



Delegated Decisions Made by Officers

Regulation 7 of the Openness of Local Government Bodies Regulations 2014 requires a written record to be produced as soon as reasonably practicable after an Officer has made a decision under delegation.

This means that in order to comply with these new requirements, Officers discharging delegated powers which a) grant a permission or licence; b) affect the rights of an individual or c) award a contract or incur expenditure which in either case materially affects the Council's financial position, must complete the form below - and send it to democraticservices@southbucks.gov.uk - for publication on the Council website in accordance with the Regulations.

1. Name and role of officer: Joanna Swift, Monitoring Officer

2. Date of decision: 30 June 2016 (amended 5 August 2016)

3. Summary of the decision:

The monitoring officer received a complaint in July 2015 concerning the alleged conduct of Councillor Alan Walters, in his capacity as a member of Beaconsfield Town Council. In accordance with the Council's Complaints Procedure Councillor Walters was invited to comment on the complaint. Following comments from the Council's Independent Person and further representations and comments from both the complainant and Councillor Walters, the complainant remained dissatisfied with Councillor Walters' response, considered that answers to basic questions asked of the Town Council at the outset had still not been received and asked for the complaint to be referred for investigation under Stage 2 of the Complaints Procedure

The Council has adopted the following criteria to decide whether a complaint should be referred for investigation or no further action taken:-

- the public benefit in investigating the alleged complaint
- the availability and cost of resources with regard to the seriousness of the alleged matter
- is the information submitted, sufficient to make a decision as to whether to refer for investigation
- is the subject member still a serving member
- is the complaint the same as or similar to a previous complaint
- the time passed since the alleged conduct occurred
- the complaint involves conduct too trivial to warrant further action
- does the complaint appear to be malicious, politically motivated or tit for tat
- whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered
- steps taken or proposed to remedy the action complained of
- the complainants view of the action taken or proposed.

Having carefully considered the details of the complaint, the response from Councillor Walters, the referral criteria set out above and the views of the Council's Independent Person, the Monitoring Officer decided in consultation with the Chairman of the Audit Committee, that the complaint should not be referred for investigation. However, informal recommendations were made to Beaconsfield Town Council with regard to their procedures for dealing with consultations on planning applications to ensure the processes complied with relevant legislation and were transparent.

4. Reasons for the decision:

Background to the Complaint

The complaint alleged that between July 2014 and April 2015 whilst Councillor Walters was a member of Beaconsfield Town Council (“BTC”) and Chairman of the Town Council’s Planning Committee he failed to follow due process when purporting to represent the views of BTC and made objections to the complainants planning applications when the Town Council’s Planning Committee had either not objected or had not discussed the applications. It was further alleged that Councillor Walters had failed to declare his interests under paragraph 4 of the BTC’s Code of Conduct at meetings of the Town Council Planning Committee when the complainant’s planning applications were being considered, submitted an objection to South Bucks District Council on behalf of BTC in respect of the complainants planning application which was personal in its tone, given misleading information about the complainants planning application when he addressed SBDC’s Planning Committee by stating that the proposed extension was larger than the previous application, refused to allow information about the complainant’s planning application to be circulated to members of BTC Planning Committee before one of their meetings and refused to allow the complainant to speak about his application at the same meeting.

The complainant alleged that Councillor Walters breached a number of the seven principles of conduct in public life, namely: objectivity; openness; honesty and integrity and paragraph 4.1 of the Town Council’s code of conduct. This requires councillors to make a verbal declaration at a Town Council meeting if they are aware that they have a “non-disclosable pecuniary interest or a non-pecuniary interest” in any item of business to be considered at that meeting.

