

FINAL REPORT - CONFIDENTIAL

SBE CASE NOS: SBE 9683.05 AND SBE 9684.05
MEMBER: Councillors G J Bull and Mrs C Bussetil

AUTHORITY: Oldhurst Parish Council

ALLEGATION: It is alleged that the above named Members failed to disclose a personal interest and failed to withdraw from a meeting of Oldhurst Parish Council when a matter in which they had a prejudicial interest was discussed and voted on contrary to Paragraphs 9 and 10 (a) of the Parish Council's Code of Conduct.

DATE REFERRED TO DISTRICT COUNCIL'S MONITORING OFFICER: In accordance with Section 60 (2) of the Local Government Act 2000, the case was referred to the Monitoring Officer, Huntingdonshire District Council for investigation on 4th February 2005.

DATE OF FINAL REPORT: 26th May 2005

SUMMARY

The complainant, Councillor R D Hutchcraft, Chairman of Old Hurst Parish Council had alleged in a letter to the Standards Board for England dated 8th January 2005, that Councillors G J Bull and Mrs C Bussetil failed to declare a prejudicial interest and withdraw from the meeting of the Parish Council on 6th January 2005 when the Council discussed a planning application, submitted on behalf of the Hutchcraft family, for proposed development at Marsh Farm and Marsh Farm Cottage, St. Ives Road, Old Hurst. Properties owned and occupied by Councillors Bull and Mrs Bussetil about the land which is the subject of the planning application. [It was further alleged during the investigation that Councillor Bull had fettered his discretion by formally objecting to the planning application to the District Council and had by his contributions to the Parish Council meeting on 6th January sought to influence the Members present. Subsequent to the interviews held with the complainant, he has alleged that Councillor Bull had further fettered his discretion by participating in a lobby group formed by local residents against proposed development at Marsh Farm and Marsh Farm Cottages. Neither allegations formed part of the original complaint.]

As a result of these omissions, it has been alleged that Councillors G J Bull and Mrs C Bussetil failed to comply with Sections 9 and 10 of the Parish Council's Code of Conduct adopted by the Council at its meeting held on 16th May 2002 which requires –

“9. Subject to sub-paragraph (2) below, a Member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

10. A Member with a prejudicial interest in any matter must –

- (a) withdraw from the room or chamber where the meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the Standards Committee of the responsible Authority; and
- (b) not seek improperly to influence the decision about that matter.”

RESPONSES TO ALLEGATIONS

In a letter from the Standards Board for England dated 4th February 2005 the allegations were referred for investigation to the Monitoring Officer, Huntingdonshire District Council in accordance with Section 60 (2) of the Local Government Act 2000.

In accordance with the procedure for the local investigation of allegations both Councillors Bull and Mrs Bussetil submitted written statements in which both denied that they knowingly breached the Code of Conduct and that neither were challenged nor advised that they had a prejudicial interest in the matter under consideration by those whom they would have expected to have offered guidance. Both Councillors withdrew from later meetings of the Parish Council at which the planning application was to be discussed once it became apparent that they had personal and prejudicial interests and both have questioned the motives and conduct of the complainant given his association with the planning application.

INVESTIGATION

Procedure

Interviews were conducted by the Investigating Officer at Old Hurst Village Hall on Wednesday 20th April 2005 with the Parish Clerk – Mr R C Lapwood, the complainant, Councillor R D Hutchcraft and with Councillors G J Bull and Mrs C Bussetil against whom the allegations had been made.

Following the interviews, the Investigating Officer was of the view that it was also necessary to interview the Vice-Chairman of the Parish Council, Councillor Mrs L Sawyer and this meeting took place on Monday 25th April 2005 at Pathfinder House, Huntingdon.

A written note of the material points of the interviews was sent to each party together with a request that one copy be returned signed as a correct record with such corrections or amendments as the interviewee felt were necessary.

Copies of the interview notes are appended together with other documents that are relevant to the investigation –

- ◆ a location map of Old Hurst Village identifying the site of the proposed development at Marsh Farm and Marsh Farm Cottages and the properties owned by Councillors Mrs Bussetil and Bull;
- ◆ the Minutes of the meetings of Old Hurst Parish Council held on 6th, 20th and 26th January 2005 (at which the planning application for Marsh Farm and Marsh Farm Cottages was discussed and various details regarding attendance and interests declared were recorded: copies of these details are not appended but have been verified on inspection by the Investigating Officer);
- ◆ initial correspondence sent by Councillors Bull and Mrs Bussetil in response to the allegation;
- ◆ Councillor Bull's comments on the report of the Investigation Officer received on 26th May 2005; and
- ◆ the original letter of complaint submitted to the Standards Board for England by Councillor Hutchcraft.

