

FULL COUNCIL

NOTICE AND AGENDA

Tuesday, 9 December 2025 at 7.30 pm.

SUPPLEMENTARY PAPERS

The following papers have been added to the agenda of the above meeting. They were not available when the agenda was originally published.

Joanne Wagstaffe, Chief Executive

15. Appeal under 6.4 of Part 4 Access to Information Procedure Rules Council Constitution (Pages 3 - 20)

1 Introduction and Summary

- 1.1 The Constitution allows a Member to appeal a decision to withhold information in accordance with section 100F(2) of the Local Government Act 1972. The appeal is to the Full Council meeting.
- 1.2 On 18 November 2025 the Proper Officer received an appeal from Councillor Cooper against the decision to refuse access to legal advice regarding the property known as Shannon House, Station Road, Kings Langley.
- 1.3 The request from Councillor Cooper follows an earlier request in October 2024 where he confirmed that he wished to make an appeal but did not provide any further information to allow the appeal to come forward at that time.
- 1.4 The Proper Officer as listed in the Proper Officer Schedule of the Constitution is the Chief Executive.
- 1.5 This report will only deal with the access to the information point raised by Councillor Cooper in his submission, as the decision on Shannon House is outside the scope of this item under the Constitution. The provision in the Constitution does not allow for the item (Shannon House) to be reopened at this meeting, and it is not concerned with whether the decision was the correct decision or not. The provision in the Constitution deals exclusively with the access to and provision of information to members.
- 1.6 The background to the decision and information summarising the item to which the decision relates have been provided to help members better

understand the context of the request. The decision on Shannon House is not the item under discussion and is not covered by this provision in the Constitution. Members should only consider the request in relation to the provision of the information.

2 Recommendation

- 2.1 Council notes the representations from Councillor Cooper and this report by the Chief Executive.
- 2.2 Council decides on the appeal.

General Enquiries: Please contact the Committee Team at
committeeteam@threerivers.gov.uk

COUNCIL 9 December 2025

PART I

Appeal under 6.4 of Part 4 Access to Information Procedure Rules Council Constitution (CEO)

1 Introduction and Summary

- 1.1 The Constitution allows a Member to appeal a decision to withhold information in accordance with section 100F(2) of the Local Government Act 1972. The appeal is to the Full Council meeting.
- 1.2 On 18 November 2025 the Proper Officer received an appeal from Councillor Cooper against the decision to refuse access to legal advice regarding the property known as Shannon House, Station Road, Kings Langley.
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2 Recommendation

- 2.1 Council notes the representations from Councillor Cooper and this report by the Chief Executive.
- 2.2 Council decides on the appeal.

3 Details

Timeline of relevant decisions on Shannon House

- 3.1 The full background to Shannon House can be found at Appendix A. For ease a timeline of relevant decisions in relation to the planning decisions on Shannon House are included in the table below.

Table 1: Timeline Summary

Process	Decision	Date
Application 20/0369/PDR refused for change of use from office to 74 residential units	Delegated Decision	April 2020
Application 20/1355/PDR refused for change of use from office to 64 residential units	Delegated Decision	August 2020
Application 20/0369/PDR overturned	Planning Inspectorate	December 2020
Minimum space standards introduced, but not applied retrospectively	Government	April 2021
Variation applied for 20/0369/PDR for three year extension of time (ref 23/0343/FUL)	Submitted	February 2023
23/0343/FUL decision to grant a six-month extension, completion by 4 June 2024	Delegated decision	April 2023

Councillor Cooper Appeal

- 3.2 On 18 November 2025 the Proper Officer received an appeal from Councillor Cooper against the decision to refuse access to legal advice regarding the property known as Shannon House, Station Road, Kings Langley.
- 3.3 Following earlier requests for access to legal advice on the redevelopment of Shannon House and the associated Permitted Development applications, the then Associate Director of Legal and Democratic Services and Monitoring Officer advised on 29 October 2024 ‘there is good reason why access to this legal advice should be refused on the basis that the advice is confidential and protected by legal professional privilege.’
- 3.4 The detailed information contained within Appendix A has been explained in correspondence with Councillor Cooper and includes the views of the then Monitoring Officer. The legal advice and reasons for the decision were incorporated into these responses sent to Councillor Cooper during late 2024.
- 3.5 In an email from the then Monitoring Officer, dated 28 October 2024, Councillor Cooper was made aware of this right of appeal to Full Council. On the same day Councillor Cooper confirmed that he would like to appeal and questioned what information was required. In a further email dated 29 October the Monitoring Officer stated:

