

PARISH COUNCIL MEETING

Held on Wednesday 18th December 2024, commencing at 7.30 pm. in the Village Hall.
The supporting document is on the PC website under Meetings, December 2024 Meeting Pack.

Present:

Chair: Cllr Janice Muckian. Cllrs: Frank Domoney, Lizzie Falconer, Iain Lamont, Roy Mawford, Irene Mitchell, Mary Morrey, Jane Ranzetta, Chris Robinson and Michael Sherman. Twenty three members of the public.

Opening Statement by the Chair:

The Chair began by welcoming everyone and introduced herself explaining to all present that this meeting is being recorded for the purpose of minute taking only and that after the minutes have been approved this recording will be destroyed. She explained that this recording will cease at the start of stage vii of the Complaints hearing and recommence at the start of stage viii. The Chair reminded all that this is not a public meeting, but a meeting of the Council held in public. Members of the Public were respectfully asked to maintain silence during the Council's deliberations and not to approach the Councillors. Councillors were requested not to engage with Members of the Public when Council is in session. All were asked to ensure that their mobile phone was on silent and were reminded to treat all present with respect.

1. Apologies and approval of Absences

The Clerk reported that Cllr Bourne was not present and had advised that she was not able to attend.

2. Declarations of Interest

The Clerk reported that Cllr Robinson had declared an interest with respect to Items 6 and 7.

3. Requests for Dispensations

The Clerk reported that he had received no further requests for dispensations.

4. Public Participation Session

The Chair reminded Members of the Public of the protocol for this session. Those who wish to ask a question or make a statement have three minutes. Matters raised must concern business on the agenda or local matters. If a question cannot be answered tonight Members of the Public should contact the Clerk with their name and contact details and will receive a written response within 28 days. She explained that the Standing Orders of the Council are clear that this public participation session is for ten minutes and that it is at the discretion of the Chair whether further time is allowed.

A Member of the Public thanked the volunteers for their work cleaning and sweeping Water St. She added that Lower Rd hasn't been swept following recent floods with a build-up of mud and silt.

5. Chairman's Announcements

The Chair thanked the volunteers who cleaned Water St and told Councillors that the PCs Contractors had been asked to clear leaves in streets where the public had reported concerns of slippery conditions.

6. To consider excluding the public and press from item 7

Cllr Sherman said that he would prefer the session to remain public saying that Council must be seen to be open to change. Cllr Domoney expressed concerns that a complaint against such a significant number of Councillors would not be given a fair hearing by Councillors. The Clerk explained that the complaint was about the governance of the Council and not about the behaviour of Councillors and therefore it was appropriate for it to be heard by Council. The Chair made it clear that the Public will be excluded from section 4f vii of the Complaint hearing, as required by the Complaints Policy, even if Councillors decided not to exclude the public and press. All Councillors voted to not exclude the public and press from all other parts of the meeting.



7. Complaint against the Council concerning Planning Matters

The Chair distributed the Complaints Policy and the Complaint to all Councillors and the Complainant.

The Chair introduced everyone and outlined that the process will be:

- a) Ms Mullan will outline her Complaint
- b) If relevant the Clerk will explain the Parish Council's position
- c) Councillors will have the opportunity to question the Complainant and the Clerk
- d) The Clerk and the Complainant will be offered the opportunity of any last words
- e) The Complainant, the Clerk and the Public will leave the room whilst Councillors decide whether grounds for the Complaint have been made
- f) The Complainant and Clerk will return to hear the decision or be advised when it will be made
- g) The decision will be confirmed in writing within seven working days together with the details of any action to be taken-

Ms Mullan explained that her Complaint concerned the lack of governance or breaches within the governance standards of the Council that had led to misfeasance, bias and personal defamation.

She said that she had submitted a detailed complaint which she considered not to be personal. She had anonymised comments made by Councillors. She said that she had not provided an exhaustive list of examples of misfeasance, bias and defamation but had provided examples across all three stages of the process, stage 1 being the Planning Group report, stage 2 the debate in Council on 7th November and stage 3 the Parish Councils submission to Babergh Council.

