

PAPUR / ENCLOSURE
B

YN Y MATER O ATGYFEIRIAD GAN YR OMBWDSMON GWASANAETHAU
CYHOEDDUS YNG NGHYMURU I'R PWYLLGOR SAFONAU CYNGOR SIR YNYS MÔN
YN UNOL AG ADRAN 69 DEDDF LLYWODRAETH LEOL 2000.

CWYNION A WNAED YN ERBYN Y CYNGHORYDD CYMUNED JOHN FOULKES O
GYNGOR CYMUNED PENMYNYDD A STAR.

Y BWNDEL DOGFENNAU

7 MAWRTH 2013
10AM

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IN THE MATTER OF A REFERRAL BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES TO THE ISLE OF ANGLESEY COUNTY COUNCIL'S STANDARDS COMMITTEE PURSUANT TO SECTION 69 OF THE LOCAL GOVERNMENT ACT 2000

COMPLAINTS MADE AGAINST COMMUNITY COUNCILLOR JOHN FOULKES OF THE PENMYNYDD AND STAR COMMUNITY COUNCIL

BUNDLE OF DOCUMENTS

7 MARCH 2013
10AM

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The investigation of a complaint against Councillor John Foulkes of
Penmynydd and Star Community Council

A report by the Public Services Ombudsman for Wales

Case: 201102860
201102856
201102868
201102913
201103060
201103282

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Introduction

Report by the Public Services Ombudsman for Wales on the investigation of a complaint made against Councillor John Foulkes of Penmynydd and Star Community Council, of a breach of the Council's statutory code of conduct for members.

This report is issued under section 69 of the Local Government Act 2000.

Summary

It was alleged that Councillor Foulkes had breached the Code of Conduct ("the Code") in that he failed to declare a personal and prejudicial interest at a meeting of Penmynydd and Star Community Council when the matter of whether to support an application for a wind turbine in the local area was considered. Councillor Foulkes took part in the discussions and voted on the matter, his vote being influential in the Community Council's decision not to object to the application. Councillor Foulkes had previously submitted screening applications for similar wind turbines on his own land in the area and has since submitted a full planning application for a similar turbine.

On the basis of the allegations, the Ombudsman started an investigation to consider whether Councillor Foulkes may have breached the Code by failing to declare a personal and prejudicial interest.

Evidence was obtained from the Community Council, from the County Council's solicitor and from those present at the meeting when the wind turbine application was discussed. Councillor Foulkes also gave his written responses to the allegations.

The Ombudsman concluded that the evidence suggested that Councillor Foulkes had a personal interest by virtue of paragraph 10(1) of the Code and that the failure to declare this may constitute a breach of paragraph 11(1) of the Code. He also concluded that this interest could also be regarded as prejudicial in nature and therefore Councillor Foulkes may also have been in breach of paragraph 14(1)(a) of the Code by voting on the matter.

The Ombudsman decided that the report on this investigation should be referred to the Monitoring Officer of the Isle of Anglesey County Council for consideration by the Council's Standards Committee.

The complaint(s)

1. Between December and January, I received six complaints from members of the public that Councillor John Foulkes had failed to observe the Code of Conduct for members ("the Code") of Penmynydd and Star Community Council. It was alleged that Councillor Foulkes had failed to declare an interest in a matter on which he had voted at a Community Council meeting of 5 December 2011. Copies of the complaints are attached at Appendix 1.

Legal background

2. As required by Part III of the Local Government Act 2000 (the Act), the Penmynydd and Star Community Council has adopted a code of conduct for members which incorporates the provisions of a model code contained in an order made by the Welsh Ministers. A copy of the Community Council's Code of Conduct is at Appendix 2. A copy of the Model Code of Conduct is at Appendix 3. Council members are required to sign an undertaking that, in performing their functions, they will observe the Council's Code of Conduct. Councillor Foulkes gave such an undertaking on 28/07/04. A copy of that declaration is attached at Appendix 4.

3. Section 69 of the Act provides the authority for my investigation and the production of this report.

My investigation

4. Having decided that it was appropriate to investigate whether Councillor Foulkes had failed to comply with the Code of Conduct, I considered the following provisions:

"10. – (1) you must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if –

(c) a decision upon it might reasonably be regarded as affecting –

(i) your well-being or financial position, or that of a person with whom you live or any person with whom you have a close personal association;

to a greater extent than the majority of ... council tax payers, rate payers or inhabitants of the authority's area."

11. – (1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

12. – (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if 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.

13. – (1) Subject to sub-paragraphs (2), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee –

(a) withdraw from the room , chamber or place where a meeting considering the business is being held-

i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

...

(c) not seek to influence a decision about that business,

...”

5. Councillor Foulkes was accordingly informed of my intended investigation. A copy of this letter is at Appendix 5.

6. During my investigation I have obtained copies of minutes and other documents from the Community Council. I have also obtained a copy of the note made by the County Council's solicitor of his telephone conversation with Councillor Foulkes before the Community Council meeting of 7 December 2011. Statements were obtained from the other councillors present at the meeting and the County Council's representative at the meeting. Copies of all statements and documents referred to in this report are attached as appendices.

7. I have put the evidence found by my investigation to Councillor Foulkes, enabling him to review that evidence before responding to the questions which I put to him. His responses, which will be summarised later in this report, are set out in full at Appendix 15.

8. I have given Councillor Foulkes the opportunity to comment on a draft of this report which included my provisional views and finding.

My guidance on the Code of Conduct

9. I originally issued guidance for members of local authorities in Wales on the model code of conduct in April 2010 (“my guidance”). I have included at Appendix 20 extracts of the guidance which are relevant to this complaint. (On 17 September 2012, a revised edition of the guidance was put up on the website.)

Events leading to the complaint

10. Councillor Foulkes is an elected member of Penmynydd and Star Community Council. In July 2011, he submitted three applications for a planning screening opinion¹ to site wind turbines on his own land. Two of these applications were for a single turbine on each of two sites in the

¹ A screening opinion is where, prior to making a formal planning application, planning applicants can apply for an opinion on whether a potential development should be subject to an Environmental Impact Assessment.

local area- Marchynys, Penmynydd and Ty'n Buarth, Penmynydd. A third planning screening application was made for a single wind turbine on another site owned by him at Llangaffo. Since the events in question, Councillor Foulkes has submitted a full planning application to erect a wind turbine on the Marchynys site. The list of these applications is set out at Appendices 17 and 18.

11. At a meeting of Penmynydd and Star Community Council on 5 October, item 3 on the agenda related to wind turbines. It was noted in the minutes that Councillor Foulkes had declared a personal interest in relation to the item about wind turbines. On the form [see Appendix 12], he stated that "I have made applications for wind turbines" and "I have applications pending and intend leaving the room if they are discussed". However, no specific discussion on wind turbines took place as no full wind turbine planning applications had yet been received by the Council. The minutes noted that once an application had been received, a public meeting would be held [Appendix 11].

12. The next meeting of the Community Council took place on 7 December 2011. It was preceded by a public meeting to discuss a wind turbine application which had been received for a site at Ty Fry. A large number of members of the public turned up to this meeting. At the Community Council meeting which followed the public meeting, the wind turbine application at Ty Fry was discussed and a vote was taken as to whether the Community Council should object to the application. The minutes note that there were no declarations of interest and the Community Council Chairman stated that he specifically asked Councillor Foulkes whether he wished to declare an interest. No declaration of interest was made. There were five community councillors present and a representative from the County Council. Councillor Foulkes, along with the other four community councillors discussed whether the Community Council should object to the wind turbine application and voted on it. Councillor Foulkes proposed the vote not to object to the wind turbine application and it was determined that no objection should be made by three votes to two [Appendices 13 and 14].

13. The previous afternoon (6 December 2011) Councillor Foulkes had telephoned the Council's solicitor to request advice as to whether it was in order for him to participate in the Community Council's discussion and vote about the wind turbine application at Ty Fry, given his own wind turbine application. The Council's solicitor stated that he discussed the matter with Councillor Foulkes. He referred him to the Code of Conduct and in particular to paragraphs 10(2)(a) and 10(2)(c). He also drew Councillor Foulkes's attention to paragraph 12 of the Code. The Council's solicitor suggested that if the Ty Fry application were approved then it would be more likely that Councillor Foulkes's application would be approved. However, he stated that it was a matter for Councillor Foulkes to decide as to whether he had an interest and should take part in the discussion and vote or not. The solicitor's note is in full at Appendix 16.

What Councillor Foulkes said

14. Councillor Foulkes stated that he had declared an interest (that he had made a screening application for a wind turbine) at the Community Council meeting of 5 October because there was going to be a general discussion on wind turbines at that meeting.

15. He confirmed that, at the following Community Council meeting of 7 December 2011, he attended and voted on the Ty Fry wind turbine application. He explained that, in this instance, he did not consider that he had a personal interest in discussing and voting on the Ty Fry application as it was out of sight of his application site and it was not related to his own application.

16. Councillor Foulkes confirmed that he recalled the discussion with the Council's solicitor the evening before the Community Council meeting. He said that he had discussed two occasions when he had taken part in Community Council discussions about a house renovation and a planning application when he himself had a similar application pending for property renovation or development. In Councillor Foulkes's recollection of the conversation, the solicitor's view was that the wind turbine applications were 'more unique', but that it was Councillor Foulkes's decision as to whether he had an interest to declare.

17. Councillor Foulkes stated that he proposed the vote not to object to the wind farm application because he knew the exact location of the proposed site and in his view it would have a minimal effect on the surrounding properties and area. In considering the application, he said that he also took into account that Anglesey Council has declared itself an energy island, generally in favour of renewable electricity production. He also cited planning policy giving a presumption in favour of renewable energy. Councillor Foulkes stated that he did not accept that if planning permission were granted for the Ty Fry site, it would enhance his chances of having a wind turbine application approved. His view was that he had not breached paragraph 11 of the code. He did not consider that the issue of prejudicial interest was relevant as a member of the public who knew the sites would know that they were definitely not neighbouring and therefore would not conclude that he had a prejudicial interest.

Advice from an independent planning adviser

18. I have taken advice from an independent planning adviser, who is an experienced former planning inspector. I asked him to consider whether the success of a planning application for a wind turbine in the locality could be regarded as setting a precedent for, and thereby potentially influencing, future turbine applications in the area. He set out the Court's approach² on precedent in planning cases. Specifically, the Court ruled that it was important when considering a single planning application to ask what the consequences in the locality would be and what side effects would flow if permission were granted. To consider whether a precedent would be established in planning terms, there must be evidence (rather than mere assertion) to indicate that, if planning permission were granted, it would make it more difficult to refuse other applications for similar development which may have damaging effects.

19. In a second case³, the judge stated that there must be evidence of the likelihood of a precedent effect. A clear example that was given was "sporadic development in the countryside". The adviser stated that setting a precedent is therefore a material consideration in determining planning applications. However, there would have to be evidence in

² Collis Radio Ltd v SSE [1975] JPL 221

³ Poundstretcher v SSE [1988] 3 PLR 69

each case that there could be a proliferation of similar applications that would be difficult to refuse if the application in question was allowed.

20. In the specific circumstances of this case, the planning adviser noted that the proposed sites at Ty Fry and Marchynys are both in rural locations with a scatter of dwellings near to the application site. The turbines are of similar size. The applications share similar features from a planning point of view. The effect of the wind turbine on the appearance of the countryside and the proximity of dwellings to the turbine are likely to be material considerations in assessing the merits of the applications. The Community Council's support or opposition to the wind turbine application at Ty Fry would be incorporated in the local planning authority's assessment of the development. The effect of a precedent is always tempered by other planning factors that are particular to each site, but precedent would be a consideration that weighed in favour of, or towards refusal of, any wind turbine application. The adviser noted the strong similarity between the two sites and, in his view, the Community Council's support for one would have some bearing on the prospects for the other. The adviser's note is set out in full at Appendix 19.

Disputed facts

- a) Did Councillor Foulkes have a personal interest in agenda item 5 (wind turbine application at Ty Fry) at the 7 December 2011 meeting?
- b) If so, should Councillor Foulkes have been aware of that interest and declared it during the meeting?
- c) Did Councillor Foulkes have a prejudicial interest in agenda item 5 (wind turbine application at Ty Fry) at the 7 December 2011 meeting?
- d) If so, should Councillor Foulkes have remained in the meeting and participated in the vote on this item?

Analysis of evidence

21. Did Councillor Foulkes have a personal interest in agenda item 5 (the Ty Fry application)?

Councillor Foulkes had submitted three screening applications for wind turbines on his land. Two of these were in the vicinity of the proposed site which was being discussed. Councillor Foulkes disputes that he had a personal interest in the wind turbine application under discussion because it was not related to his application, it was not visible from the site of his application and it did not involve the same energy company. Councillor Foulkes stated that, whilst he has an interest in wind energy in relation to his own applications, he had no personal interest in the Ty Fry application.

I am mindful of the content of the Council's solicitor's note of his conversation with Councillor Foulkes. I note that the issue of precedent was suggested by the Council's solicitor in that "if this application was approved then it was more likely that his application would be approved and therefore it was a matter for him to decide to consider whether he in fact should take part in the matter or not. I used the analogy of two applications for a new bungalow in a green field. If one was approved then the second was more likely to be approved."

I have also considered the advice given by the independent planning adviser. He has cited case law showing that precedent development is a material planning consideration and has particular relevance in respect of sporadic developments in the countryside. Single wind turbine applications in rural locations would fall into this category of applications. The actual distance or visibility from the application site are not the most important factors, rather the similarity of the nature of the proposed development and the application sites in question.

I am satisfied in this case that the similarity in the size of the proposed wind turbines and the application sites is sufficient to point to the possibility of the Ty Fry application creating a precedent, which would advantage any future similar applications for wind turbines in the area. The wording of the Code is that a councillor should regard himself as having a personal interest in any business if a decision upon it might reasonably be regarded as affecting his wellbeing or financial position, to a greater extent than the majority of other inhabitants of the Community Council's area. I am satisfied that a decision on the Ty Fry application

could be regarded as such, and therefore that Councillor Foulkes did have a personal interest in the decision on this matter.

22. Should Councillor Foulkes have been aware of the interest and declared it during the meeting?

I have taken account of the fact that Councillor Foulkes contacted the Council's solicitor for advice on this issue. It is clear that Councillor Foulkes was sufficiently concerned that he might have a personal interest that he sought further advice. Whilst it is always the responsibility of each individual councillor to consider whether he/she may have a personal and prejudicial interest, the advice given by the solicitor to Councillor Foulkes did indicate the potential advantage to subsequent similar applications, if the Ty Fry one were approved. I also note that the Council's solicitor specifically drew paragraphs 10, 11 and 12 of the Model Code to Councillor Foulkes's attention during the conversation. I am satisfied that Councillor Foulkes had sufficient information available to him, following this conversation, to enable him to conclude he had a personal interest in this matter. I am also satisfied that he had sufficient opportunity during the meeting to declare his interest.

23. Did Councillor Foulkes have a prejudicial interest in agenda item 5 (the Ty Fry application)?

A personal interest will also be prejudicial where the matter does not fall within one of the exempt categories of business and where an informed independent observer would conclude that the interest would influence a member's vote or decision.

When considering allegations of this nature I have to consider whether a reasonable member of the public with knowledge of all the relevant facts would think that a member's judgment of the public interest might be prejudiced. The public perception of the decision is the key element here; it does not matter whether the member's decision was actually swayed in any way.

The Ty Fry application under discussion does not fall within one of the exempt categories of business set out in the Code. In view of Councillor Foulkes's own submission of three screening applications for wind turbines on his own land, I am satisfied that an independent member of the public would perceive a conflict of interest between Councillor Foulkes's own planning applications for wind turbines and his ability to objectively judge the public interest on a similar application in the local area. I take the view therefore that Councillor Foulkes's interest in this matter is also a prejudicial one.

