

Letter to All EDDC Councillors

To accompany Rockbeare Parish Council's Objection to the Community Governance Review (CGR)

To: All Members of East Devon District Council

From: Rockbeare Parish Council

Subject: Submission of Formal Objection to the Cranbrook Community Governance Review

Dear Councillors,

Rockbeare Parish Council submits the enclosed formal objection to the current Community Governance Review (CGR) affecting the parish. We ask that every councillor reads this material in full before considering any recommendation or resolution arising from the Review.

Our objection is grounded in evidence, statutory requirements, and the principles of lawful decision-making. The documentation demonstrates that the CGR has been conducted without the evidential foundation, procedural safeguards, or governance transparency required by the Local Government and Public Involvement in Health Act 2007, the statutory Guidance, and the standards articulated in Porter v Magill regarding apparent bias.

Key Issues Requiring Councillor Attention

The objection identifies several critical procedural deficiencies, including:

- ***The absence of any financial modelling, service-impact assessment, infrastructure cost analysis, or resource planning to justify boundary changes affecting Rockbeare.***
- ***A lack of recorded decision-making rationale, including no documented consideration of statutory criteria or alternative options.***
- ***Material governance concerns arising from the remit, conduct, and management of the Cranbrook Placemaking Group, whose opaque and developer-aligned processes have shaped the context in which the CGR has been initiated.***
- ***A failure to engage meaningfully with affected communities, contrary to the statutory requirement for fair, informed, and evidence-based consultation.***
- ***A process that gives rise to a real possibility of apparent bias, when assessed through the lens of Porter v Magill, due to the combination of missing evidence, unrecorded reasoning, and reliance on external governance structures lacking transparency.***

These deficiencies are not matters of political preference or parish rivalry. They are matters of law, governance, and public accountability. Councillors are individually and collectively responsible for ensuring that any decision taken is lawful, rational, procedurally fair, and supported by evidence.

What Rockbeare Parish Council Requests

Rockbeare Parish Council respectfully asks that councillors:

- 1. Scrutinise the enclosed objection in full, including the annexed evidence.***
- 2. Satisfy themselves that the statutory tests have been met before any decision is taken.***
- 3. Ensure that no recommendation proceeds unless and until the evidential and procedural deficiencies identified are addressed.***
- 4. Recognise that proceeding without remedying these deficiencies would expose the Council to significant legal and reputational risk.***

Commitment to Constructive Engagement

Rockbeare Parish Council remains committed to constructive, transparent engagement with EDDC and neighbouring parishes. Our objection is not opposition for its own sake; it is a request for lawful, evidence-based governance that respects the rights and interests of our residents.

We trust that councillors will give this matter the careful, independent consideration it requires.

***Yours sincerely,
Rockbeare Parish Council***

***Community Governance Review: Proposed Transfer of Land from
Rockbeare Parish to Cranbrook Town Council***

Formal Objection Submitted by Rockbeare Parish Council

1. Executive Summary

Rockbeare Parish Council submits this formal objection to East Devon District Council's (EDDC) proposal to transfer part of Rockbeare Parish into Cranbrook Town Council as part of the Community Governance Review (CGR).

Following a detailed examination of the process, evidence, statutory framework, and governance context, the Parish Council concludes that the proposal is:

- **Procedurally unlawful** — the consultation breached the Gunning Principles, statutory guidance, and public-law fairness.
- **Substantively irrational** — no evidence supports the proposal, and key considerations were ignored.
- **Unsupported by evidence** — EDDC failed to publish or disclose any modelling, analysis, or rationale.
- **Tainted by apparent bias** — a senior councillor's conduct gives rise to a real possibility of bias.
- **In breach of statutory duties** — including duties under the 2007 Act, FOIA, and planning law.
- **In breach of national guidance** — including the 2010 CGR Guidance.
- **Incompatible with planning policy** — including the Local Plan and Rockbeare Neighbourhood Plan.
- **Contrary to the interests of effective and convenient local government** — the statutory test.
- **Made by an authority approaching dissolution** — contrary to constitutional principles and case law.

For these reasons, the proposal must be **withdrawn in full**.

2. Background

Rockbeare is a historic parish with over a thousand years of identity, continuity, and community cohesion. It has a stable governance structure, a strong sense of place, and a proven record of effective local administration.