RELEVANT INFORMATION

It was confirmed that Councillors Bull and Mrs Bussetil had been co-opted to the Parish Council and had signed their declaration of acceptance of office and agreed to observe the Parish Council's Code of Conduct. Despite a suggestion by the Parish Clerk that all new Councillors received a copy of the Code of Conduct on their election/co-option, Councillors Bull and Mrs Bussetil indicated that they had received their copies in February and March 2005 respectively having been Councillors for five months and four years respectively.

Councillor Bull had not been offered or received any training on the Code of Conduct and whilst Councillor Mrs Bussetil was in office and indeed was recorded as being in attendance when the Parish Council received a presentation on ethical standards she had no recall of that event.

The Minutes of the Parish Council confirm that Councillors Bull and Mrs Bussetil did not declare interests in the item on Marsh Farm and Marsh Farm Cottages at the meeting held on 6th January 2005. At the subsequent meetings on 20th January – Councillor Bull did not declare a personal and prejudicial interest and remained in the meeting; Mrs Bussetil was absent and at the meeting held on 26th January 2005 – at which the Parish Council agreed to recommend to the District Council approval of the planning application, both Councillors were absent.

It is, perhaps, significant to note that at the meeting of the Parish Council held on 6th January 2005, at which both Councillors were present, the Vice-Chairman invited the Parish Council to indicate individually their views on the application although no formal vote was taken.

As a general rule, it appears that the Parish Clerk or Chairman of the Parish Council give advice on Council procedure and in the event of doubt raise any issues with District Councillor M F Newman either in advance of or at Parish Council meetings at which he is present.

In confirming their ownership of No. 2 Lancaster Close, Old Hurst and the Old Stag and Hounds, Old Hurst, Councillor Bull and Mrs Bussetil agreed that their properties abutted the land that was the subject of the planning application and owned by the Hutchcraft family.

From my interview with him, Councillor Bull appeared to have little or no knowledge of the requirements of the Code of Conduct. Because of his previous experience with another authority in the 1980's he was aware of the concept of pecuniary interests as provided for in the former National Code of Local Government Conduct and, in that light, had taken steps to establish whether the value of his property would be affected by the proposed new development. Following professional advice that there would be no diminution in its value, Councillor Bull understood that he would have no pecuniary interest in the planning application and, therefore, would be able to comment on it without restriction. It appeared that Councillor Mrs Bussetil had no knowledge of the definition of the terms "personal and prejudicial interests" and the requirements of the Code of Conduct in that context.

In terms of the complaint, it is necessary only to examine the circumstances of the special meeting of the Parish Council held on 6th January 2005. This was called specifically by the Vice-Chairman, Councillor Mrs L Sawyer to consider one item of business relating to the planning application for Marsh Farm and Marsh Farm Cottages, Old Hurst. All those interviewed have suggested that the meeting attracted a high degree of interest in the village and indeed 27 members of the public were present at the meeting.

There is no suggestion that the meeting was convened or conducted improperly. There is an issue however about the advice given before and at the meeting by the Vice-Chairman, Councillor Mrs L Sawyer, the Parish Clerk and District Councillor Newman.

Councillor Mrs Bussetil had expressed some misgivings at having to attend the meeting because of her position as neighbour to the site of the planning application. The lack of understanding as to what were and when to declare personal and prejudicial issues contributed to the events leading to the submission of the complaint and led to some confusion as to whether the Parish Council meeting would be quorate if Councillor Mrs Bussetil had not been present. This misunderstanding left Councillor Mrs Bussetil with the impression that she was under an obligation to attend the meeting when she had doubts about doing so.

During the course of the Parish Council meeting, it is understood that Councillor Bull referred to the fact that he had sent a letter of objection on the planning application to the District Council. Councillor Bull contends that despite making this known, he received no advice about having to declare a prejudicial interest and leave the meeting. Councillor Mrs Bussetil has also commented that she was not challenged to declare her interests by anyone present at the meeting. Both accept that the onus to declare interests rests with the individual Councillor and ignorance of the Code of Conduct cannot be used as a defence, but both contended that no advice was forthcoming from those from whom they would have expected to offer guidance.

Councillor Hutchcraft did not attend the meeting on 6th January and was therefore unavailable to offer advice. However, he was of the view that it was not appropriate for him as Chairman of the Parish Council to advise Members of the possibility that they might have an interest in matters under discussion.