24. Should Councillor Foulkes have remained at the meeting?

Where a councillor has a prejudicial interest, the Code requires him to withdraw from the meeting room and not seek to make any oral representations or influence a decision about that business. Councillor Foulkes remained at the meeting, made a significant contribution to the discussion and proposed the vote against making an objection to the Ty Fry application. Given that the vote not to object was passed by three to two, Councillor Foulkes's participation and vote had a considerable influence on the outcome. Given that Councillor Foulkes's interest in this matter could be deemed to be prejudicial, I believe that he should have withdrawn from the meeting and should not have participated in the vote.

Conclusions

25. The evidence from my investigation is that Councillor Foulkes took an active role in the Community Council meeting of 7 December 2011. The Community Council's decision not to object to the Ty Fry wind turbine application was directly attributable to his involvement.

26. The elements of the Code covering personal and prejudicial interests are designed to safeguard the principles of selflessness and objectivity. They are intended to give members of the public confidence that decisions are being taken in their best interests and not in the interests of members of authorities or their close personal associates.

27. The Code requires members to consider in all matters whether they have a personal interest and if so whether it should be declared. It

is clear that in contacting the Council's solicitor Councillor Foulkes considered that he might be regarded as having an interest in relation to the Ty Fry application. From the evidence I have seen, I am satisfied that Councillor Foulkes was made sufficiently aware of circumstances when planning precedent may convey an advantage. I accept that he would not have been aware of the specific legal points about precedent as outlined above by the planning adviser, but the evidence indicates that he was made aware of the content of the relevant parts of the Code and the potential advantage of precedent to his own application. I am satisfied that the information given to Councillor Foulkes by the Council's solicitor was sufficient to have led Councillor Foulkes to the conclusion that, by virtue of his own wind turbine application, a decision on the Ty Fry wind turbine application might reasonably be regarded as affecting his own well-being or financial position more than that of others in the area, giving rise to a personal interest under paragraph 10(2)(c)(i). It therefore follows that Councillor Foulkes's failure to orally disclose that interest at the meeting may have amounted to a breach of paragraph 11(1) of the Code.

28. The test relating to prejudicial interests is not whether Councillor Foulkes thought that he would take the decision impartially; from the evidence that he has given I have no doubt that he considered that he was taking a reasoned view. However, the test is much wider than that and relates to public confidence in decisions that are taken on its behalf. The wording of the Code reflects this. It is extremely important that the public has confidence in the decisions taken by its elected members. This is all the more so where there are strongly held views (either for or against) on the issues in question.

29. I am satisfied that Councillor Foulkes's personal interest in a wind turbine application could be perceived by an independent member of the public as so significant as to influence his judgment of the public interest on this matter. I therefore consider this personal interest to also be of a prejudicial nature under paragraph 12(1) of the Code. Councillor Foulkes remained at the meeting and played an influential part in the discussion and voting. It follows that I consider that Councillor Foulkes may also have been in breach of paragraph 14(1)(a) of the Code.

30. In considering this complaint, I have taken into account that Councillor Foulkes is a Community Councillor, rather than a County Councillor. He was therefore acting as a consultee rather than the primary decision maker on the Ty Fry application. Nevertheless, the Community Council's decision to support the Ty Fry application still had a bearing on the prospects for Councillor Foulkes's own application given their similarity. In addition, I note that Councillor Foulkes has stated that he has not had any training on the Code and perhaps it may be of benefit for Councillor Foulkes to be offered such training.

Finding

31. My finding under section 69 of the Local Government Act 2000 is that my report on this investigation should be referred to the Monitoring Officer of Isle of Anglesey County Council, for consideration by the Council's Standards Committee.

Peter Tyndall
Ombudsman

24 October 2012

Appendix

1

A complaint form has been submitted on the Ombudsman website. The following information was submitted:

Your details

Your Name in Full Mr Nicholas Moore

Full Address Ty Coch Talwrn Anglesey
LL75 7DR

Email nicmoore8@googlemail.com

Telephone 01248722883

Name of the public body you are complaining about

Penmynydd and Star Community Council

Name of the member(s) you consider to have broken the code of conduct

Explain how the individual(s) have broken the code of conduct

In relation to the Community Council meeting on the 7 December 2011 at Penmynydd community Hall. Public meeting to discuss a proposed wind turbine at Ty Fry Rhoscefnhir. Chaired by Mr Leon Gibson followed by a vote by the community council. Mr John Foulkes voted in favor of the wind turbine yet did not declare an interest in this application, Mr Foulkes has submitted 3 screening applications for wind turbines himself. Mr Foulkes was rude to the public and said that there were only 4 people in the hall from the community and that the rest were outsiders. On a hand vote there were over 100 people from the immediate community. Mr Huw Roberts and Mr Alun Owen voted only after being asked to by Mr Foulkes, They briefly discussed why they should vote in favor of the turbine and agreed to do so as the applicant muck spreads their fields. There were over 200 people at the meeting and 95% were against the turbine and expressed their views clearly. The 3 who voted for the turbine did so for personal gain and not the wishes of their community.

Do you have any documents to support your complaint?

Please tick appropriate box below:

☒ No

I understand and accept that my identity and the details of my complaint will be passed on to the member who I am making a complaint against and that they may become public knowledge. I confirm that I am prepared to give spoken evidence in public in support of my complaint to the authority's Standards Committee, or any case tribunal which may be appointed to consider any report which the Ombudsman may issue if he decides to investigate my complaint.

30 Dec 2011 09:20:59

000022

A complaint form has been submitted on the Ombudsman website. The following information was submitted:

Your details

Your Name in Full Mrs Nikki Gillard
Full Address Pant Mawr Penmynydd LLANFAIRPWLLGWYNGYLL
 LL61 6PG
Email nikkigillard@googlemail.com
Telephone

Name of the public body you are complaining about

Penmynydd and Star Community Council

Name of the member(s) you consider to have broken the code of conduct

John Foulkes

Explain how the individual(s) have broken the code of conduct

I attended the public meeting held prior to Penmynydd Community Council Meeting on 7/12/11 at which planning application 41C124-industrial sized wind turbine at Ty Fry, Rhoscefnhir was considered. I am appalled that Mr John Foulkes remained in the room and then voted in a matter in which he has a prejudicial interest. In a previous Community Council meeting he, himself had declared his own personal interest and refrained from participating in a discussion on wind turbines. Yet on Wednesday, when the Community Council were deciding on their recommendations to the County Council, he had no such qualms and his voting reflected his own personal interest rather than that of the community. I believe strongly that Mr Foulkes' actions were in breach of Constitution 5.1 Moral code of conduct. He has a personal interest in the approval of planning applications for wind turbines in the local area since he also has submitted applications for such developments on his own land. He did not (that I am aware) disclose his interest. He did not withdraw from the room. He actively participated in the discussion and encouraged Community Council members to vote on the matter rather than abstain.

Do you have any documents to support your complaint?
Please tick appropriate box below:

Yes

I understand and accept that my identity and the details of my complaint will be passed on to the member who I am making a complaint against and that they may become public knowledge. I confirm that I am prepared to give spoken evidence in public in support of my complaint to the authority's Standards Committee, or any case tribunal which may be appointed to consider any report which the Ombudsman may issue if he decides to investigate my complaint.

A complaint form has been submitted on the Ombudsman website. The following information was submitted:

Your details

Your Name in Full Mr Mark Gillard

Full Address Pant Mawr Penmynydd LLANFAIRPWLLGWYNGYLL
LL61 6PG

Email markgillard@talktalk.net

Telephone

Name of the public body you are complaining about

Penmynydd and Star Community Council

Name of the member(s) you consider to have broken the code of conduct

Explain how the individual(s) have broken the code of conduct

In the Community Council meeting for the village of Penmynydd (Anglesey) on 7th December 2011, Community Councillor Mr. John Foukes joined in the discussion relating to the Planning Application for a 71m high wind turbine at Ty Fry, Rhoscefnhir; he also voted on the decision whether or not to recommend it, in which he supported the application. He has a vested interest in the outcome of this planning application (and others like it) since he himself has applications in the pipeline for similar installations locally. He should not have voted; he should not even have joined in the debate. The vote was 3 in favour, 2 against - if he had not voted, I understand that Penmynydd Community Council's response to the County Council on the Ty Fry turbine application would have been against it (since the Chairman voted against and his casting vote would have swayed the decision in-line with the majority, local, public opinion). Such large-scale wind turbines are inappropriate for the this rural community and I believe Mr Foulkes was acting in his own (financial) interests. I was present at both the Public and Community Council meetings that evening, and am a resident of Penmynydd village.

Do you have any documents to support your complaint? Please tick appropriate box below:

No

I understand and accept that my identity and the details of my complaint will be passed on to the member who I am making a complaint against and that they may become public knowledge. I confirm that I am prepared to give spoken evidence in public in support of my complaint to the authority's Standards Committee, or any case tribunal which may be appointed to consider any report which the Ombudsman may issue if he decides to investigate my complaint.

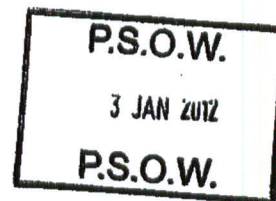
29 Dec 2011 15:07:11

000024

A complaint form has been submitted on the Ombudsman website. The following information was submitted:

Your details

Your Name in Full Dr. Alex Gordon-Clark
Full Address Minffordd Penmynydd LLANFAIRPWLLGWYNGYLL
 LL61 6PG
Email alexgc@doctors.org.uk
Telephone



Name of the public body you are complaining about

Penmynydd and Star Community Council

Name of the member(s) you consider to have broken the code of conduct

Explain how the individual(s) have broken the code of conduct

This complaint relates to the failure of the applicant to declare a conflict of interest when considering a wind turbine planning application, and to influence the council to make a decision in his favour. Mr Foulkes also has an application pending and the passing of the one under consideration would establish a precedent which would favour his own application since there are no industrial-sized turbines in the area at present. During the meeting Mr Foulkes remained quiet as there was a considerable public presence, but when it seemed the Council would vote against the application, he intervened, at which point the two members who had initially abstained changed their minds and voted with him in favour of the applications. The vote was passed 3 to 2 in favour. This was following a Public Meeting where the overwhelming majority of local residents voiced their objection to the application. Mr Foulkes is in breach of Paragraph 90 of the Council's Standing Orders. His actions during the meeting, constituted an abuse of his position, and contributed to a failure of the Council to represent the Community's views.

Do you have any documents to support your complaint? Please tick appropriate box below:

No

I understand and accept that my identity and the details of my complaint will be passed on to the member who I am making a complaint against and that they may become public knowledge. I confirm that I am prepared to give spoken evidence in public in support of my complaint to the authority's Standards Committee, or any case tribunal which may be appointed to consider any report which the Ombudsman may issue if he decides to investigate my complaint.

4 Jan 2012 12:29:42

000025

12 JAN 2012

Code of conduct complaint form

Please use black ink if possible and fill in your name in BLOCK CAPITALS.

A Your details

Your name in full OWAIN D. EVANS OMBUDSMAN OF ANGLESEY AGAINST WIND TURBINES

Address and postcode TY GWYN, PENMYNYDD, LLANDAIR FGS.
LL61 5BX.

E-mail oawt@hotmail.co.uk

Daytime contact number 01848 722 333

Mobile number

B Who are you complaining about?

Name of the member (or members) you consider has (have) broken the code of conduct

COUNCILLOR JENN FOLKES.

Name of their authority

PENMYNYDD COMMUNITY COUNCIL - ANGLESEY

C How do you think they have broken the code of conduct?

Please tell us what evidence you have for claiming that the member has broken the code of conduct (you can get copies of the code from the authority). Give as much detail as possible and continue on a separate sheet if you need to. Please attach copies of any relevant correspondence, documents and so on.

SEE ATTACHED DOCUMENTATION.

COMMUNITY COUNCIL MINUTES. 7th DECEMBER 2011
COMMUNITY COUNCIL MINUTES. 5th OCTOBER 2011
NOTES PREPARED BY ANGLESEY AGAINST WIND TURBINES.

Continue over the page

000026

30 JAN 2012

PSOW

Code of conduct complaint form

Please use black ink if possible and fill in your name in BLOCK CAPITALS.

A Your details

 Your name in full PAUL ANTHONY CORNEILL HELEN MARGARET TAYLOR

 Address and postcode LLECHWEDD FARM RHOSCEFNHIR
PENTRAETH ANGLESEY
LL75 8YR

 E-mail pcorneill@btinternet.com

 Daytime contact number 01248 450930

Mobile number

Who are you complaining about?

Name of the member (or members) you consider has (have) broken the code of conduct

JOHN FOULKES

Name of their authority

YNYS MÔN COUNTY COUNCIL

C How do you think they have broken the code of conduct?

Please tell us what evidence you have for claiming that the member has broken the code of conduct (you can get copies of the code from the authority). Give as much detail as possible and continue on a separate sheet if you need to. Please attach copies of any relevant correspondence, documents and so on.

Public Meeting, Hwl Ysgol Penrhynnydd 07.12.11
Voting procedure at Community Council meeting following the above meeting to consider planning application.
No. 41C124
An unprecedented number of people attended the public meeting (over 300) all of whom were against the application ~~of~~ with the exception of about 3 including the applicant and his son.
Following the Community Council's debate at their meeting which followed the decision of the Committee was to approve the application.
A member of the Committee, John Foulkes of Harchynys Penrhynnydd, has made an application 41C66C/SCR re. siting of a wind turbine. (see attached letter from Meirion Jones). John Foulkes did not declare an interest and did vote for the application.

Continue over the page

000027

Appendix

2

STANDING ORDERS - PENMYNYDD AND STAR COMMUNITY COUNCIL

MEMBERS' AND OFFICERS' CODES OF CONDUCT

73. Councillors shall conduct themselves in accordance with the prescribed principles governing their conduct, as referred to in Section 49(2) of the Local Government Act 2000 and the Conduct of Members (Principles)(Wales) Order 2001, namely, selflessness, honesty, integrity and propriety, duty to uphold the law, stewardship, objectivity in decision-making, equality and respect, openness, accountability and leadership.
74. Councillors shall, in conducting the business of the Council, undertaking the role of member thereof to which they were elected or appointed, and acting as a representative of the Council, observe and adhere to its Code of Conduct adopted in accordance with the requirements of Section 51 of the 2000 Act, incorporating any model Code issued by the National Assembly for Wales under Section 50(2) thereof.
75. Where a Councillor acts as a representative of the Council on another body, that member shall, when acting in that capacity, comply with the Code unless it conflicts with any legal obligations arising as a consequence of service on that body.
76. Councillors shall carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others. They must not do anything which compromises, or which is likely to compromise, the impartiality of the authority's employees.
77. Councillors shall not disclose information given in confidence, without the express consent of a person authorised to give such consent, or unless required by law to do so, and shall not prevent any person from gaining access to information to which that person is entitled by law.
78. Councillors shall not in their official capacity, or otherwise, commit a criminal offence or cause one to be committed or behave in a manner which could be reasonably regarded as bringing the office of Councillor or the Council into disrepute and shall report to the Local Commissioner for Local Administration in Wales and to the appropriate Monitoring Officer (viz. the officer appointed as such by the County within whose area the Council is situated) any conduct by another member of the Council which they believe involves, or is likely to involve, a failure to comply with the Code but, in relation to this requirement, must not make vexatious or malicious complaints against other persons. They shall also report any conduct by another person which they believe involves, or is likely to involve, criminal behaviour.
79. A Councillor (other than a member who is the subject of an investigation by the Monitoring Officer) shall comply with any requirement made by the Monitoring Officer in connection with an investigation.
80. Councillors shall not, in their official capacity, or otherwise, use their position improperly to confer on or secure for any person, and in particular their family, friends or those with whom they have a close personal association, an advantage or disadvantage or to secure an advantage for themselves. They shall, when (corporately) using or authorising the use by another Councillor of the resources of the Council, do so prudently and in accordance with the law and the Council's requirements and they shall ensure that the resources of the Council are not used improperly for their own private purposes, their family, friends and persons with whom they have a close personal association.
81. Councillors, when reaching decisions, shall do so on the basis of the merits of the circumstances involved and in the public interest, having regard to any relevant advice

STANDING ORDERS - PENMYNYDD AND STAR COMMUNITY COUNCIL

provided by the Council's officers, in particular its Responsible Financial Officer, the Monitoring Officer and its legal officer who should be consulted when there is any doubt as to the Council's power to act, or as to whether the action proposed lies within the policy framework agreed by the Council where the legal consequences of action or failure to act by the Council might have important repercussions; and shall give reasons for decisions in accordance with the Council's requirements.

