

Public Document Pack

EAST HERTFORDSHIRE DISTRICT COUNCIL

NOTICE IS HEREBY GIVEN that a meeting of East Hertfordshire District Council will be held in the Council Chamber, Wallfields, Hertford on Wednesday 20th May, 2015 at 7.00 pm, for the purpose of transacting the business set out in the Agenda below, and you are hereby summoned to attend.

Dated this 11th day of May 2015

Jeff Hughes
Head of Democratic and
Legal Support Services

Note: Prayers will be said before the meeting commences. Those Members who do not wish to participate will be invited to enter the Chamber at their conclusion

AGENDA

1. Chairman's Announcements

To receive any announcements.

2. Election of Chairman of the Council for 2015-16

To elect the Chairman of the Council for the civic year 2015-16, following which the Chairman to make the statutory declaration of acceptance of office.

3. Appointment of Vice-Chairman of the Council for 2015/16

To appoint the Vice-Chairman of the Council for the civic year 2015-16, following which the Vice-Chairman to make the statutory declaration of acceptance of office.

4. Further Chairman's Announcements

To receive any announcements of the newly-elected Chairman.

5. Minutes (Pages 7 - 16)

To approve as a correct record and authorise the Chairman to sign the Minutes of the Council meeting held on 4 March 2015.

6. Declarations of Interest

To receive any Members' declarations of interest.

7. Review of the Council's Decision-Making Structure

To consider a report (to follow) of the Head of Democratic and Legal Support Services.

8. Members' questions

To receive any Members' questions.

9. Community Scrutiny Committee: Minutes - 10 March 2015 (Pages 17 - 26)

Chairman: Councillor Mrs D Hollebon

10. Development Management Committee: Minutes - 16 March 2015 (Pages 27 - 38)

Chairman: Councillor Mrs R Cheswright

11. Corporate Business Scrutiny Committee: Minutes - 17 March 2015 (Pages 39 - 46)

Chairman: Councillor G Jones

12. Audit Committee: Minutes - 18 March 2015 (Pages 47 - 56)

Vice-Chairman: Councillor W Mortimer

13. Human Resources Committee: Minutes - 25 March 2015 (Pages 57 - 62)

Chairman: Councillor G McAndrew

14. Development Management Committee: Minutes - 25 March 2015 (Pages 63 - 84)

Chairman: Councillor Mrs R Cheswright

15. Licensing Committee: Minutes - 26 March 2015 (Pages 85 - 90)

Vice-Chairman: Councillor M McMullen

16. Review of Constitution (Pages 91 - 258)

To consider a report of the Monitoring Officer.

17. Arrangements with regard to the Post of Chief Executive (Pages 259 - 272)

To consider a report of the Leader of the Council.

18. Member Development and Training Strategy: 2015-19 and Pledge (Pages 273 - 284)

To consider a report of the Head of Democratic and Legal Support Services.

19. Motion of Censure (Pages 285 - 408)

To consider a report of the Monitoring Officer

DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.

4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

Audio/Visual Recording of meetings

Everyone is welcome to record meetings of the Council and its Committees using whatever, non-disruptive, methods you think are suitable, which may include social media of any kind, such as tweeting, blogging or Facebook. However, oral reporting or commentary is prohibited. If you have any questions about this please contact Democratic Services (members of the press should contact the Press Office). Please note that the Chairman of the meeting has the discretion to halt any recording for a number of reasons, including disruption caused by the filming or the nature of the business being conducted. Anyone filming a meeting should focus only on those actively participating and be sensitive to the rights of minors, vulnerable adults and those members of the public who have not consented to being filmed.

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MINUTES OF A MEETING OF THE
COUNCIL HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
WEDNESDAY 4 MARCH 2015, AT 7.00 PM

PRESENT:

Councillor R Beeching (Chairman).
Councillors M Alexander, D Andrews,
P Ballam, E Buckmaster, S Bull, M Carver,
Mrs R Cheswright, K Crofton, G Cutting,
A Dearman, Mrs D Hollebon, Mrs D Hone,
A Jackson, G Jones, J Jones, G Lawrence,
J Mayes, G McAndrew, M McMullen,
P Moore, W Mortimer, M Newman, T Page,
P Phillips, M Pope, J Ranger, C Rowley,
P Ruffles, S Rutland-Barsby, N Symonds,
M Tindale, K Warnell, G Williamson, J Wing,
M Wood, C Woodward, B Wrangles and
J Wyllie.

OFFICERS IN ATTENDANCE:

Simon Drinkwater	- Director of Neighbourhood Services
Jeff Hughes	- Head of Democratic and Legal Support Services
Martin Ibrahim	- Democratic Services Team Leader
George A Robertson	- Chief Executive and Director of Customer and Community Services
Adele Taylor	- Director of Finance and Support Services

566 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Members and reminded them that the meeting was being webcast.

He advised that there were five umbrellas still available with the proceeds being donated to the Community Chest, for which over £1400 had been raised to date. He also reminded Members of the arrangements for his Civic Dinner on 20 March 2015.

The Chairman referred to this being the last Council meeting of the civic year and indeed, this Council's four year term. He understood that some Members would be retiring and highlighted Councillor Ranger's 42 years' service. He paid tribute to his dedicated service and hard work on behalf of residents and wished him well in his retirement. The Chairman advised that Councillor Ranger had provided light refreshments for all Members which would be available after the meeting.

The Chairman also thanked Officers for their hard work and wished George A Robertson well in his forthcoming retirement. Finally, he thanked the Vice-Chairman for her support to him throughout the year.

At the Chairman's invitation, Councillors A Jackson, M Newman and J Wing, on behalf of their Groups, spoke in honour of Councillor Ranger.

567 MINUTES

RESOLVED – that the Minutes of the Council meeting held on 18 February 2015 be approved a correct record and signed by the Chairman.

568 MEMBERS' QUESTIONS

Question 1

Councillor G Jones asked the Executive Member for

Economic Development if he could outline what impact the introduction of the 30 minutes free parking in September 2014 had had on the local economy.

In reply, the Executive Member believed that there had been a significant impact. He advised that an additional 26,000 visits to the car parks in Bishop's Stortford, Hertford and Ware per month had been recorded and that evidence suggested that the introduction of the £1 flat charge had increased use of the car parks across the day. He also referred to the financial impact for the Council not being as great as anticipated, resulting in positive news all round.

Question 2

Councillor J Wyllie referred to the current pay and display machines in the Council's car parks having been in operation for a number of years and asked the Executive Member for Economic Development if there were any plans to replace these and improve the convenience of parking in East Herts.

In reply, the Executive Member advised that a tendering process was underway and that an appraisal of options would be reported to Environment Scrutiny Committee in September 2015. Subsequent to this, the Executive would be asked to determine which option to proceed with a contract being awarded in early 2016. Any new system agreed would need to maximise convenience for residents and offer value for money. The Executive Member also referred to the success of the RinGo scheme.

Question 3

Councillor C Rowley asked the Executive Member for Health, Housing and Community Support if she agreed that the Council's continued investment in summer activities programmes and funding for sports, music, drama, arts and other community groups all year round was vital to ensuring every child in East Herts had the opportunity to discover new talent, have the best possible start in life and reach their full potential.

In the absence of the Executive Member, the Leader agreed with Councillor Rowley. He detailed the opportunities provided for young people through the provision of playschemes, community grants and sports facilities. The Council continued to support development in culture and the arts and the Leader highlighted 3music, the annual event for singers and musicians now in its tenth year. He encouraged Members to support this year's event at Hertford Theatre on 29 May 2015.

Question 4

Councillor M Pope asked the Executive Member for Finance if it was not the case that, given the difficult decisions that had had to be taken nationally to restore the public finances, it had been down to the effective management at East Herts that had enabled the Council to budget efficiently to protect and maintain public services, whilst at the same time, helping hardworking residents right across East Herts by freezing and reducing its council tax.

The Executive Member agreed with Councillor Pope. He referred to the economic situation nationally and stated that the Council had reduced the council tax burden significantly.

Question 5

Councillor E Buckmaster asked the Executive Member for Community Safety and Environment to outline what measures had been put in place that had been the reason for the increase in households recycling more waste and to list other measures that had helped contribute to protecting the environment.

In reply, the Executive Member chronicled the progress of the recycling service in achieving a rate of nearly 53% and also reducing the volume of residual waste being sent to landfill. As well as the environmental impact of these achievements, the Council had reduced its costs and increased resident satisfaction levels with a service where more materials could

be recycled.

He also stated that the Council had reduced its carbon footprint by 27% since 2008/09 and that progress was being made to reduce this by a further 25% by 2020. Overall, complaints on missed bin collections were at their lowest recorded level. Finally, the Executive Member referred to the continuing delays of the hydro scheme and undertook raise this further with the Government before he retired in May 2015.

Question 6

Councillor N Symonds asked the Executive Member for Health, Housing and Community Support about what planned investment the Council had to contribute to public health.

In the absence of the Executive Member, the Leader referred to the Council's Public Health Strategy as a model for others to follow, as acknowledged by the Director of Public Health for Hertfordshire. This had been bolstered by the £100k funding provided by Hertfordshire County Council for the next two years which would be match funded by East Herts Council. This exciting opportunity would enable further schemes to be developed with a range of partners that would ensure that the public health agenda remained effective.

Question 7

Councillor P Ruffles asked the Leader of the Council, with just over two months to go until the election, what he believed local Members needed to do to encourage young people and first time voters, many of whom would have been 14 at the last elections, to vote on 7 May 2015.

In reply, the Leader referred to the range of social media tools that were now available and the need to speak the language of young people. He referred to visits to various schools where in discussions with young people, voting had been referred to as a privilege not enjoyed in some parts of the world. He also referred to older people who had not voted

before and believed that, if involved, they could make changes.

Question 8

Councillor C Rowley asked the Leader of the Council what measures he would list as successes of the Council over the last 4 years.

In reply, the Leader believed that the list would be too long to go through at this meeting. His edited highlights were the successes of Hertford Theatre, the New Homes Bonus funding that had been allocated to parish and town councils with no strings attached and the 24 loan agreements that had been achieved under the Mortgage Guarantee scheme. He reiterated the public health, recycling and car parking successes referred to earlier. The Leader also highlighted the increased funding for the Citizens Advice Service and the support for businesses, including the European funding that had been achieved. Finally, he referred to the 2% reduction in council tax.

569 EXECUTIVE REPORT - 3 MARCH 2015

RESOLVED – that the Minutes of the Executive meeting held on 3 March 2015 be received.

(see also Minutes 570 – 571)

570 EAST HERTS CUSTOMER SERVICE STRATEGY (2015-2020)

RESOLVED - that (A) the Council's Customer Service Strategy be approved as detailed in Essential Reference Paper 'B' of the report submitted; and

(B) Officers be authorised to progress an outline project plan for its delivery, with any resource requests needed to deliver the Customer Service Strategy being reported to Corporate Business Scrutiny Committee on 26 May 2015 and the Executive on 2 June 2015.

(see also Minute 569)

571 AFFORDABLE HOUSING - AMENDMENT TO POLICY

RESOLVED – that (A) the changes in national planning policy announced through the Ministerial Statement be noted;

(B) the Council implements a threshold of 5 units or less in Category 1 and 2 Villages, below which affordable housing contributions will not be sought; and

(C) the Council's policy requirement for the provision of affordable housing in Category 1 and 2 Villages be amended and the revised wording for policy HSG3 (II), (III) and (IV) as set out in paragraph 2.18 of the report submitted, be approved.

As a result, the threshold and requirement for provision of affordable housing would be as follows:

(a) Main Settlements:
Threshold: Sites over 15 units or 0.5ha
Provision: Up to 40%

(b) Category 1 and 2 Villages:
Threshold: Sites of up to 5 units or 0.17ha
Provision: None

Threshold: Sites of 6-10 units or 0.18 – 0.32ha and a combined gross internal floorspace of less than 1000sqm
Provision: Financial contribution

Threshold: Sites of 11-14 units or 0.33 – 0.49ha or combined gross internal floorspace of more than 1000sqm
Provision: Up to 25%

Threshold: Sites over 15 units or 0.5ha

Provision: Up to 40%

(see also Minute 569)

572 ENVIRONMENT SCRUTINY COMMITTEE: MINUTES - 17
FEBRUARY 2015

RESOLVED – that the Minutes of the Environment Scrutiny Committee meeting held on 17 February 2015, be received.

573 DEVELOPMENT MANAGEMENT COMMITTEE: MINUTES -
25 FEBRUARY 2015

RESOLVED – that the Minutes of the Development Management Committee meeting held on 25 February 2015, be received.

574 COUNCIL TAX 2015/16

The Executive Member for Finance submitted a report proposing Council Tax levels in 2015/16. Council noted the precepts set by Hertfordshire County Council (HCC), Hertfordshire Police Authority (HPA) and Parish and Town Councils.

In accordance with the provisions of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a recorded vote was taken on the Council Tax resolution, the result being:

FOR:

Councillors M Alexander, D Andrews, P Ballam, R Beeching, E Buckmaster, S Bull, M Carver, Mrs R Cheswright, H Crofton, G Cutting, A Dearman, Mrs D Hollebon, Mrs D Hone, A Jackson, G Jones, J Jones, G Lawrence, J Mayes, G McAndrew, M McMullen, P Moore, W Mortimer, M Newman, T Page, P Phillips, M Pope, J Ranger, C Rowley, P Ruffles, S Rutland-Barsby, N Symonds, M Tindale, K Warnell, G Williamson, C Woodward, B Wrangles, J Wyllie.

AGAINST:

None

ABSTENTIONS:

Councillors J Wing, M Wood.

For: 37

Against: 0

Abstentions: 2

Council approved the recommendations as now detailed.

RESOLVED – that (A) the Council Tax resolution, as now submitted, be approved;

(B) the local precepts as set out at Essential Reference Paper ‘C’ of the report submitted, be noted; and

(C) the Hertfordshire County Council’s and Hertfordshire Police Authority’s precepts be noted.

The meeting closed at 8.03 pm

Chairman

Date

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MINUTES OF A MEETING OF THE
COMMUNITY SCRUTINY COMMITTEE
HELD IN THE COUNCIL CHAMBER,
WALLFIELDS, HERTFORD ON TUESDAY
10 MARCH 2015, AT 7.00 PM

PRESENT: Councillor Mrs D Hollebon (Chairman)
Councillors S Bull, G Cutting, J Jones,
P Moore, N Symonds, M Wood and J Wyllie

ALSO PRESENT:

Councillors D Andrews, L Haysey, P Phillips,
P Ruffles

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Cliff Cardoza	- Head of Environmental Services
Mark Kingsland	- Leisure Services Manager
Marian Langley	- Scrutiny Officer
Julie Pomfrett	- Anti-Social Behaviour and Projects Officer
George A Robertson	- Chief Executive and Director of Customer and Community Services

ALSO IN ATTENDANCE:

Paul Falko	- SLM Limited
Mathew Nicholson	- SLM Limited
Chris Yearly	- SLM Limited

575 APOLOGIES

Apologies for absence were submitted from Councillors J Mayes and K Warnell.

576 MINUTES

RESOLVED – that the Minutes of the meeting held on 18 November 2014 be confirmed as a correct record and signed by the Chairman.

577 CHAIRMAN'S ANNOUNCEMENTS

The Chairman referred to last week's Members' Information Bulletin and drew attention to the update in relation to the Council's Empty Homes Policy.

The Chairman welcomed Chief Inspector Gerry McDonald to the meeting who was in attendance to provide a perspective on the part of the Police, on the Implementation of the Anti-Social Behaviour Crime and Policing Act and its new powers. The Chairman also welcomed representatives from SLM Limited.

The Chairman stated that this was the last meeting of the civic year which, she said, had been interesting and informative. To those Members retiring she wished them a long and happy retirement.

The Chairman also stated that this was the Chief Executive and Director of Customer and Community Services' last meeting and wished him a long and happy retirement having done a splendid job and thanked him personally for his continuing support. On behalf of Members, the Chairman thanked Officers for their continuing hard work and support.

578 IMPLEMENTATION OF THE ASB, CRIME AND POLICING ACT - NEW POWERS

The Head of Community Safety and Licensing submitted a report on the Use and Implementation of the Anti-Social Behaviour Crime and Policing Act 2014 and the new powers

available to the Council.

The Anti-Social Behaviour (ASB) Projects Officer gave a presentation which outlined what the new Act sought to achieve and summarised the six new powers available to the Council in relation to:

- Civic injunction
- Criminal Behaviour Order
- Community Protection Notice
- Public Spaces Protection Order
- Closure Notice /Order
- Dispersal Powers

The ASB Projects Officer explained that the Council, together with the Police, were joint lead agencies for the East Herts Community Safety Partnership (CSP) required by statute, to work together to reduce crime and disorder.

Chief Inspector Gerry McDonald summarised his concerns in relation to Closure Orders and Closure Notices, the limited resources of the Police and the need to work closely with the Council.

Councillor N Symonds referred to inaccurate information contained in leaflets and on the website about "Community Triggers". Officers confirmed that this information had been amended. In response to a query from Councillor M Wood, Officers confirmed that the "Community Trigger" had been used on three occasions.

Councillor J Jones was pleased to see a reduced number of powers and queried whether any powers were or could be devolved to Towns or Parishes particularly in relation to Public Space Protection Orders. Officers confirmed that the powers were vested in the District or Borough Councils, as appropriate but that Towns or parishes would be closely consulted.

In response to a query from Councillor P Moore regarding how closely the Police worked with families and schools particularly in relation to truancy issues, Chief Inspector

McDonald confirmed that the Police did work closely with agencies on such matters and referred to the use of “Safety Net”, a web based application which was important in flagging up community and family issues with agencies. He stated that the East Herts Community Safety Partnership was the only CSP to reduce crime by 10%.

The Chairman, on behalf of Members, thanked the Chief Inspector for attending and for the presentation.

The Committee supported the recommendations as now detailed:

RESOLVED – that the Executive be advised that the Committee supports (A) authority for setting Fixed Penalty Notice (FPN) fee rates being delegated to the Director of Neighbourhood Services in consultation with the Executive Member for Community Safety and Environment;

(B) Fixed Penalty Notice income and costs awarded to East Herts District Council at Court being reinvested back into and ring-fenced to the ASB Service;

(C) records of the use of these powers being kept by the ASB Officer, to avoid duplication; and

(D) East Herts District Council leading on Closure Notices and Orders for Housing Association properties.

579 SLM LEISURE CONTRACT - YEAR 6

The Head of Environmental Services submitted a report on the sixth annual review of the Council’s leisure contract with Sport and Leisure Management Limited (SLM). The Leisure Services Manager provided a summary of the contract in terms of performance in relation to the contract specification and qualitative successes and improvements, the detail of which was set out in the report now submitted.

The Leisure Services Manager outlined future opportunities to ensure that the Council’s leisure centre assets were

maintained effectively, improvements to environmental performance secured and carbon emissions reduced.

Councillor S Bull referred to the low satisfaction figures in relation to Ward Freman swimming pool in Buntingford, and of parents' dissatisfaction with the viewing area. He referred to the substantial increases in planning development now and planned for the next 10 years and the impact this would have on leisure demand.

The Head of Environmental Services referred to an extensive debate at a recent joint meeting of Scrutiny Committees during which, a number of Members had expressed a need to improve leisure provision, particularly in relation to football pitches and swimming. The Executive had subsequently agreed to a 2015/16 Service Plan Action to develop a strategy to improve leisure services in the context of sustainability. The Head of Environmental Services stated that there had been a national decline in swimming and that provision in East Herts was over-supplied when compared to most other Councils.

Councillor J Jones echoed Councillor Bull's concerns adding that Ward Freman had been neglected and needed financial investment. He supported the development of a proper strategy.

Councillor N Symonds was pleased to see that steps had been added to the Grange Paddocks swimming pool. She expressed concern at the increase in the price of private swimming lessons. Councillor N Symonds also referred to the fact that swimming teachers wore T-shirts in the pool and stated that people with poor body image and those from different cultural backgrounds be allowed to wear clothing in the pool. Mathew Nicholson explained that specific body costumes were available for particular groups of people and that the 1:1 swimming sessions had increased from £19.00 to £21.00. Mr Nicholson undertook to provide Members with a written explanation regarding the use of body suits.

In response to a query from Councillor G Cutting regarding the unhealthy snacks in vending machines at leisure centres,

Mr Nicholson undertook to review this and provide an update on what could be done to produce a healthy alternative.

Councillor M Wood stated that during the budget process, it had been suggested that Hartham Leisure Centre might be getting a 3G Football Pitch and queried whether this might be possible for Bishop's Stortford. The Head of Environmental Services confirmed that a pitch was planned for Hartham but that this had been delayed. It was hoped that one would also be provided at Grange Paddocks once the pitch at Hartham had been fully evaluated.

The Chairman, on behalf of Members, thanked representatives of SLM Leisure for attending the meeting.

The Committee received the report.

RESOLVED – that the annual review of its sixth year's performance by the Council's leisure contactor Sport and Leisure Management, be received.

580 COMMUNITY SCRUTINY COMMITTEE - HEALTHCHECK
OCTOBER 2014 - JANUARY 2015

The Chief Executive and Director of Customer and Community Services submitted a report on the performance of key indicators relating to Community Scrutiny Committee for the period October 2014 to January 2015.

The Chief Executive and Director of Customer and Community Services stated that (EHPI 181 – Time taken to process housing benefit new claims and change events) was still "red". He hoped that the recruitment drive and advertising would secure more benefits staff.

The Committee received the report.

RESOLVED – that performance figures for October 2014 to January 2015 as detailed in the report now submitted, be received.

581 REPORT FROM THE HEALTH AND WELLBEING PANEL

Councillor N Symonds, Chairman of the Health and Wellbeing Panel stated that she had attended health meetings at Hertfordshire County Council and had played an active part in the health process. She referred to a new urgent care centre at the Lister Hospital and had had first hand experience of how 111 calls were handled.

Councillor Symonds referred to the full programme which the Health and Wellbeing Panel had experienced during the civic year, adding that the pinnacle of its success was, she thought, in relation to a review of Doctor's surgeries.

Councillor Symonds was pleased to see that health issues had been integrated within the Council's policies and services and thanked Claire Pullen, the Scrutiny Officer for her support in the process.

RESOLVED – that (A) the verbal report be received; and

(B) the Minutes of the Health and Wellbeing Panel meeting held on 24 February 2015 be received.

582 EVALUATION OF SCRUTINY AND WORK PROGRAMME FOR 2015/16

The Chairman submitted a report evaluating the work programme for 2014/15 and sought suggestions on which to develop a work programme for 2015/16 to be agreed at the next meeting of the civic year.

The Scrutiny Officer provided Members with an "Evaluating Scrutiny" form on which they could comment on last year's scrutiny process and identify areas of scrutiny for improvement by a deadline of 23 March 2015. It was noted that, subject to confirmation, there would be a new Health and Wellbeing Scrutiny Committee.

The Scrutiny Officer stated that as a result of comments to the Executive raised at the joint meeting of Scrutiny Committees in February 2015, Community Scrutiny Committee would be

given the opportunity of reviewing its Fees and Charges. It was suggested that this be considered at the meeting on 22 September 2015. This was supported.

The Scrutiny Officer referred to the need for a Crime and Disorder item for consideration but a subject for discussion had yet to be identified.

The Scrutiny Officer stated that there would be “twilight training” at the start of the civic year on the Choice Based Lettings system to help new Members.

Councillor J Wyllie expressed concern that there had not been an item on the agenda in relation to the outcome of the Market Tendering process. The Executive Member for Economic Development explained that as the contract had not yet been signed there was no work to scrutinise. He suggested that this might be added to the Committee’s work programme. Members supported a suggestion that the work programme should be amended to include the outcome of the Market Tendering process.

Councillor J Wyllie referred to the need to review markets as a whole. The Scrutiny Officer stated that markets had been looked internally and externally, as part of a Task and Finish Group. She undertook to review the outcomes agreed by the Task and Finish Group to see if all the work had been undertaken. The Scrutiny Officer undertook to speak to the Executive Member for Economic Development on this issue and would focus on a date for the markets to be added to the work programme.

Councillor N Symonds stated that Members had visited Riversmead and Circle Anglia Housing Associations but had yet to meet with Aldwych. She asked that a report arising from those meetings should come to Scrutiny during 2015/16.

The Committee approved the report, as now amended.

RESOLVED – that (A) Members’ comments to be submitted separately as part of the evaluation exercise be used to frame the draft 2014/15 Overview and Scrutiny

Annual Report; and

(B) the work programme, as amended, be approved.

The meeting closed at 8.20 pm

Chairman

Date

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MINUTES OF A MEETING OF THE
DEVELOPMENT MANAGEMENT
COMMITTEE HELD IN THE THE MITRE
SUITE, BISHOPS STORTFORD FOOTBALL
CLUB, WOODSIDE, DUNMOW ROAD,
BISHOP'S STORTFORD ON MONDAY 16
MARCH 2015, AT 7.00 PM

PRESENT: Councillor Mrs R Cheswright (Chairman).
Councillors D Andrews, S Bull, G Jones,
P Moore, T Page, P Ruffles, N Symonds,
G Williamson and M Wood.

ALSO PRESENT:

Councillors G Cutting, G McAndrew and
P Phillips.

OFFICERS IN ATTENDANCE:

Liz Aston	- Development Team Manager (East)
Shirley Downham	- Planning Enforcement
Simon Drinkwater	- Director of Neighbourhood Services
Annie Freestone	- Senior Planning Technician
Peter Mannings	- Democratic Services Officer
Alasdair McWilliams	- Information and Digital Media Manager
Martin Plummer	- Senior Planning Officer
Kevin Steptoe	- Head of Planning and Building Control
Stephen Tapper	- Senior Planning Officer

ALSO IN ATTENDANCE:

Paul Chappell - Highways Officer

583 APOLOGIES

Apologies for absence were submitted on behalf of Councillors M Alexander, E Bedford, K Crofton, J Jones, M Newman and K Warnell. It was noted that Councillors S Bull, T Page and M Wood were substituting for Councillors J Jones, M Alexander and M Newman respectively.

584 MINUTES – 25 FEBRUARY 2015

RESOLVED – that the Minutes of the meeting held on 25 February 2015 be confirmed as a correct record and signed by the Chairman.

585 AN URBAN EXTENSION COMPRISING 329 NEW DWELLINGS (OF A RANGE OF SIZES, TYPES AND TENURES, INCLUDING AFFORDABLE HOUSING), INCLUDING A SITE FOR A ONE-FORM-ENTRY PRIMARY SCHOOL; PUBLIC OPEN AND AMENITY SPACE TOGETHER WITH ASSOCIATED LANDSCAPING; ACCESS, HIGHWAYS (INCLUDING FOOTPATHS AND CYCLEWAYS), AND PARKING; AND DRAINAGE (INCLUDING A FOUL WATER PUMPING STATION), UTILITIES AND SERVICE INFRASTRUCTURE WORKS. ALL MATTERS ARE RESERVED FOR LATER APPROVAL EXCEPT FOR PHASE 1 (130 DWELLINGS) AND ACCESS FOR PHASE 2 ONWARDS AT HAZELEND ROAD AND FARNHAM ROAD, BISHOP'S STORTFORD FOR COUNTRYSIDE PROPERTIES

The following people addressed the Committee in objection to the application:

- David Glass (East Herts Ramblers and the Bishop's Stortford and District Footpath Association)

- John Rhodes (Bishop's Stortford Civic Federation)
- Rob Francis (Chantry Community Association)
- Tom Gardiner (Bishop's Stortford Community Football Club).

The following people addressed the Committee in support of the application:

- Andrew Tait QC (on behalf of Countryside Properties)

In respect of application 3/13/1501/OP, the Director of Neighbourhood Services recommended that:

- (A) in consultation with the Chairman of the Development Management Committee and the Head of Planning and Building Control, the Head of Democratic and Legal Services completes a Section 106 Agreement in accordance with the heads of terms as set out in Essential Reference Paper 'A' of the report submitted;.
- (B) in consultation with the Chairman of the Development Management Committee, the Executive Member for Community Safety and Environment, any two Members who represent Bishop's Stortford wards and who are Members of this Committee and the Head of Democratic and Legal Services, the Head of Planning and Building Control be authorised to make amendments to the heads of terms, the scale of financial contributions to be assigned to the various service areas referred to in the heads of terms and the service areas to which financial contributions should be assigned and the Head of Democratic and Legal Services be authorised to complete a Section 106 Agreement as may be amended, in all cases to ensure a satisfactory development;
- (C) upon completion of the Section 106 Agreement as authorised, planning permission be granted subject to the conditions set out in Essential Reference

Paper 'B' of the report submitted; and

- (D) in consultation with the Chairman of the Development Management Committee, the Head of Planning and Building Control be authorised, in advance of the issuing of the planning permission, to add or remove conditions and directives and make such changes to the wording of them as may be necessary, to ensure clarity and enforceability, and to ensure a satisfactory development.

The Director advised that this was a hybrid outline application in that the applicant was also asking for full permission for phase one of the proposed development. The site was known as Area of Special Restraint (ASR) 5 and had been identified for residential development along with ASRs 1–4 in 2007.

The Director detailed the planning policy position in that a decision had been reached in 2008 that the ASR sites would be brought forward for development as part of the ongoing district planning process. Members were reminded of the referendum due to be held in respect of the Bishop's Stortford Silverleys and Meads Neighbourhood Plan.

Members were advised that the application had been revised down from 450 dwellings to 329 to free up land for a 1 form of entry (1FE) primary school. The Director stated that full details of the proposed phasing for this application were detailed in the report. He referred Members to the additional representations summary and further revised details in respect of Section 106 matters.

In response to a query from Councillor P Ruffles as to why this application was before Members at this time, the Director reminded Members of the ongoing need to demonstrate a 5 year housing land supply. The Director reiterated that the Government had issued guidance stating that national policies detailed in the NPPF had to be given significant weight if local policies did not support the delivery of a 5 year supply of housing land.

Councillor G Jones, as the local ward Member, expressed his disappointment regarding the significant changes to Section 106 matters as well as the other late information that had been provided to the Committee regarding planning policy.

Councillor G Jones acknowledged the need to demonstrate a 5 year supply of housing land. He stated however, that all applications must be sustainable and he was particularly concerned regarding primary and secondary school provision, community facilities, shops and sports facilities. He referred to previous approvals for new housing without additional primary school places.

Councillor G Jones expressed strong concerns in respect of an additional 130 houses being built without additional primary school provision. He stated that it was impractical to expect the secondary school to be ready for September 2017 and this could well be delayed until 2018.

The Director advised that the applicant's intention was that there would be a steady provision of forms of entry to meet the emerging demand for school places. Members were advised that the County Council was working to create a better distribution of schools and the steady increase in population would lead to newly built infrastructure.

Councillor G Jones pointed out that a lack of sufficient local facilities would result in additional car usage as there would be no clear linkage between ASR5 and ASRs 3 and 4. He reiterated that the Bishop's Stortford Community Football Club was short of pitches and this application for more housing did nothing to improve this situation.

Councillor G Jones commented that financial contributions towards sports provision would not lead to direct provision of additional pitches. He stated that had this application been presented for determination in outline form he would have had no objections.

Councillor G Jones concluded that planning permission should not be given on optimism and the necessary infrastructure must be delivered as part of a balanced application.

Councillor N Symonds expressed her concern regarding access to education for children with special educational needs as well as access to schooling more generally. She pointed out that doctor's surgeries were full and the Princess Alexandra Hospital was also struggling to cope.

Councillor Symonds stated that the 510 bus service was failing to run at the predicted 20 minute frequency and traffic was often backed up throughout Bishop's Stortford town centre.

Councillor Symonds referred to the Aldi scheme causing problems with traffic flow in the proximity of the Hockerill road junction. She expressed concerns regarding the impact of the application on local wildlife and she confirmed that she could not support this application.

Councillor M Wood pointed out that the extension of the 510 bus route to Foresthall Park would not help the situation regarding the frequency of this service. He expressed concerns regarding the impact of the scheme on bats, lizards and orchids.

Councillor Wood referred to the cumulative impact of traffic on the Hockerill junction and the wider Air Quality Management Area (AQMA). He stated that ASR5 was the remotest ASR from the town centre and this put this site at a disadvantage compared to the other ASRs. Councillor Wood sympathised with the points of the Bishop's Stortford Community Football Club regarding pitch provision and he was concerned that experts were consistently being proved wrong regarding traffic.

Councillor T Page commented on when the NPPF definition of severe traffic was going to be tested so that planning policies could be developed to address this

issue. He pointed out that Bishop's Stortford had a medieval road layout and the town was a focal point for retail and eating out. He referred to the town having the worst air quality in East Herts.

Councillor Page reiterated that the NPPF stated that applications could only be refused on traffic grounds if the highways impact was severe. He argued that the gridlock experienced at the weekend proved this threshold had already been reached.

Councillor Page acknowledged the need for affordable and market housing but he felt that it was the wrong scenario to approve development without the supporting infrastructure being in place. Councillor G Williamson agreed that it would be premature to approve this application when the infrastructure was yet to be implemented.

The Director referred to previous work that had identified a clear requirement to meet the housing needs of the District which had assigned either to the M11 corridor and the route to Cambridge via Harlow or the area around Welwyn/ A1 corridor. Members were advised that financial constraints meant that developers could not be expected to fund infrastructure in full and that they should only be required to support infrastructure at a reasonable timescale along with the additional housing that was being delivered.

The Director reiterated the numbers of houses that needed to be delivered every year in the District and he stressed that there was unlikely to be a better way to address the infrastructure issues than their provision to a reasonable timescale associated with the proposed development.

The Director commented that Bishop's Stortford was not dissimilar to many other historic towns in the South East and the way the town operated was unlikely to be able to stay the same if it was to accommodate future longer term housing plans. Members were reminded that this

application included a holistic package of measures that was considered to be the best and most reasonable framework to deliver the supporting infrastructure.

In response to a query from Councillor Page, the Director advised that the NPPF stated that applications should only be refused on highways grounds if the impact would remain severe after mitigation measures were in place. Members were reminded that Hertfordshire Highways did not feel that this application breached that threshold.

Councillor P Moore commented that highways matters were an emotive subject. She stated that gridlocked towns probably meant they were good places to visit. She emphasised the importance of people taking responsibility for their health and consulting a chemist before visiting their GP. She also stressed the importance of educating the young people who were the future.

Councillor S Bull referred to the Section 106 funding for sports, parks and open spaces. He stated that it was land for football pitches that was needed and this application provided an ideal opportunity for pitch provision.

Councillor Bull expressed concern that the developer would not sacrifice some of the housing land for football pitch provision. He stated that 22% affordable housing was a very low figure that had to be one of the lowest the Committee had been asked to support.

In response to a request for clarification from Councillor Moore, the Director reminded Members that phase 1 of the application was for 40% affordable housing with the remaining affordable housing spread over phases 2 and 3. The Committee was reminded that the Council's policy was for up to 40% and it was right and proper that Members give consideration as to whether the balance of the proposed Section 106 obligations was correct.

The Director advised that the application and Section 106 obligations were the conclusion of a very well-engineered

application process and Officers believed they had a firm basis for the recommendation. The Director stated that the Section 106 obligations and the application had been subjected to a rigorous assessment process and the overall package was one that Officers felt able to support.

Councillor Symonds queried how improvements could be made to Rye Street given that the houses were close to the boundary of the highway and there was no spare land. Paul Chappell, Hertfordshire Highways, confirmed that improvements would be limited to bus stop improvements, traffic calming and speed reductions as well as improvements to enable a continuous safe pedestrian route to the town centre. Members were advised that the improvements would all be within the current boundary of the road.

The Director stated that Officers felt sufficiently reassured that they had sufficient information to sustain their recommendation for approval for these proposals as they stood. He further advised that Officers could seek to achieve changes to the education and affordable housing provision if asked to do so by Members.

Councillor G Jones stated that he could not support a deferral due to this being a hybrid application that included the reserved matters details for phase 1 (130 dwellings) and the access arrangements for phase 2.

Councillor G Jones proposed and Councillor P Moore seconded a motion that application 3/13/1501/OP be refused on the grounds that the proposals did not provide sufficient certainty in relation to the timing, location and adequacy of primary education provision necessary to serve the additional demand created by development. In addition, whilst some provision has been made and the economics of provision were recognised, the level of affordable housing supply was considered to be unacceptably low. As a result, the proposals did not adequately fulfil the social dimension of, and therefore did not comprise, sustainable development in the terms set out in the National Planning Policy Framework. The

adverse impact of allowing the development would significantly and demonstrably outweigh the benefits of it. As a result, in addition to the conflict with the requirements of the National Planning Policy Framework, the proposals were contrary to the requirements of policies HSG3 and IMP1 of the East Herts Local Plan Second Review, April 2007 and policies EP1 and EP3 of the Bishop's Stortford Silverleys and Meads Neighbourhood Plan.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee rejected the recommendations of the Director of Neighbourhood Services as now detailed.

RESOLVED – that in respect of application 3/13/1501/OP, planning permission be refused for the following reasons:

1. The proposals do not provide sufficient certainty in relation to the timing, location and adequacy of primary education provision necessary to serve the additional demand created by development. In addition, whilst some provision has been made and the economics of provision are recognised, the level of affordable housing supply is considered to be unacceptably low. As a result, the proposals do not adequately fulfil the social dimension of, and therefore do not comprise, sustainable development in the terms set out in the National Planning Policy Framework. The adverse impact of allowing the development will significantly and demonstrably outweigh the benefits of it. As a result, in addition to the conflict with the requirements of the National Planning Policy Framework, the proposals are contrary to the requirements of policies HSG3 and IMP1 of the East Herts Local Plan Second Review, April 2007 and policies EP1 and EP3 of the Bishop's Stortford Silverleys and Meads

Neighbourhood Plan.

The meeting closed at 9.25 pm

Chairman

Date

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MINUTES OF A MEETING OF THE
CORPORATE BUSINESS SCRUTINY
COMMITTEE HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
TUESDAY 17 MARCH 2015, AT 7.00 PM

PRESENT: Councillor G Jones (Chairman).
Councillors S Bull, J Mayes, W Mortimer,
T Page, M Pope, G Williamson and J Wing.

ALSO PRESENT:

Councillors P Phillips.

OFFICERS IN ATTENDANCE:

Philip Gregory	- Head of Strategic Finance
Marian Langley	- Scrutiny Officer
Henry Lewis	- Head of Customer Services and Business Improvement
Peter Mannings	- Democratic Services Officer
Ceri Pettit	- Corporate Planning and Performance Manager
Paul Pullin	- Manager of Economic Development
Adele Taylor	- Director of Finance and Support Services

586 APOLOGIES

Apologies for absence were submitted on behalf of Councillors J Ranger and J Wyllie.

587 MINUTES – 25 NOVEMBER 2014

RESOLVED – that the Minutes of the meeting held on 25 November 2014 be confirmed as a correct record and signed by the Chairman.

588 CHAIRMAN'S ANNOUNCEMENTS

The Chairman thanked the Committee for its support during the 2014/15 civic year. He extended a special thank you to Councillors J Mayes and J Ranger, the Vice-Chairman for his support, the Executive Member for Economic Development and to Officers for their support.

589 HERTFORDSHIRE LOCAL ENTERPRISE PARTNERSHIP (LEP) MEMBER UPDATE 2015

The Economic Development Manager submitted a fact based update regarding the work of the Hertfordshire Local Enterprise Partnership (LEP). The report provided Members with information relating to funding levels and their sources, funding structures, projects identified for support and potential opportunities for East Herts.

Councillor M Pope commented on the European Social Funding opportunities and the bidding opportunities open to Further Education establishments, such as Hertford Regional College. The Economic Development Manager advised that East Herts Council would also be looking to support the college.

Councillor T Page commented on the availability of the Strategic Economic Plan for Hertfordshire. Members were advised that this very large document was available. In reply to a query from Councillor Pope regarding the Council's Infrastructure Delivery Plan(IDP), the Economic Development Manager undertook to respond after he had spoken to Planning Policy Officers.

Councillor Pope referred to the large numbers detailed in the report and he emphasised the importance of East

Herts securing a fair share. The Economic Development Manager commented that it was early days in terms of what could be achieved and it remained to be seen how the allocation of funding would play out.

Councillor J Wing referred to housing development and employment and the Strategic Economic Plan for Hertfordshire. He also referred to housing in the emerging District Plan. The Economic Development Manager referred to opportunities in East Herts resulting from the availability of employment land.

Councillor Wing commented on the security of the LEP funding. The Economic Development Manager stated that the funding was allocated by various government departments and the money was not being held in a LEP bank account.

In response to a comment from Councillor Page regarding the funding detailed in paragraphs 2.12 to 2.15 of the report, Members were advised that this funding should be secure as it had been allocated by central government.

The Economic Development Manager pointed out that he did not anticipate the allocations changing although the LEP itself could change over time. The Committee received the report.

RESOLVED – that the report be received.

590 EAST HERTS IT STRATEGY 2015 – 2018

The Executive Member for Economic Development submitted a report that summarised the ICT Strategy for East Herts Council.

The Head of Business and Technology Services referred to the Shared IT Service and advised that the East Herts IT Strategy for 2015 – 2018 would be a 4 year strategy solely for East Herts Council.

