

Town Council Office: Berwick WorkSpace,
Boarding School Yard, 90 Marygate, Berwick-upon-Tweed,
Northumberland. TD15 1BN
Telephone: 01289 302391



Mark Bibbey

Date: 10 June 2021

Please ask for: Gareth Davies

Email: town.clerk@berwick-tc.gov.uk

Dear Mr Bibbey

Thank you for your letter, and your email which followed it.

I should explain the basis on which I am replying, bearing in mind the fact that I have already signposted you to the Monitoring Officer if you wish to make complaints about a breach of the Code of Conduct by elected members.

As a holder of public office (as Town Clerk) I am bound by the Nolan Principles as much as an elected member; this point is made explicitly in the preamble to the seven principles. The seventh of the principles states that holders of public office 'should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.'

In addition, therefore, to referring your letter to the Monitoring Officer, I have looked at it critically to discern if there are any learning points for the council, or for myself and my staff to be taken from it. As you say in your last paragraph of your response to my initial email, you are not an expert in Town Council governance; I should perhaps explain that whilst the Monitoring Officer is responsible for the conduct of elected members in relation to the Code of Conduct, I bear responsibility for the discharge of our duties by myself and my staff. Whilst Monitoring Officers do, on occasion, intervene in cases where member behaviour is indicative of a deeper cultural or administrative problem at a local council, we do not routinely invite their guidance on administrative matters, even the administration of a planning committee, and they in turn respect our independence.

This point is at the heart of my point about the Director of Planning Services at Northumberland County Council; I would not expect them to make a judgement about how we reach our decisions and to decide, for the decision makers, how much weight to give our response to the statutory consultation on the basis of that judgement. I would certainly expect them to seek out our side of the story before intervening in any way, and if I thought they had done so without consulting it is a matter I would consider to be of the gravest significance.

In following the seventh Nolan Principle, I have to consider whether I should draw to the attention of the Monitoring Officer any of the behaviour you have complained of. I have also closely read your email and letter with regard to that area of my duties as well.

As well as reading your letter and email, I have reviewed the video recording of the meeting, and have, like you, looked at the minutes. As you say in your email response to me you believe the core of your complaint to be that the Town Council Planning Committee made 'superfluous or gratuitous' comments about your application which were missing from the consideration of a similar application on the same agenda.

I have therefore looked at both applications; yours and the one you have identified as being similar. I have also had the benefit of seeing the Heritage Design Statement prepared by an architect on behalf of the applicants on the other application after the Town Council had made its submission suggesting due weight should be given to the views of the Conservation Officer.

My view, having considered the points you made, is that, leaving aside the functional aspects (both applications involve making provision for charging electric vehicles) there is no merit in your claim that the two applications are in any way similar, since the other application involves widening an existing access, whilst yours involves substantial changes to the boundary walls and front garden of your property with consequent impact upon the highway and the built environment.

That being the case, I have to consider whether there is any evidence that there has been, as you claim, collusion. You have offered no substantive evidence for this, save that the committee explored a number of issues which it did not explore on another, quite different application (see above). I have taken your assertions, even though the only evidence is circumstantial and poorly made out, and considered whether there is a reason why members had so much knowledge of your application as compared to others – if not, then even without any material evidence, there might be grounds for your concerns. Having reviewed the planning history of your property, which is publicly available via the same system which members would use to do pre-meeting research about your application, I note that a similar application was made by you last year, and refused by the Planning Authority. All of the documentation relating to that application is available online.

My view is that, in the absence of any substantive evidence provided by you, the most likely reason why members would have been keenly informed about a number of issues previously raised about your application is that they had reviewed the planning history of your property, including the decision notice and officer report in relation to your previous application.

It will perhaps help if I make a final, general point about how we respond to statutory consultations about planning applications. We are keenly aware of a general duty to enable development where it is lawful and desirable to do so. We therefore seek, if there are concerns about an application, to ask the Planning Authority to grant permission with conditions wherever possible. Where the committee has concerns, we seek to encourage it to defer to the expertise of the professional officers (e.g. the Conservation Officer) and ask the decision maker to give due weight to the opinion of those officers when they come to judge an application in the round. We do not seek, unless a matter is overwhelmingly obvious, to ask the decision maker(s) to ignore professional advice with which councillors might disagree.

I find that your objection to 'superfluous' comments being made by the committee seeking to encourage the decision maker(s) to consider the advice of specific

professional officers is understandable, but does not reflect good practice, and that in your case, that practice was congruent with how the committee routinely conducts itself.

I understand that you may be disappointed with this response but in the absence of more tangible evidence than you have offered, I do not believe there is any further action I am required to take either with regard to the conduct of elected members or the handling of the matter by the council's staff.

I will report this correspondence to committee on 14 June; if you have any complaint about how I have handled this matter you should email the Mayor via assistant@berwick-tc.gov.uk

Regards

Gareth Davies LI.B MIPM MAC
Town Clerk