82. Councillors shall observe the law and the Council's rules governing the claiming of expenses and allowances in connection with their duties as Councillors and shall avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by the Council), material benefits or services for themselves or any person with whom the Councillor is living that would, or might reasonably appear to, place him/her under an improper obligation.
83. Councillors shall, in all matters, consider whether they have a personal interest, and whether the Code requires them to disclose that interest.
84. A Councillor has a personal interest in a matter if he/she anticipates that a decision upon it might reasonably be regarded as likely to benefit or disadvantage: -
- (a) the Councillor, one of his/her family or a friend, or any person with whom he/she has a close personal association, or
 - (b) a body which employs those persons, or for which those persons have any degree of ownership, control or management to a greater extent than other council tax payers, ratepayers or inhabitants of the Council's area.
85. Councillors shall regard themselves as having a personal interest in a matter to the extent that it relates to: -
- (a) another relevant authority of which they are a member;
 - (b) a body in which they hold a position of general control or management; or
 - (c) a body to which they have been appointed or nominated by the Council as a representative.
86. Councillors shall also regard themselves as having a personal interest in a matter to the extent that it relates to: -
- (a) any full-time, part-time or intermittent employment, office, trade or profession carried on by them for profit or gain;
 - (b) any person who employs or has appointed them, any firm in which they are a partner, or any company of which they are a remunerated director;
 - (c) any person, other than a relevant authority (i.e. a County Council, County Borough Council, Fire Authority or a National Park Authority), who has made a payment to them in respect of their election or any expenses incurred in carrying out their duties;
 - (d) any corporate body which has a place of business or land in the Council's area, where the Councillor has a beneficial interest in a class of securities of that body which exceeds £25,000 in value (based upon original cost) or one hundredth of the total issued share capital of that body (whichever is the lower);
 - (e) any contract for goods, services or works made between the Council and the Councillor, a firm in which the Councillor is a partner, a company of which the Councillor is a director, or a body falling within those referred to in (d) above;
 - (f) any land in which the Councillor or a member of the Councillor's family has a beneficial interest and which is in the area of the Council;
 - (g) any land of which the landlord is the Council and the tenant is a firm in which the Councillor is a partner, a company of which the Councillor is a director, or a body falling within (d) above;

STANDING ORDERS - PENMYNYDD AND STAR COMMUNITY COUNCIL

- (h) any land in the Council's area in which the Councillor has a licence (alone or jointly with others) to occupy for a month or longer; and
 - (i) any visit outside the United Kingdom for which the Council has paid or will pay.
87. Councillors shall additionally regard themselves as having a personal interest in a matter to the extent that it relates to any membership, or position of general control or management which they have in any organisation. Such organisations include any: -
- (a) private club or society, such as the Freemasons, a recreational club, working men's club, or private investment club;
 - (b) organisation whose principal purpose includes influencing public opinion or policy such as a lobby group;
 - (c) trade union(s) or professional association;
 - (d) company, industrial and provident society or other organisation which has charitable objects.
- Councillors may, however, regard themselves as not having a personal interest in a matter to the extent that it relates to the functions of the Council in respect of an allowance or payment made under Sections 173 to 176 of the Local Government Act 1972 (Attendance, financial loss, travelling and subsistence allowances and allowances for attending conferences and meetings).
88. A Councillor who has a personal interest in a matter specified in Standing Order 85 above and who attends a meeting of the Council, or a Committee or Sub-Committee thereof, at which the matter is discussed, shall disclose the existence and nature of the interest at the commencement of that discussion or when the interest becomes apparent. In such a case that Councillor may speak but shall not vote on the matter unless granted a dispensation by the relevant Standards Committee (of the County Council within whose area the Community is situated).
89. A Councillor who has a personal interest in a matter specified in Standing Orders 86 and 87 above and who attends a meeting of the Council, or a Committee or Sub-Committee thereof, at which the matter is discussed, shall disclose the existence and nature of the interest at the commencement of that discussion or when the interest becomes apparent. In such a case, that Councillor shall withdraw from consideration of the matter unless granted a dispensation by the relevant Standards Committee (of the County Council within whose area the Community) is situated which shall not consider granting a dispensation unless the Councillor has previously notified the Monitoring Officer of that interest, in accordance with the terms of Standing Order 91 below, together with relevant details.
90. A Councillor who has a personal interest in a matter which is not specified in Standing Orders 85, 86, or 87 above (but including those referred to in Standing Order 84 above) and who attends a meeting of the Council, or a Committee or Sub-Committee thereof, at which the matter is discussed, shall disclose the existence and nature of the interest at the commencement of that discussion or when the interest becomes apparent. If that personal interest is such that a member of the public might reasonably conclude that it would significantly affect the Councillor's ability to act purely on the merits of the case and in the public interest if that Councillor were to take part in the discussion of that matter, the Councillor shall also withdraw from consideration of the matter at that meeting unless granted a dispensation by the relevant Standards Committee (of the County Council within whose area the Community is situated) which shall not consider granting a dispensation unless the Councillor has previously notified the Monitoring Officer of that interest, in accordance with the terms of Standing Order 91 below, together with relevant details.

STANDING ORDERS - PENMYNYDD AND STAR COMMUNITY COUNCIL

91. **Councillors shall register any disclosed interests in the Register of Interests established and maintained by the appropriate Monitoring Officer. They shall exercise personal responsibility in deciding whether they have a personal interest such that they should disclose it, seeking advice thereon from the Monitoring Officer and having regard to any advice from the Standards Committee. Councillors shall notify the Monitoring Officer of any change to the interests registered within one month of their occurrence.**
92. **Other than any gift accepted by a Councillor on behalf of the Council, a Councillor shall notify the Monitoring Officer of the existence and nature of any gifts, hospitality, material benefits or advantage received by the Councillor, or to the Councillor's knowledge any person with whom the Councillor is living, from any company, organisation or person and relating to or arising out of their position as a Councillor, where the value of the item or benefit exceeds the amount of £5.00.**
93. **Employees of the Council are expected to observe the terms of the relevant Code of Conduct issued by the National Assembly for Wales under Section 82(2) of the Local Government Act 2000 and the Code of Conduct (Qualifying Local Government Employees)(Wales) Order 2001. This includes that the public is entitled to expect the highest standards of conduct from the Council's employees, their role being to serve the Council in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they shall act with integrity, honesty, impartiality and objectivity.**
94. **Such employees serve the whole of the Council and are accountable to, and owe a duty to the Council. They shall act in accordance with the principles set out in the Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.**
95. **The Council's employees shall follow every lawfully expressed policy of the Council and shall not allow their own personal or political opinions to interfere with their work.**
96. **Mutual respect between employees and Councillors is essential to good local government, and working relationships should be kept on a professional basis. Employees should deal with the public, Councillors and any other employees sympathetically, efficiently, and without bias.**
97. **Employees shall comply with policies relating to equality issues, as agreed by the Council, in addition to the requirements of the law.**
98. **Employees shall ensure that they use public funds entrusted to them in a responsible and lawful manner, and shall not utilise property, vehicles or other facilities of the Council for personal use unless authorised to do so.**
99. **Whilst employees' private lives are their own concern, they shall not allow their private interests to conflict with their public duty. They shall not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they shall comply with: -**
 - (a) **any rules of the Council on the registration and declaration by employees of financial and non-financial interests,**
 - (b) **any rules of the Council on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from relationship with the Council. Employees shall not accept benefits from a third party unless authorised to do so by the Council.**

STANDING ORDERS - PENMYNYDD AND STAR COMMUNITY COUNCIL

100. In the event that an employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with the employees' Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with any confidential reporting procedure of the Council, or any other procedure designed for this purpose.
101. Openness in the dissemination of information and decision-making should be the norm in relevant authorities. However, certain information may be confidential or sensitive and, therefore, not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Community Councillor, employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in the Code shall be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.
102. Employees involved in the recruitment and appointment of staff shall ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, employees shall not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.
103. Where a Monitoring Officer is undertaking an investigation in accordance with Regulations made under Section 73(1) of the Local Government Act 2000, an employee shall comply with any requirement made by the Monitoring Officer in connection with such an investigation.

WELSH LANGUAGE SCHEMES AND USE OF WELSH LANGUAGE

104. Councillors, Officers and any other employees, shall adhere to the requirements of any Welsh Language Scheme or revised Scheme made by the Council under the Welsh Language Act 1993 and approved by the Welsh Language Board.
105. The Council shall conduct the business at its meetings in the Welsh language.

HUMAN RIGHTS

106. So far as it is possible, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the rights and fundamental freedoms referred to in the European Convention on Human Rights set out in the Human Rights Act 1998 and it is, therefore, generally unlawful for a public authority to act in a way which is incompatible with a Convention right. This Council shall, therefore, have regard to human rights principles when making decisions affecting people's rights.

VARIATION, REVOCATION AND SUSPENSION OF STANDING ORDERS

107. Subject to statutory requirements, any one or more of these Standing Orders, excepting those printed in **bold** typeface, may be suspended by resolution of the Council, in relation to any specific item of business, subject to the vote thereon being carried by at least two-thirds of the members present and voting on the motion. A Committee or Sub-Committee thereof may similarly by resolution suspend any one or more of these Standing Orders in relation to any specific item of business in respect of which it exercises properly delegated functional powers, subject as aforesaid. Suspension shall only be for the duration of the meeting at which the resolution is passed.

Appendix

3

SCHEDULE

THE MODEL CODE OF CONDUCT

PART 1 INTERPRETATION

1.—(1) In this code —

“co-opted member” (“*aelod cyfetholedig*”), in relation to a relevant authority, means a person who is not a member of the authority but who —

- (a) is a member of any committee or sub-committee of the authority, or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

“meeting” (“*cyfarfod*”) means any meeting —

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or
- (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990(1),

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

“member” (“*aelod*”) includes, unless the context requires otherwise, a co-opted member;

“relevant authority” (“*awdurdod perthnasol*”) means—

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995(3);

“you” (“*chi*”) means you as a member or co-opted member of a relevant authority; and

“your authority” (“*eich awdurdod*”) means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council, references to an authority’s monitoring officer and an authority’s standards committee are to be read, respectively, as references to the monitoring officer and the standards committee of the county or county borough council which has functions in relation to the community

(1) S.I. 1990/1553 as amended by S.I. 1991/1389; S.I. 1993/1339; S.I. 1998/1918; and S.I. 1999/500.

(2) 2004 c.21.

(3) 1995 c.25.

council for which it is responsible under section 56(2) of the Local Government Act 2000.

PART 2

GENERAL PROVISIONS

2.—(1) Save where paragraph 3(a) applies, you must observe this code of conduct —

- (a) whenever you conduct the business, or are present at a meeting, of your authority;
- (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
- (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
- (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

3. Where you are elected, appointed or nominated by your authority to serve —

- (a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
- (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5. You must not —

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

6.—(1) You must —

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which

for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);

- (c) report to the Public Services Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not —

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority —
 - (i) imprudently;
 - (ii) in breach of your authority's requirements;
 - (iii) unlawfully;
 - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
 - (v) improperly for political purposes; or
 - (vi) improperly for private purposes.

8. You must —

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —
 - (i) the authority's head of paid service;
 - (ii) the authority's chief finance officer;
 - (iii) the authority's monitoring officer;
 - (iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

PART 3 INTERESTS

Personal Interests

10.—(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if —

(a) it relates to, or is likely to affect —

- (i) any employment or business carried on by you;
- (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
- (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
- (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
- (vi) any land in which you have a beneficial interest and which is in the area of your authority;
- (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
- (viii) any body to which you have been elected, appointed or nominated by your authority;
- (ix) any —
 - (aa) public authority or body exercising functions of a public nature;
 - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (cc) body whose principal purposes include the influence of public opinion or policy;
 - (dd) trade union or professional association; or
 - (ee) private club, society or association operating within your authority's area, in which you have membership or hold a position of general control or management;

(x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

(b) a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or

(c) a decision upon it might reasonably be regarded as affecting —

- (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
- (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
- (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
- (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a

- class of securities exceeding the nominal value of £5,000; or
- (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,
- to a greater extent than the majority of—
- (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11.—(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

- (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or
- (b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer from time to time but, as a minimum containing —

- (a) details of the personal interest;
- (b) details of the business to which the personal interest relates; and
- (c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12.—(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if 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.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business

where that business—

(a) relates to —

- (i) another relevant authority of which you are also a member;
- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
- (iii) a body to which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
 - (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
 - (iv) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;
- (c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14.—(1) Subject to sub-paragraphs (2), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

- (a) withdraw from the room, chamber or place where a meeting considering the business is being held—
 - (i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
 - (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
- (b) not exercise executive or board functions in relation to that business;
- (c) not seek to influence a decision about that business;
- (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
- (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
- (b) you have the benefit of a dispensation provided that you —
 - (i) state at the meeting that you are relying on the dispensation; and
 - (ii) before or immediately after the close of the meeting give written notification to your authority containing —
 - (aa) details of the prejudicial interest;
 - (bb) details of the business to which the prejudicial interest relates;
 - (cc) details of, and the date on which, the dispensation was granted; and
 - (dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

Appendix

4

DATGANIAD DERBYN SWYDD

DECLARATION OF ACCEPTANCE OF OFFICE

Cyngor Cymuned
Cyngor Tref

Pennyrydd

Community Council
Town Council

Yr wyf fi

John M. Foa/HES

gan i mi gael fy ethol i swydd Cynghorydd/Cadeirydd
having been elected to the office of Councillor/Chairman

YN DATGAN fy mod yn cymryd arnaf fy hun y swydd honno ac y cyflawnaf ei dyletswyddau
yn gywir ac yn ffyddlon hyd eithaf fymarn a'm gallu.

*DECLARE that I take that office upon myself, and will duly and faithfully fulfil the duties of it
according to the best of my judgement and ability.*

YN YMRWYMO i ufuddhau i Gôd Ymddygiad y Cyngor hwn sydd am y tro wedi'i
fabwysiadu o dan Adran 51 o Ddeddf Llywodraeth Leol 2000 wrth gyflawni fynyletswyddau
yn y swydd honno.

*UNDERTAKE to observe this Council's Code of Conduct for the time being adopted under
Section 51 of the Local Government Act 2000 in the performance of my functions in that
office.*

Dyddiad
Date

28/7/04

Llofnod
Signature

[Signature]

Gwnaethpwyd a llofnodwyd y datganiad hwn ger fymron i
This declaration was made and signed before me

[Signature]
Clerc / Clerk

* * * * *

Os gwneir y datganiad a'i lofnodi gerbron unrhyw berson arall sydd ag awdurdod dan Adran
83(4) Deddf Llywodraeth Leol 1972, addasir y ffurflen yn unol â hynny.

