

[1] In paragraph's 13 to 23 you reach the view that I had an Ordinary Interest in planning application P/2017/00555

For me to have a personal interest in the P/2017/00555 planning matter, the reasonable person looking at this case would have to agree on the balance of probabilities that a decision made in relation to P/2017/00555 planning matter by ESBC would affect the wellbeing or financial position of the inhabitants of 20 Stafford Road to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward for which the Councillor has been elected.

How do the inhabitants of 20 Stafford Road stand to lose or gain either financially or how does it affect their wellbeing? This is surely the first test before considering whether inhabitants of 20 Stafford Road are at an advantage over the majority of other council tax payers, ratepayers or inhabitants of the electoral ward for which the Councillor has been elected.

As I stated in my interview, the location of 20 Stafford Road is not a material planning consideration. Both properties are entirely obscured by a row of houses and while I accept that the traffic generated by P/2017/00555 is likely to travel via Stafford Road, the junction with Stafford Road is highly unlikely to cause significant congestion such that could affect the wellbeing or financial standing of the inhabitants of 20 Stafford Road. This is backed up by the fact that there are no alterations planned to the junction with Stafford Road as a result of this application and further to this the planning officer states in the report "there will be no significant negative impact on the road network or highway safety arising from the proposal."

I do not believe the reasonable person would conclude that P/2017/00555 would affect the well-being or financial position of the inhabitants of 20 Stafford Road. Inhabitants of 20 Stafford Road do not stand to lose or gain financially from such decisions relating to P/2017/00555, nor do these decisions affect their wellbeing. I don't believe the inhabitants of 20 Stafford Road stand to lose or gain more or less than the average Uttoxeter resident.

The fact is that there are many other residents living closer to the application that will be affected far greater than those of 20 Stafford Road.

I therefore contest your finding that I have failed to declare this ordinary interest because inhabitants of 20 Stafford Road could not benefit from my position any more than any other resident that lives closer to the application and also that there is no factual indication that there would be a benefit, either negative or positive to them.

[2] Paragraph 17 and sub note 1.

"The Councillor suggested to me during interview that the Planning Code might only apply to members of the planning committee."

This suggestion was made in the interview but not as a result of the conversation around P/2017/00555 and the complaint that has been received. I would not have suggested that the Planning code did not apply in this case when in fact the whole complaint stems from my position as a planning committee member. It would be unnecessary therefore to include this as part of the final report.

[3] Paragraph 25

For further background information Cllr Mrs Lynne Shelton did have input on the publishing of the leaflet and also helped financially with the leaflet.

[4] Paragraph 28

Point of clarity I was not present at the Town council meeting where the Hazelwalls application was considered and town council voted to reject the application. Council minutes will show this evidence.

[5] Paragraph 32

I have asked David Lynch and Cedric Bygrave to comment on this paragraph in the absence of notes or a record. I will send you their response.

[6] In Paragraph 33 you state “In my view he probably did attend each such meeting.”

The question was how many meetings did I attend. My answer was about five and that I had no idea if there were anymore. It was not “he could not recall whether he went to every HIG meeting he was invited to”

My main concern with the above statement is that you seem to have taken a view from my remarks around this question that I attended every meeting that HIG organised. I have concern with this because my account was that I attended about five and that I had no idea if there were any more or not, so I fail to see how anyone could form a view that I attended every meeting that was organised without also knowing how many meetings there actually were.

[7] In Paragraph 33 you state “The meetings were called at every stage when something significant in the planning process had occurred.”

I do not recollect this being discussed in my interview so I am unsure of how you can state this. In the absence of a detailed timeline it would be impossible to make this statement. My personal account of when meetings were called and why, would be to update the group on where the application was.

[8] Paragraph 34

Since our interview I have learned that no meetings prior to or after the 3rd of February 2017 were 'private'. The meeting held in the supermarket was a community room where all meetings are detailed on a 14 day rota system on a notice board within the supermarket itself. Also I believe it was not an issue if any members of the public wished to attend any meetings on an ad-hoc basis.

