

Runnymede Borough CouncilCorporate Management CommitteeWednesday, 15 March 2023 at 7.30 pm

Members of the Committee present: Councillors T Gracey (Chairman), C Howorth (Vice-Chair), M Cressey, L Gillham, J Gracey, M Heath, N King, R King, M Nuti, D Whyte, M Willingale and S Jenkins (In place of I Mullens).

In attendance: Councillors T Burton, E Gill, A King, N Prescott, S Whyte, J Wilson and S Williams.

1 **Apologies for Absence**

There were no apologies for absence.

2 **Declarations of Interest**

There were no declarations of interest.

Councillor Howorth stated that he had sought advice from the Monitoring Officer regarding the fact that he had declared an interest in planning application relating to the Fairmont Hotel in the past and had withdrawn from the Chamber when such applications had been dealt with. Councillor Howorth was advised that the item concerning the complaint was not considering a planning application relating to those premises or the conduct of the owner of those premises but the conduct of the Council and its officers. On that basis Councillor Howorth could remain and participate in the item if he wished.

3 **Handling of planning applications: Response to complaint by Cllr Berardi and residents**

The Council's Monitoring Officer introduced the item.

It was noted that the complaint made by Councillor Berardi and residents alleged that there had been maladministration on the part of the Council in its capacity as local planning authority and misconduct in public office by certain postholders. The allegation of misconduct in public office was a particularly serious allegation because it could result in the commencement of criminal proceedings.

Due to the serious nature of the allegations, an independent investigation had been carried out by an experienced town and country planner. As the allegations were particularly serious, the investigation process had been carried out without delay. There was also a need to be mindful of the impact on the officers concerned, as well as the impending pre-election period which necessitated additional care over the Council's public activities.

It was stated that both the report of the Monitoring Officer and the independent investigator had concluded that there was no credible evidence of maladministration, nor was there evidence of misconduct in public office.

The Committee debated the findings of the Monitoring Officer and independent investigator.

Councillor Jenkins, on behalf of Councillor Berardi, expressed dissatisfaction at the fact that a date for the extraordinary meeting had been selected for a point at which Councillor Berardi was out of the country. It was however noted that the date of the meeting had been fixed before Councillor Berardi had notified officers of his unavailability.

Councillor Jenkins stated that whilst he felt there was evidence of maladministration, he did not support the assertion of there being evidence of misconduct in public office.

It was, on this basis, that Councillor Jenkins suggested the absence of documents on the Council's website, or not publicly documenting the unpermitted works currently being undertaken by the applicant, was evidence of maladministration. The failure of the applicant to adhere to the plans that had been approved by the Planning Committee was cited as a further example of maladministration. Councillor Jenkins therefore called for planning applications affecting the site to be suspended until the enforcement process had concluded.

In response to Councillor Jenkins' remarks, it was clarified that the failure to adhere to approved plans was an enforcement matter, and not evidence of maladministration on the part of the Council. It was also confirmed that it was not legally permissible to suspend the processing of planning applications. Additionally, it was noted that whilst matters of enforcement had featured in the complaint that was submitted by Councillor Berardi and residents there was no evidence to support a claim that there had been maladministration or misconduct in public office in relation to those matters.

A majority of the committee supported the findings within the reports of the Monitoring Officer and independent investigator. The Committee drew comfort from the comprehensiveness of the investigation, along with the seriousness and urgency with which the matter was treated. It was confirmed that the cost of commissioning an independent investigation had been in the region of £8,000.

There was discussion about the manner in which Councillor Berardi had submitted the complaint i.e. an email to all councillors, the Chief Executive and the Monitoring Officer. The tone and language used within Councillor Berardi's email was discussed. It was felt that whilst representing residents was laudable and a key tenet of being a councillor, doing so in a measured and constructive way was an important expectation of all councillors.

It was generally felt that the way in which the complaint had been raised was unacceptable, and potentially amounted to breaches of the Members' Code of Conduct. It was further suggested that other more constructive and less expensive ways in which seek a remedy existed.

Councillor Berardi's position as a recently elected and therefore inexperienced councillor was considered, in particular whether it was a possible reason for the way in which he raised the concerns before the Committee. It was generally felt that expectations around member conduct were clear and that the way in which Councillor Berardi had expressed his views on the matter were unacceptable.

There was debate about whether Councillor Berardi should be asked to provide an apology to the officers who were the subject of the complaint and to the Council, and whether he should consider his position as a Councillor. Some members considered that an apology was warranted, whilst others felt that an apology under duress would be of little value to those to which it was proffered. Some members also felt that Councillor Berardi should not be asked to apologise because his intentions were sincere.

At the time of the meeting, no Standards and Audit Committee complaint had been received. It was confirmed that any complaint about Councillor Berardi's conduct would be considered in accordance with the prevailing policies, should one be received.

It was proposed (by Councillor T. Gracey) and seconded (by Councillor Howorth) that the following be agreed:

- 1) That the findings of the independent review and the report of the Monitoring Officer be endorsed, and that the Committee conclude there is no case to answer.
- 2) That the Committee affirms its full confidence in the planning service and its officers.
- 3) That Councillor Berardi be asked to issue an apology to the officers concerned and to the Council.
- 4) That the induction and orientation process for new members, with particular regard to training on planning enforcement to be provided through planning service, and mentoring arrangements, be reviewed.

Councillor Heath proposed (seconded by Councillor D. Whyte) that 3) above be amended to read:

“That Councillor Berardi be asked to retract his allegations and accept the findings of the Monitoring Officer and independent investigator.”

The proposed amendment was put to the vote and **fell**.

A named vote was requested on the substantive proposed motion, with it being requested that elements 1, 2 and 4 be taken en bloc, and 3 taken as a separate named vote. The voting was as follows:

For the motion (11)

Councillors T. Gracey, Howorth, Cressy, Gillham, J. Gracey, Heath, N. King, R. King, Nuti, D. Whyte, and Willingale.

Against the motion (1)

Councillor Jenkins.

Abstentions (0)

Resolved that:

- 1) **the findings of the independent review and the report of the Monitoring Officer be endorsed, and that the Committee conclude there is no case to answer.**
- 2) **the Committee affirms its full confidence in the planning service and its officers.**
- 3) **That the induction and orientation process for new members, with particular regard to training on planning enforcement to be provided through planning service, and mentoring arrangements, be reviewed.**

A further named vote was requested on the remaining element of the proposed motion. The voting was as follows:

For the motion (7)

Councillors T. Gracey, Howorth, Cressy, J. Gracey, N. King, Nuti and Willingale.

Against the motion (1)

Councillor Jenkins.

Abstentions (4)

Councillors Gillham, Heath, R. King and D. Whyte.

Resolved that Councillor Berardi be asked to issue an apology to the officers concerned and to the Council.

4 Exclusion of Press and Public

By resolution of the Committee, the press and public were excluded from the remainder of the meeting during the consideration of the remaining matters under Section 100A (4) of the Local Government Act 1972 on the grounds that the discussion would be likely to involve the disclosure of exempt information as set out in Schedule 12A to Part 1 of the Act.

5 Recommendation from Appointments Sub Committee on Assistant Chief Executive Appointment

The Committee was informed that there had been a strong field of candidates for the position. It was felt that the proposed candidate would be an asset to Runnymede Borough Council.

It was resolved that an offer of employment be made to the Appointments Sub-Committee's recommended candidate, subject to pre-employment checks being undertaken to the Chief Executive's satisfaction.

(The meeting ended at 9.25 pm.)

Chairman