

Counter Fraud and Enforcement Unit Code of Conduct Report

Councillor: Nicholas Housden
Council: Stroud District Council (SDC)
Monitoring Officer: Claire Hughes
Complainant: Councillor Martin Baxendale, Nick Gardiner-Clark and Geraldine LeCointe
Investigation Officer: Kate Seeley

Allegation:

- 1. That subject councillor has failed to treat colleagues and officers with respect**
- 2. That subject councillor has failed to comply with the Protocol for Member and Officer Relations.**

Appendices:

- 1. Complaint letter and attached email chain**
- 2. Code of Conduct**
- 3. Member Officer Protocol**

Complaint

In an email issued to Nick Gardiner-Clark (SDC Senior Planning Officer) and Councillor Baxendale (Chair of the Development Control Committee – DCC), regarding a planning matter Councillor Housden stated:-

I think this is outrageous and it effectively mitigates any support members can give to developments within the areas they know best. This action from SDC only shows how broken the planning department is.

It is a disgrace and I will be taking this to the press immediately after discussing with the applicant, highlighting yet again that SDC's planning department is simply not fit for purpose, to turn down a development that supports the most vulnerable in society without it even being allowed to be debated at DCC is nothing short of shambolic.

Email chain attached at Appendix 1.

Background

Page 1 of 6

Counter Fraud and Enforcement Unit

Counter Fraud and Enforcement Unit Code of Conduct Report

Councillor Housden had contacted the planning department on 14th March 2023 requesting call-in to committee of a planning in principal application (S.23/ 0293/PIP). Councillor Baxendale, as Chair of the DCC, had responded to Councillor Housden in an email dated 20th March 2023 explaining that the application did not meet the criteria for call-in under the SDC call-in process. The matter instead would be decided by the Officers and he advised the PIP would be refused.

Councillor Housden responded with the email as detailed above. The complaint was then raised by the Officer, Councillor Baxendale and Geraldine LeCointe as the Head of Development Management as it was felt his response was inappropriate and breached the terms of the Member-Officer protocol.

Interview with Councillor Baxendale 02.05.23

I spoke to Cllr Baxendale on 2nd May. He explained that the application in question was a planning in principal application (similar to an outline planning application) that had limited detail attached to it. He further explained that at SDC a Ward Member may request call-in to Committee of a planning application but that there is a procedure and that the criteria are quite specific. There must have been 'substantial public interest' in the application, and in this instance there had been only one public consultation response.

He confirmed he had discussed the request with Geraldine LeCointe (Head of Development Management) and they had agreed that the request did not meet the criteria for call-in.

With regard to Cllr Housden's email response Cllr Baxendale felt it was unacceptable to reference going to the Press. He also said that Cllr Housden's comment regarding the 'vulnerable in society' was completely erroneous as there was nothing in the planning in principal application that indicated the housing would be for any particular purpose – it was not referenced as social housing or supported accommodation, merely the construction of '1-8 dwellings'.

Cllr Baxendale stated he had not had any personal dealings with Cllr Housden, but found his response unprofessional and unacceptable in respect of the comments made about the planning department and that was why he had made the complaint.

Interview with Nick Gardiner- Clark 03.05.23

Nick Gardiner-Clark confirmed the process and procedure behind applying for Planning in Principal (PIP) and the criteria for a member to 'call-in' an application. Nick confirmed that he had acted entirely within the procedures laid down by SDC and that he believed he had

Counter Fraud and Enforcement Unit Code of Conduct Report

acted professionally and politely in how he had dealt with both the PIP application and with Cllr Housden.

He found Cllr Housden's email contemptuous in tone and felt that as a Council, Members and Officers should work together – not threaten to go to the Press to complain. He said Cllr Housden's email made him angry, but was also concerned that other officers might have found his criticism and attitude damaging to their well-being.

Interview with Councillor Housden

Cllr Housden responded with the following email:-

My view is that as elected officials we serve the public, we have to hold officers and politicians to account when there are processes in place that prevent us from serving the public effectively.

In this instance, there appears to be a new rule that does just that. In simple terms, if you are a neighbour of a planning application, it is very rare you would ever write in to support. People write in when they want to object, but if someone is supportive, they tend (as is human nature) not to comment. So it therefore makes no sense to create a rule where, before an application can be called by someone elected by the public, you need a minimum of three letters of support, particularly where there are no letters against. In fact, in this instance, every statutory consultee we had was supportive.

So, as an elected official looking to serve the public, I am told I cannot call in a poor planning decision because it does not have enough support on file, when in fact there is nothing on the same file against the application at all. That is bizarre, undemocratic and makes my job pointless from a planning perspective. This rule has been created simply to reduce call-ins, and the consequences have not been considered.

In conclusion it is therefore my view that both the officer and politician in this instance have made a wrong decision and have prevented my being able to do my job as an elected official by the public in supporting something that I (and all the other statutory bodies) believe should go ahead in my area. I also believe that in filing this complaint when we all have better things to be working on is a waste of taxpayers money, all of our time, and is a good indicator of everything wrong with democracy at this time.

A response was sent to Cllr Housden requesting more specific comment in relation to the wording of his email and whether this accorded with the Member-Officer Code (attached to the email response). No further comment has been received.

Counter Fraud and Enforcement Unit Code of Conduct Report

Findings

The Code of Conduct states that, amongst other rules, Members must adhere to the following:-

Do treat everyone with respect

Do promote and support high standards of conduct when serving in your public post by leadership and example

Do not behave in a manner which brings your role or the Council into disrepute.

In addition, SDC has adopted a Protocol for Member-Officer relations. This protocol states that whilst it is not legally binding it will be relevant in judging compliance with the Codes of Conduct and a breach of the Protocol may constitute a breach of the Code of Conduct.

1.1 The overriding principle is for members and officers to recognise and respect one another's different roles and responsibilities.

2.3 Officers are responsible to the Council as a whole; their job is to give advice and to carry out the Council's work under the direction and control of the Council and its Committees.

In relation to the behaviour and standards expected from members the Protocol states:-

2.12 Members must not be personally abusive to, or derogatory of officers in any correspondence, or during any meeting or discussion, in particular when this takes place in public, whether or not that individual is in attendance

2.13 Members should not criticise or raise matters relating to alleged conduct or capability of an officer at meetings of the Council, Committee or any other public forum (including on Social Media)

Officers under the protocol will: -

4.1 Be accountable for the efficiency and effectiveness of the services in which they work and to demonstrate proper / professional practice in discharging their responsibilities

4.2 Undertake their role in line with their contractual and legal duty to be impartial

Assist and advise all parts of the Council, officers must always act to the best of their abilities in the best interests of the authority and the residents of the district

The protocol further stipulates that:-

5.19 All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.

Page 4 of 6

Counter Fraud and Enforcement Unit

Counter Fraud and Enforcement Unit Code of Conduct Report

5.22 (members should) Consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, and allegations / jumping to conclusions)

Having reviewed Cllr Housden's email response I agree that his role is to represent the Public and ensure the Council is accountable in their actions.

However, he has stated that he believes the Officer and Member have made a 'wrong decision'. That Cllr Housden disagrees with the procedure does not mean that the Officer/Member was wrong to refuse to call-in the application. The decision was entirely correct and in compliance with the procedure in place at SDC that was previously agreed by Members.

I can find nothing to suggest that Nick Gardiner-Clark has done anything other than undertake his role in line with his contractual and legal duties and therefore to call the actions of the planning department 'a disgrace' is unacceptable and insulting. His comments are derogatory and undoubtedly in breach of the Member-Officer protocol and if he then raised this with the Media he would commit a further breach of the Protocol.

Cllr Housden was aggrieved that the PIP application was to be refused and stated it was a development that 'supports the most vulnerable in society'. As pointed out by Cllr Baxendale – the application was submitted as a PIP and makes no reference to the tenure of dwellings being proposed to meet the needs of the vulnerable. The refusal from the Planning Case Officer Nick Gardiner-Clark gives reasons for the refusal including 'the proposed dwellings would be contrary to Policy CP1 and E11 of the 2015 Local Plan, as well as Policy HM1 and EM1 of the Stonehouse Neighbourhood Development Plan' and further that 'the proposal is contrary to policy ES6 of the Stroud District Local Plan 2015 and the Conservation of Habitats and Species Regulations 2017.'

It therefore seems that the refusal is wholly justified and in accord with SDC policies and planning legislation. In making the determination the Officer has therefore again acted in line with legal and contractual duties and 'to the best of their abilities in the best interests of the authority and the residents of the district'.

Cllr Housden has outlined why he believes the call-in procedure is flawed – because it relies on a number of public comments before the application can be called in. I would suggest that the reason is that if there is no public interest in an application it is felt that it is not a controversial or high profile application and the professional Officers of the Planning department can determine the application in line with legislation and the Councils procedures and policies, as they have done in this case.

I would further suggest to Cllr Housden that if he disagrees with an SDC policy or procedure then that is something he needs to raise with his fellow Councillors and the solution is not to

Counter Fraud and Enforcement Unit Code of Conduct Report

make derogatory comments to Officers and fellow Councillors or threaten to complain to the Press.

I find that Councillor Housden has breached the Member-Officer Protocol, and has therefore breached the Code of Conduct by failing to treat colleagues with respect. He has further risked bringing the Council into disrepute by threatening to go to the Media.

Recommendations

The Monitoring Officer could consider dealing with this informally if Cllr Housden would be prepared to apologise in writing to Cllr Baxendale and Nick Gardiner-Clark. If he is unwilling to acknowledge he was at fault and apologise, then I would recommend the matter be referred for a Standards Hearing.