



# Basingstoke and Deane

## **BASINGSTOKE AND DEANE BOROUGH COUNCIL** **DECISION NOTICE**

### **DECISION NOTICE:**

**Reference: 044893/AGR**

**Complainant: Mr Tom Cullen**

**Subject Member: Cllr Phillip Kingston of Pamber Parish Council**

On the 16<sup>th</sup> November 2018 in accordance with the Arrangements for dealing with Complaints against Councillors, a consultation meeting took place between the Independent Standards Assessor, an Independent Person, the Parish Representative and the Deputy Monitoring Officer to consider a complaint from the complainant concerning the alleged conduct of Cllr Phillip Kingston, the Vice-Chairman of Pamber Parish Council (the Parish Council).

A general summary of the complaint is set out below:

The complainant alleged 5 breaches of the Code of Conduct made by Cllr Kingston during the 8<sup>th</sup> August meeting of the Development Control Committee of Basingstoke and Deane Borough Council (the Borough Meeting), when he appeared to speak on items 17/02666/FUL and 17/03708/FUL (the Applications). The complainant alleges that Cllr Kingston conspired to deliberately mislead the committee and planning officers.

The breaches alleged are:-

1. Giving the impression to the Borough Meeting of speaking on behalf of the Parish Council when he was not authorised to speak on their behalf
2. Conducting himself in a manner which could reasonably be regarded as bringing his office and his authority into disrepute in breach of General Obligation 4 of the code of conduct. Further, that his written submissions on the Applications prior to the committee contained language which was bullying and intimidating towards officers of the determining authority in breach of General Obligation 2 of the code.

3. That he misrepresented the terms of the Parish Council's objection to application 17/02666/FUL at the Borough Meeting thereby bringing the Parish Council into disrepute.
4. That he failed to declare his non-pecuniary interest in the Applications at the Borough Meeting contrary to section 9 of the code of conduct
5. That he breached section 5a of the code of conduct in that he used his position to inappropriately secure an advantage for the applicant's family in relation to the determination of the Applications.

### **Decision**

Breaches of paragraphs 1(2), 2(1), 4 and 5 of the Pamber Code of Conduct have been upheld.

### **Reasons for decision**

The Code of Conduct for the Parish is based on the NALC model Code of Conduct (the Code)

#### **Allegation 1**

On the 10<sup>th</sup> September 2018 at the Parish Council meeting, Cllr Kingston acknowledged this breach and made a public apology for representing himself as speaking for the Parish Council at the Borough Meeting, stating *"I understand that on reflection I inappropriately represented the Parish Council at the last Planning Control meeting at Basingstoke on the 8<sup>th</sup> August. I apologise unreservedly for any misunderstanding this may have caused"*

#### **Allegation 2**

From viewing the webcast of the Borough Meeting it is clear that Cllr Kingston was rude and made serious allegations against the Council officers who were dealing with the Applications. The Chair of the Borough Meeting had to stop him on the first occasion, only for Cllr Kingston to continue with the allegations, necessitating the chair's intervention again. On both occasions Cllr Kingston withdrew the comments and apologised, but in so acting he breached paragraph 2(1) of the Code in that he failed to treat the officers of the borough council with respect.

#### **Allegation 3**

Cllr Kingston is the Vice-Chair of the Parish Council and he misrepresented the true nature of the Parish Council's objection during the Borough Meeting by failing to mention their objections on the grounds of loss of green space and the adverse effect on traffic movements. It was simply not correct to represent that the sole reason for the Parish Council objecting to the application was because it was retrospective in nature. A councillor who makes inappropriate and incorrect comments in a public arena may well be regarded as bringing their council into disrepute but case law has established that it is necessary to view what was said through the eyes of a notional reasonable member of the public who looks at the conduct on an objective basis. Viewed in this manner, a member of the public would ask why Cllr Kingston had misrepresented the views of the Parish Council and take into account his living arrangements at the applicant's property. Therefore the actions of Cllr Kingston brought his office of Vice Chair of the Parish Council into disrepute in breach of paragraph 4 of the Code.