“Officers will prepare a report for next Full Council which will include any representations you wish to make that access to the legal advice is necessary for the proper discharge of your functions as a Member of the Council. Please send me the representations within the next 14 days.”

- 3.6 No further representations were received from Councillor Cooper on this matter and as such a decision was made not to progress with the report. Some 13 months later these representations have been received and this report responds to those representations on the decision not to issue Councillor Cooper with the legal advice on Shannon House.

Provisions within the Constitution

- 3.7 The relevant sections of the Constitution, Rules of Procedure, Part 4 Access to Information Procedure Rules, can be found below:

- *6.2 In the case of any document other than a document to which the rights under Section 100F of the 1972 Act apply, and in any case of information which is not in the form of a document, if the Proper Officer considers that access to any document or other information is not necessary for the proper discharge of the functions (as a Member of the Council or as a Member of a Committee or Sub-Committee, as the case may be) of the person requesting such access, and there is good reason why access should be refused, they may refuse the person concerned access to the document or information in question.*
- *6.4 If any Member of the Council or any other Member of a Committee or Sub-Committee is dissatisfied with any determination of the Proper Officer under Section 100F of the 1972 Act or under this paragraph, they may refer the question to the Council, who shall, after considering any representations that that person or the Proper Officer may wish to make, determine whether or not to uphold the Proper Officer's determination.*
- *6.6 The Proper Officer for the purposes of Section 100F (2) of the 1972 Act and for the purposes of the paragraph is the Chief Executive.*

- 3.8 Also relevant to this report is Article 4, 4.04 of the Constitution which states as follows:

- *Note: For the avoidance of doubt the Full Council retains ultimate responsibility for the actions and decisions of all its Committees and also retains the ability to exercise all its powers whether or not they have been delegated to a Committee or Officer.*
- *However, the Council shall not overrule a power that has been delegated without first ensuring that such a step is in the best interest of the Council or its residents. The Council's ability to exercise its powers will not override or supersede any decision or action already taken by a Committee or Officer acting under delegated authority which has been enacted.*
- *Further to the above, the Council can only overturn a delegated decision under the following exceptional circumstances (this list is not exclusive):*
 - *The Monitoring Officer has deemed the decision ultra vires*
 - *or*

- *The decision has not been enacted*
- *No contracts have been exchanged*
- *Any five Members, within five working days of the decision having been taken, write to the Monitoring Officer or Chief Executive.*

Local Government Act 1972 Section 100F

3.9 The relevant legislation is the Local Government Act 1972, section 100F(1) which states as follows:

- *Any document which is in the possession or under the control of a principal council and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee of the council shall, subject to subsections (2) to (2C) below, be open to inspection by any member of the council.*

3.10 However, the specific section of that Act in which our Constitution grants a right of appeal is section 100F(2) which states:

- *In relation to a principal council in England, subsection (1) above does not require the document to be open to inspection if it appears to the proper officer that it discloses exempt information.*

3.11 Exempt information is confirmed in legislation as well as our Constitution which states at section 11.4 of the Access to Information Procedure Rules as follows:

- *Exempt information means information falling within the following 7 categories (subject to qualifications as set out below after the listed categories):*
 1. *information relating to any individual*
 2. *information which is likely to reveal the identity of an individual*
 3. *information relating to the financial or business affairs of any particular person (including the authority holding that information)*
 4. *information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and Employees of, or officer holders under, the Authority*
 5. *information in respect of which a claim to legal professional privilege could be maintained in legal proceedings*
 6. *information which reveals that the authority proposes - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment*
 7. *information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.*

- 3.12 Category 5 above confirms that legal professional privilege is exempt information and consistent with the advice provided to Councillor Cooper by the then Monitoring Officer on 29 October 2024.
- 3.13 It should also be noted that section 100F(1) of the Local Government Act 1972 as detailed in 3.9 above, clarifies that documentation specifically relates to “any business to be transacted at a meeting of the council or a committee or sub-committee of the council”. The request for information from Councillor Cooper does not relate to business that has occurred at a meeting. This is confirmed in table 1 above.

