



**MINUTES of
JOINT STANDARDS COMMITTEE
16 JUNE 2022**

PRESENT

Chairman	Councillor Mrs J L Fleming, CC
Vice-Chairman	Councillor S P Nunn
Councillors	Miss A M Beale, M W Helm, E L Stephens and Mrs M E Thompson
Independent Person (non-voting)	Mr J Mitchell
In attendance	Councillors A S Fluker and W Stamp

113. CHAIRMAN'S NOTICES

The Chairman welcomed everyone present and went through some general housekeeping arrangements for the meeting.

The Chairman also thanked former Chairman, Councillor M G Bassenger for all his work over the past year.

114. APOLOGIES FOR ABSENCE AND SUBSTITUTION NOTICE

Apologies for absence were received from Councillors M G Bassenger and C Mayes and Town Councillor M R Pearlman.

In accordance with notice duly given Councillor C Swain was attending as a substitute for Councillor Mayes.

115. MINUTES OF THE LAST MEETING

RESOLVED by assent that the Minutes of the Joint Standards Committee meeting held on 8 February 2022 be approved and confirmed.

116. DISCLOSURE OF INTEREST

The Chairman noted that most Members of the Committee had sat on the District Planning or South Eastern Area Planning Committees when they had considered the planning application the subject of the motion at Agenda Item 5.

Councillor M W Helm advised that he had some paperwork in relation to the planning application but clarified that he had not been pre-determined.

117. MOTION OF COUNCILLOR A S FLUKER REGARDING PLANNING DECISION ON LAND SOUTH OF CHARWOOD AND EAST OF ORCHARD, STONEY HILLS, BURNHAM-ON-CROUCH

The Committee received a Motion (as set out below) from Councillor A S Fluker, which in accordance with Procedure Rule 4 had been referred to this Committee by the Council at its meeting on 12 May 2022.

Motion:

With regards to openness, transparency, and public interest the Council writes to the Planning Inspector appointed by the Secretary of State, Mr Terrence Kemmann-Lane JP DipTP FRTPI MCMI, asking him to evidence his findings of 'substantive' 'unreasonable behaviour' and pre-determination by 'elected members', and that the Council appoints an Independent Person to conduct a review of the decision notice and report their findings to Council."

Consideration was also given to a report of the Monitoring Officer providing detail to assist the Committee make a recommendation to the Council on any action that should be taken in response to the motion submitted by Councillor A S Fluker.

It was noted that the Planning application referred to by Councillor Fluker in his preamble to the Motion had been considered by the South Eastern Area Planning Committee (17 February 2021) and then due to the possibility of legal challenge re-determined by the District Planning Committee on 9 June 2021. The Minutes of the District Planning Committee were attached as Appendix 1 to the report. Following the re-determination, a written representations appeal took place and a copy of the Inspectors decision, granting the application was attached at Appendix 2 to the report. The costs decision, in which full costs of the applicant was awarded was attached as Appendix 3.

In response to a question, the Monitoring Officer clarified that this Motion had been referred from the Council without debate. The role of the Committee was to make a recommendation to the Council and once that had been done the recommendation would be debated by the Council.

The Monitoring Officer took Members through his report and the two appendices, providing an assessment of the decision letter from the Planning Inspectorate (appended to the report). He explained how the Motion referred to pre-determination and informed Members he felt it was clear that the Planning Inspector was only making his decision on unreasonable conduct and not pre-determination. Therefore, Members were advised that they should only be looking at the issue of unreasonable conduct. At this point the Monitoring Officer went through the options available to the Committee and as set out in the report.

Councillor Fluker disagreed with the view of the Monitoring Officer regarding pre-determination, highlighting how the Planning Inspector had referred to this statement in his decision notice. He referred to a number of documents which he had obtained and advised that he was happy to share them with the Committee. Councillor Fluker went through the information contained and appended to the report presenting his views and also referred to the content of the other documents he had obtained.

