

ARUN DISTRICT COUNCIL
ASSESSMENT PANEL – 6 FEBRUARY 2019

DECISION NOTICE - COMPLAINT 5
SIOBHAN BINYON

Subject Member	Councillor Richard Bower
Representing	Arun District Council
Assessment Panel Members	Councillor Paul English (Chairman) Councillor Ann Rapnik Councillor Dr James Walsh Councillor Robert Wheal John Thompson – Independent Person

Summary of Complaint

The complaint related to the Subject Member's conduct when they were acting as Chairman of the meeting of the Development Control Committee held on 24 October 2018.

The Complainant alleged that the Subject Member did not champion the needs of residents, listen to the interests of all parties and value the views of other councillors.

How the Code of Conduct applies to this complaint

As required by the Localism Act 2011, Arun District Council has adopted a Members' Code of Conduct and required each councillor to sign up to this Code. This Code was last reviewed by the District Council on 8 November 2017.

The assessment of this complaint was reviewed against the Members' Code of Conduct for Arun District Councillors. It was confirmed that the Subject Member had made a declaration to comply with the latest version of the Members' Code of Conduct on 30 November 2017.

The membership of the Assessment Panel was selected to avoid any conflict of interest from involvement with the meeting of the Development Control Committee on 24 October 2018 or the Pagham ward.

The Panel's Decision

The Complainant had highlighted three paragraphs within their complaint that they believed demonstrated that there had been a breach of the Members' Code of Conduct by the Subject Member. Comments made throughout the complaint relating to planning matters which fell outside of the scope of the Panel were discounted. The assessment therefore considered the issues raised under the remainder of the paragraphs identified by the Complainant.

The Panel considered the report of the Investigating Officer and then heard statements from the Complainant as well as from the Subject Member. They also considered written witness statements provided by the Subject Member from two members of the Development Control Committee which were circulated at the hearing. In addition, the Complainant provided an audio recording of the meeting for the Panel to consider.

Having reviewed all the evidence presented, the Panel recognised the strength of public feeling in the business before the Development Control Committee on 24 October 2018, demonstrated by the high level of public attendance at the meeting. They acknowledged that this had made this a difficult meeting for the Subject Member to chair and noted from a verbal statement made by him that he had not had to deal with anything similar before. They concluded from all the evidence presented that this had led to a contentious meeting with a public gallery that was very vocal at times.

The Panel’s decision on each of the three paragraphs is set out below:

Paragraph 1 – Champion the needs of residents

<i>Decision</i>	No breach
<i>Reason for the Decision</i>	<ol style="list-style-type: none"> 1. Having appreciated that the Complainant’s comments were based on their personal opinion and observations of the meeting, the Panel found no evidence to support their view of the conduct of the Subject Member at this meeting. 2. The Panel found that the Subject Member had a responsibility to champion the needs of residents in the whole of the Arun District in his role as Chairman of the Development Control Committee, not just one particular ward. Further, the Panel accepted that the Subject Member’s role, as Chairman of the Committee, was to give advice and guidance to the Development Control Committee to ensure it worked within the obligations of the law. 3. The Panel noted that two of the ward councillors for Pagham had been present at the meeting – Councillor Mrs Hall as a member of the Committee and Councillor Patel who spoke as a ward councillor. 4. The Panel found that the minutes from the meeting on 24 October 2018 confirmed what was considered in the debate on the determined application (P/140/16/OUT) and what proposals were put forward and lost in the consideration of application P/6/17/OUT prior to the adjournment of the meeting. Further, the minutes confirmed that the voting process for both applications followed the rules of the Council’s Constitution in relation to the Development Control Committee and that the decisions of the Committee were determined by a majority vote.

