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**PRIVATE AND CONFIDENTIAL
REPORT**

Final Report

East Hertfordshire District Council

Case Reference EHDC/02/2009

**REPORT OF AN INVESTIGATION UNDER Sec 59 OF THE LOCAL
GOVERNMENT ACT 2000 by Salina Seeparsand appointed by Monitoring
Officer for East Hertfordshire District Council INTO ALLEGATIONS
CONCERNING COUNCILLOR WILLIAM ASHLEY**

DATE: 31 July 2009

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1 Executive summary

1.1 Allegations

A meeting of the Councils Development Control Committee held on 14 January 2009 agreed to refuse an application for 3 wind turbines in Bennington. Cllr Ashley spoke against the officer recommendation to refuse the planning permission. The complaint made by Dr J Godlee was that Cllr Ashley was possibly acquainted with the applicant but made no declaration of interest. A web search by the complainant revealed Cllr Ashley and the applicant Andrew Bott to be fellow directors of the North Herts Farmers Grain.

I have investigated the complaints made and in doing so have interviewed Councillor Ashley and the complainant.

1.2 Finding

My finding is that there has been no breach of the Members Code of Conduct.

2 Councillor Ashley's official details

- 2.1 Councillor Ashley was elected to the District Council on 6 May 1999.
- 2.3 Councillor Ashley serves on the Environment Scrutiny, Development Control and Licensing Committees.
- 2.4 He signed the written undertaking to abide by the Code on 8 May 2007.
- 2.5 He received training on the Code as part of the Induction Programme for Councillors in May 2007.

2 The relevant legislation and protocols

- 3.1 The current Members Code of Conduct was adopted in September 2007. The relevant clauses in the Members Code is contained in

Clause 9 – Failure to disclose a personal interest

3 The evidence gathered

- 4.1** I have taken account of the oral evidence from Councillors Ashley and the written evidence provided by Dr J Godlee

4 Summary of the material facts

- 5.1** Councillor Ashley confirmed that he is a member of North Herts Farmers Holding Ltd. This is a large organisation and has approximately 450 members and is a buying group for members. It has a main board with 6 Directors and Councillor Ashley is one of the 6 directors. The board meets monthly.

- 5.2** North Herts Farmers Grain was set up approximately 12 - 15 years ago and is a marketing organisation for farmers with grain. As Councillor Ashley was a member of North Herts Farmers and as a recognised peer in the community he was approached by North Herts Farmers Grain to be a member of the board of directors. Councillor Ashley agreed but functions only as an honorary member and has little involvement. He has only attended 1 meeting in the last 5 years.

- 5.3** Councillor Ashley confirmed that he was not aware that Andrew Bott was a member of North Herts Farmers Grain. He does know who Andrew Bott is as a Landowner but does not have any involvement with him at all. Councillor Ashley confirmed that had he known that Andrew Bott was member of North Herts Farmers Grain he would have declared an interest.

- 5.4** At a late stage the complainant raised additional issues. He alleges that Councillor Ashley owns a share holding in North Herts Farmers Grain of 1.49% or 200 shares in the company and this should have been declared and that Harry Bott, father of Andrew Bott was one of eleven co-directors with Councillor Ashley on the North Herts Farmers Grain company from 1992 - 2003.

Despite these being new issue and ones not before the standards board in the original complaint I have considered them.

Councillor Ashley informs me that when this company was set up in 1991, all the members of North Herts Farmers Grain were offered a share option of 200 shares at £1 each, which 63 members, including he, took up.

I have concluded that Cllr Ashley share holding is not linked to the application for the wind turbines therefore there would be no requirement to declare an interest. I do not consider that Harry Botts

membership of North Herts Grain up to 2003 required any declaration of interest on the part of Councillor Ashley.

5 Reasoning as to whether there have been failures or not to comply with the Code of Conduct

6.1.1 I must now consider whether by his actions Councillor Ashley failed or not to comply with the Members Code of Conduct.

6.1.2 Chapter 3 of the code states that a member obligation to disclose a personal interest to a meeting only applies when the member is aware of the existence of the personal interest. A member clearly cannot be expected to declare something of which he/she is unaware.

6.1.3 Councillor Ashley was not aware that Mr Botts was a fellow director of Hertfordshire Farmers Grain. He was unaware of his personal interest therefore he could not have made a declaration.

7 Finding

7.1 My finding in all the circumstances of this case is that in accordance with the Local Government Act 2000 there has not been a failure to comply with the Members Code by Councillor Ashley and he has not breached the provisions of Clause 9 Declaration of a personal interest.

Appendix A

Schedule of evidence taken into account

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Core documents

Doc No	Description	Pages
1	Allegation letter	
2	Note of Meeting-Councillor Ashley	
3	Correspondence, e mails from the complainant	
4	Members Code	