develop a Business Case to weigh up the costs and benefits of ALL viable options available. The Public do not feel that a comprehensive analysis of options relating to the future of Deangate Ridge Golf Club has been undertaken. As per the supplementary report produced by an officer of the Council, the Cabinet of Medway Council will be meeting to consider just two options:

- 1) Golf Club remains open but runs at a loss to the public purse
- 2) Golf Club closes and is sold on for development.

The Treasury Guidelines clearly state that a Business Case provides the opportunity to undertake a comprehensive analysis of a preferred option. This does not mean that this preferred option should be reviewed in isolation prior to exploring all other viable options. Under the 'Five Case Model', as a minimum Medway Council have a responsibility to the public to carry out a full assessment of ALL options prior to excluding them from their Long List, Short List and thereby selecting their preferred option. The signatories of the 'Save Deangate' petition do not feel that Medway Council have demonstrated or provided evidence of considering any other delivery models nor have they been appropriately consulted as key stakeholders, therefore it can only be assumed that the Cabinet are unwittingly meeting to make a decision based on evidence and reporting that does not meet the *HMRC Guidelines* for Business Case Development processes nor has *Medway Code of Corporate Governance* been adhered to. May I draw your attention to Item 1.2 of the *Medway Council Code of Corporate Governance*:

1.2 *Chartered Institute of Public Finance (CIPFA) International Framework: Good Governance in the Public Sector States that:*

"To deliver good Governance in the public sector both governing bodies and individuals working for Public Sector entities must try to achieve their entities objectives while acting in the public interest at all times".

May I also quote *Core Principle B: B1 Openness as evidence of a failure to carry out due diligence and lack of adherence to Corporate Governance*:

- *Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used. In due course, ensuring that the impact and consequences of these decisions are clear.*
- *Using formal and informal consultation and engagement to determine the most appropriate and effective interventions/ courses of action.*

Item *Core Principle B3: Engaging with Individual Citizens and Service Users effectively* clearly outlines the requirements in its entirety for engagement of Key Stakeholders.

Part 4 of Leader and Cabinet Rules – 2.3 Consultation also clearly states that *"all reports to the Cabinet from any member of the Cabinet or an employee on proposals relating to the budget and policy framework, must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation"*. As the public are one of the 'Key Stakeholders', the lack of consultation and engagement is a clear breach of the Councils *Code of Corporate Governance* and the *Councils Constitution for Leader and Cabinet Rules*.

The Deangate Ridge report that has been presented to the Cabinet by the Council Officers is biased and non compliant as it does not explore any other options nor provide supporting evidence as to why no other alternatives would or could be considered. To only have these options, one of which shows a £200k loss to the Council purse but without any other

exploration presents as though there is in fact only one possible outcome, closure of Deangate, which in all probability is not the case.

Core Principle D – D1: Determining Interventions of the Code of Corporate Governance states:

- *Ensuring decision makers receive objective and rigorous analysis of a variety of options including how intended outcomes would be achieved and associated risks therefore ensuring best value is achieved however services are delivered.*
- *Considering feedback from citizens and service users when making decisions about service improvements or where service are no longer required in order to prioritise competing demands with limited resources available et al.*

The Agenda report DOES NOT provide objective information nor has a rigorous analysis been demonstrated. Citizens have not been part of the decision making process as the wider community have not been consulted.

The signatories of the petition request that the decision be Postponed and as a minimum the following options are analysed and reviewed in order to allow for the final decision by the Cabinet to be unbiased based on compliant Governance and the best outcome for all involved:

- 1) Golf Club remains open but runs at a loss to the public purse – NOT VIABLE
- 2) Golf Club closes and is sold on for development – OFFICER'S CURRENT PREFERRED OPTION
- 3) Golf Club remains open but other business models are considered (ie multiple uses for the venue, increased advertising, golf competitions, fun days, partnerships with other sports enterprises etc)
- 4) Golf Club remains open under the management of an external partner.
- 5) Golf Club is redeveloped as a mixed use sports and social environment by Medway Council
- 6) Golf Club is redeveloped as a mixed use sports and social environment by an external provider.
- 7) Golf Club becomes a Country park or similar
- 8) Any other options.