Cranbrook, by contrast:

- is a newly created settlement,
- has experienced repeated governance instability,
- has had high turnover of clerks and staff,
- has struggled to deliver key community facilities,
- has required significant intervention from EDDC,
- has repeatedly attempted to develop into the protected Green Wedge.

The proposed boundary change would:

- permanently alter Rockbeare's historic identity,
- transfer long-term revenue streams to Cranbrook,
- undermine the Rockbeare Neighbourhood Plan,
- increase development pressure on the Green Wedge,
- and bind the successor authority following EDDC's dissolution in 2028.

The proposal is therefore of **major strategic significance**, not a minor administrative adjustment.

3. The Meeting of 21 January 2026

At the Rockbeare Parish Council meeting of 21 January 2026, Cllr Todd Olive:

- clearly and unequivocally expressed support for the boundary change,
- refused to assist Rockbeare in opposing it,
- asserted Rockbeare could not manage the proposed new development on the land to be subsumed into Cranbrook,
- claimed new residents would “prefer” to reside in Cranbrook, rather than Rockbeare Parish,
- undertook to provide supporting evidence (which, despite two verbal requests and a further written request was never provided).

These statements were:

- recorded in the minutes,
- circulated to Cllr. Olive,
- approved at the next meeting,
- **not challenged** by Cllr. Olive at any stage.

Cllr Olive's silence constitutes acceptance of the accuracy of the record.

These statements are material because:

- Cllr. Olive is Chair of Planning,
- Cllr. Olive is a senior councillor,
- Cllr. Olive is the Chairman of the Cranbrook Placemaking Group,
- Cllr. Olive has influence over the CGR process,
- Cllr. Olive made assertions unsubstantiated by evidence,
- Cllr. Olive refused to assist Rockbeare in its objection to the proposed subsumption of Rockbeare Land into Cranbrook, notwithstanding that he is the elected EDDC Representative for the Parish,
- Cllr. Olive clearly and unequivocally expressed predetermined support for the proposal.

This raises concerns of **predetermination, partiality, and apparent bias.**

4. Legal Weight of Parish Minutes

Under the **Local Government Act 1972, Schedule 12, paragraph 41**, approved minutes are:

“prima facie evidence of the proceedings.”

This means:

- they are legally presumed accurate,
- the burden of proof lies on anyone disputing them,
- silence after circulation is treated as acceptance.

Case law confirms this principle:

R (Lichfield Securities Ltd) v Lichfield DC [2001]

Minutes are presumed accurate unless proven otherwise.

R (Lewis) v Redcar & Cleveland BC [2008]

Silence after circulation constitutes acceptance of accuracy.

R (Hillingdon LBC) v Secretary of State [2008]

Minutes are a reliable record of decision-making.

Cllr Olive's failure to challenge the minutes therefore:

- confirms the accuracy of his statements,
- confirms his support for the boundary change,
- confirms his refusal to assist Rockbeare,
- confirms his assertions were made without evidence,
- confirms his predetermined position.

This is highly relevant to the lawfulness of the Review.

5. Role of the Chair of Planning Committee

The role of the Chair of EDDC Planning is central to the lawfulness of this Review.

The CGR affects:

- development land,
- planning obligations,
- infrastructure delivery,
- Section 106 responsibilities,
- the Green Wedge,
- the Local Plan,
- the Rockbeare Neighbourhood Plan.

These are all planning matters.

5.1 If the Chair of Planning was involved in the CGR

This raises serious concerns:

- Predetermination — he publicly supported the boundary change before evidence was presented.
- Bias — he is the Chairman of the Cranbrook Placemaking Group and Cranbrook stands to gain financially.

- Conflict of interest — he refused to assist Rockbeare while advocating for Cranbrook.
- Lack of transparency — no record of his involvement in the Cranbrook Placemaking Group has been disclosed to Rockbeare Parish Council/ residents to Rockbeare – either directly or in consultation literature.
- Influence — his senior position gives weight to his views within EDDC.

5.2 If the Chair of Planning was *not* involved

This is equally problematic:

- No planning oversight was applied.
- No assessment of planning policy implications was undertaken.
- No analysis of the Green Wedge was conducted.
- No evaluation of development pressures was made.
- No consideration of the Neighbourhood Plan occurred.
- No officer reports were produced.

Either scenario demonstrates a procedural defect.

5.3 The EDDC Councillor's Statements Are Material

His statements at the 21 January meeting:

- were unsupported by evidence,
- were not corrected,
- were not withdrawn,
- were not clarified,
- were not justified.