Decision making and Scheme of Delegation

- 3.14 Section 1.1 of Appendix A describes application 20/0369/PDR. In accordance with the Scheme of Delegation at 11.29.9 this was a delegated decision to the Head of Regulatory Services.
- 3.15 Section 1.7 of Appendix A describes application 23/0343/FUL. In accordance with the Scheme of Delegation at 11.29.1 this was a delegated decision to the Head of Regulatory Services.
- 3.16 For ease, sections 11.29.1 and 11.29.9 of the Scheme of Delegation are below:

11.29.1 That the Head of Regulatory Services is approved and authorised after having ensured that all statutory requirements have been complied with and after considering all representations received, to:-

DETERMINE all types of application submitted under the Town and Country Planning Act 1990, Planning (Listed Building and Conservation Areas) Act 1990 and Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) including the extension of time limits, agreement to minor amendments and non-material amendments to previously approved proposals provided that:-

*(1) For approvals; that they accord with the provisions of the appropriate development plan, other policy guidance or supplementary planning guidance.
Part 3 – Responsibility for Functions part 3 - responsibility for functions (april 2025) 3/33*

(2) The application had not been called in by any three Members of the District Council's Planning Committee or by the Parish Councils within the specified consultation period, and that the decision would not conflict with any objection received from three Members of the District Council's Planning Committee within the specified consultation period.

(3) The decision would not conflict with an objection received from an adjoining local authority.

(4) The Head of Regulatory Services considers it prudent to exercise their delegated authority, failing which they shall report the matter to the appropriate Committee.

(5) Note Tree Preservation Order applications are specifically dealt with at 12.1 below.

11.29.9 To make determinations, give approvals and agree other matters relating to the exercise of permitted development rights.

- 3.17 Table 1 is clear that all decisions on Shannon House have been made under delegated arrangements and no decisions have been required by Council, a Committee or Sub Committee of this authority. As such there is no requirement for Councillor Cooper to have access to the legal advice as confirmed by the Monitoring Officer.
- 3.18 Whilst Councillor Cooper disagrees with the views of Officers including the Planning Solicitor this does not justify seeking further legal advice on the matter. Officers have acknowledged the representations made now and in the past by Councillor Cooper and have responded to these points previously. This is not the forum for further discussion on the legality of the decisions made, that is not within the remit of this provision in the Constitution, but it is clear from all correspondence to date that officers have carefully considered the legal position and they have noted that the development undertaken at Shannon House benefits from an extant planning permission.
- 3.19 Whilst Councillor Cooper has raised not seeking external legal advice as part of his representations. This should not be considered as part of this appeal. The Constitution is clear that members may appeal a decision of the Proper Officer to withhold information from them in accordance with section 100F Local Government Act 1972. This does not include an ability for members to appeal an operational decision that external legal advice was not necessary.

4 Conclusions

- 4.1 This report sets out that there are two reasons for withholding the legal advice from Councillor Cooper, and all other members
- The decision was delegated and members have not been required to make a decision, paragraph 3.17, and
 - The information is legally professionally privileged, paragraph 3.12
- 4.2 However, it must be noted that whilst the professionally privileged advice has been withheld, Councillor Cooper has been provided with advice from the legal and planning teams on the issue and the decisions, this has also included the reasoning behind them.

5 Options and Reasons for Recommendations

- 5.1 No alternative options. The Council must hear the appeal and take into account the provisions in the Constitution and the Local Government Act 1972 as outlined in this report.
- 5.2 Should members wish to allow the appeal, the provisions of the Constitution would need amending.

