

Appendix 4

LOCAL RESOLUTION DECISION NOTICE

BATH AND NORTH EAST SOMERSET COUNCIL

Complaint ref: 1a and b 18 Hinton Blewett Parish Council

DECISION: 1a.18 HBPC – BREACH / NO FURTHER ACTION

1b.18 HBPC – BREACH / NO FURTHER ACTION

1. Complaint

On 7th and 27th February 2018 the Monitoring Officer received two separate complaints (both complainants requesting their identities to be withheld) concerning the conduct of Councillor David Elliot. As the complaints relate the same facts at a meeting on 23rd January 2018, the Monitoring Officer has dealt with both complaints together. A general summary of the complaint is set out below:

Complaint summary

It is alleged that Councillor Elliott failed to declare a personal interest in that he owned 20 acres of the application under consideration at that meeting; that he is a friend of the applicant and that the applicant's daughter (the focus of the application) is his daughter-in-law. By not declaring these interests, Councillor Elliot breached the Code of Conduct bringing Hinton Blewett Parish Council into disrepute.

The remedy requested is that Councillor Elliott be told he has contravened the Parish Council's Code of Conduct and that the Parish Council's response to the planning application is nullified.

2. Reasons for the Decision

The Monitoring Officer has informed the complainants that, even if the breach is proved, this will not invalidate the decision, therefore it is not possible to nullify the Parish Council's comments. This can only be done by the Parish itself.

The Monitoring Officer considered whether the subject member had a disclosable pecuniary interest as land owned by Councillor Elliot was included on a plan submitted with the planning application. This is a potential criminal offence and would have to be investigated by the police. Councillor Elliot's response was that it was a genuine mistake that his land was included, as this was not referred to in the planning application. The Monitoring Officer accepts this appears to be an error on behalf of the applicant and therefore is not referring this matter to the Police. As it appeared however that there was a personal interest in relation to the application, which was not disclosed, the Initial Assessment was that this complaint should be investigated.

The conclusion of the report is that Parish Councillor Elliott was in breach of the Code as he did not declare a personal interest and withdraw in relation to the planning application, and I agree with this finding. It does appear however that there was some general misunderstanding in the Parish about interests and the effect of a personal interest. In the light of this, it would appear disproportionate to deal with this matter at Standards Committee, this matter should therefore be dealt with by local resolution. The decision is that there should be no further action in relation to Parish Councillor Elliott but that the Parish Council is recommended to obtain training on their

Code of Conduct to ensure all councillors understand what an interest is, when it should be declared and what action they should take.

3. Consultation with the Independent Person and Chair of Standards Committee

The Chair of the Standards Committee and Independent Person have been consulted and are in agreement with this decision.

4. Notification of Decision

The Decision Notice will be sent to the Complainants and the Member against whom the complaint was made.

5. What happens next

Under the Arrangements, the acceptance of complainants and subject member is required for a local resolution, so this will require the agreement of the complainants and the subject member. If they do not accept, then the matter will be considered by the Standards Committee.

If the local resolution is agreed, under Appendix 6, arrangements for dealing with breaches of the Code of Conduct, there is no further right of appeal to the Council. Members of the public are able to write to the Local Government Ombudsman;

PO Box 4771

Coventry

CV4 0EH

6. Terms of Reference

Sections 26 to 34 of the Localism Act 2011 set out the requirements in relation to standards and the arrangements for dealing with complaints. On 19th July 2012 the Council approved the arrangements for dealing with complaints, which is set out in the Constitution.

Signed: Maria Lucas

Maria Lucas

Monitoring Officer

Dated: 25th June 2018

Comments of anonymous complainants on the proposed local resolution

Complainant 1

I do not accept your report and recommendations for the following reasons:

1. You provide no explanation of 'general misunderstandings' nor how you came to this conclusion.
2. You provide no explanation, record of interview, or any other evidence as to why the gross misrepresentation of land ownership in the planning application on his land by Mr Elliott's daughter's friend has been accepted as an 'error'. The applicant, submitting an application on Mr Elliott's land, was required by statute to serve notice on Mr Elliot, but failed to do so. Instead, he drew a red line around an area of Mr Elliott's the size of more than 15 football fields and submitted it as his, and persuaded you that this was in 'error'.
3. You have not considered whether the exclusion of the 20 acres included in 'error' might have led to a different recommendation by planning case officer in accepting a justification for a rural worker's dwelling. My view is that the justification for a rural worker's dwelling would not have been accepted without the applicant's business controlling this land inalienably. This is a material issue that has been ignored.
4. Having found that Mr Elliott breached the Code, no sanction is imposed on him whatsoever. He may choose with absolute impunity not to apologise, not to acknowledge his breach, and not to participate in additional training. In his view, he may have 'got away with' what he will see as a breach by the parish council, all members of which is now required to be subjected to additional training, much like a school class in detention for the misdemeanours of a single pupil.

Local government may have no motivation to aspire to private sector standards of performance, rigour and delivery, but I am nevertheless dismayed at the handling of this matter, the unexplained delays, failed deadlines and unsupported conclusions plucked from thin air, and above all the carelessness of your 'careful' consideration. Mr Elliott will be unsanctioned and absolved. Why should he not in future breach the Code, again and again?

Complainant 2

In any event I would still like to put on record that I cannot agree with the decision you proposed in your message of 26th June. To do so would mean that no blame would fall on Cllr Elliott and that he would certainly deem it that the Parish Council, and particularly me, were to blame. You appear to have accepted his excuse that he was guided by me on how to respond to a Personal Interest on the basis of hearsay and without supporting evidence. The Parish Council has had no such opportunity to put its position. You have assumed that the Parish Council is at fault without supporting evidence. By removing the blame from Cllr Elliott would mean that the burden I have carried over the last four months since I submitted my complaint, including the loss of my anonymity, will have been a complete waste of time, produced an absolutely zero result, other than Cllr Elliott's bullying behaviour in response to identifying me. I cannot accept that.

This complaint is NOT about judging Hinton Blewett Parish Council for any failings it may or may not have as perceived by the subject member. It's about whether Cllr Elliott had a personal interest in respect of a planning application, and you say very clearly that he did have. I think this complaint should be decided on the basis of the conduct of the subject member. I would be grateful if the Standards Committee could be made aware of these comments.

The issue of whether the Parish Council should consider any training is an entirely separate matter, not related to the above complaint.