	<p>5. In making this determination, the Panel found that these minutes had subsequently been agreed as a correct record by the Development Control Committee on 12 December 2018.</p> <p>6. On this basis, the Panel determined that the Subject Member had not breached paragraph 2.1(1) of the Members' Code of Conduct.</p>
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Paragraph 5 - Listen to the interests of all parties	
<i>Decision</i>	No breach
<i>Reason for the Decision</i>	<ol style="list-style-type: none"> 1. Having appreciated that the Complainant's comments were based on their personal opinion and observations of the meeting, the Panel found no evidence to support their view of the conduct of the Subject Member at this meeting. 2. The Panel found that the evidence confirmed that the Subject Member, along with the remainder of the Committee, had been provided with detailed information to inform their deliberations on the business before the meeting before exercising their decision taking responsibility. 3. The Panel found that the minutes from the meeting on 24 October 2018 confirmed what was considered in the debate on the determined application (P/140/16/OUT) and what proposals were put forward and lost in the consideration of application P/6/17/OUT prior to the adjournment of the meeting. Further, the minutes confirmed that the voting process for both applications followed the rules of the Council's Constitution. 4. In making this determination, the Panel found that these minutes had subsequently been agreed as a correct record by the Development Control Committee on 12 December 2018. 5. The Panel noted from their questioning of the Subject Member that Councillor Mrs Bower's proposal had been to defer application P/6/17/OUT to consider the access to the site which as the minutes confirm was duly proposed and seconded in accordance with the rules of the Council's Constitution. Councillor Mrs Hall had made a proposal for refusal of the application but this did not get seconded by a member of the Committee as required by the rules of the Council's Constitution. Without such seconding, the proposal could not be deliberated further or put to the vote. 6. On this basis, the Panel determined that the Subject Member had not breached paragraph 2.1(5) of the Members' Code of Conduct.

Paragraph 9 - Value their colleagues

<i>Decision</i>	No breach
<i>Reason for the Decision</i>	<ol style="list-style-type: none">1. The Panel found no evidence to support the Complainant's view of the conduct of the Subject Member at this meeting.2. The Panel accepted that the Subject Member's role, as Chairman of the Committee, was to give advice and guidance to the Development Control Committee to ensure it worked within the obligations of the law and to remind Members of these obligations when they were exercising their decision making responsibility. However, they acknowledged the Complainant's view that they had construed this as the Subject Member putting pressure on other members of the Committee.3. The Panel found that no complaints had been received from any other member of the Committee that they felt intimidated by the Subject Member's conduct at the meeting or put under pressure to vote in a certain way.4. On this basis, the Panel determined that the Subject Member had not breached paragraph 2.1(9) of the Members' Code of Conduct.

Sanctions to be recommended to Arun District Council

Based on their findings from this assessment, the Panel have recommended the following two sanctions:

1. In addition to the arrangements for publication of the decision notice in the Local Assessment Procedure, this should also be provided directly to the Leader of the Conservative Group so they can see the conclusions and findings drawn from the assessment.
2. The Subject Member should be provided with a copy of the Committee Procedure Rules from the Council's Constitution for review to ensure he is fully aware of the procedural requirements at meetings of the Development Control Committee. Further, the Subject Member should be asked to provide written confirmation to the Leader of the Conservative Group and the Monitoring Officer of his understanding of these requirements.

Reviewing lessons learnt from comments made by the Complainant, the Panel also believe that clearer information needs to be provided to members of public attending meetings of the Development Control Committee to understand the Council's planning obligations and how the meeting will operate. They therefore recommend:

1. The Group Head of Planning be requested to explore the introduction of an information guide that confirms the requirements of the Local Plan for strategic sites and how the planning process for determining planning applications works within this by publicising this guide on the Council's website and making it available as a handout at meetings of the Committee.
2. The Group Head of Planning, in consultation with the Monitoring Officer, be requested to explore the introduction of a simple guide that explains how the

voting process works at the Development Control Committee and what the expectations are from Members presenting alternative proposals to the officer recommendation about valid planning reasons, for example what considerations there are in proposing reasons for refusal of an application.

3. The Group Head of Planning, in consultation with the Monitoring Officer, be requested to create a notice that covers expectations of the public's conduct at meetings, for example what happens if there is a public disturbance or interruption from the public gallery, so this can be available to view throughout the meeting and not just as part of the Chairman's introduction at the start of the meeting.

Publication of the Decision

1. Following the review period, the decision of the Panel will be published to Arun District Council's website for a period of 3 months.
2. The Panel's decision will be reported to the next meeting of the Standards Committee.