

**COMPLAINT CONCERNING Cllr KELSEY'S CHAIRING OF PLANNING COMMITTEE MEETING
OF 21ST APRIL 2022**

from Frank Ahern, [REDACTED]

My complaint against Cllr Kelsey is that he chaired the Planning Committee Meeting of 21st April, 2022 improperly. I contend that he breached the General Principles of Councillor Conduct in a number of respects, by failing to:

1. 'act with integrity';
2. 'treat all persons fairly and with respect';
3. 'lead by example and act in a way that secures public confidence in the role of councillor';
4. 'impartially exercise [his] responsibilities in the interests of the local community';
5. 'exercise reasonable care and diligence';
6. fulfil his duty to objectivity, as outlined in Appendix A of the Code of Conduct, which requires that 'holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias'.

In making my complaint, I refer to three sections of transcript of the April 2022 planning committee meeting:

Transcript 1 (timed at 3.38.19 of the recording of the meeting)

Cllr Kelsey: I do get a little bit miffed when I hear, you know, it's an affluent area. Well, how lucky are those affluent people to live in that area. Why should they and why should other people not have the opportunity to live in that area as well and grow up in that area and continue to live in that area.

The proper chairing of a meeting requires objectivity, not a an apparent resentment of the people of the area under discussion in the planning application, nor an ignorance of the nature of Merley, which is not by any means uniformly 'affluent' and has a significant area of social housing. Proper objectivity would also illustrate the good sense to know that houses frequently become available in Merley for 'other people' to rent or buy: the implication that the people of Merley are somehow conspiring to keep 'other people' away is absurd and insulting.

This is but one illustration of Cllr Kelsey's lack of objectivity. It also illustrated his lack of impartiality and his bias against the existing residents of Merley.

It is a fact that many of the people of Merley watching the planning meeting on YouTube felt that Cllr Kelsey failed to 'treat all persons fairly and with respect' and to act in a way that secured 'public confidence' in his role as a councillor and chairman of an important committee.

Transcript 2 (3:21:42)

Cllr Borthwick: Well we're not worried about the future, are we? There's going to be 650 families which are still going to be homeless at the end of it.

and 3:22:19

Cllr Borthwick: So, as far as I'm concerned, you're not looking to the future. We need those 650 homeless people because at the moment we're getting about 2,000 immigrants a day coming into this area so we want to look to the future.

Cllr Kelsey: Thank you, Cllr Borthwick.

Cllr Borthwick's attempt to base his argument for approval of the application on an absurdly inaccurate statement should not have been allowed to pass without correction from the

Chair. It is inaccurate and ridiculously illogical to say that, if this proposed development were not built, then '650 homeless people' would remain homeless. Given the location of the new development (riverside and adjacent to one of the architectural jewels in the BCP crown) it is likely that even the 'affordable' homes will be way beyond the pocket of most young people and first-time buyers, to say nothing of the '650 homeless people' mentioned by Cllr Borthwick. The idea that members of the planning committee would not be worrying about the future if they voted against approval is equally absurd. And even more absurd is Cllr Borthwick's suggestion that 'we're getting about 2,000 immigrants a day coming into this area'. By Cllr Borthwick's reckoning, BCP is receiving 730,000 immigrants a year. A nonsensical claim.

Instead of correcting Cllr Borthwick, Cllr Kelsey thanked him. In failing to seek or offer clarification, he breached virtually all of the six standards I have itemised at the beginning of my complaint. The expected values of integrity, reasonable care and diligence would have required a clarification from the Chair on the nature of the affordable housing available (and perhaps the lack of provision for a hostel for the homeless in the plans for the development). The requirement to use 'the best evidence and without discrimination or bias' required a correction of Cllr Borthwick's specious claim of the number of immigrants coming into the area. Instead the comments were allowed to stand without correction.

Transcript 3 (2.49.09)

Cllr Butt: What is the definition of 'less than substantial harm'? I tried to look it up in case law, but it is very difficult to find. It's a shame the Heritage Officer isn't here. But I am struggling with that a bit, especially as we keep being told by the officers that this decision is our interpretation of that particular piece of common law, which derives from it the 'less than substantial harm definition. So I would be extremely grateful if there were some more effort what comes next or what comes in between, because 'less than substantial harm' surely means that there is some harm of some description. Does that mean set it aside given the exceptional circumstances of this particular application with regard to the heritage assets. And that was clear on the report that it is exceptional. I just want to be clear. I want to understand it better so that I can make a reasoned decision.'