6 Policy/Budget Reference and Implications

- 6.1 The recommendations in this report are within the Council's agreed policy and budgets.
- 6.2 The recommendations in this report do not impact on the achievement of specific performance indicators

7 Legal Implications

7.1 The legal implications are contained in the main body of the report.

8 Financial, Staffing, Equal Opportunities, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

8.1 None specific.

Report prepared by: Joanne Wagstaffe, Chief Executive

Appendix A – Background information relating to Shannon House

Appendix B - Representations from Councillor Cooper

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Appendix A – Background information relating to Shannon House.

- 1.1 Application reference 20/0369/PDR for a change of use from Office (Class B1) to 74 Residential Units (Class C3) under permitted development rules was refused under delegated decision by Three Rivers District Council on parking grounds in April 2020. This decision was subsequently overturned by the Planning Inspectorate and prior approval was granted on appeal on 3 December 2020. This prior approval related to the conditional grant of what is known as “deemed planning permission” by virtue of provisions of Schedule 2, Part 3, Paragraph O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (‘the GPDO’) and permitted the change of use of Shannon House from office (Class B1) to 74 residential units (Class C3).
- 1.2 The Council and Planning Inspector were only able to assess the proposed development on the basis of transport and highways impacts; contamination risks on the site; flooding risks on the site; and impacts of noise from commercial premises on the intended occupiers of the development. The Inspector had no powers to consider matters such as the occupier living standards and indeed commented in his decision letter; *“I recognise the concerns of interested parties in respect of the quality of accommodation, inadequate living space, excessive density, lack of affordable housing and loss of employment space, but these matters do not fall to be considered under existing legislation relating to prior approval applications for the change of use of office buildings.”*
- 1.3 The permitted development rules on permitted development rights were amended in 2020 and in April 2021 minimum space standards were introduced for office to residential conversions. However, that change to the General Permitted Development Order could not be applied retrospectively and so did not affect the lawfulness of 20/0369/PDR.
- 1.4 It should be noted a further prior approval application (ref. 20/1355/PDR) for 64 flats was also refused prior approval (under delegated decision) in August 2020. This decision was also appealed and the government’s Planning Inspector granted the prior approval application. However, this scheme was not implemented.
- 1.5 A variation to the prior approval application 20/0369/PDR was submitted in February 2023. This application, reference 23/0343/FUL, was made in accordance with S73 of the 1990 Act and sought an extension to the time limit to complete the permitted development works at Shannon House. The original time limit for completion of the permitted development works (ref. 20/0369/PDR) was 3 December 2023 and at the time of the S73 application in February 2023 it was confirmed the works had already commenced.
- 1.6 Application 23/0343/FUL, submitted in February 2023, initially sought a three year extension to the timescale for implementation. In determining the application the case officer considered only a six month extension was acceptable and issued the consent accordingly, with works to be completed by 4 June 2024. Express planning permission for the development pursuant to Section 73 of the 1990 Act was granted on 23 April 2023. Officers do not accept the submission made by Councillor Cooper that *“As it (the S73 application) was applied for after 6th April 2021, it was required to comply with the National Described Minimum Space Standard. As it did not, it was unlawful.”* Article 3(9A) of the GPDO which states that Schedule 2 does not grant planning permission for development which does not comply with minimum space standards is confined to development proposed pursuant to the GPDO.

- 1.7 Application, reference 23/0343/FUL, was determined under delegated powers. Committee call in powers do not extend to PDR applications. The variation of time condition application (23/0343/FUL) was a S73 application but it related to a previous PDR application. Members may have not considered they had the opportunity to call this to the Planning Committee and Officers consider the advice, if Officers had been asked at the time, was that this application could not be called to Committee. This information was communicated to Councillor Cooper by email dated 20 September 2024.
- 1.8 Generally speaking a party who wishes to challenge a grant of a section 73 planning permission has six weeks from the determination date to lodge an application for a Judicial Review with the High Court. This did not happen in the case of the planning permission ref. 23/0343/FUL and therefore this planning permission remains valid and extant.
- 1.9 Enforcement action would only be possible if the developer had failed to build in accordance with the proposed plans. Officers do not consider the completed development has deviated in such a way as to be materially different from the approved plans.
- 1.10 In addition, Officers established that the development was substantially completed by January 2024, only weeks beyond the original three year period that was given prior approval. If the application had been refused in April 2023 the developer would still have had eight months to complete the PDR development within the original three year timescale, and it is reasonably assumed could have met the original completion deadline if necessary.