[9] Paragraph 35 "The Councillor was of the view that officers would have known from about July 2017 that he was attending HIG meetings, but he did not give me better particulars of precisely which officers he contended would have known and from when."

This statement is not correct.

Firstly I was aware that officers knew about the very first meeting in February 2017. I knew this because Cllr Gregg Hall informed officers of his attendance prior to the meeting. Secondly I was aware of the contact which Cllr Sue McGarry had had with Mrs Emily Christie and that Cllr McGarry had arranged and met with Mrs Christie on site. Thirdly, I myself attended a meeting with Cllr Sue McGarry and Cllr Mrs Jacqui Jones (standards committee member and cabinet member for planning policy) about the concerns we had with the planning committee meeting in July 2017 and the blatant lack of pertinent information with regards to the application site that had been left out of the planning report. At this meeting Cllr Mrs Jacqui Jones said she would have a conversation with Mr Andy O'Brien (Chief Executive to the Council) about our concerns.

Fourthly, I also had a meeting with Mrs Emily Christie, Mrs Anna Miller (Planning manager), Cllr Mrs Jacqui Jones, Mr Sal Khan (Head of Service) and Mr Andy O'Brien to discuss our concerns again. This meeting was arranged by Cllr Mrs Jacqui Jones.

I do not accept that officers did not know about the contact which I had with HIG.

[10] Paragraph 36 "The Councillor was of the view he was only aware of Leaflet 1 before that date."

This view of mine was more of a matter of fact and I distinctly remember stating that I had no idea another leaflet was being produced by the group.

[11] Paragraph 39 "Draft versions of the leaflets were supplied to the Councillor for his comment."

Draft versions of only one leaflet were supplied to me. I had no idea that another leaflet was being prepared.

[12] Paragraph 42 “At the committee meeting of 18 July 2018 the Councillor spoke as a ward member”

No planning meeting took place on this date and I never spoke on this application in 2018.

[13] Paragraph 44 and other previous paragraphs relating to Ordinary Interest’s and paragraph 45.

20 Stafford Road

For me to have an ordinary interest in the so called Hazellwalls planning matter with regards to my family, the reasonable person looking at this case would have to agree that a decision made in relation to the Hazellwalls planning matter by ESBC would affect the wellbeing or financial position of the inhabitants of 20 Stafford Road to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward for which the Councillor has been elected.

Given the scale of the application, evidenced by the infrastructure changes and significant S106 contributions, is it clear that the application affects far more residents than just those that live at 20 Stafford Road. Indeed there are far more residents that will be affected both positively and negatively such as those penning these complaints as well as those that live closer to the application.

The reasonable person could not therefore conclude that residents living at 20 Stafford Road are at an advantage over other residents.

HIG

In order to have a personal interest in the Hazelwalls planning matter, the reasonable person looking at this case would have to agree on the balance of probabilities that a decision made in relation to the Hazelwalls planning matter by ESBC would affect HIG’s wellbeing or financial position to a greater extent than the majority of Uttoxeter residents.

HIG does not stand to lose or gain financially from such decisions about Hazelwalls, nor do these decisions affect its wellbeing. If you are referring to the people in the HIG group, I don’t believe these people stand to lose or gain more or less than the average Uttoxeter resident. The fact is that the loss of property value and reduction in well-being, if any, would be proportionate to

how close you live to the development, rather than whether you are a member of the HIG.

Before this test is applied surely the first test is whether or not I have close association with HIG.

As has been established I initially attended a meeting organised by the HIG group as part of my role as a local councillor, at the request of Cllr Sue McGarry, to advise them on what to expect moving towards the committee meeting in July 2017. The first meeting which I attended was on 3rd February 2017, after this date I did not attend another HIG meeting until after the committee meeting on 18th July 2017, nor did I have any significant contact with the group that would suggest or imply a close association. Indeed officers at ESBC were made aware of the meeting prior to it taking place on the 3rd February 2017, although I admit I did not realise that all councillors are required to notify officers of their attendance at such meetings.