Both Councillors Bull and Mrs Bussetil contributed to discussion at the meeting and it has been suggested that Councillor Bull spoke at length on the application by reference to a number of documents and prepared statements and that the views he expressed at the meeting were prejudiced. Councillor Bull contended that his objections were based on purely material planning considerations.

No formal vote was taken at the conclusion of the discussion as the Parish Council requested further information on the application from the District Council.

The Parish Council agreed to recommend approval of the application at their meeting held on 26th January 2005. Having received a telephone call from the Vice-Chairman, Councillor Mrs Sawyer, who suggested that they might have a prejudicial interest in the business to be conducted, Councillors Bull and Mrs Bussetil absented themselves from the meeting.

This interest was subsequently confirmed by Mr R Reeves the District Council's Head of Administration, in a telephone call made to him by Councillor Bull. It should be noted that the joint applicant, Councillor R D Hutchcraft chose not to attend the meetings of the Parish Council on 6th and 26th January 2005, requested the Vice-Chairman Councillor Mrs Sawyer to chair the meetings: he had declared a personal and prejudicial interest at the meeting of the Parish Council held on 20th January and left the room.

Councillor Bull also considers it material that at a meeting of the Parish Council held on 17th March, 2005 Councillor Hutchcraft, in his capacity as Chairman chose to advise him (Councillor Bull) that it would be prudent if he declared an interest as Secretary to the Village Hall Committee on an item requesting grant aid which was under discussion. [Councillor Hutchcraft has suggested subsequently that he gave general advice to the Parish Council rather than specific advice to Councillor Bull.]

FINDINGS OF FACT

It is clear that Councillors Bull and Mrs Bussetil had a personal and prejudicial interest in the item of business relating to the planning application for Marsh Farm and Marsh Farm Cottages, Oldhurst, which was considered by the Special Meeting of Oldhurst Parish Council, held on 6th January 2005. There is no record that these interests were declared and Councillors Bull and Mrs Bussetil continued to participate in the meeting when they should have left the room. [It has subsequently been suggested by Councillor Mrs Bussetil that both she and Councillor Bull had declared that they were neighbours to the applicant but that this had not been recorded in the Minutes.]

Whilst not condoning these failures, there appears, with the exception of the Chairman of the Parish Council, to be little understanding of the Code of Conduct and the concept of personal and prejudicial interests by the Parish Clerk, the Vice-Chairman (Councillor Mrs Sawyer) Councillor Bull and Councillor Mrs Bussetil: indeed it has also been suggested that other Parish Councillors should have declared personal interests as longstanding friends of Councillor Hutchcraft.

Notwithstanding the statement to the contrary by the Parish Clerk, Councillors Bull and Mrs Bussetil were adamant that they had not received a copy of the Parish Council's Code of Conduct until after the complaint had been submitted to the Standards Board for England although it may be pertinent to note that both agreed to abide by the Code of Conduct when making their declaration of acceptance of office.

Given it was regarded as "custom and practice" at the Parish Council, it is not unreasonable to acknowledge the Councillors' expectation that advice on their position might have been forthcoming from the Parish Clerk, the Chairman or the Vice-Chairman.

The material decision of the Parish Council in respect of the planning application was taken at the meeting at which Councillors Bull and Mrs Bussetil had absented themselves. The Parish Clerk has indicated that there was support by a majority in favour of the application at the meeting of the Council on 6th January, which suggests that the views of the Parish were not influenced by Councillors Bull's presentation. No formal vote was taken.

I have not found sufficient evidence to suggest that Councillor Bull used his position to improperly influence the decision about the planning application nor that he or Councillor Mrs Bussetil actually participated in a formal vote on the application. However, and taking the factors into account I have to conclude that both Councillors G J Bull and Mrs C Bussetil failed to comply with paragraphs 9 and 10 of the Parish Council's Code of Conduct.

RECOMMENDATIONS

Because the basis of the case rests upon the lack of understanding of the Code of Conduct by the parties involved, the Investigating Officer recommends that

- (a) arrangements be made by the Monitoring Officer for all Oldhurst Parish Councillors to receive training on Ethical Standards and the Code of Conduct;
- (b) that Councillors Bull and Mrs Bussetil be ordered to participate in the training specified by the Standards Committee and to submit to the complainant a written apology in a form satisfactory to the Committee; and
- (c) that whilst not suggesting that the evidence presented by allegations in Oldhurst could occur elsewhere in the District, the Committee may wish to consider how to improve communications with Parish Councils to ensure, as far as possible, a better understanding of the ethical standards regime and Code of Conduct.

Christine Deller
Investigating Officer
26th May 2005