Members were advised that the Strategy set out the current situation regarding East Herts Council's IT services. The report also detailed the work required to improve IT systems as well as savings that were being achieved due to the business case for the IT Shared Service.

The Head of Business and Technology Services provided a comprehensive summary of each of the sections of the IT Strategy for 2015 – 2018 and highlighted the recommendations. Members were advised that the strategy referred to improved wireless systems at Wallfields, Hertford Theatre and Charringtons House.

The Head of Business and Technology Services confirmed to Councillor M Pope that there were no immediate plans to use IT Cloud services. He advised that he was unaware of any Council that relied solely on IT Cloud systems for storing electronic data.

The Director of Finance and Support Services advised that the Authority had two local IT data centres that were geographically remote from each other. The Head of Business and Technology Services emphasised that the Authority could now have systems back up and running inside 4 hours instead of 2 to 3 days due to the daily operation of the IT service being significantly more resilient.

The Head of Business and Technology Services commented that there was now more efficient collaboration in the procurement of IT systems and the Authority also had a more equitable IT Service for Officers and Customers.

The Head of Business and Technology Services updated Members in respect of the recent baseline assessment of key business applications. Councillor Wing stressed the importance of IT Officers seeing through projects from start to finish to avoid customers facing staff being left to resolve IT problems.

The Director advised that the Authority had very strong governance arrangements in place regarding improvements in performance monitoring. The Executive Member for Economic Development confirmed that the IT function would be driven by the business needs of the Authority.

Councillor Pope commented on the cost effectiveness of using external resources to support ongoing IT projects. The Head of Business and Technology Services confirmed that the Authority now had sufficient Officers employed internally although if further resources were required to ensure delivery of specific projects then the case for employing additional resource would have to form part of the overall project business case. He confirmed to Councillor Page that Officers were mindful of the Customer Services Strategy in ensuring that there was a human element to the experience of customers using the Council's IT systems.

The Head of Business and Technology Services confirmed that a review of Member IT support would include consideration of whether there was a demand for an out of hours service to deal with any critical IT issues.

The Committee received the report and agreed that the recommendations detailed in the 2015 – 2018 East Herts IT Strategy be commended to the Executive for approval.

RESOLVED – that (A) the report be received; and

(B) the recommendations detailed in the 2015 – 2018 East Herts IT Strategy be commended to the Executive for approval.

591 MONTHLY CORPORATE HEALTHCHECK – OCTOBER 2014 TO JANUARY 2015/QUARTER 3

The Director of Finance and Support Services submitted an exception report on finance and performance

monitoring for the period October 2014 to January 2015/Quarter 3.

The Chairman introduced and welcomed the newly appointed Head of Strategic Finance to his first meeting of the Committee. The Corporate Planning and Performance Manager stated that this report had been to the Executive earlier this month and although the financial analysis was unchanged, there was some additional analysis detailed in this report.

Members were referred to paragraphs 2.7 to 2.28 of the report. The Corporate Planning and Performance Manager provided the Committee with a detailed summary of the analysis relating to the Council's priorities of people, place and prosperity. Members were advised that the remaining sections of the report covered outturns, expenditure and savings.

The Director of Finance and Support Services undertook to provide a written response to a query from Councillor Page regarding the £24,000 overspend resulting from the unprecedented demand for the housing options temporary accommodation service, due to families that were intentionally homeless requiring more than one room.

The Director also undertook to give a more detailed written response to Councillor Page regarding the approved slippage into the 2015/16 capital programme of the renewal works for the pool heat exchanger at Grange Paddocks.

Councillor J Wing commented on the reduction in the amount of paper being recycled by the Authority. He referred to reduced use of newspapers and the need for this reduction to be factored into future recycling considerations. The Scrutiny Officer and the Director confirmed that a full annual report on the waste and recycling contract would be submitted to Environment Scrutiny Committee at its first meeting in the 2015/16 civic

year.

Councillor Wing stated that he found the People, Place and Prosperity headings less than helpful as he rarely knew which heading a particular issue belonged to. The Executive Member for Economic Development emphasised that the new look healthcheck report would be a more business-like format.

In reply to a comment from Councillor Pope, the Director confirmed that East Herts found recruitment for experienced Revenues and Benefits Officers a challenge as the Authority was competing with the London Boroughs and other Hertfordshire authorities to recruit and retain highly knowledgeable expertise. Members were advised that the extra resources were in support of the very valued Officers who worked in the Shared Service.

The Committee received the report.

RESOLVED – that the report be received.

592 SCRUTINY WORK PROGRAMME

The Scrutiny Officer invited Councillors to evaluate the work of the Committee from a Member perspective to ensure that the overview and scrutiny function was a Member led process. Members were asked to pay particular attention to progress against headline actions and targets.

Members were asked to let the Scrutiny Officer have feedback by Monday 23 March 2015. The Chairman submitted a report reviewing 2014/15 and setting out the future work programme for Corporate Business Scrutiny Committee for 2015/16.

The Scrutiny Officer advised that the 4 year Corporate Strategic Plan 2016/17 to 2019/20 and the Medium Term Financial Strategy 2016/17 to 2019/20 would be brought

forward to the July 2015 meeting. A review of the Fees and Charges relevant to Corporate Business Scrutiny Committee would be reported to the August 2015 meeting.

The Scrutiny Officer further advised that the relevant Head of Service would deliver training in data protection and governance as part of the May 2015 meeting and there would also be an induction training session regarding local government finance prior to the July 2015 meeting.

The Scrutiny Officer commented that training in respect of finance and decision making could be arranged as part of the August 2015 meeting and a more comprehensive budget preparation training session would be arranged in October 2015.

The Scrutiny Officer emphasised that any gaps in the work programme would be considered by the new Committee to ensure that the Scrutiny process was as current and flexible as possible. The Committee approved the work programme as now detailed.

RESOLVED – that the work programme, as now detailed, be approved.

The meeting closed at 8.57 pm

Chairman

Date

MINUTES OF A MEETING OF THE
AUDIT COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON WEDNESDAY 18 MARCH
2015, AT 7.00 PM

PRESENT: Councillor J Ranger (Chairman)
Councillors D Andrews, M Pope, R Sharma,
N Wilson and J Wing.

ALSO PRESENT:

Councillors P Ruffles.

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Chris Gibson	- Head of Governance and Risk Management
Philip Gregory	- Head of Strategic Finance
Adele Taylor	- Director of Finance and Support Services

ALSO IN ATTENDANCE:

Terry Barnett	- Shared Internal Audit Service
Sarah Ironmonger	- Grant Thornton

593 APOLOGIES

An apology for absence was submitted from Councillor W
Mortimer.

594 MINUTES

RESOLVED - that the Minutes of the meeting held on 21
January 2015 be confirmed as a correct record and

signed by the Chairman.

595 CHAIRMAN'S ANNOUNCEMENTS

The Chairman stated that this was the last meeting of the civic year and his last meeting as Chairman and Councillor having served for an enjoyable 42 years. He thanked both Members and Officers for their ongoing support and interest in the work of Audit Committee.

596 EXTERNAL AUDIT UPDATE REPORT

The External Auditor submitted a report setting out the progress made in delivering the External Auditor's responsibilities in terms of:

- relevant emerging national issues and developments;
- challenging questions in respect of emerging issues for Members' consideration; and
- Progress against actions agreed as part of last years account closure

Progress as at March 2015, was set out in the report now submitted. The External Auditor explained that the biggest area of progress was around de-cluttering of the Council's accounts, with a detailed review having been undertaken of the notes and disclosures and their presentation and results, which would be included as part of this year's closure process.

The Chairman stated that the report, as now submitted, referred to scrutiny and the way in which Councils should consider their approach following a national report on governance and scrutiny issues. The External Auditor added that they felt that although East Herts did not necessarily specifically scrutinise outside bodies or some shared services, it did take the issue of scrutiny seriously and that Members were highly effective at scrutiny.

The Chairman raised the issue of the Local Government Pension Scheme (LGPS) and what supervisory bodies had been set up. The External Auditor undertook to investigate

this and write to Members.

Councillor M Pope referred to the Local Government review in which areas of concern were mentioned, including dissatisfaction with scrutiny and partnership working. The External Auditor explained that an inspection of Rotherham Council had highlighted issues concerning scrutiny and partnership working. The Director of Finance and Support Services explained that she considered that East Herts had strong and effective scrutiny arrangements in place including a thorough understanding of governance arrangements. She stated that scrutiny at East Herts looked at performance measures generally and in relation to shared services, which all fed into at least one main scrutiny committee.

In response to a query from Councillor J Wing, the External Auditor explained the role and remit of Local Public Accounts Committees. The Director of Finance and Support Services explained that this followed on from an independent Local Government Finance review which had considered potential issues around future financing, but that no formal changes had arisen directly out of this review. As any changes arose, Officers would ensure that they kept themselves fully briefed. When available, this would be circulated via the Members' Information Bulletin.

Councillor D Andrews stated that Local Public Accounts Committees had a lot of potential and supported its introduction.

The Committee received the report.

RESOLVED – that the update be received.

597 SHARED INTERNAL AUDIT SERVICE - AUDIT PLAN
UPDATE REPORT

The Shared Internal Audit Service (SIAS) submitted a report setting out the progress made in delivering the Council's Annual Audit Plan 2014/15. The report set out proposed amendments to the Audit Plan and provided an update in relation to the status of previously agreed high priority audit

recommendations. The report now submitted also provided an update of performance management information as at 25 February 2015.

Members were advised that as at 27 February 2015, SIAS had delivered 86% Audit Plan days and that this was now currently 88%. Members noted the list of reports which had been finalised since the last meeting of Audit Committee.

The Chairman referred to a number of medium priority recommendations made in the Leisure Services - Third Party Inspections Review. SIAS advised that this matter had been addressed in the 2015/16 audit plan.

The Chairman stated that he was extremely impressed with the quality of the work and thanked the Shared Internal Audit Service for their ongoing good work.

The Committee noted the Internal Audit Progress Report and agreed to the removal of implemented, high priority recommendations.

RESOLVED – that (A) the report be received; and

(B) the removal of the implemented high priority recommendations be approved.

598 SHARED INTERNAL AUDIT SERVICE - INTERNAL AUDIT PLAN 2015/16

The Shared Internal Audit Service submitted a report setting out a proposed Internal Audit Plan for 2015/16. Members were reminded that the SIAS Audit Charter, presented to an earlier meeting of Audit Committee, explained how the Council and SIAS should work together to provide a modern and effective internal audit service. It was noted that the Public Sector Internal Audit Standards (PSIAS) required that the audit plan be linked to a strategic or high-level statement which:

- outlined how the service would be developed in accordance with the internal audit charter;

- detailed how the internal audit plan would be delivered; and
- evidenced how the service linked to organisational objectives and priorities.

The Chairman referred to the inclusion of Cemeteries and how the Authority met its statutory obligations in this area. He stated that, as cemeteries were not within the Committee's remit it should be removed and that Parish Councils should be reminded of their role in this regard. This was supported.

In response to a query by Councillor D Andrews in relation to Members' Allowances, the Director of Finance and Support Services explained that the payroll processing of Members' Allowances had not been audited for some time, alongside staff expenses and these had been included in the Internal Audit Plan for 2015/16.

RESOLVED – that the Internal Audit Plan for 2015/16, as amended and as now submitted, be approved.

599 UPDATE ON IMPLEMENTATION OF ANNUAL GOVERNANCE STATEMENT ACTION PLAN

The Director of Finance and Support Services submitted a report setting out the progress made on the 2013/14 measures to enhance East Herts Council's internal control framework during 2014/15. Essential Reference Paper "B" provided a summary of the current position.

The Head of Governance and Risk Management advised that the IT Strategy was nearly in place and had already been considered at the Corporate Business Scrutiny Committee meeting of 17 March 2015, and that a draft report on Hertford Theatre was being considered by Officers.

The Committee noted the progress made against implementing the action plan contained in the 2013/14 Annual Governance Statement.

RESOLVED – that the progress made against implementing the action contained in the 2013/14 Annual

Governance Statement be noted.

600 ANNUAL REVIEW OF DATA QUALITY STRATEGY

The Director of Finance and Support Services submitted a report setting out revisions to the 2014/15 Data Quality Strategy. The strategy aimed to improve the provision of local government performance information and so provide improved supporting data on which the Council could make decisions. Essential Reference Paper “B” of the report now submitted highlighted tracked non material amendments to the Strategy.

The Director of Finance and Support Services advised Members that the report reflected changes to titles and minor changes to ensure that it was “fit for purpose”. In response to a query from Councillor M Pope, the Director of Finance and Support Services advised that performance information was tracked by Covalent . When asked if this was the best system available, it was stated that the new Head of Business Development would advise if there were better systems on which the Council could track its performance if there was an appropriate business case to do so.

Councillor J Wing stated that he felt the strapline “People, Places and Prosperity” to be a confusing classification and suggested that this be removed. The Director of Finance and Support Services advised that these were the Council’s 3 main priorities included in the Corporate Plan, as determined and agreed by Members. If Members’ wished to consider changes to those priorities then that should be considered during the annual refresh of the Corporate Plan.

In response to a query from Councillor J Wing, the Chairman reminded Members that the Council aimed to achieve 100% on the Personal Development Review (PDR) process. The Director of Finance and Support Services explained the process and timeframes and why some services were not achieving 100% returns on their PDRs.

In response to a query by Councillor D Andrews with regard to dealing with Data Quality issues and whether Officers felt they

were able to come forward to admit if a mistake had been made, the Director of Finance and Support Services advised that the Council did not have a blame culture and Officers were encouraged to come forward as soon as possible to fix the problem. If there was a repeated performance issue, then this would be picked up in the most appropriate way.

The Committee approved the recommendations now detailed.

RESOLVED – that (A) revisions to the Data Quality Strategy, as now submitted and the summary guide, be noted; and

(B) tracked changes updated in the Strategy as submitted, be approved.

601 RISK MANAGEMENT MONITORING REPORT 1 OCTOBER 2014 TO 31 DECEMBER 2014

The Leader of the Council submitted a report on the action taken to mitigate and control strategic risks during the period 1 October to 31 December 2014.

The Head of Governance and Risk Management provided a summary of the report, explaining that all information was available on Covalent.

In response to a query by Councillor M Pope on 14SR7 (IT Systems and Performance), the Director of Finance and Support Services stated that there might be a need for increased security systems. In response to a further question from Councillor Pope regarding the development of an Investment Strategy, the Director of Finance and Support Services stated that the Council hoped to invest in property funds in June and then September 2015.

The Committee approved the report, as now detailed.

RESOLVED – that the action taken to mitigate and control strategic risks be approved.

602 RISK MANAGEMENT STRATEGY

The Leader of the Council submitted a report regarding proposed revisions to the Risk Management Strategy in order to reflect current best practice. It was noted that the Strategy was based on a toolkit prepared by the Association of Local Authority Risk Managers and as such, only minimal changes to the Strategy had been made. The Head of Governance and Risk Management provided a summary of the changes.

The Committee supported the recommendation as now detailed.

RESOLVED – that the Executive be advised that the Committee supports the Risk Management Strategy, as now submitted.

603 AUDIT COMMITTEE WORK PROGRAMME 2015/16 CIVIC YEAR

The Director of Finance and Support Services submitted a report detailing the proposed work programme for Audit Committee for the 2015/16 Civic Year.

The Head of Governance and Risk Management advised that the proposed work programme had been agreed with the External Auditor and the Shared Internal Audit Service. He stated that reports on progress made by the Shared Anti-Fraud Service would be submitted twice per year.

The Head of Governance and Risk Management advised that there would be new Members on Audit Committee following the election and that discussions were ongoing with the Director of Finance and Support Services on what training would be provided to support the audit process. A questionnaire would be sent to all Members on the new Committee to identify possible areas for training.

The Head of Governance and Risk Management also advised that the proposed future meeting date of 13 April

2016 would need to be brought forward into the 2015/16 financial year as certain agenda items had to be addressed before 2016/17.

Members approved the work programme as now detailed.

RESOLVED – that the work programme, as now detailed, be approved.

The meeting closed at 8.00 pm

Chairman

Date

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MINUTES OF A MEETING OF THE
HUMAN RESOURCES COMMITTEE HELD
IN THE COUNCIL CHAMBER,
WALLFIELDS, HERTFORD ON
WEDNESDAY 25 MARCH 2015, AT 3.00 PM

PRESENT: Councillor G McAndrew (Chairman)
Councillors P Ballam, Mrs D Hone, P Ruffles,
J Thornton and N Wilson

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Emma Freeman	- Head of People and Property Services

604 APOLOGY

An apology for absence was submitted from Councillor J Ranger.

605 MINUTES

RESOLVED – that the Minutes of the meeting held on 14 January 2015 be confirmed as a correct record and signed by the Chairman.

606 HUMAN RESOURCES MANAGEMENT STATISTICS:
QUARTERLY PERFORMANCE

The Head of Human Resources and Organisational Development submitted a report setting out Human Resource information for the period April 2014 to March 2015.

The Head of Human Resources and Organisational Development advised that this was the last quarterly return and that the next report would provide end of year results and more detailed HR statistics. The Head advised that staff

turnover was 8.17% against a target of 10% and voluntary leavers was 5.92% against a target of 7%. She stated that there had been a lot of internal movement around Revenues and Benefits, with 34 internal appointments.

The Head of Human Resources and Organisational Development explained that short term sickness per full time equivalent (FTE) was currently 3.18 days against a target of 4.5 days and that current long term sickness overall was 0.81 days. The current projected long-term sickness absence per FTE was 0.88 days against a target of 2 days. The Head referred to the Council's Sickness Absence Policy and the positive impact this was having in managing absences through return to work interviews. In response to a query from Councillor P Ballam, the Head of Human Resources and Organisational Development explained the process in relation to staff returning to work after a long term sickness.

Updates were provided in relation to Training and Development, Performance Development Reviews (PDRs) and Equalities Monitoring.

The Head of Human Resources and Organisational Development stated that Revenues and Benefits had achieved 100% in terms of reviews and objectives set. In terms of the rest of the Council, 84.84% of services had had their full-year review and 78.37% their objectives set. The Head of Human Resources and Organisational Development explained that there was a definite improvement in returns. She expressed concern in relation to service areas which were still falling short of targets and assured Members that HR was working with directorates on the issue.

Councillor P Ruffles referred to the pressures within Planning and Building Control and sought assurances that the service was being supported. He referred to the need to be aware of particular circumstances which might affect why PDRs were not being completed or targets met. The Head of Human Resources and Organisational Development said that the service was supported and that Revenues and Benefits were equally under pressure. She acknowledged the recruitment

issues in both sections.

Councillor C Woodward reminded Members that, at an earlier meeting of Human Resources, it was agreed that Line Managers be held to account when services did not achieve the 100% target. He referred to the four departments not achieving 100%, specifically, Corporate Risk, Planning and Building Control, and Community Services and Environmental Services. He queried if the timing of the review was a problem given the length of time non-achievement of targets had been going on and that Head of Service should be asked to explain why targets were not being achieved. The Head of Human Resources and Organisational Development explained that in terms of Corporate Risk, following a re-structure, there was a new head of service in post and that it was unusual that their target had not been met. She stated that she was undertaking a PDR review to establish whether this was being carried out at the most appropriate time. The Head also stated that this was also being reviewed in the context of completing the reviews electronically which would speed up the process.

The Chairman stated that he felt that the responsible Officer was the Chief Executive to ensure compliance with policy. He reminded Members that there was a gap of 15 weeks before the next meeting to see what could be achieved in that time.

Updates were provided on the Learning and Development Programme and in relation to Equalities Monitoring indicators.

In response to a query from Councillor P Ruffles regarding the gender breakdown of part-time workers, the Head of Human Resources and Organisational Development agreed to write to Members.

Councillor N Wilson referred to the contributing role of apprentices to the Council in succession planning.

In receiving the report Members also suggested that the Head of Human Resources and Organisational Development undertake a review of the process to establish whether there

were any blockages to services in undertaking PDRs and how this could be overcome to ensure timely compliance with the PDR process. Also, that the relevant Head of Service of those services not achieving the PDR target of 100% be asked to attend a meeting of Human Resources Committee to explain and give assurances that matters were in hand to secure compliance. This was supported.

RESOLVED – that (A) the Human Resources Quarterly Management Statistics, as now submitted, be received;

(B) the Head of Human Resources and Organisational Development undertake a review of the process to establish whether there were any blockages to services in undertaking PDRs and how this could be overcome to ensure timely compliance with the PDR process; and

(C) relevant Heads of Service of those services not achieving the PDR target of 100% be asked to attend a meeting of Human Resources Committee to explain and give assurances that matters were in hand to secure compliance.

607 LOCAL JOINT PANEL - MINUTES

RESOLVED – that the Minutes of the Local Joint Panel meeting held on 11 March 2015 be received.

(see also Minutes 608 - 610)

608 JOB EVALUATION POLICY

The Head of HR and Organisational Development submitted a report updating the Job Evaluation Policy General Leave Policy which had been reviewed following feedback gained from the Job Evaluation Panel, Unison and suggestions made via the Here to Help Programme.

The Committee considered and approved the recommendations as amended, made at the Local Joint Panel meeting held on 11 March 2015.

RESOLVED - that the revised Job Evaluation Policy, as now submitted, be approved.

(see also Minute 607)

609 FAMILY FRIENDLY POLICY

The Head of HR and Organisational Development submitted a report updating a number of policies into a Family Friendly Policy which had been revised to reflect changes in employment law legislation effective from 5 April 2015.

The Committee considered and approved the recommendations made at the Local Joint Panel meeting held on 11 March 2015.

RESOLVED – that the revised Family Friendly Policy, as now submitted, be approved.

(see also Minute 607)

610 SHARED PARENTAL LEAVE

The Head of HR and Organisational Development submitted a report updating the shared Parental Leave Policy which had been revised following changes to legislation.

The Committee considered and approved the recommendations as amended, made at the Local Joint Panel meeting held on 11 March 2015.

RESOLVED – that the revised Shared Parental Leave Policy, as now submitted, be approved.

(also See Minute 607)

611 VOTE OF THANKS

The Chairman thanked Members and Officers for their support of the human resource process. On behalf of Members, he

wished retiring Councillors Mrs D Hone and N Wilson well.

The meeting closed at 3.40 pm

Chairman

Date

MINUTES OF A MEETING OF THE
DEVELOPMENT MANAGEMENT
COMMITTEE HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
WEDNESDAY 25 MARCH 2015, AT 7.00 PM

PRESENT: Councillor Mrs R Cheswright (Chairman).
Councillors M Alexander, D Andrews,
E Bedford, K Crofton, G Jones, J Jones,
P Moore, M Newman, P Ruffles, N Symonds
and G Williamson.

ALSO PRESENT:

Councillors W Ashley, S Bull, M Carver,
L Haysey, J Mayes, P Phillips, S Rutland-
Barsby and K Warnell.

OFFICERS IN ATTENDANCE:

Malcolm Amey	- Arboricultural Officer
Liz Aston	- Development Team Manager (East)
Paul Dean	- Principle Planning Enforcement Officer
Tim Hagyard	- Development Team Manager (West)
Peter Mannings	- Democratic Services Officer
Kevin Steptoe	- Head of Planning and Building Control Services

612 CHAIRMAN'S ANNOUNCEMENTS

The Chairman thanked the Head of Planning and Building
Control and Planning Officers for all their work during the

2014/15 civic year. She also thanked the Democratic Services Officer for his attention to detail.

The Chairman also thanked the Vice–Chairman and the Committee Members for their input and support. She thanked, in particular, Councillor M Alexander for his help and advice during the last year. She stated that he had been a Member of the Committee for 16 years. Councillor Alexander thanked the Chairman for her excellent stewardship of the Committee and commented that she had made a difficult job look very easy.

613 MINUTES – 16 MARCH 2015

RESOLVED – that the Minutes of the meeting held on 16 March 2015 be confirmed as a correct record and signed by the Chairman.

614 3/15/0149/FP – PART DEMOLITION AND REFURBISHMENT OF EXISTING GARDEN CENTRE WITH CAFÉ EXTENSION; ERECTION OF FOODSTORE (APPROX. 2,047 SQM NET SALES) WITH CAFÉ AND EXTERNAL SEATING, EXTENDED SERVICE ROAD, NEW ROUNDABOUT FROM AMWELL HILL AND OTHER ASSOCIATED HIGHWAYS, SERVICING AND LANDSCAPING WORKS, VAN HAGES GARDEN CENTRE, AMWELL HILL, GREAT AMWELL, WARE, HERTFORDSHIRE, SG12 9RP FOR VAN HAGE GARDEN COMPANY LTD

Mr Twemlow addressed the Committee in objection to the application. Mr Anderson and Mr Roberts spoke for the application.

The Director of Neighbourhood Services recommended that in respect of application 3/15/0149/FP, planning permission be refused for the reasons detailed in the report now submitted.

Councillor J Mayes, as the local ward Member, commented that the opinion of local residents seemed to her to be split pretty much 50/50. She expressed concern that whilst the proposed additional roundabout on the

A1170 would cause traffic calming it would also cause some motorists to divert from the roundabout along Cautherly Lane and Lower Road then into Ware.

Councillor Mayes stated that these were very narrow roads that were unsuitable for large amounts of traffic and she was also concerned that the Bengo rat run could be reproduced in this area. She commented that she and local residents wanted to preserve the rural environment of Great Amwell and she wondered whether it would be appropriate to attach a condition that restricted the opening hours of the food store to match those of the Van Hage Garden Centre.

Councillor Mayes concluded that there was a separate exit from the Van Hage site onto the B1502 and she commented on whether more traffic could be diverted that way rather than on the A1170. She stated that her concerns regarding the traffic impact were purely conjecture and she requested that the Committee take her points into consideration.

The Director referred Members to the additional representations summary and he provided a detailed breakdown of all of the additional representations. Members were advised that the planning issues were relatively clear cut and the significant support for this application from potential customers was not a material planning consideration and the popularity of potential retail operators was also not a material consideration.

The Director reminded Members that the application was for an A1 use class operator and the planning merits of the application had to be assessed as for any retail operator according to relevant planning policies. The Committee was reminded of the clear Green Belt restrictions although the Van Hage buildings were already designated as a major developed site.

The Director advised that the proposed development was outside of the major developed site designation and would extend the footprint of the existing building.

Officers considered that it was not credible to argue that this application would not adversely impact on the site's openness and it was a matter of fact that the application would have an impact on the openness of the Green Belt. Members were advised that recent appeal decisions in Great Amwell had confirmed this point.

The Director confirmed that there would have to be material planning considerations that amounted to the very special circumstances that clearly outweighed the harm to the Green Belt for this application to be approved. The Committee was reminded that this was an out of town location and Members must consider the National Planning Policy Framework (NPPF) sequential test of retail impact.

The Director advised that retail experts had stated that the lack of retail need for this scheme in the District would have an adverse impact on retail in Hertford, Hoddesdon and Ware as customers could only come from the existing anchor stores in those towns. Members were advised that the access to the site was poor even for the occupants of Great Amwell and the site was unsustainable as it could only be accessed by private car.

The Director concluded that the application represented an unsustainable form of development that was contrary to local and national planning policy. Members were therefore advised to refuse the application due to the local and national planning harm.

Councillor P Ruffles stated that his primary concerns were damage to town centres and sustainability. He agreed with Officers that there was no justification in terms of green belt policy for supporting this application.

Councillor Ruffles referred to the exceptional vulnerability of Great Amwell and the surrounding countryside to urban engulfment. He disagreed with the views of Great Amwell Parish Council and he failed to understand how the Parish Council had reached those views.

Councillor Ruffles emphasised that Great Amwell had no other retail economy whereas Hoddesdon, Hertford and Ware had retail economies and he was concerned that these would be damaged by this application in an out of town Green Belt location. He stressed that the built fabric of the historic buildings in Hertford and Ware would decline alongside the retail environment and he would therefore be supporting the Officer's recommendation.

Councillor G Jones commented that the fundamental problem was that this application constituted inappropriate development in the Green Belt. He asked Officers if they had information from Hertfordshire Highways as to why they had used the word "severe" in their submission detailed in the additional representations summary.

The Director stated that there had been a lot of submissions regarding the traffic impact on Amwell Hill and London Road roundabouts. Members were advised that Hertfordshire Highways were confident that additional congestion at the Amwell Road roundabout could be managed but not for the London Road roundabout. The Director advised that Highways Officers could not be confident that there would not be a severe impact addressed by sustainable transport mitigation.

Councillor M Newman stated that the key consideration was what was right for the greater good of East Herts. He commented that whilst he could see the attraction of this application he believed that the Officer's recommendation should be supported. He referred to there being Council policies that precluded development in the Green Belt and promoted town centre retail development.

Councillor M Alexander stated that he was very disappointed with the negativity of the report and he did not believe the key issue was Green Belt as he did not feel that this site was Green Belt. He referred to the key issue of the sequential test as well as the future occupants of retail space in Bircherley Green.

Councillor Alexander commented on the lack of any impact on Bishop's Stortford, Hertford and Ware when a new supermarket had opened in Hoddesdon. He emphasised that Hertford would not die if this application was approved as another retailer would occupy the vacant retail space in Bircheley Green.

Councillor Alexander concluded that the application should be approved and he reiterated his view that this was a Brownfield site. He accepted that there was a town centre first policy but he was confident that Hertford and Ware would not die and he was also confident that the applicant and Officers could work together to secure appropriate conditions.

Councillor P Moore stated that she had approached this application with an open mind and she had listened carefully to the debate in respect of what were wholly subjective judgements. She stated that she was supportive of an application that would not harm the District's town centres.

Councillor E Bedford emphasised that this application would generate employment and this was very significant for the Ware area. He stated that this was not a Green Belt site due to the commercial nature of the retail use as well as the seasonal ice rink.

Councillor Bedford acknowledged the issue of traffic but did not feel that the additional A1170 roundabout would cause a big problem. He concluded that the new roundabout would calm the flow of traffic and the application would enhance the environment of the area. He emphasised that this sort of development was needed and this was a good scheme.

Councillor N Symonds stated that she had given a lot of thought to this development. She pointed out that Van Hage was really a small department store that sold virtually everything. She concluded that she did not feel that the proposed development would be detrimental and she would be supporting this application.

Councillor Alexander commented that as regards special circumstances in respect of the Green Belt there had be to employment opportunities to match the residential development planned all over the District to avoid East Herts towns becoming dormitory settlements. He believed that the application would result in a commercial marriage that would save energy, reduce car journeys and would create a retail experience people could enjoy.

Councillor Symonds commented that Great Amwell Parish Council had not objected to this application so long as there was no pharmacy, post office or doctor's surgery within the store. She queried whether this was within the remit of planning. The Director commented that this was an area that could be controlled by conditions but the applicant could apply to vary any of the imposed conditions in future.

Councillor K Crofton commented that Bircherley Green had to act in order to encourage new retailers. He stated that this application would not harm the Green Belt or the openness of the countryside. He concluded that the traffic impact had not yet been the subject of a full dialogue with Hertfordshire Highways and he was of the view that all of the outstanding issues could be addressed by conditions and a decent Section 106 legal agreement.

The Director emphasised that Councillor Crofton was correct in that the issue of sustainable transport and traffic was unresolved with meetings taking place in the week prior to this meeting and also this week. Hertfordshire Highways had not had time to fully assess their current position so were maintaining an objection but further detailed consideration by Highways Officers might change this situation.

The Director emphasised that the site was designated as Green Belt in the East Herts Local Plan Second Review April 2007. He reiterated his clear cut advice was that there would be very significant harm due to the reduction in openness resulting from the proposed introduction of new buildings of a significant scale.

Members were advised that the current buildings were surrounded by land that was open in nature and this openness would be significantly and adversely affected by the proposed development. The Director stressed that the NPPF referred to whether the harm caused by a development and any other harm was clearly outweighed.

Members were reminded that Officers had been given specialist advice that there would be a harmful impact in respect of the retail situation on the retail centres of Hertford, Hoddesdon and Ware. The Director emphasised that should any significant retail operator vacate a town centre then there would clearly be an impact on the East Herts town centres.

In response to a query from Councillor Crofton regarding the Section 106 legal agreement, the Director advised that this matter would be brought back to Members if the Committee supported this application. Officers would also refer the matter to the Secretary of State due to the Green Belt location and the issue of the scale of the proposed additional retail floor space.

In response to a query from Councillors Symonds and Alexander regarding paragraph 4.1 of the report, the Director commented that the views of Great Amwell Parish Council could be covered by conditions subject to the usual 6 standard tests for conditions but there remained an element of longer term risk that conditions would be challenged.

Councillor M Alexander proposed and Councillor K Crofton seconded, a motion that application 3/15/0149/FP be granted and to ensure continuity, Officers report back to the Development Management Committee in respect of conditions and a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990, to cover any matters relevant to the mitigation of the impacts of the development.

After being put to the meeting and a vote taken, this

motion was declared CARRIED. The Committee rejected the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that (A) in respect of application 3/15/0149/FP, planning permission be granted;

(B) to ensure continuity, Officers report back to the Development Management Committee in respect of conditions and a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990, to cover any matters relevant to the mitigation of the impacts of the development; and

(C) the application be referred to the Secretary of State as required by the Town and Country Planning (Consultation)(England) Direction 2009.

615 3/14/2023/OP – OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR THE ERECTION OF 13 DWELLINGS AT LAND SOUTH OF TANNERS WAY, HUNSDON, SG12 8QD FOR MR AND MRS P FINDLAY

Mr Findlay addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that subject to the applicant or successor in title entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990, in respect of application 3/14/2023/OP, outline planning permission be granted subject to the conditions detailed in the report now submitted.

The Director also recommended that should the legal agreement referred to above not be completed and a planning decision issued prior to 6 April 2015, authority be delegated to the Head of Planning and Building Control, in consultation with the Chairman of this Committee, to alter and amend the details of the service areas to which funding available as a result of this development was to be assigned, to ensure that any resulting legal agreement

was compatible with the appropriate Community Infrastructure Levy (CIL) Regulations applicable from that date.

Councillor M Newman stated that he had been as positive as he could be when he had been approached by the applicant regarding this planning application. He confirmed that the Authority had considered the applicant's proposal in a positive and proactive manner.

Councillor Newman highlighted the issue of whether or not there was a noise nuisance from Hunsdon Skips. He emphasised that Sworders were currently working on a new noise and vibration management plan which would contain mitigation measures specifically for Hunsdon Skips.

Councillor Newman referred to the details contained in the current Environment Agency (EA) noise management plan with particular emphasis on the pledge that noisier machinery would be operated at more sociable hours. He pointed out that the EA had stressed that it was committed to bringing the site back into compliance.

Councillor Newman stated that there were two principal complainants who had been active in respect of this application. He detailed the current occupancy situation regarding the affected cottages. He suggested that the residents of Tanners Way were unlikely to go through the process of registering as complainants as they were mostly elderly and many were hard of hearing.

Councillor Newman stressed that Hunsdon Parish Council were concerned that the submitted noise assessment was not representative of the level of activities at Hunsdon Skips. The Parish Council had therefore requested that Members commission a noise consultant to ensure a proper independent assessment was undertaken.

Councillor Newman concluded that there was widespread concern regarding the impact of this application on the village. He stated that the noise assessment was

indicative of the type of noise but did not accurately reflect the intensity due to the number of machines in operation during the assessment. He read out a verbatim noise diary that had been completed by a resident.

Councillor P Moore stated that she had observed 7 lorry movements during the 30 minutes she was at the site and this had equated to roughly one movement every 4 minutes. She referred to the emphasis on quality of life in the emerging District Plan. She stated that Hunsdon Skips already had a detrimental impact on the nearby residents and she was very concerned regarding the quality of life for existing and future residents.

Councillor K Crofton agreed and stated that the noise would be continuously on the limit of acceptability and could exceed this. Councillor J Jones commented that he did feel that noise from Hunsdon Skips was that big an issue and he had heard more noise from the road. He believed that a condition in respect of acoustic fencing would alleviate noise.

Councillor D Andrews referred to the issue of much needed housing and Councillor G Williamson referred to the lack of employment as well as a lack of sustainable transport. The Director emphasised that the Committee should limit their deliberations as to whether the environment was acceptable for the proposed development and whether the surroundings were appropriate for potential residents.

Councillor M Alexander referred to paragraph 2.4 of the report. He stated that building control regulations should control the issue of internal noise but he was concerned that potential future occupants would be unable to enjoy their gardens.

In response to a query from Councillor G Jones regarding the Community Infrastructure Levy (CIL), the Director referred Members to the Additional Representations Summary and the comments of the Hertfordshire County Council Planning Obligations Team. The Director

referred the Committee to paragraphs 2.4 and 2.5 of the report and Members were advised that acceptable noise levels were readily achievable internally and acoustic fencing would ensure acceptable amenity in residential gardens.

Councillor M Newman proposed and Councillor M Alexander seconded, a motion that application 3/14/2023/OP be deferred to enable further exploration of the relevant noise assessment issues and to allow consideration of the conclusion of site management arrangements through the Environment Agency processes.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee rejected the recommendations of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/14/2023/OP, planning permission be deferred to enable further exploration of the relevant noise assessment issues and to allow consideration of the conclusion of site management arrangements through the Environment Agency processes.

- 616 3/14/1369/FP – DEMOLITION OF FILLING STATION CANOPY, KIOSK, WORKSHOP AND PART OF FORMER GROUND FLOOR SHOWROOM. CHANGE OF USE OF FORMER COACHWORKS AND SHOWROOM BUILDING TO 4 HOUSES AND 9 NEW-BUILD HOUSES. NEW OFFICE BUILDING. ASSOCIATED CAR PARKING, REFUSE AND ACCESS AT THE FORMER WATERS GARAGE SITE 3-9, NORTH ROAD, HERTFORD, HERTFORDSHIRE, SG14 1LN FOR WATERS END LIMITED
-

The Director of Neighbourhood Services recommended that subject to the applicant or successor in title entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990, in respect of application 3/14/1369/FP, planning permission be granted subject to the conditions detailed in the report now

submitted.

The Director also recommended that should the legal agreement referred to above not be completed and a planning decision issued prior to 6 April 2015, authority be delegated to the Head of Planning and Building Control, in consultation with the Chairman of this Committee, to alter and amend the details of the service areas to which funding available as a result of this development was to be assigned, to ensure that any resulting legal agreement was compatible with the appropriate Community Infrastructure Levy (CIL) Regulations applicable from that date.

Councillor P Ruffles confirmed that he knew the site well and he was supportive of what was a well organised form of development. He referred to a couple of minor factual errors on page 93 of the report.

Councillor Ruffles referred to paragraph 7.34 and emphasised that twice before, a footway had been promised but not delivered as part of planning applications in Hertford. He emphasised that the public passage from Hertingfordbury Road to North Road had not been established by default as part of the construction of the showroom.

Councillor Ruffles commented that he would not want to see this path lost and he was also concerned that the path should not be gated. He concluded that this had been a difficult application but the result would be a good place to live despite the absence of gardens.

The Director advised that condition 10 in the report would ensure that the new footpath through the site would be completed before the occupation of the residential units on this site. Members were advised that a number of Hertfordshire Highways agreements would also be required to secure this footway route.

Councillor G Jones expressed concerns regarding the proximity of this site to the A414. He stated however, that he was comforted by Councillor Ruffles' greater

knowledge and support in respect of this application.

Councillor G Jones queried what would happen if the applicant did not come forward with the unilateral undertaking in advance of the 6 April 2015 deadline. The Director confirmed that Officers were asking for delegated authority to ensure that any resulting legal agreement was compatible with the appropriate CIL Regulations.

The Committee accepted the recommendations of the Director of Neighbourhood Services as now submitted.

RESOLVED – that (A) subject to the applicant or successor in title entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990, in respect of application 3/14/1369/FP, planning permission be granted subject to the conditions detailed in the report now submitted; and

(B) should the legal agreement referred to in recommendation (A) above not be completed and a planning decision issued prior to 6 April 2015, authority be delegated to the Head of Planning and Building Control, in consultation with the Chairman of this committee, to alter and amend the details of the service areas to which funding available as a result of this development was to be assigned, to ensure that any resulting legal agreement was compatible with the appropriate CIL Regulations applicable from that date.

- 617 3/14/2188/FP – RETENTION OF EXISTING RESIDENTIAL DWELLING HOUSE, MODIFICATIONS TO THE REMAINING SITE BUILDINGS AND THE CHANGE OF USE OF THESE BUILDINGS FROM FORESTRY/AGRICULTURE TO SHORT LET HOLIDAY HOMES AT MANOR WOOD, PEMBRIDGE LANE, WHITE STUBBS, BROXBOURNE, EN10 7QR FOR MR AND MRS M SPIRE
-

The Director of Neighbourhood Services recommended that in respect of application 3/14/2188/FP, planning

permission be refused for the reasons detailed in the report now submitted. The Director also recommended that enforcement action be authorised on the basis now detailed.

Councillor J Jones commented that his judgement had been clouded as he had been unable to access the site due to guard dogs. He emphasised that no one came to assist him even though the presence of 3 cars indicated that some people were on the site.

Councillor G Jones stated that, although he too had not been able to access the site he had been able to gain a decent appreciation of the site from Pembridge Lane. He stated that it was obvious to him that there was activity on the site that you would not necessarily see in a Green Belt area. He emphasised that he was comfortable with supporting the Director's recommendations.