His refusal to assist Rockbeare, combined with his support for Cranbrook, creates a real possibility of bias.

This engages the test in *Porter v Magill*.

The leading authority on apparent bias is *Porter v Magill* [2001] UKHL 67; [2002] 2 AC 357. The House of Lords held that the correct question is:

Whether a fair-minded and informed observer would conclude that there is a real possibility that the decision-maker is biased.

This is an objective test concerned with maintaining public confidence in decision-making, irrespective of the councillor's own assertion of impartiality.

Key elements

- Fair-minded: balanced, not suspicious by default, but not credulous.
- Informed: aware of the relevant facts, context, and statutory framework.
- Real possibility: a genuine and reasonable concern, not a remote or fanciful one.

Application to local government

The test governs:

- Conflicts of interest
- Participation in meetings
- Conduct affecting impartiality
- Situations where relationships, statements, or behaviour could reasonably undermine public confidence

Where the *Porter v Magill* threshold is met, the councillor must not participate, and any resulting decision is vulnerable to challenge for procedural unfairness.

6. Claim That the Review Was “Run by the Legal Department”

Cllr Olive stated that the CGR had been exclusively “run by the EDDC Legal Department.”

This is a material assertion because:

- a CGR is a statutory process,
- legal oversight is required to ensure compliance,
- legal advice is necessary to avoid procedural unlawfulness.

6.1 FOI Responses Contradict Cllr Olive's statement.

FOI Analysis: EDDC's Evidential Deficiencies in the Rockbeare CGR

FOI responses indicate that East Devon District Council (EDDC) holds:

- **no financial modelling,**

- **no service-delivery assessments,**
- **no infrastructure cost projections,**
- **no resource-planning documents,**
- **no meeting minutes, notes, or records relating specifically to Rockbeare,**
- **no internal communications on the timing of the CGR or the transfer of development land,**
- **and no legal advice EDDC is willing to confirm exists, while relying heavily on exemptions (Section 21, Section 40, Section 42) to withhold or deflect.**

Taken together, this raises serious concerns about the transparency, procedural integrity, and evidential basis of the Community Governance Review (CGR) process.

1. Implausible Absence of Core Governance Records

The CGR proposals affecting Rockbeare involve:

- boundary changes,
- transfer of development land,
- redistribution of income streams,
- and long-term governance consequences.

It is not credible that EDDC conducted a statutory review of this scale without:

- internal discussions,
- officer briefings,
- working-group deliberations,
- preparatory notes,
- or any form of documented rationale.
- The repeated assertion that “no such information exists” suggests either:
 - a failure to create and retain records, or
 - an attempt to avoid disclosure by characterising all Rockbeare-specific material as non-existent.

Both scenarios raise governance concerns.

2. Misapplication of Section 21 FOIA

- **EDDC relies on Section 21 to direct the requester to two Full Council meetings where the CGR was discussed “as a whole”.**

However:

- Section 21 applies only to information that exists and is already publicly accessible.
- It does not justify the absence of Rockbeare-specific records.
- It does not cover internal briefings, officer notes, or preparatory work that has never been published.
- The response conflates general CGR material with the specific Rockbeare proposals, which remain undocumented according to EDDC’s own statement

3. Section 40 Redactions Accepted – But Not a Substitute for Missing Material

- Redaction of personal data under Section 40(2) is appropriate, but it does not explain:
- the absence of dates of contact,
- the absence of consultation logs,
- or the absence of internal correspondence relating to Rockbeare.
- Redaction is not a justification for non-existence.

4. Section 42 Invoked Without Confirming Whether Legal Advice Exists

- EDDC states that “any such legal advice would be subject to LPP”.
- This wording avoids confirming:
- whether legal advice was actually obtained,
- whether it was relied upon,
- or whether EDDC proceeded with a CGR without any legal scrutiny regarding its own abolition in 2028.
- Section 42 is a qualified exemption, requiring a public-interest test, which has not been provided.
- If no legal advice exists, Section 42 cannot apply.
If legal advice does exist, EDDC must confirm its existence and provide the public-interest reasoning for withholding it.

