

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

16 February 2016

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Matters For decision

1 RECOMMENDATION TO COUNCIL FOLLOWING HEARING OF JOINT STANDARDS COMMITTEE ON 4 JANUARY 2016 – CLLR MIKE TAYLOR

1.1 Introduction

1.1.1 On 4 January 2016 the Hearing Panel of the Joint Standards Committee met to determine an allegation that Councillor Mike Taylor had breached the Codes of Conduct of Borough Green Parish Council and Tonbridge & Malling Borough Council.

1.1.2 The complaint against Cllr Taylor arose from a letter dated 5 December 2014 that he wrote to the Planning Inspectorate in relation to an appeal against the refusal of a planning application for the construction of a residential extension at 13 Harrison Road, Borough Green.

1.2 In that letter, Cllr Taylor alleged that "...the size of extensions approved under TMBC Officer's delegated powers has steadily increased to what we believe to be excessive proportions." It was also alleged that objections to planning applications were "always ignored" by Officers, and that "because the sole objector [to the application in question] was previously a long serving Parish Councillor, and ex Chair and Vice Chair, a long serving ex member of T&MBC, and past Leader and Mayor, any reasonable person could draw the conclusion that undue influence had been brought to bear on the planning process, which could lead to the Planning Process itself being brought into disrepute." A copy of the letter is attached as **Annex 1**.

1.3 The Complainant, Mr Barry Hughes (who was the objector in question and referred to in Cllr Taylor's letter, although not by name) completed a complaint form, in which he alleged the offending behaviour to be "*an attempt to bring me, the Borough Council and the whole planning process into disrepute by innuendo and inference without any shred of evidence.*"

1.3.1 An independent external investigator (Richard Lingard) was appointed to carry out the investigation into the allegation, and his report is set out at **Annex 2**. The report concluded that Cllr Taylor had breached –

- (i) The obligation set out at paragraph 1 of the Borough Green Parish Council Code of Conduct, which requires members to

'behave in such a way that a reasonable person would regard as respectful.'

and

- (ii) The obligation set out at paragraph 3(2)(f) of the Tonbridge and Malling Borough Council Code of Conduct, namely

'You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute.'

- 1.3.2 The conclusions of the Independent Investigator were upheld by the Hearing Panel on 4 January 2016. The full reasons for the decision are contained in the Decision Notice which is annexed to this report as **Annex 3**.

1.4 Sanctions

- 1.4.1 Once the Panel have found that there has been a breach of the Code of Conduct the adopted arrangements for dealing with complaints require the Panel to hear representations from the Monitoring Officer ("MO") and the Independent Person ("IP") on whether there should be any sanctions and from the MO, IP and the Subject Member on what sanctions should be imposed. The representations made to the Panel have been recorded in paragraphs 2 and 4.1 to 4.3 of the Decision Notice.
- 1.4.2 Paragraph 4 of the Council's adopted arrangements for dealing with Hearings sets out the range of possible sanctions which the Panel can impose. The arrangements are attached at **Annex 4**. The Panel are not entitled to apply or recommend any other sanctions.
- 1.4.3 At the Hearing the Panel imposed the following sanctions:
- (a) In relation to the Borough Green Parish Council Code, the Panel's findings would be reported to the Parish Council. In addition, the Panel's findings would be published as follows
- publication on the TMBC website;
 - by email to all Borough Councillors and Borough Green Parish Councillors;
 - by email to the local press; and
 - by email to all Parish Clerks
- (b) In relation to the TMBC Code, the Panel recommended that the Borough Council issue a formal censure. In addition, the Panel resolved to send a formal letter to Councillor Taylor, the terms of which were to be finalised by the Panel in due course. The Panel's findings would also to be published in the same manner as set out above.

1.4.4 The proposed formal censure is a recommendation to Council as a result of the adopted arrangements which require certain decisions on sanctions to be ratified by Council. The other elements of the decision do not require approval by Council and have been implemented.

1.5 **Legal Implications**

1.5.1 The Panel have determined that there were breaches of the Borough Green Parish Council Code, and the Tonbridge & Malling Borough Council Code of Conduct by Councillor Taylor. There is no right of appeal against that decision.

1.5.2 Council are asked to consider only the proposed sanction relating to a formal censure. In doing so, Members should have regard to the reasoning of the Panel and determine whether the proposed sanction is fair and proportionate and in line with the adopted arrangements.

1.5.3 As Council will be confirming whether a formal censure should be issued to Councillor Taylor, it must also consider whether Councillor Taylor's right to freedom of expression, enshrined in Article 10 of the European Convention on Human Rights, will be interfered with. The representations of the Deputy Monitoring Officer to the Hearing Panel (which are attached to the decision notice) on this point are sound legal advice for Council to consider and the reasoning of the Panel on this point is at paragraph 4.5 of the Decision Notice.

1.6 **Financial and Value for Money Considerations**

1.6.1 The investigation in to this matter was carried out by an external investigator, whose services cost £2056.25.

1.7 **Recommendation**

1.7.1 Council are requested to consider the recommendation of the Hearing Panel at paragraph 1.4.3.(b) above, and determine whether a formal censure should be issued to Cllr Taylor.

Background papers:

contact: Adrian Stanfield

Nil

Adrian Stanfield

Director of Central Services and Monitoring Officer