She explained that she was not going to go through each example and considered that should any one example be agreed to be a breach then the complaint must be considered substantiated. She said that if Council had engaged with her, that if the Council's planning process was more interactive then she would not have needed to make the complaint. She said that she had found the PC Meeting of 7th November extremely difficult, the PC she said, had 'forgotten that she was human' and torn apart a good submission. She had found this a heart breaking experience. She concluded by urging Councillors to listen to her and Members of the Public and support the community.

The Chair thanked Ms Mullan and made introductory remarks beginning by reminding all that the Complainant alleges that there has been a lack of Governance within Lavenham Parish Council resulting in Misfeasance, Bias, and Defamation.

The Complainant considers that:

- a) The draft Planning document contains subjective, misleading and biased information
- b) The Parish Council Meeting on 7th November 2024 was poorly managed and so allowed misfeasant, biased and defamatory statements to be made.
- c) The document submitted to the Babergh Planning Portal had insufficient review leading to it not aligning with the legal framework
- d) Petitions had been disregarded and so the community voice was not listened to and a biased agenda followed.

The Chair said that regarding defamation, Councillors should consider the Local Government Association Guidance which is that in council meetings, Councillors have a qualified privilege allowing freedom of speech providing that they can show that they honestly believed what they said and were not motivated by malice.

She read to Councillors the Judgement by Lord Diplock in the Horrocks v Lowe case where the alleged offence was defamation. The Chair also confirmed, commenting that advice from NALC is clear, that the judgment can also be applied to written communications sent by a local council in the course of official business. The Diplock Judgement states:

'My Lords, what is said by members of a local council at meetings of the council or of any of its committees is spoken on a privileged occasion. The reason for the privilege is that those who represent the local government electors should be able to speak freely and frankly, boldly and bluntly, on any matter which they believe affects the interests or welfare of the inhabitants. They may be swayed by strong political prejudice, they may be obstinate and pig-headed, stupid and obtuse; but they were chosen by the electors to speak their minds on matters of local concern and so long as they do so honestly they run no risk of liability for defamation of those who are the subjects of their criticism'.



The Chair noted that control by either the Clerk or Chair concerning either the discussion or output of the Planning Group and the subsequent wider discussion of the application and submission to Babergh would be contrary to these words.

Misfeasance, she said, is a form of misconduct, occurring when a public official, public servant or public body knowingly and willingly acts to cause loss or harm to a third party.

Councillors, she said, must consider whether the relevant tests have been met:

- a) For defamation a lack of honest belief and the presence of malice and
- b) For misfeasance that there is a greater degree of culpability beyond carelessness or lack of judgment.

She reminded Councillors that this complaint is not against named Councillors, that it concerns Governance. If the complaint has been about the actions of a named Councillor(s) then it would have gone straight to Babergh. Councillors must consider whether Governance had been inadequate.

Lastly she spoke concerning bias and noting that Section 25 of the Localism Act 2011 makes it clear that if a councillor has given a view on an issue, this does not show that the councillor has a closed mind on that issue, so that that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it if it arises in an item of council business requiring a decision.

1 The Chair asked Ms Mullan, in the context that NALC has considered making training compulsory for Parish Councillors but has not done so, beyond encouraging Councillors to undergo training and making funds available, what else could or should Council do?

Ms Mullan said that everyone should be aware of the limitations of their knowledge and not comment beyond the extent of their knowledge.

2 Cllr Ranzetta reminded Ms Mullan that a professional report had been commissioned which informed the Planning Group's recommendations and the debate at Council asking what more could therefore have been done?

Ms Mullan replied that everyone should be aware of the limitations of their knowledge and not comment beyond the extent of their knowledge. Councillors she said should not have referred to non-material Planning Considerations, the comments about the popularity of gym memberships, these comments were she said examples of bias.