*If the declaration is made and signed before any other person authorised by section 83(4) of
the Local Government Act 1972, adapt form accordingly.*

Appendix

5

Our ref 3343/201102860
3343/201102856
3343/201102868
3343/201102913
3343/201103060
3343/201103282

Ask Sam Ward
for:

 01656 641167

Date: 5 March 2012

 Sam.Ward@ombudsman-wales.org.uk

Councillor John Foulkes
Penmynydd and Star Community Council
Marchynys
Penmynydd
Llanfairpwllgwyngyll
LL61 6PG

Dear Councillor Foulkes,

Code of Conduct Complaint

The Ombudsman has now decided to investigate the complaints made against you by Mr Nicholas Moore, Mr Mark Gillard, Mrs Nikki Gillard, Mr Alex Gordon-Clark, Mr Owain Evans and Mr Paul Corneill and Mrs Helen Taylor. You were informed in writing of these complaints on 29 and 30 December 2011 and 4, 12 and 31 January 2012. I have been asked to carry out the investigation into these complaints. You need not respond to this letter if you do not wish to. However if you do comment on the complaint at this stage, your comments may be disclosed to the complainant, or in any subsequent proceedings.

If my investigation finds that there is a case to answer, I will in due course put to you the evidence I have found and any questions which appear relevant in light of it.

I have written to notify the Monitoring Officer of Isle of Anglesey County Council and the Clerk to the Community Council of this investigation and have asked for any relevant information.

000046

Please be aware that the Ombudsman considers that the disclosure of details of this complaint to the local press or media may itself be a breach of the Code. You are therefore advised not to discuss this complaint with anyone other than your representative.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sam Ward', written in a cursive style.

Sam Ward
Senior Investigator

000047

000048

Appendix

6

WITNESS STATEMENT

P.S.O.W.

13 APR 2012

P.S.O.W.

Statement of:

Age if under 18:

(if over 18 insert 'over 18')

Occupation: FARMER + RETIRED MIDWIFE

This statement (consisting of _____ pages each signed by me) is true to the best of my knowledge and belief.

Signature:

Mum

Date: 9/4/12

Questions

Community Council Meeting 5 October 2011

1. Please confirm that you attended the Penmynydd and Star Community Council meeting of 5 October 2011 (copy of minutes attached).

I confirm that I WAS NOT present *Mum*

2. Please confirm your recollections about the discussion concerning item 3 on the agenda about wind turbines.

N/A.

Community Council Meeting 7 December 2011

3. Please confirm that you attended the Penmynydd and Star Community Council meeting of 7 December 2011 (copy of minutes attached).

I confirm that I was Present. *Mum*

4. I understand from the minutes that there was a public meeting about the issue of wind turbines prior to the Community Council meeting and that a number of the public were present at the Community Council meeting. Please indicate your recollection of the general view of the public present and whether this was in favour or against the proposed wind farm development. If

Case reference number: 3343/201102860

000050

you recall any specific comments from members of the public, please provide these.

Please refer to accompanying document
MM

5. Please confirm, in as much detail as you can, your recollection of the discussion of agenda item 5.1 about the wind turbine application. Any detail you can give about the nature of the discussion, including who contributed, would be helpful. Please provide a copy of any notes that you made at the meeting.

Please refer to accompanying document
MM

6. Did Councillor Foulkes take part in the discussion on agenda item 5.1. Please explain your recollection of the nature of his involvement in the discussion (eg. his specific contribution to the discussion) and whether the nature of his involvement changed as the discussion progressed. If you recall what was said, please quote any remarks or submission that he may have made.

Please refer to
accompanying document
MM

7. Please confirm whether you voted to support or object to the application and the factors you considered in reaching your view about how to vote.

Please refer to accompanying
document
Mm

8. Please give any additional information/comments that you feel may be relevant.

Please refer to accompanying
document
Mm

Signature:
Date:

Signature witnessed by:

Case reference number: 3343/201102860

000052

Continuation Sheet – Witness statement of *Angela Borne Mum.*

Signature: *Mum.*

Date:

April 11th 2012.

Case reference number: 3343/201102860

000053

Angharad Bowen-Holmes,
Councillor, Penmynydd Parish Council

My recollection of the general view of the public present and whether this was in favour or against the proposed wind farm development

During the Public Meeting - The Village Hall was full to capacity and beyond. All seats, (I estimate being 6 rows of 10 seats), were full, and there was no standing room left in the hall. I estimate the number of public at the meeting to be approx 130 adults. Every available space was taken up, and as more people were let into the hall the front row of seats was asked to move forward at least 4 feet, so that in the end the parish councillors were in fact practically knee to knee with the general public!

For me it was a very uncomfortable situation.

I estimate that 95% of the public that were present were against the wind farm development. A small group of local farmers who were for the development stood at the back of the hall. Many speakers from the floor spoke against the wind farm development. Some were very succinct others not so. The Chairman was forced on countless times to re-focus the meeting onto arguments for or against the wind farm development. In my opinion the protestors to the wind farm development had not efficiently planned their response to the community council's offer to listen to their arguments. They allowed some 'hot head' and in some instances rude individuals to high jack and take attention away from the real issue of wind farm development. As a community council we asked that they come together and provide for and against arguments as related to the Ty Fry Wind development proposal - to let us know how the locals felt about the proposed development. It was far too emotionally charged and the parish council chairman in my opinion did a sterling job in controlling the meeting. Some individuals were antagonistic towards Mr John Foulkes and to landowners in general. Others were antagonistic towards the farmer from Ty Fry. One individual against the wind farm development called the parish council a pontificating body, and many others intimated that the parish council was made up of landowners so the proposal would not get a fair hearing.

I felt quite intimidated towards the end of the public meeting and was not relishing exiting the building after the meeting with approx 100+ people outside!

During the Community Council Meeting approximately 75% of the public left the hall to stand outside the building and on the driveway leading to the hall. I believe that to the best of my recollection the group of farmers who were for the development stayed in the hall for the council meeting.

Re Item 5:1 I do recall the chairman asking Mr Foulkes if he needed to declare an interest, and Counc. Foulkes said he was not and that he had been in contact with the council in Llangefni and had been told that declaring an interest was not necessary.

The minutes are correct and I, Angharad Bowen-Holmes, spoke first by saying that I was against the development of this size of wind turbine at Ty Fry and that we as a council could not surely vote any other way than to oppose the proposed development at Ty Fry, given the strength of feeling of the local residents. (We had already ascertained that the vast majority of the public present were local residents). As a Penmynydd councillor myself I took an active interest in the development of wind turbine technology and had on my own behalf already spoken to many local residents and neighbours, the vast majority of who opposed the development. As a general supporter of small scale wind turbine technology myself, I still could not support the Ty Fry development because of the strength of feeling of local residents.

I seemed to be the only councillor ready to say anything on the matter and the chairman asked for comments. Mr John Foulkes responded by saying that not everyone was against the development at Ty Fry and that the site was suitable as a rural site and would not impinge on anyone else. The other two councillors present said nothing on the issue. A vote was called for and went 2

M. Holmes
12/8/12

000054

against the proposal and 3 for the proposal.

6

There was not a great deal of discussion about the proposal – we voted on the issue fairly promptly. As I stated above Mr Foulkes stated that not everyone was against the development, but he did not speak in depth or in any persuasive way on the matter. In fact I thought he was quite restrained on the matter. There was a general lack of discussion, neither Counc.Owen nor Counc. Roberts gave their specific views on the matter.

Mr Foulkes did not try to persuade them in any way, nor was there any attempt by him to sway the argument during the meeting. I say this objectively, Mr Foulkes and his family are neighbours of mine, and we are personal friends, though we differ tremendously on many issues, and we have been known to conflict on issues many times, but I feel I am being fair in saying that I do not believe that he unduly affected the discussion nor the vote that evening.

7

I opposed the application as stated in 5.1

8

The public meeting was intimidating to the councillors present. I feel that the level of animosity towards Mr Foulkes and the council was ill founded. One lady who was present during the council meeting, having realised that the proposal had been approved by 3 to 2 votes, shouted out that "here is another example of council corruption"!

Mums 12/4/17.

000056

Appendix

7

P.S.O.W.
16 APR 2012
P.S.O.W.

WITNESS STATEMENT

Statement of: **EDWARD LEON GIBSON**

Age if under 18: **over 18** (if over 18 insert 'over 18')

Occupation: **Retired**

This statement (consisting of _____ pages each signed by me) is true to the best of my knowledge and belief.

Signature: **Leon Gibson**

Date: **12/04/2012**

Questions

Community Council Meeting 5 October 2011

1. Please confirm that you attended the Penmynydd and Star Community Council meeting of 5 October 2011 (copy of minutes attached).

I confirm

2. Please confirm your recollections about the discussion concerning item 3 on the agenda about wind turbines.

I advised that it would be difficult for the Council to discuss the issue of wind turbines until such time as a planning application(s) were received.

As soon as an application was received the Council undertook to convene a public meeting in order to give the public an opportunity to express their views, prior to the Council deciding upon the matter.
Community Council Meeting 7 December 2011

3. Please confirm that you attended the Penmynydd and Star Community Council meeting of 7 December 2011 (copy of minutes attached).

I confirm

4. I understand from the minutes that there was a public meeting about the issue of wind turbines prior to the Community Council meeting and that a number of the public were present at the Community Council meeting. Please indicate your recollection of the general view of the public present and whether this was in favour or against the proposed wind farm development. If

Case reference number: 3343/201102860

Leon Gibson

12/04/2012

000058

you recall any specific comments from members of the public, please provide these.

The general view of the persons present at the public meeting was strongly opposed to any wind farm development. Their main concerns related to:

- proposals for six turbines in a small rural area little Barmymudd and their cumulative effect;
- their height and size;
- their detrimental impact on dwelling houses in the area and wide-
afield; — see continuation sheet

5. Please confirm, in as much detail as you can, your recollection of the discussion of agenda item 5.1 about the wind turbine application. Any detail you can give about the nature of the discussion, including who contributed, would be helpful. Please provide a copy of any notes that you made at the meeting.

I made no notes at the meeting.

There was limited discussion at the council meeting having regard to the extensive discussions and contributions made at the public meeting immediately prior to the council meeting.

I was confident that all members were aware of the main considerations.

Councillor Angharad Bowen Holmes and I referred to the strong majority view opposed to the development and that should be borne in mind when voting.

6. Did Councillor Foulkes take part in the discussion on agenda item 5.1. Please explain your recollection of the nature of his involvement in the discussion (eg. his specific contribution to the discussion) and whether the nature of his involvement changed as the discussion progressed. If you recall what was said, please quote any remarks or submission that he may have made.

Councillor Foulkes indicated that he supported the development. He also stated in answer to a question from myself that he did not consider that he should declare an interest having discussed the issue with the legal Department of the County Council and that the advice he received indicated that there was no need.

7. Please confirm whether you voted to support or object to the application and the factors you considered in reaching your view about how to vote.

I voted to object to the application.

The factors which influenced me are as follows:

- no demonstrable need in support of the development
- its detrimental effect on an attractive rural area
- its prominence in the landscape
- a reflection of the views of the public at the public meeting

8. Please give any additional information/comments that you feel may be relevant.

Signature:
Date:

Ann Gibson
12/04/2012

Signature witnessed by:

Ann Gibson
12/04/2012

Case reference number: 3343/201102860

000060

H. continued

- noise and flicker effect
- only a very few homeowners would benefit from any such development

I also recall that applicant of application 04HC124 stated that his family would reside in close proximity to the turbine and that he would not have submitted the application if he considered it detrimental to their interests. He was supported by some individuals.

Signature: Leon Gibson

Date: 12/04/2012

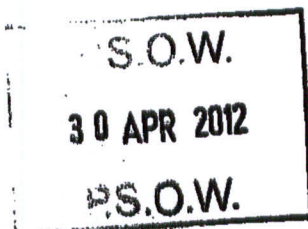
Case reference number: 3343/201102860

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000062

Appendix

8



WITNESS STATEMENT

Statement of:

Age if under 18: (if over 18 insert 'over 18')

Occupation: ...FARMER... (OVER 18)

This statement (consisting of pages each signed by me) is true to the best of my knowledge and belief.

Signature:

Date: 27.4.12

Questions

Community Council Meeting 5 October 2011

1. Please confirm that you attended the Penmynydd and Star Community Council meeting of 5 October 2011 (copy of minutes attached).

Yes, I was at the meeting on 5th October 2011

2. Please confirm your recollections about the discussion concerning item 3 on the agenda about wind turbines:

As far as I can recollect, the matter of wind turbines was not discussed as no application had been received.

Community Council Meeting 7 December 2011

3. Please confirm that you attended the Penmynydd and Star Community Council meeting of 7 December 2011 (copy of minutes attached).

Yes I attended the meeting on 7-12-11.

4. I understand from the minutes that there was a public meeting about the issue of wind turbines prior to the Community Council meeting and that a number of the public were present at the Community Council meeting. Please indicate your recollection of the general view of the public present and whether this was in favour or against the proposed wind farm development. If

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000064

you recall any specific comments from members of the public, please provide these.

I was not present at the beginning of the Public Meeting. I arrived towards the end. The meeting was well attended but only a handful of people from the village. The majority were members of "Anglesey Against Wind Turbines", and were not residents of Penrynnydd. As indicated by the name of their organisation, they were against wind turbines. However, not all the people of Penrynnydd are against them.

5. Please confirm, in as much detail as you can, your recollection of the discussion of agenda item 5.1 about the wind turbine application. Any detail you can give about the nature of the discussion, including who contributed, would be helpful. Please provide a copy of any notes that you made at the meeting.

As far as I can recollect all members contributed.

Myself, I asked why this particular application was dealt with in Penrynnydd as this was for the erection of a turbine at Llyfry, Rhoscefnant. Having been born and bred in Penrynnydd (I am over 70 yrs old) I knew that Llyfry has always been in the catchment area of Penrhaeth Community Council, but was given to understand that the field in question was on the perimeter with Penrynnydd.

I did not make any notes at the meeting

6. Did Councillor Foulkes take part in the discussion on agenda item 5.1. Please explain your recollection of the nature of his involvement in the discussion (eg. his specific contribution to the discussion) and whether the nature of his involvement changed as the discussion progressed. If you recall what was said, please quote any remarks or submission that he may have made.

Yes, Councillor Foulkes did take part in the discussion. I do not think that he did anything out of order. This application was by someone else and Councillor Foulkes had every right to take part in the proceedings. The decision the council made that evening was democratic and above board, but of course this was not the decision that Anglesey Against W.T. wanted.

Case reference number: 3343/201102860

ACF

00065

7. Please confirm whether you voted to support or object to the application and the factors you considered in reaching your view about how to vote.

I voted to support the application as I consider renewable energy to be the way forward and being much safer than having another Nuclear Power Station on the island. However, I am no longer a member of the Council having now retired after serving the community for over 40 years.

8. Please give any additional information/comments that you feel may be relevant.

Signature:

AG Owen

Date:

27.4.12.

Signature witnessed by:

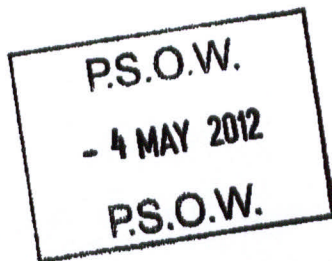
Aunt Owen

Case reference number: 3343/201102860

00066

Appendix

9



WITNESS STATEMENT

Statement of:

Age if under 18: OVER 18 . (if over 18 insert 'over 18')

Occupation: FARMER.....

This statement (consisting of _____ pages each signed by me) is true to the best of my knowledge and belief.

