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**PRIVATE AND CONFIDENTIAL
REPORT**

Final Report

East Hertfordshire District Council

Case Reference EHDC/01/2009

**REPORT OF AN INVESTIGATION UNDER 59 OF THE LOCAL
GOVERNMENT ACT 2000 by G ROBERTSON appointed by Monitoring
Officer for East Hertfordshire District Council INTO ALLEGATIONS
CONCERNING COUNCILLOR D Clark**

DATE: 31st July 2009

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1 Executive summary

1.1 Allegations

The complainant refers to the fact that Councillor D Clark addressed a meeting of the Council's Development Control Committee on 22 October 2008 opposing the grant of planning permission for development the subject of planning application reference 3/08/1305/FP.

The owner (Mr Felstead) of a property neighbouring the application site also addressed the Committee opposing the proposed development.

The complainant alleges that Councillor Clark and Mr Felstead are "family friends" and that Councillor Clark made no declaration of interest (in relation to this friendship) at the meeting.

The complainant also alleges that the statements made by Councillor Clark at the meeting on 22 October 2008 were factually inaccurate and that a motion to refuse planning permission was put to the meeting following Councillor Clark's factual misrepresentations.

At a meeting of the Development Control Committee held on 19 November 2008, Councillor Clark spoke in favour of granting planning permission and listed building consent in respect of applications (referenced 3/08/1576/FP and 3/08/1562/LC) made by Mr Felstead. Councillor Clark made no declaration of interest.

Councillor Clark made further representations in respect of planning application reference 3/08/1305/FP under a consultation period arising from the delegation of authority to an officer to determine whether or not to grant the proposal planning permission. The complainant questions whether or not Councillor Clark made any declaration of interest in the matter when making those representations.

I have investigated the complaints made and in doing so have interviewed Councillor Clark and considered a letter from the complainant.

1.2 Finding

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

2 Councillor Clark's official details

2.1 Councillor Clark was elected to East Herts Council on 1 May 2003.

2.2 She is currently a member of Environment Scrutiny. She was previously a member of the Executive.

2.3 She signed an undertaking to abide by the Code on 10 May 2009

2.4 Member training on the Code was part of the 2007 Induction Programme.

3 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 are

- bringing an office or authority into disrepute (paragraph 5)
- failure to disclose a personal interest (paragraph 9).

4 The evidence gathered

4.1 I have taken account of oral evidence from Councillor Clark and her letter to the Standards Committee of 3 February 2009 the letter of complaint and a letter from the complainant dated 29 May 2009.

5 Summary of the material facts

5.1 Councillor Clark when interviewed confirmed the facts set out in her letter to the Standards Committee of the 3 February 2009. She denied that Mr Felstead was a family friend and confirmed that she had simply sought to represent his interests as his ward member in the planning applications. Councillor Clark admitted that she had made a genuine mistake as to the nature of the property when opposing the planning application but that this had in no way influenced the outcome.