3 Cllr Morrey recalled the recent words of Cllr Robinson, at a Council Meeting concerning Planning, that Councillors are not experts. She said that all Councillors can do is offer opinions based on their life experience and asked Ms Mullan whether she agreed that there was no expectation that Councillors are experts.

Ms Mullan agreed adding that Councillors need to recognise their limitations and not speak when they do not have full understanding of a particular point.

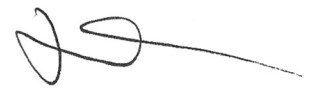
4 Cllr Lamont asked if Ms Mullan was aware that Babergh makes the decision and that this Council is citizens making comments on an application.

Ms Mullan replied that she was so aware saying that Councillors need to recognise their limitations and not speak beyond those.

5 Cllr Mitchell asked Ms Mullan whether what she was saying is that any Member of the Public who doesn't understand the full intricacies of Planning Law should not be allowed to comment on Planning Applications.

Ms Mullan replied that the Parish Council needs to take more responsibility for what it says.

6 Cllr Mitchell asked the Clerk if the Council has a policy concerning the receipt of petitions. The Clerk replied that it does not.



7 Cllr Mitchell asked Ms Mullan if the petitions had a sponsor, she replied that a sponsor was not required.

8 Cllr Mitchell asked Ms Mullan if she had obtained Babergh advice concerning the required format of the petition. Ms Mullan replied that Babergh had accepted the petition.

9 Cllr Mitchell asked whether this meant that Babergh had accepted it into the paperwork or whether the District Council had responded positively to it and said they would take into consideration. Ms Mullan said Babergh had not responded in any way.

Cllr Domoney suggested that too many Councillors represented the Water St area. The Chair said that this issue was not relevant to the complaint and was not a question for the Complainant or the Clerk.

The Clerk reminded all that it is really important to properly follow the Complaints procedure and that there is no deviation from that procedure. This part of the hearing is, he said, asking questions of either the Complainant or the Clerk.

10 Cllr Sherman asked Ms Mullan if any of the 'flippant remarks' such as 'if we knew the height of the buildings it would be easier to make a judgement' were the sort of comments she was referring to as being biased. Ms Mullan agreed saying that she considered this as an example of bias as the comment was irrelevant to an application for outline planning permission.

11 Cllr Mitchell asked, since this was only an application for Outline Planning Permission, why such a large Planning Statement had been submitted discussing matters such as 'need'. Ms Mullan said that this was because of the need to consider policies SP03 and LP12 and Tom Barker from Babergh Council had recommended this approach.

12 The Chair reminded Ms Mullan that five pages of the complaint are quotes from Councillors and concerns about what they said. She asked if the Complaint was actually a complaint about the words and actions of Councillors dressed up as a complaint about governance, in full knowledge that only the Monitoring Officer can, with any authority, suggest to Councillors improvements in their behaviour?

Ms Mullan said that she was very aware of the role of the Monitoring Officer through her complaints about District Councillors and others. The issue, she said, was those comments had been allowed to have been made and should have been stopped. The Chair asked if any of Ms Mullan's complaints against Parish Councillors had been upheld. Ms Mullan replied that question was not part of this complaint.

13 The Chair asked if this Complaint was a criticism of the Clerk. Ms Mullan replied that it was not saying that he was one of the few she trusts. She said that she had not complained about the Clerk.

14 Cllr Mawford asked if the application was a resubmission or a new application. Ms Mullan said it was a resubmission, no fee had been paid to Babergh.

15 Cllr Falconer asked if she considered all Councillors are biased. Ms Mullan said the complaint was about the Council not individuals. Cllr Falconer asked Ms Mullan if she considered the Council biased. Ms Mullan said that she considered that some of the behaviours showed bias.

16 The Chair asked why the names of the Councillors had been anonymised when the identity of every single speaker was well known. Ms Mullan replied that it was not about the individuals and instead was about the Council allowing Councillors to behave as they did.

17 The Chair asked Ms Mullan whether she meant that the Chair or Clerk should have stopped Councillors from speaking referring Ms Mullan to the Horrocks judgement. Ms Mullan replied that she was not saying that at all.

