

Minutes of the meeting of the STANDARDS
HEARINGS PANEL held at 9.30 am on
Wednesday, 17th January, 2018 at Council
Chamber, Civic Centre, Stone Cross, Northallerton

Present

Councillor Mrs C S Cookman Councillor N A Knapton
G W Dadd

Independent Person

Mr R C Pennington (Independent Person)

Parish Council Representative

Parish Councillor Mrs C Artingstoll

Also in Attendance

Councillor M S Robson

SHP.24 **ELECTION OF CHAIRMAN**

THE DECISION:

That Councillor G W Dadd be elected Chairman for duration of the meeting.

(Councillor G W Dadd in the Chair)

SHP.25 **EXCLUSION OF THE PRESS AND PUBLIC**

THE DECISION:

The Panel considered whether to exclude the press and public from the meeting during consideration of the items of business at minute no. SHP.26 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act. The Panel considered representations from the complainants and their witnesses who had no objection to the disclosure of their information as part of a public hearing. The Panel was satisfied that the public interest in disclosing the information outweighed the public interest in maintaining the exemption.

The Panel resolved to hear the matter in public.

SHP.26 **ALLEGATIONS ABOUT DISTRICT COUNCIL MEMBERS**

All Wards

ALLEGATIONS AGAINST DISTRICT COUNCILLOR C ROOKE

The subject of the decision:

The Deputy Monitoring Officer presented a report with regard to an allegation that Councillor C Rooke had failed to comply with the provisions of the Council's Code of Member Conduct by:

- (i) conducting himself in a manner which could reasonably be regarded as failing to treat others with respect;
- (ii) conducting himself in a manner which could reasonably be regarded as bringing his authority or his office as a Member of the Authority into disrepute; and
- (iii) doing something which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Authority.

The Panel heard from the complainants ("X", "Y" and "Z", collectively referred to as the "complainants"), Councillor Rooke and considered evidence from six witnesses.

Alternative options considered:

The Panel considered all the options available but having concluded that Councillor Rooke had not breached the Code of Conduct, none of the alternative options were deemed appropriate.

The reason for the decision:

The Panel considered:

- the Deputy Monitoring Officer's report;
- the written and oral submissions of the three complainants;
- the oral submissions of Councillor Rooke;
- the written and oral submissions of six witnesses; and
- the District Council's Code of Conduct.

The Panel considered evidence from the complainants who informed the Panel that during a Planning Committee meeting held on 9th November 2017 Councillor Rooke (who was sitting as a Member of the Planning Committee) talked and laughed throughout presentations, appeared to pass notes to another councillor and attempted to communicate covertly with the Council's Executive Director. The complainants assert that, in doing so, Councillor Rooke failed to treat those present at the meeting with respect and brought his Authority into disrepute. The complainants also informed the Panel that Councillor Rooke had made comments during the meeting that may compromise the impartiality of other councillors.

The Panel heard evidence from a witness ("A") who told the Panel that he had been present during the Planning Committee meeting. A informed the Panel that he had seen Councillor Rooke talking and laughing during the course of the meeting with another councillor. A told the Panel that Councillor Rooke's behaviour was distracting and as a result he had not heard part of the Chairman's opening remarks outlining the procedure for the meeting. A also informed the Panel that, whilst he had found Councillor Rooke's behaviour distracting, he could not hear what was being said by Councillor Rooke and was able to put the behaviour out of his mind and concentrate on

the presentation given by the planning officer. A told the Panel that, during the course of the officer's presentation, he had left the room to get a drink and on his return he remained at the back of the room behind some folding doors. A informed the Panel that he could hear talking coming from the Planning Committee Members' table although he could not see who was speaking. A told the Panel that, during discussion at the Planning Committee, Councillor Rooke had made dismissive comments on wildlife and ecological issues. A also informed the Panel that noise caused by members of the public arriving late and reacting to proceedings was audible throughout the meeting.

The Panel heard from another witness ("B") who informed the Panel that he had been present during the Planning Committee meeting. B informed the Panel that, during the course of the meeting, he had become aware of Councillor Rooke talking and "sniggering" and that he had seemed disinterested with the proceedings from his body language. B described "sniggering" to the Panel as Councillor Rooke laughing with his hand in front of his mouth. B informed the Panel that he could not hear what was being said but he could see Councillor Rooke's mouth moving. B informed the Panel that, during the course of the meeting, members of the public had groaned in reaction to what was being said but this had not caused a distraction for him. B informed the Panel that during the meeting he had been able to hear all the Planning Committee presentations and follow the course of the meeting. B informed the Panel that Councillor Rooke's behaviour did not affect his level of understanding of the meeting.

The Panel considered written representations from four other witnesses who stated that they attended the Planning Committee and saw Councillor Rooke talking and laughing during the meeting.