6 Reasoning as to whether there have been failures to comply with the Code of Conduct

6.1 I must now consider whether by her actions Councillor Clark failed to comply with the Members Code of Conduct

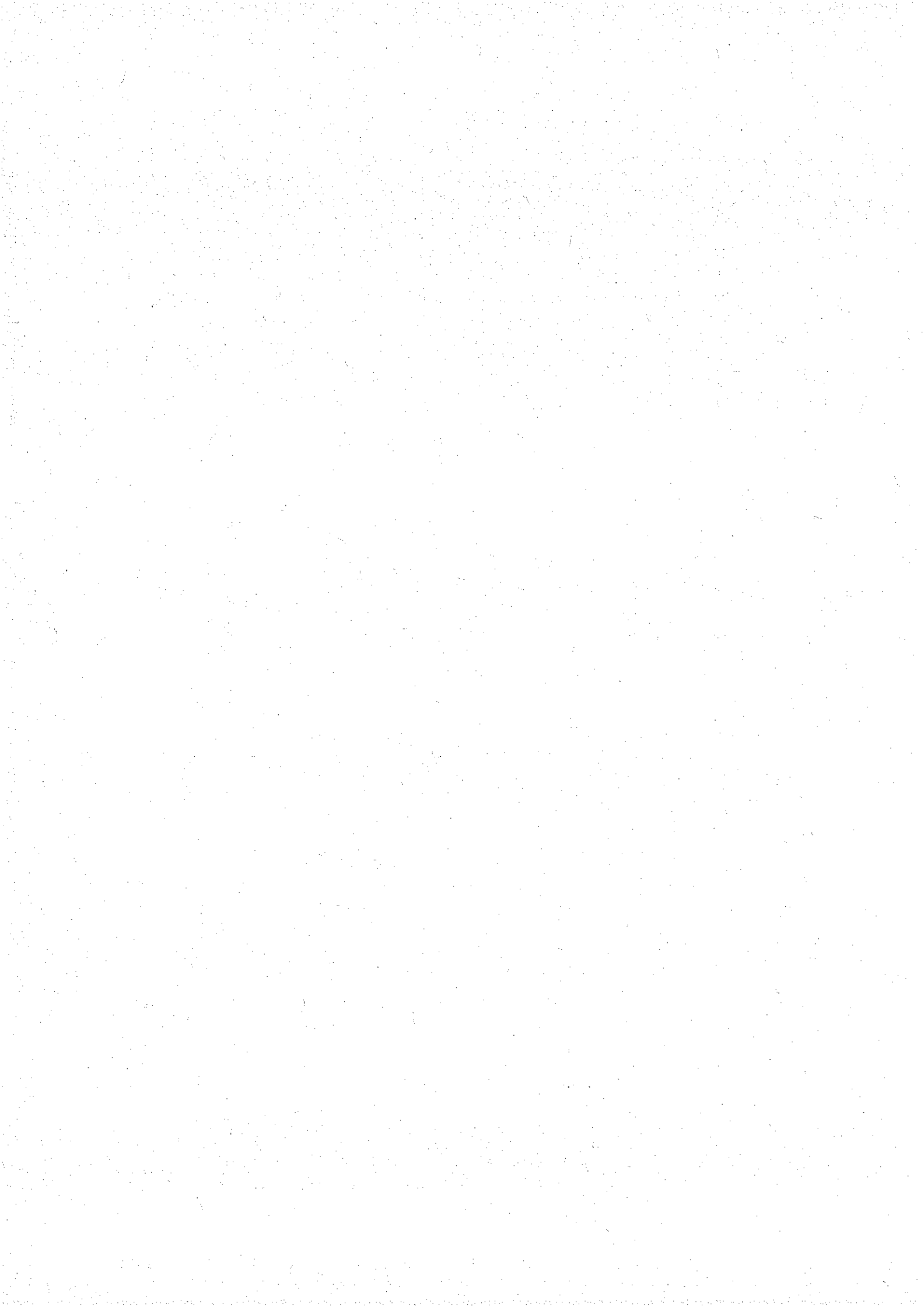
6.2 Following a number of requests in writing to produce evidence to support the allegation made by the complainant that Mr Felstead was a family friend such that Councillor Clark should have declared a personal interest in the relevant planning applications a letter of 29 May 2009 from the complainant confirmed ' I have absolutely no evidence' .

Councillor Clark denies any such relationship but has admitted to making a genuine mistake in misrepresenting the nature of the property when opposing the application and though regrettable this mistake

cannot in my view be regarded as behaviour bringing an office or authority into disrepute.

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 in that there is no evidence to suggest a failure to disclose a personal interest. The acknowledged error in describing the property when opposing the planning application does not constitute behaviour likely to bring an office or authority into disrepute.



Appendix A

Schedule of evidence taken into account

Case No: EHDC/01/2009

Core documents

Doc No	Description	Pages
1	Allegation letter	
2	Letter Councillor Clark to Standards Committee 3/2/2009	
3	Letter from complainant 29/5/2009	
4	E mail from Councillor Clark 12/6/2009	
5	Members Code	

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