

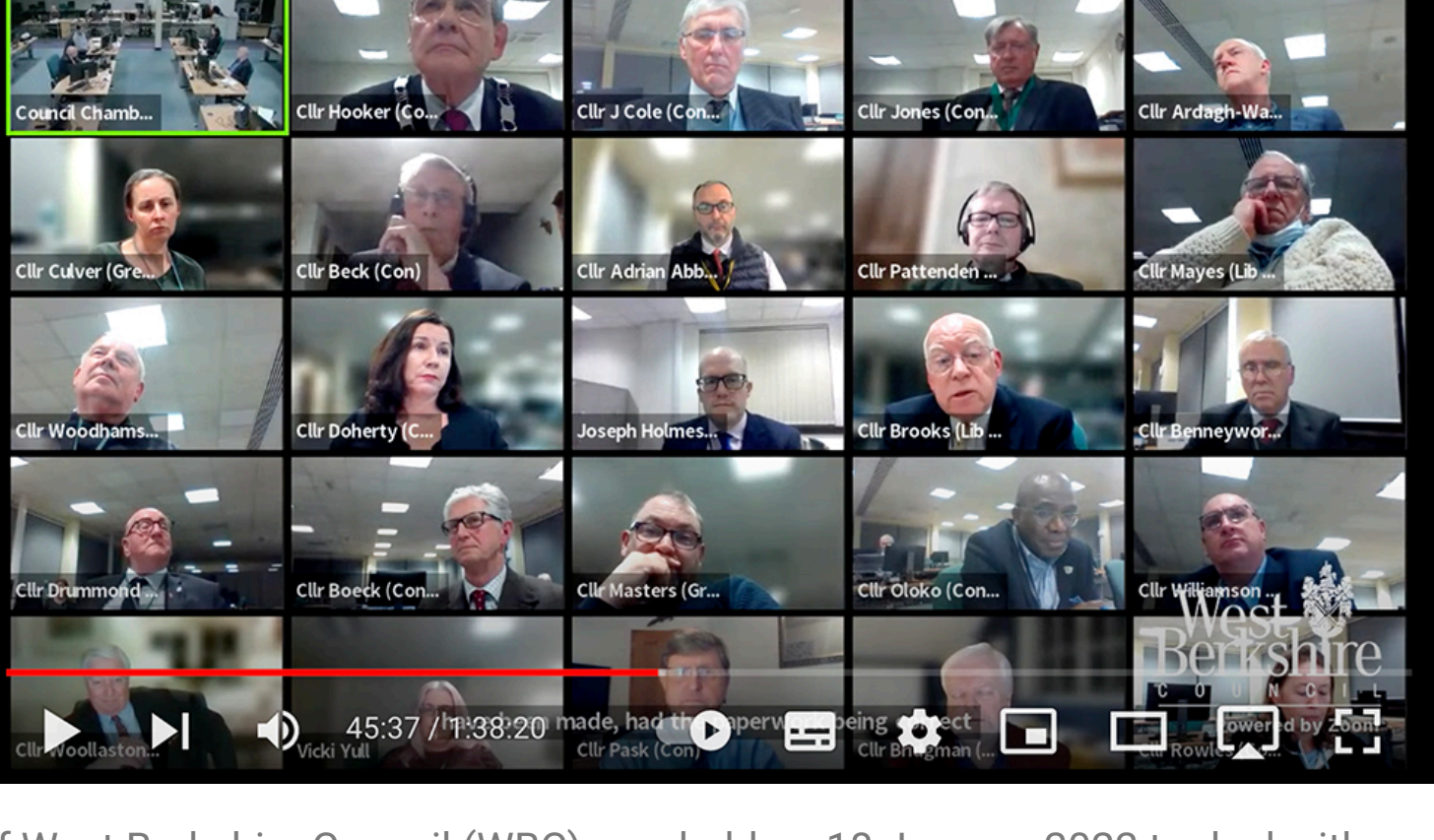
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YINKA SHONIBARE CBE: RITUAL ECSTASY OF THE MODERN Fri 31 Jan – Sun 23 Feb THE BASE

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"The utmost integrity at all times": West Berkshire Council considers its obligations to its residents



An Extraordinary Full Council Meeting of West Berkshire Council (WBC) was held on 18 January 2022 to deal with some motions that had been left over from the previous meeting in December. The first of those debated, proposed by the Lib Dem member Jeff Brooks, was as follows:

"This Council will act with the utmost integrity at all times and will ensure that all of its actions put our residents first. Where mistakes are made we will put them right. Where injustices are apparent we will act to resolve them. In everything we do, the needs of our residents will be uppermost in our policies and actions. We will never take short term gains over the interests of the people we are here to serve."

(You can watch the debate here from about 14'30").

This would seem to be a self-evident statement and – spoiler alert – it passed unanimously. Surely that's all there is to be said? Not quite. Jeff Brooks specified four examples of where WBC had not lived up to these promises, which were...