Councillor Rooke informed the Panel that he had spoken quietly, on occasion with the two Members sitting adjacent to him during the two and half hour meeting. Councillor Rooke told the Panel that he is completely deaf in one ear and so he would be unable to maintain an extended conversation when speaking in hushed tones. Councillor Rooke informed the Panel that he could not recall exactly what was said to the Members sitting adjacent to him, although he believed that it was for clarification or reference to the meeting's proceedings. Councillor Rooke informed the Panel that it was normal for Members to communicate with each other during meetings. Councillor Rooke stated that he is a jovial person and has a relaxed manner but that he did not remember laughing or sniggering during the meeting. Councillor Rooke denied communicating with anyone else in the meeting including the Council's Executive Director. Councillor Rooke informed the Panel that he recalled the Chairman calling for order on three or four occasions during the meeting in response to noise caused by members of the public.

Councillor Rooke indicated that he had spoken on wildlife and ecological issues in relation to the application. Councillor Rooke stated that he had experience and knowledge on wildlife and ecological issues and lectured on both topics at educational institutes.

The Panel noted that it could only deal with matters that come within the boundaries of the Code of Conduct and therefore allegations in respect of a councillor's competence or general dissatisfaction with the Council's decisions were not matters which the Panel could consider.

The Panel concluded that Councillor Rooke had interacted in hushed tones with Members of the Planning Committee who were sitting adjacent to him during the meeting. However, the Panel was satisfied that this interaction did not amount to

anything other than clarification or reference to the proceedings before the Planning Committee. The Panel noted that the behaviour of Councillor Rooke may have caused annoyance to the complainants. However, the Panel was satisfied that this interaction did not amount to a failure to treat others with respect, nor was it conduct that brought Councillor Rooke's office into disrepute.

The Panel found on the balance of probabilities that Councillor Rooke did not make or attempt to make any covert communication with the Council's Executive Director.

The Panel was satisfied that Councillor Rooke's comments made in respect of wildlife and ecological issues during the meeting were an expression of opinion which he was entitled to make as part of his contribution to the Planning Committee discussion.

THE DECISION:

The complaints alleging that Councillor C Rooke had breached the Code of Conduct (namely, failing to treat others with respect, bringing his Authority or his office into disrepute and compromising the impartiality of anyone working on behalf of the Authority) are not upheld.

ALLEGATIONS AGAINST DISTRICT COUNCILLOR D A WEBSTER

The subject of the decision:

The Deputy Monitoring Officer presented a report with regard to an allegation that Councillor D A Webster had failed to comply with the provisions of the Council's Code of Member Conduct by:

- (i) conducting himself in a manner which could reasonably be regarded as failing to treat others with respect;
- (ii) conducting himself in a manner which could reasonably be regarded as bringing his authority or his office as a Member of the Authority into disrepute; and
- (iii) doing something which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Authority.

The Panel heard from the complainants ("X", "Y" and "Z", collectively referred to as the "complainants"), Councillor Webster and considered evidence from eight witnesses.

Alternative options considered:

The Panel considered all the options available but having concluded that Councillor Webster had not breached the Code of Conduct, none of the alternative options were deemed appropriate.

The reason for the decision:

Having considered:

- the Deputy Monitoring Officer's report;
- the written and oral submissions of the three complainants;
- the oral submissions of Councillor Webster;
- the written and oral submissions of eight witnesses; and
- the District Council's Code of Conduct.

The Panel considered evidence from the complainants who informed the Panel that during a Planning Committee meeting held on 9th November 2017 Councillor Webster (who was sitting as a Member of the Planning Committee) talked and laughed throughout presentations, appeared to pass notes to another councillor and attempted to communicate covertly with the Council's Executive Director. The complainants assert that, in doing so, Councillor Webster failed to treat those present at the meeting with respect and brought his Authority into disrepute. The complainants also informed the Panel that Councillor Webster had made comments during the meeting that may compromise the impartiality of other councillors.

The complainants informed the Panel that, during the Planning Committee meeting, Councillor Webster did not pay attention to submissions and lacked interest in the proceedings. The complainants stated that Councillor Webster had referred to a submission in respect of noise recordings as "fanciful" demonstrating a lack of interest and knowledge. The complainants stated that Councillor Webster made comments in respect of the Listed Building consultation process which were mistaken and inaccurate. In particular, the complainants stated that Councillor Webster compromised the impartiality of anyone who works on behalf of the Authority by failing to refer to Historic England's correspondence which recommended that the Council seek the views of its specialist conservation adviser.

The meeting adjourned for lunch at 1.00pm and reconvened at 1.20pm.

Complainant X stated that Councillor Webster had been communicating with Councillor Rooke for 75% of the meeting, of which 75% of that time was talking and 25% was passing notes. X told the Panel that Councillor Webster was speaking *sotto voce* and as such he could not hear what was being said. Complainants Y and Z told the Panel that Councillor Webster's communication with Councillor Rooke had been intermittent throughout the meeting.

X stated Councillor Webster had been making facial expressions towards the front row of the public seating area where, amongst others, the Council's Executive Director was seated. At the hearing X raised a new allegation that Councillor Webster's conduct implied that he had predetermined the application or that he was being coached by officers.