Signature: W. H. Roberts

Date: 29 4 2012

Questions

Community Council Meeting 5 October 2011

1. Please confirm that you attended the Penmynydd and Star Community Council meeting of 5 October 2011 (copy of minutes attached). Please confirm in what capacity you attended the meeting.

*I confirm that I attended this meeting
as Community Councilor*

2. Please confirm your recollections about the discussion concerning item 3 on the agenda about wind turbines.

*There was no discussion about wind turbines
as there were no applications received.*

Community Council Meeting 7 December 2011

3. Please confirm that you attended the Penmynydd and Star Community Council meeting of 7 December 2011 (copy of minutes attached). Please confirm in what capacity you attended the meeting.

*I confirm that I attended this meeting
as Community Councilor*

Case reference number: 3343/201102860

000068

4. I understand from the minutes that there was a public meeting about the issue of wind turbines prior to the Community Council meeting and that a number of the public were present at the Community Council meeting. Please indicate your recollection of the general view of the public present and whether this was in favour or against wind farm development. If you recall any specific comments from members of the public, please provide these.

I wasn't informed about this public meeting
so I wasn't only present for the last five minutes
before attending the Community Council meeting at 7.30 pm
The last speaker for A.A.W.T. said that farmers
were getting too much Subsidies so in my
opinion this is the root of the problem.
When going out of the Community Council meeting these
people present shouted farmers are "Shit" and "Traitors"

5. Please confirm in as much detail as you can your recollection of the discussion of agenda item 5.1 about the wind turbine application. Any detail you can give about the nature of the discussion, including who contributed, would be helpful. Please provide a copy of any notes that you made at the meeting.

As in the agenda.

6. Did Councillor Foulkes take part in the discussion on agenda item 5.1. Please explain your recollection of the nature of his involvement in the discussion (eg. his specific contribution to the discussion) and whether the nature of his involvement changed as the discussion progressed. If you recall what was said, please quote any remarks or submission that he may have made.

I came to the conclusion that Councillor Foulkes had no interest in this application because TY FRY Rhoscifnir is not in Penmyynydd + Stâr Community.

We discussed with Councillor Foulkes.
as some people are against WYLF A B
" " " " WIND TURBINES.
" " " " BIO MASS.
" " " " SOLAR

SO WHAT DO ANGLESEY PEOPLE WANT?

7. Please give any other comments/information that you think may be relevant.

Please bear in mind that your comments may be included in the evidence that is disclosed to Councillor Foulkes during this investigation. Ultimately, your evidence may be attached to any report on the investigation which the Ombudsman may refer to the Council's Monitoring Officer and Standards Committee, or to the President of the Adjudication Panel for Wales. I therefore advise you not to discuss your evidence with any persons who may be involved in the investigation.

Signature:

W. H. Foulkes

Date:

29.4.2012

Signature witnessed by:

A. E. Foulkes

Case reference number: 3343/201102860

000070

Appendix

10

Statement by Cllr. Eric Jones

Occupation :- Retired

Q. 1

I was present at the meeting as the County Councillor for the area.

Q. 2

There was no discussion as no application had been received but as there were members of the public present, the Chairman promised that a public meeting would be held when the planning application was received.

Q. 3

As for Q.1

Q. 4

A public meeting was held before the meeting of the Community Council. There were a great number of the public present – possibly about 200 – but I cannot be totally sure about this as some were outside the Hall, as there was not enough room for everyone inside.

There was strong objection to the applications for wind turbines possibly as high as 9 to 1 but I cannot be totally sure about that.

It is fair to say that many of the audience were from outside the Penmynydd and Star electorate.

Q. 5

There was considerable discussion on item 5.1 of the agenda and the Chairman gave an opportunity for any member to declare an interest.

No one declared an interest and Cllr. Angharad Holmes, seconded by Cllr. Leon Gibson proposed that the planning application should be strongly objected to.

Cllr. John Foulkes stated that not everyone was against such a development and proposed that we approve the application, and his proposal was seconded.

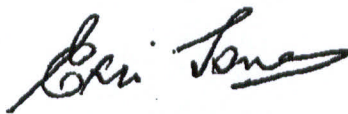
Following a vote, the Council decided to approve the application by 3 to 2.

Q. 6 – Yes see no. 5

Q. 7 - None

WITNESS STATEMENTStatement of: **ERIC JONES**Age if under 18: **DROS 18** (if over 18 insert 'over 18')Occupation: **WEDI YMDDOL**This statement (consisting of **5** pages each signed by me) is true to the best of my knowledge and belief.

Signature:

Date: **05.04.2012****Questions****Community Council Meeting 5 October 2011**

1. Please confirm that you attended the Penmynydd and Star Community Council meeting of 5 October 2011 (copy of minutes attached). Please confirm in what capacity you attended the meeting.

YR OEDDWN YN BRESENNOL YN Y CYFARFOD FEL CYNGHORWYD SIR DROS YR ASDAL.

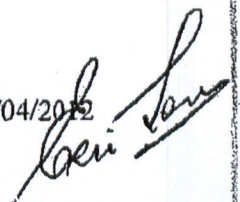
2. Please confirm your recollections about the discussion concerning item 3 on the agenda about wind turbines.

Ni fu trafodaeth gan Nedi ei ddesbyr, ond fod aelodau o'r cyhoedd yn bresennol, addawodd y Caderydd y byddai cyfarfod cyhoeddus yn cael ei gynnal pen ddau cyn llunio gerbron.

Community Council Meeting 7 December 2011

3. Please confirm that you attended the Penmynydd and Star Community Council meeting of 7 December 2011 (copy of minutes attached). Please confirm in what capacity you attended the meeting.

Yr oeddwn yn bresennol yn y Cyfarfod fel Cynghorydd Sir Dros yr Asdal.



4. I understand from the minutes that there was a public meeting about the issue of wind turbines prior to the Community Council meeting and that a number of the public were present at the Community Council meeting. Please indicate your recollection of the general view of the public present and whether this was in favour or against wind farm development. If you recall any specific comments from members of the public, please provide these.

Cynhalwyd cyfarfod cyhoeddus cyn eisteddfod o'r Cynghor Cymuned yr oedd nifer helaeth o'r cyhoedd yn bresennol - posibl oeddent 200 - ond nid ym yn bosibl fod yn hollol gywir gan fod nifer tu allan i'r Genotfen, oherwydd nad oedd lle i bawb. Yr oedd gwrthwynebiad cryf i'r ceisiadau am ffeiliau gwynnol posib cyn ddechrau neu uch na 9 i 1, ond ni fedraf fod yn sicr o hynny. Mae'n debyg dwedodd fod nifer helaeth o'r gynulleidfa o'i tu allan i ettoleth Penrynnydd a Star.

5. Please confirm in as much detail as you can your recollection of the discussion of agenda item 5.1 about the wind turbine application. Any detail you can give about the nature of the discussion, including who contributed, would be helpful. Please provide a copy of any notes that you made at the meeting.

Bu cyn drafodaeth ar item 5-1 o'r agenda, a bu i'r Cadeirydd roddi sioens i unrhyw aelod oedd yn dymuno datgan diddordeb.

Ni maed hyn gan neb, a cynigiodd y Cynghorydd Angharad Holmes, yn cael ei heilio gan y Cynghorydd Leon Gibsen ei bod yn gwrthwynebu yn gryf i'r cais Cynllunio oedd ger bron.

Datganodd y Cynghorydd John Foulkes, nad oedd pawb yn eiddo datblygiad o'r math a cynigiodd ei bod yn cymeradwyo y cais, ac fe ciliwyd y cynnig.

Yn dilyn pleidlais penderfynodd y Cynghor o 3 i 2 fod y cais i gael ei gymeradwyo.

00074

Eli

6. Did Councillor Foulkes take part in the discussion on agenda item 5.1. Please explain your recollection of the nature of his involvement in the discussion (eg. his specific contribution to the discussion) and whether the nature of his involvement changed as the discussion progressed. If you recall what was said, please quote any remarks or submission that he may have made.

Do.

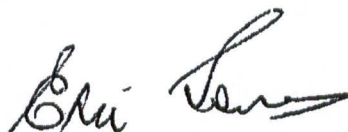
Gweler Rhif 5

7. Please give any other comments/information that you think may be relevant.

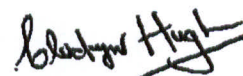
DM

Please bear in mind that your comments may be included in the evidence that is disclosed to Councillor Foulkes during this investigation. Ultimately, your evidence may be attached to any report on the investigation which the Ombudsman may refer to the Council's Monitoring Officer and Standards Committee, or to the President of the Adjudication Panel for Wales. I therefore advise you not to discuss your evidence with any persons who may be involved in the investigation.

Signature:



Signature witnessed by:



00075

Date:

Continuation Sheet – Witness statement of

Dim

Signature:

Signature witnessed by:

Date:

00076
[Signature]

JIM

Qui Jones

000078

Appendix

11

CYNGOR CYMUNED PENMYNYDD A STAR

COFNODION Y CYFARFOD A GYNHALIWDYD NOS FERCHER

5 HYDREF 2011, NEUADD PENMYNYDD 7.30yh

YN BRESENNOL:

Y Cyngorwyr: L. Gibson, N. Jones, J. Foulkes, A. Owen, H. Roberts, E. Jones (Cyngor Sir), hefyd Mr Gwyn Roberts, Gareded Fawr (I drafod cais cynllunio ond nid oedd y cais wedi cyraedd) a'r clerc G. Owen. Mr Ifor Williams (Cwmni Exwavia), Canon Philip Hughes a nifer o'r cyhoedd.

YMDDIHEURIADAU:

Cyng L. M. Jones, A. Holmes

1	Cadeirydd y cyfarfod gan y Cadeirydd Cyng L. Gibson. Cynigodd y Cadeirydd croeso i pawb yn bresennol.
2	DATGAN DIDDORDEB – Cyng J. Foulkes – Tyrbinau Gwynt
3	Tyrbinau Gwynt – 'Roedd nifer o'r cyhoedd yn bresennol yn gobeithio cael cyfarfod cyhoeddus i drafod ceisiadau cynllunio tyrbinau gwynt. Hefyd oedd y Cyngor wedi derbyn dau llythyr yn gofyn am cyfarfod gan Mr Elfed Williams, Gweirglodd Bach, Penmynydd ac "Ynys Mon yn Erbyn Tybinau Gwynt". Eglurodd y Cadeirydd bod y Cyngor heb derbyn y ceisiadau. Felly, nid oedd yn bosib trafod y mater. Unwaith mae'r Cyngor wedi derbyn y ceisiadau, bydd y Cyngor yn galw cyfarfod cyhoeddus.
4	Mynwent yr Eglwys – Dywedodd Canon Hughes ei fod yn siomedig iawn bod y fynwent mewn fath cyflwr ac yn bosib ond wedi cael ei dorri unwaith y flwyddyn yma. Mae wedi gofyn i'r contractwr dorri'r gwair. Er bod yr Eglwys ddim yn cynnal gwasanaethau, mae'r proses yn cymeryd o gwmpas 18 mis i cau yr Eglwys. Yn y cyfamser, yr Eglwys yng Nghymru sydd yn gyfrifol am yr adeilad a'r fynwent.
5	Exwavia – Dywedodd Mr Ifor Williams bod y Cwmni am defnyddio y mast yn Penmynydd a byddant yn gallu gwarantu cyflymder o 4MB drost yr awyr. Hefyd dywedodd bod Llywodraeth Cymru yn cynnig grantiau o £1000 i bobol sydd yn methu cael cyflymder o 2MB. Bydd y Cwmni yn trefnu cyfarfod cyhoeddus.
6	DERBYN COFNODION Cyflwynwyd cofnodion cyfarfod 7 Medi 2011. Fe'u derbyniwyd fel rhai cywir a chyflawn.
	MATERION YN CODI O'R COFNODION
7.1	Hysbysfyrddau – mewn llaw.
7.2	Cwyn – mynwent yr Eglwys – gweler 4
7.3	Cwyn – mynwent Gilead – darllenwyd llythyr gan Eglwys Unedig Rhos y Gad Llanfairpwll yn dweud bod gan yr Eglwys contract i dorri'r fynwent 5 o weithiau pob blwyddyn. Mae'r Eglwys yn cynnig bod y Cyngor yn derbyn perchnogaeth o'r fynwent neu yn cynnig cyfraniad at y costau. Penderfyniwyd diolch am y llythyr a dweud bod y Cyngor ddim yn gallu derbyn perchnogaeth na cynnig cyfraniad.
	Llofnod <i>Leon Gibson</i> (Cadeirydd) 02.11.11

000080

7.4	Cysgodfan Bws, Star. Darllenwyd llythyr gan y Cyngor Sir yn dweud bod y Cyngor Cymuned yn gyfrifol am y cysgodfan. Mae'r clerc wedi cysylltu a'r cmwni yswiriant ynglyn a gwneud cais.
8	Gohebiaeth Cyngor Ynys Mon
8.1	41C99C cais llawn ar gyfer codi sied amaethyddol ar gyfer storio offer yn Bryn Gof, Star – dim gwrthwynebiad
8.2	41C56D Newid defnydd y swyddfeydd (Dosbarth B1) i feithrinfa dydd i blant (Dosbarth D1) yn The Old Surgery, Castellfryn, Star – dim gwrthwynebiad
	Priffyrdd
8.3	Cysgodfan Bws, Star – gweler 7.4
	Gwasanaethau Cyfreithiol
8.4	Pwyllgor Safonau Cyngor Sir Ynys Mon - Darllenwyd llythyr yn dweud bydd angen 2 cynrychiolydd Cynghorau Tref/Cymuned am cyfnod o 4 blynedd o Rhagfyr 2011. Penderfyniwyd ail ystyried y mater yma yn y cyfarfod nesaf.
9	GOHEBIAETH YCHWANEGOL
9.1	Eglwys Unedig Rhos y Gad – gweler 7.3
9.2	Ynys Mon yn erbyn tyrbinau Gwynt – gweler 3
9.3	Mr Elfed Williams, Gweirglodd Bach – gweler 3
9.4	Pobol Atal Wylfa B – hysbysiad – Cyfarfod yn y Galeri, Caernarfon, 22.10.11 rhwng 10.00 – 4.30
10	MATERION ARIANNOL
	Dim
11	MATERION ERAILL
11.1	Kiosk, Star. Mae'r drws ar y kiosk teleffon wedi cael ei dorri. Gofynwyd i'r clerc cysylltu a'r Heddlu
11.2	Trafodwyd cwyn ynglyn a'r troeiad o Penmynydd i Llanfair. Gofynwyd i'r clerc cysylltu a'r Cyngor Sir i gofyn am gwydyr newydd.
	Llofnod <i>Ion Gibon</i> (Cadeirydd) 02.11.11

000082

Appendix 12

000083

FORM TO DECLARE AND REGISTER A PERSONAL INTEREST

MEMBERS' CODE OF CONDUCT

Name of Member:	John Foulkes
Name of Meeting:	October 2011 Full member monthly meeting
Date:	5.10.11
Agenda Item (number and title):	2 Declaration of Interest

I HEREBY DECLARE that I have a personal interest under the Council's Code of Conduct which was adopted under Section 51 Local Government Act 2000.

The details of the Personal Interest are:

I have made applications for wind turbines

The details of the Council business to which the Personal Interest relates are:

Public discussion

A Prejudicial 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 judgment of the Public Interest.

I believe that this is a Prejudicial Interest because -

I have applications pending and intend leaving the meeting if they are discussed

You must tick one box below -

- ☐ The interest is not a Prejudicial Interest and therefore I intend to take part in the Council business.
- ☒ The interest is Prejudicial and therefore I intend to withdraw and leave the meeting.
- ☐ The interest is Prejudicial but I have received a dispensation from the Standards Committee.