In response to a query from Councillor M Alexander, the Director confirmed that Brickenden Liberty Parish Council had raised no objections subject to a condition that the use was solely as a holiday venue with short term lets of 4 weeks or less.

After being put to the meeting and votes taken, the Committee accepted the recommendations of the Director of Neighbourhood Services as now submitted.

RESOLVED – that (A) in respect of application 3/14/2188/FP, planning permission be refused for the reasons detailed in the report now submitted; and

(B) the Director of Neighbourhood Services, in conjunction with the Director of Finance and Support Services, be authorised to take enforcement action on the basis now detailed.

618 3/14/1031/FP – ERECTION OF 6 STABLES, WC AND ASSOCIATED FEED AND BEDDING STORE AT LAND SOUTH OF WEST END ROAD, WORMLEY WEST END FOR MR M O'CONNOR

Ann O'Connor addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that in respect of application 3/14/1031/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/14/1031/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

619 3/14/2122/FP – TWO STOREY SIDE EXTENSION AT PINE COTTAGE, DUCKETTS LANE, GREEN TYE, MUCH HADHAM, HERTFORDSHIRE, SG10 6JN FOR W AND L BIRD

Mrs Bird addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that in respect of application 3/14/2122/FP, planning permission be refused for the reasons detailed in the report now submitted.

Councillor M Carver, as the local ward Member, stated that he hoped Members had viewed the site. He highlighted the applicant's reasons for seeking permission for a relatively small extension and why this was so important. He also referred to a number of precedents for extensions of a similar size in what was a relatively small hamlet.

Councillor Carver emphasised that that the applicant had reduced the size of the proposed development and had improved the design to the point where the proposed development complemented the existing very small property and the street scene.

Councillor Carver stated that the size of the property was so small that percentage statistics regarding the size of the proposed extension should not really apply. He pointed out that the use of the word disproportionate by the appeal inspector was a subjective judgement and Members should place a significant emphasis on the end result of this application.

Councillor Carver concluded that the key issue was whether the final result was overbearing or would adversely affect the surrounding area or impact on the conservation area. He argued that no harm would be caused and he urged the Committee to support the application as the design was in keeping with the existing dwelling.

The Director referred to an additional letter of objection that had been summarised in the additional representations summary. Members were reminded of the importance of the site history referred to by Councillor Carver.

The Director highlighted the key material consideration of the 2012 appeal decision. Members were advised that the changes proposed by this latest application had not sufficiently overcome the concerns of the inspector. Officers therefore considered that the application would lead to a disproportionate increase in the bulk and size of the original building which would adversely affect the character and openness of the Rural Area.

Councillor M Newman emphasised that the Officer's view that the proposed development would be detrimental to the openness and rural character of the surrounding conservation area was a very subjective judgement. He

stated that all development had an impact and he felt that the impact would be to a reasonable level in this case.

Councillor D Andrews commented that he did not feel that this application was inappropriate and he was minded to support it. Councillor P Moore stated she had visited the site and had approached this application with an open mind. She referred to paragraph 7.9 of the report and the fact that the current proposal would double the original floor area of the dwelling. She concluded that the views of the local ward Member had broadened her vision of this application.

Councillor N Symonds stated that she knew the cottage and the area and opposite the cottages were quite large social housing units that were owned by South Anglia. She commented that she did not have a problem with the proposed development as Pine Cottage was small and was tucked away up a small lane.

Councillor Moore agreed that this property was tucked away in that it was located on a small lane and was amongst the last dwellings that you came too. She concluded that she would be supporting this application as she understood why the applicant was seeking more space as this was a very small property.

Councillor G Jones stated that he had a lot of sympathy with an occupier who wished to live in a house for a long time. He stressed however, that an owner of a property in a conservation area could not always expect to be permitted to extend.

Councillor G Jones agreed with the Officer's recommendation in that he felt there was symmetry between Pine Cottage and three nearby cottages that would be detrimentally altered by the proposed development. He concluded that the appeal decision made it difficult to reach a decision that was contrary to the views of the inspector.

The Director reminded Members of the Council's policy

which sought to maintain a balance of smaller units across the District. Members were also advised that a development that sought to double the size of a property would clearly have an impact and the policy sought to restrict extensions to a more modest scale.

The Director reminded the Committee that where there was a previous appeal decision Members must clearly articulate why they now felt able to take a decision contrary to the inspector's views.

Councillor M Newman proposed and Councillor D Andrews seconded, a motion that application 3/14/2122/FP be granted on the grounds that the proposed development would not adversely affect the openness of the rural area and would not harm the character and appearance of the Green Tye Conservation Area.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee rejected the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/14/2122/FP, planning permission be granted subject to the following conditions:

1. Three Time Limit (1T12)
2. Approved Plans (2E10) – Location plan, p01a, p02a, p03a, e01, e02, e03, e04.

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning

Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). The balance of the considerations having regard to those policies and the limited harm to the character and appearance of the Rural Area, is that permission should be granted.

620 E/13/0255/A – UNAUTHORISED ILLUMINATED FASCIA
AND PROJECTING SIGN AT ANCHOR FISH AND CHIPS AT
3 NORTHGATE END, BISHOPS STORTFORD, CM23 2ET

The Director of Neighbourhood Services recommended that in respect of the site relating to E/13/0255/A, enforcement action be authorised on the basis now detailed.

After being put to the meeting and a vote taken, the Committee accepted the Director's recommendation for enforcement action to be authorised in respect of the site relating to E/13/0255/A on the basis now detailed.

RESOLVED – that in respect of E/13/0255/A, the Director of Neighbourhood Services, in conjunction with the Director of Finance and Support Services, be authorised to take enforcement action on the basis now detailed.

621 E/13/0076/A – UNAUTHORISED ADVERTISEMENTS AT
VARIOUS SITES WITHIN EAST HERTFORDSHIRE

The Director of Neighbourhood Services recommended that in respect of the sites relating to E/13/0076/A, enforcement action and legal proceedings be authorised on the basis now detailed.

The Director confirmed to Councillor J Jones that there were complex regulations regarding consent for advertisements. Members were advised that even if a member of the public owned an area of land, consent would still be required, subject to the regulations, before any advertisements were installed.

Councillor D Andrews praised the proactive approach of the Enforcement Team in identifying sites that needed to be tidied up. He welcomed the recommendations for enforcement action and legal proceedings. In response to comments from the Committee regarding other similar sites across East Herts, the Director advised that Officers would take the details after the meeting to enable the enforcement team to look into this.

After being put to the meeting and votes taken, the Committee accepted the Director's recommendations for enforcement action and legal proceedings to be authorised in respect of the sites relating to E/13/0076/A on the basis now detailed.

RESOLVED – that in respect of E/13/0076/A, the Director of Neighbourhood Services, in conjunction with the Director of Finance and Support Services, be authorised to take enforcement action and commence legal proceedings on the basis now detailed.

622 ITEMS FOR REPORTING AND NOTING

RESOLVED – that the following report be noted:

(A) Planning Appeals: Inquiry and Informal Hearing dates.

The meeting closed at 9.00 pm

Chairman

Date

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MINUTES OF A MEETING OF THE
LICENSING COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON THURSDAY 26 MARCH
2015, AT 4.30 PM

PRESENT: R Beeching (Chairman)
Councillors P Ballam, K Crofton, J Jones and
M McMullen

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Robin Clark	- Licensing Enforcement and Community Safety Manager
Oliver Rawlings	- Senior Specialist Licensing Officer

624 APOLOGIES

Apologies for absence were submitted on behalf of
Councillors D Andrews, W Ashley, E Bedford, E
Buckmaster, Mrs R Cheswright, G Cutting, Mrs D Hone, P
Ruffles, J Taylor and K Warnell.

625 MINUTES – 20 NOVEMBER 2014

RESOLVED – that the Minutes of the meeting held
on 20 November 2014 be approved as a correct
record and signed by the Chairman.

626 CHAIRMAN'S ANNOUNCEMENTS

The Chairman stated that this was the last meeting of
three held during the civic year. He was very
disappointed to see so few Members in attendance and
commented that the meeting could well have been

inquorate when there was important business to discuss. Members voiced their concerns that so many Members had submitted apologies.

627 LICENSING SUB-COMMITTEE – 23 JANUARY AND 12 FEBRUARY 2015

RESOLVED – that the Minutes of the Licensing Sub-Committee meetings held on 23 January and 12 February 2015, be received.

628 DRAFT REVISED STATEMENT OF LICENSING POLICY

The Director of Neighbourhood Services submitted a report that presented Members with a draft revised Statement of Licensing Policy under the Licensing Act 2003. The Chairman stated that the Policy was an excellent piece of work and thanked the Officer for the report which covered everything that the Committee had been working on for the last year and which would make an enormous change to East Herts.

The Senior Specialist Licensing Officer provided a summary of the key changes, the detail of which was set out in the report. The Chairman was pleased to see the impact of licensing on public health detailed in the policy. He referred to the funding which would shortly become available from Hertfordshire County Council to support public health initiatives including any analytical research needed for the licensing function.

Councillor J Jones stated that the information contained in the paragraph “About East Herts” should contain a preamble regarding the date, e.g. “as of” as the statistical information would soon become out of date. This was supported. Members also suggested that the word “blight” be removed from the Policy Approach statement (paragraph 7). This was also supported.

Councillor J Jones referred to the proliferation of outdoor tables at locations throughout the District and how this

obstructed pavements. The Senior Specialist Licensing Officer explained that Hertfordshire County Council had been contacted and asked for a copy of those businesses who had applied for and been granted permission to locate tables outside on pavements, but that they had not provided this information. The Senior Specialist Licensing Officer said that East Herts had approached the County Council regarding taking over the granting of pavement licences. County Council had agreed in principle to signing an agency agreement to that affect. Members supported a suggestion that Officers continued to pursue the agency agreement with Hertfordshire County Council to take on the responsibility of licensing those businesses requesting and/or having outdoor tables.

Members debated the issue of charging for pre-application advice. The Senior Specialist Licensing Officer stated that this was in line with what other services were doing including planning and trading standards. This was being investigated.

The Chairman referred to the paragraph on "Creating Family Friendly Town Centres". Members supported the suggestion that Buntingford (High Street, Church Street) and Sawbridgeworth (Bell Street, London Road and Knight Street) be included in the policy. This was supported.

In response to a query by Councillor K Crofton regarding noise nuisance and enforcement, Officers advised that action was taken appropriate to relevant legislation and Government guidance to secure compliance. Officers advised that the revised policy addressed the issue in terms explaining to applicants what steps may be expected, for example sound proofing their buildings. The Senior Special Licensing Officer advised that he hoped the revised policy would provide the guidance to encourage responsible operators into the District.

The Chairman referred to tourism in the District and how more needed to be done to encourage this.

In response to a query from Councillor K Crofton, the Senior Specialist Licensing Officer advised that the document would be sent out for consultation with key stakeholders to ensure that the Policy was robust, before being submitted to Council for approval on 29 July 2015.

In response to a query from Councillor P Ballam, the Senior Specialist Licensing Officer assured Members that the consultation document would be widely available both online and hard copies for those without internet access.

The Committee gave their wholehearted support to the revised Licensing Policy and asked Officers to continue to work with Hertfordshire County Council regarding the District taking on responsibility for pavement licensing.

RESOLVED – that (A) the amended Licensing Policy be supported for the purposes of consultation; and

(B) Officers work with Hertfordshire County Council with regard to the District taking on responsibility for pavement licences.

629 CONSIDERATION OF PUBLIC FUNDRAISING ASSOCIATIONS (PFRA) RESPONSE TO SUGGESTED AMENDMENTS TO DRAFT SITE MANAGEMENT AGREEMENT

The Director of Neighbourhood Services submitted a report informing Members of the Licensing Committee about the details of discussion undertaken with the Public Fundraising Associations (PFRA) regarding site management agreements for East Herts District.

The Senior Specialist Licensing Officer advised that there was no legislation to control direct debit collections.

Members agreed that Maidenhead Street be excluded from the Hertford Site Management Agreement (SMA)

during redevelopment and that the South Side of Ware High Street be included in the Ware SMA. Members also agreed that Officers visit Ware High Street with Members who had expressed concerns.

The Committee received the report.

RESOLVED – that (A) Maidenhead Street be excluded from the Hertford Site Management Agreement (SMA) during redevelopment; and

(B) the South Side of Ware High Street be included in the Ware SMA and that Officers visit Ware High Street with Members who had expressed concerns.

630 LICENSING ACTIVITY – QUARTER 4 OF 2014

The Director of Neighbourhood Services submitted a report providing an update on processing licences, enforcement activity and the implementation of the Service Plan for Quarter 4 of 2014.

The Senior Specialist Licensing Officer asked Members to note that the total number of Licensing Sub-Committee hearings was up to 31 December 2014 and not as shown. He stated that some licensing procedures had been changed in order to achieve a speedier response, e.g. documentation needed from garages now amended so that the responsible individual could submit this information.

The Committee received the report.

RESOLVED – that the report be received.

631 ATTENDANCE AT LICENSING SUB-COMMITTEE

The Executive Member for Community Safety and Environment submitted a report detailing Members' attendance at Licensing Sub-Committees including those

attending as observers.

The Committee received the report.

RESOLVED – that the report be received.

632 VOTE OF THANKS

The Chairman thanked Officers and Members for their ongoing support of the Licensing function. He said that he had enjoyed his role as Chairman and again thanked the Officers for updating the Licensing Policy adding that this would provide both the District and applicants with definitive guidance.

The meeting closed at 5.40 pm

Chairman

Date

EAST HERTS COUNCIL

ANNUAL COUNCIL - 20 MAY 2015

REPORT BY THE MONITORING OFFICER

AMENDMENTS TO THE CONSTITUTION

WARD(S) AFFECTED: All

Purpose/Summary of Report

- The report sets out proposed amendments to the Constitution including revised Financial Regulations and Revised Procurement Regulations.

<u>RECOMMENDATIONS FOR COUNCIL: that:</u>	
(A)	the revised Financial Regulations and the Procurement Regulations be approved; and
(B)	the other amendments to the Constitution set out in the report be approved.

1.0 Background

- 1.1 The report considers amendments to the Council's Constitution. The Monitoring Officer monitors and reviews the Constitution on an annual basis. Recommended changes are identified in the report.

2.0 Report

- 2.1 An annual review of the Constitution is carried out prior to a report being submitted to Annual Council on any proposed changes. A number of changes are proposed.

3.0 The Financial Regulations and Procurement Regulation and Procurement Regulations

- 3.1 The Financial Regulations and Procurement Regulations have remained largely unchanged for at least the past five years. As

part of a review of financial processes an in-depth review of Financial Regulations and Procurement Regulations has been undertaken.

- 3.2 The aims of the review were to ensure that both the Financial Regulations and Procurement Regulations are fit for purpose, clear and easy to follow, factually correct and concise. Officers also need to be in a position to regularly update Procurement Regulations to ensure that they are current and comply with EU statutory requirements.
- 3.3 The revised financial regulations are attached as **Essential Reference Paper 'B'**. The revised version is largely based on the current version with the key changes being:
- Consistency in language in the use of job titles
 - Rationalisation in the number of sections
 - An increase in the threshold A limit from £5,000 to £10,000
 - Removal of certain areas that were not considered relevant for Financial Regulations for example ID cards and security of keys.
- 3.4 The revised Procurement Regulations are attached as **Essential Reference Paper 'C'**. These have been completely re-written to reflect the new National Procurement Strategy, the new EU Directives and the New Public Contract Regulations 2015. The procurement thresholds have been radically changed to enable officers to use their knowledge and skills particularly when procuring using a one quote process. The Works thresholds are now much more in proportion to the Goods and Service threshold.
- 3.5 The intention is for the Procurement Regulation to be kept regularly updated. In order to do this a summary of the Procurement Regulations is attached as **Essential Reference Paper 'D'** which will form part of the constitution at Item 4h, replacing the detailed Procurement Regulations. An electronic link will be given as part of Item 4h to the revised Procurement Regulations (**Essential Reference Paper 'D'**), that can then be updated by officers as necessary without having to take them back to full Council for approval.
- 4.0 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015
- 4.1 New regulations on local authorities' disciplinary procedures for

removing a senior officer have been introduced. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881) require local authorities to amend their Standing Orders so incorporate the new arrangements for taking disciplinary action against the most senior council staff. This modification must be made by the first ordinary Council meeting held after the 7 May 2015 elections.

- 4.2 Under the previous regulations, there was a requirement for a Designated Independent Person (DIP) to investigate allegations of misconduct by senior local government officers. The regulations now provide that where the final decision to dismiss any statutory officer must be taken by full Council, before taking that decision, Council must invite at least two Independent Persons to be members of a Panel, and Council must take into account any recommendation of that Panel before taking a final decision to dismiss.
- 4.3 Independent Persons have been appointed to provide advice in relation to breaches of the Council's Code of Conduct for Members. Under the regulations, the Independent Persons would take on this additional role. The Council has appointed 3 Independent Persons.
- 4.4 The invitations to the Independent Persons should be sent in accordance with the following priority order:
- an Independent Person who has been appointed by the Council and who is a local government elector;
 - any other Independent Person who has been appointed by the Council; and
 - an Independent Person who has been appointed by another Council or Councils.
- 4.5 The regulations provide that the Panel is to be a committee of the authority and so it is subject to all the legal requirements for committees, including the proportionality rules. There would be a report to full Council with a recommendation, which would include the views of the Independent Persons.
- 4.6 To ensure that the new process will not involve high costs, the Regulations limit the remuneration that should be paid to Independent Persons on the panel to the level of the remuneration which they would normally receive as an Independent Person in the conduct regime. The Council must

now modify its Standing Orders which are part of the constitution to give effect to the new arrangements.

The amendments which are required by the regulations are set out in **Essential Reference Paper 'E'**.

5.0 Other amendments to the Constitution

5.1 Further minor amendments to the Constitution are set out in **Essential Reference Paper 'F'**. They relate to changes in legislation

6.0 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers
Constitution Guidance

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Report Author: Simon Drinkwater – Director of
Neighbourhood Services and Monitoring
Officer

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/Objectives (<i>delete as appropriate</i>):	<p>People</p> <p>This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</p> <ul style="list-style-type: none"> • Enhance our local community engagement by working together with our partners such as Parish and Town Councils, for the benefit of our communities. • Maintain our core services to a good standard and ensure high satisfaction with the council as measured through the biennial Residents Survey.
Consultation:	The Monitoring Officer has consulted the Section 151 Officer and the Head of Paid Service.
Legal:	The legal implications have been taken into account in amending the Constitution.
Financial:	N/A
Human Resource:	No comments.
Risk Management:	A Constitution which reflects the Council's structure and delegation is important to the smooth running of the organisation.
Health and Wellbeing:	None

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Financial Regulations

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	1 Local Government Finance Act 1988	

1. INTRODUCTION

1.1 Why do we have Financial Regulations?

- 1.1.1 The Council is responsible for many millions of pounds of public money and has a number of statutory responsibilities in relation to its financial affairs.
- 1.1.2 The Local Government Act 1972 directs that Authorities shall make arrangements for the proper administration of their financial affairs and that one of their officers be responsible for the administration of those affairs. The Council designates the Section 151 Officer (S.151 Officer) as the Chief Finance Officer.
- 1.1.3 The Accounts and Audit Regulations 2011 require that the S.151 Officer must determine:
 - (a) accounting records, including the form of accounts and supporting accounting records; and
 - (b) accounting control systems.

To conduct its business efficiently, a local authority needs to ensure that it has sound financial management policies in place and that they are adhered to. Part of this process is the establishment of financial regulations that set out the financial policies of the Authority.

1.2 Status of Financial Regulations

- 1.2.1 Financial regulations provide the framework for managing the authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.
- 1.2.2 The regulations identify the financial responsibilities of the full Council, Executive and Scrutiny Members, the Head of Paid Service, Strategic Directors, the Monitoring Officer, the S.151 Officer and other Heads of Service.
- 1.2.3 All members and officers have a responsibility for taking reasonable action to provide for the security of the assets

under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.

- 1.2.4 The S.151 Officer is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the full Council for approval. He/she is also responsible for reporting, where appropriate, breaches of these Financial Regulations to the Council and/or to the members of the Executive.
- 1.2.5 The authority's detailed financial procedures, setting out how these Regulations will be implemented, are contained in the Financial Standards manual.
- 1.2.6 Heads of Service are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's financial regulations, as well as ensuring that they remain up to date.
- 1.2.7 The S.151 Officer is responsible for issuing advice and guidance to underpin the financial regulations.
- 1.2.8 Financial regulations are subject to annual review. This edition of the regulations will apply from May 2015 and supersedes all previous editions.

1.3 Financial Thresholds

- 1.3.1 Where values appear in these regulations they are as follows:

Value A - up to £10,000

Value B - over £10,000 and up to £50,000

Value C - over £50,000.

(The values are exclusive of VAT.)

- 1.3.2 The Executive and the Corporate Management Team should maintain a written record of any decision and the reasons for the decision.

- 1.3.3 All Members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, properly authorised and provides value for money.
- 1.3.4 Exceptions to these Regulations may be authorised by the S.151 Officer where such are in the best interest of the Council on matters with a value of less than £10,000. For matters of a value exceeding £10,000 but less than £50,000 exceptions may be approved by the Director in consultation with the Executive Member for Finance. The Executive may approve exceptions in respect of matters above £50,000 other than where these Regulations reserve a decision in respect of matters above £50,000 to the Council.

2. FINANCIAL MANAGEMENT AND ACCOUNTABILITY

2.1 General

- 2.1.1. Financial Management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget. Below are set out the main areas of responsibility of financial management.

2.2 Council

- 2.2.1 The Full Council is responsible for adopting the Council's constitution and Members code of conduct and for approving the policy framework, budget and borrowing within which the Executive operates. It is also responsible for approving and monitoring compliance with the Authority's overall framework of accountability as set out in its constitution and is responsible for monitoring compliance with agreed policy and reporting decisions taken.
- 2.2.2 No bank account will be opened on behalf of or including the name of the Council except on the authority of a resolution by the Council.

2.3 The Executive

- 2.3.1 The Executive is responsible for proposing the policy framework and budget to the full Council, and for discharging executive functions in accordance with the policy framework and budget. Executive decisions can be delegated to a committee, an individual Member, or an officer.
- 2.3.2 Within the approved policy and budget frameworks the Executive is responsible for day to day direction of the Council's affairs. The Constitution provides for the necessary decision-making at three levels:
- (a) Key Decisions – decisions which by reason of their financial, strategic or corporate importance are taken by the whole Executive;

- (b) Executive Member Decisions – each member of the Executive is assigned a particular area of service responsibility (an Executive portfolio) and can take decisions within that portfolio after the proposal has been notified to all members of the Council;
- (c) Chief Officer and Heads of Service Decisions – decisions taken within a chief officer's professional or management role or in accordance with specific delegated powers.

2.4 Head of Paid Service

- 2.4.1 The Head of Paid Service is responsible for the corporate and overall strategic management of the Authority as a whole. He/she must report to and provide information for the Executive, the full Council, Scrutiny Committees and other Committees. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.

2.5 Monitoring Officer

- 2.5.1 The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and for reporting any actual or potential breaches of the law or maladministration and for ensuring that the procedures for recording and reporting key decisions are operating effectively.
- 2.5.2 The Monitoring Officer is responsible for advising all members and officers about who has the authority to take a particular decision and whether a decision is likely to be considered contrary to the policy framework.
- 2.5.3 The Monitoring Officer and the S.151 Officer are also responsible for advising the Executive or full Council if a decision could be considered contrary to the budget. An example of such a decision would be promoting a new policy without thought as to the budget implications.

2.6 The S.151 Officer

2.6.1 Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of the Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Executive in relation to an Executive function and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

2.6.2 The Chief Finance Officer, if necessary in conjunction with the Head of Paid Service and after consultation with the Leader of the Council, shall have the powers to take any action necessary to safeguard the interests of the Council.

Administration

2.6.3 The S.151 Officer has responsibility for the proper administration of the Council's financial affairs. This includes setting and monitoring compliance with financial management standards, advising on the corporate financial position and on key financial controls, providing financial advice, advising on preparation of revenue and capital budgets, and treasury management.

2.6.4 These responsibilities are set out in statute such as section 151 of the Local Government Act 1972. They refer to the totality of the financial affairs of the Council in all its dealings.

Advice

2.6.5 The S.151 Officer is responsible for advising committees on all financial matters. He/she must be consulted on all financial matters and given adequate opportunity to provide written comments in any report with financial implications. All reports to the Executive or Committees with a significant financial implication are to be made under the joint names of the Head of Service concerned and the Chief Finance Officer.

- 2.6.6 Where the urgency procedures set out in the Council's Constitution are to be invoked, the Chief Finance Officer must first be consulted on financial and other resource implications.

Treasury Management responsible officer

- 2.6.7 All money in the hands of the Council will be under the control of the officer designated for the purposes of Section 151 of the Local Government Act 1972 i.e.: the S.151 Officer, who will take all executive decisions on borrowing, lending, repayment and financing in line with current Council policy.

Records

- 2.6.8 The S.151 Officer will be the Council's Registrar of bonds and mortgages and will maintain records of any borrowing and lending by the Council.

Budgetary system

- 2.6.9 The S.151 Officer will be responsible for establishing, in consultation with the Corporate Management Team and Heads of Services, a timetable for the preparation of each year's budget. This timetable will be agreed by the Executive by July of each year and will be constructed to ensure that the Council will meet its statutory obligations in respect of setting the Council Tax.
- 2.6.10 The S.151 Officer will determine, in consultation with the Corporate Management Team, the form in which the revenue and capital budget will be prepared.
- 2.6.11 The S.151 Officer will propose for approval by the Executive a Financial Strategy setting out the principles and objectives of financial planning to set the Medium Term Financial Plan and Annual Budget. The Financial Strategy is to be amended or endorsed annually at the commencement of the budget setting process.

Payment of invoices

- 2.6.12 All payments made on behalf of the Council, with the exception of petty cash payments will be made under the direction of the S.151 Officer.

Insurance

- 2.6.13 The S.151 Officer will arrange all necessary insurances for the Council in accordance with agreed policy. A record of all properties and risks covered will be kept, and a review will take place at least annually to ensure that all the insurances remain adequate.

Income

- 2.6.14 The S.151 Officer will be responsible for ensuring that prompt and proper arrangements exist for the collection, custody, control, disposal and accounting of all cash and remittances due to the Council.
- 2.6.15 It will be the responsibility of Head of Services to promptly notify the S.151 Officer of the need to write off any debt, giving details of the steps taken to recover the debt and valid reasons for the write off. A “debt” may be classified as:
- (i) an individual amount for an individual debtor, or
 - (ii) the cumulative amount of several related debts for an individual debtor, (for example all business rates arrears or all outstanding trade refuse payments).
- 2.6.16 The Heads of Service may authorise the write off of an individual debt or the cumulative total of related debts of up to £2,500

Banking and Cheques

- 2.6.17 The S.151 Officer will operate bank accounts to carry out the Council’s banking transactions at the bank nominated by the Council, and will be responsible for the authorised

operation of all bank accounts, bank transfers and the issue of all cheques on behalf of the Council.

- 2.6.18 Accounts will only be opened when authorised by the personal signature of S.151 Officer or other authorised officer.

Salaries and wages

- 2.6.19 The S.151 Officer will make arrangements to pay all salaries and allowances properly payable by the Council to its employees and Members.

2.7 Heads of Service

- 2.7.1 Heads of Service have responsibilities in a number of areas of financial management and internal control. These responsibilities are set out in the table below.

Area	Responsibility
General	<p>Heads of Services will comply with the requirements of the S.151 Officer, to ensure that as far as possible arrangements are made to ensure internal financial checks and that different officers carry out the following functions:-</p> <p>(i) provide information regarding sums due to or from the Council and calculate, check, record and examine these.</p> <p>(ii) collect or disburse amounts due to or from the Council.</p> <p>(iii) in the case of payments, certify documents for payment.</p>
General	Heads of Services will submit to the Head of Strategic Finance as required

	all information which the latter considers necessary for costing and accounting purposes and will afford to the S.151 Officer access to all accounts, records and documents. The S.151 Officer will be responsible for supplying financial information to Head of Services in an agreed form and frequency.
Data protection and Freedom of Information	The Chief Executive, as the Senior Information Risk Owner will be nominated as Data Protection Officer and will be responsible for ensuring that the Council acts in accordance with the provisions of the Data Protection and Freedom of Information legislation.
Internal control	Heads of Services are responsible for managing risks and maintaining sound arrangements for planning, appraising, authorising and controlling operations in order to secure continuous improvement, economy, effectiveness and efficiency, and to achieve financial performance targets. Arrangements to test those internal controls will be made through the Internal Audit function.
Inventory	Heads of Services will maintain an inventory of all significant items of plant, vehicles, machinery, equipment, tools, furniture and other movable property under their control over the value of £100.
Inventory	Heads of Services will be responsible for ensuring that inventories are continuously updated, and that appropriate action is taken on the discovery of deficiencies and surpluses. Attractive and portable items such as computers and cameras should be marked with security markings as belonging to the Council.
Security	Heads of Services will be responsible for the safe keeping and authorised use

	of all assets under their control.
Stocks and Stores	Heads of Services will be responsible for the care and physical custody of the stocks and stores under their control, and for ensuring that such stocks and stores are not kept in excess of normal requirements.
Breaches in security	The appropriate Head of Service will immediately report breaches of security to the Head of Paid Service who will consider the audit and insurance implications, take appropriate action and refer sufficiently serious cases to the Police.
Salaries and wages	<p>In accordance with agreed procedures, each Head of Service will notify the S.151 Officer's authorised representative immediately in writing of all matters affecting the payment of salaries and emoluments, and in particular:-</p> <p>(i)appointments, resignations, dismissals, suspensions, secondments, retirements and redundancies;</p> <p>(ii)absences from duty for sickness or other reason apart from approved leave;</p> <p>(iii)changes in remuneration other than normal increments and pay awards;</p> <p>(iv)any information necessary to maintain records of service for pension, income tax, national insurance and the like.</p>
Salaries and wages	Each Head of Service will forward a clearance certificate to the Payroll Section within 2 working days of receiving formal notice that an

	employee's employment will be terminating, to ensure any debts incurred by the employee have been repaid e.g. car loan/lease car, post entry training expenses, leave taken over entitlement etc.
Land holdings	<p>The Head of Democratic and Legal Support Services will maintain a terrier of all land and properties and any other interests in land owned by the Council and will maintain an asset register of the Council's land and property holdings.</p> <p>The land and property terrier will contain the following details:</p> <ul style="list-style-type: none"> (i) purpose for which held (ii) location (iii) extent and plan reference (iv) purchase details, including date of acquisition (v) rents receivable/payable and rent review dates (vi) reference to easements in deeds (vii) other charges against the property such as repairing and insuring obligations. (viii) Sum insured if buildings insurance is to be arranged by the Council.
Land holdings	The Head of Democratic and Legal Support Services will keep all title deeds securely and will record all deeds temporarily removed.
Land holdings	The Head of Democratic and Legal Support Services will register the

	Council's interest in land at the earliest opportunity.
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3. FINANCIAL PLANNING

3.1 General

3.1.1 The Council will establish a strategic policy framework to incorporate the main issues facing the Council and to match policies with resources.

- The Corporate Strategic plan;
- The medium term financial plan;
- The annual revenue budget;
- The annual capital programme;
- Prudential Indicators (limits for external borrowing; other long term liabilities and related matters; and Treasury Management Strategy).

The annual budget may then be seen as the first year of a rolling four year programme contained in the Medium Term Financial Plan.

3.1.2 The Corporate Management Team will submit to the Executive annual proposals for schemes for capital and revenue developments, including an indication of the priority of the schemes. Proposals will be submitted to the appropriate Scrutiny Committee prior to consideration by the Executive.

3.1.3 Capital and revenue budgets will be considered jointly so that the future impact of current proposals can be assessed, including the extent to which current capital expenditure commits or frees future resources. Proposals will be submitted to the appropriate Scrutiny Committee prior to consideration by the Executive.

3.1.4 The proposals will distinguish between already approved policies and those where expenditure is foreseen but not yet approved.

3.1.5 The S.151 Officer will report to the Executive details of the level of resources required to service these proposals, in the context of the overall financial strategy of the Council, and the accomplishment of strategic objectives.

- 3.1.6 The Executive will consider the provisional programme and make a general determination of amendments to be made following detailed consideration of the estimates.

3.2 Preparation and Approval of Budget

- 3.2.1 Estimates of gross and net revenue and capital expenditure will be prepared annually in accordance with Council policy and will take suitable account of any options. Budgets will be prepared by the nominated budget holders under the direction of the S.151 Officer, in an agreed form and within the agreed timetable.
- 3.2.2 The Head of Strategic Finance will at all times monitor the preparation of the revenue and capital estimates and will in consultation with the S.151 Officer collate the resultant budgets for submission to and consideration by the Executive.
- 3.2.3 In addition, the S.151 Officer will submit a statement of the requirements of the precepting authorities and a recommended level of Council Tax for the year.
- 3.2.4 The Executive will submit its recommended budget proposals to the Council according to the agreed timetable and complying with any statutory requirements.

3.3 Authority to Incur Expenditure

- 3.3.1 For revenue budgets, provided that Procurement Regulations have been complied with and subject to any specific exclusions, the inclusion of any item in the approved revenue budget other than a contingency provision, will constitute authority to incur expenditure.
- 3.3.2 For capital budgets, authority to incur expenditure will follow various stages, from initial feasibility through to project implementation, which will ensure that all projects are considered in detail, including both capital and revenue implications. Funding for each stage will be specifically agreed by the Executive/Council in accordance with agreed

procedures and only when the Council, through its budget approval process, agrees the allocation of funds will the project be included in the current funded capital programme.

3.3.3 Provided the Constitution, including Financial Regulations and any Council instructions for the time being in force have been complied with, inclusion of any items in the approved funded capital expenditure programme shall be deemed to:

- (i) authorise the Head of Service concerned to spend the capital sums provided for projects included in the programme for the current financial year, provided that Procurement Regulations have been complied with;
- (ii) in the case of schemes for which provision has been made in the current financial year but which are completed in subsequent financial years, authorise the Head of Service concerned to commit the provision in subsequent financial years, provided the expenditure is contractually committed; and
- (iii) authorise the Head of Service concerned:
 - (a) to take steps to enable land required for the purpose of the programme to be acquired in due time, subject to the Council having approved the financing of the capital programme;
 - (b) to proceed with the preparation of plans and other preparatory work, the acceptance of tenders and the ordering of materials or equipment for which there is a long delivery period in connection with schemes, initial expenditure on which is included in the following financial year(s).

3.3.4 Where it appears that any capital project budget will be exceeded, it shall be the duty of the Head of Service concerned, after joint consultation with the Head of Paid

Service and the S.151 Officer, to inform the Executive at the earliest opportunity.

- 3.3.5 Any proposal involving the adoption of a new policy or the variation or extension of existing policy which may or does affect the Council's finances will be submitted initially to the Executive for consideration and subsequent approval by full Council. Proposals will be submitted to the appropriate Scrutiny Committee prior to consideration by the Executive. The proposal will include a comprehensive report justifying the project, outline any revenue and capital implications and include the comments of the S.151 Officer. The proposal will take into consideration any provisions for virement in accordance with paragraph 3.6.
- 3.3.6 Expenditure considered essential to meet the sudden needs of an emergency or disaster (referable to section 138 of the Local Government Act 1972) may be incurred on the joint approval of the Head of Paid Service and S.151 Officer in consultation with the appropriate Executive Member(s). It will be reported to the next meeting of the Executive.

3.4 Budgetary Control

- 3.4.1 Allocated budgets will be cash limited, with budgetary monitoring undertaken by each Executive Member under the overall guidance of the Executive, such responsibility being devolved on a day to day basis to nominated budget holders for their own areas of activity, provided that Procurement Regulations have been complied with. Heads of Services will be responsible for controlling and achieving income and expenditure within their area, and will take any permitted action necessary to avoid exceeding their budget allocation, alerting the Head of Paid Service and the S.151 Officer of any problems.
- 3.4.2 The S.151 Officer, in conjunction with the Head of Strategic Finance and Heads of Service will ensure as far as practicable that systems are available which will provide such financial information as is required to enable budget holders to satisfactorily monitor budgets.

- 3.4.3 The Head of Strategic Finance will ensure that the appropriate Executive Member(s) are provided with budgetary control information relevant to their areas of responsibility, on a monthly basis and in accordance with agreed policy, incorporating the comments of the nominated budget holder regarding any significant under or over spending.
- 3.4.4 The Head of Strategic Finance will report budgetary performance to the Executive on a quarterly basis.

3.5 Supplementary Budgets

- 3.5.1 Any proposal to vary annual budgets by incurring expenditure not provided for in the original estimates and which cannot be met by virement in accordance with Financial Regulation 3.6, will be referred in writing by the appropriate Head of Service to the S.151 Officer prior to its inclusion in any report to be considered by the Executive. Such a proposal will be indicated on the meeting agenda.
- 3.5.2 In exceptional circumstances the Executive may approve a request for a supplementary estimate:
- (a) Where this involves the use of an earmarked reserve for the purpose for which the earmarked reserve was created.
 - (b) Where the amount is not more than £50,000 to be taken from the general reserve and where the use of the general reserve does not take the balance on the reserve below the minimum level agreed in the reserves policy, or such other sums as the Council may determine when setting the annual budget.
 - (c) Where the supplementary budget is in respect of a capital scheme which is:

EITHER
to be fully funded by external grant or contribution and the revenue consequences of the scheme are no more than an additional £50,000 per annum:

OR

to be funded by use of capital receipts and the capital expenditure is not more than £50,000 provided that the aggregate sum of any supplementary together with prior supplementary estimates approved since the programme was last set by the Council does not exceed £200,000 or such other sums as the Council may determine when setting the annual budget.

- 3.5.3 All supplementary budgets granted constitute approval to incur expenditure.

3.6 Virements

- 3.6.1 Virements will be restricted to extensions of existing policies/ schemes and will not be used for new policies/schemes not previously considered by the Council. Overspend on a particular budget head may be met by virement of budgetary provision from an underspent budget head, subject to the following paragraphs in this section, thereby avoiding the need for supplementary budget approval.
- 3.6.2 Virements between revenue and capital budgets will not be permitted, due to the different funding sources for each type of expenditure.
- 3.6.3 Virements between revenue income and expenditure will not be permitted.
- 3.6.4 Virements of amounts up to Value A (£10,000) may be carried out by Heads of Service in consultation with the S.151 Officer.
- 3.6.5 Virements of Value B amounts (£10,000 to £50,000) may be carried out by the appropriate Director in consultation with the S.151 Officer and the appropriate Executive Member, and reported to the next Executive meeting.
- 3.6.6 Virement of Value C amounts (over £50,000) will be subject to prior approval by the Executive.

- 3.6.7 Any exceptions to the above rules must be approved by the Executive. Virement limits apply to capital and revenue.

3.7 Treatment of Year-end Balances

- 3.7.1 The S.151 Officer may having regards to the overall financial position of the Council at the end of the financial year, recommend to the Executive whether overspends by departments should be set-off against in the subsequent financial year and whether underspends can be made available for specific projects or carried forward to the subsequent financial year, or otherwise accounted for in line with the Medium Term Financial Plan.

3.8 Reserves

- 3.8.1 In the event of a department underspend the Executive may establish an earmarked reserve and approve appropriations thereto where the purpose of that reserve is to defer expenditure included in a budget (or supplementary budget) approved by the Council where the expenditure in subsequent years will be in respect of the purpose for which the original budget (or supplementary budget) was approved.
- 3.8.2 Proposals to appropriate more than £100,000 to a single reserve or more than £500,000 in aggregate in any year beyond sums set out in the Medium Term Financial Plan shall be subject to the prior approval of the Council.

4. RISK MANAGEMENT AND INTERNAL CONTROL

4.1 Risk Management

- 4.1.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. Equally regulations are needed to ensure arrangements are in place to protect the assets and resources of the Council.
- 4.1.2 This should include a risk assessment of the Council's priorities, budget plans, programme options and service plans involving the proactive participation of Scrutiny, the Executive, the Corporate Management Team, Heads of Services and all officers associated with the planning and delivery of services. The Monitoring Officer will obtain Executive approval of the corporate risk management strategy and will promote and coordinate risk management activity throughout the Council.

4.2 Internal Control

- 4.2.1 Internal control refers to the systems of control devised by management to help ensure that the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

4.3 Investment and Treasury Management

General

- 4.3.1 The Local Government Act 2003 requires the Council to "have regard to" the Prudential Code and to set Prudential Indicators for the next three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable
- 4.3.2 All borrowing, lending and financing will be in accordance with the CIPFA Code of Practice on Treasury Management.

- 4.3.3 Should the S.151 Officer wish to depart in any material respect from the main principles of this publication, the reasons will be disclosed in a report to the Council for its approval.