In conclusion we the signatories of the 'Save Deangate Ridge Golf Club' respectfully request that the Agenda Item is postponed allowing a suitable time frame for all other options to be considered to ensure Medway Councils compliance to the *HMRC Business Development Guidelines (5 Case Model)*, *CIPFA compliance*, *Medway Council's Constitution and Medway Councils Code of Corporate Governance* to ensure an unbiased outcome/ decision and that the public are appropriately consulted prior to a future Cabinet meeting to agree an outcome for the Golf Club.

Incidentally, the 'add on' to the Agenda Report for the funding of a feasibility into a new sports Facility in Medway should be reviewed in isolation to the Deangate Ridge decision. This may or may not be successful therefore the funding for this review should not nor must not be reliant on the closure of Deangate Ridge.

Yours Sincerely

Joanne Shorter on behalf of all signatories.

MSc, PgDip, BA Hons

CC – All Cabinet Members.

CC – All Petition Signatories.

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12th February 2018

Dear Members of the Medway Cabinet

Cabinet Decision to Close Deangate Ridge Golf Club – request to postpone closure until complaint Business Case has been produced, assessed and considered by Cabinet

On the 4th February 2018 I wrote to you requesting that the Cabinet postpone their decision relating to Agenda Item 10 due to breaches of **Medway Council Constitution, breach of HMRC Business development Guidelines, breach of CIPFA Good Governance, breach of Cabinet Code of Corporate Governance.** Further breaches of the public's right to information under the Local Government Act 1972 have since been identified among others

To be clear, at no point in the content of my original letter did I suggest or make reference to plans and future uses of the Deangate Ridge Golf Club site.

Having reviewed the Agenda Item 10 report which was published on various forums I informed you that the report which was to form the basis of the Cabinet's decision was NOT COMPLIANT nor had due process and due diligence been carried out. I simply asked that the decision be delayed until Officers of the Council had produced a compliant report or business case reviewing and analysing all of the available options. I intimated and hoped that you had been unaware of the non-compliance of the report as you had relied in good faith on the professional advice of an officer of the Council.

Sadly, my letter and the evidenced grounds for my concerns has been ignored. I have received a generic response from Cllr Alan Jarrett which in no way responds to the content of my letter.

An online petition to 'Save Deangate Ridge' has been signed over 3000 times by the public and has now been handed (Friday 9th February) to the Head of Democratic Services. The number of signatories continues to rise and final figures will hand delivered to the Council Offices on Friday 16th February 2018.

IN SIGNING THIS PETITION THE PUBLIC HAVE NOT QUERIED THE FUTURE USE OF THE SITE – THE PUBLIC WISH FOR GOVERNANCE DUE PROCESS AND DUE DILIGENCE TO BE CARRIED OUT IN ORDER FOR THE CABINET TO MAKE THE RIGHT DECISION FOR THE FUTURE OF DEANGATE RIDGE GOLF CLUB.

As stated very clearly in my previous letter, it is the responsibility of the Medway Council Officers to develop a Business Case to weigh up the costs and benefits of ALL viable options available. The Public do not feel that a comprehensive analysis of options relating to the future of Deangate Ridge Golf Club has been undertaken. As per the Agenda Item 10 report produced by an officer of the Council, the Cabinet of Medway Council met to consider just two options:

- 1) Golf Club remains open but runs at a loss to the public purse
- 2) Golf Club closes and is sold on for development.

The Treasury Guidelines (which are part of your own Constitution therefore you have agreed to adhere to these guidelines in a mandatory capacity) clearly state that a Business Case provides the opportunity to undertake a comprehensive analysis of a preferred option. This does not mean that this preferred option should be reviewed in isolation prior to exploring all other viable options. Under the 'Five Case Model', as a minimum Medway Council have a responsibility to the public to carry out a full assessment of ALL options prior to excluding them from their Long List, Short List and thereby selecting their preferred option.

The signatories of the 'Save Deangate' petition do not feel that Medway Council have demonstrated or provided evidence of considering any other delivery models nor have they been appropriately consulted as key stakeholders, therefore it can only be assumed that the Cabinet met to make a decision based on evidence and reporting that did not meet the *HMRC Guidelines* for Business Case Development processes nor has *Medway Code of Corporate Governance* been adhered to.

I very clearly brought this to the Cabinet's attention in my letter dated 4th February 2018, therefore to ignore my advice without any form of investigation means that the Cabinet met and in full knowledge of the potential issues completely disregarded adherence to their own Code of Corporate Governance and Constitution.