Signed

Dated 5/10/11

THIS FORM SHOULD BE HANDED TO THE CLERK IN ATTENDANCE AT THE MEETING

Appendix

13

DRAFT ONLY
PENMYNYDD AND STAR COMMUNITY COUNCIL
MINUTES OF THE MEETING HELD WEDNESDAY 7 DECEMBER 2011 AT
THE HALL, PENMYNYDD AT 8.30

PRESENT:	
Councillors L Gibson, J Foulkes, H Roberts, A Holmes, A Owen, E Jones (County Council), G Owen, (Clerk) and many members of the public	
APOLOGIES:	
Councillors LI M Jones and N Jones	
1	The meeting was chaired by the Chairman Cllr Leon Gibson
2	DECLARATIONS OF INTEREST - None
3	ACCEPTANCE OF MINUTES The minutes of the meeting held on 2 November 2011 were presented and accepted as a true and accurate record
4	MATTERS ARISING FROM THE MINUTES
4.1	Noticeboards – It was decided to defer this matter until the next meeting because the "Star" councillors were absent
4.2	Bus Shelter, Star – The clerk has received a response from the Insurance Company. It is possible to make a claim through the company for repairs to the shelter, but the council will be responsible for the first £125. The Clerk was asked to get estimates for the work.
4.3	Kiosk, Star – the Clerk is awaiting a response from BT.
4.4	Dangerous dog at Star – the Clerk is waiting for a response from the County Council
5	Correspondence Anglesey County Council
	Planning
5.1	41C124 Full application for the erection of one wind turbine with a maximum hub height of up to 44m, rotor diameter of up to 56m and a maximum upright vertical tip height of up to 71m together with the erection of a transformer station, utility housing and new access track and hardstanding on land at Ty Fry, Rhoscefnhir. Also 41C124A/SCR – Screening Application. At the start of the discussion, the chairman again gave the members the opportunity to declare any interest. This matter was discussed at a public meeting prior to the council meeting. One councillor said there was a need to take into account the feelings of the local residents and strongly object to the application. Another councillor said that not everyone was against the application and that the site was in a rural location. Following a vote (2 against and 3 in favour) the council decided not to object to the application.
	Signature (Chairman) 04.01.12
5.2	41C123B Full application for the demolition of the existing dwelling, the

	erection of a new dwelling and detached garage together with the installation of a package treatment plant at Llinos Fawr, Penmynydd – no objections.
5.3	41LPA916B/CC Full application to delete condition (14) from planning consent 41LPA916B/CC so as to retain the existing access at Gwyndy, Penmynydd – no objections.
5.4	Joint Anglesey and Gwynedd Local Development Plan – it was decided to defer this matter until the next meeting (the consultation period ends 13.01.12)
6	FURTHER CORRESPONDENCE
6.1	Aon Insurance – See 4.2
6.2	Boundary Commission – A letter was read from the Commission regarding the Review of Electoral Arrangements draft proposals Anglesey. It is proposed to move Penmynydd from a rural location to join Llanfairpwll and Menai Bridge. The Clerk will respond with the help of Cllr E Jones.
7	FINANCIAL MATTERS
	It was agreed to pay the following: J D Roberts (Internal Auditor) £37.00 (accounts 2009/10)
8	OTHER MATTERS
	None
	Signature (Chairman) 04.01.12

000088

Appendix

14

CC 7/12.

LG. HR. AD. EJ. JF. AH.

Ymddi. NJ. LT.

3. Dim

4. Yr.

4.1. Ithys. qwr hlewchyn - star perkyfaisd
pwyllgar nraf.

4.2. Ymddi. coetan ruf.

4.3. /

4.4. /

5.1. / 5.2.

AH cynig qwrthod yr gwyf - teimliadan
pobol parhysodd yr eithyn (rhan mawr o'r pobol)

JF pŵl o blaid hwyf Nid yw pŵl yr
eithyn - hlewchyn golew gwledig yn ty Fry.

AH cynig qwrthod yr pŵl mawr wedi activatio
PM. Star ruf.

AD. HR. JF.
LG. AH

AH cynig 2. yr eithyn.

JF for 0.3 o blaid.

Rheymen

For
Dim gwrthod.

5.2. DG.

5.3. DG.

5.4.

6.1. /

6.2. / Annodd 3 yr Bwrth? EJ will send me copy
all disagree ymddi ni i adran gwledig.

8.1. ✓

~~Pluwr qwrthod yr eithyn~~

000090

cc 7/12.

LG HR AO EJ JF AH.

Appl NJ LJ.

3. None

4. Yes.

4.1 Howelgh has the noticeboard - Star
- decision next meeting.

4.2 Insurance - costs bus shelter.

4.3 ✓

4.4 ✓

5.1 5.2

AH proposes - strongly object - the feelings of Penrynnydd
people are against (most people)

JF People are also in favour - not everyone is
against - Ty Fy is in a rural location

AH - we should take notice of the people who
have activated - Penrynnydd, Star + Rhoscefnahir

YES	AO	HR	JF	AH proposed - against	2 against	For No objection
NO	LG	AH	JF proposed - For	3 in favour		

5.2. No objection

5.3 No objection

5.4

6.1 ✓

6.2 ✓ Difficult - 3 at Merri Ridge EJ will send
me a copy - all disagree - moving, us to
rural location

8.1 ✓

000091

000092

Appendix

15

000093

P.S.O.W.
08 JUN 2012
P.S.O.W.



WITNESS STATEMENT

Statement of: Councillor John Foulkes

Age if under 18: 'over 18' (if over 18 insert 'over 18')

Occupation:FARMER.....

This statement (consisting of 11 page(s) each signed by me) is true to the best of my knowledge and belief.

Signature: 

Date: 2/6/12

Questions

1. Please confirm that you have undertaken to accept the terms and conditions of the Code of Conduct of Penmynydd and Star Community Council (Appendix A).
2. Please confirm how long you have been a member of Penmynydd and Star Community Council.
3. Please describe any training or advice that you have had on the Code of Conduct (other than your conversation with Meirion Jones on 6 December 2011 – I will ask specifically out that below).

000094

4. Please explain why you contacted Meirion Jones on 6 December 2011(Appendix F).

5. Please explain in as much detail as you can the content of the conversation that you had with Meirion Jones on 6 December. Please quote any specific remarks that you recall saying to Mr Jones or recall hearing him say to you.

6. Please confirm the details of any planning applications you have submitted to erect wind turbines on your land. What is the current status of these applications (Appendix G).

Community Council Meeting 5 October 2011

7. Please explain why you declared that you had a personal and prejudicial interest in respect of "wind turbines" at the meeting of 5 October 2011 (Appendix B and C).
8. What factors did you consider in reaching the decision that you should declare a personal and prejudicial interest in this agenda item.
9. Please confirm your recollection of any discussion on the agenda item relating to wind farms. Were you present at this discussion?

Community Council Meeting 7 December 2011

000096

10. I understand that you did not declare a personal or prejudicial interest in agenda item 5 and 5.1 relating to a planning application for a wind farm in the area (Appendix D). Did you consider whether you had a personal or prejudicial interest in this issue?

11. What factors did you take into account in deciding that you had no personal or prejudicial interest to declare in the matter being discussed at agenda item 5 and 5.1.

12. It has been suggested in the complaints, and the attached statements (Appendices H – M) that there was a considerable number of the public at the meeting and that the majority of attendees were against the wind farm development. Please confirm your recollection of the nature of the meeting and the general feeling of the public present on the issue of wind farms.

13. I understand from the complaints, and the attached statements, that you participated with the other members present in the discussion on agenda item

5.1. Please confirm your recollection of the nature of this discussion and your contribution to it.

14. It is stated in the complaints that you persuaded other members, who had indicated that they were minded to abstain, to vote in favour of the application. Please give your comments on this allegation.

15. I understand that you proposed the vote in favour of supporting the application. Please explain the factors you considered in deciding to propose a vote to support the wind turbine application.

16. Do you accept that you had a personal interest in item 5.1 on the agenda of the meeting of 7 December 2011 by virtue of paragraphs 10(a)(vi) and 10(c)(i) of the Code? If not, why not?

17. Do you accept that in failing to declare a personal interest you may have breached paragraph 11 of the Code?

18. Do you accept that a member of the public, with knowledge of the relevant facts, would reasonably regard the fact that you had already submitted your own wind farm application as so significant that it would be likely to prejudice your judgment of the public interest in discussing and voting on an application for a similar neighbouring scheme?

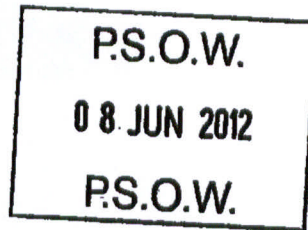
19. Do you accept that the personal interest may also have been prejudicial by virtue of paragraph 12 of the Code?

20. Please take the opportunity to make any further comment that you wish on this matter.

Signature:
Date:

[Handwritten signature]
2/6/12

Signature witnessed by: *E. a. Davies*



Answer to witness statement (7 pages).

Case reference number: 201102860

1. Yes.
2. Estimate 20 years (possibly longer)
3. No specific training, I have received a copy of the code of conduct from the community council.
4. I contacted Meirion Jones knowing that a public meeting was taking place followed by the community council and an application for a wind turbine would be on the agenda.

Signature:

Date:

[Handwritten signature]
2/6/12

Signature witnessed by:

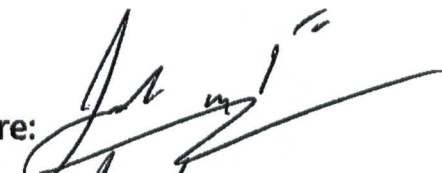
E. A. Davies

5. I have read Meirion Jones's letter to you and agree that the contents are basically correct, but two other scenarios were discussed.
- a. Application for a planning permission for a renewal of a property known as Llinos Penmynydd and a property that I own being Tyn- Buarth Penmynydd, both properties are due for a total renewal. I told Meirion Jones that I took part in the discussion in the planning application for Llinos knowing that I would have similar planning application in the pipeline, to my recollection he answered that the application was not really unique and it was probably alright to have taken part in the discussion and vote.
 - b. I again discussed with Meirion Jones about a planning application for a new dwelling in the village of Star, which I took part in knowing that I had similar land of the other side of the village that could be considered for planning, his reply was again that the application was not really unique and it was probably alright to have taken part in the discussion and vote. Then we returned to the matter of the planning of the wind turbine at Ty Fry Rhoscefnhir , his opinion was that this was more unique, but only I could make the decision whether I should declare an interest. I specifically recall Meirion Jones saying:
 - Situation not really being unique
 - Situation being more unique
 - And only I could make the decision

More than likely a recording of the conversation would be available to you from the council office.

Signature:

Date:


2/6/12

Signature witnessed by:

E. A. Davies

6. Prior to the 7th of December 2011, I had submitted three individual screening applications for wind turbines at the following locations

1. Marchynys, Penmynydd
2. Tyn-Buarth, Penmynydd
3. Treferwydd, Llangaffo

After the submission of these planning applications, Anglesey County Council Planning decided that an environmental impact assessment was not required for the size of the individual turbines. Today being May 30th 2012, relevant information and documents have been collected and have been presented to the planning department.

7. There was a general discussion about wind turbines, and I declared that I had made a screening application for a wind turbine.

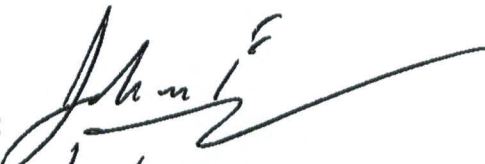
8. That I had submitted a screening application, and because there was a general discussion about wind turbines.

9. I was present and I recall I did not take part in the discussion and also recall the remaining councillors agreeing to allow Anglesey Against Wind Turbines to hold a public meeting prior to any application for a wind turbine.

10. Yes I did give it careful consideration.

Signature:

Date:


2/6/12

Signature witnessed by:

E. A. Davies

11. Distance and Location

Location of the planning application was a good distance away and out of the view of my own planning application. Ty Fry site is by the river Ceint in a small valley and my own proposed site is in another valley by the river Braint and well out of view.

Anglesey Councillor Eric Jones stated in the public meeting that the planning authority to date had received 74 planning applications for wind turbines, and had dealt with four of them on the same day in a planning committee. With 74 applications in hand wind turbines are no longer unique in my opinion.

12. There were approximately 120 people in the hall, few more in the hallway and an unknown amount outside. Those present were clearly members of Anglesey against wind turbines, and they were well organised in the people that gave presentations on the evening. In my own view there were very few local people present at the meeting. There was a hostile mood against wind turbines and all planning matters in general.

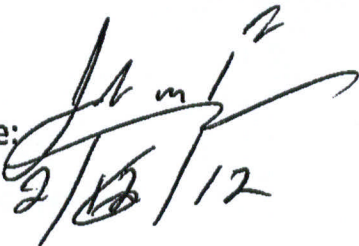
13. Yes I participated in the discussion. I stated that several planning applications had come before the community council over the years for example

- Waste recycling plant at Penhesgyn
- A methane generator producing electricity at Penhesgyn
- Compost site again at penhesgyn

At the time of these applications there were various allegations that these developments would harm the area, create untold traffic, sound and odours and at the time there was significant over reaction. Today, very few of the local residents would notice the whole development.

Signature:

Date:


2/12/12

Signature witnessed by:

E. A. Davies

14. I did not pressurise or persuade any member of the council to vote in favour of the application.
15. Yes I proposed the vote in favour of the application. I knew the exact location of the proposed site and in my view it would have minimal effect on the surrounding properties and area. Anglesey council has declared itself an energy island generally in favour of schemes which produce electricity. Planning policy dictates a presumption in favour of renewable energy.
16. I had no personal interest in item 5.1 on the agenda
- a. I have no business interest with the family in Ty-Fry
 - b. I have different planning consultants to the Ty-Fry Site
 - c. Not in direct view of my proposed site.
 - d. Councillor Eric Jones said there were 74 applications in hand.
 - e. Wind turbines being no longer and unique situation.
 - f. Meirion Jones said that only I could make the decision.
 - g. I do not accept if planning permission was granted that it would enhance my chances of having a wind turbine.
17. I have read the code of practice before and after the meeting and I still maintain that I have not breached paragraph 11 of the code of practice.
18. Very few people in the public meeting would have been able to identify the site at Ty-Fry or the proposed site for my own wind turbine, they were against wind turbines regardless of locations or size. A member of the public which is not associated with Anglesey Against Wind Turbines but with knowledge of the sites would realise that they are definitely not neighbouring and would not consider question 18 to be relevant.

Signature: 

Date: 2/6/12

Signature witnessed by: E. A. Davies

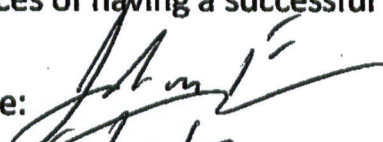
19. I do not accept that I have gained any personal interest in my decision to support the Ty Fry applications. I have read paragraph 12 before and after the meeting and still maintain that I had no personal interest.

20.