Appeal of decision to refuse access to legal advice regarding Shannon House

Cllr Oliver Cooper

1. Shannon House, Station Road, WD4 8SE was converted into 74 flats below the Nationally-Described Minimum Space Standard in breach of Article 3(9A) of the General Permitted Development Order.
2. The Council has refused to procure external legal advice regarding its decision not to take enforcement action against the conversion, including councillors voting at full council against the Budget proposal in my name to procure external advice.
3. The Council has furthermore refused to disclose on request the internal considerations that it has made, even after the case was presented to council officers, verbally and in writing, that the opening of flats at Shannon House was unlawful.
4. The area is significantly harmed by the council making this mistake. Crime has increased several-fold in the area around Shannon House, especially on Station Road itself. Covering it up and doubling down does not help Abbots Langley or Kings Langley. It is transparently in the public interest and necessary to my role to scrutinise and challenge the council's decision.
5. As well as being the Leader of the Opposition, and therefore responsible for scrutinising the council's activities, I sit on the Policy & Resources Committee, which is responsible for legal services and the Budget; and I sit on the Planning Committee, which is responsible for decisions about enforcement action. I therefore will need to scrutinise the council's legal services, Budget, and planning enforcement decisions on this key issue.

Shannon House – unlawfully converted into tiny flats

6. Shannon House was unlawfully converted into small flats in 2023. None of the 74 tiny flats inside meet the Nationally-Described Minimum Space Standard, despite that being required of any flats created within former office space under Article 3(9A) of the General Permitted Development Order, which reads:¹

“3(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

¹ [General Permitted Development Order 2015](#), Article 3(9A)

- (a) where the gross internal floor area is less than 37 square metres in size; or
 - (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.”
- 7. The only exception to that requirement is where the Prior Approval – which is required for the conversion of offices into self-contained accommodation – that was implemented was applied for before 6th April 2021, per the provisions on Transitional and Saving Provisions under the 2020 Regulations that created the requirement to meet the Nationally-Described Minimum Space Standard:²

“**12(2)** The amendment made by regulation 3 of these Regulations does not have effect in relation to development under—

 - (a) Class M, N, O, P, PA or Q of Part 3 of Schedule 2; or
 - (b) Class A, ZA, AA, AB, AC or AD of Part 20 of Schedule 2,

where an application for prior approval is submitted before 6th April 2021.”
- 8. Whilst a different Prior Approval was applied for before 6th April 2021,³ it was not implemented, so it is irrelevant. The simple fact that it was not implemented is proven by the requirement that conversions be completed within three years of granting of permission,⁴ and the conversion was not completed by then.⁵ As it was not completed within three years of completion, it is not permitted and would have required express permission. If the applicant did indeed rely on that prior approval, then Enforcement Action can be taken.
- 9. Instead, the permission that was implemented was applied for on 27th February 2023.⁶ This was an application under [section 73 of the Town and Country Planning Act](#). It is legally uncontroversial – as stated in section 73

² [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Regulations 2020](#), Regulation 12(2)

³ 20/0369/PDR

⁴ [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Regulations 2020](#), Schedule 2, Paragraph MA2(5)

⁵ Email from the Head of Regulatory Services of 20th September 2024

⁶ [23/0343/FUL](#)

itself, by the Supreme Court,⁷ and as agreed by council officers⁸ – that a permission under section 73 constitutes a new, independent permission.⁹

10. As it is a new permission, not merely a variation of an old one, that is unambiguously the permission that was implemented.¹⁰ As it was applied for after 6th April 2021, it was required to comply with the National Described Minimum Space Standard. As it did not, it was unlawful.