Summary of reasons and relevant findings of fact

1. The District Council’s role in considering complaints about town and parish councillors is confined to allegations that the conduct of individual councillors is a breach of the code of conduct. It does not include considering or investigating the procedures or policies adopted by the town or parish council concerned or the conduct of council staff. The complainant was questioning the authority of the Chairman of the BTC’s Planning Committee to submit objections to planning applications on behalf of the Council without a decision being made at meeting. Whilst appreciating the complainant’s concern this issue was not covered by the Complaints Procedure and could not be taken into account in the decision.
2. At the relevant time in 2014 and 2015 Councillor Walters was a member of BTC and was required to comply with the Council’s code of conduct adopted on 12 July 2012. Councillor Walters ceased to be Beaconsfield Town councillor after the local government elections in May 2015, although he was re-elected as a member of South Bucks District Council (“SBDC”). Councillor Walters was Chairman of BTCS Planning Committee from May 2014 until April 2015. BTC is a statutory consultee on planning applications received by SBDC and the Planning Committee usually meets on a monthly cycle to consider and make observations on the applications which are then passed onto SBDC by the Town Clerk. During the period when Councillor Walters was Chairman, BTC Planning Committee considered 3 of the complainants planning applications for house extensions.

Allegation that Councillor Walters failed to declare his interests to the Town Council Planning Committee

3. The complainant alleges that Councillor Walters had a non-disclosable pecuniary or non-pecuniary interest which he should have declared at the relevant BTC Planning Committee meetings. Non-disclosable pecuniary or non-pecuniary interests are

defined in paragraph 4 of BTC's code of conduct. Councillors are required to declare an interest if a planning application would affect their well-being or financial interests or the well-being, financial interests or land interests of a member of their family or close associate.

4. Councillor Walters denied having any such interest in the complainant's planning applications or any personal relationship with anyone involved with his applications. The complainant appeared to infer an interest because of the circumstances in which Councillor Walters submitted objections to the complainants planning applications, the comments he made when addressing SBDC's Planning Committee and his refusal to allow the complainant to make written and verbal representations at a BTC Planning Committee meeting.
5. Having noted that:-
 - Councillor Walters had been approached in his official capacity as Chairman of the Committee by the complainant's neighbours,
 - had made his own independent enquiries before reaching a view that the complainant's planning application was contrary to Green Belt policies,
 - asked for comments to be passed to him as Chairman because the deadline for submitting observations to SBDC fell before the next meeting of BTC Planning Committee, and
 - BTC does not accept or consider written or verbal representations from either applicants or objectors at its Planning Committee;

the Monitoring Officer did not consider the inference that Councillor Walters had pecuniary or non-pecuniary interests in the complainant's planning applications to be well founded or sufficiently credible to justify a referral for investigation.

Allegation that Councillor Walters breached the principles of objectivity, openness, honesty and integrity in the conduct of public life.

6. It was noted that Councillor Walters involvement began after the complainant's neighbours contacted him in his official capacity as Chairman of BTC Planning Committee and informed him that the complainant had started building work despite the refusal of his first planning application. This occurred after BTC had considered the complainant's first planning application and made no objection. The Monitoring Officer was satisfied that Councillor Walters was not previously aware of the local objections to that application or that it had been refused by SBDC on the grounds of its impact on the Green Belt.
7. The Monitoring Officer considered it was quite proper for Councillor Walters to contact the planning officer at SBDC to make enquiries about the complainant's planning application and express concern that building work was being undertaken without planning permission. He was also entitled to reach a view that the proposed development was still unacceptable in terms of its impact on the Green Belt, although SBDC's planning officers were recommending the application for conditional approval. As BTC's Planning Committee was not due to meet until after SBDC's Planning Committee meeting it was noted that Councillor Walters decided to send a letter to SBDC's Planning Officer in his capacity as Chairman of the Committee under BTC's urgency procedures. Whilst the complainant has queried where BTC's policy authorises this action, Councillor Walters clearly considered that he had the authority to do this subject to consultation with relevant councillors and one of BTC's Clerks emailed the letter in question to SBDC.
8. This letter explained why BTC had taken a further view on the complainant's application, gave reasons for objection based on material planning issues and commented on concerns about building work starting without planning permission and the extent of pre-application discussions between the planning officer and the complainant. Whilst the letter refers to the complainant and is expressed in robust terms, the Monitoring Officer was satisfied the matters raised were of legitimate

concern in respect of how a planning application was handled by SBDC and did not consider the comments constituted a breach of any principle of conduct in public life.

