



30 November 2018

Dear 

Participation Request Decision Notice

We met on 28 November to discuss the participation request you submitted on 25 October. I hope that you found our discussion to be helpful. As you asked at that meeting, I am writing to give you a formal notice of refusal of the participation request.

My colleague had indicated in an email on 5 November that our view was that it did not measure up to the statutory requirements for a valid participation request and also pointed out one or two other difficulties with the request. This is the council's formal decision, providing some more detail to add to the points made in that email. The legislation sets out the factors that have to be taken into account in determining a participation request and so I have to follow that approach in this letter. There is therefore some formal language used, which I have tried to keep to a minimum.

The request was considered under the relevant statutory rules and through the council's own procedure approved at Council Executive on 28 March 2017. The council delegated authority to me to determine participation requests on its behalf.

The community council is of course a body entitled to make such a request and is properly constituted. The decision to refuse the request is based on the information provided in the application form and an assessment of whether the request is a valid participation request under the 2015 Act.

The application form and the statutory requirements call for an "outcome" to be specified and for an explanation of how that can be improved by the community council's participation. An outcome is the result of the provision or delivery or offer of a service by the council to the public.

The outcome specified by you is a community council representative being a full member of the Linlithgow Local Area Committee (LAC). That is not something that is the result of a service provided by the council to the public.

The improvements you identified (focusing LAC meetings on Linlithgow, improved dissemination of information from LAC meetings) are not improvements in an outcome resulting from the provision of a council service to the public.

The establishment and administration of a committee as part of the council's decision-making arrangements is not itself a service provided to the public, and the issues I have identified in relation to "outcome" and "outcome improvement" flow from that.

Because of these problems with the application I have not been able to go on and assess it against other criteria in the legislation, such as the chances of it promoting or enhancing economic development or public health or reducing inequalities resulting from socio-economic disadvantage.

Looking at other parts of the application, it misstates the purpose and function of the LAC, which is set out in the council's Scheme of Administration. It also adopts an approach driven by and serving the interests of the geographical area covered by the community council. The LAC serves the whole ward area and there are other communities, other community councils and other interests in the ward but outwith the community council's own defined area.

There is also an issue with the participation request arising from the legislative rules that dictate the membership of council committees and from the misunderstanding of the role played by council officers in supporting and administering the LAC.

For all these reasons I consider that there are reasonable grounds for refusing the participation request.

The relevant legal definitions can be found in sections 22 and 35 of the 2015 Act. The information required for a valid participation request is in section 22 of the Act and in Regulation 3 of and the Schedule to the Participation Request (Procedure) (Scotland) Regulations 2017. The assessment criteria and the requirement for a decision notice are in section 24 of the 2015 Act.

There is no currently no statutory appeal process against this refusal decision. The council has chosen not to provide its own appeal or review mechanism.

There are requirements for the council to publish basic information about this decision. Those can be found in Regulation 8 of the Participation Request (Procedure) (Scotland) Regulations 2017. A redacted version of the decision notice will be published. It will also be summarised and explained in the statutory annual report that the council must publish under section 32 of the Act.

At our meeting we did discuss whether there was scope for redrafting and resubmitting the request. I would draw your attention to section 27 of the 2015 Act which allows the council to decline to consider certain "repeat" participation requests. I certainly do not see your second request, relating to The Vennel, as such a repeat case, and you will hear separately from me about that in due course with a formal decision.

Yours sincerely

Craig McCorrison
Head of Planning, Economic Development and Regeneration