Analogous applications

11. That this is how the transitional arrangements are meant to work with regards section 73 applications is obvious from how they are drafted in other instances. For example, the Biodiversity Net Gain Commencement Regulations have a Regulation specifying (emphasis mine):¹¹

4.— (1) The biodiversity gain planning condition does not apply in relation to a section 73 planning permission where—

(a) the original planning permission to which the section 73 planning permission relates was granted before 12th February 2024; or

(b) the application for the original planning permission to which the section 73 planning permission relates was made before 12th February 2024.

12. If the date that a section 73 application is made were simply the date that the original application is made, that paragraph would not be necessary. However, it *is* necessary because the date that a section 73 application is made is unambiguously the date that the section 73 application is made. This clearly makes Shannon House unlawful.

Dialogue with the council

13. The above legal explanation was shared with a planning barrister, who informally advised that it was correct. Upon confirmation of this, this explanation was shared with Three Rivers District Council via phone and via email in September 2024.¹²

⁷ Carnwath LJ at [11] in [Lambeth v Secretary of State](#) [2019] UKSC 33

⁸ Email from the Head of Regulatory Services, 20th September 2024

⁹ If an applicant wishes to amend an existing permission, the amendment must be non-material under section 96A.

¹⁰ Email from the Head of Regulatory Services, 11th October 2024

¹¹ [The Environment Act 2021 \(Commencement No.8 and Transitional Provisions\) Regulations 2024](#), Regulation 4

¹² Call and email to the Head of Regulatory Services, 16th September 2024

14. Despite extensive correspondence, the council reiterated its view that a permission applied for in 2023 qualified as being made before 6th April 2021, and did not explain this.¹³ I was not permitted to talk to any legal officer about this subject, despite requesting it on several occasions.¹⁴
15. When I spoke to the Head of Regulatory Services,¹⁵ she said to me that the council had not considered the argument that I had made. Furthermore, no attempt to engage with the argument has been made since then, with the council relying repeatedly on its unsubstantiated claim that the relevant application was made before 6th April 2021.
16. The admission that it was not considered at the time the application was made and the refusal to engage afterwards creates a strong presumption that the Leader of the Council – who has claimed to know the contents of the legal advice – knows that it was wrong and is trying to cover up the mistake. To ensure that reasonable inference isn't drawn, it should disclose the primary sources on which its conclusion was drawn.

Why it matters now

17. The council can still take enforcement action against this unlawful development. The council appears significantly confused by this, including stating that enforcement action cannot now be taken because the Prior Approval was given, and that as no resident brought a Judicial Review claim (minimum total cost to resident and council: £50,000), it would not revisit it.¹⁶
18. However, unlike planning permissions, developments that have been incorrectly granted Prior Approval are not immune from enforcement action, including where they breach the restrictions in Article 3.¹⁷ Prior Approval expressly cannot grant permission for, or authorise any development if it does not meet the requirements in Article 3.¹⁸ As a result, enforcement action can still be taken if the decision made an error.
19. Enforcement action would likely be revenue-positive for the council. The issuance of an Enforcement Notice for unlawful development makes continued use of the building for residential accommodation a criminal offence. All rents from it would be the proceeds of crime and can be subject to a confiscation order. Under the Asset Recovery Incentivisation Scheme, the council is entitled to keep 37.5% of proceeds. Across 74 flats, this share

¹³ Email to the Head of Regulatory Services, 21st October 2024

¹⁴ And as reiterated to the email to the Monitoring Officer, 21st October 2024

¹⁵ Call to the Head of Regulatory Services, 16th September 2024

¹⁶ Email from the Head of Regulatory Services, 20th September 2024

¹⁷ *Keenan v Woking and Secretary of State* [2017] EWCA Civ 438; *RSBS Developments v Secretary of State* [2020] EWHC 3077 (Admin), etc

¹⁸ *General Permitted Development Order 2015*, Article 3(9A)

would account to tens of thousands of pounds a month. There is therefore a strong financial incentive to take action.

20. However, the council appears strongly opposed to enforcement action, with the Leader individually and the Liberal Democrats as a party repeatedly refusing to look further into this and demanding silence.