9. It was noted that BTC Planning Committee agreed to councillors forwarding their comments on the complainant's third planning application to Councillor Walters, as Chairman of the Committee, because details of the application were received shortly before the meeting and SBDC's deadline for a response fell before the next meeting. Councillor Walters recalls receiving verbal comments from committee members expressing objections on Green Belt grounds and an objection was subsequently submitted to SBDC by the Clerk. Whilst the Monitoring Officer appreciated the complainant's concern about the lack of transparency in this process there was nothing to suggest that BTC Planning Committee were seeking to act improperly in putting arrangements in place to ensure their observations were submitted to SBDC by the relevant deadline. October. Nor did the Monitoring Officer consider that this arrangement constituted a breach of the principles of conduct in public life by Councillor Walters.
10. Councillor Walters registered to speak at SBDC's Planning Committee as a local member to object to the complainant's third planning application. The complainant alleges that Councillor Walters deliberately misled the Committee by stating that the proposal was larger than the previous application. Councillor Walters accepts that he made these comments, says that he believed this to be the case at the time from looking at the plans and says that he apologised when this was corrected and clarified by the planning officer. The complainant agrees that the planning officer corrected Councillor Walters but provides evidence that no apology was given, does not accept that Councillor Walters made a genuine mistake and contends that differences between the applications were clear.
11. Whilst appreciating the complainant's concern that this misleading information could have influenced the Planning Committee's decision to refuse permission, the Monitoring Officer noted that members of the Committee had a full report on the complainant's application, received a presentation from the planning officer and that Councillor Walter's comments were challenged and corrected by the planning officer at the meeting. Therefore, it was not considered there would be any public benefit in referring this allegation for investigation.
12. With regard to the complainant's fourth planning application the Monitoring Officer noted that the complainant had asked BTC's Clerk for a letter of representation to be circulated to members of the Planning Committee some weeks before the meeting but on the evening of the meeting it was apparent this had not been done. The complainant therefore asked the Clerk if the letter could be circulated to members at the meeting and when Councillor Walters as Chairman declined, the complainant asked to make verbal representations. Again this request was declined by the Chairman.
13. The Monitoring Officer was informed that BTC Planning Committee do not accept representations at their meetings either in writing or verbally from either applicants or objectors. This is because the BTC is a consultee rather than a decision-making body for planning applications and applicants and objectors can make written representations to SBDC as the local planning authority and speak at SBDC Planning Committee meetings. The Monitoring Officer considered this to be a reasonable approach for BTC to take, particularly in view of the number of applications the Committee is required to consider and was therefore satisfied that in following this approach, Councillor Walters as Chairman, was not in breach of any principles of conduct in public life.
5. **When making the decision did the officer take into account information from another report?** Yes No The background papers for this decision are exempt information under paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972

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6. Details of any alternative options considered and rejected by the officer when making the decision:

The option of referring the complaint for investigation under Stage 2 of the Complaints Procedure was considered but having regard to the criteria adopted by the Council and for reasons at paragraph 4.1 to 4.13 above it was not considered there would be any public benefit in referring the allegations against Councillor Walters for investigation, particularly bearing in mind that he ceased to be a member of Beaconsfield Town Council in May 2015.

7. (a) Details of any conflict of interests declared by any Member who was consulted regarding the decision: No conflicts of interest

(b) Note of dispensation: N/A

Does this notice contain any exempt information? Yes (if yes, select reasons below) No

- 1. Identifies individuals (names, addresses, contact information etc.)
- 2. Likely to reveal the identity of an individual
- 3. Financial or business affairs of any person or organisation
- 4. Consultations or negotiations in connection with any labour relations
- 5. Legal professional privilege that could be used in legal proceedings
- 6. Any enactment (prosecution) to a person or organisation
- 7. Any action taken to do with prevention/investigation/prosecution of crime

Date Notice Published: 28 July 2016

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