May I again draw your attention to Item 1.2 of the *Medway Council Code of Corporate Governance*:

1.2 *Chartered Institute of Public Finance (CIPFA) International Framework: Good Governance in the Public Sector States that:*

"To deliver good Governance in the public sector both governing bodies and individuals working for Public Sector entities must try to achieve their entities objectives while acting in the public interest at all times".

May I also again quote *Core Principle B: B1 Openness as evidence of a failure to carry out due diligence and lack of adherence to Corporate Governance*:

- *Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used. In due course, ensuring that the impact and consequences of these decisions are clear.*
- *Using formal and informal consultation and engagement to determine the most appropriate and effective interventions/ courses of action.*

Item Core Principle B3: *Engaging with Individual Citizens and Service Users effectively* clearly outlines the requirements in its entirety for engagement of Key Stakeholders. Medway Council HAVE NOT on any occasion consulted with the public with regards to Deangate Ridge.

Part 4 of Leader and Cabinet Rules – 2.3 Consultation also clearly states that “*all reports to the Cabinet from any member of the Cabinet or an employee on proposals relating to the budget and policy framework, must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation*”. As the public are one of the ‘Key Stakeholders’, the lack of consultation and engagement is a clear breach of the Councils *Code of Corporate Governance* and the *Councils Constitution for Leader and Cabinet Rules*.

The Deangate Ridge report was presented to the Cabinet by the Council Officers was biased and non compliant as it does not explore any other options nor provide supporting evidence as to why no other alternatives would or could be considered. Having reviewed the scrutiny committee minutes on the Medway Website (as in accordance with various laws including the Housing Act), there is no record of ANY FURTHER SUPPORTING INFORMATION that demonstrates an analytical approach to this decision. To only present these options, one of which showed a £200k loss to the Council purse but without any other financial analysis of what may have lead to these losses means that the report presented as though there was in fact only one possible outcome, closure of Deangate, which in all probability is not the case.

Core Principle D – D1: Determining Interventions of the Code of Corporate Governance states:

- *Ensuring decision makers receive objective and rigorous analysis of a variety of options including how intended outcomes would be achieved and associated risks therefore ensuring best value is achieved however services are delivered.*
- *Considering feedback from citizens and service users when making decisions about service improvements or where service are no longer required in order to prioritise competing demands with limited resources available et al.*

The Agenda report DOES NOT provide objective information nor has a rigorous analysis been demonstrated. Citizens have not been part of the decision making process as the wider community have not been consulted.

Aside from the various breaches outlined with this and my previous letter I would like to draw your attention to the Legal case of *R (Joicey) v Northumberland CC 35. R (Joicey) v Northumberland CC [2014] EWHC 3657*. This case concerned the effect of breaches of requirements to publish information in advance of meetings at which decisions are made, and the effect of such breaches.

As stated, I wrote to you on 4th February outlining a raft of information that was missing from the Agenda Item 10 Report. Information and analysis of which the public were entitled to see as part of your decision making process **prior** to the Cabinet making a decision.

The aforementioned case concerned a planning application for a wind turbine. Noise was a key issue in the application, and the local authority had commissioned a noise report.

Sections 100A-E of the Local Government Act 1972 provide for rights to access to local authority meetings. Section 100B provides for access to agendas and reports. Section 100D provides for access to background papers. All such documents must be “open to inspection by members of the public at the offices of the council” at least five clear days before the meeting. In this case the noise report, a key background paper within section 100D of the 1972 Act, was not available for inspection for the required five clear days before the meeting. One of the people opposing the planning application became aware of the existence of a noise report. He requested to see a copy of the report before the meeting. He also attended the Council offices to inspect the files, but did not find any noise report there.

I personally requested in my letter (on behalf of 3000 petition signatories) exposure of all documentation that lead to the short listed options presented in Agenda Item 10 and in the event that the Medway Council did not have this information, requested a postponement of their decision until such a time that this information was available – as someone who has produced many Business Cases for public funded developments and ‘change’ projects, I requested nothing more than the minimum requirements that would be expected. At no time was any information other than the Agenda Item 10 report issued for public viewing by Medway Council. We the public can only assume that this was the ONLY document presented to garner a Cabinet decision.