1 Parkway Bridge

Even though no one at the meeting seemed much interested in this, if the fines were found to be wrongly levied then they should have been refunded. I'm not clear why they haven't been. Although the individual sums will not be life-changing, to raise several hundred incorrect charges is clearly not putting residents first. (If any reader has been, for want of a better word, a victim of this, please contact me at brian@pennypost.org.uk.)

2 Readibus

This was a far larger and more immediate target. I've written about this many times, most recently here. The matter was given some sporadic mentions at the meeting but not in such a way as to clarify the issues.

As the above-mentioned post explains, WBC was recently found to be partly at fault in how it handled the consultation in 2018 and was asked to apologise. Council Leader Lynne Doherty said that WBC "would be happy to apologise for what it had been asked to apologise for" which suggests she feels everything else was handled well. Quite why a previously harmonious relationship has foundered so badly is unclear to many. The current impasse turns on what has been termed a gagging clause. Although Lynne Doherty said she didn't recognise the term, it's hard to know what else to call it. This gives WBC the right of "prior written consent" of any statement made by Readibus. Jeff Brooks referred to the fact that this was non-reciprocal, a point leapt on by portfolio holder Richard Somner who said that reciprocal agreements were offered but not agreed to.

This is true, but beside the point. The real issue is, even if reciprocal, Readibus would still be forced to obtain prior written consent. A statement by Richard Somner on 18 April 2021 said that the intention was only for "prior notification". If so, no one has told the officers, as every draft of the clause has included "consent". That's probably all that needs changing. The irony is that WBC's very insistence on this control of the narrative has resulted in just the PR disaster such clauses are designed to prevent.

These "gagging clauses" were the subject of an article in Third Sector on 23 November 2021 which suggested they're often described as "standard" (a word WBC has used) and quotes Ian MacQuillin, Director of the think tank Rogare, as saying that "on a point of principle, charities ought to reject donations that compromise how they could discuss or frame the cause they serve." Chloe Hardy, Director of Policy and Communications at the Sheila McKechnie Foundation, added that "if you want charities to deliver services you have to accept that you are commissioning independent organisations." In 2018 11 national charities sent an open letter to The Times calling on the government to end the use of gagging clauses and allow voluntary sector organisations to "speak truth to power". This therefore seems to be part of a wider national issue, the end result of which, certainly in this case, has not been to put residents' interests first as Readibus' services have as a result been curtailed.

3 Green bins

I don't see this is a big issue and I accept portfolio-holder Steve Ardagh-Walter's retort that it was more of a deferral than a withdrawal and that the decision had been taken under difficult circumstances. I suspect a lot of residents don't use the green-waste service anyway. This is something that has long been an issue between the Conservatives and Lib Dems and so ran the risk of making the other points seem political; which they weren't, despite attempts to make them appear so (more on this below).

4 CIL (Community Infrastructure Levy) payments

This was the big one and the real purpose of the motion. There have been two reported cases, one in Kintbury (which has been paid) and one in Lambourn (which has not) totalling nearly £100,000 where CIL was charged because of minor errors in the property owner's paperwork, even though the developments should have been exempted. Even HMRC will review cases where applicants have made a mistake and as (Conservative) James Cole, one of the members for Hungerford and Kintbury, wittingly remarked, "I prefer the approach of the Inland Revenue to that of WBC." Jeff Brooks has been a tireless advocate for these cases. I wrote an article about this in December 2020 and have heard nothing since to make me change my view.

The members' reactions to this aspect of the the debate can be put into two separate piles (which did not follow party lines).

Some pointed out that CIL payments were necessary for providing infrastructure and "benefitting the district", as Councillor Joanne Stewart put it. Richard Somner stressed that CIL revenues couldn't be regarded as "short-term gains" as they involved long-term projects. These points, though true, were slightly specious as the issue was not the need for infrastructure funding, which no one denied, but the way in which these two cases had been handled. Councillor and Deputy Leader Graham Bridgman went a step further, suggesting that the interests of "residents" (plural) should trump those of an individual "resident" (singular), even though the motion had not mentioned the singular form. This was perhaps the most overtly political remark of the entire debate and suggests that he's in the wrong party, though even Labour might quail at the implication that the collective good is always superior to individual rights. It could also be taken to suggest, though I'm sure he didn't mean it this way, that any charge on a resident, fair or not, is justified if it benefits the wider community.

Lynne Doherty added that one of the applications (in Lambourn, at the former Malt Shovel pub) had been on the site of "a valuable community asset now lost to public life." I found this mystifying. The issues surrounding an asset of community value are quite separate and are in any case rendered irrelevant by the fact that WBC gave permission for the site to be redeveloped. Surely she wasn't suggesting that there was some element of retribution involved?

The most revealing remarks were made by Conservative Alan Law who, correctly, described the motion as "a very clever political trap," (OK, that was a political aspect but one that Jeff Brooks claimed was necessary to get the matter aired at this level at all), the point being that it was impossible for any right-thinking member to vote against it. More tellingly, he went on, again correctly, to stress the difference between "integrity" and "mistakes". This suggested that he defended the former but admitted the possibility of the latter. This was really all Jeff Brooks was after. Unfortunately, this point was not developed.