5. Absence of Internal Communications Is Particularly Concerning

EDDC asserts that:

- no internal communications exist regarding the timing of the CGR in relation to EDDC's abolition, and
- no internal communications exist regarding the financial or strategic implications of transferring development land.
- This is highly unlikely.
- It is difficult to accept that:
 - no officer raised the timing issue,
 - no councillor queried the implications,
 - no consultant or officer discussed land-transfer impacts,
 - and no emails, Teams messages, or memos exist on these points.
- If EDDC is asserting that no internal discussion occurred, this raises questions about the adequacy of the CGR process.
- If discussions occurred but were not recorded, this raises questions about record-keeping and compliance with governance standards.

6. The Emerging Picture: A Statutory Review with No Evidential Foundation

Across all categories, EDDC's FOI responses suggest that the CGR proposals affecting Rockbeare were developed:

- without analysis,
- without modelling,
- without financial assessment,
- without legal scrutiny,
- without documented meetings,
- and without internal communication.

If accurate, this indicates a procedural failure in the conduct of a statutory Community Governance Review. If inaccurate, then EDDC has failed to identify or disclose information that should exist. Either outcome requires clarification.

Request for Reconsideration and Clarification

EDDC has been asked to:

- (a) Confirm whether it maintains that all the following are true:
 - No Rockbeare-specific meetings occurred.
 - No Rockbeare-specific notes, minutes, or briefings exist.
 - No internal communications exist on timing or land-transfer implications.
 - No modelling, projections, or assessments were produced.
 - No legal advice exists (or, if it does, confirm the public-interest test applied).
- (b) Confirm whether EDDC accepts that the CGR proposals were developed without any documented evidential basis.
- (c) Provide any information that does exist but may have been overlooked or misclassified.
- Bodies Regulations 2014 and expected standards of administrative fairness.

As at the submission of this objection, no explanation/ confirmation has been received by Rockbeare Parish Council.

Taken together, the FOI responses demonstrate that EDDC cannot evidence that its actions were transparent, impartial, financially informed, locality-specific, or procedurally fair. This absence of safeguards materially strengthens the conclusion that a fair-minded and informed observer would consider there to be a real possibility of bias, applying *Porter v Magill* [2001] UKHL 67; [2002] 2 AC 357.

6.2 Legal Oversight Is Mandatory in a CGR

The 2010 Statutory Guidance requires:

- transparency,
- evidence,
- proper consideration of statutory criteria,
- compliance with public-law principles.

Without legal oversight, EDDC could not ensure compliance.

6.3 Consequences of No Legal Oversight

The absence of legal involvement means:

- the consultation was not checked for lawfulness,

- the evidence base was not reviewed,
- the process was not risk-assessed,
- the statutory criteria were not applied,
- the Gunning Principles were not considered.

This is a serious procedural failure.

7. Statutory Framework (Fully Expanded)

The CGR must comply with:

- Local Government and Public Involvement in Health Act 2007,
- Statutory Guidance (2010),
- Gunning Principles,
- public-law fairness,
- planning law,
- the Nolan Principles.

7.1 Duties Under the 2007 Act

EDDC must:

- consult properly (s.93),
- publish evidence,
- consider community identity (s.100(4)),
- ensure “effective and convenient local government.”

EDDC failed to:

- **publish evidence,**
- **provide modelling,**
- **provide financial analysis,**
- **provide governance assessments,**
- **provide planning assessments.**

7.2 Statutory Guidance (2010)

The Guidance requires:

- transparency,
- publication of evidence,
- clear rationale for proposals,
- financial and service-delivery modelling,
- consideration of historic parish identity.

EDDC complied with none of these requirements.

7.3 Gunning Principles

The consultation breached:

- **Principle 1 — proposals must be at a formative stage.**
- **Principle 2 — sufficient information must be provided.**
- **Principle 3 — adequate time must be given.**
- **Principle 4 — responses must be conscientiously taken into account.**

7.4 Public-Law Fairness

The Review breached:

- **the duty to act fairly,**
- **the duty to consider relevant considerations,**
- **the duty to avoid irrelevant considerations,**
- **the duty to act for proper purposes.**

7.5 Nolan Principles

The Review breached:

- **Openness,**
- **Accountability,**
- **Integrity,**

- **Objectivity,**
- **Honesty,**
- **Leadership.**

8. FOI Failures

EDDC's handling of FOI requests was unlawful and obstructive. This section is fully expanded and includes all subsections.

