

Alan Smith

29th May 2013

To Angela Tebbutt
Monitoring Officer, Melton Borough Council
By Hand

Dear Angela Tebbutt

Member Conduct Complaint – Reference: GOV 07

Thank you for your letter dated 22nd May, 2013. I do not accept Mr Worley's letter dated 30th April, 2013 as an adequate response to my Complaint.

From Mr Worley's letter, I stand corrected that application 12/00723/EIA was a 'screening opinion' and not a planning application. I assume however that the submission was a clear indication that Councillor Barnes was actively considering a full application to build a wind turbine in Somerby well before the Development Committee meeting on 18th October 2012.

Mr Worley then essentially makes two points:

- (1) Mr Barnes had no direct interest in the Pickwell application; and
- (2) That each application has to be considered on its merits and the approval or rejection of one does not have any effect on another.

I do not understand Mr Worley's first point that Councillor Barnes did not have a direct interest. The parts of the MBC Code of Conduct in question (Principles 5 and 6) talk about 'private interests, both pecuniary and non-pecuniary'; it does not use the term 'direct' in this context. Why therefore does Mr Worley confuse the issue by introducing the term 'direct'?

On Mr Worley's second point, I of course accept that the law says that each application has to be considered on its merits. But his inference that precedent has no place in the decision making process is highly questionable. In the absence of a policy on wind turbines, and as far as I know, MBC still does not have one, most people will believe, as I do, that precedent is important in planning decisions. Mr Worley claims that there are fundamental differences between the Pickwell and Somerby applications but fails to say what they are.

And on the general point of precedent and the impact of one decision on another, Mr Worley shoots himself in the foot in the last paragraph of his letter by asking me to agree that a rejection of the Pickwell application might have helped Councillor

Barnes's application in Somerby. Mr Worley cannot have it both ways – either earlier decisions can have an impact on subsequent ones or they do not.

Mr Worley does not mention the rejection of the application at Thorpe Satchville which I and many others regard as central to this complaint about Councillor Barnes.

Mr Worley has failed to address the issues in my complaint, namely that Councillor Barnes should have declared a personal interest in the discussion on the wind turbine application at Pickwell at the Development Committee on 18th October 2102 because, before that date, he had started the planning process for his own application for a wind turbine at Somerby.

In summary, my points are:-

1. Councillor Barnes had an interest in the discussion of the wind turbine at Pickwell under Section 9 (1) (b) of the MBC Code and that he should have declared it under 11 (1) of the MBC Code of Conduct.
2. Councillor Barnes should, at the very least, have asked if his application amounted to an interest that had to be declared.
3. I wonder what advice would have been given to the Chair of the Committee if Councillor Barnes had started his statement on 18th October 2012 by telling the Development Committee that he had commenced the planning process for his own wind turbine in Somerby? Would he have been allowed to continue with his statement if he had made the position clear to the Committee?
4. Why did he not do so? If his own application was not relevant to the Pickwell one, as suggested by Mr Worley, he had nothing to hide and everything to gain by being open with his fellow councillors and the residents of Pickwell and Somerby about his own intentions.

I find it inconceivable that MBC can argue that Councillor Barnes did not have a non-pecuniary interest in the matter which should have been declared at the Development Committee meeting on 18th October 2012.

Lastly, I refer to the last paragraph of my original Statement where I asked if Councillor Barnes's interest amounted to a pecuniary interest. As noted above, Mr Worley does not answer the question because of the confusing introduction of the word 'direct'.

Councillor Barnes made it clear in a statement to Somerby Parish Council that the reason for his wind turbine proposal was to make money. There was, as far as I can recall, no mention of the environment or any other reason for the application.

I again remind you of paragraph 9 1 (b) of the Code which says

'a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers,

ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision'.

Perhaps more importantly, I remind you of paragraph 10 which says

'The Council has decided that in addition to disclosable pecuniary interests referred to in paragraph 8 (1) above, you also have a pecuniary interest if you have a personal interest in any business of the authority where the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business:- (a) affects your financial position or the financial position of a person or body described in paragraph 9'

I ask again whether, in the light of the paragraphs noted above, Councillor Barnes had a pecuniary interest in the topic under discussion at the Development Committee on 18th October 2012 which should have been declared?

Yours sincerely

Alan Smith

Original Statement of Complaint under Part 4 of the Complaint Form:

The Code of Conduct of Melton Borough Council includes inter alia:

Principle 1 – Selflessness

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

Principles 5 and 6 – Openness and Honesty

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in Part 3 of this Code.

Definition of Personal Interest

9. (1) You have a personal interest in any business of the authority where either:-
(b) a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

Disclosure of Interests

11. (1) Subject to sub-paragraph (2) where you have a personal interest in any business of your authority and where you are aware or ought reasonably to be aware of the existence of the personal interest and you attend a meeting of the authority where the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of the meeting and prior to any discussion of the relevant item, or as soon as the interest becomes apparent to you.

On 18th October 2012, the MBC Development Committee considered Application 11/00913/FUL by Mr Mark Gale for the erection of a wind turbine at Baytree Farm, Stygate Lane, Pickwell. Despite strong objections from the residents of Pickwell, Mr Mark Barnes, the Ward Councillor, spoke in favour of the application despite having spoken against a similar application at Thorpe Satchville at an earlier Development Committee meeting. Councillor Barnes did not declare any personal interest in the matter at the 18th October meeting.

I now understand that, on or about 2nd October, 2012, 16 days before the above mentioned Development Committee meeting, Councillor Barnes and his wife had submitted a planning application for the erection of a wind turbine in Somerby.

Having successfully opposed the wind turbine application at Thorpe Satchville, approval of the application for one at Baytree Farm, Pickwell, might be very helpful for an application in the neighbouring village of Somerby. My complaint is that Councillor Barnes failed to declare an interest on 18th October 2012 before speaking in favour of Application 11/00913/FUL and so breached Principles 1, 5 and 6 and paragraph 11 of the Melton Borough Council Code of Conduct. The Minutes of the Development Committee Meeting on 18th October 2012 confirm that no interest was declared by Councillor Barnes.

A statement by Councillor Barnes was read out at a public meeting held on 12th March 2013 in Somerby Village Hall to consider his application for a turbine in Somerby. In that statement Councillor Barnes was quite open that the reason for his application was to generate a new form of income for his farm. Does that statement bring the issue within paragraph 9 (1) (b) of the Code of Practice?