Policy, strategy and reporting

- 4.3.4 A long-term treasury management policy statement will be adopted by the Council and thereafter its implementation and monitoring will be delegated to the S.151 Officer. This policy will be reviewed at least every three years.
- 4.3.5 At or before the start of the financial year the S.151 Officer will report to the Executive on the proposed treasury management strategy for the coming financial year.
- 4.3.6 The S.151 Officer is responsible for ensuring that up to date treasury management practice statements are in place providing written guidance and instruction on routine operational activities.
- 4.3.7 The S.151 Officer will report to the Executive on the activities of the treasury management operation. This will include an annual report on treasury management for presentation by 30 September of the succeeding financial year.

4.4 Security

Cash holding

- 4.4.1 Maximum limits of cash holdings will be agreed with the S.151 Officer and the Corporate Risk team and will not be exceeded without written permission.

4.5 Inventories

Form and control

4.5.1 Inventories will be in a form approved by the S.151 Officer.

Write offs

4.5.2 Unserviceable inventory items of little value and items past their useful life will be written off under the written authority of a Head of Service.

4.5.3 No item will be written off other than as a result of fair wear and tear except on the authority of:

- (i) the Head of Governance and Risk Management on the recommendations of the Head of Service if the current replacement value of the item is estimated not to exceed £10,000;
- (ii) the S.151 Officer in consultation with the appropriate Executive Member if the current replacement value of the item is estimated not to exceed £50,000;
- (iii) the full Executive if the current replacement value of the item is estimated at over £50,000.

4.5.4 Disposal of written off inventory items will be the responsibility of the relevant Head of Service in consultation with the Head of Governance and Risk Management. This will be by competitive tender, public auction, or such other manner which is most beneficial to the Council. Any disposal of a single inventory item in excess of Value A will be reported to the Executive.

Removal of property

4.5.5 The Council's property will not be removed or used other than in accordance with the ordinary course of the Council's business except in cases where specific direction or approval has been issued by the appropriate Head of Service

- 4.5.6 Loan items of clothing, equipment etc. will be signed for by the recipient and returned when leaving the Council's employment.

4.6 Stocks and Stores

Records

- 4.6.1 Stocks and stores records will be kept in a form to be agreed by the S.151 Officer.

Stocktaking

- 4.6.2 Stocks and stores will be subject to periodic test checks by officers other than the storekeepers and all stocks and stores will be checked at least annually, to include a review of the level and condition of stock.
- 4.6.3 A certificate of value will be produced on the last day of each financial year and stored locally. A copy will be forwarded to the S.151 Officer if requested.

4.7 Insurance

Claims

- 4.7.1 The S.151 Officer will be responsible for dealing with all claims against or on behalf of the Council.
- 4.7.2 The appropriate Head of Service will notify the S.151 Officer immediately in writing of any loss, liability of damage or any other event likely to lead to a claim, and will provide full supplementary information relating to the claim within timescales directed by the Risk Assurance Officer. Where necessary the appropriate Head of Service, having consulted with the S.151 Officer will inform the Police.

Cover

- 4.7.3 Heads of Service will immediately inform the S.151 Officer, in writing, of all new risks, properties or vehicles, and any material alterations to existing risks, properties or vehicles.

- 4.7.4 The appropriate Head of Service will consult the S.151 Officer in respect of the terms of any indemnity the Council is required to give.
- 4.7.5 Contractors will be required to have in place insurance to indemnify the Council against Employers' and Public/Products Liability risks with a minimum limit of indemnity of £5,000,000 in respect of any one incident or series of incidents occurring in connection with or arising out of any one event. A minimum limit of indemnity of £10,000,000 is required for building works at Council offices or other significant sites.
- 4.7.6 Contractors will be required to hold Professional Indemnity cover with a minimum limit of indemnity agreed in writing by the Risk Assurance Officer, where advice or professional services are provided.
- 4.7.7 Where a prime contractor proposes to engage sub contractors the prime contractor shall ensure to the satisfaction of the Council that the sub contractor has in place insurances of equivalent values to those set out at 4.7.5 and 4.7.6 above. In the absence of equivalent insurance cover the prime contractor must ensure to the satisfaction of the Council that the prime contractor's own insurances provide cover for such excess as is not covered by the sub contractors insurance. "

4.8 Gifts and hospitality

- 4.8.1 The officer Code of Conduct provides guidance on acceptance of gifts and hospitality and following that guidance will protect the reputation of both officers and the Council. Similar guidance in respect of Members is contained in the Members Code of Conduct.
- 4.8.2 The Council has approved the Anti-Fraud and Anti-Corruption Strategy, the Policy on Bribery and the Disclosure (Whistleblowing) Code.

4.9 Fraud and irregularity

- 4.9.1 The S.151 Officer is responsible for maintaining and promoting the Council's Anti-Fraud and Anti-Corruption Strategy and Disclosure (Whistleblowing) Code.
- 4.9.2 Any officer who suspects that an irregularity is being or has been perpetrated concerning the Council's affairs shall immediately inform their manager and/or the Head of Governance and Risk Management. Responsibility for progressing each case rests with the Head of Governance and Risk Management who will ensure compliance with the Council's Anti-Fraud & Anti-Corruption Strategy and Disclosure (Whistleblowing) Code.
- 4.9.3 Any Member who suspects that an irregularity is being or has been perpetrated concerning the Council's affairs shall immediately inform the Head of Paid Service and the S.151 Officer, who will investigate and report as necessary.
- 4.9.4 The Council's policy is that the Police or whichever external agency is appropriate to the alleged offence will normally be informed without delay of any suspicion of fraud and corruption. Any decision not to notify the Police or other agency will be made by the Head of Paid Service and will be documented on the case file.
- 4.9.5 Any Member or officer who suspects that an irregularity concerning the Council's affairs is being or has been perpetrated by the Head of Paid Service shall immediately inform the Monitoring Officer and the Head of the Shared Internal Audit Service.
- 4.9.6 The Council has a whistleblowing policy which aims to:
- (i) provide confidential avenues for employees and others to raise concerns and receive feedback on any action taken;
 - (ii) allow employees to take the matter further if they are dissatisfied with the Council's response;
 - (iii) reassure employees that they will be protected from reprisals or victimisation for whistleblowing in good faith.

4.10 Money Laundering

4.10.1 For the purposes of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007, the section 151 is appointed as the Money Laundering Reporting officer.

4.10.2 They will be responsible for notifying the National Criminal Intelligence Service (NCIS) of any suspected cases of money laundering committed within the accounts of East Herts Council as soon as possible and fulfil other duties as defined by legislation or regulation related to the post. Simultaneously, the Executive Member for Finance & Property will be kept informed of any notifications to NCIS and of any issues arising from them.

4.10.3 Directors must operate efficient systems of financial control and are responsible for

- (a) ensuring that Executive members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.
- (b) ensuring that Executive members are advised of legal implications of all proposals and that the legal implications have been agreed with the Monitoring Officer.
- (c) the signing of contracts on behalf of the Council (except where the seal of the council is applied). Strategic Directors may, however, delegate authority to sign contracts below £100,000 to Heads of Service or an Officer to whom they have specifically delegated authority to sign contracts within their area of responsibility. In all cases before signing a contract the officer concerned must be satisfied that the necessary approval to award the contract has been obtained.
- (d) Consulting with the S.151 Officer and seeking his/her approval on any matter that could materially affect the authority's financial position before any commitments are incurred.

4.10.4 Any cash receipts in excess of 15,000 Euros or the sterling equivalent must be recorded and the details sent to the S.151 Officer weekly.

4.10.5 All unusual or suspicious payments (whatever the value or form of payment – cash, cheque, card, transfer, etc.) must be reported immediately to the S.151 Officer and the Head of Governance and Risk Management in accordance with the procedure on the Council's intranet.

4.11 Land Holdings

Acquisitions

4.11.1 Any acquisition of land or property or other interest in land by the Council will comply with relevant legislation and current guidelines reflecting best practice.

4.11.2 The Head of Paid Service and S.151 Officer in conjunction with the appropriate Executive Member will jointly exercise a delegation to deal with Value A and Value B (see paragraph 1.3) acquisitions and will advise the Local Member before the decision is taken.

4.11.3 Routine acquisition of any Value C (see paragraph 1.3) land or property will be authorised by a prior resolution of the Executive. The provisions for key decisions should be applied where appropriate.

4.11.4 For urgent acquisitions of Value C land or property, a meeting of the Executive will be convened, and the advice of the Local Member will be sought before any decision is taken.

4.11.5 The S.151 Officer may exercise a delegation up to Value C to deal with property management issues such as lease renewals and rent reviews.

Disposals

- 4.11.6 Any disposals of Council land or property or other interest in land will comply with relevant legislation and current guidelines reflecting best practice. In particular the Local Government Act 1972 s123 requires that disposals will be for the best consideration that can reasonably be obtained. Detailed guidance is given in Professional Guidance Note No. 2 (Disposals of land interests by Local Authorities) issued by the Valuation Liaison Group.
- 4.11.7 The Head of Paid Service and S.151 Officer in conjunction with the appropriate Executive Member may jointly exercise a delegation to deal with Value A and Value B disposals.
- 4.11.8 Routine disposal of any Value C Council land or property will require the prior approval of the Executive, who will consider a report by the S.151 Officer which will include the financial, legal and other consequences of the proposed disposal.
- 4.11.9 Terms shall not be finalised without the benefit of a current valuation from a qualified valuer with appropriate expertise. This is particularly important where negotiations are conducted with a single purchaser.
- 4.11.10 Where disposals are related to land where the proposed purchaser already has an existing interest, for example adjacent owner, lessor, tenant, sale by private treaty may be applicable.
- 4.11.11 Where an offer is accepted subject to contract and a higher offer is received before contracts are exchanged, the person who made the former offer shall be given the opportunity to increase it if it is proposed to accept the higher offer.
- 4.11.12 In exceptional circumstances, if urgent disposal of Value C land or property is necessary, a meeting of the Executive will be convened, and the advice of the Local Member will be sought before any decision is taken.

Further Requirements

- 4.11.13 This section (4.11.15 to 4.11.24) shall apply to purchases and sales of property and land and to leases for a fixed term of more than twenty five years.
- 4.11.14 All valuations and negotiations in respect of transactions shall be carried out by or under the supervision of a properly qualified Member of the Royal Institution of Chartered Surveyors or equivalent. In no circumstances shall Members of the Council conduct them.
- 4.11.15 This section will apply to all valuations of land carried out by a qualified and independent Chartered Surveyor not in the employ of the Council.
- 4.11.16 In respect of all transactions not subject to tender and where the estimated value (or the aggregated value of related transactions) exceeds £250,000 at least two officers of the Council or an officer of the Council and its duly appointed valuer / advisor or other agent shall be involved in all negotiations.
- 4.11.17 It shall be the duty of the Council's valuer whether employed or appointed to report on the progress of any transaction authorised by the Council or the Portfolio holder to the appropriate Committee or Group (normally Asset Management Group) at least at every other convened meeting of that Committee or Group.
- 4.11.18 All valuations prepared for the purpose of a transaction shall be accompanied by evidence of the values of comparable properties in the locality.
- 4.11.19 No property or land owned or leased by the Council shall be disposed of to a third party until it has been established that no other directorates of the Council have a need for the property or land.
- 4.11.20 Any appropriation between functions will reflect the open market value of the land as certified by the Council valuer.
- 4.11.21 No property or land owned or leased by the Council shall be disposed of until a detailed report has been presented

by the S.151 Officer and the Executive Member for Finance containing:

- a description of the property or land, its title, physical characteristics and development constraints.
- any information from the Council's records or those of statutory undertakers which would affect the property or land's value or development potential.
- an assessment of the development potential of the property or land.
- evidence that the property or land has been offered to all directorates and that the Council has no operational use for the property or land, and local members have been advised of the proposed disposal.
- recommendations on the following:
 - i) the title to be transferred
 - ii) the method of disposal
 - iii) whether negotiations should proceed with a special purchaser
 - iv) the estimated price the Council may receive

4.11.22 In arriving at the recommendation, other factors that officers need to take into consideration are:

- i) issues that need to be resolved before marketing of the property or land can proceed
- ii) whether legal and other costs should be recovered from the prospective purchaser and if so an estimate of their amount
- iii) whether the appointment of external advisors or agents is required

4.11.23 In the event that it is decided to dispose of property or land by way of a tender then so far as it is practicable the procedures laid down in Procurement Regulations shall apply.

4.11.24 The community right to bid, contained within the Localism Act 2011, provides an opportunity for local community groups to bid to buy buildings or land which are listed by the local authority, as assets of community value. This

may include privately-owned land and buildings as well as publicly-owned assets. Inclusion of land on the list effectively places a moratorium on the disposal of the listed asset for a defined period. This full moratorium period is set at six months. The list of assets of community value will include any assets within the local authority's area that meet the definition of an asset of community value, as defined in the Assets of Community Value (England) Regulations 2012.

4.12 Internal Audit

General

4.12.1 The statutory requirement for internal audit in local government is prescribed by the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006. The responsibility for maintaining an adequate and effective system of internal audit rests with the relevant body i.e.: the Council. Accordingly, a system of continuous internal audit, under the control and direction of the S.151 Officer will carry out an examination of the accounting, financial and other operations in so far as they have financial effects on the Council. Internal audit effort will be co-ordinated with that of the Council's external auditors.

4.12.2 Internal Auditors are responsible for reviewing and advising on the Council's internal control systems. These systems need to ensure compliance with all applicable statutes, regulations and best practice guidance. Internal controls should also ensure that the risks facing the Council are identified, assessed, appropriately mitigated and managed and that public funds are properly safeguarded and used economically, effectively and efficiently, in accordance with the statutory and other authorities that govern their use.

Rights of access

4.12.3 The S.151 Officer's authorised Internal Audit representative will have authority:

- (i) to enter any land, building, vehicle or plant owned or used by the Council;
- (ii) to have access at all times to any record, document, contract or correspondence relating to the affairs of the Council, including those stored by mechanical, electric or electronic means;
- (iii) to possess or take copies of any record, document or correspondence;
- (iv) to require such explanations as are necessary from any Council officer concerning any matter under examination;
- (v) to require any employee of the Council to produce cash, stores or any other Council property under their control.

Standards

4.12.4 The Internal Audit Service will comply with all legislative requirements and guidelines issued reflecting best audit practice. The results of internal audit work will be reported quarterly and at such other times as are necessary to the Audit Committee.

5. SYSTEMS AND PROCEDURES

5.1 Orders for Works, Goods and Services

To be read in conjunction with the Procurement Regulations.

General

- 5.1.1 It is Council policy that all orders must be placed through the Council's financial purchasing system. The only exceptions to this rule are for insurance claims work, credit card purchases and emergency planning.
- 5.1.2 Prior to placing any order the officer requiring an order to be raised shall ensure that the financial commitment to be incurred is able to be met by a budget approved for the purpose for which the order is to be placed and that the commitment otherwise complies with these Financial Regulations.
- 5.1.3 Prior to placing an order officers must ensure that there are no existing contracts already in place or that no supplier already set up on The Council's financial system can meet requirements.
- 5.1.4 In the event of a decision being taken to place an order with a supplier that is not already on The Council's financial system a new supplier form must be completed and sent to Procurement for sign off.
- 5.1.5 Once a supplier is live on the Council's financial system, a requisition can be raised which will create a purchase order number and commit the money to budget. The supplier will then receive an official Council purchase order together with the council's terms and conditions. Invoices without a purchase order will be returned to the supplier and request that the supplier obtains a purchase order from the purchaser.
- 5.1.6 Officers should not raise retrospective orders i.e. place orders with suppliers via email, telephone or fax, before the order has been authorised and committed to budget. This

avoids risk to the Council of unavailable budget and an expectation by the supplier for providing the goods/works/services. No orders should be placed with a supplier under their terms and conditions as this could place the council at risk. For exceptions to this rule see 5.3.2 Emergency Orders.

- 5.1.7 The Corporate Management Team will ensure that all officers have due regard to the Council's Procurement Strategy and the need to obtain best value (both in regard to current Council functions and also when considering procurement options for future service delivery).
- 5.1.8 Every officer and Member of the Council has a responsibility to declare any links or personal interests they may have with suppliers or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.
- 5.1.9 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

5.2 Compliance with Environmental and other Policies

- 5.2.1 All orders placed will take account of the Council's Procurement Strategy, sustainability policies and commitments. These seek to minimise the adverse environmental impact of goods and services. Where appropriate, suppliers will be asked to highlight any environmentally significant features of their goods and services such as life expectancy, energy efficiency, source of timber and recyclability and end of life disposal.
- 5.2.2 All orders placed will take into account other Council policies where applicable, for example Diversity and Equal Opportunities.

5.3 Authorisation of Orders

5.3.1 All orders will be authorised by the appropriate Head of Service, nominated budget holder or other authorised senior officer. Heads of Services will ensure that separation of duty exists between the ordering of goods and the approval of that order by a more senior, or authorised officer. Each officer approving an order will only certify expenditure against budget heads for which they are responsible, or for which they have delegated authority and should ensure that the relevant expenditure has been properly ordered, authorised or incurred, is properly chargeable to the correct expenditure code and is within the relevant budget provision.

The Head of Governance and Risk Management will be notified of all officers so authorised, will receive and retain a list of specimen signatures and will be notified immediately of any changes.

Orders for Emergencies Only

5.3.2 In the event that The Council's financial purchasing system is not working and an urgent order is required, a manual order number will be provided by the Procurement Team, it will be at their discretion, from the information provided by the officer, if they feel that the requirement is urgent. For example, a stationery order would not be classed as urgent. Officers must ensure that, once the system is enabled, they raise a retrospective order, (an order raised after the receipt of the goods/services) using the manual order in the text as reference.

5.4. Goods Receipting

5.4.1 In Goods Receipting officers will satisfy themselves that:-

the works, goods or services to which the order relates have been carried out, received, examined and approved, are fit for the purpose and where appropriate comply with predetermined standards and quantities;

You must goods receipt the order on The Council's financial system to allow the invoice to be processed on time

5.5 Payment of Invoices

Method

- 5.5.1 Apart from petty cash, the method of payment will be by BACS, cheque or other instrument drawn on the Council's account.
- 5.5.2 The use of credit cards and purchasing cards will be in accordance with the rules issued from time to time by the S.151 Officer. Such cards shall not be used for personal use.
- 5.5.3 The S.151 Officer will be entitled to rely on (but may challenge) the certification of authorised officers and will be empowered to pay all accounts addressed to East Herts Council and so certified. Authorised officers should ensure that where appropriate, adequate supporting documentation is retained with the invoice in order to provide a satisfactory audit trail to justify the reason for the payment.
- 5.5.4 Payments will only be made on proper tax invoices (when applicable) which display the word "invoice" and the VAT registration number. Any payments made on proforma invoices must be followed up by the issue of a proper tax invoice, and must include East Herts official purchase order number generated by The Council's financial system. If an invoice does not clearly state the purchase order number the invoice must be returned to the supplier with the appropriate letter attached (available from Procurement).

Invoices must correspond to delivery notes/goods received notes where appropriate, are arithmetically correct and discounts, allowances, credits and tax are correct; and

The account has not previously been passed for payment; and appropriate entries have been made in inventories and stores records.

- 5.5.5 Photocopied or fax copies of invoices are not acceptable, except in extreme circumstances and then only if the copy has been annotated to show why an original is not available and certified by an authorised signatory.

- 5.5.6 Payments on the Council's financial system will be authorised in accordance with guidance issued by the S.151 Officer.
- 5.5.7 Any copy of an invoice produced prior to payment, for example a file copy, will be scored through and marked to clearly identify it as a copy.
- 5.5.8 To comply with VAT requirements, where it is necessary to amend an invoice, it must either be returned to the supplier, or a credit note/supplementary invoice should be requested prior to payment being made. The manual amendment including the use of correcting fluid etc. to amend invoices is forbidden.
- 5.5.9 In the case of payments in which an officer may have an interest (for example attendance on a training course, payment for accommodation etc.) the countersignature of the officer's line manager will be obtained.
- 5.5.10 Staff responsible for processing payments will ensure that appropriate attention is paid to the commitments system, especially where de-commitments are not carried out automatically.

5.6 Urgent Processing

- 5.6.1 Certified invoices due for payment but which require payment in advance of normal processing may in exceptional circumstances be processed through the urgent payment system with the approval of the Head of Strategic Finance.

5.7 Periodic Payments

- 5.7.1 Any order or contract entered into by a budget holder which entails periodic payments will be recorded in a periodic register. All amendments to such orders or contracts will be entered in the register, entered as a commitment into the Council's financial system and profiled in budget monitoring statements.

5.8 Petty Cash

Provision

- 5.8.1 Petty cash floats/imprests will only be raised following the approval of the Head of Strategic Finance who will arrange for all accounts to be recorded and reconciled. Officers will obtain a holding account code for each imprest/float from the Accountancy Section.
- 5.8.2 Under no circumstances shall petty cash be used , including temporarily, for personal purposes.
- 5.8.3 Under no circumstances shall petty cash be used to bypass the Procurement Regulations to purchase off-contract. e.g. purchasing stationery at a local supplier.

Operation

- 5.8.4 Use of petty cash should be supported by VAT receipts in respect of each purchase.
- 5.8.5 The holder of petty cash shall ensure a weekly reconciliation of cash and vouchers held to the amount advanced.

Security

- 5.8.6 An officer to whom an advance is made will:
 - (i) be personally responsible for ensuring the proper use of and safe custody of the money advanced;
 - (ii) be liable to produce upon demand to the S.151 Officer's authorised representative cash or vouchers to the total of the advance together with a certificate of the state of the imprest account;

- (iii) on leaving the employment of the Council, be liable to account to the S.151 Officer for the amount advanced.

5.8.7 The Head of Strategic Finance will ensure that:

- (i) a record is maintained of petty cash advances made;
- (ii) the vouchers and receipts retained by officers in substantiation of payments are examined and reimbursed as often as may be necessary.

Annual statement of value

5.8.8 An annual statement of value of each imprest will be certified by the appropriate Head of Service or their authorised representative and submitted to the Head of Governance and Risk Management within seven days of the end of each financial year.

5.9 Income

5.9.1 Budget managers will notify the S.151 Officer of all sums due to the Council in respect of payment for goods and services or other transactions involving the receipt of money in a manner as prescribed by the S.151 Officer.

5.9.2 All sums due from sundry debtors will be raised promptly via the debtors' module of the Council's Financial System. Responsibility for the prompt and thorough recovery of debts rests with the appropriate budget officer. Whenever appropriate, payment in advance should be obtained as this improves the Council's cash flow and also avoids the time and cost of administering debts.

5.9.3 Where an error or anomaly is identified in the approval fees and charges schedule rectification may be agreed by the Director in consultation with the relevant Portfolio Holder in accordance with the Council's fees and charges policy.

Paying in

- 5.9.4 All money received by an officer on behalf of the Council will be paid into one of the Council's Cash Offices on the day of collection, or if instructed by the S.151 Officer, direct to the Council's bank account without delay.
- 5.9.5 No deduction or payments will be made from sums due to the Council.
- 5.9.6 Officers paying into a bank account must enter a reference to the debt or the origin of the cash or cheque on the paying in slip.

Official receipts

- 5.9.7 All official receipts, forms, tickets, vouchers and similar documents will be ordered, stored and issued in accordance with procedures approved by the S.151 Officer.
- 5.9.8 No receipt given by an officer for money received will be in a form other than an official receipt.

Cashing cheques

- 5.9.9 No personal cheques will be cashed out of money held on behalf of the Council.
- 5.9.10 No third party cheques will be accepted by cashiers for the payment of any debt.
- 5.9.11 No East Herts District Council cheques endorsed "Account Payee" will be accepted by cashiers in respect of any outstanding debt unless there are any extenuating circumstances which have been considered and approved by the S.151 Officer.

Transfer of remittances

- 5.9.12 Every transfer of money held on behalf of the Council from one member of staff to another will be evidenced by the signature of the receiving officer in a register or pro forma maintained for this purpose.

- 5.9.13 Any blank cheques received and those which are not “Account Payee Only” will be crossed with an official stamp immediately on receipt as part of the post opening procedure.

Financial Write-offs

- 5.9.14 The write off of an individual debt or the cumulative total of related debts of up to £2,500 may be written off by Heads of Service. The write off of an individual debt or the cumulative total of related debts of up to £5,000 may be written off by the S.151 Officer and such debts up to £10,000 may be written off by the S.151 Officer in conjunction with the Portfolio Holder for Resources and Internal Support. The write off of an individual debt or the cumulative total of related debts of more than £10,000 will require the authorisation of the Executive. In the case of bankruptcy or insolvency, debts which are significant to the budget will be reported in the budget monitoring process.
- 5.9.15 In all cases, due consideration will be given during the write off process to the ongoing provision of the service and any other Council services being provided to the debtor.

Credit Balances

- 5.9.16 Where advance payments result in credit balances on the Council’s accounts after the services have been provided, or credits on Council Tax accounts, all reasonable steps will be taken to refund the amount to the original debtor. In determining reasonable steps, due regard will be taken of the costs of such steps in relation to the amount of the refund.
- 5.9.17 Heads of Service may authorise the write-off of an individual credit or the total of related credits of up to £2,500.
- 5.9.18 The write-off of an individual credit or the cumulative total of related credits of up to £5,000 may be written off by the S.151 Officer.
- 5.9.19 The write-off of an individual credit or the cumulative total of related credits of over £5,000 may be written off by the

S.151 Officer, in consultation with the Executive Member for Resources and Internal Support.

5.10 Banking and Cheques

Order and custody of cheques

- 5.10.1 Cheques will only be ordered on the authority of the Head of Strategic Finance who will make proper arrangements for their safe custody.
- 5.10.2 Internal transfers of cheques will be recorded and a discharge of liability signature will be obtained.
- 5.10.3 Any necessary replacement cheques shall not be drawn until confirmation has been received in writing from the Council's bank that the original cheque has been "stopped."

Signatures

- 5.10.4 All cheques drawn on the bank accounts of the Council will bear the S.151 Officer's facsimile signature, or be signed by the S.151 Officer or other authorised officer. All facsimile signatures will be checked at the time of printing.
- 5.10.5 Any cheques for £5,000 and over will require the manuscript signature of the S.151 Officer or other authorised officer.

5.11 Smart Cards

- 5.11.1 Smart Cards shall be managed in accordance with procedures prescribed by the S.151 Officer.

5.12 Salaries and Wages

New appointments

- 5.12.1 Appointments of all employees will be made in accordance with the regulations of the Council and the approved establishment, grades and rates of pay, and within any statutory requirements.

5.12.2 Where temporary staff are to be engaged on a self employed basis, prior advice will be sought from the Human Resources/Legal/Payroll Sections as appropriate, in order to protect the Council from any employment liabilities (for example tax, national insurance) which may arise.

5.12.3 An application form and medical questionnaire must be completed by all external applicants.

5.12.4 Two written references must be obtained and relevant qualifications evidenced, prior to commencement of work. (One reference will be from the immediately preceding employer if within five years). This condition (5.12.4) applies to all permanent and fixed term appointments, and agency staff and consultants.

Approved forms

5.12.5 All timesheets, overtime approvals and other pay documents will be in a form as prescribed by the S.151 Officer.

Certification

5.12.6 All timesheets, overtime approvals or other pay documents will be signed by a Head of Service or other senior officer authorised to do so. The Head of Governance and Risk Management will be notified of all authorised officers, will receive and retain a list of specimen signatures, and will be notified of any changes.

5.13 Travelling, Subsistence and Flexible Working Hours

Approved forms

5.13.1 All claims for travelling and subsistence payments and adjustments to the staff flexible working hours scheme will be made only on forms approved by the S.151 Officer.

5.13.2 The mode of travel will maximise value for money for example by having regard to car sharing and discounted tickets for public transport.

Certification

- 5.13.3 All travelling and subsistence claims and flexible working hours adjustment sheets will be signed by the appropriate Head of Service or other senior officer authorised to do so. The Head of Governance and Risk Management will be notified of all officers so authorised, will receive and retain a list of specimen signatures, and will be notified immediately of any changes.
- 5.13.4 Certifying officers will normally be the claimant's line manager who will ensure to the best of their knowledge that:-
- (i) travelling and subsistence claims relate to journeys made and expenses properly and reasonably incurred whilst carrying out official duties, in accordance with current Human Resources policy and procedural guidance;
 - (ii) flexible working credits/debits are accurately recorded on adjustment sheets and are in accordance with current Council policy.

Payment of Travelling and Subsistence Claims

- 5.13.5 Certified claims will be forwarded to the Payroll Section within five working days following the end of the month to which the claim relates for payment through the payroll system.
- 5.13.6 Payments to Members will be made by the Payroll Section upon receipt of the prescribed form duly completed and submitted within five working days following the end of the month to which the claim relates.
- 5.13.7 All claims for mileage payments will have an appropriate VAT receipt attached.
- 5.13.8 Claims for payments which relate to claims which are more than 3 months old will not be accepted.

5.14 Taxation

- 5.14.1 Where a proposed transaction will occur a tax liability (other than VAT or tax collected through the payroll system) the relevant Director or Head of Service will consult with the S.151 Officer who will determine whether external advice is sought to mitigate that liability.

6. EXTERNAL ARRANGEMENTS

6.1 Introduction

- 6.1.1 The Council provides a distinctive leadership role for the community and can bring together the contributions of the various stakeholders. It can also act to promote or improve the Council's economic, social and environmental wellbeing.

6.2 Partnerships

- 6.2.1 The Executive is responsible for approving delegations, including frameworks for partnerships. The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs. There is a Partnership Protocol in place that requires the Council to maintain a partnership register and to undertake an annual review of the register.
- 6.2.2 The Executive can delegate functions – including those relating to partnerships – to officers. These are set out in the scheme of delegation that forms part of the Council's constitution. Where functions are delegated, the Executive remains accountable for them to the full Council.
- 6.2.3 Officers can represent the Council on partnerships and external bodies, in accordance with the scheme of delegation.
- 6.2.4 Council representatives on partnerships will promote and maintain the same high standards of financial administration that normally apply within the Council.
- 6.2.5 The S.151 Officer must ensure that the accounting arrangements adopted by partnerships and joint ventures are satisfactory. Consideration must be given to the overall corporate governance arrangements and legal issues when arranging contracts with external bodies, and all significant risks must be fully appraised before agreements are entered into.

- 6.2.6 Heads of Services are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

6.3 External Funding

- 6.3.1 The S.151 Officer is responsible for ensuring that all funding notified by external bodies is received and used for the intended purpose and properly recorded in the Council's accounts.

6.4 Work for Third Parties

- 6.4.1 The Executive is responsible for approving the contractual arrangements for any work for third parties or external bodies.

- 6.4.2 Heads of Services will ensure that:

- (i) all risks are identified, assessed, appropriately mitigated and managed and such work is intra vires;
- (ii) a register is maintained of all contracts entered into with third parties;
- (iii) appropriate insurance arrangements are made;
- (iv) the Council is not put at risk from any bad debts;
- (v) no contract is subsidised by the Council;
- (vi) wherever possible, payment is received in advance of the delivery of the service;
- (vii) the Service Unit has the appropriate expertise to undertake the contract;
- (viii) all contracts are properly documented;
- (ix) appropriate information is provided to the S.151 Officer for final accounts purposes.

6.5 Procurement by Third Parties on Behalf of the Council

- 6.5.1 The appropriate Director may appoint a third party to undertake procurement on behalf of the Council subject to the following requirements. Where the appropriate Director proposes to appoint a third party to undertake procurement on behalf of the Council, the third party shall so far as possible comply with the Council's Financial Regulations and the Council's Procurement Regulations and where compliance is not possible the provisions in the Regulations as to varying or waiving of the regulations shall apply. The use of third parties for procurement shall be permitted only where the appropriate Director is satisfied that the use of a third party offers better value for money for the Council. The Council remains accountable for the procurement and the related projects at all times.

LOCAL GOVERNMENT FINANCE ACT 1988

Section 114 Functions of responsible officer as regards reports

- (1) On and after the commencement day the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the 1972 Act, section 73 of the 1985 Act or section 112 above shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.
- (2) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the authority, a committee or officer of the authority, or a joint committee on which the authority is represented –
 - (a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,
 - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority,or
 - (c) is about to enter an item of account the entry of which is unlawful.
- (3) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

- (3A) It shall be the duty of the chief finance officer of a relevant authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable –
- (a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989; and
 - (b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 of that Act.
- (4) Where a chief finance officer of a relevant authority has made a report under this section he shall send a copy of it to –
- (a) the person who at the time the report is made has the duty to audit the authority's accounts, and
 - (b) each person who at that time is a Member of the authority.
- (5) Subject to subsection (6) below, the duties of a chief finance officer of a relevant authority under subsections (2) and (3) above shall be performed by him personally.
- (6) If the chief finance officer is unable to act owing to absence or illness his duties under subsections (2) and (3) above shall be performed –
- (a) by such member of his staff as is a member of one or more of the bodies mentioned in section 113(3) above and is for the time being nominated by the chief finance officer for the purposes of his section, or
 - (b) if no member of his staff is a member of one or more bodies, by such member of his staff as is for the time being nominated by the chief finance officer for the purposes of this section.

- (7) A relevant authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.
- (8) In this section –
 - (a) references to a joint committee are to a committee on which two or more relevant authorities are represented, and
 - (b) references to a committee (joint or otherwise) include references to a subcommittee.

Note - For the purposes of paragraph 1 above, the Director of Finance and Support Services / S.151 Officer will be the nominated officer.



ERP 'C'

PROCUREMENT REGULATIONS

April 2015

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PROCUREMENT REGULATIONS

1. Introduction

- 1.1 The purpose of these Regulations is to lay down a set of guidelines which provide a framework for officers procuring goods, works and services on behalf of the Council. For ease of use, the specific Regulations are set out in shaded boxes throughout the document. The Regulations are supplemented by a more detailed Procurement Toolkit issued by Procurement, which gives guidance on the techniques to achieve best value for money, *The Public Contracts Regulations 2015*, (link to be added) up to date *European Directives*, (link to be added) *working with SME's* (link to be added), and a series of templates to be used in the contracting process.
- 1.2 Officers are warned that appropriate disciplinary action may be taken in accordance with the Council's Disciplinary Policy if they fail to comply with these Procurement Regulations. Employees have a duty to report breaches of the Regulations to the Head of Governance and Risk Management.
- 1.3 The Regulations apply to all expenditure by the Council on goods, works and services, provided by external organisations. The Regulations include mandatory requirements, which are normally identified by the word "must" in bold letters. These requirements **must** always be followed. The words "**should**" and "**should not**" relate to good practice advice. Whilst not mandatory, you **must** have a good reason for not following the good practice advice and this **must** be recorded on your tender file. If in doubt, you **must** contact Procurement for advice.
- 1.4 All officers who commission contracts for goods, works or services are required to follow the Regulations. This requirement also covers all persons, such as external consultants, who commission contracts on behalf of the Council. Officers **must** ensure that consultants are given copies of the Regulations and that they comply.

- 1.5 The Procurement Officer will be responsible for updating the Procurement Regulations in conjunction with Contracts Procurement Group (CPG). The Procurement Regulations will be published on the Council's website.
- 1.6 The new European Directives have enabled the UK the option to not fully apply the Directives in some circumstances but they still define the way other procurement processes **must** take place. The Council Regulations refer to the Public Contract Regulations 2015 (PCR's) European Legislation as well as Council policy.
- 1.7 Where there is conflict between PCR's, European Legislation, and Council policy, the requirements of the **PCR's takes precedence**. e.g. there is nothing in the EU Directives that mentions the use of advertising on the Central Government Contracts Finder portal, but the PCR's do.
It is important to note that the Regulations **must not** be waived if doing so would contravene either the PCR's or EU legislation.

2.0 Hierarchy of Regulations

- 2.1 These Regulations attempt to summarise all of the Council's Procurement Regulations. Further information and guidance is provided within the Procurement Toolkit which is an extension of this document. Some of the Regulations are derived from provisions contained in the Council's Constitution and Financial Regulations (links to be added). Every effort has been made to ensure a consistency between the documents, but in the event of any conflict, the Constitution takes precedence. The Procurement Regulations can be amended by the Director of Finance and Support Services.

3.0 Procurement Objectives

- 3.1 The purpose of procurement activity shall be to achieve best value for the community in accordance with the Council's statutory or approved objectives and the Procurement Strategy. This should include an innovative approach to contractual relationships with the private and not-for-profit sectors within a

robust contractual framework. Officers with responsibility for procurement shall ensure that they are able to demonstrate achievement of best value by having regard to a combination of economy, efficiency and effectiveness and having considered the most appropriate method of contracting

- 3.2 Every contract or official order for goods, works or services made by the Council shall be for the purpose of achieving the Council's statutory or approved requirements and shall conform to all relevant domestic and European Union legislation.

4.0 Roles and Responsibilities of Directors

- 4.1 Directors **must** ensure that mechanisms are in place, where staff are delegated to carry out procurement activities, for appropriate induction, information and training. They are accountable to the Executive for the performance of their staff's duties in relation to contract letting and management. The Procurement Team will provide support for this

5.0 Roles and Responsibilities of Heads of Service

- 5.1 Heads of Service have responsibility for all contracts tendered, let and managed by their service. They are accountable to CMT for the performance of their duties in relation to contract letting and management, which are:
- a) to ensure compliance with PCR's, EU legislation and Council Policy;
 - b) to ensure value for money in their teams;
 - c) to ensure compliance with these Procurement Regulations
 - d) to ensure that all relevant staff are familiar with the provisions of these Regulations and that they receive adequate training on their operation;
 - f) to ensure compliance with any guidelines issued in respect of these Procurement Regulations;
 - g) to take immediate action in the event of a breach of Procurement Regulations within their department;

- h) to provide the Procurement Team with the information on all Contracts let above £5,000 to enable them to keep a register of all contracts and tenders (link to be added).;
- i) to keep records of waivers of any provision of these Procurement Regulations;
- j) to ensure appropriate contract monitoring takes place of all contracts.

5.2 Heads of Service **must** comply with these Regulations and have a responsibility to ensure that their staff and any consultants or agency staff also comply with them. Heads of Service **must** put mechanisms in place to ensure that staff who carry out procurement receive appropriate induction, information and training. The Procurement Team will provide support for this.

Rule 1

Directors are accountable to the Executive for the performance of their staff's duties in relation to contract letting and management

Heads of Service have responsibility for all contracts let by their service. Authority to make decisions under the Procurement Regulations may be delegated. Those who have delegated authority to take decisions in the name of the Director will be set out in the Scheme of Delegation for the relevant service.

6.0 Thresholds and Procurement Regulations for Contract Letting

It is forbidden to fragment a project which falsely gives the impression of lower value contract(s). the value of a contract is total expected cost based on current prices for the whole contract term. If the proposed term is longer

than four years the value can be assessed by calculating a typical month multiplied by 48.

- 6.1 The following thresholds shall apply to all contract award processes.
- 6.2 To clarify the table below, the following points should be noted:
- a) Total Value, exclusive of VAT refers to the full remuneration to be paid to the supplier or contractor over the life of the contract;
 - b) Where there are a number of linked contracts – e.g. those using the same suppliers, or for similar goods, works or services– the option for joining them up **must** be explored;
 - c) The Minimum Award Procedure describes the minimum competitive process which must be followed; an officer or Director may choose to instigate a more stringent process;
 - d) Shortlisting (link to be added) is the process by which applicants are selected for quotation or tender, and shows who is responsible for this activity;
 - e) The Contract Award Decision shows the person who must approve the proposed contract award decision, before the decision is finalised and communicated to the proposed supplier or contractor; this must be someone who is authorised under the Council's Scheme of Delegation to take these decisions.
- 6.3 Light Touch (Replaces Part B Services but the nature of the work should not affect the Council. Contact Procurement for advice)

The standard European principals of mutual recognition, proportionality, non- discrimination and transparency apply even below the EU Thresholds.

There are no exemptions, although where there is no cross border dimension a 'light touch' process is permissible. If the expected spend is over the new EU Threshold of E750,000

(£625,050 – 2015) then a European Contract Notice should be used.

Examples in the directive are:-

Catering Services

Prison Service

Community Service

Health Service

National Law Legal Support

Fire and Rescue Service

Education

6.4 Reserved Contracts

The procurement process could be targeted to suppliers that employ at least 30% disadvantaged employees. A contract term can be up to three years provided the Council has not awarded to the successful bidder in the last three years.

