



12th February, 2020

Dear Councillor

Javelin Park, High Court, 2nd to 4th March

I am writing this open letter on behalf of Community R4C to all county councillors with regard to the upcoming 'Javelin Park' High Court case. We want to make clear why we are taking part in this action and why we think it deserves your balanced consideration and, hopefully, support. Many of you will be familiar with the background but, just in case, I enclose a one-page factsheet.

First, I want to make clear that *this action is not directed against councillors* – or even the GCC itself. It is being taken in **support** of taxpayers and voters and of the environment. We believe that a big mistake was made in 2013 by choosing the original £500 million incineration project – against the unanimous vote of your own planning committee - and that this has been compounded by secretive Cabinet decisions since.

We are challenging the legality of one of these decisions, namely the award, in 2016, of a new, revised £650 million contract, without any competitive tender, despite the 30% increase in cost to Gloucestershire ratepayers. Our High Court case contends that this decision, made without full Council scrutiny partly because of the personal, secret intervention of the GCC Chief Executive, was in breach of procurement law.

If the High Court finds in our favour, this will lead to modest damages being paid to CR4C but, much more importantly, it will establish a legal case for a breach of state aid law by Urbaser Balfour Beatty. If successful, *this would lead to millions of pounds being returned and future fees being reduced under the contract, all to the benefit of taxpayers in Gloucestershire and freeing up the GCC budget.*

In line with the covert nature of the 2016 contract decision, GCC's Cabinet has failed in three subsequent attempts to stifle our case by trying, at the County taxpayers' expense, to keep important documents secret from the very same taxpayers. They unsuccessfully contested an instruction by the Information Commissioner's Office to release details of the original £500 million contract. They then opposed releasing details of the second, £650 million, contract but reluctantly did so in the face of a second ICO tribunal. The legal costs alone for this, we believe, exceeded £200,000.



Finally, just last week, after our lawyers made a court application, GCC relented and agreed to provide documents which they had been previously withholding from us and the Court. *This latest misguided attempt at secrecy means Glos taxpayers will pick up an additional large legal bill.* Why are the people of Gloucestershire again paying for information being improperly withheld from them by their own County Council?

There is never any certainty with Court cases, however, what is clear is that the whole context of debate about waste management and the environment has dramatically shifted. It is inconceivable that the GCC would now, in 2020, sign up to such an expensive, shamefully wasteful, environmentally damaging mass 'black bag' incineration solution - especially with an unfavourable contract lasting *25 years into the future.*

Nevertheless, we are being quite pragmatic. We know we cannot simply dismantle the Javelin Park plant, hoping to put Pandora back in her box. So, whether we win our case or not, we will seek to join with like-minded councillors to recover ££ millions in state aid from Urbaser Balfour Beatty and work with the Council to move to a lower cost, less environmentally damaging waste treatment solution. For example, today's technology means that *as much as 90 % of the material currently being burned could be recycled using an on-site plant.* This is in line with the concept of the 'circular economy' where environmental impact is minimised by waste reduction, re-use and recycling.

We believe that the citizens of Gloucestershire deserve a better solution than Javelin Park as it is: one which will be cheaper, safer, more responsive to future changes in waste management technology and consumer behaviour and which has a much smaller CO2 footprint. On behalf of Community R4C and the many supporters we represent, we hope that, whatever the outcome of the current High Court case, you will engage with us in trying to create one.

Kind Regards,

A handwritten signature in black ink that reads 'Sue Oppenheimer'.

Sue Oppenheimer,

Co-Chair, Community R4C

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