

DECISION NOTICE

BREACH OF THE CODE OF CONDUCT – NO FURTHER ACTION

Wiltshire Council Reference No: WC 33/11

Date of Determination 21 February 2012

Subject Member

Councillor Alan Hill, Wiltshire Council

Complainant

Mr Robert Willis

Hearing Sub-Committee Membership

Mr G Robson OBE – Chairman (Independent Co-Opted Member)

Councillor Nigel Carter (Wiltshire Council Member)

Mr P Neale (Town / Parish Co-Opted Member)

Monitoring Officer / Legal Adviser

Mr F Cain

Investigating Officer

Mrs M Lindsay

Democratic Services Officer

Ms A Thurman

Complaint

On 20 April 2011 the Monitoring Officer of Wiltshire Council received a complaint from Mr Robert Willis regarding the alleged conduct of Alan Hill, a member of Wiltshire Council.

The allegation concerns Councillor Hill's alleged comments and manner towards the complainant, Mr Willis during a visit to the site of Mr Willis' planning application in September 2010.

The complaint is included within the Investigator's report (pages 25 to 29 of the Schedule of Evidence).

On 13 May 2011, the Standards Assessment Sub-Committee of Wiltshire Council considered the complaint regarding Councillor Hill. In accordance with section 57A(2) of the Local Government Act 2000, as amended, the Assessment Sub-Committee decided that the complaint should be referred to

the Monitoring Officer for investigation. They considered that if proven, the behaviour giving rise to the complaint may be capable of breaching the following paragraphs of the Code:

(5) – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6(a) – You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

The Monitoring Officer delegated his investigatory powers to Mrs Marie Lindsay, Investigating Officer, pursuant to section 82A of the Local Government Act 2000. The Investigating Officer found that there had been a breach of paragraph 5 of the Code of Conduct.

The Investigating Officer's report, dated 08 November 2011, went before the Standards Consideration Sub-Committee on 06 December 2011, who resolved that no further action should be taken in respect of paragraph 6(a) of the Code and the matter should be referred to the Hearing Sub-Committee for determination in respect of the paragraph 5 of the Code.

A hearing was therefore conducted by the Hearing Sub-Committee of the Standards Committee of Wiltshire Council on 21 February 2011 in accordance with Regulations 18 and 19 of the Standards Committee (England) Regulations 2008 and the Council's Procedure for Determination of Complaints.

Summary of Evidence Considered and Representations Made

The Sub-Committee considered the following evidence and representations:

1. The written complaint;
2. Extracts from the Investigator's report dated 21 February 2012, compiled on 08 November 2012, which contained evidence from interviews conducted with the subject member, the complainant, as well as copies of relevant documents, including extracts from Northern Area Planning Committee.
3. Representations at each stage from the subject member, and the Investigating Officer.
4. Oral evidence from the Subject Member and the Complainant at Stage 3 of the proceedings.

FINDINGS OF FACT (Stage 1)

The Standards Hearing Sub-Committee made the following findings of fact:

1. Councillor Alan Hill was at the relevant time a member of Wiltshire Council.
2. Councillor Hill is the Vice-Chairman of Wiltshire Council's Northern Area Planning Committee. He is also a member of Calne Town Council's Town Development and Planning Committee.
3. Councillor Anthony Trotman is the Chairman of Wiltshire Council's Northern Area Planning Committee. He is also the step-father of Mr Willis, the complainant.
4. On 1st September 2010 a planning application was submitted to Wiltshire Council for the erection of a single detached dwelling at Hill Brook House, Quemerford, Calne, Wiltshire (ref 10/03360/FUL).
5. The applicant for the planning application was Mr Robert Willis. The agent was Mr Tim Weeding, architect.
6. An objection to the planning application was received from Mr and Mrs Kelly, neighbours to the site of the development.
7. Councillor Hill is the unitary member for Calne South and Cherhill, the ward in which Mr Willis' planning application is situated.
8. Towards the end of September 2010 Councillor Hill visited the site of Mr Willis' planning application at the request of Councillor Trotman.
9. Mr Weeding was also present at the site visit. He had been invited by Mr Willis in order to provide him with some support and explain the latest set of drawings.
10. Prior to his visit to the site, Councillor Hill had been in contact with Mr and Mrs Kelly. They had asked him for his advice and support.
11. On 29 September 2010, following the visit to his site by Councillor Hill, Mr Willis contacted Mr Brian Taylor to raise his concerns over the integrity of the planning process.
12. Mr Willis' email included a copy of a letter that he was proposing to send to Councillor Jane Scott, Leader of Wiltshire Council.
13. On 30th September 2010 Mr Taylor replied advising Mr Willis that he would consider the most appropriate action to take.