THRESHOLDS FOR GOODS AND SERVICES

Total Value	Minimum Award Procedure	Specific Information for each threshold	Contract Award Decision	What documentation is to be kept	What type of documentation is to be used?
Up to £500	Official Purchase Orders	Purchase Orders must be used (link to be added)			
Between £500 - £10,000	One written quotation	Two if the requirement is a common product/service where two quotes which provide value for money are evidenced	Approved officer	Retain record of quotation figure	Purchase Order to provide Terms and Conditions
Between £10,000 - £75,000	Minimum of two written quotations		Approved Officer	Retain record of quotation figure	Use of standard Request for Quotation Document available from Procurement

£75,000 - £100,000	Minimum of Three written quotations		Approved officer	Written record of any reasons for not obtaining three quotations, or not accepting the lowest quotation, or award criteria other than price	Use of standard Request for Quotation Document available from Procurement
£100,000 – EU Threshold (Procurement will advise up to date thresholds)	Full tender process following the principles of EU tender process		Approved officer		Use of standard Tender Documentation available from Procurement with assistance from Procurement
Over EU threshold	EU Procedure must be followed.		Director	<ul style="list-style-type: none"> Evaluations of PQQs and tenders Notes of post-tender discussions and clarifications Executive / Director reports as appropriate 	Assistance from procurement with preparation of documentation, specification writing, moderation meeting, contract award, Use of standard ITT Document available from Procurement
WORKS					
Up to £5,000	Purchase Order	This category should allow for any emergency or reactive works	Approved Officer		
£5,000 - £20,000	One Quote		Approved Officer	Retain record of quotation figure	Purchase Order to provide terms and conditions
£20,000 - £50,000	Minimum of Two written quotations			Written record of any reasons for not obtaining three quotations, or not accepting the lowest quotation, or award criteria other than price	Standard terms and conditions may be acceptable – seek Legal Services advice with respect to the potential need for a contract
£50,000 - £250,000	Minimum of Three written				Use of Standard Request for

	quotations				quotation and conditions of contract to be used for process, Available from Procurement
£250,000 – EU Thresholds	Minimum of three competitive tenders shall be invited and a formal written contract prepared in advance. Either a pre-qualification is followed using ConstructionLine or similar OR an advert must be placed on the EHDC website and Contracts Finder				Formal JCT contract to be used.
Above EU thresholds	Formal EU process must be followed		Director		As per process for Goods and Services

In the event of an emergency and an urgent order is required, a manual order number will be provided by the Procurement Team, it will be at their discretion, from the information provided by the officer, if they feel that the requirement is urgent. For example, a stationery order would not be classed as urgent. Officers must ensure that they raise a retrospective order, (an order raised after the receipt of the goods/services) using the manual order in the text as reference.

Where there is an existing corporate contract (link to be added) in place, these must be explored in the first instance. E.g. Stationery. Contact Procurement if you are unsure.

Goods and Services

- 6.5 For purchases below £500, Purchase Orders must be created via the Councils' Purchasing system. No orders are to be placed with suppliers via any other method. Best Value must still be sought for the Council.

- 6.6 For contracts between £500 and £10,000, initially these may be made orally, with written confirmation obtained prior to placing the order. Written confirmation may be by email or letter, but must identify the supplier, and **must** be retained for at least 12 months from the date of the contract. A purchase order **must** be raised after receipt of quote. Officers must not place the order with the supplier over the phone or by email or letter. Value for money must be sought and it is down to the discretion of the officer procuring for their service enabling them to use their knowledge and skills to when deciding whether to go for two quotes rather than one.
- 6.7 For contracts between £10,000 and £75,000 a minimum of two competitive quotations to be invited. Quotations **must** be invited using the Council's standard Request for Quotation and terms & conditions of contract, and **must** be confirmed in writing prior to placing the order. All quotations must be retained for at least 12 months from the date of the contract. If only one quotation is received a further supplier must be contacted to ensure a fair and transparent process and evidence that value for money is being sought.
- 6.8 For contracts between £75,000 and £100,000 at least three competitive quotations to be invited, and at least two quotations to be received. Quotations **must** be invited using the Council's standard Request for Quotation and terms & conditions of contract, and **must** be confirmed in writing prior to placing the order. All quotations must be retained for at least 12 months from the date of the contract.
- 6.9 Quotations between £50,000 and £100,000 **must** be advertised on the Council's web site, giving a reasonable period of time for interested parties to respond, which **should** normally be at least three weeks from the date on which the advertisement is published. If using a selection process, the advertisement **must** state the information required from applicants, and suppliers should be selected to submit quotations on the basis of fair and transparent criteria, which **must** be decided in advance. At least four quotations **should** be invited using the Council's terms and conditions of contract, an appropriate specification

and any other appropriate documents, and at least three quotations **should** normally be received. Quotations **should** be submitted by suppliers using the Council's documentation, and **must** be retained for at least 12 months from the date of contract. The contract **must** be awarded on the basis of best value for money, based on fair and transparent assessment criteria which **must** be decided in advance. If requested by any applicant or supplier submitting a quotation, details of the selection or award criteria **must** be disclosed.

WORKS

In the event that an emergency and an urgent order is required, a manual order number will be provided by the Procurement Team, it will be at their discretion, from the information provided by the officer, if they feel that the requirement is urgent. Alternatively a corporate credit card can be used where there is the risk to life and limb and there is a high Health and Safety risk. Where a manual order is provided, officers must ensure that they raise a retrospective order, (an order raised after the receipt of the goods/services) using the manual order in the text as reference.

Where there is an existing corporate contract (link to be added) in place, these must be explored in the first instance e.g. small works. Contact Procurement if you are unsure.

- 6.10 Works quotations, suppliers **must** be selected from a standing list of accredited suppliers or contractors (link to be added), such as Exor, Constructionline, or such other database as may be approved by the Procurement Team and H&S. In the event that there are no suitable suppliers or contractors on the standing list of accredited suppliers or contractors, the process for quotations **must** be followed in line with the agreement of the Procurement Officer. In both circumstances to enable the Council to follow the Social Value Act and the Localism Act, where possible at least two local suppliers (link to definition of local suppliers) should be invited to bid.

- 6.11 For contracts under £5,000, official Purchase Orders **must** be raised. Purchase Orders must be created via the Council's Purchasing system. No orders are to be placed with suppliers via any other method. Best Value must still be sought for the Council.
- 6.12 Contracts between £5,000 and £20,000 may be initially made orally, with written confirmation obtained prior to placing the order. Written confirmation may be by email or letter, but must identify the supplier, and **must** be retained for at least 12 months from the date of the contract. A purchase order **must** be raised after receipt of quote. Officers must not place the order with the supplier over the phone or by email or letter.
- 6.13 For contracts between £20,000 and £50,000 a minimum of two competitive quotations to be invited. Quotations **must** be invited using the Council's standard Request for Quotation and terms & conditions of contract, and **must** be confirmed in writing prior to placing the order. Legal advice must be sought in respect of the potential need for a full Joint Contracts Tribunal (JCT)/ New Engineering Contract (NEC) (links to be added) or other contract. All quotations must be retained indefinitely. If only one quotation is received a further supplier must be contacted to ensure a fair and transparent process and evidence that value for money is being sought.
- 6.14 For contracts between £50,000 and £250,000 at least three competitive quotations to be invited, and at least two quotations received. Quotations **must** be invited using the Council's standard Request for Quotation and terms & conditions of contract, and **must** be confirmed in writing prior to placing the order. All quotations must be retained indefinitely.
- 6.15 Contracts between £250,000 and EU thresholds **must** be advertised on the Council's web site, giving a reasonable period of time for interested parties to respond, which **should** normally be at least three weeks from the date on which the advertisement is published. If using a selection process, the advertisement **must** state the information required from applicants, and suppliers should be selected to submit

quotations on the basis of fair and transparent criteria, which **must** be decided in advance. At least four quotations **should** be invited using the appropriate JCT contract documents, an appropriate specification and any other appropriate documents, and at least three quotations **should** normally be received. Quotations **should** be submitted by suppliers using the Council's documentation, and **must** be retained indefinitely. The contract **must** be awarded on the basis of best value for money, based on fair and transparent assessment criteria which **must** be decided in advance. If requested by any applicant or supplier submitting a quotation, details of the selection or award criteria **must** be disclosed.

7. Tender and Quotation Exercises

- 7.1 When selecting bidders other than by advertisement, and to enable the Council to follow the Social Value Act and the Localism Act, where possible invite at least two local suppliers to bid.
- 7.2 For tender processes under the EU Thresholds the principles of EU Regulations should be followed but you **must** build into your timetable enough time to allow bidders to be able to prepare their responses and allow for any approvals,
- 7.3 All contracts below the EU threshold **must** follow these Regulations unless, either:
 - (a) a waiver (link to be added) is obtained either from the relevant Director; or
 - (b) an existing term contract, framework or appropriate arrangement let in competition by the Council, which complies with these Regulations, is being used; or
 - (c) the contract is to be funded in full by another public or voluntary organisation that has requested in writing that its own Regulations are followed, subject to compliance with European legislation; or
 - (d) the goods, works or services are required urgently to protect life or property, where there is no existing compliant contractual arrangement in place;

7.4 Any contracts over the EU tendering thresholds **must** comply with the requirements of the Public Contracts Regulations 2015, which apply to all contracts with values above the EU thresholds set out above, unless exempt. If it is thought that a contract may be exempt from the requirements of the Public Contracts Regulations, advice and confirmation **must** be obtained from Procurement. Where the regulations apply, no officers or members are permitted to waive the requirements of the Regulations. The only exceptions to this will be when:

- (a) an existing, recognised consortium contract or framework, which has gone through an appropriate competitive tendering process in accordance with the EU Regulations, is being used. Examples include Supply Herts, ESPO, CCS, or other. There is an automatic sign off to use existing, recognised consortiums by the Director of Finance and Support Services on recommendation by the Procurement Officer
or
- (b) an existing term contract, framework or appropriate arrangement let in competition by the Council, which complies with the EU Regulations, is being used.

7.5 Preparation for the Tendering exercise includes:

- (a) identification and definition of needs;
- (b) Demand Management
- (c) options appraisal and business case development;
- (d) a review of market conditions;
- (e) Decision on which procurement process to follow
- (f) Social Value Act 2013 (link to be added)
- (g) assessment of the scope for collaboration, internally with other service, or externally with other organisations or the voluntary sector;
- (h) review of the implications for HR issues, sustainability, equalities and diversity local businesses, and other policies(link to be added)
- (i) an analysis of the potential for achieving financial savings; and

- (j) project planning, including definition of roles and responsibilities throughout the process.

7.6 Preparation for the Quotation exercise (link to be added) includes:

- (a) identification and definition of needs
- (b) Demand Management
- (c) Social Value Act 2013
- (d) assessment of the scope for collaboration, internally with other services, or externally with other organisations or the voluntary sector
- (e) an analysis of the potential for achieving financial savings.

7.7 All tenders **must** be publicly advertised, through the Council's web site (link to be added) and/or other appropriate media, including the Official Journal of the European Union (OJEU). Procurement will maintain advertisements on the web site. The e-sourcing tool automatically advertises in OJEU, Supply Herts and Contracts Finder, and you **should** make arrangements for any other advertisements to be placed as appropriate.

7.8 For contracts over the relevant thresholds, an annual Prior Information Notice **should** normally be inserted in the OJEU as early as possible in the financial year. Procurement will advise on the up-to-date thresholds.

7.9 If a tender is subject to an OJEU notice, you **must not** allow any other advertisements to appear before the OJEU notice.

7.10 There are several methods of tendering and you **must** ensure you follow the correct process (link to be added) for the total amount of the spend. And you **must** ensure that you have carried out this process in a way which encourages competition. Advice **must** be obtained from Procurement before proceeding.

7.11 The Council's standard documentation **must** be used for potential suppliers to apply for Quotations and Tenders.

7.12 Where the contract is covered by EU Legislation, you **must** follow the Rules for short listing set out in the Regulations. For

non-EU contracts a minimum of four tenders **must** be invited unless fewer than this have expressed an interest or are deemed suitable.

- 7.13 Directors **must** ensure that all contracts to be tendered are entered onto the forward plan of contracts, administered by Procurement at the earliest opportunity.
- 7.14 Procurement **must** be involved at part (a) of 7.5(a) and 7.6(a) above of the planning stages to ensure that they have an understanding of the project to enable correct advice to be given when requested throughout the process.

Rule 2

CMT must approve the procurement strategy proposals for all contracts.

GOODS AND SERVICES

Where the Contract is subject to the tendering Regulations of the EU Procurement regime, then those Regulations shall apply to the letting of the Contract.

Contracts over £100,000 and under the tendering thresholds of the EU Procurement regime must be awarded following the principles of the EU procurement process via competitive written tenders, through a fair and transparent process, which must be advertised on the Council's web site. At least four written competitive tenders must be invited, with at least three received.

Contracts over £75,000 and under £100,000 must be awarded following invitation of a minimum of three competitive quotations, based on the Council's terms and conditions of contract.

Contracts over £10,000 and under £75,000 must be awarded following invitation of a minimum of two, with a receipt of at least two competitive quotations, based on the Council's terms and conditions of contract.

Contracts over £500 and under £10,000 must be awarded following receipt of at least one quotation, which must be submitted in writing, and award of the contract is always subject to the duty for obtaining best value.

WORKS

CMT must approve the procurement strategy proposals for all contracts

Where the Contract is subject to the tendering Regulations of the EU Procurement regime, then those Regulations shall apply to the letting of the Contract.

Contracts over £250,000 and under the tendering thresholds of the EU Procurement regime must be awarded following the principles of the EU procurement process via competitive written tenders using the appropriate JCT Contract documentation, through a fair and transparent process, which must be advertised on the Council's web site. At least four written competitive tenders must be invited, with at least three received.

Contracts over £50,000 and under £250,000 must be awarded following invitation of a minimum of three competitive quotations, based on the Council's Request for Quotation documentations and conditions of contract.

Contracts over £20,000 and under £50,000 must be awarded following invitation of a minimum of two, with a receipt of at least two competitive quotations, based on the Council's terms and conditions of contract. Legal team to provide advice in respect to potential need for a JCT/NEC or other contract to be put in place.

Contracts over £5,000 and under £20,000 must be awarded following receipt of at least one quotation, which must be submitted in writing, and award of the contract is always subject to the duty for obtaining best value. A Purchase order must be sent to include the standard terms and conditions.

Under £5,000 Purchase Cards or Purchase Order for emergency requirements.

8. Authority to incur expenditure (link to be added)

- 8.1 For revenue budgets, provided that Procurement Regulations have been complied with and subject to any specific exclusions,

the inclusion of any item in the approved revenue budget other than a contingency provision will constitute authority to incur expenditure.

- 8.2 For capital budgets, authority to incur expenditure will follow various stages, from initial feasibility through to project implementation, which will ensure that all projects are considered in detail, including both capital and revenue implications. Funding for each project will be specifically agreed by the Executive/Council in accordance with agreed procedures and only when the Council, through its budget approval process, agrees the allocation of funds will the project be included in the current funded capital programme. Further information can be found in the Council's Constitution (link to be added).
- 8.3 Nothing in these Regulations precludes the requirement within the Constitution for the authority to incur expenditure.
- 8.4 All contracts **must** be awarded on the basis of the best value for money, which will normally be the Most Economically Advantageous Tender (MEAT) or Quote, taking into account both cost and quality considerations (links to be added). This will be the optimum combination of costs and benefits assessed against pre-determined evaluation award criteria, which will be detailed in the Tender/Quotation documentation.
- 8.5 Value for money will normally be an assessment of cost and quality criteria. You **must** define the criteria for award of contract prior to inviting Tenders/Quotations for all contracts over £50,000. Further guidance on setting and evaluating award criteria can be obtained from Procurement.

9.0 Tender Documentation

The e-tendering system (link to be added) **must** be used for all procurement over £10,000.

You **must** have all the documents required to present a tender prepared before publishing the Contract Notice.

Variants can be allowed or specified provided it is set out in the Notice and the details, including the evaluation criteria is included in the tender documents.

Lots are encouraged to give more chance for SME's. There can be any number of Lots and any size. A limit of the number of Lots that can be bid for can be imposed. The award criteria for each Lot must be available to the bidders.

You **must** keep a record of why lots were not used as this will be needed for a final report.

- 9.1 In inviting Tenders from suppliers, the Tender packs which are issued to suppliers **must** as a minimum include the following:
 - (a) a letter inviting suppliers to submit Tenders;
 - (b) Instructions to Tenderers, laying down the Regulations and procedures to be followed when preparing and submitting Tenders;
 - (c) Tender Form, on which Tenderers will make their formal offer, and commit to certain key requirements, such as non-collusion;
 - (d) Terms of Contract appropriate to the contract;
 - (e) Specification, describing the Council's requirement;
 - (f) A Schedule for insertion of prices and discounts;
- 9.2 Other appropriate documentation may be included in Tender packs, such as Method Statements, drawings, etc.
- 9.3 Officers must consider, if the provision for liquidated and ascertained damages should be obtained from the contractor where the terms of the contract are not duly performed. Liquidated and ascertained damages should equate to a genuine pre-estimate of the losses that the Council would incur as a consequence of the delay or other non-compliance with contract conditions. Advice should be obtained from Legal Service regarding the details of the clauses. The reason for not including them should be kept on file.
- 9.4 When letting contracts officers must consider whether suppliers have access to data and include terms in the contract to protect the council in accordance with the Council's Data Protection

and Information Policy. Winning bidders must ensure they follow the Council's guidance on Data Protection.

- 9.5 All tenders **must** be invited at the same time, requiring all tenders to be returned by a set date and time.
- 9.6 It is not acceptable to allow oral queries. Information which clarifies or amends the tender documentation must be confirmed in writing to the relevant tenderer and **must** also be circulated to the other tenderers at the same time via the e-sourcing tool.

10.0 Late Tenders

- 10.1 The e-sourcing tool will close the tenderbox at the set date and time and late tenders will not be accepted.

11.0 Electronic e-Auctions

- 11.1 The following conditions shall apply:

Tenders may be invited through the use of an electronic reverse auction, provided that:

- (a) the potential costs and benefits of using an e-auction in the market concerned has been fully researched, and is expected to provide best value for money;
- (b) the use of an e-auction was included in the procurement strategy; and
- (c) in the case of contracts covered by the EU Procurement Directive, the use of an e-auction was specified in the Tender Notice.

12.0 Contract Award, Documentation and Retention of Tenders

- 12.1 All contracts must be awarded on the basis of most economically advantageous tender. Where a contract is let in accordance with the Public Procurement Regulations 2015, EU tenders must be subject to a 10-day "standstill" period prior to finalisation of the contract, as required by the regulations. A

voluntary 10 day “standstill” period can be implemented in some tenders above £100,000 and below the EU Threshold.

- 12.2 Every Contract **must** be confirmed in writing, detailing a description of the goods, works or services to be provided, the price to be paid and any discounts or adjustments to be applied, and the times for completion or delivery.
- 12.3 Contracts which exceed £100,000 in amount or value should be under seal except with the agreement of the Head of Democratic and Legal Support Services and where the appropriate Director or the Head of Democratic and Legal Support Services shall so require, a contract of any value below £100,000 shall be under seal.
- 12.4 Directors are responsible for retaining tenders for examination. Arrangements **must** be made with Legal for the storage of deeds. All contract documents, both successful and unsuccessful are retained electronically in accordance with the Council’s retention policy. .

13.0 Director’s Actions

- 13.1 Procurement Regulations may be waived, where the total value of the contract does not exceed EU Thresholds, after considering a written report by the officer authorised to undertake the project., their Head of Service, supported by Procurement and Legal Services, comments by HR and Finance where required, and signed off by the Director of Finance and Support Services, that the waiver is justified because:
 - a) the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and has demonstrated that only a single source of supply is available, or it is otherwise clearly in the Council’s interest to do so; or
 - b) the contract is for goods, works or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen – e.g. to protect life or property when no existing contractual arrangement is in

- place, or if the purchase is needed to urgently comply with an order of Civil or Criminal Court; or
- c) the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English law); or
 - d) the work is funded in full by another Public or Voluntary Organisation that has requested in writing that its own tendering procedures are followed; or
 - e) the purchase is from a supplier where there is an existing obligation to the Council (e.g. under a warranty is to contribute to the cost).

13.2 A Director's action **must** only be in the circumstances listed above, and not to compensate for poor planning or a desire to retain incumbent suppliers through avoidance of competition.

13.3 A record of the decision approving a waiver and the reasons for it must be kept in a service register in Democratic Services.

13.4 Where the contract is subject to the Public Procurement Regulations which implemented the EU Procurement Directive, there are circumstances where the requirement to tender cannot be waived, where:

- (i) the estimated total value of the contract exceeds the relevant EU thresholds, Procurement will advise.

And, in the case of a contract for services,

- (ii) the contract is categorised by the EU as a "priority activity".

13.5 You **must** ensure that any waiver will not breach EU regulations before you get permission to waive the Procurement Regulations. You **must** take Procurement advice if you are in any doubt on the matter.

- 13.6 In the event that it is necessary to waive Procurement Regulations relating to contracts you **must** obtain the written agreement of the Head of Service, Procurement Officer and Director of Finance and Support Services, and Chief Executive.

Rule 3

- (a) Where the Procurement Regulations apply to a Contract a Director's action may be taken to waive any provision, so long as this will not lead to a breach of UK or EU legislation. Waivers relating to contracts may be granted by the Director of Finance and Support Services after reviewing comments by Head of Service, Procurement & Legal Services, HR and Finance and signed by the Director of the Service.
- (b) Waivers are an exception **not to be** sought except where absolutely necessary.

14.0 Extensions and Variations

- 14.1 Subject to any statutory restrictions and compliance with Financial Regulations a Director may authorise the following extensions and variations to an existing contract, following consultation with Procurement and Legal Services
- (a) Either:
- (i) an extension for a particular period provided for within the terms of the original contract (but subject to satisfactory outcomes of contract monitoring); or
 - (ii) a single extension of the contract by up to six months, or 1 year if agreed by Procurement, if there are valid reasons for not reletting the contract upon its original expiry date, provided that the extension will not contravene the Public Procurement Regulations 2015.
- (b) Either:

- (i) a variation, and if relevant a consequent change in price, determined in accordance with the contract terms; or
- (ii) a variation not within the original contract terms, which is not considered a significant decision, and which does not increase the Council's costs by more than £100,000; or
- (ii) not exceeding 10% of the original tendered price.

14.2 In any other circumstances a contract variation or extension may be agreed following consultation with Legal Services and Procurement. A report must be submitted to the Director of Finance and Support Services for sign off providing that to do so is consistent with the provisions of Financial Regulations and UK and EU Legislation.

Rule 4

Following consultation with Procurement and Legal Services:

- (a) Subject to compliance with EU and UK legislation, a Director may authorise an extension to a Contract which was provided for in the original contract terms, or for a single extension not exceeding six months.
- (b) A Director may authorise variations, including price variations, determined in accordance with the original contract terms, or other variations which do not increase the Council's costs by more than £100,000, or does not exceed 10% of the original tendered price.
- (c) All other extensions and variations must be signed off as agreed by the Director of Finance and Support Services.

15.0 Consortia and Corporate Contracts

15.1 Recognised consortium or collaborative procurement arrangements which have been properly tendered may be used without further need for competition, dependant on how the arrangement has been set up, provided that the relevant Director having due regard to advice from Procurement:

- (a) is satisfied, with evidence, that such an approach represents the best value for money available;
- (b) is satisfied that use of the arrangements is consistent with all UK and EU legislation;
- (c) is satisfied that the terms and conditions of the arrangement do not place undue restrictions or liabilities upon the Council;
- (d) the parties to the arrangement are recognised public bodies or providers from the private sector operating appropriate procurement arrangements on behalf of the public sector;
- (d) full, open and proper competition in respect of the creation of the contract has taken or will take place in accordance with the relevant UK and EU legislation.

15.2 The tendering and letting of corporate contracts i.e. Stationery are typically, framework arrangements for goods and services bought across Directorates. Where a corporate contract exists, the goods, services or works in question **must** only be bought from the nominated suppliers, unless otherwise agreed by Procurement.

16.0 Clarification and Post-Tender Negotiation

16.1 It is usually acceptable to clarify arrangements with tenderers following opening of Tenders. This might include areas of ambiguity, assumptions or possible errors. Any communication with tenderers must be done through the e-sourcing tool for audit purposes

16.2 In certain restricted circumstances it may be acceptable to negotiate on prices or other features of Tenders, but there are restrictions on the circumstances when post-tender negotiation

may be used. Prior to entering into negotiations, agreement and advice **must** be obtained from Procurement and Legal, and the process **must** be conducted in a fair manner that does not disadvantage or show undue favour to any tenderers. All negotiations **must** be fully documented.

17.0 Here to Help

17.1 The Council has adopted a Here to Help culture which provides an ethical framework for the council and **must** be included in all Tender documentation, and with which all suppliers must comply. The full details of this protocol are available on the Intranet site (link to be added), but in summary, the framework states that suppliers **must** have written policies governing:

- (a) standards of behaviour in respect of employee and director conduct, covering equalities, declarations of conflict, dealing with confidential information, gifts & hospitality, and dealing with the media;
- (b) standards of behaviour on working relationships with Council staff and elected members, including personal relationships, alleged misconduct by Council staff or members, and requests for information;
- (c) whistleblowing, including protected disclosures under the Employment Rights Act 1996.

Procurement Regulations

1. Every contract or official order for works, goods or services made by the Council shall be for the purpose of achieving the Council's statutory or approved objectives and shall conform to all relevant EU Directives and United Kingdom legislation.
2. The Procurement Regulations shall govern Council tendering and contract procedures. The Director of Finance and Support Services shall maintain and issue these Regulations. Any procurement activity shall proceed in accordance with the Regulations and any financial thresholds for procurement specified by the Regulations.
3. The Director of Finance and Support Services shall make the latest version of the Procurement Regulations available to all Senior Management Group members, all Members of the Council and any other person engaged in procuring works, goods or services on behalf of the Council. Senior Management or officers acting on their behalf shall apply the requirements of the Regulations when engaging in any procurement activity.
4. The purpose of procurement activity shall be to achieve best value for local people in accordance with the Council's statutory or approved objectives. Officers with responsibility for procurement shall ensure that they are able to demonstrate achievement of best value by having regard to a combination of economy, efficiency and effectiveness.
5. Nothing in the Procurement Regulations shall be construed as removing or diminishing the responsibility of all involved to meet individual and collective accountabilities.
6. The Council's Management Team shall ensure that the Executive or an Executive Member is consulted on any procurement activity of a controversial nature.
7. The contracting strategy and/or award of any contract for goods works or services shall be approved by the Executive where there is a significant cost to the Council in accordance with the Procurement Regulations.

8. The Senior Management Group must ensure that audit trails are in place for all procurement activity in accordance with the Procurement Regulations.
9. The Senior Management Group must ensure a register of contracts is kept for all contracts over the value of £5,000.

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Officer Employment Procedure Rules

1. Recruitment and appointment

(a) Declarations

- (i)** The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor, or officer of the Council; or of the partner of such persons.
- (ii)** No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

- (i)** Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii)** Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
- (iii)** Nothing in paragraph (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with the application for appointment.

2. Recruitment of head of paid service and chief officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3. **Appointment of head of paid service**

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of the Council. That Committee or Sub-Committee must include at least one Member of the Executive.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of the Executive.
- (c) Where a Committee, Sub-Committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as the Head of the Council's Paid Service, the Council must approve that appointment before an offer of appointment is made to that person.

4. **Appointment of chief officers and deputy chief officers**

- (a) A Committee or Sub-Committee of the Council will appoint chief officers. That Committee or Sub-Committee must include at least one Member of the Executive.

- (b) An offer of employment as a Chief Officer shall only be made where no well-founded objection from any Member of the Executive has been received.

5. Notification of appointments

- (a)
 - (i) No offer of an appointment shall be made to the Head of Paid Service, Chief Officer or Deputy Chief Officer until the Chairman of the Committee or Sub-Committee (on behalf of the Committee or Sub-Committee) has notified the Head of Paid Service of the name and other relevant particulars of the person the Committee or Sub-Committee wishes to appoint.
 - (ii) The Head of Paid Service has notified every Member of the Executive of the name and other relevant particulars of the person the Committee wishes to appoint.
- (b) The Leader may object, on behalf of the Executive to an appointment within 5 working days of the issue of the notice in (a) above.
- (c) An offer of appointment may be made if:
 - (i) The Leader has notified the Chairman of the Committee or Sub-Committee within 5 working days that neither he or she nor any other Member of the Executive has any objection to the making of the offer.
 - (ii) The Head of Paid Service has notified the Committee or Sub-Committee that he or she has not received any objection within the period specified in (b) above.
 - (iii) The Committee or Sub-Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

6. Other appointments

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

7. Disciplinary Action

1. In the following paragraphs-

- (a) "the 2011 Act" means the Localism Act 2011;
- (b) "chief finance officer", "disciplinary action", head of the Council's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulation 2011;
- (c) "independent person" means a person appointed under section 28 (7) of the 2011 Act;
- (d) "local government elector" means a person registered as a local government elector in the register of electors in the Council's area in accordance with the Representation of the Peoples Acts;
- (e) "the Panel" means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to dismissal of relevant officers of the Council;
- (f) "relevant officer" means the chief finance officer, head of the Council's paid service or monitoring officer, as the case may be.

2. A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

3. The Council must invite relevant independent to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
5. Subject to paragraph 6, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order-

 - (a) A relevant independent person who has been appointed by the Council and who is a government elector;
 - (b) Any other relevant independent person who has been appointed by the Council;
 - (c) A relevant independent person who has been appointed by another authority or authorities..
6. The Council is not required to appointment than two relevant independent persons in accordance with paragraph 5 but may do so.
7. The Council must appoint any panel at least 20 working days before the relevant meeting.
8. Before the taking of a vote at relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular-

 - (a) Any advice, views or recommendation of the Panel
 - (b) The conclusions of any investigation into the proposed dismissal; and
 - (c) Any representations from the relevant officer.
9. Any remuneration, allowances or feed paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the 2011 Act.

- ~~10. Where a Committee, Sub-Committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Head of the Council's Paid Service, as the Chief Finance Officer, or as the Council's Monitoring Officer, the Council's must approve that dismissal before notice is given to that person.~~

~~7. Disciplinary action~~

- ~~(a) Head of Paid Service, Monitoring Officer and Chief Financial Officer~~
- ~~(i) The Head of Paid Service, Monitoring Officer and Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.~~
- ~~(ii) No other disciplinary action may be taken in respect of any of those Officers except in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).~~
- ~~(iii) The Council must approve the dismissal of the Head of Paid Service before notice of dismissal is given to him or her.~~
- ~~(b) Other Officers~~
- ~~(i) Councillors will not be involved in the disciplinary action against any Officer other than as in 7(a) above except where such involvement is necessary for any investigation of inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action. Such disciplinary~~

~~action will be undertaken by the Head of Paid Service or by an Officer nominated by him/her.~~

- ~~(ii) Councillors will not be involved in the dismissal of an Officer other than as in 7(a) above except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals. Any dismissal procedure will be undertaken by the Head of Paid Service or by an Officer nominated by him/her.~~

~~8. Dismissal or disciplinary action against Chief Officers and senior managers~~

- ~~(a) Subject to the provisions of paragraph 7 above, the Committee or Sub-Committee or the Head of Paid Service (The Dismissor) shall not issue a notice of dismissal to the Head of Paid Service, a Chief Officer or Deputy Chief Officer until:~~

- ~~(i) they have notified the Head of Paid Service of the name of the person to be dismissed and any other particulars which the Dismissor considers are relevant to the Dismissal;~~
- ~~(ii) the Head of Paid Service has notified every Member of the Executive of the name and the other relevant particulars notified to him in (a)(i) above.~~

- ~~(b) The Leader may object on behalf of the Executive to the Head of Paid Service within five working days of the issue of the notice in (a)(i) above.~~

- ~~(c) Subject to the provisions of paragraph 7 above, a notice of dismissal may be issued by the Dismissor if:~~

- ~~(i) the Leader has notified the Dismissor within the period specified that neither he nor any other Member of the Executive has any objection to the dismissal;~~

~~(ii) the Head of Paid Service has notified the Dismissor that he/she has not received an objection within the period specified; or~~

~~(iii) the Dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.~~

~~9. Nothing in paragraph 2 shall prevent a person from serving as a Member of any Committee or Sub-Committee established by the Authority to consider an appeal by:~~

~~(a) another person against any decision relating to the appointment of that other person as a member of staff of the Authority; or~~

~~(b) a member of staff of the Authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.~~

Article 6 – Scrutiny Committees

6.1 Terms of reference

The Council will appoint the scrutiny committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
Corporate Business Scrutiny	<ol style="list-style-type: none">1. To develop policy options and to review and scrutinise the policies of the Council relating to Communications, Corporate Performance and Risk Management, Local Strategic Partnership, Customer Service, Finance, Information and Communications Technology, Democratic Services, Member Support, Facilities Management, Asset Management, Legal, Revenues and Procurement.2. To consider the budget setting proposals and strategies of the Council.3. To make recommendations to the Executive on matters within the remit of the Committee.4. To take evidence from interested groups and

Committee	Scope
	<p>individuals and make recommendations to the Executive and Council for policy change on matters within the remit of the Committee.</p> <p>5. To consider issues referred by the Executive, including modifications to the Constitution, or members of the Committee and where the views of outsiders may contribute, take evidence and report to the Executive and Council on matters within the remit of the Committee.</p> <p>6. To consider any item referred to the Committee by any Member of the Council who is not a member of this Committee and decide whether that item should be pursued on matters within the remit of the Committee.</p> <p>7. To appoint annually Standing Panels as may be determined, which shall be given a brief to consider a specified service area relating to matters within the remit of the Committee and report back to the Committee on a regular basis as determined by the Committee.</p> <p>8. To consider, should it</p>

Committee	Scope
	<p>choose to do so, any item within the remit of the Committee to be considered by the Executive (except items of urgent business). The relevant report to the Executive shall consider any report and recommendations on the item submitted by the Scrutiny Committee.</p>
<p>Community Scrutiny</p>	<ol style="list-style-type: none"> <li data-bbox="847 837 1449 1778">1. To develop policy options and to review performance and scrutinise the policies of the Council relating to Licensing, Environmental Health, Crime and Disorder Reduction, Emergency Planning, Community Development, young people, Leisure, sport, arts, markets, diversity, grants, frontline Councillor engagement, valuing people, housing strategy, private sector housing, disabled facility grants, houses in multiple occupation, housing options, community meals, citizens' advice, benefits, Local Strategic Partnership and health scrutiny. <li data-bbox="847 1823 1449 2002">2. To make recommendations to the Executive on matters within the remit of the Committee.

Committee	Scope
	<ol style="list-style-type: none"> <li data-bbox="858 237 1425 618">3. To take evidence from interested groups and individuals and make recommendations to the Executive and Council for policy change and review the performance of outside bodies on matters within the remit of the Committee. <li data-bbox="858 663 1414 1043">4. To consider issues referred by the Executive, or members of the Committee and where the views of outsiders may contribute, take evidence and report to the Executive and Council on matters within the remit of the Committee. <li data-bbox="858 1088 1398 1469">5. To consider any item referred to the Committee by any Member of the Council who is not a member of this Committee and decide whether that item should be pursued on matters within the remit of the Committee. <li data-bbox="858 1514 1425 1984">6. To appoint annually Standing Panels as may be determined which shall be given a brief to consider a specified service area relating to matters within the remit of the Committee and report back to the Committee on a regular basis as determined by the Committee.

Committee	Scope
	<p>7. To consider, should it choose to do so, any item within the remit of the committee to be considered by the Executive (except items or urgent business). The relevant report to the Executive will be made available to the Scrutiny Committee. The Executive shall consider any report and recommendations on the item submitted by the Scrutiny Committee.</p> <p>8. To consider matters referred to the Committee by the Executive/Portfolio Holder on matters within the remit of the Committee and refer the matter to the Executive following consideration of the matter.</p>
Environment Scrutiny	<p>1. To develop policy options and to review and scrutinise the policies of the Council relating to planning policy, local development framework, Building Control, Planning Enforcement, Development Control<u>Management</u>, transport policy (concessionary fares and subsidised bus routes), parking and economic development, energy conservation, waste management, parks and</p>

Committee	Scope
	<p>open spaces, historic buildings, conservation – green agenda, Local Strategic Partnership and street scene.</p> <ol style="list-style-type: none"> <li data-bbox="858 499 1447 663">2. To make recommendations to the Executive on matters within the remit of the Committee. <li data-bbox="858 712 1447 1048">3. To take evidence from interested groups and individuals and make recommendations to the Executive and Council for policy change on matters within the remit of the Committee. <li data-bbox="858 1097 1447 1478">4. To consider issues referred by the Executive, or members of the Committee and where the views of outsiders may contribute, take evidence and report to the Executive and Council on matters within the remit of the Committee. <li data-bbox="858 1527 1447 1908">5. To consider any item referred to the Committee by any Member of the Council who is not a member of this Committee and decide whether that item should be pursued on matters within the remit of the Committee. <li data-bbox="858 1957 1447 2031">6. To appoint annually Standing Panels as may be

Committee	Scope
	<p>determined which shall be given a brief to consider a specified service area relating to matters within the remit of the Committee and report back to the Committee on a regular basis as determined by the Committee.</p> <p>7. To consider, should it choose to do so, any item within the remit of the Committee to be considered by the Executive (except items of urgent business). The relevant report to the Executive will be made available to the Scrutiny Committee. The Executive shall consider any report and recommendations on the item submitted by the Scrutiny Committee.</p> <p>8. To consider matters referred to the Committee by the Executive/ Portfolio Holder on matters within the remit of the Committee and refer the matter to the Executive following consideration of the matter.</p>

6.2 General role

Within their terms of reference, scrutiny committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

- (ii) make reports and/or recommendations to the Executive and/or the Full Council in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive.

6.3 **Specific functions**

- (a) **Policy development and review.** Scrutiny Committees may:
 - (i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options; and
 - (iv) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area; and
 - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

- (vi) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance.
- (b) **Scrutiny.** Within their terms of reference, scrutiny committees may:
 - (i) review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) question Members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (iv) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;and
 - (v) question and gather evidence from any person (with their consent).
- (c) **Finance.** Scrutiny committees may exercise overall responsibility for any finances made available to them.
- (d) **Annual report.** Scrutiny committees must report annually to full Council on their workings and make

recommendations for future work programmes and amended working methods if appropriate.

- (e) **Officers.** Scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work. It is the responsibility of the executive in conjunction with the Head of the Paid Service to ensure appropriate and adequate officer support for the work of Scrutiny Committees.

6.4 **Proceedings of scrutiny committees**

Scrutiny committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

2.0 FUNCTIONS OF COMMITTEES, ETC.

A. RESPONSIBILITY FOR COUNCIL FUNCTIONS

A.1 DEVELOPMENT MANAGEMENT COMMITTEE

12 Members of the Authority

Planning and Conservation

1. Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations).
2. Within the framework of Council policy, and having regard to the Development Plan, other planning guidance and development briefs approved by the Council to consider and determine applications for permission required under development control, control of advertisements, tree and building preservation and conservation, hazardous substances consent and to authorise the making of Orders and Agreements and the issue of Notices in connection with development control, trees and listed buildings.

A.2 LICENSING COMMITTEE

15 Members of the Authority

Taxi, gambling, Licences under the Licensing Act 2003, Gambling Act 2005, Policing and Crime Act 2009 and miscellaneous licensing

1. Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations.

2. Within the framework of Council policy to issue, refuse, vary, suspend, revoke, make standard conditions and/or make specific conditions, with regard to all licences and registrations and permits.

A.3 LICENSING SUB-COMMITTEE

3 Members of the Authority (drawn from the membership of the Licensing Committee)

To undertake the discharge of the Council's functions under the Licensing Act 2003 as follows:

1. To determine applications for personal licenses where a police objection is made.
2. To consider police objections requesting revocation of a personal licence where convictions come to light after grant or renewal.
3. To determine applications for Premises Licences/Club Premises Certificates, where a relevant representation is made.
4. To determine applications for provisional statements, where a relevant representation is made.
5. To determine applications to vary Premises Licences/Club Premises Certificates, where relevant representations are made.
6. To determine applications to vary a designated premises supervisor, where a police objection is made.
7. To determine applications for the transfer of Premises Licences where a Police objection is received.
8. To determine applications for interim authorities where a police objection is received.
9. To determine applications to review Premises Licences/Club Premises Certificates.
10. To decide to object when the local authority is a consultee and not the relevant authority considering the application.
11. To determine whether to give a counter notice following a police objection to a Temporary Event Notice.

To undertake the discharge of the Council's functions in respect of the following:

12. To determine applications for dual driver licences where the applicant has relevant convictions and any other application which the Head of Community Safety considers should be brought to a sub-committee.
13. To determine applications for private hire driver licences where the applicant has relevant convictions and any other application which the Head of Community Safety considers should be brought to a sub-committee.
14. To determine applications for hackney carriage and private hire vehicle licences which the Head of Community Safety considers should be brought to a sub-committee.
15. Determination in respect of suspensions and revocations for hackney carriage and private hire vehicles and drivers and private hire operators licences, which the Head of Community Safety considers should be brought to a sub-committee.
16. To consider and determine appeals in respect of those decisions by officers made in relation to hackney carriage and private hire vehicles and drivers and private hire operators licences.
17. To determine applications for the grant, renewal, transfer or revocation of a sex shop licence under the Local Government (Miscellaneous Provisions) Act 1982.
18. To grant, refuse, transfer and revoke track betting licences.
19. To refuse applications for the grant or renewal of gaming machine permits and permits in respect of premises used wholly or mainly for the provision of amusement by way of machines.
20. To determine any licensing application referred to it by the Head of Community Safety, other than policy issues.
21. To determine and consider appeals in respect of decisions by Officers in relation to site licences under

the Caravan Sites and Control of Development Act 1960.

To undertake the discharge of the Council's functions under the Gambling Act 2005 as follows:

22. To determine an application for the grant, transfer or variation to a premises licence where a relevant representation has been received and not withdrawn.
23. To determine applications for provisional statements, where a relevant representation is made and not withdrawn.
24. To determine applications to review a Premises Licence/Club Premises Certificate.
25. To determine applications for Club Gaming permits.
26. To determine applications for Club machine permits and other Club machine permits where objections have been received and not withdrawn.
27. To cancel Club Gaming/Club Machine permits.
28. To determine whether to give a counter notice to a Temporary Use Notice

A.4 HUMAN RESOURCES COMMITTEE

7 Members of the Authority

The Human Resources (HR) Committee's functions relate to all aspects of the Council's role as an employer.

This includes the monitoring and strategic overview of HR activity in the following areas:

- Recruitment and retention
- Terms and conditions and benefits offered to employees
- Valuing diversity, with particular reference to achieving a workforce that is representative of our community and achieving a higher level of the equality standard
- Employee relations issues, including disputes
- HR services, including definition of processes and implementation of timetables

- Learning and development, with particular reference to developing staff to ensure that we have the relevant skills to achieve our corporate priorities and also ensure necessary actions are taken to retain IIP status
- Absence management
- The means by which employee performance should be managed, using PDR's and competencies and/or other processes as available

The Committee will also assume responsibility for:

- The approval and implementation of new and revised HR policies as developed
- To consider current, future and potential initiatives and developments in HR thinking and best practice
- Overseeing the implementation and co-ordination of the member training programme
- Acting as the authority's steering group to advise it in relation to the discharge of its responsibilities for health and safety by:
 - providing a focus for the consideration of health and safety matters
 - monitoring the steps taken within the Council to ensure the health and safety of its stakeholders
 - advising the authority of the steps that may be required to comply with regulations and codes of practice
- Chief Officers' dismissal, grading, grievance and redundancy and early retirement pay and appointments (in line with national conditions and local procedures).
- All other matters relating to the employment of staff within the Authority, which are in line with Council procedures and delegated authorities.

Delegated Authority

The Committee has full delegated authority to act within the remit of its functions. The only limits to this are:

- Decisions which would be contrary to the Constitution.
- Decisions which would be contrary to current legislation.

A.5 DIRECTOR RECRUITMENT PANEL

5 Members of the Authority

On behalf of the Council to make appointments (subject to rules requiring Council to confirm the statutory functions (monitoring and chief finance officer(s))) to the posts of Directors.

A.6 STANDARDS COMMITTEE

5 District Councillors appointed proportionately (of whom 1 Member may be a Member of the Executive nominated by the Leader of the Council)

Terms of Reference

The Standards Committee will have the following roles and functions:

- (1) promoting and maintaining high standards of conduct by Members and Co-Opted Members of the authority;
- (2) advising and assisting Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendation to Town and Parish Councils on improving standards or actions following a finding of a failure by a Town or Parish Councillor to comply with the Code of Conduct;

- (3) to progress complaints on behalf of Town and Parish Councils;
- (4) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (5) to receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority assessment criteria;
- (6) receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct;
- (7) arranging to train Members and Co-opted Members to observe the Members' Code of Conduct;
- (8) assisting Councillors and co-opted Members to observe the Members' Code of Conduct;
- (9) hearing and determining complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
- (10) advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards or conduct throughout the Council;
- (11) maintaining oversight of the Council's arrangements for dealing with complaints;
- (12) informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (13) appointment of Sub-Committee.

A.7 STANDARDS SUB-COMMITTEE

3 District Councillors appointed proportionately (drawn from the membership of the Standards Committee)

Terms of Reference:

To conduct (code of conduct) hearings.

A.8 AUDIT COMMITTEE

7 Members of the Authority

Terms of Reference:

Audit Activity

1. To consider the Internal Audit and Business Improvement Manager's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
2. To consider summaries of specific Internal Audit reports as requested.
3. To consider reports dealing with the management and performance of the providers of Internal Audit services.
4. To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.
5. To consider the External Auditor's annual letter, relevant reports and the report to those charged with governance.
6. To consider specific reports as agreed with the External Auditor.
7. To comment on the scope and depth of external audit work and to ensure it gives value for money.
8. To liaise with the Audit Commission over the appointment of the Council's External Auditor.

9. To commission work from internal and external audit.

Regulatory Framework

10. To maintain an overview of the Council's Constitution in respect of rules of procedure relating to contracts, financial regulations and financial procedures and codes of conduct and behaviour.
11. To review any issue referred to it by the Chief Executive or a Director or any Council body.
12. To monitor the effective development and operation of risk management and corporate governance in the Council.
13. To monitor Council policies on "Confidential Reporting" and the anti-fraud and anti-corruption strategy and the Council's complaints process.
14. To oversee the production of the Authority's Annual Statement of Accounts.
15. To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
16. To consider the Council's compliance with its own and other published standards and controls.
17. To review arrangements for delivering value for money.
18. To review the Council's finances including borrowing, loans, debts investments and banking arrangements.

Accounts

To approve the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from

the financial statements or from the audit that need to be brought to the attention of the Council.

To consider the External Auditors' report to those charged with governance on issues arising from the audit of the accounts.

B. OTHER COMMITTEES, ETC

B.1 LOCAL JOINT PANEL

(Comprising 4 Members of the Council and 4 representatives of employees drawn from the constituent trade union (currently UNISON), with substitutes)

CONSTITUTION, POWERS AND DUTIES

1. Title

The Committee shall be called the “Local Joint Panel”.

2. Representation

The Local Joint Panel shall comprise of the 4 Members of East Herts Council to be appointed annually by the Local Authority and an equal number of employee representatives.

Named substitute members may be appointed by the employee side, to attend meetings of the Local Joint Panel in the absence of a member thereof provided prior notice is given to the Head of Democratic and Legal Support Services.

If a member of the Local Joint Panel ceases to be a member or employee of the Local Authority he/she shall thereupon cease to be a member of the Local Joint Panel; any vacancy shall be filled by the Local Authority, the organisation or the combination of organisations concerned.

3. Chairman

A Chairman and a Vice-Chairman shall be appointed by the Local Joint Panel at its first meeting in each year. If the Chairman appointed be a member of the Local Authority, the Vice-Chairman shall be appointed from the employee side, and vice versa. The Chairman of a meeting may vote as a Panel member but shall not have a casting vote.

4. Officers

The Head of People and Organisational Development of the Local Authority shall act as Secretary to the Employer's Side.

5. Functions

The functions of the Local Joint Panel shall be:

- (a) To establish regular methods of consultation and negotiation between the Local Authority and its employees on matters of mutual concern with the intent of maintaining and developing an efficient service. This process will aim to address differences should they arise. No question of an individual's discipline, promotion, or efficiency or conditions of employment shall be within the scope of the Joint Panel;
- (b) To consider any relevant matter referred to it by a Committee of the Local Authority, or by any of the employee organisations;
- (c) To make recommendations to Human Resources Committee and/or a suitable Committee of the Local Authority as to the application of the terms and conditions of service and the education and training of employees of the Authority;
- (d) To discharge such other functions specifically referred to the Local Joint Panel with the exception of staffing issues;
- (e) To consider matters relating to Health and Safety at Work referred to the Local Joint Panel by the Employee Associations or by a Committee of the Local Authority.

6. Rules and Regulations

- (a) The Local Joint Panel shall meet during office hours as and when required, but not less than quarterly. The Chairman or Vice-Chairman may direct the Secretary to call a meeting at any time. A meeting shall be called within seven days of the receipt of a requisition signed by at least two members of either side. The matters to be discussed at any meeting of the Local Joint Panel shall be stated upon the notice summoning the meeting.
- (b) The quorum of the Local Joint Panel shall be two representatives of each side.
- (c) Either side will have the right to co-opt, in a consultative capacity, representatives of particular sections affected by a question under discussion which are not directly represented on the Panel but only for the period during which the relevant question is under consideration.
- (d) Either side shall arrange for the attendance in an advisory capacity of an Officer or Trade Union Official at any Panel meeting where it would be helpful to the business under discussion.
- (e) Attendances at (c) and (d) shall be notified in advance to the Head of People and Organisational Development in their capacity as Secretary to the Employer's Side.
- (f) No recommendation shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Local Joint Panel, and in the event of either the Local Joint Panel being unable to arrive at an agreement or the relevant Council body disagreeing with the Panel's recommendations, then the matter in dispute should either be referred:

- (i) to an independent arbitrator acceptable to both sides, such as ACAS, in order to secure an agreement, or
- (ii) to the Joint Secretaries of the East of England Regional Council, should the dispute concern conditions of service, to advise/mediate.

The decisions of the bodies referred to above will be binding on both sides.

- (g) The proceedings of any meeting of the Local Joint Panel shall be recorded and reported at the appropriate Council Meeting, but before submission, the Minutes shall be approved by the Head of Human Resources acting as Secretary to the Local Joint Panel and the person nominated by the staff side to act as its Secretary.

B.2 DISTRICT PLANNING EXECUTIVE PANEL

To make recommendations to Council, via the Executive, on issues associated with the East Herts District Plan.

B.3 HEALTH AND WELLBEING PANEL

To consider matters relating to health in East Herts, in particular to:

1. scrutinise local health issues in the East Herts area;
2. scrutinise partner actions to reduce health inequalities in the East Herts area;
3. scrutinise arrangements for the provision of health care in the East Herts area;
4. make recommendations to the Community Scrutiny Committee on health issues; and

5. consider matters referred to it by the Community Scrutiny Committee

B.4 EAST HERTS/NORTH HERTS/STEVENAGE CCTV JOINT COMMITTEE EXECUTIVE BOARD

- 1.0 Purpose of the Board
- 1.1 To discuss and agree the strategic and policy issues relating to the jointly owned and operated CCTV Control and Monitoring service.
- 1.2 To deal with all matters defined under the CCTV 'Code of Practice' as the responsibility of the CCTV Executive Board.
- 1.3 To consider and approve expansion or contraction proposals for the CCTV Control Room, Network, and monitoring service.
- 1.4 To consider and agree changes to the CCTV 'Code of Practice'.
- 1.5 To ensure the Independent inspection regime is set up and maintained.
- 1.6 To receive and approve the Independent Inspectors annual report.
- 1.7 To consider complaints regarding any breaches of the CCTV 'Code of Practice' and recommendations for preventing breaches. To recommend disciplinary action where appropriate.
- 2.0 Constitution of the Board
- 2.1 The CCTV Executive Board is constituted as a joint committee of the Councils, Executive Committee comprising of three elected members of each Authority.

- 2.2 Meeting shall be held at least one per annum or when there is sufficient business.
- 2.3 To make recommendations on any of the above to the Officer Management Board.
- 3.0 Quorum
 - 3.0.1 A Quorum shall be 3 members with at least one from each of the partner authorities.
- 3.1 Chairman
 - 3.1.1 The Chairman shall be a member of the Authority hosting the meeting
- 3.2 Venue
 - 3.2.1 The meetings shall be held alternatively at the offices of the partner authority
- 3.3 Procedural Matters
 - 3.3.1 The meetings shall follow the normal Standing Orders of the hosting Authority.

B.5 EAST HERTS LOCAL STRATEGIC PARTNERSHIP BOARD

LSP Board

- 1. To identify strategic issues and priorities for improvement in the area based on evidence.
- 2. The Board may commission the operations group to provide research, evidence, actions and solutions.
- 3. The Board may request the operation group Chair to arrange for reports to be presented to the Board.
- 1. Overall responsibility for shaping and sustaining a vibrant and outcome focused LSP.

2. ~~Overall responsibility for the development and delivery of the Sustainable Community Strategy and the annual action plan.~~
3. ~~Strategic responsibility for matters relating to the Hertfordshire-wide LSP and the LAA.~~
4. ~~Strategic responsibility for influencing and responding to regional and national policy.~~
5. ~~Responsibility for funding and commissioning.~~

LSP Strategy Operations Group

1. The operations group may commission Task and Finish groups designed to address the priorities identified by the Board.
2. The operations group will be the mechanism for receiving feedback from the Task and Finish groups for presentation to the Board.
1. ~~To advise the board on all matters relating to the LSP, the community strategy and the LAA both reactively (in response to requests from the board) and proactively.~~
2. ~~Responsibility for the development and delivery of the Sustainable Community strategy and annual action plan.~~
3. ~~Responsibility for identifying positive local contributions to the delivery of the LAA.~~
4. ~~To advise the board on agendas and forward work plans for the LSP.~~
5. ~~To propose to the board and administer funding and commissioning programmes for the LSP.~~
6. ~~To monitor, support and develop the work of the LSP sub partnerships and strategies.~~
7. ~~To advise the board on new issues, opportunities and threats as they arise.~~

B.6 EAST HERTS COUNCIL AND STEVENAGE COUNCIL JOINT REVENUES AND BENEFITS COMMITTEE

Purpose

This is a joint committee of Stevenage Borough and East Hertfordshire District, under the provisions of section 10 of the Local Government Act 1972 and all regulations made thereunder.

The terms of reference of the committee are as follows:

1. To approve the annual Service Plan for the Shared Revenues and Benefits Service.
2. To receive explanations of variances in service performance against the agreed Service Plan.
3. To approve the budget of the Shared Service and where so delegated determine requested virements within that budget.
4. To give initial consideration to future development of the Shared Service and any changes in legislation that may effect service delivery and make recommendations thereon to the Executive or Officers.
5. Where it is considered appropriate, report to the Executives of the Constituent Councils.

The Joint Committee shall comprise three named elected Members from both authorities with full voting rights. The Members appointed shall serve on the committee until successors in office are appointed.

The Joint Committee shall at its first meeting each year, elect one of its Members to be Chair and one of its Members to be Vice-Chair, with the chair from one Council and the Vice Chair from the other. These positions to be rotated annually. The Chair and Vice-Chair shall unless they resign or cease to be Members of the Joint Committee, continue in office until their successors have been appointed.

Quorum

The quorum of a meeting of the Joint Committee will be three elected members, with at least one from each Council. If at any part during a meeting, a quorum is not present, the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair.

Voting

Matters will be decided by the Joint Committee by a simple majority of those Members voting and present in the room at the

time the question was put. The Chair shall take the votes by a show of hands. If there are equal votes for and against, the Chair may exercise a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote, save that if no second or casting vote is made, the proposal will automatically fail.

Administration

The Access to Information Rules (as set out in the Constitutions of the Constituent Councils) to apply to all meetings.

Each constituent Council act as host to the meetings in alternate years, with the relevant host Council convening those meetings, distributing the agenda, clerking the meetings and producing the minutes.

Meetings to be held in January (service planning for coming year) and October for budgets and mid year service plan review. Constituent Councils to liaise to confirm mutually suitable times/dates.

Review

The constituent Councils will review the Joint Committee's terms of reference annually.

B.7 MEMBERS ON OUTSIDE BODIES

Members who are appointed to represent the Council on outside bodies shall report once a year to the relevant Portfolio Holder.

3. OFFICER DELEGATION

A. CHIEF EXECUTIVE, DIRECTORS, ALL HEADS OF SERVICE AND THEIR DULY AUTHORISED OFFICERS

THE FOLLOWING DELEGATIONS APPLY TO THE CHIEF EXECUTIVE, DIRECTORS, HEADS OF SERVICE OR THEIR DULY AUTHORISED OFFICERS (WHERE PARTICULAR OFFICER(S) IS/ARE INVOLVED THIS IS INDICATED).

1. In accordance with the Council's Constitution, the management and administration of the services for which they are responsible and the incurring of expenditure for such purposes within approved estimates and in accordance with the Financial Regulations and Rules of Procedure Relating to Contracts. This shall include authorising the Chief Executive, Directors, and Heads of Service to take such action as is necessary, within approved budgets, procedures and business plans, to implement the decisions and policies of the Council.
2. To dispose of surplus or obsolete stock and equipment at the best prices obtainable in accordance with the procedures agreed with the Director of Finance and Support Services in accordance with the Financial Regulations.
3. To serve requisitions for information as to the ownership of property under the various statutory provisions where necessary.
4. To give written notice seeking deemed planning permission for proposed development to be carried out by the Council.
5. The appointment and operational management of all categories of staff, for whom they are responsible.

6. The designation of officers for authorisation of the payment of accounts.
7. To take disciplinary action, in relation to staff for whom they are responsible, in accordance with the Council's Disciplinary Procedure.
8. The authorisation of attendance or secondment of employees on courses or seminars, etc, within the approved Training Plan.
9. The authorisation of carrying forward of annual leave from one year to the next up to 5 days per annum.
10. The determination of ex gratia payments in respect of damage to, or loss of, employees' personal property up to £200 and, in consultation with the appropriate Portfolio Holder, for all other amounts.
11. To transfer expenditure between budget areas, providing this is within their approved budget and within the expenditure unit, having informed the Director of Finance and Support Services before actioning this.
12. To approve the attendance of Officers at conferences/seminars, which are not included in the Standing List of Conferences.
13. The granting of leave of absence without pay for periods not exceeding three months and special leave with pay on compassionate grounds.
14. To consider and determine appeals relating to disciplinary sanctions, grading and grievances by employees other than chief officers.

B. CHIEF EXECUTIVE

1. To act as Head of Paid Service pursuant to Section 4 of the Local Government and Housing Act 1989.

2. All matters relating to staffing, employment, terms of conditions and industrial relations for the Council's workforce, save those matters relating to the Head of Paid Service and Chief Officers as specified elsewhere in the Constitution. To delegate decisions regarding staffing matters as appropriate.
3. To issue redundancy notices immediately it becomes apparent that redundancies are likely to arise, subject to any policy constraints which may be applied from time to time.
- ~~4. To make closure of noisy premises orders under the Anti-Social Behaviour Act 2003.~~
5. In consultation with the Executive Member for Finance, to approve schemes up to £50,000 within the Capital Contingency Budget.
6. To rearrange dates and times of meetings, previously approved, following consultation with the Leader of the Council; such action being necessary in the interests of the efficient running of the Council.
7. To respond, in consultation with the Leader, to consultation documents in accordance with the Council's approved policies.

C. PEOPLE AND ORGANISATIONAL DEVELOPMENT

1. Human Resource matters shall be subject to the overall direction of the Head of Paid Service.
2. The administration and implementation, in consultation with Directors, of the Council's organisational, employee development and human resource plans.
3. The interpretation and application of pay scales and conditions of service for all employees.

4. Applications, in consultation with the appropriate Directors, for extensions of service.
5. The administration of any schemes for awards to employees making suggestions which could affect economies and improve efficiency.
6. To determine applications for extensions of sick pay.
7. To award accelerated increments within Scales 1, 2 and 3 in recognition of approved examination success and individual merits in accordance with the Council's current policy.
8. The determination of car allowances in accordance with the criteria adopted by the Council in accordance with the Council's current policy.

D. DIRECTORS

1. In consultation with the Director of Finance and Support Services the granting of awards to employees under the Long Service Award Scheme.
2. In consultation with the appropriate Director and following a report to Corporate Management Team, to give consent to Officers graded above Scale Point 28 to engage in any other business or take up any other additional appointment pursuant to Paragraph 71 of the National Conditions of Services.
3. To dismiss staff in accordance with the Council's disciplinary procedure.
4. In consultation with the Leader of the Council, to settle complaints to the Local Ombudsman, or the formal complaint procedure where applicable, through an ex gratia payment of compensation not exceeding £1,000 per case.
5. To act on the Council's behalf and to commit the Council to such course of action as may be

considered appropriate in order to respond to an emergency event including chemical or biological terrorism or similar incident requiring concerted action.

6. To authorise prosecutions subject to the Legal Services Manager being satisfied as to the sufficiency of evidence in appropriate cases.
7. To authorise staff possessing such qualifications as may be required by law or in accordance with the Council's policy and having the necessary competency and experience, to carry out surveillance, to take samples, carry out inspections, enter premises, form opinions and generally perform the functions of a duly authorised officer of the Council (however described) under the enactments and regulations contained in Part 3, F and G, including applications for warrants to enter property. In relation to any powers which require to be dealt with by a Solicitor of the Supreme Court, this power shall be delegated to the Legal Services Manager.
8. To enter into compromise agreements in their area or in another area.
9. To authorise payment of the local award to those employees whose performance is considered by the relevant Director and the Corporate Management Team to be entirely satisfactory, in accordance with current policy.
10. To appoint/nominate persons to serve on outside organisations as representatives of the District Council.
11. To execute documents under seal.
12. To authorise minor changes to fees and charges in consultation with the relevant Portfolio Holder provided the changes are in accordance with the Council's fees and charges policy.

E. LEGAL SERVICES MANAGER

1. To institute and defend legal proceedings.
2. To settle disputes and litigious actions.
3. To apply for warrants to enter property.
4. To authorise the appearance of non-admitted legal staff, within his section, in the Magistrates Court in accordance with the provisions of Section 223 of the Local Government Act 1972.
5. In consultation with the Director of Neighbourhood Services to determine applications under Sections 191 and 192 of the Town and Country Planning Act 1990 for lawful development certificates.
6. To issue Stop Notices and take further enforcement action, where the Development Management Committee has authorised action, and, in other cases, give a direction under article 4 of the Town and Country Planning (General Permitted Development) Order 1995, issue Enforcement Notices and Stop Notices subject to such action being taken following consultation with the Director of Neighbourhood Services, and to such action being reported to the next meeting of the Development Management Committee, in order to enable the Committee to concur, modify, or enforce such Notice as it considers necessary.
7. To apply for injunctions in appropriate cases where there are any breaches of planning and/or building control, Tree Preservation Orders, or Listed Building and Conservation legislation where it is felt that contravention of planning and/or building control has taken place, and to give any undertakings in damages in such cases.
8. To issue Breach of Condition Notices in consultation with the Director of Neighbourhood Services.

9. To issue a Certificate of Opinion in connection with the Local Government and Housing Act 1989 – Politically Restricted Posts.

~~10. To exercise powers and duties under the Anti-social Behaviour Act 2003.~~

F. DIRECTOR OF NEIGHBOURHOOD SERVICES, HEAD OF PLANNING AND BUILDING CONTROL, OR THEIR DULY AUTHORISED OFFICERS (WHERE ANY OF THE POSTS IDENTIFIED HERE ARE THE LEAD OFFICER OR CASE OFFICER, DELEGATION SHALL NOT BE AVAILABLE TO THAT OFFICER IN THAT CASE)

Delegation for Planning Consents

The current delegation for planning consents is as follows:

1. To determine planning, Listed Building, Conservation Area Consent, reserved matters and advertisement applications except where the application:
 - (i) is a major development as defined in the Town and Country Planning (General Development Procedure) Order 1995;
 - (ii) applications for householder development considered to be contrary to approved planning guidelines where an objection has been received in writing which officers propose to approve;
 - (iii) is by a Member of the Council;
 - (iv) is by an officer of the Council;
 - (v) is one where a Member considers that delegated powers should not be exercised by the Director of Neighbourhood Services in which case the Member must notify and obtain the written agreement of the Chairman of the Development Management Committee

in writing stating the reasons why he/she should not determine the application³;

- (vi) applications requiring reference to the Secretary of State;
 - (vii) applications for approval which require linking to an agreement under Section 106 of the Town and Country Planning Act;
 - (viii) applications for development by or on behalf of the Council to which an objection has been made which is material to the development proposed.
2. To serve Planning Contravention Notices where it appears that a contravention of planning control has taken place.
 3. To make provisional Tree Preservation Orders and to confirm them when they are unopposed.
 4. To issue Breach of Condition Notices and Notices under Section 215 of the Town and Country Planning Act 1990 in consultation with the Legal Services Manager.
 5. To exercise the Council's powers under Section 70(a) of the Town and Country Planning Act 1990, by declining to determine an application for planning permission for the development of any land where, within a period of two years, ending with the date on which the application is received, the Secretary of State has refused a similar application referred to him under Section 77, or has dismissed an appeal against the refusal of a similar application, and where, in the opinion of the Director of Neighbourhood Services, there has been no significant change since the refusal or dismissal in the Development Plan or in any other material considerations.

6. The consideration, approval and payment of grants in respect of Listed Buildings and Conservation Areas.
7. To exercise the Council's planning powers for control of demolition.
8. To determine commuted car parking payments for planning applications.
9. To approve or reject plans submitted as minor amendments to planning applications previously submitted and approved, subject to consultation with the local Member(s) concerned in accordance with the Council's procedure in force for the time being.
10. To approve or reject plans submitted by a Member of the Council as minor amendments to planning applications previously submitted and approved, subject to consultation with the Chairman of the Development Management Committee and local Member(s) concerned (other than the Member who has submitted the application and subsequent amendment), if any, in accordance with the Council's procedure in force for the time being.
11. To make Tree Preservation Orders, and to determine applications for consent for the cutting down, topping or lopping of trees applications under the Hedgerow Protection legislation and exercise the powers and duties relating to high hedges under the Anti-social Behaviour Act 2003.
12. To determine applications for certificates of appropriate alternative development.
13. To determine, in consultation with the Legal Officer, applications for certificates of lawful use and development.
14. In cases of urgency and subject to consultation with the Chairman, to arrange for the serving of building preservation notices, enforcement notices, temporary

stop notices and Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, stop notices and directions relating to unlisted buildings in conservation areas.

15. To make observations on development proposals by Government Departments, statutory undertakers and Hertfordshire County Council, which are substantially in accordance with the Council's policies and are not likely to be controversial.
16. To advertise in the local press applications required to be advertised by statute or orders or regulations made thereunder, planning applications and applications for listed building consent.
17. To advertise in the local press and/or by a notice on site, at the discretion of the Director of Neighbourhood Services, applications for planning permission as required by any Development Order made by the Secretary of State.
18. After consultation with the Chairman of the Development Management Committee and the Legal Services Manager institute legal proceedings in respect of the contravention of Tree Preservation Orders and unauthorised works to trees in Conservation Area.
19. Enter into Planning Performance Agreements for complex planning.

DELEGATION:

Director of Neighbourhood Services and Director of Customer and Community Services

20. To authorise, after consultation with the Legal Services Manager an officer to enter land at any time for enforcement purposes in cases where admission has been refused or a refusal is expected or in cases of urgency.

21. To apply for warrants to enter property.
22. To authorise the institution of legal proceedings subject to the Legal Services Manager being satisfied to the sufficiency of the evidence. (This delegation applies to the Director of Neighbourhood Services only).
23. To issue Stop Notices and take further enforcement action, where the Development Management Committee has authorised action and, in other cases, issue Enforcement Notices and Stop Notices subject to such action being taken following consultation with Legal Services Manager and to such action being reported to the next meeting of the Development Management Committee, in order to enable the Committee to concur, modify, or enforce such Notice as it considers necessary.
24. To apply for injunctions in appropriate cases where there are any breaches of planning and/or building control, Tree Preservation Orders, or Listed Building and Conservation legislation where it is felt that contravention of planning and/or building control has taken place, and to give any undertakings in damages in such cases.
25. To determine submissions as to whether prior approval is required in relation to any of the forms of permitted development for which a prior approval process is required as set out in government regulations (as may be subsequently amended) and in relation to all of the matters which, as specified in the appropriate regulations, those approvals are to be made. Where the submission is one where a Member considers the delegated powers should not be exercised by the Director of Neighbourhood Services, in that case, the Member shall submit a request in writing to the Chairman of the Development Management Committee setting out why delegated powers should not be exercised. The Director of Neighbourhood Services shall determine whether delegated powers should be excised in

consultation with the Chairman and local ward Members

26. To determine whether or not it is expedient to take enforcement action where a breach of planning control has occurred, save where a Member requests, with the agreement of the Chairman.
27. To give screening opinions and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 as amended.

DELEGATION:

Director of Neighbourhood Services and Legal Services Manager

28. To enter into Agreements with the developers in accordance with planning legislation.
29. To determine applications submitted for approval under the Building Regulations and made under the Building Act 1984 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976.
30. To determine the building regulation fees charged by the Council.
31. To be the Appointing Officer for the purposes of the Party Wall Act 1996.
32. To act as Registration Officer pursuant to the Representation of the People Acts for those parliamentary constituencies within the District of East Hertfordshire.
33. To act as Returning Officer for the elections of councillors of the District of East Hertfordshire and those parishes within the District.

**G. DIRECTOR OF NEIGHBOURHOOD SERVICES OR DULY
AUTHORISED OFFICERS**

1. To exercise the Council's functions relating to hackney carriage/private hire licensing under the Town Police Clauses Act 1847 and 1889, the Local Government (Miscellaneous Provisions) Act 1976, the Transport Act 1985 and the Council's Standard Conditions applicable to Hackney Carriage and Private Hire Vehicles, Private Hire Operators and Private Hire Drivers and the Council's Hackney Carriage Byelaws.
2. To exercise the powers of the Council as registration authority including the issue, renewal and transfer of all licences and registrations listed in Schedule I below, upon appropriate conditions.
3. The issue of occasional permissions in respect of those licences listed in Schedule I upon appropriate conditions.
4. To authorise officers to sign licences listed in Schedules I and II.
5. The variation of licence conditions in respect of:
 - (i) those licences listed in Schedule I;
 - (ii) those individual licences listed in Schedule II where there are no objections.

Schedule I:

Charitable Collection Permits including:

 Street Collections

 House to House Collections

Game Licences

~~Motor Salvage Operators~~

Riding Establishments Licence

Zoo licence

Dangerous, Wild Animals Licence

Animal Boarding Establishments Licence

Dog Breeding Licence
Pet Shop Licence
Skin Piercing Registrations
Street Trading consent
Cooling Towers registration
HMO Licences
Caravan Site Licence

Schedule II:

Licences under the Licensing Act 2003, Gambling
Act 2005
Sex Shop Licences
Sexual Entertainment Venues

6. Pursuant to Section 223 of the Local Government Act 1972 to authorise and institute proceedings in any Magistrates Court in respect of offences or other matters falling within the legislation in Appendix A (below) (subject to the Legal Services Manager being satisfied as to the sufficiency of the evidence).
7. To authorise officers to exercise powers and duties falling within the legislation referred to at Appendix A (below), including applications for warrants to enter property, subject where appropriate to officers possessing such qualifications as may be required by law or in accordance with the Council's policies and having the necessary competency and experience.
8. To authorise suitably qualified and experienced officers to serve and sign in their own name all improvement notices, prohibition notices, decision, other notices with respect to food safety, health and safety, private sector housing, public health, building control and other legislation in Appendix A.
9. To authorise officers who are suitably qualified and experienced to serve and sign in their own name all authorisation, variation, revocation, enforcement and prohibition notices under local authority pollution

control enforcement.

10. To authorise such staff who are competent, suitably qualified and experienced to discharge the functions of the local authority relating to the appointment and duties of Officers in Appendix A.
11. To appoint as inspectors such persons having suitable qualifications as he or she thinks necessary for carrying into effect the provisions of the Environmental Protection Act 1990 and to terminate any appointment made, pursuant to Section 16 of the 1990 Act.
12. To instruct, on behalf of the Council, such veterinary surgeon(s) as may be appropriate from time to time, based on the specific knowledge required. That any Consultant Veterinary Surgeon so instructed on behalf of the Council be authorised to enter any premises to advise as necessary on action to be taken under the animal welfare legislation listed in Appendix A.
13. To nominate officers for the Council in respect of Notifiable Disease and food poisoning and for action under Section 47 of the National Assistance Act 1948.
14. Pursuant to Section 19 of the Health and Safety at Work etc Act 1974, to appoint as Inspectors such persons having suitable qualifications as he or she thinks necessary for carrying into effect the provisions of the Act and to terminate any appointment made; and pursuant to Section 39 of the Health and Safety at Work etc 1974, to authorise any such Inspectors to prosecute before a Magistrates Court for any offence under the said Act or Regulations made thereunder.
15. To arrange for other people to accompany Inspectors on Inspections of work places under the provisions of the Health and Safety at Work etc Act 1974.

16. To endorse any agreed transfers of enforcement responsibility for any particular premises, or parts of premises, or any particular activities carried on in them, from the Health and Safety Executive to the Council, or vice versa.
17. To submit, following consultation with the Director of Neighbourhood Services, objections in connection with applications relating to Operators' Licences where it appears that the grant or variation of such a licence would be prejudicial to the public interest on environmental, traffic or highway grounds.
18. To give directions and make applications to the Magistrates Court in respect of unauthorised travellers in the District.
19. To undertake prosecutions of hackney carriage drivers and private hire vehicle drivers for road traffic offences and other drivers for criminal offences relating to taxi ranks.
20. To authorise officers to discharge the functions contained in the European Communities Act 1972 and in particular the following matters:
 - (a) agricultural produce (quality standards and labelling);
 - (b) animal health and welfare;
 - (c) animal feed;
 - (d) consumer protection;
 - (e) environmental protection;
 - (f) food hygiene and standards;
 - (g) public health and standards;
 - (h) weights and measures (including measuring instruments).

21. To determine fees for planning applications.
22. To authorise staff who are competent, suitably qualified and experienced to discharge land drainage functions under the Public Health Act 1936 and the Land Drainage Act 1991.
23. To authorise the Director of Neighbourhood Services to appoint authorised officers to enforce the Sunbeds (Regulation) Act 2010, which seeks to prevent persons aged under 18 from using sunbeds.
24. To authorise the Director Neighbourhood Services and authorised officers as set out below to discharge functions under the Scrap Metal Dealers Act 2013:

Matters to be dealt with	Director of Neighbourhood Services	Officers (Community Safety and Health Services- Licensing Team)
Processing applications and supply of information to external agencies.		✓
Inclusion of conditions under section 3(8)		✓
Refusal of license	✓	
Variation to impose conditions on licence under section 4	If the applicant requests the right to make representations	If the applicant declines to make representations
Revocation of License under section 4	✓	
Entry inspection and compliance		✓

As referred to above the following enactments and regulations made under these Acts:

APPENDIX A

Animal Boarding Establishments Act 1963

Animal Welfare Act 2006

~~Anti-social Behaviour Act 2003~~

Betting, Gaming and Lotteries Act 1963

Breeding of Dogs Act 1973

Breeding of Dogs Act 1991

Breeding and Sale of Dogs (Welfare) Act 1999

Building Act 1984

Caravan Sites Act 1968

Caravan Sites and Control of Development Act 1960

Christmas Day Trading Act 2004

Cinemas Act 1985

Clean Air Act 1993

Clean Neighbourhoods and Environment Act 2005

Control of Pollution Act 1974

Criminal Justice and Public Order Act 1994

Dangerous Dogs Act 1989

Dangerous Dogs Act 1991

Dangerous Wild Animals Act 1976

Enterprising and Regulatory Reform Act 2013

Environment Act 1995

Environmental Protection Act 1990

European Communities Act 1972

Factories Act 1961

Food Safety Act 1990 (as amended)

Gambling Act 2005

Game Act 1831

Game Licences Act 1860

Gaming Act 1968

Guard Dogs Act 1975

Health Act 2006

Health & Safety at Work Etc Act 1974

Home Energy Conservation Act 1995

Housing Act 1985 (as amended)

Housing Act 1996

Housing, Grants, Construction and Regeneration Act 1996

Housing Act 1985

Housing Act 2004

Housing Act 2006
Hypnotism Act 1952
Licensing Act 2003
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Local Government Act 1972
Local Government Act 2000
Local Government and Housing Act 1989
Lotteries & Amusements Act 1976
Noise Act 1996
Noise & Statutory Nuisances Act 1993
Offices, Shops and Railways Premises Act 1963
Party Wall etc Act 1996
Pet Animals Act 1951 and 1983
Pollution Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Private Places of Entertainment (Licensing) Act 1967
Protection from Eviction Act 1977
Public Health (Control of Diseases) Act 1984
Public Health Act 1936
Public Health Act 1961
Rags, Flock and Other Filling Materials Act 1951
Refuse Disposal (Amenity) Act 1978
Riding Establishments Act 1964
Riding Establishments Act 1970
Road Traffic Act 1988
Sunbeds (Regulation) Act 2010
Sunday Entertainment Act 1932
Sunday Theatre Act 1972
Sunday Trading Act 1994
Theatres Act 1968
Transport Act 1985
Vehicles (Crime) Act 2001
Water Industry Act 1991
Zoo Licensing Act 1981

H JOINT ENFORCEMENT MANAGER

The Joint Enforcement Manager shall act for the Council as responsible authority for the purposes of the Licensing Act 2003.

J DIRECTOR OF FINANCE AND SUPPORT SERVICES

1. To administer the Council's car leasing scheme subject to such financial and policy constraints as may be applied from time to time.
2. To administer the naming and numbering, including the renaming and renumbering, of streets and buildings in the District of East Hertfordshire, in consultation with parish and town councils.

4. OTHER MISCELLANEOUS DELEGATIONS

ARTS AND LEISURE

1. The Director of Customer and Community Services, in consultation with the Executive, be authorised to implement the Council's annual arts award and give grants within budget and in accordance with the Council's policies.

DELEGATION:

Director of Customer and Community Services

2. Management and control of Hertford Theatre, Hertford subject to power to refuse any bookings being in consultation with the Executive.
3. Determination of the dates of Christmas and New Year closures of indoor swimming pools.

DELEGATION:

Director of Customer and Community Services

COMMUNITY ASSETS

1. The Director of Neighbourhood Services will compile the list of assets of community value in consultation with Executive Member for Community Safety and Environment and ward Members.

DELEGATION:

Director of Neighbourhood Services

2. Internal review of listing decisions and compensation decisions for asset of community value.

DELEGATION:

Director of Finance and Support Service

COMMUNITY RIGHT TO CHALLENGE

1. The Director of Neighbourhood Services is the proper officer for the receipt, validation and acceptance or rejection of expression of interests.
2. After consultation with appropriate Heads of Service, to determine whether grounds exist to reject an expression of interest, and , subject to prior consultation with the appropriate Portfolio Holder, to accept or reject an expression of interest on behalf of the Council, with an instruction to refer sensitive expressions of interest to the Executive for consideration.
3. To report to the Executive on any expressions of interests received.

DELEGATION:

Director of Neighbourhood Services

4. The Chief Executive Officer and Director of Customer and Community Services is appointed deputy for the proper officer to act in the situation where the proper officer is absent or if a conflict situation exists between the proper officer and the expression of interest submitted.

DELEGATION:

Chief Executive and Director of Customer and Community Services

5. The proper officer (or deputy) be responsible for managing each procurement exercise, subject to the settlement of the specification for the service and the evaluation of tenders being joint with the appropriate Head of Service or Director.

DELEGATION:

Director of Neighbourhood Services and Chief Executive and Director of Customer and Community Services

6. To act as the project lead for any procurement exercises.

7. To proposed to the Executive timescales for the period between acceptance of an acceptance of an expression of interest and start of the procurement exercise.
8. After consultation with appropriate officers, to propose a timetable of periods within which expressions of interest for specified services will be received.

DELEGATION:

Procurement Officer

DEMOCRATIC SERVICES

1. To submit a report to the Council or Committee (as the case may be) showing what allocation of seats would, in his/her opinion, best meet the requirements of Section 15(4) of the Local Government and Housing Act 1989, whenever
 - (a) the Council is required to review the allocation of seats on Committees between political groups, or
 - (b) the Council resolves to carry out such a review, or
 - (c) a Committee is required to review the allocation of seats on a Sub-Committee between political groups, or
 - (d) a Committee resolves to carry out such a review:

DELEGATION:

Head of Democratic and Legal Support Services

FINANCE

1. To represent the Council or the management board for the Hertfordshire Shared Audit Service (SIAS).
2. Appointment of a Bailiff for the whole or part of the area as the need arises.

3. Authorisation of loans for car purchase in accordance with National Conditions of Service.
4. Signing of Bank Transfers, cheques and authorise amendments to cheques.
5. Wherever necessary to amend affected charges for services to take account of changes in VAT or other forms of taxation provided that any action taken shall be reported to the next convenient meeting of the Executive.
6. To vary the rate of interest and issue notices to the Council's mortgages of any changes in the Council's rate of interest.
7. Authorisation of Officers to institute and appear in any legal proceedings relating to Council Tax and National Non Domestic Rates.
8. To exercise discretion under the 1988 Housing Benefits Scheme (and any amendments thereto) to disregard, in determining a person's income, the whole of any war disablement pension or war widow's pension payable to that person.
9. To carry out all the charging and collection functions arising out of Parts I to III of the Local Government Finance Act 1988 (and any amendments thereto) except for:
 - (a) the determination of discretionary non-domestic rate relief under Section 47,
 - (b) Other than for debts, to which 10 below applies the writing-off of debts in excess of £5,000 (in which case legislation 11.6.3 shall apply),
 - (c) the reduction or remission of liability under Section 49.
10. To write-off all Community Charges, Council Tax and NNDR outstanding, with the exception of a nominal sum of £5 in respect of each arrears payments, which are the subject of formal bankruptcy or liquidation claims.

11. To fix charges for the service of a Summons (Liability Order) for non-payment of Community Charges, Council Tax and NNDR and the issue of a Distress Warrant subject to the approval of the Court.
12. To administer and manage the Council's Collection Fund.
13. To set precept dates.
14. To administer the Council's insurances Fund.
15. To make determinations within approved budget as are required under Part IV of the Local Government and Housing Act 1989 in respect of the funding of expenditure capital (but not in respect of borrowing limits) and report the action taken to the Executive for information.
16. To take day-to-day decisions in respect of the investment of Council funds in accordance with the Annual Investment strategy last approved by the Council.
17. To consider in respect of any reapplication for reduction in Non-Domestic Rate bills previously whether within six months refused there is a significant change in circumstances in which case the application shall be submitted to the Executive Member of Finance for consideration.
18. To determine and pay additional benefit in cases of "exceptional hardship" under Housing Benefit Regulations.

DELEGATION:

Director of Finance and Support Services

HEALTH

1. In accordance with the legislation falling within the duties and responsibilities of the Council's environmental health functions to all physicians working as consultants in public health medicine and employed by the Health Protection

Agency or the Primary Care Trusts in Hertfordshire:

- (a) act as proper officer to the Council in respect of all matters relating to the control of the spread of infectious diseases;
- (b) provide medical input and advice to the Council

DELEGATION:

All physicians working as consultants in public health medicine and employed by the Health Protection Agency or a Primary Care Trust in Hertfordshire.

Chief Executive

- 2. In accordance with the duties imposed on the Council under Section 47 of the National Assistance Act 1948 the Council to engage the services of a Medical Practitioner for the purposes of securing the removal to suitable premises of persons in need of care and attention.

DELEGATION:

Chief Executive

HUMAN RESOURCES

- 1. Appointment of a Medical Adviser/Proper Officer and a Deputy to act in the absence of the Proper Officer.
- 2. Responsibility for an effective policy for the health, safety and welfare of Council employees to be implemented at all levels.
- 3. The determination of car allowances in accordance with the criteria adopted by the Council in accordance with the Council's current policy.
- 4. To award accelerated increments within Scales 1, 2 and 3 in recognition of approved examination success and individual merits in accordance with the Council's current policy.

DELEGATION:

Director of Finance and Support Services

5. To hold and revise the list of politically restricted posts prepared under the Local Government and Housing Act 1989.

DELEGATION:

Director of Neighbourhood Services

6. To be responsible for the custody of any document required to be published and kept available for public inspection under the Audit Commission Act 1998.

DELEGATION:

Director of Finance and Support Services

LEGAL

1. In consultation with the Executive, to determine requests for contributions towards legal costs incurred, or to be incurred, or by other local authorities, subject to a report being made to a subsequent meeting of the Executive.

DELEGATION:

Director of Finance and Support Services

- ~~2. In consultation with the Director of Neighbourhood Services to institute proceedings for Anti Social Behaviour Orders under Section 1 of the Crime and Disorder Act 1998.~~

DELEGATION:

~~Legal Services Manager~~

MARKETS

1. In consultation with the Director of Finance and Support Services to seek injunctions and take all such proceedings as may be necessary to secure the cessation of any unauthorised non charitable markets operating on a commercial basis.

DELEGATION:

Director of Finance and Support Services or duly authorised officer

PARKING

1. In consultation with the Director of Finance and Support Services or duly authorised officer, to authorise appropriate action to be taken in respect of any contravention of any Order made under Section 35 of the Road Traffic Regulation Act 1984 (as amended) by persons at any car park(s) detailed within such an Order, subject to the outcome of any legal proceedings taken being reported to a subsequent meeting.
2. To charge users a fixed charge equivalent to the charge for the first variable charging period on those occasions when a short stay car park's variable charge equipment is temporarily out of commission.
3. To authorise the use of the Council's off-street car parks by commercial and non-commercial organisations on Sundays only, and to determine the charge to be levied in such circumstances.
4. To waive car park charges in all the Council's car parks, on one day before Christmas, each year subject to the Town Councils concerned nominating which day was required.

DELEGATION:

Director of Customer and Community Services

PARKS, OPEN SPACES AND ABANDONED VEHICLES

1. Restriction of the use or closure of bowling greens during periods of drought.
2. Control of the all grounds including Castle Gardens and Grounds at Bishop's Stortford and Hertford.

3. The letting of Council gardens and car parks.
4. The removal, storage and disposal of abandoned vehicles under the Refuse Disposal (Amenity) Act 1978

DELEGATION:

Director of Customer and Community Services

PORTFOLIO AREAS: NON-KEY DECISIONS

1. To approve non-key decisions in individual portfolio areas (see Table A below) as determined by the Leader of the Council in accordance with the procedures set out at paragraph 20 of the Access to Information Rules in Part 4 of the Constitution.

DELEGATION:

Executive Members

PROPERTY

1. Lettings of all properties (other than houses, flats and garages); consents to assignments and sub-lettings; the granting of easements and licences; entering into leases, sub-leases, licences and easements on behalf of the Council as lessee, sub-lessee, licensee or grantee as appropriate; consent to modification or release of restrictive covenants; rent reviews under existing and future leases, including the approval of terms, subject to reporting transactions half-yearly.
2. To pursue appeals against rating assessments on Council-owned and Council-occupied property which, in his judgement, are incorrect or excessive, and agree either new or revised rating assessments on Council-owned and/or occupied property on behalf of the Council.
3. In consultation with the appropriate Executive Member to prosecute or authorise the prosecution of persons committing malicious damage to Council property.

4. The letting of Council Offices.
5. To convey the freehold of electricity sub-station sites and to grant the necessary easements to the Electricity Board in respect of the Thorley development and Council Housing developments.

DELEGATION:

Director of Finance and Support Services

SOCIAL HOUSING (MANAGEMENT)

1. In all cases involving arrears of mortgage payments and in consultation with the Director of Finance and Support Services or duly authorised officer to institute proceedings in the appropriate Court to obtain an order for possession of the property and/or recovery of all monies remaining outstanding under the mortgage, legal charge or further charge as the case may be.
2. In relation to the recovery of contributions to the cost of sewerage services in respect of Council houses which are sold:
 - (a) To determine actual annual costs and payments on account
 - (b) In consultation with the Executive, to make special arrangements in the case of hardship or, where necessary, to comply with an existing agreement
3. The appointment of Bailiffs and the issue of warrants to any bailiff so appointed and taking such steps as may be necessary, including the levying of distress upon the goods and chattels of the tenant concerned, for the recovery of arrears of rent owing to the Council in respect of the occupation of any Council dwelling under the control of the Director of Neighbourhood Services.

DELEGATION:

Director of Finance and Support Services

4. The allocation of properties for letting in accordance with the Council's policy.
5. The institution, in consultation with the Legal Services Manager of legal proceedings for the recovery of arrears of rent owed by any tenant of a Council dwelling.
6. The service of Notice of Seeking Possession upon the tenant of any Council dwelling where that is considered necessary in accordance with one or more of the grounds for possession set out in Schedule 2 of the Housing Act 1985 (as amended by Housing Act 1996), provided that no action be taken to apply for an order for possession of the property concerned without the specific prior approval of the Executive.
7. The termination of agreements for letting of garages and parking spaces on Council land by the service of notice to quit in cases of arrears of rent or other breach of the conditions of tenancy.
8. To let houses, flats and garages and to give consent to assignments in respect of residential properties which are subject to long leases.
9. To increase the charges for single persons and married couples occupying bed and breakfast accommodation under the terms of Part VII of the Housing Act 1996 in line with and at the same time as increases are made in the charge to the Council for hostel accommodation.
10. Any such other Officers as may be appointed, be authorised to determine all applications received under Part VII of the Housing Act 1996.
11. In all cases where information has been obtained from a member of the medical profession or from a health visitor in relation to an application for housing to determine the necessity in each case to seek the applicant's/s' consent to any disclosure of such information.

12. To determine applications from the leaseholders of Council residential accommodation to:
- (a) carry out alterations to the exterior walls subject to:
 - (i) all components being in low maintenance or maintenance free materials with lessees to bear any additional maintenance costs arising from the works,
 - (ii) the alterations complying with current building regulations and having obtained the necessary approvals before work commences
 - (iii) access to common services being maintained without the need to go inside the extension,
 - (iv) a deed or variation making the leaseholder or his successor individually responsible for the extra cost of maintenance of the extension,
 - (b) undertake extensions, if deemed appropriate, subject to:
 - (i) the extension complying with current building regulations and having obtained the necessary approvals before work commences,
 - (ii) extensions having a pitched tiled roof,
 - (iii) replacement/new windows being in UPVC,
 - (iv) extensions being within the confines of the existing boundaries of the property contained within the lease, both horizontally and vertically,
 - (v) materials to match as far as possible the existing structure and the form of construction to be similar,

- (vi) any extension to be for domestic/residential use only and must not at any time be used as a separate dwelling,
- (vii) a deed of variation making the leaseholder or his successor individually responsible for the extra cost of maintenance of the extension,
- (viii) no extensions to cover common rights of way.

The Executive would determine any appeals made by lessees against decisions arising from the exercise of this power.

13. To grant approval for schemes submitted by Housing Associations, and be the Council's approved signatory for such schemes, subject to liaison with the Director of Finance and Support Services as necessary; in addition, the Manager of Housing Services be designated an authorised signatory on behalf of East Hertfordshire District Council for Homes and Community Agency Approval and Grant Claims.

DELEGATION:

Director of Neighbourhood Services

14. Where notices have been served under Section 83 of the Housing Act 1985, but arrears of rent are not being paid or suitable arrangements have not been made to clear the arrears, the Legal Services Manager, in consultation with the Director of Neighbourhood Services, be authorised to institute legal proceedings against any such tenants to obtain possession of the properties they occupy and for the recovery of all sums due to the Council, and to take any further action necessary to recover sums due to the Council under any money judgement obtained from the Court, including an application for an Attachment of Earnings Order where this is deemed appropriate.
15. In consultation with the Director of Neighbourhood Services and subject to advising the Leader or appropriate Executive Member, authorised to institute proceedings and take all further action necessary to recover possession of Council

property which has been occupied by squatters without the Council's licence or authority.

16. In respect of non payment of rent by tenants of commercial properties (including residential accommodation as part of a Lease of such commercial property) and in consultation with the Director of Neighbourhood Services, to institute proceedings for recovery of rent and other monies owed to the Council, and to take possession of the property.

DELEGATION:

Legal Services Manager

17. The payment of grants for housing repair and improvement including the implementation of adaptations to disabled persons dwellings in conjunction with Hertfordshire County Council, in accordance with the relevant Legislation Circular and the Council's policy.

DELEGATION:

Director of Neighbourhood Services

18. To commit expenditure on repairs and maintenance to properties under the control of the Director of Neighbourhood Services within the amount included in the revenue estimates as approved by the Council for that purpose.

DELEGATION:

Director of Neighbourhood Services

STREET CLEANSING, WASTE COLLECTION, ANTI-SOCIAL BEHAVIOUR AND MANAGEMENT AND DOGS

1. To administer the Scheme for the collection of trade refuse.
2. Approval of types and siting of litter bins provided by Parish and Town Councils.
3. To determine, in the first instance, whether street cleansing is necessary in the interests of public health or the amenity of the area pursuant to the Environmental Protection Act

1990 Code of Practice on litter and refuse.

4. To deal with requests for the provision of signs to prohibit litter or other nuisances within the highway or car parks, in consultation with the Leader.
5. The Head of Environmental Services be identified as contact officers for the public under the Code of Practice of the Environmental Protection Act 1990.
6. In consultation with the Director of Finance and Support Services or duly authorised officer to serve Street Litter Control Notices, as appropriate in accordance with the provisions contained in Part IV of the Environmental Protection Act 1990 and serve notices under Section 215 of the Town and Country Planning Act 1990.
7. Pursuant to Section 223 of the Local Government Act 1972 to authorise and institute proceeding in any Magistrates Court in respect of officers or other matters falling within the legislation in Appendix B (subject to the Legal Services Manager being satisfied as to the sufficiency of the evidence).
8. To authorise officers to exercise powers and duties falling within the legislation referred to in Appendix B (below) where appropriate to officers possessing such qualifications as may be required by law or in accordance with the Council's policy and having the necessary competence and experience.
9. To authorise officers to serve and sign in their own name all authorisation, variation, revocation and enforcement and other notices falling within the legislation referred to in Appendix B (below).

APPENDIX B

[Anti-Social Behaviour Act 2003](#)

Clean Neighbourhoods and Environment Act 2005

Environmental Protection Act 1990

Prevention of Damage by Pests Act 1949

Refuse Disposal (Amenity) Act 1978

Dangerous Dogs Act 1989
Dangerous Dogs Act 1991
Dogs (Fouling of Land) Act 1996
Guard Dogs Act 1975
Criminal Justice and Police Act 2001
Policing and Crime Act 2009

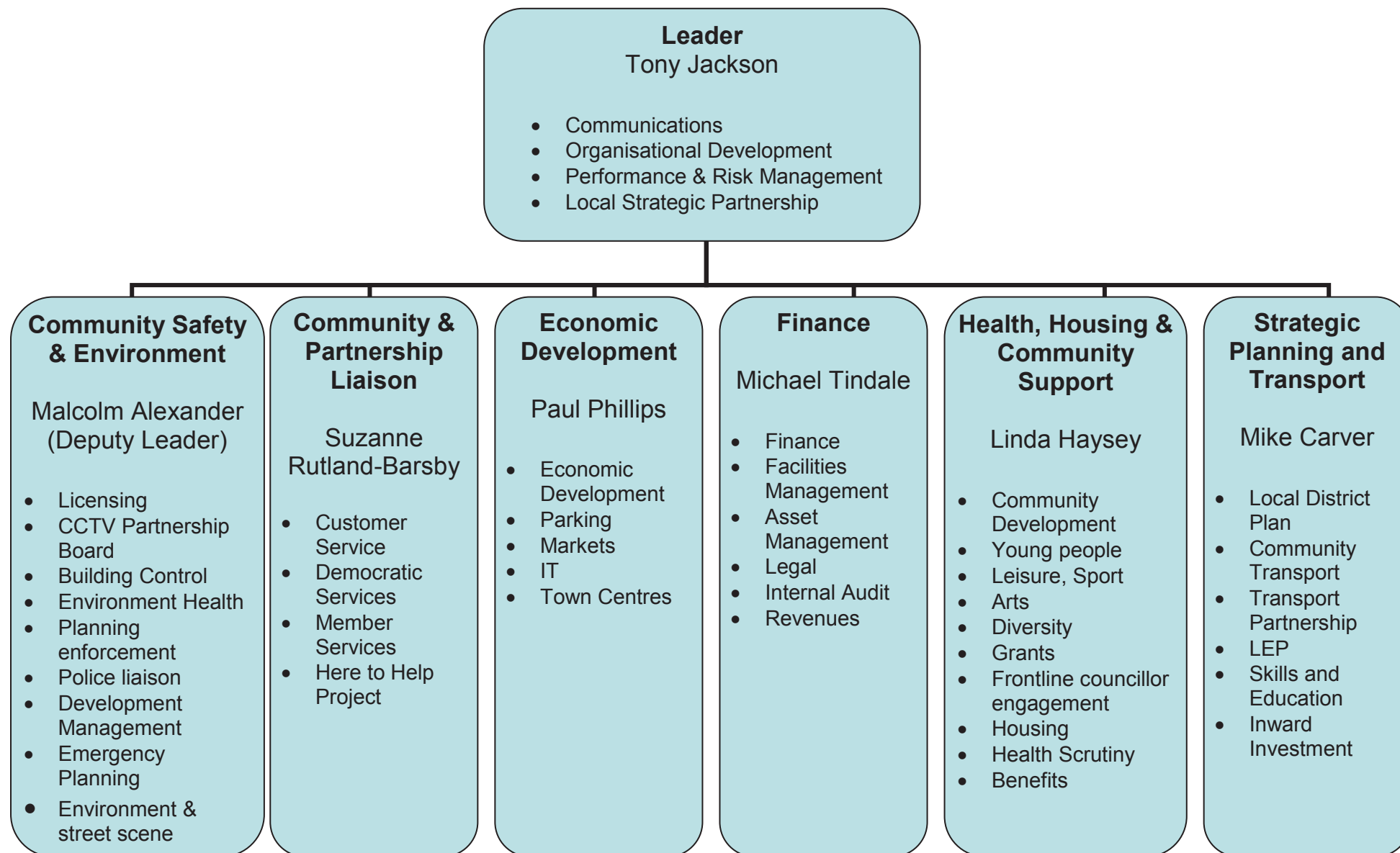
DELEGATION:

Director of Customer and Community Services
Director of Neighbourhood Services

ANTI-SOCIAL BEHAVIOUR CRIME AND POLICE ACT 2014

1. The Head of Environmental Services and the Head of Community Safety and Health Services in consultation with the Legal Services Manager be granted delegated authority to seek an Injunction to Prevent Nuisance and Annoyance in accordance with Part 1 of the Anti-Social Behaviour, Crime and Policing Act 2014.
2. The Head of Environmental Services and the Head of Community Safety and Health Services in consultation with the Legal Services Manager be granted delegated authority to apply for Closure Orders and to authorise their officers to issue Closure Notices and in accordance with Part 3 of the Anti-Social Behaviour, Crime and Policing Act 2014.
- 2.3. The Head of Environmental Services and the Head of Community Safety and Health Services in consultation with the Legal Services Manager be granted delegated authority to authorise Officers to serve Community Protection Notices, and Fixed Penalty Notices in the event of a breach, in accordance with Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.
4. The Head of Community Safety and Health Services in consultation with the Legal Services Manager be granted delegated authority to make a public spaces protection order, in accordance with Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.

TABLE A - EXECUTIVE PORTFOLIO STRUCTURE (MAY 2014)



Members' Code of Conduct

~~(Effective from 1 July 2012)~~

As a member or co-opted member of East Hertfordshire District Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in East Hertfordshire District Council this will be done as follows:

INTERESTS

1 General

A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:

- (a) Must not participate in any discussion of the matter at the meeting;
- (b) Must not participate in any vote taken on the matter at the meeting;
- (c) Must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
- (d) If the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
- (e) Must leave the room while any discussion or voting takes place.

2 Register of interests

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

3 Sensitive interests

Where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is being entered on the register that are made available

for inspection and an published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

OTHER~~[to be completed when the regulations are made]~~

As a Member of East Hertfordshire District Council, my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it

- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

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EAST HERTS COUNCIL

ANNUAL COUNCIL – 20 MAY 2015

REPORT BY LEADER OF THE COUNCIL

ARRANGEMENTS WITH REGARD TO THE POST OF CHIEF EXECUTIVE

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

To appointment interim statutory officers and to appoint the recruitment panel for the post of Chief Executive

RECOMMENDATIONS FOR COUNCIL: that:

(A)	the current post of Chief Executive/Director of Customer and Community Services be deleted and a new post of Chief Executive be created;
(B)	the Council proceed to recruitment of a Chief Executive;
(C)	the Director of Neighbourhood Services be appointed as acting Head of Paid Service until a permanent appointment is made;
(D)	the Head of Democratic and Legal Support Services be appointed as acting Monitoring Officer until a permanent appointment is made; and
(E)	a panel of the Council be appointed to consider and appoint the new position at (B) above.

1.0 Background

- 1.1 The Chief Executive and Director of Customer and Community Services will retire from the Council on 31 May 2015. Interim arrangements must be put in place from 1st June 2015 so that the duties are covered by the senior management team. The Council

also needs to formally confirm the arrangements for statutory posts until a permanent appointment is made to the vacant post of Chief Executive.

2.0 Report

- 2.1 To support the ambition and corporate priorities of the council the Executive considers it is appropriate that a new post of Chief Executive is recruited to. This would replace the current joint role of Chief Executive/Director. On appointment the Chief Executive would have the flexibility to structure the senior management team in the most efficient and effective way to support the challenges and opportunities the Council faces.
- 2.2 In order to ensure there is a single point of reference for both Members and officers it is recommended that the responsibilities as outlined in the Chief Executive job description (**Essential Reference Paper B**) be recruited to.
- 2.4 In the interim period the configuration of service responsibilities attached to the current three Director posts will be subject to realignment between two Directors. Other adjustment of senior management responsibilities may be made as required.
- 2.5 Acting appointments are required in the interim period. It is proposed that the Council appoints the Director of Neighbourhood Services as acting Head of Paid Services and that the Council appoints the Head of Democratic and Legal Services as acting Monitoring Officer.
- 2.6 The Council's Pay Policy Statement 2015/16 sets out the future appointment and interim arrangements with regard to remuneration for Chief Officers. As a consequence of these proposals it is recommended that the statement be amended by
- Deletion of references to the post of Chief Executive and Director of Customer and Community Services as a combined post
 - Inclusion of a new post of Chief Executive

3.0 Implications/Consultations

Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Pay Policy Statement 2015/16 – Council 18 February 2015

Contact Member: Councillor A Jackson (Leader)
tony.jackson@eastherts.gov.uk

Contact Officer: Emma Freeman, Head of HR and OD Extn 1635
emma.freeman@eastherts.gov.uk

Report Author: Emma Freeman, Head of HR and OD Extn 1635

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ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/Objectives (<i>delete as appropriate</i>):	<i>All priorities</i>
Consultation:	None
Legal:	Council is required to appoint to statutory posts at all times
Financial:	As detailed in the report and pay policy statement 2015/16
Human Resource:	As detailed in the report
Risk Management:	Clarity over interim and the future arrangements set out in the report mitigate risk.
Health and Wellbeing:	None

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JOB DESCRIPTION

- This form summarises the purpose of the job and lists its key tasks
- It may be varied from time to time at the discretion of the Authority, in consultation with the postholder

Job Title:	Chief Executive	Job No.:	EHC01
Reports to:	Leader		
<ul style="list-style-type: none">• <i>In respect of principal accountabilities:</i> Leader and Executive and full Council• <i>In respect of personal appraisal and development:</i> the arrangements agreed by the Council from time to time• <i>In respect of disciplinary/capability matters:</i> in accordance with the provisions contained in the relevant national conditions of service, statute, regulation and locally agreed arrangements.			
Last Updated:	April 2015		

JOB SUMMARY

To be responsible for the effective corporate and operational management of the authority, the provision of professional and policy advice to all parties in the decision making process and representing the Council on partnerships and outside bodies.

KEY TASKS

Head of Paid Service

1. Act as the Council's Head of Paid Service as prescribed in the Local Government and Housing act 1989 and defined further by the Council's constitution.

Strategic Leadership and Management

2. Provide clear leadership and direction on the development and implementation of the Council's vision. Drive service improvements and coordinate strategies to deliver results and key priorities within that vision, ensuring a clear sense of ambition, direction and purpose.

3. Enable and ensure the efficient corporate management of the Council to achieve the Council's aims and objectives through effective leadership of the corporate management team, and the development and implementation of corporate projects and initiatives.

The above list is not intended to be exhaustive but merely to indicated the work range and core job content of the post, neither is the list arranged in priority order.



4. Represent the Council at local, regional and national level with key stakeholders, including government bodies, local authorities, agencies, local communities, private sector, academic institutions and other organisations.
5. Act as principal policy adviser supporting Members on the development of the Council's strategic aims and ensure that the Council's policies and priorities are understood, owned and implemented across the organisation.
6. Ensure the effective governance of the Council and the legality, probity, integrity, proper public accountability and scrutiny of its decision making processes.
7. Lead the Council's commitment to community governance and identify opportunities for achieving the Council's objectives through partnership with other people and organisations, developing and promoting such partnerships.
8. Promote a culture of excellence underpinned by performance management and continuous improvement.

Service Delivery

1. Ensure that the Council's services are driven by quality and customer focus, judged on results and determined by the needs of the people and different communities of the area.
2. Ensure effective multi-functional working across all Council services and partnerships to meet customers' needs, deliver corporate strategies, and achieve local objectives.
3. Ensure prompt and appropriate professional advice to Members and between service areas on all issues to achieve results.
4. Ensure that the Council has effective long term service planning with focused delivery and action plans which link targets to service objectives.

Performance

1. Ensure that effective corporate performance and management arrangements are in place and reviewed in order to achieve the Council's aims and objectives and provide an effective challenge to service area reviews.
2. Work with the corporate management team to:
 - Ensure that systems are in place to manage, develop, monitor, evaluate and review performance at all levels to deliver best value to agreed targets, service standards and budgets.
 - Ensure that targets for equality, diversity and social inclusion are fully integrated into the Council's performance management arrangements.
 - Improve the Council's overall performance, striving for excellence.
 - Manage and appraise direct reports through the setting and monitoring of performance targets and standards, to ensure they effectively achieve corporate plans, encouraging personal development and providing support and advice.



Resource Management

1. Make the best use of the Council's organisational capability to:
 - Deliver better services against changing demands.
 - Deliver efficiency and service improvements through the successful implementation of the business transformation agenda.
2. Promote a corporate "partnership" between all levels of management and staff to deliver continuity and change in all aspects of organisational development.
3. Ensure effective measures are in place to lead, motivate and develop the performance of all staff to enable the Council to attract and retain expert and high quality staff.
4. Lead and develop the corporate management team to ensure that the Council's financial and other resources are properly planned, managed and controlled efficiently to achieve the Council's aims and objectives.
5. Support the statutory officers in the discharge of their responsibilities.

Diversity

1. Demonstrate an open commitment to actively celebrate the diversity of the area.
2. Recognise the broader definitions of diversity and support programmes to promote social inclusion and community cohesion.

Culture

1. Promote and deliver an organisational culture that is here to help, aims high and works together. A culture that is forward looking, results orientated and customer focused; an environment which is supportive, fair and open, encouraging and enabling all staff to meet required performance standards. An environment that also ensures high standards of probity, integrity and customer confidence.
2. Encourage a real sense of ownership of the Council's corporate plans across the organisation, and inspire and motivate all staff to develop the confidence and commitment to achieve objectives and outcomes.
3. Promote continuous improvement, service excellence and equality in the delivery of services and employment.
4. Develop a learning organisation that is not afraid to take measured risks, focuses all times on the customer and uses its own growth and experience to learn and develop.

Communications

1. Develop, maintain and promote effective communications, liaison and partnership working throughout and across the Council at all levels, and encourage strong working relationships with external stakeholders. This includes local residents, government and other public sector agencies, voluntary and community groups, and the private sector to ensure that the Council's interests are understood and appreciated and reflect the Council's commitment to tackling

The above list is not intended to be exhaustive but merely to indicated the work range and core job content of the post, neither is the list arranged in priority order.



- local issues and improving the quality of life for its diverse range of residents.
2. Build the County's reputation and promote a positive image of the Council and the area.

Local Democracy

1. Build strong and positive relationships with Members and support them in the performance of their functions.
2. Work with Members to ensure effective corporate governance of the Council, probity and integrity in decision making and compliance with relevant legal requirements at all times.
3. Promote the Council as a leading organisation in supporting strong governance.
4. Be innovative in encouraging participation in the democratic process.

Statutory Officer Responsibilities

Head of Paid Service

- Act as the Council's Head of Paid Service as prescribed in the Local Government and Housing act 1989 and defined further by the Council's constitution.

Contacts & Communication

- Leader and Executive, Chairs of Committees, Elected Members, Directors, employees of the Council, employee representatives, local, regional and national partners, outside bodies, government departments, agencies etc., citizens, community representatives and other service users.

Financial / Budgetary Responsibilities

- Ensure the development, implementation and delivery of robust financial planning processes, linking to other elements of the council's corporate and performance planning processes, to deliver corporate objectives in accordance with Best Value principles. Accountable for the delivery of the Council's objectives within agreed resource budgets agreed timescale and other performance targets. Responsible for service budgets within portfolio.

Other

- Ensuring the effectiveness of your own performance including meeting the obligations of whatever system of personal appraisal and development is adopted by the Council.



- Any other functions that might occur that are conversant with the post.

Council Standards

Equal Opportunities: The Council has a strong commitment to achieving equality of opportunity and expects all employees to implement and promote its policy in their own work.

Health and Safety: The Council is committed to a healthy and safe working environment and expects all its employees to implement and promote its policy in all aspects of their work.

Data Protection: The Council is committed to maintaining privacy of all its employees and customers. It expects all employees to handle all individuals' personal information in a sensitive and professional manner. All employees are under an obligation to treat all data in a confidential, sensitive and professional manner in accordance with the Council's policies.

Values and Behaviours: The Council's values are Here to Help, We aim high and We work together. The Council's behaviours underpin the values and all employees are expected to support and demonstrate these.



PERSON SPECIFICATION

- This form summarises the purpose of the job and lists its key tasks
- It may be varied from time to time at the discretion of the Authority, in consultation with the postholder

Job Title:	Chief Executive	Job No.:	EHC01
Reports to:	Leader		
<ul style="list-style-type: none"> • <i>In respect of principal accountabilities:</i> Leader and Executive and full Council • <i>In respect of personal appraisal and development:</i> the arrangements agreed by the Council from time to time • <i>In respect of disciplinary/capability matters:</i> in accordance with the provisions contained in the relevant national conditions of service, statute, regulation and locally agreed arrangements. 			
Last Updated:	April 2015		

KEY CRITERIA	JOB REQUIREMENTS	F/I/O
Qualifications & CPD	<ul style="list-style-type: none"> • A degree or equivalent. Professional qualification relevant to the key areas assigned to the post at appointment, or evidence of sufficient senior leadership and management capability to undertake the complex demands of the role. • Evidence of personal commitment to continuous improvement 	F/I/O
Job Specific Skills & Knowledge	<ul style="list-style-type: none"> • A good understanding of local government in the UK, commitment to high performing public services and empathy for the democratic and political processes of local government. • Significant experience and evidence of working successfully at a Chief Executive/senior management level in a complex, multi-disciplinary environment to achieve corporate goals. • Experience of strategic, community and corporate planning, project and performance management techniques, initiating and implementing organisational change and securing quality improvements in service 	F/I/O

	<p>delivery.</p> <ul style="list-style-type: none"> • Experience of working successfully in partnerships and joint ventures. • Experience of managing difficult and potentially high risk issues • Experience of strategic financial management • The ability to see the “big picture” and therefore keep East Herts at the forefront of local government 	
Skills and Competences	<ul style="list-style-type: none"> • Inspirational Leadership Qualities – ability to provide visible leadership and to engage others positively in the achievement of a coherent and creative vision of the future, setting high standards for personal and team outcomes and ensuring their delivery. • Analytical and Strategic Thinking – high level analytical skills and the ability to anticipate, interpret and develop innovative responses to national, international and local imperatives, ensuring the capacity of the Council to lead rather than react to events. Ability to deal with ambiguity, competing and conflicting priorities • Sustaining Organisational Capacity – Ability to identify the need for, plan and successfully implement change, both structural change and change to the style and culture of the organisation. Commitment to and ability to develop capacity at all levels within the organisation • Progressive Management Thinking – understanding of financial and budgetary management, resourcing, people management and information technology and processes • Credibility and Impact – Excellent inter-personal skills with the ability to communicate, persuade and influence key decision-makers both internally and externally. Ability to develop, maintain and manage a culture which produces successful relationships with members, senior managers, employees at all levels, employee representatives, external partners, private, voluntary and other statutory organisations 	F//O

	<ul style="list-style-type: none"> • Political Awareness and Sensitivity Ability to operate successfully in a politically complex environment, balancing the needs and aspirations of both political groupings and individual members sensitively and appropriately to achieve agreed objectives • Commercial/Innovative thinking Ability to challenge current practice and identify new commercial opportunities for the Council 	
Personal Qualities	<p>Ability to demonstrate:</p> <ul style="list-style-type: none"> • Open, honest and fair behaviour in all dealings with residents, service users, colleagues, suppliers and partners. • Sensitivity to the concerns of individual residents, service users, colleagues, suppliers and partners. • Drive, flair and imagination. • Change management experience, • Community Leadership, • Resource Management, • Negotiating and diplomacy skills, • Risk awareness, • Commercial flair • Motivational skills, • Good working relationships, • Energy, commitment, flexibility and tenacity, • Ability to listen. 	I/O
Special Circumstances	<ul style="list-style-type: none"> • Politically restricted post • In order to achieve the objectives of the role, the post holder will need to work flexibly, including out of hours when necessary 	F/I

Key:

F = Application Form

I = Interview

O = Other

EAST HERTS COUNCIL

ANNUAL COUNCIL – 20 MAY 2015

REPORT BY HEAD OF DEMOCRATIC AND LEGAL SUPPORT
SERVICES

EAST HERTS MEMBER DEVELOPMENT STRATEGY AND PLEDGE

WARD(S) AFFECTED: All

Purpose/Summary of Report

- To adopt the updated East Herts 'Member Development Strategy'
- To re-sign the East Herts 'Member Development Pledge'

<u>RECOMMENDATIONS FOR COUNCIL: that the</u>	
(A)	updated East Herts Member Development Strategy appended to the report now submitted be adopted; and
(B)	East Herts Member Development Pledge be endorsed and formally signed, on behalf of Members, by the Leader of the Council.

1.0 Background

- 1.1 The South East Employers (SEE) regional organisation operates a Member Development Charter scheme which is designed to assist local authorities to take a strategic approach to training and skills development of elected Members.
- 1.2 To gain Charter (or Charter Plus) status, a local authority has to be externally assessed against a detailed set of criteria to show they are meeting the standards required under a wide range of requirements. A full set of accreditation guidelines is available on their website at <http://www.seemp.co.uk/index/cllrgov/emcharter/emcmilestones.htm>
- 1.3 East Herts applied for Charter status and was successfully assessed on 16 June 2011. The Charter was awarded for a term

of three years and a successful mid-term review was held on 14 January 2013.

- 1.4 As part of the standards required under the Charter, the member training and development programme at East Herts has been overseen by a member led Member Development Charter Group made up of representatives from all political groups and officers.

2.0 Report

- 2.1 The Charter status lapsed after three years (in June 2014) as the Member Development Charter Group was confident that the structure the Authority now has in place for member development is robust enough to maintain the high standards set by the Charter.
- 2.2 The Authority has a Member Development and Training Strategy.
- 2.3 This strategy has been reviewed and updated by the (out-going) Member Development (Charter) Group
- 2.4 The updated Strategy can be found at **Essential Reference Paper B**.
- 2.5 With the expiry of formal Charter status, the Council had no public facing documentation to indicate its commitment to developing and supporting elected members to take on their community role and other duties required by committee membership or leadership.
- 2.6 To address that gap, the Member Development (Charter) Group produced a Member Development Pledge for East Herts which was supported and signed in December 2014 by the leaders of all political groups represented on the Council at that time.
- 2.7 **Essential Reference Paper C** shows the Member Development Pledge. Council is invited to endorse the pledge and invite the Leader of the Council to sign a formal display copy of this document at the end of this Annual Council meeting.

3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None

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Report Author: Marian Langley – Scrutiny Officer
marian.langley@eastherts.gov.uk

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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

<p>Contribution to the Council's Corporate Priorities/ Objectives</p> <p>(updated to 2015/16 wording)</p>	<p>People – Fair and accessible services for those that use them and opportunities for everyone to contribute. This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</p> <p>Place – Safe and Clean. This priority focuses on the standard of the built environment and our neighbourhoods and ensuring our towns and villages are safe and clean.</p> <p>Prosperity – Improving the economic and social opportunities available to our communities This priority focuses on safeguarding and enhancing our unique mix of rural and urban communities, promoting sustainable, economic and social opportunities</p> <p>East Herts believes that confident, competent and well-informed Members are best placed to deliver quality services to the residents and businesses in their wards and across the whole District.</p>
Consultation:	All Members and officers of the Member Development (Charter) Group approved the use and wording of the Strategy and Pledge. All political group leaders (on the previous Council) were consulted on the draft Pledge and confirmed their willingness to support and sign the document.
Legal:	none
Financial:	none
Human Resource:	none
Risk Management:	none
Health and wellbeing – issues and impacts:	none

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ESSENTIAL REFERENCE PAPER B

EAST HERTS COUNCIL

MEMBER DEVELOPMENT AND TRAINING STRATEGY: 2015 TO 2019

1.0 Strategy Aim

- 1.1 East Herts Council is committed to the continuous development of its elected members. A training and development programme will support the strategy and will be designed around the individual needs of the elected members to support them in their personal and organisational effectiveness.
- 1.2 Development areas would include:
- Gaining knowledge and understanding of the Council and the context in which it operates
 - Awareness of local and national door step issues
 - Specific statutory training required for legislative committees
 - Enhancing individual soft skills for example chairing meetings, communication training, leadership etc.
- 1.3 This strategy has been developed to ensure the elected members respond appropriately to the internal and external challenges and opportunities that affect East Herts Council.

2.0 Introduction

- 2.1 East Herts Council is committed to continuous improvement and ensuring each resident receives excellent services.
- 2.2 Council recognises the contribution members and employees make to ensure it delivers that excellent service. It is committed to creating development opportunities for members and staff.
- 2.3 East Herts has made a commitment to Member training and development through its Member Development Pledge.
- 2.4 Council supports the principles of training and development for the elected members; and recognises the importance of

identifying members individual needs as a key to the success of a development plan. The plan needs to be flexible and have multi-options for delivering development and training.

3.0 Corporate Objective

- 3.1 Council will consolidate Member training good practice and development that is provided.
- 3.2 High quality training and development contributes to the achievement of all the council's corporate objectives and supports the individual roles of the members, especially those on the legislative committees.

4.0 Access to Training and Development Opportunities

- 4.1 The training and development opportunities are available to all and members are all encouraged to part take irrespective of political affiliation or length of service.
- 4.2 An annual personal development assessment will be used to ascertain the development needs of an individual member. The Member Development Group (MDG), which is a mixed team of officers and members, will determine how these areas for development can be met in the most effective and cost effective ways. If members have a query in regard to the training plan they can contact a member of the MDG.

5.0 Roles and Responsibilities

- 5.1 The individual councillor – whilst Council will offer practical support, encouragement and resources, it expects each individual councillor to take personal responsibility for their own learning and self-development.
- 5.2 The MDG – will support and encourage related strategies and programmes for members. It will
 - support members in the identification of their training needs and the provision of training opportunities;
 - ensure that all new councillors receive a comprehensive induction in all the appropriate council functions and services and in local government generally;

- encourage and monitor progress in member development, retaining the need for confidentiality regarding each member's own personal development plan;
- ensure appropriate and comprehensive training and development opportunities are provided and delivered in a flexible and effective way that meets the identified training needs;
- monitor the effectiveness of the training provided against an individual's needs;
- encourage and develop new approaches to learning and development for members and oversee a framework whereby training is evaluated, and
- be formed from members and officers to ensure a mix of expertise.

6.0 **New Member Induction Programme**

- 6.1 Council will organise a comprehensive induction programme for new councillors which will also enable refresher training for re-elected members following district elections.
- 6.2 The induction programme will be on a facilitated delivery basis using various styles.
- 6.3 All members will be offered the opportunity to complete a CoLANDER interview (with a mentor/buddy/councillor colleague) to identify learning needs in order to fulfil their roles.

7.0 **Member Development and Training**

- 7.1 Identified member training and development needs will be categorised as, for example:
- committee based training;
 - specific role training e.g. executive members
 - corporate awareness training e.g. risk management, procurement, Health and Safety
 - developing skills e.g. speed reading, media skills, chairing meetings.
- 7.2 Members' training will be delivered by other Members, internal officers, external providers or other government organisations.

7.3 The MDG will ensure training and development is planned more strategically. Members will be able to build up a training record that can be regularly reviewed and encourages continuous development of each individual.

8.0 **Evaluation**

8.1 All training will be reviewed to assess value for money, delivery against objectives and the needs of the members attending.



Member Development Pledge

East Herts is an Authority which is open to learning and committed to make development opportunities available to officers and elected members.

Members will be supported to engage in learning and development activities which enhance and broaden their skills and knowledge to meet the range of duties set out in the Members' Role descriptions. East Herts believes that confident and well-informed Members are best placed to deliver quality services to the residents and businesses in their wards and across the whole District.

The Members' Development Programme and the associated Councillor Learning and Development Review scheme (CoLANDER) are overseen by the Member Development Group. This group is member led and has a cross-section of representatives on it - drawn from all political groups serving on the Council.

New Members can expect:

- Clear role descriptions as a ward councillor (and for any specific role they may go on to hold)
- A well structured Induction Programme to familiarise themselves with East Herts as a Council and as a District
- To be offered a peer mentor/buddy as a point of contact and support following election to East Herts
- The opportunity to complete a CoLANDER interview (with mentor/buddy) to identify existing strengths/skills and any additional learning needs

Returning/All members can expect:

- Clear role descriptions as a ward councillor and for any specific role taken on (eg as Chairman of a committee, as Leader of a minority party etc)
- The opportunity to complete a CoLANDER interview (with a senior member of their political group) and request any training/development needed to fulfil their role(s) as a councillor
- To be offered a structured and timely programme of development opportunities that uses a range of learning styles and may be delivered by internal or external providers (as is most appropriate)

Members are encouraged and expected to:

- Play an active part in identifying their own learning/development needs
- Take advantage of development opportunities appropriate to their roles and level of experience/expertise
- Approach development through a range of learning styles (taught courses, on-line or E learning, Action Learning Sets, self-directed study etc)
- Commit to training/development events and ensure that cancellation costs are not incurred
- Give feedback on training events and share learning with peers
- Play a role in the learning/development of their peers where appropriate

SIGNED on behalf of Members by the Leaders of all political groups at East Herts

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EAST HERTS COUNCIL

ANNUAL COUNCIL - 20 MAY 2015

REPORT BY THE MONITORING OFFICER

COMPLAINT IN RESPECT OF A COUNCILLOR

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

- *Standards Sub-Committee, at its hearing meeting held on 30 March 2015, considered a report by the Investigating Officer which concluded that Councillor Ashley had breached the Authority's Code of Conduct in relation to the matters identified. The Standards Sub-Committee decided that the Member had failed to comply with the Code and decided that formal censure by motion was appropriate.*

<u>RECOMMENDATION FOR COUNCIL:</u>	
(A)	that (former Councillor) William Ashley be censured for his conduct in respect of the matters detailed by the Investigating Officer in his report to the Standards Sub-Committee meeting of 30 March 2015.