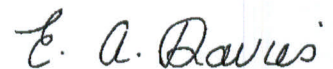
- a. I have served on the Penmynydd Community council for approximately 20 years. The nature of the work over the years has not varied a great deal. Most of the planning applications are either extensions to houses, conversions of existing farm buildings, new agricultural buildings, new houses and highway matters, if I was to declare an interest in all these matters my role as a community councillor would be non-existent. It could be argued that the councillors who voted against the development could also have a prejudice interest in fear of the development reducing the value of their own properties.
- b. In the evidence and letter received there are references to wind farms and wind turbines. The Anglesey planning authority and Welsh Assembly have a clear definition between wind farms and single wind turbines these particular complaints are about applications for single wind turbines.
- c. In my telephone conversation with Meirion Jones he used the analogy of two applications for new bungalows on a green field site. If one was approved the second was more likely to be approved, I agree totally with his statement and have declared an interest in planning applications for wind turbines which are neighbouring and in full view of my own sites. This application was at Ty Gwyn, Penmynydd by Mr O. Owen for an anemometer (application number 41c103m). This site is roughly 1km from my Marchynys application "as the crow flies". In comparison the Ty-Fry application is much further away (3km "as the crow flies") and would not greater my chances of having a successful planning application in my view.

Signature:

Date:


2/6/12

Signature witnessed by:



- d. The phrase neighbouring scheme appears in various documents I hope you will be able to access a map which shows contours in the land and location of different planning applications.
- e. Since the community council meeting on the 7th of December, three community councillors have resigned, two of them due to the comments they received outside the hall that evening. These gentlemen were pillars of the local community and have served the people of the area for decades. Now all three vacancies on the council have been appointed with members of the community who are also active members of Anglesey Against Wind Turbines. I would appreciate your view if a person that is a member of Anglesey Against Wind Turbines group would have a prejudicial judgement against an application for wind turbines, and voting against without giving due consideration for planning policies and the view of the silent majority of the wind turbine supporters.
- f. I have given the matter a lot of consideration after all of the complaints and I am confident that I made the right decision at the time.

Signature:

Date:

John P
2/6/12

Signature witnessed by:

E. A. Davies

Appendix 16

Attendance Note

For Legal Services Manager

Matter reference: CC-007318-RMJ
Matter name: Cynghorau Cymunedol a Threfol - Cynghorion
Attended by: Meirion Jones
Attendance with:

Attendance on: 01 December 2011
Recorded on: 09 December 2011
Subject: Attendance Note

On Thursday last week Councillor Peter Rogers telephoned me regarding a Community Councillor and whether he had to make a declaration in a Community Council meeting which was coming up the following week. He gave me a few details but I suggested that he tell the Community Councillor to contact me so that I could discuss the matter with him. On Tuesday 6th of December I received a message that John Foulkes had telephoned and that he would contact me again in the afternoon. I know John Foulkes as a farmer of Marchynys, Penmynydd. I live in the neighbouring village of Llanfairpwll.

When he telephoned I explained to him who I was because we know each other but he may not have realised that I was the person that he was speaking to. He explained to me that there was a Community Council meeting in Penmynydd on the Wednesday evening and there was an application for a wind turbine in the Pentraeth area (Rhoscefnhir). He said that he had an application for a wind turbine which would be coming through the system shortly at his property Marchynys. He wanted to know whether it was in order for him to attend the meeting of the Community Council and take part and vote.

I referred him to the Code of Conduct and I said to him at least 3 times during our conversation that it was a matter for him as the individual Councillor to make his own decision having considered the requirements of the Code and the facts of the matter. I referred him to the Code of Conduct of which he would have had a copy as a Community Councillor but also he could see the version which is on the Council's website. I referred in particular (and when I was doing that I had my version of the Code up on the screen on my computer) to paragraphs 10(2)(a) and 10(2)(c) and paragraph 12. I read out various parts of the Code to him including paragraphs 10(2)(a) and a number of the sub-paragraphs and 10 (2)(c)(i) and referred to "well-being" and "financial position".

He said to me that he was aware that there was a "small objection" to his application but he said that the Rhoscefnhir application before the Community Council was nothing to do with him and no contact with his application. He was of the view that because the two matters were different he could take part.

As I have indicated I did point out to him that if he considered that he did have a personal interest then he should then move on to the question of whether it was prejudicial and I referred to paragraph 12. I emphasised that it was a matter for him to decide whether he considered he had a personal interest and whether he should declare it and not take part in the meeting. I did suggest to him that if this application was approved then it was more likely that his application would be approved and therefore it was a matter for him

to consider whether he in fact should take part in the matter or not. I used the analogy of two applications for a new bungalow in a green field. If one was approved then the second was more likely to be approved.

We were on the phone for about 10 minutes and we concluded by my saying to him that it was a matter for him to decide having considered the facts and the Code. I could not make a decision for him because I would not have all the facts and in any event it was a matter for him to decide.

As a local resident I am aware of the quite strong feelings regarding the application for the erection of a wind turbine in the Penmynydd area. I was aware that there was going to be a public meeting in Penmynydd on the Wednesday evening the 7th of December. I happened to see the Welsh News at 7.30 on S4C and Sion Tecwyn the Reporter was present and he spoke to Owain Evans a member of the community.

What I was not aware of was that the public meeting preceded the Community Council meeting.

On the 8th of December I received a telephone call from Richard Edwards 07884313050 regarding the application for a wind turbine at Rhoscefnhir which came before the Penmynydd Community Council the previous evening. He was concerned about one of the Councillors voting on the matter when he himself has an application to come before the Council in the future. He wanted to make a complaint and I explained to him that if it was a complaint about the behaviour of the Councillor, he had to make it to the Ombudsman. He had been on the Ombudsman's website and we discussed that aspect and if he had any difficulty with proceeding then he could contact me again.

I received 2 messages from Susan Owen in the afternoon of the 8/12 after I returned from the Council meeting and I telephoned both. Firstly, Mrs Tooze on 01248 750431 and it was clear that she was demanding to see me so I arranged for her to come to see me at 3 o'clock on 9/12.

I telephone Carolynne Johnson on 07836750214 and she wished to make a complaint. I explained to her about how to make a complaint to the Ombudsman. She said that she was not the type of person to complain usually but she felt very strongly that one of the Councillors should not take advantage of the situation when the Rhoscefnhir matter was similar to his own application. I said that I would send her the Ombudsman's document although we did speak about her going on his website. Her address is Gwel Eryri, Rhoscefnhir, Pentraeth LL75 8YU. (The letter was sent on 9/12).

I saw Mr & Mrs Tooze on 9/12 and Mrs Tooze referred to the first meeting which was the public meeting. She referred to health and safety matters that there people outside and their views would not be heard and the Council wanted views of the public etc. I explained that I did not believe that the County Council was responsible for the public meeting and that the Community Council is a separate entity to and different from the County Council. I directed her to the Clerk and the Chairperson of the Community Council regarding the public meeting.

With the other matter, the behaviour of the Councillor, I gave her a copy of the Code and the form from the Ombudsman "How to complain that a local authority member has broken the code of conduct".

During the conversation which lasted about 20 minutes she referred to John Foulkes' comment that "I've been in contact with Llangefni and they have said it's alright for me to take part".

Appendix

17

12	Rhif y Cais / Application Number Plwyf / Parish Ymgaisydd / Applicant Lleoliad / Location	30C663A Llanfair M.E. Mr Harol Barton Ty Coch, Brynteg Adnewyddu caniatad cynllunio amlinellol rhif 30C663 ar gyfer codi annedd a modurdy ynghyd a creu mynedfa newydd i geir ar dir yn / Renewal of outline planning permission ref 30C663 for the erection of a dwelling and garage together with the construction of a new vehicular access on land at Caniatáu / Permitted
	Bwriad / Proposal Penderfyniad / Decision	
	Dyddiad y Penderfyniad / Decision Date	26/07/2011
13	Rhif y Cais / Application Number Plwyf / Parish Ymgaisydd / Applicant Lleoliad / Location Bwriad / Proposal Penderfyniad / Decision	30C719 Llanfair M.E. Mr David Owen Rhiwlas, Amlwch Rd, Benllech Addasu ac ehangu yn / Alterations and extensions to Caniatáu / Permitted
	Dyddiad y Penderfyniad / Decision Date	27/07/2011
14	Rhif y Cais / Application Number Plwyf / Parish Ymgaisydd / Applicant Lleoliad / Location Bwriad / Proposal Penderfyniad / Decision	30C97U Llanfair M.E. Mr David Stretton 103, Bay View Road, Benllech Codi anec hunan gynhaliol yn/Erection of a self contained annexe at Caniatáu / Permitted
	Dyddiad y Penderfyniad / Decision Date	26/07/2011
15	Rhif y Cais / Application Number Plwyf / Parish Ymgaisydd / Applicant Lleoliad / Location Bwriad / Proposal Penderfyniad / Decision	32C179 Llanfair-yn-Neubwll Mr G Richards 31, Bryn Trewan, Caergelliog, LL85 3LS Cais llawn ar gyfer addasu ac ehangu yn / Full application for the alterations and extensions at Caniatáu / Permitted
	Dyddiad y Penderfyniad / Decision Date	26/07/2011
16	Rhif y Cais / Application Number Plwyf / Parish Ymgaisydd / Applicant Lleoliad / Location Bwriad / Proposal Penderfyniad / Decision	33C167A/SCR Llanfihangel-scelliog Paul Shelley Ltd TreFerwydd, Llangaffo Barn sgrino ar gyfer gosod melin wynt 500Kw a 50medr o uchder i'r hwb ar dir wrth ymyl / Screening opinion for the siting of a 50 meter high to hub, 500Kw wind turbine on land near Dim Angen AEA / EIA Not Required
	Dyddiad y Penderfyniad / Decision Date	28/07/2011

26	Rhif y Cais / Application Number Plwyf / Parish Ymgelsydd / Applicant Lleoliad / Location Bwriad / Proposal Penderfyniad / Decision Dyddiad y Penderfyniad / Decision Date	42C47B Pentraeth Mr P Lewis Gwynedd House, Pentraeth Newid defnydd yr annedd i 3 flat yn/Change of use of dwelling into 3 flats at Caniatáu / Permitted 28/07/2011
27	Rhif y Cais / Application Number Plwyf / Parish Ymgelsydd / Applicant Lleoliad / Location Bwriad / Proposal Penderfyniad / Decision Dyddiad y Penderfyniad / Decision Date	46C149K Trearddur J. W. Lees & Co (Brewers) Ltd Trearddur Bay Hotel, Trearddur Bay Cais i gadw'r 'breezehouse' a'r man chwarae i blant yn / Application for the retention of the breezehouse and children's play area at Caniatáu / Permitted 29/07/2011
28	Rhif y Cais / Application Number Plwyf / Parish Ymgelsydd / Applicant Lleoliad / Location Bwriad / Proposal Penderfyniad / Decision Dyddiad y Penderfyniad / Decision Date	46C501A Trearddur Mr Paul Havard Refall Cre Crist Farm, Rhoscolyn, LL65 2EJ Cais llawn ar gyfer codi adeilad i'w ddefnyddio fel gweithdy yn / Full application for the erection of a workshop building at Dychwelwyd i'r Ymgelsydd / Returned to Applicant 26/07/2011
29	Rhif y Cais / Application Number Plwyf / Parish Ymgelsydd / Applicant Lleoliad / Location Bwriad / Proposal Penderfyniad / Decision Dyddiad y Penderfyniad / Decision Date	48C72A Trewalchmal Dwr Cymru Welsh Water Gwalchmal Sewage Works, Gwalchmal Cais llawn i uwchraddio'r gwaith trin carthffosiaeth sy'n cynnwys 2 danc 'storm' o dan ddaear, siamber gilfach gyda sgrin mecanyddol a bwth rheoli yn / Full application to upgrade the sewage treatment works consisting of 2 new below ground storm tanks, inlet chamber with mechanical screen and control kiosk at Caniatáu / Permitted 28/07/2011
30	Rhif y Cais / Application Number Plwyf / Parish Ymgelsydd / Applicant Lleoliad / Location Bwriad / Proposal Penderfyniad / Decision Dyddiad y Penderfyniad / Decision Date	11C143G Amlwch Hyfforddiant Parys Training Unit 2 Llwyn Onn, Amlwch Gosod paneli solar yn / Installation of solar panels Caniatáu / Permitted 28/07/2011

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>21 Rhif y Cais / Application Number
 Plwyf / Parish
 Ymgeisydd / Applicant
 Lleoliad / Location</p> <p>Bwriad / Proposal
 Penderfyniad / Decision</p> <p>Dyddiad y Penderfyniad / Decision Date</p> | <p>37C175A
 Llanidan
 Mr. & Mrs. David & Nia Hall
 Cae'r Pant, Brynslencyn</p> <p>Cais llawn ar gyfer dileu amod (02) oddi ar caniatad cynllunio rhif 37C175 er mwyn gwneud gwaith rhwng Ebrill a Medi yn / Full application for the deletion of condition (02) from planning consent 37C175 so as to carry out works between the months of April and September at Granted</p> <p style="text-align: right;">26/07/2011</p> |
| <p>22 Rhif y Cais / Application Number
 Plwyf / Parish
 Ymgeisydd / Applicant
 Lleoliad / Location
 Bwriad / Proposal
 Penderfyniad / Decision</p> <p>Dyddiad y Penderfyniad / Decision Date</p> | <p>17C444
 Menai Bridge
 Mrs Judith C Moss
 Boat House, Menai Bridge
 Cadw'r uned gwyliau yn/Retention of holiday let at Tynnwyd yn ôl / Withdrawn</p> <p style="text-align: right;">28/07/2011</p> |
| <p>23 Rhif y Cais / Application Number
 Plwyf / Parish
 Ymgeisydd / Applicant
 Lleoliad / Location</p> <p>Bwriad / Proposal
 Penderfyniad / Decision</p> <p>Dyddiad y Penderfyniad / Decision Date</p> | <p>39C327A
 Menai Bridge
 Ms A Evans
 Ty'n Rardd, Mount St, Menai Bridge
 Cais llawn ar gyfer codi annedd newydd ynghyd a creu mynedfa newydd i geir ar dir / Full application for the erection of a dwelling together with the creation of a new vehicular access on land at
 Caniatáu / Permitted</p> <p style="text-align: right;">28/07/2011</p> |
| <p>24 Rhif y Cais / Application Number
 Plwyf / Parish
 Ymgeisydd / Applicant
 Lleoliad / Location</p> <p>Bwriad / Proposal
 Penderfyniad / Decision</p> <p>Dyddiad y Penderfyniad / Decision Date</p> | <p>41C110A/SCR
 Penmynydd
 Paul Shelley Ltd
 Ty'n Buarth, Penmynydd
 Barn sgrinio ar gyfer lleoli melyn wynt 500Kw 50 metr mewn uchder i'r hwb ar dir yn / Screening Opinion for the siting of a 500Kw, 50 meter high to hub wind turbine on land at
 Dim Angen AEA / EIA Not Required</p> <p style="text-align: right;">28/07/2011</p> |
| <p>25 Rhif y Cais / Application Number
 Plwyf / Parish
 Ymgeisydd / Applicant
 Lleoliad / Location</p> <p>Bwriad / Proposal
 Penderfyniad / Decision</p> <p>Dyddiad y Penderfyniad / Decision Date</p> | <p>41C66C/SCR
 Penmynydd
 Paul Shelley Ltd
 Marchynys, Penmynydd</p> <p>Bran sgrinio ar gyfer codi melyn wynt 500Kw, 50 metr o uchder i'r hwb ar dir yn / Screening Opinion for the siting of a 50 meter high to hub, 500Kw wind turbine on land at
 Dim Angen AEA / EIA Not Required</p> <p style="text-align: right;">28/07/2011</p> |

