

Reference: 2022/06/MW50

Complainant: Mr & Mrs Budge

Subject Member: Councillor Eleanor Bell, Hursley Parish Council.

Persons Contacted: The Complainant, the Subject Member, the Chairman of the Parish Council, the Parish Clerk, and the Independent Person, whose advice accords with this approach.

Documents reviewed: The completed complaint form and supporting documentation, the council's code of conduct, and the investigation report.

1. Summary

- 1.1. Councillor Eleanor Bell (the Subject Member) is a member of Hursley Parish Council. On 3 June 2024, a complaint was made regarding Councillor Bell's conduct. The complaint was shared with the Subject Member who made a full response to the points raised.
- 1.2. Following a review of the response from the Subject Member and in consultation with the Independent Person, the Monitoring Officer requested that further investigation be undertaken and appointed an independent investigator to look into the matters raised.
- 1.3. The complaint alleged that Cllr Bell had breached the Council's Code of Conduct in several respects relating to her failure to disclose interests and in actively participating in discussions with other Parish Council members and the Clerk on a matter in which she had an interest.
- 1.4. The investigator's detailed report, which includes interviews with all key parties involved, has been reviewed. I am satisfied that the Investigating Officer's report is sufficient.
- 1.5. This report aims to summarise the key aspects and findings from the investigator's detailed analysis and recommends a fair resolution which I believe will also help to ensure higher standards of conduct for the future at the Parish Council.

2. Background to Complaint

- 2.1. Mr and Mrs Budge (the Complainants) submitted a planning application to Winchester City Council (WCC) in relation to their property in January 2024.
- 2.2. Cllr Bell is a neighbour of Mr and Mrs Budge and a Councillor at Hursley Parish Council (HPC).
- 2.3. As is normal practice, the Parish Council initially considered the planning application at a meeting on 18 March 2024. Prior to this, Cllr Bell had advised the Council that as a neighbour she had a conflict of interest.
- 2.4. Cllr Bell did not attend the meeting of the 18 March 2024.
- 2.5. After the meeting on the 18 March 2024 there were discussions via WhatsApp and email between members of the Council, including Councillor Bell regarding the Council's position on the application.

- 2.6. Those discussions were provided to Mr and Mrs Budge following their Freedom of Information (FOI) request and they demonstrated the active participation of Cllr Bell.
- 2.7. Cllr Bell as a neighbour objected to the planning application in a personal capacity.
- 2.8. The Parish Council's statement (objection) was in the same terms as that which Cllr Bell / her planning consultants submitted to Winchester City Council.

3. The complaint and the Subject Members initial response.

- 3.1. The complaint was detailed but could be summarised as follows:
- 3.2. The complaint alleged that Councillor Bell failed to declare both a pecuniary and personal interest in a planning application for the extension and alteration of the Complainants property, which is adjacent to Cllr Bell's property.
- 3.3. It was claimed that Councillor Bell improperly influenced the decision of the Parish Council by providing misleading information and drafting an objection letter on behalf of the council, which included details from a planning consultant's letter produced on her, personal, behalf.
- 3.4. The Complainant provided evidence supporting the complaint including WhatsApp messages, and emails from Hursley Parish Council which raised issues in the council's decision-making process and displayed Councillor Bell's involvement in discussion among other Parish Councillors regarding the planning application.

The Subject Members initial response to the complaint was detailed but could be summarised as follows:

- 3.5. Councillor Bell advised that upon being notified of the application, she promptly declared a Personal Interest due to being a next-door neighbour and reminded her Parish Council colleagues of this while participating in the discussions over WhatsApp.
- 3.6. Cllr Bell clarified that her objection, was based on the visual impact of the proposed garage extension and not on any financial implications, hence she did not use the term 'Personal and Pecuniary Interest'
- 3.7. Cllr Bell advised that due to her absence from the Parish Council meeting on 18 March 2024, that she had submitted a written objection and supporting photographs, which contradicted the Complainants claims about the visibility of the garage and the lack of objections.
- 3.8. Cllr Bell acknowledged that in hindsight, she should have avoided participating in WhatsApp discussions and the drafting of a statement on behalf of the Parish Council, despite being requested to do so by the Parish Council Chairman.
- 3.9. Cllr Bell acknowledged that she should have used the term 'Personal and Prejudicial Interest' during discussions but maintained her right to object as a neighbour and Parish Council member.

4. Further Investigation.

As part of the further investigation stage, the Complainant, Subject Member, Parish Clerk and Parish Chairman were interviewed and a summary of subsequent points made during the further investigation stage are below:

The Complainant

- 4.1. The Complainant advised that at the Parish Council meeting on 18 March 2024, she had checked the planning web page before attending and found no objections to the planning application, which she reported at the Parish Council meeting.
- 4.2. After the public session of the Parish Council meeting, the meeting went into a private session, and Mrs Budge left without hearing the final decision.
- 4.3. The WhatsApp messages provided to the Complainant, following a Freedom of Information request indicated that Cllr Bell used her position to influence the Parish Council's objection, as the submitted wording matched her draft.
- 4.4. The complainant emphasised that she felt that Cllr Bell was heavily involved in the Parish Council's response after the meeting, despite her personal interest, which should have precluded her involvement.
- 4.5. The Complainant advised that Winchester City Council (WCC) ultimately granted permission for the planning application.

The Subject member.

- 4.6. The Subject Member advised that after learning about the application, she had declared a Personal Interest and submitted an objection to the planning application in a private capacity with her husband. She also reminded her Parish Council colleagues of this conflict during the WhatsApp discussions.
- 4.7. She was unable to attend the Parish Council meeting on 18 March, but had she attended she would have declared her Personal Interest, read out her and her husband's objection, answered questions, and then left the room. She had provided a report on all planning applications except the one relating to the Complainant due to her declared interest. She also submitted her and her husband's objection to the WCC Planning website, which was in the public domain.
- 4.8. Cllr Bell advised that the Complainants claim that their garage was not visible from Cllr Bell's property was untrue, as she had repeatedly asked the Complainants to redirect an intense security light.
- 4.9. After the meeting on the 18 March 2024, Cllr Bell advised that as part of the WhatsApp conversations, she sought to clarify inaccurate statements, she acknowledged that she should have resisted being drawn into these conversations and should have refused the Chairman's request to draft an objection statement on behalf of the Parish Council.
- 4.10. Cllr Bell felt that the Parish Council's decision-making had not strictly followed the rules, with some matters decided via WhatsApp, she felt that

WhatsApp should not be used for substantive matters, as it led to bad practices.

The Parish Clerk.

- 4.11. The Parish Clerk advised that Cllr Bell, was an ex-Winchester City Councillor with planning expertise, and was the Parish Council's lead on planning.
- 4.12. The Parish Clerk felt that Cllr Bell had a conflict of interest in dealing with the application.
- 4.13. Cllr Bell was absent from the Parish Council meeting on 18 March 2024, where the Complainant had presented her case.
- 4.14. The Complainant had stated at the meeting that there were no objections from neighbours on the website. However, the Clerk felt that other Parish Councillors were aware that near neighbours were unhappy with her proposal. She advised that the Parish Council therefore paused to clarify objections and gather more input, including from Cllr Bell.
- 4.15. She advised that the WhatsApp messages show that she attempted to focus Parish Council members on other neighbours, not Cllr Bell, due to her conflict.
- 4.16. In hindsight, it would have been better if Cllr Bell had not been involved in the Parish Council's deliberations, decisions, or objections after the meeting on 18 March 2024.

The Chairman of the Parish Council – Councillor Killeen.

- 4.17. Councillor Killeen advised that the Parish Council had received a planning application notification from Winchester regarding the Complainants property. Cllr Bell, who lives next door is the lead councillor on planning for the parish council and was potentially conflicted. Despite her conflict, she was involved due to her expertise.
- 4.18. Cllr Bell could not attend the Parish Council meeting on 18 March 2024, where the Complainant presented her case. Cllr Bell had informed beforehand about her conflict.
- 4.19. The Complainant presented her case at the meeting without adequate profile views of the plan, causing some confusion among councillors about the impact on surroundings and neighbours. When asked about objections from neighbours, the Complainant stated there were none on the website, although he thought that the Complainant was likely aware of objections being sent in.
- 4.20. The parish council felt the need to clarify objections and get more input from neighbours, including Cllr Bell. The meeting resolved to follow up on this matter. Subsequently, several letters of objection were lodged by neighbours, with only one letter of support.
- 4.21. Councillor Bell and her husband, as next-door neighbours, also objected, with Cllr Bell seeking detailed planning objections from Southern Planning Practice (SPP).

- 4.22. Cllr Bell, as the lead councillor on planning, was involved in WhatsApp messages and emails among Parish Council members. Her letter from SPP was received, and she was asked to draft a response/objection to WCC on behalf of the Parish Council.
- 4.23. The chair, with input from other councillors, submitted a parish council objection letter to the application, requesting the decision be made by the WCC planning committee.