In the case example, Mr Joicey attended the Council committee meeting and complained about the fact that it had appeared only the day before – we the signatories gave the Cabinet 2 clear days notification of the breaches yet this was at no time discussed as part of the Cabinet Committee decision discussions during the meeting. Mr Joicey later brought judicial review proceedings, raising the non-availability of the noise report as one of his grounds. The Court held that there had been a number of breaches of the public’s right to information under the Local Government Act 1972. Further, the fact that the report was not available on the Council’s website also constituted a breach of its undertakings in its Statement of Community Involvement, prepared pursuant to its obligations under section 18 of the Planning and Compulsory Purchase Act 2004. The planning permission was quashed.

Whilst our complaint is not a planning issue, the breaches and their impact bare many similarities. I am certain (and whilst I am not a lawyer), I can bring many other examples of Legal Precedents in relation to the Deangate Ridge Agenda Item 10 breaches. Incidentally I am also certain that should a postponement of closure not be given now and a full Business Case produced, that a Judicial Review is very likely to side with us the signatories of the Save Deangate Ridge Petition.

May I also draw your attention to the Local Government Transparency Code 2014 (“the Code”) which deals with the publication by local authorities of information relating to the discharge of their functions. The Code was issued pursuant to section 2 of the Local Government, Planning and Land Act 1980. The stated purposes of the Code are to “place more power into citizens’ hands to increase democratic accountability and make it easier for local people to contribute to the local decision making process” (Code para 1). The Code’s starting position is stark: “all data held and managed by local authorities should be made available to local people unless there are specific sensitivities” (Code para 3). Part 2 of the Code then lists types of information and publication cycles. All expenditure over £500 and procurement information, are to be published quarterly: Code paras 21-22. Various types of information relating to local authority land holdings, parking, senior salaries and a variety of

other organisational information, are to be published annually: see Part 2.2 of the Code. Details of waste contracts need only be published once: para 44. Part 3 of the Code goes into more detail on the minimum data that should be published under each category. These provisions are expressed as “recommendations”. It seems astonishing that the financial reporting in the Agenda Item 10 Report was nothing more than a very basic profit and loss summary when over the previous 5 years a number of Major Capital Works were undertaken at the Deangate Ridge site – directly impacting revenue generation. Surely these should have been published as part of the financial assessment and included as part of the financial report to show whether there was a direct correlation? There were also no financial forecast assessment showing future projections based on current usage of the golf club by Pay as you go players, membership fees, club and bar revenue income and the like in a ‘normal climate’ with NO Capital works within the financial year. Nor was there any assessment against other business models.

In addition to these facts the statements made in the report with regards to Golf being in a decline were not substantiated by any form of source referencing and should have only be treated as hearsay without. Golf England very much oppose this statement and evidence can and will be provided.

The signatories of the petition **again** request that the decision to close Deangate be Postponed, public engagement undertaken and as a minimum the following options be analysed and reviewed in order to allow for the final decision by the Cabinet to be unbiased based on compliant Governance and the best outcome for all involved:

- 1) Golf Club remains open but runs at a loss to the public purse – NOT VIABLE
- 2) Golf Club closes and is sold on for development – OFFICER’S CURRENT PREFERRED OPTION
- 3) Golf Club remains open but other business models are considered (ie multiple uses for the venue, increased advertising, golf competitions, fun days, partnerships with other sports enterprises etc)
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- 8) Any other options.

In conclusion we the signatories of the ‘Save Deangate Ridge Golf Club’ respectfully request that the closure of Deangate Ridge Golf Club is postponed allowing a suitable time frame for all other options to be considered to ensure Medway Councils compliance to the *HMRC Business Development Guidelines (5 Case Model)*, *CIPFA compliance*, *Medway Council’s Constitution and Medway Cabinets Code of Corporate Governance* to ensure an unbiased outcome/ decision and that the public are appropriately consulted prior to a future Cabinet meeting to agree an outcome for the Golf Club.

If the Medway Council choose to move forward without postponement, it sets a terrible precedent and greatly impacts the public’s faith in democracy.

As a matter of courtesy I feel that the concerns outlined in this and my previous letter merit a written response from Medway Council, prior to 31st March 2018 - or perhaps in line with time scales as laid out in your own policies for responding to accusations of breach of Code of Conduct and Constitution.

Yours Sincerely

Joanne Shorter on behalf of all signatories.

MSc, PgDip, BA Hons

CC – All Cabinet Members.

CC – All Petition Signatories.