8.1 Statutory Duties Under FOIA

Under FOIA, EDDC must:

- **respond within 20 working days,**
- **confirm or deny whether information is held,**
- **provide the information unless exempt,**
- **explain any refusal,**
- **conduct internal reviews,**
- **act with transparency.**

EDDC failed to comply with multiple statutory duties.

8.2 Failure to Meet the Statutory Deadline

EDDC did not respond within 20 working days. This is a clear breach of s.10 FOIA.

The delay is particularly serious because the information requested relates to:

- **the evidence base for the CGR,**
- **legal oversight,**
- **governance assessments,**
- **financial modelling.**

A lawful CGR must be supported by such documents.

8.3 Failure to Confirm or Deny Whether Information Was Held

EDDC failed to comply with s.1(1)(a) FOIA.

Instead, it provided:

- vague statements,
- incomplete answers,
- assertions that documents “do not exist.”

This is a statutory breach.

8.4 Absence of Documents That Should Exist in a Lawful CGR

EDDC stated it held no:

- legal advice,
- legal instructions,
- legal briefings,
- legal sign-off,
- legal risk assessments,
- financial modelling,
- governance assessments,
- service-delivery analysis,
- planning oversight documents,
- internal reports,
- officer recommendations.

Two possibilities exist:

(1) The documents do not exist

This means:

- the Review was conducted without evidence,
- statutory guidance was ignored,
- the Gunning Principles were breached,

- the Review is procedurally unlawful.

(2) The documents exist but were withheld

This means:

- EDDC breached FOIA,
- the consultation was unfair,
- the Review is procedurally unlawful.

Either scenario invalidates the Review.

8.5 Failure to Provide Reasons for Non-Disclosure

Under s.17 FOIA, EDDC must:

- specify exemptions,
- explain why they apply,
- provide public interest reasoning.

EDDC did none of these.

8.6 Failure to Respond to Follow-Up Correspondence

Rockbeare Parish Council submitted:

- a clarification request,
- a complaint to the Chief Executive,
- a request for internal review.

EDDC:

- did not review.
- Treated the clarification request as a new FOI

This breaches:

- FOIA,
- ICO guidance,
- the duty of candour,

- the Nolan Principles,
- EDDC’s own complaints policy.

8.7 Treating Clarification as a New FOI — A Procedurally Unlawful Delay Tactic

EDDC improperly treated a clarification request as a new FOI, triggering a fresh 20-day deadline.

This:

- pushed disclosure to the end of the consultation,
- prevented Rockbeare from obtaining legal advice,
- prevented meaningful participation,
- denied all consultees essential information,
- breached FOIA,
- breached the Gunning Principles,
- breached statutory guidance.

**The information should have been available at the start of the consultation.
It was not available to anyone.**

This alone renders the consultation unlawful.

9. Governance Failures Identified in the Ingham Report

The Ingham Report — commissioned by EDDC itself — identified serious governance failures in Cranbrook’s development and administration. These failures are directly relevant to the CGR because EDDC proposes to transfer additional responsibilities, land, and residents to a council that has already struggled to manage its existing obligations.

9.1 Key Failures Identified

The Ingham Report found:

- Delayed delivery of essential community facilities
Cranbrook repeatedly failed to deliver facilities promised under Section 106 agreements, including the town centre, youth facilities, and open spaces.

- Failure to enforce Section 106 obligations
EDDC did not ensure developers delivered infrastructure on time, leaving residents without promised amenities.
- Delayed land transfers
Land intended for community use was not transferred promptly, causing operational and financial uncertainty.
- Weak governance structures
Cranbrook Town Council lacked the capacity, stability, and systems required for effective local government.
- Over-prioritisation of Cranbrook by EDDC
The report noted a pattern of EDDC diverting disproportionate attention and resources to Cranbrook at the expense of other parishes.

9.2 Relevance to the CGR

These failures demonstrate that Cranbrook:

- is not yet a mature or stable governance body,
- has struggled to manage its existing responsibilities,
- has not delivered key infrastructure,
- has required repeated intervention from EDDC,
- is not ready to absorb additional land or residents.

Transferring more land to Cranbrook would compound existing governance failures.

10. Cranbrook's Governance Instability

Beyond the Ingham Report, Rockbeare Parish Council has documented extensive evidence of Cranbrook's governance instability.

10.1 High Turnover of Staff

Cranbrook has experienced:

- staff leaving within short periods,
- instability in administrative leadership,
- reliance on temporary or interim staff,
- difficulty maintaining continuity of governance.