5. Code of Conduct Considerations

- 5.1. Hursley Parish Council Code of Conduct for Members was approved in 2020 and is available on the Parish Council Website.
- 5.2. The issues complained of took place at and following a Council meeting on 18 March 2024. The Subject-Member was not present at the meeting but engaged with other members after the meeting regarding the planning application via WhatsApp and email.
- 5.3. Given that these conversations were limited to HPC councillors and officers and given that the context was clearly council business, namely how to respond to the planning application and if so how that should be framed, this was council business.
- 5.4. Cllr Bell engaged therefore in her capacity as a councillor. It is clear in all the circumstances that Cllr Bell was acting in her official capacity as a councillor at the material times and was therefore at those times subject to the provisions of the Code.

Disclosable Pecuniary Interests (DPIs)

- 5.5. DPIs are defined in Schedule 2 of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. This is repeated in the Council's Code of Conduct at section 3.
- 5.6. They are a category of interests which relate to the member and/or their partner, such as financial interests of the Councillor / their partner in their house or other property, job or business they own.
- 5.7. The Subject-Member had a DPI (ie her home) and had properly registered it; however she was not present at the meeting on 18 March 2024 so did not have to declare her DPI at the meeting.

Prejudicial Interests

- 5.8. A Prejudicial Interest is one which a member of the public who knows all the relevant facts relating to it would reasonably consider that interest is so significant that it is likely to prejudice or influence the councillor's judgement of the public interest.
- 5.9. The Subject-Member was not present at the meeting on 18 March so did not have to declare such an interest (if she had had one) at the meeting.

Personal Interests

- 5.10. Part 6 of the Council's Code sets out the circumstances where a Personal Interest may arise and part 7 then deals with the consequences of this, starting with disclosure of the Personal Interest at the meeting where the Councillor is in attendance.
- 5.11. The Subject-Member was not present at the meeting on 18 March so did not have to declare any Personal Interests she may have had at the meeting.
- 5.12. Overall in relation to this part of the Complaint, ie Councillor Bell's failure to declare her interests, I conclude that the Subject-Member had properly declared her DPI but as she did not attend the meeting on 18 March 2024, she did not have to declare an interest to which the Code of Conduct applied. As a result, Cllr Bell did not breach the Council's Code of Conduct in this regard.
- 5.13. The complaint also referred to the General obligations of Members as described in the code of conduct and particularly paragraphs 3.2, 3.4, 3.5 and 3.7. The independent investigator considered these points carefully. I have considered this analysis, reviewed the supporting information in the form of the statements provided and the WhatsApp and email messages and discussed with the Independent Person and make the following points:
- 5.14. In relation to Para 3.2 of the Code, (*Dealing with representations or enquiries from residents, members of communities within the administrative area of the Town/Parish Council and visitors fairly, appropriately and impartially*). I do not consider that Cllr Bell dealt with the matters relating to the Complainants planning application after the meeting fairly, appropriately and impartially as she pursued her own private interests rather than the public interest.
- 5.15. In relation to Para 3.3 (*Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Council's area, or the good governance of the Council in a proper manner*), I consider that Cllr Bell allowed other pressures, including her private interests but also the expectation from the Chairman to be involved and hence this meant that she did not pursue the interests of the Council's area and the good governance of the Council in a proper manner.
- 5.16. In relation to Para 3.4 (*Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties*). Whilst it could be considered that Cllr Bell failed to exercise the necessary independent judgement, there was no suggestion or evidence that she compromised her position by placing herself under obligations to outside individuals or organisations who might seek to influence the way she performed her duties. As a result I do not consider that Cllr Bell was in breach of this paragraph

- 5.17. In relation to Para 3.5 (*Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit*). I consider that Cllr Bell failed to remain objective and as a result failed (or could justifiably be perceived as having failed) to have made decisions based on merit by virtue of her working with the Council so that they objected, and also in supporting / drafting the Council's objection to the planning application.
- 5.18. In relation to the Para 3.7 (*Contributing to making the Council's decision-making processes as open and transparent as possible*). The whole approach to decision making after the meeting using WhatsApp was poor governance and lacked openness and transparency. Cllr Bell was part of that, but this was a governance failure of the Parish Council, and I do not believe that it would be appropriate to consider this as a breach of the councillors code of conduct.