14. On 4th October 2010 Mr Willis reiterated his concerns to Mr Taylor by telephone and email.
15. Mr Willis had suggested a meeting between himself, Councillor Hill and Mr Taylor. This meeting did not occur.
16. On 5th October 2010 Mr Willis' planning application was considered by Calne Town Council's Planning and Development Committee. The minutes show that Councillor Hill declared an interest in this item, though the type of interest is not stated, and left the meeting during the consideration of this item. The Committee decided to make representations to Wiltshire Council.
17. On 5th October 2010 Councillor Hill called in Mr Willis' planning application.
18. Councillor Hill was advised by council officers not to become involved in the determination of the application.
19. On 3rd November 2010 Mr Willis' planning application was considered by Wiltshire Council's Northern Area Planning Committee.
20. Councillor Hill was not present at the meeting. The application, which was recommended for refusal by officers, was deferred to the next committee meeting.
21. On 16th November 2010 Mr Willis' planning application was again considered by Calne Town Council's Planning and Development Committee. Councillor Hill was not present at the meeting. The Committee decided to support Wiltshire Council's Planning Officer's recommendation of refusal.
22. On 24th November 2010 Mr Willis' planning application was again considered by Wiltshire Council's Northern Area Planning Committee.
23. Councillor Hill was not present at the meeting. The application, which was recommended for refusal by officers, was refused by the committee.
24. On 1st December 2010 Mr Willis submitted a further planning application (ref 10/04463/FUL). Mr and Mrs Kelly lodged an objection to the application.
25. On 4th January 2011 Mr Willis' further planning application was considered by Calne Town Council's Planning and Development Committee. The minutes show that Councillor Hill declared an interest in this item, though the type of interest is not stated, and left the meeting during the consideration of this item. The Committee raised concerns about the proposed build which it forwarded to Wiltshire Council.
26. On 26th January 2011 Mr Willis' latest planning application was considered by Wiltshire Council's Northern Area Planning Committee.

27. Councillor Hill was not present at the meeting. The application, which was recommended for approval by officers, was granted by the committee subject to conditions.

28. Councillor Hill attended the site of Mr Willis' planning application although the purpose of the visit is unclear.

29. Councillor Hill's visit to the site of Mr Willis' planning application lasted approximately 20 minutes.

30. Councillor Hill was not rude or arrogant during his visit to the site.

31. Councillor Hill did look at the plans whilst he was at the site.

32. The conversation between Mr Willis, Mr Weeding and Councillor Hill turned to the difficulties that Mr Willis was having with his neighbours, Mr and Mrs Kelly.

33. Councillor Hill advised Mr Willis that he would be recommending refusal of the application.

34. On 1st October 2010 Councillor Hill met with Mr Taylor. In his conversation with Mr Taylor, Councillor Hill denied that he had told Mr Willis that he would be recommending refusal of the application.

35. Councillor Hill did not tell Mr and Mrs Kelly that Mr Willis had taken an injunction out against him.

These findings of fact were then used as the basis for the Sub-Committee's consideration on the question of breach and sanction, at stages 2 and 3, as set out below. The Sub-Committee also had regard to relevant guidance from Standards for England.

DECISION ON A POSSIBLE BREACH OF THE CODE OF CONDUCT (Stage 2)

Paragraph 5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

The Sub-committee found that:

- 1) Upon his appointment to Wiltshire Council, Councillor Hill was subject to the Council's Code of Conduct.

- 2) On the basis of the above findings of fact, Cllr Hill's actions as set out in the agreed findings of fact, did amount to a breach of paragraph 5 of the Code of Conduct for members.

SANCTION (Stage 3)

After hearing representations from the parties, and from the subject member in person, the Sub-committee decided to take no further action for the reasons set out below:

Reasons for Decision

- The Sub-Committee wished to be clear that Councillor Hill had sought officer advice immediately after the site meeting with Mr Willis and had observed the correct procedures regarding personal and prejudicial interests within the planning process.
- The sub-committee also noted the letter of apology that had been written by Councillor Hill apologising for any distress caused to the complainant following the site visit in September 2010.
- The subject member had been through an investigation process, which is stressful for all who are involved.
- The Sub-committee had taken account of the arguments presented in mitigation.
- The Sub-committee recognised the need for the decision to be reasonable and proportionate to the circumstances.

Right of Appeal

A member subject to a standards committee finding may apply in writing to the President of the First-tier Tribunal (Local Government Standards in England) for permission to appeal against the finding.

The President must receive the member's written application within 21 days of the member receiving notice of the Standards Committee's decision.

This decision notice is sent to the complainant, the subject member and Standards for England.



Signed:

Chairman of the Wiltshire Council Determination Sub-Committee