There were also those who stressed the moral aspect of the matter: as Owen Jeffrey, the seconder, said in his closing remarks, "we shouldn't use an administrative error to extract cash just because we can construct a legal right to do so." Lib Dem Leader Lee Dillon said that the motion was "not political" – which, aside from the green-bin mention, I'd agree with – and asked "where is the integrity?" Adrian Abbs (LD) said that cancelling the obligations was "the right thing to do." Steve Masters (Green) said that he felt an apology was called for. James Cole (Con) said he had been "unhappy" about the case in Kintbury and Claire Rowles (Con) added that there had been "no evidence" in either case of "putting the resident first." She also referenced a case in Chieveley where WBC had made an error about CIL (proving that we all can do it) and then assisted the resident in rectifying matters: "if WBC makes a mistake, the resident is helped", she concluded, "but if the resident does so then then they're on their own." This comment, which was not refuted in the subsequent debate, is an unhappy judgement on a council's activities from a member of its own ruling party.

Political points

Such debates are rarely free of these. I had a bet with myself when someone would first say "playing politics": I'd banked on this happening in the first ten minutes but in fact it was at 41'55", nearly half an hour into the debate, before Lynne Doherty uttered the hateful phrase. This, to me, is a sign that the criticism is unwelcome. All the councillors, and MPs, are playing politics. To accuse the other side of doing so is like one football team accusing the other of playing football. She also added the political twist that she was glad so that "the Lib Dems had finally recognised the council's strategy." That's playing politics too.

The education portfolio holder Dominic Boeck described the motion as "nakedly political" although he didn't specify to what aspect of it he was referring. The points arising from it could as easily have been made by a Conservative opposition about a Lib Dem administration.

This predictable knockabout stuff aside, the substance of the motion was human rather than political. The contention was that WBC has not conducted itself as well as it might have done in the CIL matter, nor with Readibus, nor it would appear with the Parkway Bridge fines. I'm not sure what the purpose of councillors is if they can't raise these concerns.

Integrity

I've had dealings with most of WBC's councillors. I have absolutely no evidence to suggest that any of them lack integrity as individuals or are anything but good or excellent advocates for their residents. Some have been so despite offending the views of their political leaders, which seems to represent an even higher level of commitment. Jeff Brooks was keen to stress, in an effectively tub-thumping closing address, that "you all have integrity. Now's the time to show it."

What happens next

It's easy to forget in all these "political" debates that the lives of real people are affected. Whether it's a £60 parking fine or a £60,000 CIL payment, if these were wrongly levied it would be immoral not to refund them. Apology isn't a sign of weakness, but of strength. Look at what's happening in Downing Street. An earlier admission of error would have wrong-sided everyone. It's not too late with these issues. Any administration which can apologise would get my support. God knows, it's rare enough.

There are a lot of things WBC has done excellently in the last few years. In particular, and to take the main thing on my minds, I feel its response to the pandemic has been first-rate. I'd commend Lynne Doherty, portfolio holder Graham Bridgman, his predecessor Howard Woollaston and senior officer Matt Pearce and all his staff. The district seems to have acted rapidly in response to the (often tardy and confusing) government policy and also in formulating its own responses. Local communities, where they needed help, were supported by WBC and Volunteer Centre West Berkshire. A community hub for information was established and regular communications were established. All this praise I lay in the lap of Lynne Doherty and her administration. I do not, however, think that praise is due on the points I've mentioned above. As Jeff Brooks concluded, "sort it out."

The role of councillors

This leads on to another separate but related matter – what our elected representatives can expect that officers of the council provide in answers to questions, on what grounds such requests can be made or refused and what right of appeal exists. This was recently exposed by a series of attempts by Hungerford and Kintbury Councillor Claire Rowles to obtain information relating to CIL payments. The issues this raises are as important as the ones discussed above and will be covered in a separate post next week.

Brian Quinn

Brian Quinn January 20, 2022 2:52 pm No Comments

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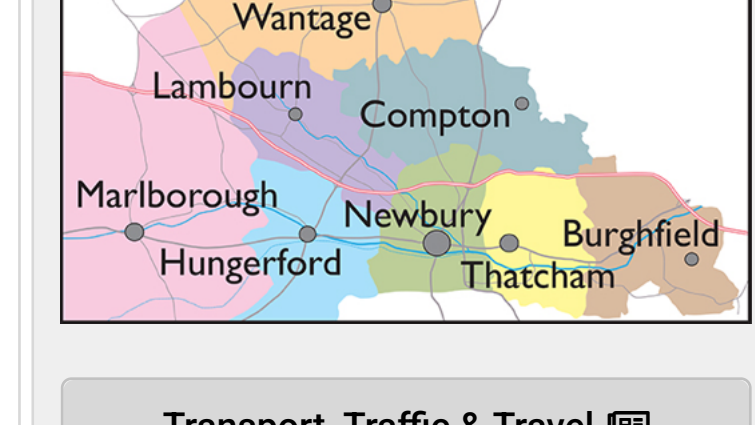
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