18 Cllr Mawford asked about the Sequential Test, the Chair said this question was not relevant.

19 Cllr Morrey asked Ms Mullan if she considered Councillors had transgressed by not being more knowledgeable than the 'man on the Clapham omnibus'. Ms Mullan said that Councillors can comment but need to be aware of their limitations. The conversations had, she said, gone too far.



20 The Chair reminded Ms Mullan that the Clerk with the agreement of the Chair, had commissioned a report to help the Planning Group asking whether she considered that the Clerk and the Chair should have controlled the output of the Planning Group. Ms Mullan said that there should have been a review process of the Planning Group output to ensure that the report contains no inaccuracies.

21 Cllr Ranzetta asked if Ms Mullan recognised that there was considerable guidance to the Parish Council concerning what should be considered when discussing a Planning Application. Ms Mullan said that she did, saying that she considered that the Council does not properly follow this guidance and fails to recognise its limitations.

22 Cllr Sherman asked the Clerk why the Planning Group had considered more than the three previous reasons for refusal despite him (Cllr Sherman) having told the Planning Group that Babergh Legal department had advised him that the Planning Group should not discuss more than those three reasons.

The Clerk responded that he commissioned the professional report and that the vast majority of that report concerned the three previous reasons for refusal. Indeed, the brief he gave the Planning Consultant was to focus on the three reasons. He reminded Cllr Sherman that he had no responsibility over Councillors thoughts and behaviour saying that what he could do was present Councillors with something sensible and that he had tried very hard to do that. He said that where (the direction that) Councillors, the elected representatives, take that professionally prepared document is not something the Clerk has control of. He said that, in his opinion, the comments made by the Professional Advisor can clearly be seen in the Planning Group Report.

23 Cllr Mitchell asked why such a lengthy Planning Statement was submitted which covered many matters, such as 'Need' not relevant to the three reasons for previous refusal. Ms Mullan responded that this was included on the advice from Tom Barker, Babergh Monitoring Officer. Cllr Mitchell, explaining that Councillors were not aware of that advice, asked the Clerk if he was so aware. The Clerk replied that he was not so aware adding that the Council had had no interactions with Babergh Planning concerning this application for many months.

24 Cllr Lamont asked Ms Mullan if she considered Council as a whole had exhibited misfeasance and defamation. Ms Mullan replied this was because the Governance allowed this to happen. The comments she said were way beyond the remit and should not have been made. The Governance had been inadequate. The Chair asked if Ms Mullan meant that the Chair should have stopped certain comments. Ms Mullan responded that was not what she was saying.

25 Cllr Mitchell asked Ms Mullan if she was challenging Diplock. Ms Mullan responded that she had never heard of Diplock.

26 Cllr Mawford asked again about the Sequential Test and then asked Ms Mullan why she had not followed Mr Russell's advice. Ms Mullan responded that neither question was relevant.

27 Cllr Falconer explaining that her question about possible adverse consequences to the Village Hall had been brought about through contacts to her from the Village Hall asked Ms Mullan whether she thought that she (Cllr Falconer) had erred by bringing up these concerns. Ms Mullan replied that the Wellness Centre has removed the competition from the Village Hall.

28 Cllr Mitchell asked Ms Mullan to explain the material difference between people travelling out of Lavenham to access a service and people travelling in or through. Ms Mullan replied that this was not part of the Complaint saying that her Complaint is about comments that are not material considerations. Cllr Mitchell said that Access was a material consideration. Cllr Mitchell said that she was now confused and did not wish to pursue this question any further.

29 The Chair asked the Clerk and the Complainant if they had any last comments, neither had.

The Clerk, the Complainant and the Public left the room at 8.45pm. The Complainant and the Clerk re-entered the room at 11.15pm. All Members of the Public had by that time left the Building. The Chair announced that the complaint had not been upheld and that full reasons would be provided in writing within seven working days. The Meeting closed at 11.16pm.


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