Councillor Fluker proposed that the Committee agree recommendation (ii) as set out in the report on the grounds that recommendation (i) was insular to the application only, due to public interest, openness and transparency and the furtherance of building better officer and public confidence in Member decision making at planning Committees and to prevent allegations of propriety recommendations (iii) and (iv) are discounted.

The Lead Legal Specialist and Monitoring Officer advised he had not seen the documents referred to by Councillor Fluker. He reminded Members that the Committee was considering whether an investigation should be carried out and, in his view, to do this just the inspector's decision was required. He then posed a number of questions to the Committee for them to consider as part of their deliberations.

The Chairman referred to Mr Mitchell the Independent Person for his view on this matter. Mr Mitchell advised he had reviewed all the documents in relation to this report and those submitted with the appeal. He agreed with the Lead Legal Specialist and Monitoring Officer that the Inspector had not taken into account pre-determination in making his costs award and was limited to the Council's unreasonable behaviour regarding the reasons for refusal. Mr Mitchell referred to the evidence submitted to the Inspector by the Council and how, in his view, the evidence did not support the Council's decision of refusal which he noted was contrary to the recommendation of Officers. In light of the Council's decision the Officer's report with the recommendation of approval and evidence of plans had not been supplied to the Inspector. In conclusion, Mr Mitchell advised that he felt that the inspector had the benefit of only one side of the argument and therefore his decision was perfectly reasonable in light of the evidence available.

Councillor M W Helm agreed with the comments of Councillor Fluker and proposed that the Committee agree recommendation (ii) as set out in the report.

At this point and in response to a question raised regarding the benefit of an external investigation and following advice from the Lead Legal Specialist and Monitoring Officer, Members discussed this point.

Councillor C Swain presented his views to the Committee concluding that the recommendation (iii) should be agreed, and that the Council did not need an external investigation of planning procedures but the notion that whilst Member could represent local attitudes and made sure local feelings were represented they had to be guided by planning law. Councillor Mrs M E Thompson advised she was happy to second this if Councillor Swain was making a proposal.

Following some discussion, Councillor Helm withdrew his proposal and proposed that the matter be referred to the Overview and Scrutiny Committee for investigation along with all relevant paperwork. This proposal was not seconded.

In response to a question from the Chairman, Councillor Fluker proceeded to advise the Committee of where the documents he had referred to were from. He understood that these documents were in the public domain.

Further to query from the Chairman, Councillor Swain clarified that he was proposing that recommendation (iii) as set out in the report be agreed. Councillor Mrs Thompson withdrew her seconding of this proposal. The Chairman clarified that there was no seconder to the proposal from Councillor Swain.

Councillor Mrs Thompson proposed that the matter be referred to the Overview and Scrutiny Committee. This proposal was duly seconded.

In response to a question, it was clarified that Councillor Mrs Thompson was proposing that the Council rejected the call for an external investigation but accepted the findings of the Inspector and that an internal investigation take place and be referred to the Overview and Scrutiny Committee.

Councillor Swain proposed that the Motion in the name of Councillor Mrs Thompson be further amended adding in 'more evidence-based decision making in planning'

following the words internal investigation. Following a discussion this amendment was not agreed.

At this point all Motions were withdrawn by the respective Members.

Councillor Mrs Thompson proposed that the Council accept recommendation (iii) with the addition that the matter of planning decision making be referred to the Overview and Scrutiny Committee and / or the Performance, Governance and Audit Committee. This proposal was duly seconded and upon a vote being taken agreed.

Councillors S P Nunn and E L Stephens asked that it be noted they had abstained from voting as they were not in agreement with the wording of the recommendation.

RECOMMENDED that the Council rejects the call for an external investigation but accepts the findings of the Inspector, that the Council emphasises the need for more objective and evidence based decision-making in the future and that the matter of planning decision making be referred to the Overview and Scrutiny and / or Performance, Governance and Audit Committees.

There being no other business the Chairman closed the meeting at 3.07 pm.

MRS J L FLEMING, CC
CHAIRMAN