Going back to Paragraph 17 and note 1, I believe this was the moment at which I suggested to you that “the Planning Code might only apply to members of the planning committee” and I said that because you suggested that at the planning committee meeting on the 18th July 2017, where I attended as a ward councillor, I should have declared my involvement with HIG as an interest. My view was that I didn’t need to declare my involvement with HIG at that meeting because I was not in a decision making capacity but that was only in response to your assertion that the planning code applies to all members involved in the planning process, not just those of the committee.

The start point for me was that I had no personal interest to declare with regards to HIG because at that point, certainly, there was no close association.

I will personally contest an allegation of close association that should lead to a declaration of ordinary interest with HIG at any point since February 2017, but it should be abundantly clear to the reasonable person that between February 2017 and July 2017 there was certainly absolutely nothing to suggest I had an ordinary interest to declare other than a first meeting with the group which was reported to officers, albeit not by me.

The obvious indication that there was nothing to declare at the planning meeting in July 2017 was the fact that Cllr Gregg Hall, a planning committee member, did not declare his involvement with HIG either even though officers were aware of his involvement with the HIG meeting of February 2017. At no point through the proceedings on 18th July 2017 did the officers make the committee aware of this HIG meeting which took place in February 2017. Therefore officers must not have thought it necessary to register this contact which Cllr Gregg Hall, Cllr Sue McGarry, Cllr Phil Hudson and I all share.

It would be unfair to assert on the one hand that I have failed to disclose this contact which I had with HIG in February 2017 and then on the other hand to

say that it was not necessary for Cllr Gregg Hall to disclose his contact with HIG and to accept it was not necessary for the officers to register this contact when commencing proceedings at committee.

I am unclear at what point you would expect me to have declared an interest. The meeting in February 2017 was disclosed to officers and that was the only meeting that took place until after the planning committee meeting in July 2017, surely that one meeting does not amount to a close association which I should have disclosed and then withdrawn for?

[14] Paragraph 48

The wording used in this paragraph suggests that this part of the code is best practice guidance only. If, in July 2017 I did not have a close enough association with HIG such that I should declare an interest, why would it be necessary decline a meeting with residents who are legitimately seeking answers?

As long as it does not put the planning process in jeopardy, these meetings are allowed, which is why they are guidance. It is reasonable from an objective member of the public's point of view that local Councillors should be able to meet with local residents opposing a development without the Council being involved from the outset, which is likely how this meeting would end up.

On discussions since my interview with members of HIG it has become apparent that the meeting on the 3rd of February 2017 was not a 'Private Meeting'. This meeting was publicised over a 14 day period on a notice board within the Supermarket to all members of the public who were also allowed to join the meeting if they so wished.

[15] Paragraph 49

I never arranged any meetings with HIG. The group themselves arranged all meetings and where appropriate invited me. I have been informed since our interview that meetings had previously been called with Health, Education and other Council agencies prior to the 3rd of February 2017.

Requests were also made by HIG to Jeff Upton (temporary planning manager) for a meeting to be arranged with the planning team, HIG and the developers which was declined. Meetings were also suggested to members of the HIG via Mr Sal Khan after the meeting mentioned above on the 13th of February 2018 which also did not come to fruition.

[16] Paragraph 50

“Paragraph 6.3 requires councillors to report to Sal Khan or the Planning Manager any significant contact with parties interested in a planning application, explaining the nature and purpose of the contacts and their involvement with them, so that it can be properly recorded. The Councillor has not disclosed any notes made at these meetings. It does not appear that she considered the application of paragraph 6.3.3 of the code.”

This is not accurate.