6. Other Points

- 6.1. Whilst some of these points aren't directly related to the code of conduct they are relevant to the overall complaint and my recommendations.
- 6.2. The investigator, within their final report has also raised several further points that they felt were matters for HPC / WCC to note and act upon.
- 6.3. Cllr Bell as the lead councillor on planning was, in part, drawn into the matter due to the absence of the necessary planning expert in the council. As well as using external advisers (planning consultants) the investigator advised that they had seen other parish councils use councillors from neighbouring authorities, not as members of that council and decision makers but at least to bring planning expertise and knowledge of the local policies to any member-level discussions and it may be that the local branches of NALC / SLCC can assist.
- 6.4. Once Cllr Bell had advised of her conflict, she should not have been involved in the matter any further. The Chairman should not have invited her to be involved, but instead should have made it clear that she should not / must not engage. Other members should equally have known this, understood this and spoken up.
- 6.5. WhatsApp is a place to chat but not to resolve items of business. The purported decision outside the meeting framework was a serious governance issue. Decisions must be made lawfully. The decision to object was not made at a lawful meeting of the Council, but outside the legal framework and without the necessary transparency the law requires. Further, whilst scheduled meetings at HPC are only every two months, members can call extraordinary meetings. Another option may be to establish a planning committee which could be called if needed.
- 6.6. At the meeting on March 18, 2024, the complainant was asked if there were any objections to the planning application. She said she had checked the planning portal before leaving home and found none. However, the

investigator was told that the Subject-Member had told Mrs. Budge earlier that day that both the Subject-Member and their spouse would be objecting, and that other neighbours also intended to object. I agree with the investigator that it is incorrect to place the burden on the applicant to identify or speculate on potential objections not yet on the portal. It is also incorrect to suggest that the applicants misled the Parish Council. Knowing informally about someone's intentions or views is not relevant.

7. Conclusions

- 7.1. Councillor Eleanor Bell was acting in her capacity as a parish councillor whilst engaging with other Parish Council members on email and WhatsApp concerning the planning application submitted by the Complainant.
- 7.2. In her response to the complaint, Cllr Bell acknowledged that with hindsight she should have resisted being drawn into the WhatsApp chats, and further should have refused the Chair's request to draft a statement on behalf of the Council.
- 7.3. Cllr Bell should not have involved herself after the meeting in the way that she did. The Chairman should have been clear and robust on this point. I believe that in doing so, the Subject Member put her private interests above the public interest.
- 7.4. The Subject Member as all members do, had certain responsibilities, and privileges, and was making choices all the time that impacted others. In this case she took advantage or could have been perceived as having done so of these opportunities to further her own private interests.
- 7.5. Further she used, or attempted to use, her public office for personal gain by seeking support to further her own private interests of opposing the planning application through her position as a councillor.
- 7.6. The underlying principle is that councillors are elected or appointed to public office to serve the public interest.
- 7.7. In mitigation, Cllr Bell accepted her errors at the initial assessment stage and further acknowledged this in her subsequent statement.
- 7.8. Overall in relation to the Complaint, I conclude that the Subject-Member did not breach the code of conduct in relation to the disclosure of her interests but that she has breached the code in relation to the general obligations of members and specifically paragraphs 3.2, 3.3, and 3.5 of the Council's Code of Conduct as described in paragraph 5.

8. Recommendation

- 8.1. The Independent Person has been consulted and has agreed that there has been a breach of the code of conduct and that this can be dealt with by the Monitoring Officer through informal resolution.
- 8.2. Councillor Bell is asked to apologise to the Complainant for her actions that contributed to the breaches of paragraphs 3.2, 3.3 and 3.5 of the code of conduct as discussed in this notice. I would ask that the apology is provided to myself in the first instance, and I will provide it to the complainant.

- 8.3. I am concerned that there may be an over use of WhatsApp in regard to decision making and a potential over reliance on certain members of the Parish Council and whilst the Subject Member should not have engaged as she did, I feel that these issues contributed to what occurred.
- 8.4. Winchester City Council has recently adopted the Local Government Association's (LGA) Model Code of Conduct and its associated guidance. The Council has also recommended that all Parish Councils in the district adopt this code. In collaboration with the Independent Person, I would like to offer a tailored session on the code of conduct for all Hursley Parish Councillors. Additionally, I propose that the Parish Council adopt the LGA Model Code of Conduct, as I believe it would be beneficial and help prevent similar issues in the future.

9. Right of Appeal

- 9.1. There is no right of appeal for the Complainant or for the Subject Member but in accordance with the attached guidance notes, if you feel that the authority has failed to deal with your complaint properly, you can make a complaint to the Local Government Ombudsman

Gareth John

Monitoring Officer

Winchester City Council

31 March 2025

Decision made: 31 March 2025

Decision published: 14 April 2025