



UTTLESFORD DISTRICT COUNCIL

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Chief Executive: Dawn French

Cllr Gregory

30 July 2019

By email:-

RH

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Please ask for Roger Harborough on 01799 510457
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Dear Cllr Gregory

PROBITY IN PLANNING

I refer to your letter dated 15 July.

I very much welcome Scrutiny's consideration of the pre-application stage of major planning applications. It is important that our internal codes and procedures align with best practice. An instance of this is the Government guidance at <https://www.gov.uk/guidance/before-submitting-an-application>. This includes the following:

What involvement could the local planning authority's elected members have at the pre-application stage?

Democratically elected members are strongly encouraged to participate at the pre-application stage, where it is appropriate and beneficial for them to do so. Section 25 of the Localism Act 2011 confirms that elected members do not have a 'closed mind' just because they have historically indicated a view on a matter relevant to the proposal. Further information on elected member involvement in the decision-making process.

On the face of it, paragraph 3.1.3 of UDC's Probity in Planning Code is out of step with this approach.

I agree that, in the interests of openness and transparency, that there should be a summary note in planning application files of the main points covered in discussions between planning officers involved in the case and applicants of third parties, both in meetings and in telephone calls. This would have been of considerable benefit in responding to requests for information under the Environmental Information Regulations made by SSE. This does not need to be a detailed note but should record the principal points discussed and action points arising. Many of the meetings

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to which Brian Ross refers between case officers and Stansted Airport in the pre-application stage involved MAG's team taking case officers through its initial work in preparing the environmental statement and discussions about process. I understand that these meetings were not contentious. The Environmental Statement was subsequently published. The council also published its scoping opinion providing its formal advice on the matters the statement should cover.

You are welcome to inspect the list of meetings between officers and Stansted Airport/ its consultants and copies of the documents disclosed to Brian Ross but I do not think that you would find this helpful other than perhaps to appreciate why it would be more useful to publish meeting notes as above. This would avoid the problems evident in SSE's witness statement in its claim against the Secretary of State for Transport in the High Court. In this witness statement, assertions have been made about what extracts of officers' manuscript rough jottings made during meetings meant. A senior civil servant in the DfT, the Deputy Director of Aviation Policy, and the Planning Director at MAG in their respective witness statements as defendant and interested party have pointed to alternative more plausible and reasonable interpretations that should have been made.

You also ask about any meetings between councillors and Stansted Airport Ltd relating to its planning application. There was one briefing session arranged to which all councillors were invited. I attach a contemporaneous note that I took. This broadly took the form of a presentation of material to councillors and a session of questions and answers.

I cannot be certain that no meetings took place between individual councillors and the management team at the airport about the planning application, but I do not believe they did. Our working relationship with Stansted is such that they would feel obliged to disclose any such meetings to officers and no such meetings were mentioned.

As part of periodic catch up meetings between the Leader and the Airport Chief Executive, Howard Rolfe met with Ken O'Toole. Other councillors were involved, together with me. They were also attended by MAG's Planning Director and Planning Manager as transport matters tended to regularly feature on the agenda. The meetings were not specifically to discuss the planning application, although as you can see aspects were covered. I attach notes of those meetings.

I have no knowledge of any meetings specifically between Terry Farthing and any member of the airport management team, but he declared his support for the airport proposals at an early stage and did not sit as a member of the Planning Committee at any committee meeting when matters related to the airport application were considered. He was appointed as a substitute member of the Planning Committee on 22 February 2018.

You quote extensively from Rule 21.2 but this applies to the Scrutiny Committee's functions in relation to decisions made by the Executive, such as decisions of Cabinet or those made by individual Portfolio Holders under delegated powers.

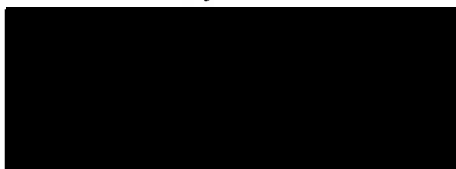
Dealing with all aspects of planning applications, or other related matters such as enforcement against a breach of planning control, is a council function.

I should also point out that a breach by a councillor of the Good Practice Guidance: Probity in Planning may potentially be a matter for the Standards Committee, but not for the Scrutiny Committee.

I cannot arrange for you to have access to the outlook calendar entries for the former Leader, Deputy Leader or Chair of Planning Committee, as to do so would be to release personal information in breach of general data protection controls.

I am disappointed that you felt it necessary to write to me formally rather than approach me about these matters. I accept that there is more to be done to develop codes and procedures for member involvement at the pre-application phase of proposals for major development, and in improving transparency in terms of officers fully embracing guidelines but it would help if members were apparently more readily inclined to balance what may be said by interest groups with their professional advice, which is always offered in good faith.

Yours sincerely



Roger Harborough
Director of Public Services