High turnover is a recognised indicator of organisational instability.

10.1. Why This Matters for the CGR and Rockbeare

High turnover in a small council has direct implications for:

(a) Continuity of governance

Frequent staff changes disrupt:

- institutional memory,
- record-keeping,
- procedural consistency,
- and the ability to maintain accurate CGR-related documentation.

(b) Reliability of internal processes

A council experiencing staffing instability is less able to:

- maintain consistent administrative standards,
- ensure proper consultation logging,
- retain correspondence,
- or produce coherent evidence trails.

(c) Risk of procedural gaps

High turnover increases the likelihood that:

- key decisions are undocumented,
- statutory duties are overlooked,
- and CGR-related actions lack a clear evidential basis.

10.2. Staff Turnover

Although Cranbrook Town Council does not publish formal turnover statistics, the available evidence—including:

- a very small staff base (7.19 FTE),
- multiple new roles created in a single year,
- ongoing vacancies,
- and active recruitment—

demonstrates a pattern consistent with high staff turnover and organisational instability.

This instability is directly relevant to the reliability of the CGR process and the absence of proper documentation relating to Rockbeare.

10.3 The Cranbox project — intended as a community hub — suffered:

- delays,
- governance confusion,
- unclear accountability,
- financial uncertainty.

This project illustrates Cranbrook’s difficulty managing complex responsibilities.

10.3 At this juncture it is pertinent to consider the ambit and role of the Cranbrook Placemaking Group

Cranbrook Placemaking Group – Remit and Influence

The Cranbrook Placemaking Group (CPG) is the principal multi-agency forum responsible for:

- preparing the **Implementation Plan** for Cranbrook’s major assets and services,
- developing **business cases**, delivery models, and funding strategies,
- coordinating **ownership, management, and procurement**,
- overseeing **infrastructure delivery**,
- and monitoring **operational costs and liabilities**.

Given this remit, the CPG directly shapes the **infrastructure, service-delivery, and financial assumptions** underpinning the CGR proposals affecting Rockbeare.

10.3.1 CPG Conduct and Management – Documented Procedural Weaknesses

Publicly available minutes and governance documents show that the CPG operates with:

a. Developer-led focus

Meetings are dominated by operational issues raised by developers, with **no recorded challenge, scrutiny, or risk assessment**.

b. Limited transparency

- No declarations of interest.

- Confidential items without explanation.
- No published business cases, modelling, or financial analysis.

c. Weak governance discipline

Despite its strategic remit, there is **no documented scrutiny** of delivery risks, long-term liabilities, or service-delivery models.

d. Reactive rather than strategic behaviour

Meetings focus on troubleshooting (utilities, landscaping, drainage, contractor damage) rather than structured oversight or forward planning.

e. Blurred accountability

The Group blends EDDC officers, Cranbrook Town Council, Devon County Council, developers, and consultants, creating **diffuse responsibility** and limited public accountability.

f. Combined Effect on the CGR

The CGR proposals affecting Rockbeare rely on assumptions about:

- Cranbrook's infrastructure capacity,
- service-delivery arrangements,
- long-term financial sustainability,
- and governance structures.

Yet the body responsible for these areas — the CPG — operates without:

- transparent evidence,
- documented modelling,
- financial scrutiny,
- or clear governance controls.

This means the CGR is being advanced **without a reliable evidential basis**, and without the procedural safeguards necessary to ensure fairness, legality, and public confidence.

10.3.2 Procedural Conclusion

Taken together, the FOI evidence and the documented conduct of the Cranbrook Placemaking Group demonstrate that:

- the CGR was developed **without analysis**,
- without modelling,
- without financial or service-delivery assessment,

- without legal scrutiny,
- without transparent governance,
- and without documented consideration of Rockbeare.

This constitutes a **procedural failure** and materially strengthens the conclusion that a **fair-minded and informed observer** would consider there to be a **real possibility of bias**, applying *Porter v Magill*.

10.4 Failure to Deliver Facilities

Cranbrook has repeatedly failed to deliver:

- youth facilities,
- community spaces,
- sports facilities,
- the town centre.

Residents have been left without essential amenities for years.

10.5 Attempts to Breach the Green Wedge

Cranbrook has repeatedly attempted to:

- expand into the protected Green Wedge,
- undermine the Rockbeare Neighbourhood Plan,
- push for development contrary to planning policy.

This demonstrates a willingness to disregard established planning protections.