Cllr Kelsey: I actually think you have just answered your own question. (He sniggers)

Cllr Butt: No I haven't.

Cllr Kelsey: I think you did in what you said – it's the perception of how much do you think it is causing. Which is 'less than substantial', which is what the officer's has said and what also the heritage people are saying. If you go back to walking up and down the lane yesterday, how did you feel your perception was of what you were coming up to? Did you feel that you were enclosed, did you feel that enclosure was going to create more harm for you in your visual amenities or did you feel that it would be OK?

Cllr Butt: Thank you, Mr Chairman, but we—

Chair: 'I think it goes with everything in planning, doesn't it, that 90% of planning is the person's view on that planning application and what they actually feel about it, be it the aesthetics of the building and the site. It is very much a personal view on a lot of this.'

2.51 Cllr Butt: 'We are not usually allowed that luxury, with respect, so on this occasion—'

Chair: 'We're not.'

The planning meeting of 21st April was attended (via MS Teams) by BCP's Transport Development Management Team Leader, presumably because transport was a sensitive

aspect of the application, with potential contributions deemed to be helpful.

However – and despite the fact that the application was for a heritage-sensitive site – there was no representation from BCP Conservation Department, a fact commented on and lamented by not only Cllr Butt, but also by two other members of the planning committee. When Mr Perrins, the Head of Planning Services, was asked if he had any Heritage officers available, he replied, ‘We don’t, unfortunately. He’s on leave at the moment’. At the time of the meeting, four officers worked for the Conservation Department and only one was on holiday, a fact I had to ascertain through a Freedom of Information request, given Mr Perrins’ reluctance and ultimate failure to answer my enquiry about this matter.

Mr Perrins has subsequently claimed that ‘there is not a requirement to have technical officers at planning committee as the relevant planning issues are addressed comprehensively in the report and presentation in any given case. This was the case here and the meeting proceeded accordingly without the Conservation Officer needing to be there’. This is patently not true, as the comments of Cllr Butt and two others present at the meeting make clear.

Cllr Kelsey, whilst apparently loath to offer any correction to Cllr Borthwick, was very happy to direct Cllr Butt. However, a number of his comments give rise to concern:

- a) ‘Did you feel that you were enclosed’ as [you] walked up and down the lane on the site visit: This is an absurd question. Cllr Butt was walking adjacent to pasture land and a line of trees, unbuilt upon, so of course she didn’t feel enclosed.
- b) His insistence, despite Cllr Butt’s denial, that ‘I actually think you have just answered your own question’ is patronising and unhelpful.
- c) His mind-boggling claim that ‘90% of planning is the person’s view on that planning application and what they actually feel about it’ (a ‘luxury’ not normally allowed according to Cllr Butt) rendered the National Planning Policy Framework redundant in a stroke, and irrelevant to the planning process.

Cllr Kelsey failed to insist on the presence of a heritage officer for this heritage-sensitive application, instead taking it upon himself to define degrees of harm. His comments to Cllr Butt were patronising, unhelpful and misleading.

Conclusion

In terms of the General Principles of Councillor Conduct, I contend that the transcript extracts I have quoted show that Cllr Kelsey did not act with integrity, did not treat all persons fairly and with respect, did not act in a way that secures public confidence, did not impartially exercise his responsibilities in the interests of the local community, and did not exercise reasonable care and diligence. His failure to fulfil his duty objectively and to act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias are a clear breach of the Code to which he is bound, and should be called out.

I believe that at least one previous formal complaint was made about the way in which the 21st April meeting was chaired. The Chairman of the Standards Committee for this complaint was Cllr Borthwick and it was his signature below the judgement returned to the complainant.

Cllr Kelsey is Vice-Chairman of the Standards Committee, but presumably will not be involved in ruling on a complaint against himself.

If Cllr Borthwick is allowed to chair the enquiry into my complaint, I will take the matter to the Local Government Ombudsman.