

STROUD DISTRICT COUNCIL STANDARDS PANEL

NOTICE OF DECISION

Concerning a complaint (dated 21/11/2015) made by Councillor Frazer Brown (Berkeley Town Council) alleging a breach of the Code of Conduct applying to Berkeley Town Council by two fellow members of that Council namely Councillor Ralph Pinnell and Councillor John Stanton.

The Complaint

The complaint alleged that at a meeting of the Town Council on the 16th November 2015 Councillors Pinnell and Stanton should have (but did not) declare a personal interest in an item of business considered by the Council i.e. the Council's response to a planning appeal (reference APP/C1625/W/15/313335) in relation to an application for the construction of 188 dwellings on land at the rear of Canonbury Street Berkeley. It was alleged that their personal interest arose from the proximity of their respective homes to the development site. In the case of Councillor Stanton the complaint also referred to him being a founder member of a voluntary organisation called ABRAID (Association of Berkeley Residents Against Inappropriate Development) which opposed the development. Both Councillors took part in the debate of the matter by the Town Council and both voted on the matter at the meeting on the 16th November 2015.

The complaint had been investigated by the District Council's Monitoring Officer (MO) whose report and findings were submitted to the Standards Panel for consideration on the 13th June 2016. The task of the Standards Panel was to determine (on the basis of the evidence presented in the MO's report) whether the actions of Councillors Pinnell and Stanton (or either of them) described above, constituted a breach of the members Code of Conduct applicable to the Town Council at the time.

Material Findings of Fact

The relevant Code of Conduct was the Code adopted by the Town Council on the 20th August 2012. This was subsequently replaced by the "NALC Code" on the 14/12/2015.

There appeared to be a significant lack of understanding by both members and the Clerk of the Town Council as to the nature of a "personal interest" as defined by the Code and the actions required of a member upon declaration of such an interest.

That lack of understanding was evidenced by the fact that Councillors Pinnell and Stanton had acted in contradictory ways when present at various Town Council meetings when the

development in question was under consideration; in some cases declaring an interest and in others both taking part in debate and voting on the matter. The main residences of both Councillors adjoined the boundary of the application site in respect of the development.

The appropriate test to be applied by the Standards Panel in this case was whether the relevant item of business before the Town Council might reasonably be regarded as affecting the well-being or financial position of either Councillor or other persons closely associated with them or any "body" of which either Councillor or such associated person is a member, to a greater extent than the majority of persons living in the Town Council's area. The Panel noted that the test must be applied "objectively" and not "subjectively".

Conclusions of the Panel : Councillor Pinnell

Due to the proximity of Councillor Pinnell's home to the proposed development the Panel considered that it was inconceivable that his (and his family's) well-being would not be affected to some extent by the determination of the planning appeal and that the effect on him would be greater than the effect on the majority of residents of the Parish.

The Panel noted that Councillor Pinnell had tacitly accepted that he had a personal interest in the matter by declaring an interest and leaving the meeting when the matter was under consideration by the Town Council on the 15th September 2014.

The Panel concluded that Councillor Pinnell did have a personal interest in the matter and in accordance with paragraph 4.5 of the Code of Conduct applicable at the time he should have declared that interest at the meeting of the Town Council on the 16th November 2015 and taken no part in the debate or vote on the matter. To that extent Councillor Pinnell did commit a breach of the Code of Conduct

Conclusions of the Panel : Councillor Stanton

In respect of the proximity of his home to the proposed development the Panel considered that Councillor Stanton was in a very similar position to that of Councillor Pinnell. The Panel had regard to the fact that the part of the proposed development immediately adjoining Councillor Stanton's property had been allocated to open space use but the Panel did not consider that to be sufficient to alter their assessment that on balance his well-being would be affected to a greater extent than the majority of residents of the Parish.

The Panel also addressed the further point raised by the Complainant i.e. Councillor Stanton's involvement with ABRAID. The evidence before the Panel suggested that ABRAID was vociferously opposed to the development at the centre of this complaint. A number of members of the organisation attended the Council meeting on the 16th November 2015 and were very vocal in their opposition to the development and in their opposition to any declaration of interest by Councillor Stanton when that issue arose. The Panel considered

that such vocal opposition on both issues could potentially be viewed as having influenced Councillor Stanton's decision not to declare an interest, contrary to his actions in previous Council meetings. The Panel considered that this factor served to compound Councillor Stanton's error of judgement in failing to declare a personal interest.

The Panel therefore came to the conclusion that Councillor Stanton did have a personal interest in the matter and in accordance with paragraph 4.5 of the Code of Conduct applicable at the time should have declared that interest at the meeting of the Council on the 16th November 2015 and taken no part in the debate or vote. To that extent Councillor Stanton did commit a breach of the Code of Conduct.

Sanctions

The Panel noted that Councillor Stanton was no longer a member of Berkeley Town Council and in consequence they were not in a position to apply any sanction to him

In view of the circumstances of this matter the Panel decided :

1. to recommend to the Berkeley Town Council that it take the following actions :
 - (i) It reviews its procedures for ensuring that members of the Council are made aware of the requirements and application of its current Code of Conduct.
 - (ii) All members of the Council and the Town Clerk undertake (at the Town Council's expense) detailed training on its Code of Conduct (to include best practice in respect of (i) above) such training to first be approved by the MO and to be undertaken within 3 months of notification of this decision.
2. In view of recommendation 1(ii) no specific sanction be applied to Councillor Pinnell subject to him attending all training approved and undertaken pursuant to that recommendation.
3. The Panel's consideration of and decisions on this complaint be published on the District Council's web site with immediate effect and in due course the actions of the Town Council in response to the Panel's recommendations be likewise published.

Dated 20th June 2016