10.6 Immature Governance Structures

Cranbrook's governance structures remain:

- underdeveloped,
- unstable,
- inconsistent,
- reactive rather than strategic.

10.7 EDDC Ignored All This Evidence

Despite receiving detailed evidence from Rockbeare Parish Council, EDDC:

- did not address it,
- did not analyse it,
- did not consider it,
- did not reference it in any report.

This is a breach of Gunning Principle 4 and public-law fairness.

11. Green Wedge and Statutory Planning Policy

The land proposed for transfer lies adjacent to the Green Wedge, a protected area designed to:

- prevent coalescence of settlements,
- preserve the identity of Rockbeare,
- maintain open space between communities,
- uphold the Local Plan and Neighbourhood Plan.

11.1 Cranbrook's Attempts to Develop the Green Wedge

Cranbrook has repeatedly attempted to:

- expand into the Green Wedge,
- promote development contrary to planning policy,
- undermine the Rockbeare Neighbourhood Plan.

These attempts were resisted by Rockbeare Parish Council and local residents.

11.2 Statutory Planning Framework

Under s.38(6) Planning and Compulsory Purchase Act 2004, decisions must be made:

“in accordance with the development plan unless material considerations indicate otherwise.”

The development plan includes:

- the East Devon Local Plan,

- the Rockbeare Neighbourhood Plan.

Both documents:

- protect the Green Wedge,
- oppose coalescence,
- support Rockbeare's historic identity.

11.3 EDDC Failed to Consider Planning Policy

EDDC:

- did not assess planning implications,
- did not consider the Green Wedge,
- did not reference the Neighbourhood Plan,
- did not consult Planning Officers,
- did not involve the Planning Committee.

This is a serious procedural failure.

12. Impending Dissolution of EDDC in 2028

EDDC will cease to exist in 2028.

Public law prohibits an outgoing authority from making decisions that:

- bind its successor,
- impose long-term financial burdens,
- pre-determine strategic direction,
- exceed its legitimate constitutional role.

12.1 Constitutional Principles

Case law establishes that outgoing authorities must not:

- make irreversible decisions,
- commit future authorities to long-term obligations,
- act beyond their transitional role.

Relevant cases include:

- *Hazell v Hammersmith and Fulham LBC*
- *Attorney General v Wilts United Dairies*
- *Laker Airways*
- *Fire Brigades Union*

12.2 A Boundary Change Is a Permanent Decision

A CGR boundary change:

- is permanent,
- cannot be reversed without another CGR,
- transfers long-term revenue streams,
- alters planning responsibilities,
- affects governance for decades.

12.3 EDDC Cannot Lawfully Make This Decision

Given its impending dissolution, EDDC:

- lacks constitutional legitimacy to make permanent structural changes,
- cannot bind the successor authority,
- must act with restraint,
- must avoid strategic decisions with long-term consequences.

The proposed boundary change is therefore constitutionally improper.

13. Apparent Bias

A decision is unlawful if a fair-minded and informed observer, having considered the facts, would conclude that there is a real possibility of bias (*Porter v Magill* [2001]).

The conduct of Cllr Todd Olive — Chair of EDDC Planning and Chair of the Cranbrook Placemaking Group — gives rise to such a possibility.

13.1 The Legal Test

The *Porter v Magill* test requires:

1. A fair-minded and informed observer,
2. Considering all relevant facts,
3. Would conclude there is a real possibility (not probability)
4. That the decision-maker is biased.

This is an objective test.

13.2 Relevant Facts

The following facts are relevant:

- He is Chairman of the Cranbrook Placemaker Group, and Cranbrook stands to gain financially.
- He is Chair of Planning, and the CGR affects planning policy.
- He publicly supported the boundary change at the Rockbeare meeting.
- He refused to assist Rockbeare in opposing it.
- He made assertions without evidence.
- He undertook to provide evidence and did not do so.
- He was sent the minutes and did not challenge them.
- He claimed the Review was “run entirely by the by Legal Department” — which FOI proved false.
- He has influence within EDDC due to his senior role.
- He has a dual loyalty: to Cranbrook and to EDDC.

13.3 The Fair-Minded Observer’s View

A fair-minded observer would note that:

- Cranbrook benefits financially from the boundary change.
- The Chair of Planning is also the Chair of the Cranbrook Placemaking Group.
- He expressed support for the proposal before evidence was presented.

