

**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 10.00 am on 20 MAY 2013**

Present:- Councillors R Lemon – Chairman
Councillors C Cant and K Eden
Mr V Lelliott (Independent Member).

Officers in attendance:- M Cox (Democratic Services Officer).
K Carson (Solicitor) and M Perry (Assistant Chief Executive –
Legal and Monitoring Officer).

SC17 **APOLOGIES AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

SC18 **HEARING INTO AN ALLEGATION OF A BREACH OF THE CODE OF
CONDUCT**

The hearing had been called to determine an allegation that Councillor John Freeman had breached the Codes of Conducts of Thaxted Parish and Uttlesford District Council. The complaint was as follows

- Cllr Freeman was a friend of the father of an applicant for planning permission within the parish of Thaxted and as such had an interest which should have been declared.
- Cllr Freeman projected the views of the parish council without the council having had sight of the application.
- Cllr Freeman breached clause 3.2 of the Code of Conduct in that he failed to observe protocols or the Code of Practice.
- Cllr Freeman conducted himself in a manner which could reasonably be regarded as bringing the councils into disrepute arising from the content of the design statement submitted in support of a planning application.
- Cllr Freeman used or attempted to use his position as a member improperly to confer or secure for another an advantage.

The Monitoring Officer presented his report and explained the facts surrounding this case, which concerned a planning application for proposed development in Thaxted and the events around advice that was given to the father of the applicant by Councillor Freeman.

Findings of Fact

The following facts were not disputed

A planning application was submitted by Alun Design Agency on behalf of Mr C. Latham accompanied by a design, access and heritage statement. The statement implied that the Parish Council was supportive of the application when it had not yet considered the application. Neither Mr Latham nor Alun

Design had engaged in any pre-application consultation with the parish council or any parish councillors.

Mr Latham's father, Mr S. Latham, had some discussions with Cllr Freeman regarding the application prior to submission.

Cllr Freeman sent an e-mail to all members of the parish council which said "I had seen the proposed planning application prior to it being submitted to Uttlesford. I was asked by the applicant's father in my capacity as a District/Parish Councillor and also as a friend. This is, I believe to be acceptable and I am not aware of any reasons why I should not have done so".

The parish council was consulted with regard to the application post submission by the local planning authority and considered the application at a meeting of the parish council on 4 April 2013.

At that meeting Cllr Freeman declared a pecuniary interest as he was a friend of the applicant. He read a pre-prepared statement and then withdrew from the meeting until after the vote on the issue had been taken.

Cllr Freeman was bound by the Codes of Conduct of both councils depending on the capacity in which he was acting.

The following facts were in dispute

1. Whether Cllr Freeman was consulted in his capacity as a parish councillor or district councillor.
2. Whether Cllr Freeman represented his views as the views of the council as a whole.
3. If acting as a district councillor, he had breached the codes and protocols of Uttlesford District Council's Code of Good Practice: Probity in Planning.
4. Whether he had attempted to use his position improperly to secure for another an advantage.

During his investigation the Monitoring Officer had raised questions with the complainant and the parish clerk and had interviewed Councillor Freeman and Mr Latham.

Monitoring officer findings on the fact

1. Cllr Freeman was consulted by Mr S. Latham because of his status as a parish councillor. There was no evidence to suggest that he was consulted because he was a district councillor. Cllr Freeman was not a member of the district council's planning committee and therefore could not know what the views of the district would be. There was no evidence to suggest the approach was made for any purpose other than to gauge the likely views of the parish council to the proposed application. At one stage Cllr Freeman suggested that he may have been consulted as a friend and a parish/district councillor but this was not relevant. It was the capacity in which a member acted that was important, not the capacity in which they believed they were acting.

- 2 In discussions with Mr S. Latham, Cllr Freeman did not purport to express the views of the parish council. There was no evidence to suggest that he gave anything other than a personal opinion. Cllr Freeman suggested it would be sensible for Mr Latham to seek pre-application discussions with the parish council. Cllr Freeman could not be blamed for the fact that Mr Latham did not do this.
- 3 The Code of Good Practice: Probity in Planning did not apply automatically to members of town or parish councils. The Code was adopted by Uttlesford District Council but there was no evidence that that Code or anything similar had been adopted by Thaxted Parish Council. As Thaxted Parish Council had not adopted the Code of Good Practice: Probity in Planning it did not apply to Cllr Freeman acting in his capacity as a parish councillor.
- 4 The complainant had not demonstrated how Cllr Freeman had attempted to use his position improperly to confer an advantage for an applicant for planning permission. A meeting with an applicant for planning permission would not be likely to secure for that person any advantage. As a parish councillor not bound by the Code of Good Practice: Probity in Planning, it was not a breach of the Code of Conduct for Cllr Freeman to express his personal views.

Conclusion

The Monitoring Officer found that Councillor Freeman was only acting as a parish councillor so was not bound by the Code of Good Practice: Probity in Planning. He had not acted in a way to bring the Authority into disrepute. At the Parish Council meeting he had made a statement in planning terms, declared his interest and left the meeting and had therefore not attempted to use his position to try to secure an advantage for the applicant.

The Committee agreed with the findings and the conclusions of the Monitoring Officer's report. Councillor Cant commented that, in hindsight, it might have been sensible for Councillor Freeman to consult with the parish council vice-chairman and clerk prior to his meeting with Mr Latham, so that his actions would not have been misinterpreted. However it was noted that if best practise was not followed it didn't necessarily mean there had been a breach of the code.

Members commented that town and parish councils were not the decision making authority in respect of planning applications and, as such parish councillors were at greater liberty to put forward their views. In fact, speaking to constituents about planning issues was an integral part of the role of a parish councillor.

Decision

The Committee found that Councillor Freeman had not breached the Code of Conduct of either Uttlesford District or Thaxted Parish Council.