Part 5E

6.3 Councillors should:

6.3.1 follow the rules on lobbying;

6.3.2 consider whether or not it would be prudent in the circumstances to make notes when contacted; and

6.3.3 report to Sal Khan or the Planning Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and their involvement in them, and ensure that this is recorded on the planning file.

6.3.3 does not firmly state that in all cases it must be followed, it certainly does not state firmly enough to use the word “require” as you have.

6.3.3 relates to contact with applicants or other parties.

No part of 6.3 explicitly rules out contact with groups of objectors or residents. If the intension of the code was to make clear that councillors should report to Sal Khan or the Planning Manager any significant contact with residents or groups of objectors, it would state exactly that as is the case in 6.2.

[17] Paragraph 51

7.2 is only relevant when that councillor is in a position which requires them to make a decision. *“taking account of the need to make decisions impartially”*

7.4 what lobbying correspondence have I not passed on?

8.1 whilst my contact details are on leaflet one, I still do not believe this automatically means I am leading or representing HIG. 8.1 does not categorically rule out a councillor leading or representing an organisation. If a councillor leads or represents an organisation whose primary purpose is to lobby to promote or oppose planning proposals then that councillor will have fettered their discretion and would have declare a Private Interest.

At what point you would have expected me to have declared an interest? The leaflet was delivered in April 2018, nine months after the planning committee meeting in July 2017.

[18] Paragraph 52 states that there is evidence of failure to comply with paragraphs 4.2.1, 5.7, 6.2, 6.3.2 and 6.3.3, 7.2, 7.4 and 8.1 of the Planning Code.

Please provide your reasoning for making this statement.

4.2.1,

It is unclear which part of this in your view I have not complied with or even that it is relevant.

I was not a member of the planning committee which is why I believe part 5E only applies to members of the committee.

5.7

It is unclear which part of this paragraph in your view I have not complied with.

5.7.1 Cllr Ed Barker and Mr John Kirkham (proper officer) were advised by Cllr McGarry that she wished to speak as a ward member. Cllr Ed Barker asked me if I intended to speak, to which I replied that I'm not a ward member. I only went to support Cllr McGarry. After a short discussion involving Mr John Kirkham the advice was that if Cllr Barker, as the chair of the committee, wished to allow me to speak then he would allow that.

5.7.2 and 5.7.3 both refer to the councillor as a member of the committee, which is why I believe part 5E only applies to members of the committee.

7.2

It is unclear which part of this in your view I have not complied with or even that it is relevant. I was never in a decision making capacity.

[19] Paragraph 53

7.2 is only relevant when that councillor is in a position which requires them to make a decision. *"taking account of the need to make decisions impartially"*

8.1 whilst my contact details are on leaflet one, I still do not believe this automatically means I am leading or representing HIG. 8.1 does not categorically rule out a councillor leading or representing an organisation. If a councillor leads or represents an organisation whose primary purpose is to lobby to promote or oppose planning proposals then that councillor will have fettered their discretion and would have declare a Private Interest.

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[20] Paragraph 54

“revenue (or income)” income is not mentioned on the leaflet which my name is on. The statement is factual and an unfortunate truth.

If telling the truth brings the council into disrepute, whose fault is that in the first instance?

[21] Paragraph 56

1. Councillors should act solely in terms of the public interest.

What advantage was conferred to HIG by attending meetings with objectors and putting my contact details on a leaflet?

What disadvantage was conferred on the complainants?

Surely it is fair to explain what advantage or disadvantage has been conferred.

3. Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

What occasion required me to make a decision as a councillor?

My opposition to the planning application is because it is against the local and neighbourhood plan not based on the arguments put forward by one group. My comments against the application were based on policy.

5. Councillors should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Again, what occasion required me to make a decision as a councillor? What information did I withhold?

I did not speak at any council meeting after the leaflets were published. I attended a meeting in February 2017 which was disclosed. I also attended meetings with other senior officers at ESBC and cabinet members of the council all of which knew about my contact with HIG. Therefore please show where I have not been open.