- He refused to assist the parish that stands to lose land.
- He made statements that were inaccurate or unsupported.
- He did not correct the minutes.
- He occupies a senior, influential position.
- EDDC failed to disclose his involvement (or lack of involvement).
- EDDC failed to provide any evidence of impartial oversight.

13.4 The Real Possibility of Bias

Given these facts, the observer would conclude:

- There is a real possibility that the councillor's support for Cranbrook influenced the process.
- There is a real possibility that the Review is not impartial.
- There is a real possibility that the outcome is predetermined.
- There is a real possibility that relevant considerations are being ignored.

This renders the Review unlawful.

13.5 EDDC's Failure to Address the Bias Issue

**Rockbeare Parish Council raised concerns about bias in its earlier objection.
EDDC:**

- did not address them,
- did not investigate,
- did not provide assurances,
- did not disclose involvement records,
- did not provide legal analysis.

This failure itself is a breach of public-law fairness.

14. EDDC's Failure to Address the Objections

Rockbeare Parish Council submitted a detailed objection raising:

- statutory issues,
- case law,
- governance failures,
- planning conflicts,
- financial implications,
- dissolution concerns,
- bias concerns,
- FOI failures,
- procedural defects.

14.1 EDDC's Response

EDDC:

- did not address the points raised,
- did not evidence analysis of the evidence,
- did not provide legal reasoning,
- did not provide planning reasoning,
- did not provide governance reasoning,
- did not provide financial reasoning,
- did not provide any rationale.

14.2 Breach of Gunning Principle 4

Gunning Principle 4 requires that:

“The product of consultation must be conscientiously taken into account.”

EDDC did not:

- consider the objections,
- weigh the evidence,
- respond to the arguments,
- engage with the concerns.

This is a clear breach.

14.3 Breach of Statutory Guidance

The 2010 Guidance requires:

- transparency,
- evidence-based decision-making,
- proper consideration of objections.

EDDC complied with none of these requirements.

14.4 Breach of Public-Law Fairness

Public-law fairness requires:

- proper consideration of relevant matters,
- avoidance of irrelevant matters,
- reasoned decision-making.

EDDC failed to meet these standards.

14.5 Consequence

The failure to address the objections renders the Review:

- procedurally defective,
- substantively irrational,

- unlawful.

15. Conclusions

The proposed boundary change is:

15.1 Procedurally Unlawful

Because it breached:

- FOIA,
- the Gunning Principles,
- statutory guidance,
- public-law fairness,
- the duty of candour,
- EDDC's own governance standards.

15.2 Substantively Unlawful

Because:

- no evidence supports the proposal,
- relevant considerations were ignored,
- irrelevant considerations were taken into account,
- the decision is irrational.

15.3 Tainted by Apparent Bias

Because:

- a senior councillor expressed predetermined support,
- refused to assist Rockbeare,
- made unsupported assertions,
- failed to correct the minutes,
- occupies a position of influence.

15.4 Unsupported by Evidence

Because EDDC holds:

- no legal advice,
- no planning assessments,
- no governance assessments,
- no financial modelling,
- no officer reports.

15.5 Contrary to Statute and Case Law

Because it breaches:

- the 2007 Act,
- the 2010 Guidance,
- planning law,
- constitutional principles,
- *Porter v Magill*,
- *Hazell*,
- *Laker Airways*,
- *Fire Brigades Union*.

15.6 Contrary to Planning Policy

Because it:

- undermines the Local Plan,
- undermines the Neighbourhood Plan,
- threatens the Green Wedge.

15.7 Contrary to the Interests of Effective Local Government

Because Cranbrook:

- is unstable,
- has governance failures,
- has not delivered key facilities,
- is not ready to absorb more responsibilities.

15.8 Contrary to the Democratic Will of Rockbeare Residents

Because:

- residents oppose the change,
- the parish opposes the change,
- the proposal benefits Cranbrook, not Rockbeare.

15.9 Made by an Authority Approaching Dissolution

EDDC cannot lawfully make permanent structural decisions that bind its successor.

CONCLUSION

For all the reasons set out above, the proposed boundary change is:

- **unlawful,**
- **irrational,**
- **unfair,**
- **unsupported,**
- **biased,**
- **procedurally defective,**
- **contrary to statute,**
- **contrary to guidance,**
- **contrary to planning policy,**
- **contrary to the public interest.**

The proposal must be withdrawn in full.