Why Policy & Resources Committee members are entitled to the information

21. I am a member of the Policy & Resources Committee, which is responsible for the overseeing and procurement of legal services in the council.¹⁹ It is the body responsible for scrutinising internal legal functions and whether to procure external legal advice.
22. I had asked the council to procure external legal advice, but they refused, saying that regardless of what the external advice said, “It will not change the outcome.”²⁰ This predetermination requires scrutiny, and disclosure of the internal advice would either confirm or disprove an ulterior motive on the council’s leadership’s part.
23. Since 1907, there has existed a right in common law for councillors to access information held by the local authority on which they sit.²¹ While the common law right is not untrammelled, there is a very high bar against disclosure of information to councillors who sit on the relevant committee.
24. In the leading case,²² the Court of Appeal found that a member of a children’s services committee was entitled to see *incredibly* sensitive (and highly confidential) information related to individual child adoption cases. In justifying this, Brightman LJ said, “There is no room for any secrecy as between a social worker and a member of the social services committee.”

Why Planning Committee members are entitled to the information

25. I am also a member of the Planning Committee, which is responsible for decisions regarding the issuance of enforcement notices for breaches of the Town and Country Planning Act, as this is.²³
26. The Planning Committee is furthermore responsible for the grant of permission under section 73 and prior approvals under the General Permitted Development Order.²⁴

¹⁹ [Constitution](#), Article 6.02

²⁰ Email from the Head of Regulatory Services of 23rd October 2024

²¹ *R v Southwold Corporation* [1907] 97 LT 431

²² *R v Birmingham City Council, ex parte O* [1983] 1 AC 578

²³ [Constitution](#), p.3/9

²⁴ [Constitution](#), p.3/8

27. The Planning Committee is therefore the client receiving the legal advice, and legal professional privilege therefore cannot be a bar to the Planning Committee seeing that advice.²⁵

Why this information is specifically needed

28. That legal advice is confidential is not a bar to disclosure. This is not only *obvious* from the fact legal advice is disclosed to councillors when the press and public are excluded (Part II), but *necessary* where the committee in question is given responsibility for procurement of legal services under the Constitution. It is simply not possible for the committee to scrutinise legal services if it cannot ask for the basis for the decision not to procure external legal advice.

29. The only substantial bar to disclosure is against ‘fishing expeditions’, i.e. requests for non-specific information in the hope of finding something indirectly. However, this is the opposite of a fishing expedition – a single, specific piece of advice has been requested for reasons that have been directly specified. It is being requested because there is a substantiated and externally endorsed view that it is either wrong or does not say what the council’s Liberal Democrat leadership claims that it does.

30. The Leader of the Council has himself admitted that Cllr Vicky Edwards and I have “repeatedly ... raised this in correspondence with officers”, so the Council is aware that this is not a fishing expedition, but a specific document that has been sought at great expense of my and other Conservative councillors’ time.²⁶

31. The Leader of the Council and other Liberal Democrat councillors have deliberately sought to downplay the negative consequences of the council’s decision to allow the Shannon House development. That includes claiming that there has been no increase in crime locally, despite official crime statistics showing that it has increased several-fold. This lack of interest in the consequences of Shannon House’s conversion into flats shows that the Leader of the Council does not want the flats closed, even if the Council *could* close them: suggesting that the Council *can* close them. It is in the public interest to challenge this.

32. There is clearly a public interest in disclosure, as it is in the public interest to shut down Shannon House and only by disclosure can the council change the Liberal Democrat administration’s decision not to procure external legal advice and not to take action.

²⁵ *The RBS Rights Issue Litigation* [2016] EWHC 3161

²⁶ [Questions to the Leader of the Council](#), 10th December 2024

33. As a result, the legal advice should no longer be withheld by the council's administration, and should be disclosed to me as it is necessary to fulfil my functions as the Leader of the Opposition, as a member of the committee that makes decisions on legal services and the budget, and as a member of the committee that makes decisions regarding planning enforcement action.

Cllr Oliver Cooper

Leader of the Opposition, Three Rivers District Council

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