The Panel heard evidence from A who told the Panel that Councillor Webster had been communicating with Councillor Rooke during a third to a half of the meeting by talking, nudging, giggling or passing notes. A informed the Panel that he could not hear what was being said by Councillor Webster as he was speaking *sotto voce* however the communication between Councillor Webster and Councillor Rooke was distracting. A informed the Panel that he thought Councillor Webster's behaviour belittled the members of the public present. A informed the Panel that, during the meeting (while a recording was being played), Councillor Webster looked disinterested and gave the public "a look of contempt".

The Panel heard evidence from B who informed the Panel that, during the meeting, Councillor Webster appeared disinterested in two consultants' representations. B told the Panel that Councillor Webster had made comments on the application and, in doing so, had made a mistake in respect of a road name which he promptly corrected. B informed the Panel that this mistake was met by groans from the public. B was unable to quantify the amount of time during the meeting Councillor Webster communicated with Councillor Rooke, although he indicated that the communication lasted for a second or two at a time. B told the Panel that he thought Councillor Webster was less at fault than Councillor Rooke. B also told the Panel that he didn't think Councillor

Webster had been smirking although Councillors Webster and Rooke had been looking at each other.

The Panel considered written representations from five other witnesses who stated that they attended the Planning Committee and that they saw Councillor Webster talking and laughing during the meeting. One of the written submissions also stated that Councillor Webster had been smirking and winking at a “senior manager within the planning department” and that Councillor Webster misled committee members by referring to a submission in respect of noise levels as “fantastical”. Another written submission raised concerns that Councillor Webster referred to a submission as “fanciful” without justification.

Councillor Webster told the Panel that he denied any excessive or undue communication during the Planning Committee meeting stating that he spoke to Councillor Rooke on two or three occasions. Councillor Webster informed the Panel that he was unaware of his facial expressions and that he did not recall passing notes. Councillor Webster denied any covert communication with the Council’s Executive Director.

Councillor Webster informed the Panel that, during the deliberation at Planning Committee, he believes he had described a submission in respect of noise as “fantastic” although accepted in context “fanciful” would have held the same meaning. Councillor Webster told the Panel he had formed this comment on the basis that the Planning Committee had been provided with documents with contrasting noise levels from an interested party. The Panel noted that the complainants did not agree with Councillor Webster’s recollection of the documents.

Councillor Webster informed the Panel that his comment in respect of Historic England’s response to the planning application was lifted from the planning officer’s report.

Councillor Webster informed the Panel that, during deliberation at the meeting, he spoke at length on noise and traffic issues in relation to the application, which he could not have made if he was disinterested in the proceedings. Councillor Webster informed the Panel that while putting forward his comments, he had mistakenly referred to the wrong road name, for which he apologised and corrected himself. Councillor Webster told the Panel that his mistake had been received with “jeering and barracking” from members of the public.

The Panel heard evidence from the Council’s Executive Director, Mick Jewitt. Mr Jewitt told the Panel he had attended the Planning Committee meeting to observe officers and Members due to the level of interest in the application and the change in Committee venue. Mr Jewitt informed the Panel that he was seated in the public area during the Planning Committee meeting. Mr Jewitt informed the Panel that he had not noticed any specific amount of talking between Councillor Webster and Councillor Rooke. Mr Jewitt indicated that it was normal for Members to exchange quiet words during meetings and he had not noticed anything out of the ordinary. Mr Jewitt informed the Panel that he had not attempted to communicate with Councillor Webster, nor was he aware of Councillor Webster attempting to communicate with him covertly or otherwise. Mr Jewitt told the Panel that he recalled two occasions during the meeting where the Chair had to bring the meeting to order in response to noise emanating from the public. Mr Jewitt indicated one of these occasions related to when Councillor Webster had mistakenly referred to the wrong road name.

The Panel noted that it could only deal with matters that come within the boundaries of the Code of Conduct and therefore allegations in respect of a councillor's competence or general dissatisfaction with the Council's decisions were not matters which the Panel could consider.

The Panel concluded that Councillor Webster had interacted with Councillor Rooke during the Planning Committee meeting in hushed tones. The Panel concluded that the communication between Councillor Webster and Councillor Rooke was not excessive or in a manner intended to belittle members of the public. The Panel noted that the behaviour of Councillor Webster may have caused annoyance to the complainants. However, the Panel was satisfied that this interaction did not constitute a failure to treat others with respect, nor did Councillor Webster's conduct bring his office into disrepute.

The Panel found that Councillor Webster did not make or attempt to make any covert communication with the Council's Executive Director. The Panel was satisfied that Councillor Webster did not predetermine the application and that he had not been coached by officers. The Panel was also satisfied that Councillor Webster had not made any inappropriate facial expressions.

The Panel was satisfied that Councillor Webster's comments made in respect of a submission on noise, traffic and the Listed Building consultation process was his opinion presented as part of the Committee meeting discussion.

THE DECISION:

The complaints alleging that Councillor D A Webster had breached the Code of Conduct (by failing to treat others with respect, bringing his Authority or his office into disrepute and compromising the impartiality of anyone working on behalf of the Authority) are not upheld.

The meeting closed at 3.40 pm

Chairman of the Panel