

Copeland Borough Council

Audit and Governance Standards Sub-Committee – 18th April 2019

Notice of decision in to a complaint concerning Copeland Borough Councillor William Kirkbride

1. Decision on whether the hearing should be in private and anonymity

1.1 The Sub-Committee agreed that members of the press and public should be excluded from the hearing under paragraph 1 of part 1 of schedule 12A of the Local Government Act 1972. This was on the basis that the hearing will be considering information relating to an individual and that, in this case, it would not be in the public interest to consider such information in public.


1.2 It was noted that no application for anonymity had been made.

2. Attendances

2.1 The following persons were present at the hearing:

Members of the Sub-Committee: Councillor Alistair Norwood (Chair);
Councillor Gwyneth Everett;
Councillor Graham Sunderland; and
Councillor Gillian Troughton.

Independent Person: Anthony Payne.

Complainants: 
Six residents from Harras Moor, two of which attended the hearing.

Monitoring Officer: Sarah Pemberton.

Legal Officers: Clinton Boyce and Michaela Peet.

Clerk to the Sub-Committee: Clive Willoughby.

2.2 The Member, Councillor William Kirkbride, did not attend the hearing. He had given prior notice that he would not be attending and was then invited to make written submissions to the Sub-Committee. He had failed to do so and the Sub-Committee agreed that the matter should be heard in his absence, it not being in the public interest to defer the matter any longer.

3. Preliminary issues

3.1 In accordance with paragraph 10 of the procedure adopted by Council on the 11th September 2018 for dealing with complaints the Sub-Committee made the following initial decisions:

3.1.1 That the complaint could be adequately summarised as follows:

“That Councillor William Kirkbride, following a meeting of the Copeland Borough Council Planning Panel, held on the 4th July 2018, of which he was a member in attendance, made posts on the Harbour Ward Facebook page which gave the impression that he had pre-determined the decision he had participated in and/or such posts were otherwise inappropriate for a member who had sat on the Planning Panel”.

3.1.2 That the evidence comprised solely of a copy of the posts made on Facebook and other than hearing from the Complainants that no further evidence is likely to be required.

3.1.3 That it was not necessary to appoint an external investigator.

3.1.4 That the complaint could be considered today and that no adjournment was required.

3.2 The Sub-Committee then considered whether Councillor Kirkbride was acting in the capacity of a member at the time of alleged act and whether the code of conduct applied to him. In considering the Facebook posts it was clear that he was writing as a councillor. References to ‘the appeal took it out of our hands’ showed a connection to the councillor being part of the Council. The Facebook page was the Harbour Ward Facebook page which was used by members. The other persons making posts appeared to understand that Councillor Kirkbride was a councillor and who sat on the Planning Panel. As a serving member in office the code of conduct applied to him.

3.3 The Complainants indicated that they did not wish the matter to be adjourned.

3.4 The Sub-Committee agreed that the hearing should proceed.

4 Hearing

4.1 The Sub-Committee considered the dialogue of posts made on Facebook particularly those made by Councillor Kirkbride. The complaint related to the determination of planning application 4/17/2256/001, land to the south of Elizabeth Crescent, Whitehaven.

4.2 The Complainants presented their case stating that the posts clearly showed that Councillor Kirkbride had pre-determined the matter and should not have participated in

the decision. The Sub-Committee questioned this. To establish pre-determination would require evidence of a view being taken prior to the hearing and then showing a closed mind during the hearing. It was arguable that the posts did not show this.

4.3 The posts made by Councillor Kirkbride were as follows:

“Not according to CBC”.

“[], the qualified folk within the Planning Dept. supported the project”.

“Be very clear the issue was favoured by CBC and that is what the appeal will be based upon”.

“The appeal took it out of our hands”.

“He seemed keen to go on to the next stage”.

The Professionals at CBC and County both approved the development”.

“[], using the same access the development was approved”.

“Not my expects the Authorities and County. They both signed off the development”.

4.4 The Complainants submitted that it was inappropriate for a member of the Planning Panel to be acting in such a manner. They stated that Councillor Kirkbride did not speak once during the Panel’s hearing nor did he explain his reasons for voting yet he is conducting business on Facebook which relates to the safety of 86 people’s homes. They stated that Councillor Kirkbride’s discussion of “common sense” appears to be discourteous to the residents’ beliefs and mocked a representation made to the Panel by a speaker. They believed that conducting Council business like this on Facebook did not demonstrate a high standard of conduct and brought the Council’s planning process into disrepute.

5 Decision

5.1 The Sub-Committee decided that there was no evidence that Councillor Kirkbride had pre-determined the matter. The posts did not show any pre-determination. To show pre-determination by a member it would have to be shown that he or she had done more than given a prior indication of any view he or she held about the planning application (section 35 of the Localism Act 2011) and that he or she had approached the decision making with a closed mind. None of this was apparent from the evidence presented.

- 5.2 However the Sub-Committee considered that it was totally inappropriate for a member of a regulatory committee on which he had sat on earlier in the day, to then be discussing the decision on Facebook. This showed indiscretion by the member. Whilst it might not have jeopardised the decision itself (because the hearing had been held in public) it was considered unprofessional. The Sub-Committee felt that Councillor Kirkbride had, on this aspect of the complaint, brought his office as a member of the Planning Panel into disrepute and that he had failed to promote high standards of conduct when serving in office.
- 5.3 The Sub-Committee having found a breach then determined that it was in the public interest to proceed with the matter. None of the reasons set out in paragraph 11(i) of the adopted procedure applied.
- 5.4 The Sub-Committee determined that (a) Councillor William Kirkbride should be censored; and (b) that his Group Leader should be requested to recommend to Council that he be removed from the Planning Panel.

Signed:



Sarah Pemberton, Monitoring Officer, Copeland Borough Council.

Date: 29th April 2019.

Note

There is no internal appeal against this decision. A right of appeal may lie for judicial review of the decision to the High Court or to the Local Government Ombudsman in respect of maladministration.