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>17 Rhif y Cais / Application Number
 Plwyf / Parish
 Ymgaisydd / Applicant
 Lleoliad / Location</p> | <p>34C617
 Llangefni
 David John and Roger Phillips
 Old School House, Penrallt, Llangefni</p> |
| | <p>Newid defnydd yr hen dy ysgol i fod yn 6 annedd ynghyd a'i addasu ac ehangu, dymchwel yr adeiladau allannol ag addasu'r fynedfa bresennol yn / Conversion of old school house into 6 dwellings together with alterations and extensions thereto, demolition of outbuildings and alterations to the existing access at
 Caniatáu / Permitted</p> |
| <p>Bwriad / Proposal
 Penderfyniad / Decision</p> | |
| <p>Dyddiad y Penderfyniad / Decision Date</p> | <p>26/07/2011</p> |
| <p>18 Rhif y Cais / Application Number
 Plwyf / Parish
 Ymgaisydd / Applicant
 Lleoliad / Location</p> | <p>34C617A/LB
 Llangefni
 David John and Roger Nicholas Phillips
 Old School House, Penrallt, Llangefni</p> |
| | <p>Caniatad Adeilad Rhestredig ar gyfer newid defnydd yr hen dy ysgol i fod yn 6 annedd ynghyd a'i addasu ac ehangu, dymchwel yr adeiladau allannol a addasu'r fynedfa bresennol yn / Listed Building Consent for the conversion of old school house into 6 dwellings together with alterations and extensions thereto, demolition of outbuildings and alterations to the existing access at
 Caniatáu / Permitted</p> |
| <p>Bwriad / Proposal
 Penderfyniad / Decision</p> | |
| <p>Dyddiad y Penderfyniad / Decision Date</p> | <p>29/07/2011</p> |
| <p>19 Rhif y Cais / Application Number
 Plwyf / Parish
 Ymgaisydd / Applicant
 Lleoliad / Location</p> | <p>34C622
 Llangefni
 Miss Yvonne Roberts
 1, Bridge Street, Llangefni
 Cais cynllunio ar gyfer cynnwys defnydd 'A3' 'bwyd poeth i fynd allan' yn/Planning permission to include 'A3' use 'Hot Food Takeaway' at
 Caniatáu / Permitted</p> |
| <p>Bwriad / Proposal
 Penderfyniad / Decision</p> | |
| <p>Dyddiad y Penderfyniad / Decision Date</p> | <p>27/07/2011</p> |
| <p>20 Rhif y Cais / Application Number
 Plwyf / Parish
 Ymgaisydd / Applicant
 Lleoliad / Location</p> | <p>36C12F
 Llangristiolus
 Mrs. Carol Parry
 Slop Newydd, Rhosrehwfa
 Cais amlinellol ar gyfer dymchwel y siop/gweithdy, codi annedd ynghyd a creu mynedfa i gerbydau yn / Outline application for the demolition of the shop/warehouse, erection of a dwelling together with the construction of a vehicular access at
 Caniatáu / Permitted</p> |
| <p>Bwriad / Proposal
 Penderfyniad / Decision</p> | |
| <p>Dyddiad y Penderfyniad / Decision Date</p> | <p>29/07/2011</p> |

000118

Appendix

18

Rhif Cais / Application **21C43G**
No:
Cyf Grid / Grid Ref: SH **49300 70300**
Swyddog / Officer: **Emma Hayward**
Ymgeisydd / Applicant : **Mr. & Mrs. K. Roberts**
Bwriad / Proposal: **Cais llawn ar gyfer addasu ac ehangu yn / Full application for alterations and extensions to**
Lleoliad / Location: **Cilmeri, Llanddaniel Fab**

Rhif Cais / Application **41C66E**
No:
Cyf Grid / Grid Ref: SH **52671 74005**
Swyddog / Officer: **Nia Jones**
Ymgeisydd / Applicant : **Mr. John Foulkes**
Bwriad / Proposal: **Cais llawn ar gyfer codi un twrbin gwynt gyda uchder hwb hyd at cyfanswm o 50m, diamder rotor hyd at uchafswm o 54m, a uchder blaen unionsyth hyd at uchafswm o 78m ynghyd a sailwaith cysylltygiedig ar dir yn / Full application for the erection of one wind turbine with a maximum hub height of up to 50m, rotar diameter of up to 54m, and a maximum upright vertical tip height of up to 78m together with associated infrastructure on land at**
Lleoliad / Location: **Marchynys, Penmynydd**

Diwedd yr Adroddiad / End of Report

000120

Appendix 19

Report to Public Services Ombudsman for Wales
18 July 2012

Declaring an Interest : Reference 201102860

The Ombudsman has asked for my advice on whether supporting or opposing a planning application for a wind turbine in the locality could be regarded as setting a precedent for future turbine applications in the area. I have based my appraisal on the documents and plans on the file.

Creation of a precedent

1. I set out below the courts approach to the creation of a precedent. In *Collis Radio Ltd v SSE [1975] JPL 221*, Lord Widgery CJ said that it was of great importance, when considering a single planning application, to ask what the consequences in the locality would be and what side effects would flow if permission were granted. The judgement added that there must be evidence (rather than mere assertion) to indicate that, if planning permission were granted, it would make it more difficult to refuse other applications for similar development which may have damaging effects.

2. In *Poundstretcher v SSE [1988] 3 PLR 69* Deputy Judge Widdicome said: "... in the present case the inspector clearly did rely on precedent. I accept Mr Hobson's proposition that where precedent is relied on, mere fear or generalised concern is not enough. There must be evidence in one form or another for the reliance on precedent. In some cases the facts may speak for themselves. For instance, in the common case of the rear extension of one of a row or terrace of dwellings, it may be obvious that other owners in the row are likely to want extensions if one is permitted. Another clear example is sporadic development in the countryside."

3. Setting a precedent is therefore a material consideration in the determination of planning applications. However, there has to be evidence in each case that there could be a proliferation of similar applications that would be difficult to refuse, if the application in question was allowed.

This Case

4. The facts in this case are that Cllr F has submitted a screening application followed by a planning application for a 50m wind turbine on his land at Marchynys which lies some 3km from the subject application site for a similar wind turbine at Ty Fry. He has also submitted two other screening/planning applications for turbines at other sites in the locality.

5. From the plans on file, I note that the proposed sites for a wind turbine, Marchynys and Ty Fry, are in rural locations. Both sites have a scatter of dwellings near to the application site and so they share similar features from a planning point of

view. The effect of the wind turbine on the appearance of the countryside and the proximity of dwellings to the turbine are likely to be material considerations in assessing the merits of a wind turbine application.

6. With these points in mind and having regard to the court's approach, I believe that the two sites and developments share sufficient common factors that a precedent would be established by the grant of a planning permission on one of the sites. The community council's support or opposition to the wind turbine application at Ty Fry would be incorporated into the local planning authority's assessment of the development. The effect of a precedent is always tempered by other planning factors that are particular to each site but precedent would be a consideration that weighed in favour of, or, the refusal of any wind turbine application.

7. Cllr F, as a community councillor, is acting as a consultee rather than the decision maker in relation to this application. In my view, this subsidiary role 'dilutes' the precedent effect of his support for Ty Fry application. Nevertheless, there is a strong similarity between the two developments and his support for one has some bearing on the prospects for the other.



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Appendix

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Extracts from my guidance on the code of conduct

I issued guidance for members of local authorities in Wales on the Model Code of Conduct in April 2010 ("my guidance").¹ I include below extracts of the guidance which are relevant to this complaint.

Personal and prejudicial interests

The elements of the Code which cover personal and prejudicial interests give rise to many questions from members. They are designed to safeguard the principles of selflessness and objectivity. They are intended to give members of the public confidence that decisions are being taken in their best interests, and not in the best interests of members of authorities or their close personal associates. Personal interests relate to issues where you or a close personal associate may have some link to a matter under discussion. These interests become prejudicial where an informed independent observer could conclude that the interest would influence your vote, or your decision. Guidance on registering interests is at Section 4.

The paragraphs below are designed to offer guidance on a very complex subject. I would strongly recommend that if you are in any doubt about whether you have a personal or prejudicial interest, and what you need to do if so, you should ask your monitoring officer or clerk for advice.

Personal Interests

See paragraph 10

While you are carrying out your duties, you need to decide if you have a personal interest, and if so, whether you need to disclose it. Most members know that you need to disclose personal interests at meetings, but as you will read below, there are other occasions, such as when speaking to your authority's officers about the matter concerned, when you may also need to do so.

...

If a decision might be seen as affecting your well being or financial position or the well being or financial position of any person who lives with you or with whom you have a close personal association to a

¹ <http://www.ombudsman-wales.org.uk/uploads/publications/466.pdf>

greater extent than other people in your ward or, for members of authorities which do not have wards (e.g. national parks) in your authority's area, you also have a personal interest.

Examples of decisions of this kind include obvious issues like contracts being awarded to your partner's company but also issues about the location of developments, where it might make a big difference to where you or your close personal associates live. Examples have included the location of playgrounds, where elected members have opposed them near their houses because of issues about noise.

What does "affecting well-being or financial position" mean?

The term 'well-being' can be described as a condition of contentedness and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being. A personal interest can affect you or your close personal associates positively and negatively.

So if you or they have the potential to gain or lose from a matter under consideration, you need to declare a personal interest in both situations.

What if I am not aware of my personal interest?

Your obligation to disclose a personal interest to a meeting only applies when you are aware of or reasonably ought to be aware of the existence of the personal interest. Clearly you cannot be expected to declare something of which you are unaware. It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a prejudicial interest.

What constitutes a prejudicial interest is outlined in a following section.

Disclosing personal interests

See paragraph 11

At meetings, you must declare that you have a personal interest, and the nature of that interest, before the matter is discussed or as soon as it

becomes apparent to you except in limited circumstances. Even if your interest is on the register of interests, you must declare it orally in the meetings where matters relating to that interest are discussed. If you are making representations in writing (including emails, faxes etc.) to another member or an officer, you must include details of any personal interests you have.

Similarly, if you are speaking with an officer or member in person, by phone or video conference you should tell them about any personal interest you have before making representations or when the interest becomes apparent. You are obliged to confirm your interest by e-mail or in writing to the officer concerned and to the monitoring officer within 14 days. The Ombudsman would generally expect officers to make a record of any conversation in which a member has declared an interest and attach it to the appropriate file.

Prejudicial Interests

See paragraph 12

What is a prejudicial interest?

Your personal interest will also be a prejudicial interest in a matter if either of the following conditions applies:

- the matter does not fall within one of the exempt categories of business, or
- the matter relates to a licensing or regulatory matter (see paragraph 12 (3))

and a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

What is so significant that it is likely to prejudice your judgement?

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a prejudicial interest. This is an objective test. You must decide not whether you would take the decision without prejudice, but whether you would be seen as doing so.

You must ask yourself whether a member of the public – if he or she knew all the relevant facts – would think that your personal interest was

so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the public interest. The mere existence of local knowledge, or connections within the local community, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

Some general principles must be remembered when applying this test. You should clearly act in the public interest and not in the interests of any close personal associates. You are a custodian of the public purse and the public interest and your behaviour and decisions should reflect this responsibility. You would have a prejudicial interest in a planning application proposal if a close personal associate of yours (e.g. your son or a good friend) lives next to the proposed site. This is because your close personal associate would be likely to be affected by the application to a greater extent than the majority of the inhabitants of the ward or electoral division affected by the decision (or authority, if your authority does not have wards) and this gives you a personal interest in the issue. The close personal association means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application. It does not matter whether it actually would or not.

In other cases, where there has been a dispute between you and an individual who could be disadvantaged by a decision, an informed reasonable member of the public might conclude that you would be inclined to vote accordingly, whether this is the case or not.

What to do when you have a prejudicial interest

See paragraph 14

Even where you have a prejudicial interest, the Code supports your role as a community advocate and enables you in certain circumstances to represent your community and to speak on issues important to them and to you.

Key points:

If you have a prejudicial interest in a matter being discussed at a meeting, you must, having declared your personal interest in the matter, leave the room (or any other venue in which the meeting is being held including, for example, the location of a site meeting), unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose.

However, you must immediately leave the room or chamber once the period for considering representations has finished, and before any discussion on the item begins, even if members of the public are allowed to remain. You cannot remain in the public gallery to observe the vote on the matter. In addition, you must not seek to influence a decision in which you have a prejudicial interest. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage. This means that as well as leaving meetings where the item is discussed, you should also not write or make any oral representations about the matter.

...

The Code aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are usually governed by your authority's constitution, procedure rules or standing orders, and may be subject to conditions including time limits or the fact that representations can only be made in writing.

If an ordinary member of the public would be allowed to speak to a meeting about an item, you should be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial interest in the item. You may not take part in the discussion or observe the vote.

When must I leave the place where the meeting is held?

You must leave immediately the time for making representations, giving evidence or answering questions is finished, and before any debate starts.

What does influencing a decision mean?

You must not make any representations or have any involvement with decisions in which you have a prejudicial interest, except where you are entitled to speak as described above.

What if the public are not allowed to speak to the meeting on the matter?

If an ordinary member of the public is not allowed to speak on the matter, you cannot do so if you have a prejudicial interest. You must leave the place where the debate is being held and not seek to influence the debate in any way. This may be the case, for example, where your authority is discussing a confidential matter in closed session or does not have procedure rules or standing orders in place that allow members of the public to speak at a meeting of your authority. Like the public, you are not allowed to participate if you have a prejudicial interest. However, where the public may be allowed to sit in the public gallery to observe the meeting, you will be required to leave the room during the debate and vote.

NB: This guidance has now been updated for Community Councillors and is available at <http://www.ombudsman-wales.org.uk> in the publications section, under the heading "Guidance/Policies"

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DOGFEN / DOCUMENT

3

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Details of case and reference number

FORM A

Subject Member's response to the evidence set out in the investigation report

Please enter the number of any paragraph in the investigation report where you disagree with the findings of fact, and give your reasons and your suggested alternative.

Paragraph number from the investigation report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

000135

Details of case and reference number

FORM B

Other evidence relevant to the complaint

Please set out below, using the numbered paragraphs, any evidence you feel is relevant to the complaint made about you.

Paragraph number	Details of the evidence
1	
2	
3	

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Details of case and reference number

FORM C

Representations to be taken into account if a Member is found to have failed to follow the Code of Conduct

Only complete this form if you agree with the findings in the investigation report that you failed to comply with the Code of Conduct

Please set out below, using the numbered paragraphs, any factors that the Standards Committee should take into account if it finds that you failed to follow the Code of Conduct. Please note that no such finding has been made yet.

Paragraph number	Factors for the Standards Committee to take into account when deciding whether to censure, suspend, or partially suspend
1	
2	
3	

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Details of case and reference number

FORM D

Arrangements for the Standards Committee hearing

Please tick the relevant boxes.

1	<p>Are you planning to attend the Standards Committee hearing on the proposed date in the accompanying letter?</p> <p>If 'No', please explain why.</p>	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reason:</p>
2	<p>Are you going to present your own case?</p>	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p>	
3	<p>If you are not presenting your own case, will a representative present it for you?</p> <p>If 'Yes', please state the name of your representative.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Name:</p>
4	<p>Is your representative a practising Solicitor or Barrister?</p> <p>If 'Yes', please give their legal qualifications. Then go to Question 6.</p> <p>If 'No' please go to Question 5.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Qualifications:</p>

5	<p>Does your representative have any connection with your case?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Details:
6	<p>Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>	
7	<p>Do you, your representative or your witnesses have any access difficulties or any other needs? (e.g. is wheelchair access needed?)</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>	Details:
8	<p>Do you, your representative or witnesses need an interpreter?</p> <p>If 'Yes' please give details</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>	Details:
9	<p>Do you want any part of the hearing to be held in private?</p> <p>If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>	Reasons:
10	<p>Do you want any part of the relevant documents to be withheld from public inspection?</p> <p>If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>	Reasons:

Details of case and reference number

FORM E

Details of witnesses you propose to call:

Name of witness or witnesses	1		
	2		
	3		
Witness 1			
a	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
b	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	

Witness 2

a	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p>
b	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p>

Witness 3

a	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
b	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence: