

INITIAL ASSESSMENT OF COMPLAINT
DECISION NOTICE

Subject Member: Cllr David Connor – Cambridgeshire County Council

1. Background

- 1.1 On 15 February 2018 the Monitoring Officer received a formal complaint from Mr James Tribe, (“the Complainant”), which was subsequently clarified, which alleged that Cllr David Connor (“the Subject Member”) had taken a photograph of his company’s business premises (‘the Site’), held a telephone conversation with the Complainant in which the Subject Member made inappropriate comments and chaired subsequent planning committee meetings when the Site was discussed and he failed to disclose any interest.

2. Evidence Considered

- 2.1 The following documents and information were considered for the purposes of this complaint:
- 2.1.1 Original complaint letter dated 7 February 2018 from the Complainant to Ms Pledger of Cambridgeshire County Council which amongst other things includes the complaint against the Subject Member;
- 2.1.2 Email dated 22 May 2018 from the Complainant to Stephen Rix (Initial Assessment Officer) clarifying and expanding on his complaint;
- 2.1.3 Subject Member’s response;
- 2.1.4 Members Code of Conduct (at page 1 of the Council’s Code and Protocols);
- 2.1.5 Various Council Enforcement Update Reports and Minutes.

3. Jurisdiction

- 3.1 For a complaint to be considered in connection with the Member’s Code of Conduct, the following test must be satisfied:

- a) the complaint was made against a person who, at the time the alleged action took place, was a member of Cambridgeshire County Council; and
- b) the Subject Member had signed up to the Members’ Code of Conduct in force at the time the alleged action took place; and
- c) the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority.

- 3.2 The Deputy Monitoring Officer and the Independent Person has concluded all three limbs of this test are satisfied in this matter.

4. Initial Assessment Decision

4.1 The Independent Person and Deputy Monitoring Officer have considered whether the actions of the Subject Member summarised in paragraph 1.1 above constitute a breach of the following provisions of the Members' Code of Conduct:

4.1.1. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute (paragraph 2.2(e));

4.1.2 You must not use or attempt to use your position as a member to confer on, or secure for yourself or any other person, an advantage or disadvantage (paragraph 4.1).

4.2 With regard to the Subject Member's visit to the Site and taking a photograph, the Council does not have a separate code of conduct for planning committee members so the Deputy Monitoring Officer considered the Local Government Association/Planning Advisory Service guidance on "Probity in Planning - for councillors and officers", which normally forms the basis for such codes, which states: "Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial." The Subject Member stated in his response that he stopped on the public highway and was not on private property at any time. The Deputy Monitoring Officer considers the Subject Member has not breached any protocol or law in respect of the Site visit.

4.3 In respect of the Subject Member chairing subsequent planning committee meetings when the Site was discussed and not disclosing any interest, the Independent Person considers the Subject Member had no interest to declare. The Code of Conduct contains sections on Disclosable Pecuniary Interests (DPI) and Non Statutory Disclosable Interests and does not contain a section on other personal interests. Any interest the Subject Member had in the Site is not a DPI and does not fall within the definition of a Non Statutory Disclosable Interest as defined at paragraph 10. However, members are legally obliged not to predetermine or be biased in their decision making. As no decisions were made in respect of the planning enforcement update reports the Independent Person considers the Subject Member's participation in the committee when the enforcement update reports were presented is not capable of being a breach of the code of conduct.

4.4. In respect of the alleged comments made by the Subject Member, the Independent Person's view is that there is a potential breach of the Code. The Deputy Monitoring Officer and Independent Person were unclear from the Subject Member's response, whether the Subject Member refuted them completely or just the terminology used. However, the Independent Person considered it would be very difficult to prove the alleged comments were made.

4.5 In summary, the Independent Person's view is that there is a potential breach of the Code in relation to the alleged comments made, but insufficient evidence to support them. The Independent Person noted the Subject Member's decision, as contained in his response, that he would recuse himself from any future vote on the matter, as appropriate.

4.6 The Independent Person advised that this matter therefore should not proceed.

4.7 The Deputy Monitoring Officer concurs and has decided that no further action should be taken.

Approved by: Gill Holmes (Independent Person)
Fiona McMillan (Deputy Monitoring Officer)

Dated: 14 August 2018