#### **Allegation 4**

The complainant refers to paragraph 9(i) of the Borough Council Code of Conduct. This does not apply as the Parish Council has adopted the National Association of Local Councils model code. The Parish Council Code does not require its councillors to declare non-pecuniary interests at meetings of the parish council. The interest to which the complainant refers would be pecuniary as Cllr Kingston has the benefit of a licence to occupy the mobile home at Berry Court Farm by virtue of the arrangement negotiated by his insurance company with the applicant for planning permission.

The Pamber Code only requires disclosure of pecuniary interest in relation to a "meeting" of the Parish Council where the councillor has a disclosable pecuniary interest in the item of business being considered (paragraph 1(4)(a) of the Code contains the definition of "meeting") The Borough Meeting was not a meeting of the Parish Council and therefore there was no breach of paragraph 8(1) of the Parish Code.

Nonetheless, Cllr Kingston's actions breached the Nolan Principles in Public Life as set out in paragraph 1(2) of the Code. In placing himself in a situation where he was obligated to the applicant for planning permission which influenced him in the performance of his duty as Vice Chair of the Parish Council, he failed to behave with integrity contrary to principle 1(2)(b) of the Code. He also breached the principles of openness and honesty (paragraphs 1(2)(e) and (f) of the Code) in that he was not open about the reasons for his actions in seeking to support the applicant's planning applications and not honest as he failed to declare to the Borough meeting that he was residing in a mobile home on the applicant's property.

#### Allegation 5

Cllr Kingston breached paragraph 5(a) in that he attempted to use his position as Vice Chair of the Parish Council to improperly secure for the applicant of the planning permissions an advantage in the determination of the Applications by misrepresenting the concerns of the Parish Council. Cllr Kingston apologised for not declaring the nature of his relationship with the applicant and his current living arrangements when he made his public apology on the 10<sup>th</sup> September 2018

#### Remedies

The complainant has requested that the findings of this decision be reported to an appropriate meeting and that Cllr Kingston should make a public apology at that meeting. He also requests that he should remove himself from the planning committee of the Parish Council and not speak on planning matters and stand down from the role of Vice Chair of the Parish Council.

The following actions are recommended by the Independent Standards Assessor following consultation with the Deputy Monitoring Officer, the Independent Person and the Parish Representative :-

1. Cllr Kingston should write a letter of apology addressed to the Planning Committee and the planning officers of the Borough Council apologising for misrepresenting the terms of the Parish Council objection at the Borough Meeting and also for the remarks made about the planning officers. The letter is to request that it be read out publicly at the next meeting of the Planning Committee so that the public record is corrected.

2. That the clerk publish this Decision Letter on the Parish Council's website. It will also be placed on the Borough Council website.
3. That Cllr Kingston should not attend any planning meetings of either the Parish Council or at the Borough Council in his representative capacity until he has undergone Code of Conduct training and the clerk has provided evidence that this has been done.
4. That Cllr Kingston's declaration of interest be brought up to date to reflect his current address and the clerk is requested to ask all other councillors to check that their declarations of interest are up-to-date and published on the Borough website.

The clerk to the Parish council is asked to respond to the Deputy Monitoring Officer on the recommendations in this Decision Letter

This decision notice is sent to the person making the allegation, the Member against whom the allegation was made and the clerk to the parish council

### **Right of Appeal**

There is a right of Appeal to the Monitoring Officer within 10 working days of the date of this notice

### **Additional Help**

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000.

We can also help if English is not your first language.

### **Access to the complaints process**

Certain groups of customers may find it more difficult to make a complaint for example due to English not being their first language, sight impairment etc. It is our duty to assist the complainant in gaining access to the complaints procedure but we must not make the complaint for them or misrepresent their complaint. The Council do not insist that a complaint is made in writing, particularly where this would hinder an individual in making their complaint.

The following services are available to assist customers in making their complaint.

- Translation
- Interpreting
- Braille/Large Print
- Minicom
- Text
- Online form

Signed *A Greaves* .....

Date *19/12/18* .....

**Ann Greaves  
Deputy Monitoring Officer**