1.0 Background

- 1.1 The report to the Standards Sub-Committee including the Investigation Officer's report is contained in **Essential Reference Paper 'B'**.

2.0 Report

- 2.1 The Council has agreed a procedure for considering complaints (**Essential Reference Paper 'C'**)

3.0 Investigating Officer's Report

- 3.1 An investigation officer was appointed to carry out an investigation. Following the investigation, the Investigation Officer concluded that, in all the circumstances of this case, there has been a failure to comply with the Members' Code of Conduct.
- 3.2 The Investigating Officer concluded that Councillor Ashley's conduct fell short of reasonable expectation as to how he should treat his colleagues and that he was using his position as Councillor to pursue that correspondence.
- 3.3 Accordingly, the Investigation Officer found Councillor Ashley to be in breach of the Code of Conduct in relation to that correspondence, in that he did not value colleagues and staff, did not engage with them in an appropriate manner and failed to treat them with respect.
- 3.4 The Sub-Committee considered the following actions:
- A formal letter to the Councillor found to have breached the code;
 - Formal censure by motion;
 - Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;
 - Press release or other appropriate publicity;
 - Request an apology by the Member
- 3.5 The Sub-Committee resolved as follows:
- To issue a formal letter to Councillor Ashley detailing the Sub-Committee's determination that accepted the Investigating Officer's conclusion.
 - Council be invited to pass a formal censure by motion against Councillor Ashley.
 - Councillor Ashley be not appointed to Development Management Committee in the event of seeking re-election to the Authority at the May 2015 elections.
 - As the meeting was public and a press representative was present, no specific press release be issued on this matter.
 - The Monitoring Officer be requested to draft a letter of apology on behalf of Councillor Ashley for him to sign and send to all Development Management Committee members affected by his conduct.

3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None

Contact Officer: Simon Drinkwater- Director of Neighbourhood Services- 01992 531405
simon.drinkwater@eastherts.gov.uk

Report Author: Simon Drinkwater

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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives (delete as appropriate):	People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.
Consultation:	The Independent Person has been consulted.
Legal:	The procedures are in accordance with the regulations.
Financial:	None
Human Resource:	None
Risk Management:	The case should be determined in accordance with the regulations having regard to the relevant guidance.

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EAST HERTS COUNCIL

STANDARDS SUB-COMMITTEE

REPORT BY THE MONITORING OFFICER

COMPLAINT IN RESPECT OF COUNCILLOR W ASHLEY

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

- *To consider complaints in respect of Councillor W Ashley, a Member of East Herts Council*

1.0 Background

- 1.1 Council has received complaints alleging that a District Councillor has breached the Authority's Code of Conduct.

2.0 Report

- 2.1 The Council has agreed a procedure for considering complaints.
- 2.2 The Sub-Committee will consider the reports and decide what action to take.

3.0 The Complaint

- 3.1 A complaint was made that Councillor Ashley breached the Council's Code of Conduct.
- 3.2 Details of the complaint are set out in the attached Investigation Officer's report.
- 3.3 A copy of the report has been supplied to the complainant and to the subject member.

4.0 Investigating Officer's Report

- 4.1 A investigation officer was appointed to carry out an investigation. Following the investigation, the Investigating Officer concluded

that, in all the circumstances of this case, there has been a failure to comply with the Members' Code of Conduct.

4.2 The report concludes at paragraph 9.20 that the Investigating Officer does not find any breach of the Code of Conduct in respect of the complainant's allegation that

- Councillor Ashley has gained a pecuniary advantage in manner in which he obtained various planning permissions bringing himself, East Herts Council and members of the Development Management Committee into disrepute. Statements made in obtaining permissions appear to be very misleading.
- He abused his position by ambiguous means in changing the fundamental framework of implementing such permissions. Some of the permission appear to have been covered up by misleading and ambiguous statements to officers, the press and others
- He flagrantly breached conditions imposed on particular permissions and in doing so appears to have obtained substantial financial gain.

4.3 The Investigating Officer believes that Councillor Ashley's correspondence after the meeting of 6th November 2013 was inappropriate. The correspondence took place between 7th November 2013 and 21st February 2014 and it therefore falls to be considered under the current Code of Conduct, the relevant terms of which are noted at paragraph 9.5 as follows:

- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.

4.4 The Investigation officer concludes that Cllr Ashley's conduct fell short of reasonable expectation as to how he should treat his colleagues and that he was using his position as Councillor to pursue that correspondence

4.5 Accordingly, the Investigating officer finds Councillor Ashley to be in breach of the Code of Conduct in relation to that correspondence, in that he did not value colleagues and staff, did not engage with them in an appropriate manner and failed to treat them with respect.

5.0 Recommended action

5.1 It is recommended that the Sub-Committee deal separately with the finding of no breach and the finding of a breach.

5.2 In relation to the finding of no breach the Sub-Committee needs to decide whether or not to accept the finding of the Investigating Officer. In so doing it must consider whether it wishes to hear further from the Investigating Officer or any other parties before it makes a decision.

5.3 In relation to the finding of a breach the Sub-committee must arrange a hearing in accordance with the council's procedures at which the Investigating Officer will present his report, calling evidence as necessary and the subject member will have the opportunity to present his case.

5.4 In so far the report makes a finding of breach it, after a hearing, that finding is upheld by the Standards Sub-Committee, the Sub-Committee will consider the following actions:

- A formal letter to the Councillor found to have breached the code;
- Formal censure by motion;
- Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;
- Press release or other appropriate publicity;
- Request an apology by the Member

6.0 Other action

6.1 The report also recommended that the Monitoring Officer consider whether the allegations that other Disclosable Pecuniary Interests were not disclosed should be investigated further. Members are asked to consider this request.

6.2 The report makes recommendations to the Council on Code of Conduct arrangements and other matters.

- 6.3 The Investigation Officer recommends that the Monitoring Officer seek the initial comments of the subject Member before deciding whether to investigate a complaint unless to do so would prejudice any formal investigation.
- 6.4 The Investigation Officer recommends that the Council reviews its procedure to ensure that if the complainant requests not be identified, that request be adhered to until the appropriate officer or Committee has considered the request.
- 6.5 It is suggested that the Council may wish to consider and review its procedures noting that the Localism Act 2011 places responsibility on the Council to keep its procedures under review.
- 6.6 It is also recommended that the Council remind Members of the conditions on which computer facilities and Council email accounts are provided to Members.
- 7.0 Implications/Consultations
- 7.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None

Contact Officer: Simon Drinkwater- Director of Neighbourhood Services- 01992 531405
simon.drinkwater@eastherts.gov.uk

Report Author: Simon Drinkwater

EAST HERTFORDSHIRE DISTRICT COUNCIL

ALLEGATION OF BREACH OF THE CODE OF CONDUCT

REPORT OF THE INVESTIGATING OFFICER

1. Introduction

- 1.1 This is my report on the investigation of allegations made against Cllr William Ashley, that he breached the Code of Conduct adopted by the Council under the provisions of the Localism Act 2011.
- 1.2 The allegation is set out in the complaint form submitted by Leslie Barnes on behalf of various residents of Brickendon and dated 1st April 2014 and an undated supplementary note comprising 2 pages, which I am advised was prepared for the Standards Sub-committee by the complainant and submitted to the authority on 5th May 2014. These two documents are at Appendices A and B. The complainant states that the Brickendon Residents Group comprises well over 60 people including 52 in Brickendon. Apart from the complainant and his wife and Tim Barnard, I have no information about the composition of the Brickendon Residents Group nor any knowledge of its aims.
- 1.3 The complaint and supplementary paper were initially considered by the Council's Standards Sub-Committee on 4th June 2014. The Sub-Committee instructed the Monitoring Officer to arrange for the complaint to be investigated. My investigation commenced on 20th June 2014.
- 1.4 In his response to my draft report, the complainant suggests that there has been no investigation. For clarity, I wish to confirm that I have investigated all relevant lines of inquiry based on the evidence presented to me. As the investigation developed, I found it necessary to speak with members of the Council who had relevant evidence to share. Once the complainant has lodged the complaint, conduct of the matters rests with the Monitoring Officer and the investigator not the complainant. As the law stands the investigation of the complaint is a matter for the local authority and the complainant's role is that of witness not litigant.
- 1.5 For the avoidance of doubt I want to make it clear at the outset that prior to my appointment to conduct this investigation, I had no knowledge of the matters under consideration nor of the parties involved. I also wish to make it clear that, although the law requires the Council to process the complaint and to appoint an investigator, my role is to act independently and to treat all parties without fear or favour.

- 1.6 The investigation is being undertaken in accordance with procedures agreed by the Council and my report is to the Council's Monitoring Officer who will determine in conjunction with the Standards Committee the next steps.
- 1.7 When the Standards Committee met on 4th June 2014 they were advised that the complainant had requested that his name should not be disclosed publicly for reasons set out in the complaint. However, for reasons which are not known to me, his identity became a matter of public knowledge before that meeting. Nevertheless, the Standards Sub-Committee resolved that as far as possible his identity should not be disclosed.
- 1.8 During the course of my investigation, it has become apparent that the subject member knows the identity of the complainant and indeed, many of the documents presented to me identify various parties. In the circumstances and after consideration, the complainant has indicated that he has no objection to his identity being disclosed in this report.
- 1.9 There are however some witnesses who gave evidence who do not wish their identities to be disclosed and I have prepared my report on that basis.
- 1.10 Attached to this report and to be read with it are the following
- 1.10.1 Appendix A The complaint
 - 1.10.2 Appendix B Supplementary comment from complainant for Standards Sub-Committee
 - 1.10.3 Appendix C Correspondence from Cllr Ashley to other members and officers following meeting on 6th November 2013.
 - 1.10.4 Table 1 Comments of subject member about the complaint and further response of the complainant
 - 1.10.5 Table 2 Letters from the complainant to the portfolio holder and Cllr Ashley's notes in response
- 1.11 Cllr Ashley and the complainant have had the opportunity to comment on a draft version of this report and any comments they made have been taken into consideration in the finalisation of this report. Where necessary, particular changes have been made and where relevant the evaluation has taken the points raised into consideration.
- 2. The allegation**
- 2.1 It is important at the outset of my report to make clear what the complainant is alleging so that in examining the large amount of evidence presented I can glean what is relevant and what is not. The allegation is that

- 2.1.1 Cllr Ashley has gained a pecuniary advantage in the manner in which he obtained various planning permissions bringing himself, East Herts Council and members of the Planning Committee into disrepute. Statements made in obtaining permissions appear to be very misleading.
- 2.1.2 He abused his position by ambiguous means in changing the fundamental framework of implementing such permissions. Some of the permissions appear to have been covered up (sic) by misleading and ambiguous statements to officers, the press and others.
- 2.1.3 He flagrantly breached conditions imposed on particular permissions and in doing so appears to have obtained substantial financial gain.
- 2.2 The planning issues identified in the complaint were:
 - 2.2.1 The storage of 90+ vehicles at Monks Green Farm.
 - 2.2.2 Use of a garage at Longcroft House as an office.
 - 2.2.3 Conversion of chicken sheds to live/work units
 - 2.2.4 The lack of consent for Longcroft House
- 2.3 This conduct is alleged to be a breach of the code of conduct in relation to selflessness, accountability, openness, honesty and leadership and to be contrary to the provisions of the Localism Act and to have failed to achieve best value for residents and maintain public confidence in the authority.
- 2.4 The complaint enclosed two letters addressed to the lead member for development. The contents of those letters and Cllr Ashley's comments are at Table 2.
- 2.5 In addition to a finding on the alleged breaches of the Code and appropriate action, the remedy sought is as follows:
 - 2.5.1 For the Standards Committee to put an end to the continued blight on East Herts DC.
 - 2.5.2 To seek alternative methods to prevent the possibility for members of the Development Management Committee abusing the system in the future and to submit themselves to better scrutiny in such matters. Eg, planning applications to be heard by another adjacent authority for planning committee members and/or councillors of East Herts District Council.

3. Context and background for the evidence considered

- 3.1 I began all the witness interviews by explaining that my remit as independent investigating officer was to establish whether there was any evidence to support the allegation contained in the complaint that Cllr Ashley had breached the Council's Code of Conduct for Members. Although there were a number of substantive issues raised in the complaint and supporting papers about various planning applications and enforcement notices and planning policies relating thereto, these were not within my remit.
- 3.2 Any issues about the merits of proposals were not matters for me nor were decisions about enforcement action except to the extent that it could be demonstrated that the decisions were influenced or affected by Cllr Ashley in a manner which constituted a breach of the Code. Other procedures were available to deal with substantive issues relating to planning and any suggestion of maladministration on the part of the Council.
- 3.3 I stressed that it was important to demonstrate, if that were the case, in what way Cllr Ashley had failed to comply with the Code. There was no presumption that simply because he is a Councillor, he will unduly influence his application. Rather, the system is designed to provide safeguards for the Council, members and the public when a Councillor makes a planning application. Cllr Ashley was entitled to run his business provided he did not take advantage of his position as a Councillor.
- 3.4 The context for this introduction to the witnesses is the need to focus on the conduct which is prohibited by the Code and establish whether or not Cllr Ashley was acting in his capacity as a member.

4. Evidence of Kevin Steptoe, Head of Planning

- 4.1 Before seeing other witnesses I spoke by telephone with **Kevin Steptoe** on Tuesday 8th July 2014. He is the Head of Planning at East Hertfordshire District Council and as such is responsible for the processing and evaluation of all planning applications, including those which are delegated to officers. He regularly attends the Development Management committee, which is the committee of the Council, which determines applications not delegated to officers. My purpose in speaking with him was to ensure I had a clear and objective statement about the various planning matters which might be relevant to my investigation. The information he gave me in our initial conversation was very helpful in setting a context and has been subsequently updated to reflect developments since then.
- 4.2 He confirmed that Cllr Ashley was a member of the Development Management Committee from 2001, becoming Chairman in 2009 and left that office and the Committee in April 2012.

- 4.3 He is aware of the declaration of interest made by Councillor Ashley in relation to his ownership, in partnership with his wife, of the farm known as Monks Green Farm and related property. He is not aware of any reason why Councillor Ashley should be precluded from involvement in planning matters generally having no wide involvement in the planning process in the district. He was clear that whenever relevant, Councillor Ashley declared his interest and withdrew from the meeting when relevant matters were under discussion. We then discussed a number of applications relating to Councillor Ashley's land holdings.
- 4.4 The first was for the conversion of some farm agricultural units to live and work units. There were five applications in total for this use. The first, in 2008 was withdrawn; a further application that year, for 4 units was approved. This was followed by three further applications, one to increase the number of units to 6, the other two sought amendments to the configuration of the units. There were some suggestions that the units had not been developed or used in the manner intended in the approval and this had been investigated subsequent to implementation of the permission. The outcome of the investigation, during which legal advice in relation to relevant case law was sought, was that the implemented works were considered to be within the scope of the permission.
- 4.5 Following completion of the units, further issues were raised relating to their development, namely the insertion of a mezzanine floor and roof lights in to the building. These were also the subject of planning enforcement investigations the outcome being that it was determined that it would not be expedient to take enforcement action. These decisions were in line with the Councils published policy approach taking into account the extent of development that can be exercised through permitted development rights and the harm caused by any development undertaken. The principle of this development in this green belt location was considered to be acceptable in planning policy terms, representing a proposal to re use agricultural buildings and to introduce an element of commercial activity in a rural area.
- 4.6 An application relating to a separate matter was submitted to Development Management Committee on the 6th of November 2013 after Councillor Ashley had ceased to be a member of the Committee. It was dealt with as a retrospective application to discharge a condition limiting use of the space at first floor above a domestic garage. The garage forms part of the property Longcroft, which is located at the Monks Green Farm site. The application was deferred by members to obtain further information and subsequently withdrawn by the applicant. At the 5 February 2014 meeting of the DM Committee, following the debate by the committee at its January 2014 meeting, referred to below and in the light of the withdrawal of the application for retrospective approval, a report was submitted as an enforcement report considering whether or not action should be taken in relation to the breach of condition. There was no substantive dialogue between Mr Ashley and the officers about this. However, he was made

aware, as is the approach of the Council in relation to all enforcement matters, of the submission of the report prior to the committee meeting. A site visit took place, prior to the first consideration of this matter by Members on 6 Nov 2013. Concern was expressed by members about the retrospective nature of the application.

- 4.7 At the meeting of 5 Feb 2014, Members determined that formal enforcement action should be commenced. An Enforcement Notice was served which was appealed by Cllr Ashley. The appeal was dealt with by the Planning Inspectorate through the written representations procedure. The appeal against the notice was dismissed and the enforcement notice has been complied with.
- 4.8 A planning application has been submitted seeking residential use of the space and this has not been determined. A further application seeking to enable a study/office use is also not determined.
- 4.9 Following a recent inspection it has now been established that Longcroft itself has not been constructed in accordance with the approval given as it is incorrectly sited, outside the application site that it was proposed to be constructed on. Although it is unauthorised development, it was constructed in 2005/06 and is therefore immune from any action, including action in relation to any conditions that were applied to the permission as the period during which the council can take action is 4 years.
- 4.10 At the 8 January 2014 meeting of the DM committee, Members considered a further matter relating to the site. This comprised an alleged unauthorised use of land owned by Cllr Ashley for the storage of vehicles. The committee determined that formal enforcement action should be taken and an Enforcement Notice was subsequently served. This notice was complied with and following discussion with the landowner, the notice was withdrawn and the associated appeal, which he had lodged against the enforcement notice, was also withdrawn. This use has now ceased.
- 4.11 Cllr Ashley has submitted a notice of intention to convert an agricultural building to residential use. The council objected on 11/07/2014 and an appeal has been lodged, which will be heard at local inquiry on 16th December 2014..
- 4.12 Speaking generally, Mr Steptoe had no issues with Councillor Ashley in terms of his membership or chairmanship of the Development Management Committee. He understood clearly his responsibilities and took a sensible and reasonable view of how they should be operated. The committee generally were quite clear as to their responsibilities. Although from time to time, particular members raised non-planning issues, by and large the committee were focused on the planning issues.

- 4.13 Kevin Steptoe had not met Les Barnes, the complainant, personally, in the context of this current complaint and through the time that planning enforcement allegations were being raised in relation to development at Monks Green Farm. However he is aware that for some four or five years Mr Barnes has been pursuing options for residential development on his own land (Birch Farm), which is not too far (approx 2km) from that owned by the subject of the complaint. He had been granted approval for three residential units on land in the green belt. There had been a series of applications which sought amendments to these proposals over a number of years and Mr Steptoe's recollection was that he may have met with Mr Barnes and the planning case officer at some point to discuss these. Mr Barnes had also previously also been a regular member of the public present at DM committee meetings. Mr Barnes objections to Mr Ashley's activities had all been directed through Councillor Alexander and, apart from one or two letters copied direct, nothing had been said directly to the planning department.
- 4.14 He was also aware of Tim Barnard, a former Parish Councillor but had not dealt with him directly in relation to this complaint. There had been correspondence between Mr Steptoe and Mr Barnard regarding the planning enforcement matter in relation to the conversion of the agricultural buildings at the site to live/work units.

5. The complainant's evidence

- 5.1 I met with Les Barnes, Linda Barnes and Tim Barnard on Wednesday 16 July 2014.
- 5.2 The complaint in the name of Mr Barnes was on behalf of Brickendon Residents and at the meeting he said there were about 40 people in the group, including Linda Barnes and Tim Barnard. "Membership" of the group has subsequently increased to 60. As already noted, apart from the complainant and his wife and Tim Barnard, I have no information about the composition of the Brickendon Residents Group nor any knowledge of its aims.
- 5.3 The key issue for the complainant was that Cllr Ashley had not complied with the standards of behaviour expected of a member of the council and used his position to secure advantage for himself. In short, he is being treated differently than other applicants because of who he is and was intimidating his fellow members and others.
- 5.4 We reviewed the complaint form in some detail and discussed applications submitted by Cllr Ashley and investigations into alleged breaches of planning law.
- 5.5 In relation to the series of applications relating to the change of use of the chicken sheds (Paras 4.4-4.5) the complainant contended that the built

development and its use were in breach of the permission granted and that Cllr Ashley had "got away with unauthorised activity" by dint of his position as a member and Chair of Development Management Committee which had approved the applications. This resulted in financial advantage in terms of rental from these units. There were issues about rating and tax to be investigated. The complainant believed that Cllr Ashley had misled the Committee about his true proposal. He produced information about the rating and letting of the properties to support his contention that the built development was different from the approved development. He had also seen some correspondence from the Council expressing the view that certain changes to the approved application were acceptable because of a court decision which he considered differed on its facts from the present development.

- 5.6 He also produced documents making reference to the award of grants in the region of £170,000 for these developments from the Rural Development Programme for England via Eastern Plateau and drew my attention to the role of Cllr Ashley in that scheme.
- 5.7 Mr Barnes also referred to an application submitted to committee on the 6th November 2013. It was dealt with as a retrospective application to discharge a condition limiting use of the space at first floor above a domestic garage. The garage forms part of the property Longcroft, which is located at the Monks Green Farm site. The application was deferred by members to obtain further information and subsequently withdrawn by the applicant. At the 5 February 2014 meeting of the DM Committee, following the debate by the committee at its January 2014 meeting, and in the light of the withdrawal of the application for retrospective approval, a report was submitted as an enforcement report considering whether or not action should be taken in relation to the breach of condition.
- 5.8 At the meeting of 5 Feb 2014, Members determined that formal enforcement action should be commenced. An Enforcement Notice had been served which had been appealed by Cllr Ashley. Subsequent to our meeting I was made aware that the appeal was dismissed on 30/7/14.
- 5.9 At the 8th January 2014 meeting of the DM committee, Members considered a further matter relating to the site. This comprised an alleged unauthorised use of land owned by Cllr Ashley for the storage of vehicles. The committee determined that formal enforcement action should be taken and an Enforcement Notice was subsequently served. This notice was complied with and following discussion with the landowner, the notice was withdrawn and the associated appeal, which he had lodged against the enforcement notice, was also withdrawn. During the course of dealing with this issue, Cllr Ashley had unsuccessfully sought to obtain a Certificate of Lawful Use for the site and in so

doing, the complainant alleged, had secured affidavits about past use which he knew to be incorrect.

- 5.10 The complainant referred to the issue of Paradise Park, a local leisure facility. He said that Cllr Ashley was very close to the owner and when up to 11 retrospective planning applications were required for the site, Cllr Ashley had not declared his friendship with the owner but had promoted his application. By contrast, he had refused to assist the complainant when help had been sought with an application of his.
- 5.11 Tim Barnard had been a member of the Parish Council and stated that the Parish Council were reluctant to do anything to contradict Cllr Ashley because his wife Linda Ashley was a member of the Parish Council. He said that had been the subject of intimidatory behaviour.
- 5.12 He drew my attention to Linda Ashley's directorship of MGF Property Management Ltd with effect from 20th June 2013.
- 5.13 At our meeting, I drew the complainant's attention to certain correspondence to Cllr Ashley which was expressed in terms suggesting some animosity to Cllr Ashley.
- 5.14 These letters/notes were as follows:
- 5.14.1 Undated letter from Concerned Brickendon Residents enclosing a document entitled "Questions that need to be answered before any faith can be put in East Herts Planning Committee and Brickendon Parish Council" also undated and signed CONCERNED OF BRICKENDON
- 5.14.2 Undated letter from Concerned Residents of Brickendon commencing "Since our last letter we understand you have been busy..."
- 5.14.3 Undated letter from Brickenden (sic) residents commencing "It has been a couple of weeks..."
- 5.14.4 Undated and unsigned document entitled "Thoughts on how one might build six 3/4 bedroom homes in green belt"
- 5.14.5 Undated and unsigned letter commencing "You seem to lack the competence to be a councillor at all"
- 5.15 The complainant indicated that he had no knowledge of any of these letters and they had not been prepared or sent by the association he represented.
- 5.16 A letter from Tim Barnard referred to the Parish Council Meeting in November 2012. This was written by him personally and not on behalf Brickendon residents.

- 5.17 The complainant followed up the meeting with written representations and further documents. In particular, his further representations included an analysis of representations made by the subject member. I have tabulated in **Table 1** the comments of Cllr Ashley and the complainant's response and will deal with them further in my evaluation of the evidence.
- 5.18 In his written representations the complainant amplified some of the matters discussed when we met.
- 5.19 In relation to **Car Storage by GP Cars** this involved the storage of up to 100 cars at a time, office for car sales, workshop and valeting bay. The cars were stored adjacent to Mr Ashley's dwelling, the office was the garage attached to Longcroft and various barns used for valeting and a workshop. Following various complaints from residents in the Monks Green Area an officer of the council was sent to investigate. It was alleged by the council that no permission existed for the use. Cllr Ashley submitted a certificate of lawfulness to correct the breach. But the officer believed the statements and affidavits were untruthful and sought to refuse it. Cllr Ashley withdrew the application before the refusal was published. He tried to replicate another certificate of lawfulness in 2013 but because of an impending refusal he withdrew it again. A planning application followed, that too was refused. Eventually enforcement followed in 2014 to remove the cars, which was satisfied in May 2014.
- 5.20 The allegation made on this car sales/storage business is that Cllr Ashley knowingly allowed this business to grow at Monks Green Farm without having any planning permission for any part of it for over 5 years and submitted untrue statements to defend his actions. He continued to give false statements to the officers and public alike, much to the annoyance of local residents to the farm. According to the owner of the car sales business, all for the princely sum of £45,000 pa (x 5 years) a pecuniary gain.
- 5.21 The **top floor of the garage at Longcroft** was used for the Head office of GP Cars over a five year period to May 2014, without planning permission. Cllr Ashley himself put in a planning application in September 2013 clearly stating that the owner of GP Cars (Who lived at Longcroft house/ a live work unit) wished to expand his car sales business from the work unit at Longcroft to include the storage space on the 1st floor of the garage. The space has a condition on it not to be used for commercial or residential use.
- 5.22 The complainant says that Cllr Ashley lied in his statement on two counts. Firstly, the garage has been in use for the head office of GP Cars for the last 5 years (illegally). It should have been a retrospective application but it was not. It was EHDC who changed the application to a retrospective one.

- 5.23 Secondly, the live/work house known as Longcroft was not being used as a live/work unit for which planning permission was gained in 2005. To expand on the retrospective nature of this application, if a District Councillor (Cllr Ashley) applies for a certificate of lawfulness or wishes to make a minor amendment (as the garage unit was) it is a delegated decision and does not need to go to committee. But if it is a retrospective application under the NPPF Rules, it does have to be heard at committee, something Cllr Ashley hadn't bargained for, as the committee were already questioning his applications. He eventually was refused planning permission after refusing to furnish more information by the Manager of planning.
- 5.24 Just to add salt to the wounds Cllr Ashley submitted a planning application on 31/7/14 (day after appeal decision) to convert the space in the garage loft space into a self contained residential unit.
- 5.25 The allegation made is that not only did he lie in the planning statement of the application, which is misleading the officers and members of the planning committee alike, but he once again made a pecuniary gain for a staggering five years. The rental of Longcroft and the garage is currently £54,000 pa.
- 5.26 **Longcroft House**, the live /work unit has a very complex planning history. There were four main applications for Longcroft which started in 2003; the first application was 3/04/0249/FP. Interestingly the decision was delegated according to the front page of the planning documents held at East Herts Planning Department. This is not correct for a member. Cllr Ashley seeks agreement in principle and then spends sometime years to achieve what he really wants, by in the complainant's view deceptive means. The next application was 3/04/1564/FP then 3/04/1565/LB finally finishing in 2005 with application no 3/05/0221/FP.
- 5.27 The complainant says that from the first application to the last many changes have occurred which probably confuses the most hardened planning officer. It appears it is Cllr Ashley's "modus operandi" to establish the principle of planning permission on the first application then over a 2/3 year period obtain a permission he probably would not have got if applied for in the first place. He then proceeds on to totally flout that final permission and constructs something that is not in keeping with that final permission. This is certainly the case with Longcroft.
- 5.28 The first permission no 3/04/0249/FP was for a "conversion of a redundant old timber frame barn and old original cowshed to live/work dwelling". The conditions accompanying the approval clearly state in condition no 4 "The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, drawings and specifications". Condition 9 clearly states "The commercial use of that part of the premises

approved hereby shall be restricted to uses within B1 of the Town & Country Planning (use clauses) order 1987". This confirms that the property is conditioned as a live/work unit.

- 5.29 In the next two applications 3/04/1564/LB & 3/04/1564/FP there was a major change. The buildings were no longer being renovated in their original location. The proposal was to carefully dismantle the existing structures and re-erect them in a nearby location. That location was the site of a large existing barn to the west of the farm, which was to be demolished to make way for the conversion of the existing barns to be moved.
- 5.30 Early in 2005 Cllr Ashley put in for a fourth application 3/05/0221/FP (just 2 months after the last application) this time it was for a basement to be added. Again the house plans remain the same. Finally, 5 applications later Cllr Ashley got to the point believed to be intended in the first place, to build "Longcroft" as it is known today but not as approved.
- 5.31 As a result:
- 5.31.1 The old tithe type barn which Cllr Ashley describes as "an integral part of the farmstead" and "Is well worth preserving" was totally demolished, as was the stable block/cowshed adjoining it.
 - 5.31.2 The large barn that was to be demolished to make way for the sighting of above was NOT demolished and still stands today.
 - 5.31.3 The property now known as Longcroft was built at least 30m deeper into the greenbelt on the edge of an open field, causing considerable spread of the built form and totally contrary to the greenbelt policy.
 - 5.31.4 The building today has little or no resemblance to the original structure. It is much bigger than originally proposed especially in height. What started as a single storey building turned into a 1 ½ storey building on the plans (conditioned in the approval notice) then became a full two storey mansion on completion.
 - 5.31.5 The work element (office identified on the plans) does not exist and does not have its own entrance as required for a live/work unit and does not represent 30% of the floor space as it should.
 - 5.31.6 It has never been leased out as a live/work unit which is the reason he got the planning permission in the first place mansion.
- 5.32 There were five full applications for **the chicken sheds**; the first was July 2008 and the last September 2011.

- 5.33 The 1st application no is 3/08/1222/FP was for four live/work units (2 storey). The replacement proposal was so grossly inappropriate it was met with serious opposition from the start from the planning department and it was withdrawn immediately.
- 5.34 The 2nd application no 3/08/1739/FP was also for 4 live/work units but this time with basements added. This application was approved with conditions. In this application the proposal was reduced to single storey buildings with the work element being 30% of area for each unit. This application was conditioned by plans and the work unit was identified in the permission.
- 5.35 In January 2011 Cllr Ashley submitted a third application for the chicken sheds no 3/11/0079/FP. This time it was for 6 live/work units. The Parish Council then objected to the increase in traffic, from zero for the chickens to estimated 4000 movements pa. Needless to say, this like all the other applications were for conversion of the buildings so as to re-use them for live work units, as it would be inappropriate development in the greenbelt if it was not.
- 5.36 The fourth application, no 3/11/1611/MA, was allegedly for a minor amendment but it was rejected because it was not a minor amendment at all. It was lacking detail and appropriate plans. Consequently the application was withdrawn
- 5.37 In No 5 application no 3/11/1808/FP, the proposal was to shift and separate the work element from the live element. The complainant was surprised that the officers accepted this and recommended it for approval as it was contrary to policy. The complainant was present when it went to committee and in a little over 40 seconds it was voted for approval without debate. Cllr Ashley was Chairman that night and left the chamber accordingly for his application to be heard.
- 5.38 The complainant says that no one dared to question the Chairman's application as he is the Boss and the one who decides what is policy. He is the one who heads up seminars and training sessions for members of the committee. No matter what he does or by his applications he says its policy. All the others just follow his lead, rightly or wrongly. It appeared to the complainant that his Chairmanship was used to intimidate his fellow members.
- 5.39 The history of all five applications proves that over the nearly 4 year period he repeats the same policy and planning argument consistently throughout. That is policy GBC9 and GBC10. The Conversion and reuse of agricultural buildings only requiring minor alterations such as roofing and fenestration. Without that policy he didn't have a chance of planning approval. Just like Longcroft several years earlier, both applications were for live/work units for the conversion and reuse of existing buildings which are policy.

- 5.40 The complainant believes that Cllr Ashley has broken the code of conduct in just about every way and has gained a pecuniary advantage in doing so and continues to do so. Cllr Ashley abuses the planning system for his own gain, a system which is supposed to protect the community it represents. Cllr Ashley has with a cavalier attitude persistently flouted his position of councillor and especially at the time of being Chairman of the then Development Control Committee.
- 5.41 He has misled members of the then Development control committee, by making untrue statements. What he says in his planning statements is just not the case in reality. This is proved again and again by demolishing structures which he claims he is reusing. By building structures that are totally not in keeping with the plans submitted. By giving policy when he knows it to be false and did so knowingly in the first place. Even when these illegal structures are built he barely ever adheres to the conditions imposed on them. e.g. live/work conditions and or uses. It is the complainant's belief he could never have secured planning permission for Longcroft, the chicken sheds if he was honest and told the truth in the first place on most of his planning applications.
- 5.42 In his response to my draft report the complainant drew attention to a number of occasions when Cllr Ashley had corresponded with the Council from his council email address when he clearly was dealing with his own applications.

6. **Other evidence**

- 6.1 I spoke by telephone with **Cllr 1** on Thursday 17 July 2014. Cllr 1 has been a member of Development Management Committee for seven years and Chair since May 2013.
- 6.2 Cllr 1 believed that whilst on the Planning Committee Cllr Ashley did declare an interest and leave the Council Chamber for his own applications.
- 6.3 Although she had not felt any particular pressure when considering applications, she considered that Cllr Ashley's correspondence to members who had spoken on his applications after the meeting was inappropriate and intimidating. Pressure was being applied to members and in one instance, a member of the Committee had apologised to Cllr Ashley for speaking about his application.
- 6.4 She and other Councillors were concerned that having a current application and visiting Officers in the Planning Department to discuss their application was not the correct procedure for Councillors. Cllr 2 had instigated a system to monitor and record attendance. She also questioned whether the appropriate pre-application fee had been paid for each of Cllr Ashley's applications as is the correct procedure. When the applications from Cllr Ashley came to Committee the Officer's reports and verbal observations always suggested that they should be approved. She had asked for a peer review of the Planning Dept.

- 6.5 I met with **Cllr 2** on Wednesday 16 July 2014. Cllr 2 is the Deputy Leader of the Council and the portfolio holder for Development Management.
- 6.6 In April 2012 he received an anonymous call from an "aggrieved resident" alleging non-compliance with a planning approval to convert some disused chicken sheds to live/work units. He subsequently received a bundle of papers and photographs and a request that the Council take steps to stop the work.
- 6.7 Following discussion with the Monitoring Office, instructions were given to investigate the matter. Subsequently, the Development Management Committee were advised that there was no breach of the approvals. Recently, doubt has been raised about this view and further investigative work will take place.
- 6.8 Enforcement investigation and subsequent action was instigated in relation to a change of use to vehicle storage. He and other members of the Committee received correspondence from Cllr Ashley from his Council email address, calling into question the actions of the committee in what he considered to be an inappropriate manner.
- 6.9 Cllr 2 believed that Cllr Ashley had difficulty distinguishing his roles as businessman and Councillor.
- 6.10 He believed that Cllr Ashley had been present as an observer when an application from a family member was being considered but had not declared an interest.
- 6.11 He was also concerned that Cllr Ashley had free access to the Planning Dept. In consequence, he, as portfolio holder had instituted a system to monitor and record attendance. He questioned whether Cllr Ashley was obtaining pre-application advice from officers in the approved and appropriate way ie meeting with officers as an applicant.
- 6.12 I spoke on the telephone with **Cllr 3** on Thursday 17 July 2014. Cllr 3 is a member of Development Management Committee.
- 6.13 He believed that Cllr Ashley had been present as an observer when an application from a family member was being considered but had not declared an interest.
- 6.14 He drew my attention to correspondence with Cllr Ashley following a decision of the Committee, in terms which he found unacceptable. He considered that these emails were calculated to prevent members from doing their job as committee members.

- 6.15 He was also concerned that Cllr Ashley had free access to the Planning Dept. and believed that Cllr Ashley was obtaining pre-application advice from officers without using the agreed procedure for so doing and paying the requisite fee.
- 6.16 In his view Cllr Ashley was being treated in a way not open to other applicants.
- 6.17 I met with **Cllr 4** on Wednesday 16 July 2014. Cllr 4 is a member of Development Management Committee.
- 6.18 Alarm bells had rung with him about Cllr Ashley's approach to the planning process in the context of a planning application made by a director of a company of which Cllr Ashley was also a Director. Cllr Ashley had declared no interest nor acknowledged this relationship. Cllr 4 knew that Cllr Ashley had served as Director with the applicant for several years as one of 10 directors and did not believe that Cllr Ashley was correct to suggest that he did not know him.
- 6.19 He noted that Cllr Ashley's applications were always late on the agenda and rarely discussed in depth. The impression given was that the applications were not significant in planning terms and only came to Committee because the applicant was a member
- 6.20 He was also concerned that Cllr Ashley had free access to the Planning Dept. and believed that Cllr Ashley was obtaining pre-application advice from officers without using the agreed procedure for so doing and paying the requisite fee. In particular, he was receiving advice from senior officers not the duty officer as might be expected.
- 6.21 In his view Cllr Ashley believed he should be treated in a way not open to other applicants.
- 6.22 In April 2013 he had been party to a discussion about Cllr Ashley's desire to seek the chair of Development Control Committee. He had taken the view that such a step would be unwise given his concerns about Cllr Ashley's attitude to his own planning applications.
- 6.23 I spoke on the telephone with **Cllr 5** on Monday 11th August. Subsequent exchanges of correspondence clarified her views.
- 6.24 Cllr 5 has been a member to Council for four years and a member of the Development Control/Management Committee for three years.
- 6.25 Cllr 5 explained that she saw her role as a member of the Development Management Committee as one in which she should take a fair and objective and investigative approach relation to applications before the Committee. She was always very thorough and careful in her evaluation of the proposals upon which she was asked to make a decision, carrying out proper site visits in every case.

She considers that it was quite proper for her to ask questions and to challenge recommendations as appropriate.

- 6.26 In the case of an application submitted by Councillor Ashley at a point in time when he was no longer chair of the committee, she felt that his behaviour had been inappropriate in that after the meeting he had sent her various emails. The first of these, to which she had replied, had suggested that Councillor Ashley and his family were upset by the observations made and questions asked in relation to his application. Councillor 5 had gone as far as to apologise if there had been any upset to his family, but was firmly of the view that she was entitled to stick to her guns in relation to the merits or otherwise of the application.
- 6.27 Two further emails had been sent, the first of which she had not replied to, believing there was nothing further to say on the matter. I asked her what she felt was the purpose of Councillor Ashley in sending these emails and what he had hoped to achieve by them. She was unable to discern his objective: However, she did feel that his approach and his emails were intimidating and unnecessary and unhelpful. Some of Councillor Ashley's comments were directed to a remark that she had made in the meeting when the application was being considered that Councillor Ashley was showing disrespect for the planning process. She stood by this remark.
- 6.28 Cllr Ashley asked in one email if she had visited the site. This had not been possible as all entrances were padlocked so she had been unable to view before the planning committee.
- 6.29 Cllr 5 said that she gave the matter much thought before addressing the application. She did not expect to receive emails from applicants on her comments, especially ones that could be perceived as intimidating, and certainly not from a fellow councillor who as a former chairman of planning is aware of the process.
- 6.30 Cllr 5 stated "As Councillors we are leaders of our community and therefore should at all times behave with dignity and be mindful of procedure."

7. The subject councillor's evidence

- 7.1 Councillor Ashley joined the council in May 1999 and was re-elected in 2003, 2007 and 2011. From the outset of his council membership, he was a member of the then development control committee. From 2004 to 2008 he was vice chairman and from 2008 to 2012 he was chairman of that committee. Following the elections in 2011 a number of issues arose which resulted in his stepping down from the committee in 2012.

- 7.2 He confirmed that whenever applications were made which were his own personal applications or in which he had any other interest of whatever nature he would declare his interest and withdraw from the discussion.
- 7.3 His interests were set out on his declaration form as being a partner in W. Ashley and Partners and sole director of Monks Green Farm Limited. His wife Linda was a member of the parish council and a partner in W. Ashley and Partners.
- 7.4 Councillor Ashley confirmed that he was fully familiar with the Code of Conduct and had attended relevant training on a regular basis. He had encouraged other members to participate in relevant training when he was Chair and Vice-Chair. His approach was to take a wide view of interest and even if there was not a technical legal interest, to declare any relationships or circumstances which he believed he should draw to the attention of the committee.
- 7.5 He explained something of the background to his business activities including the imperative of pursuing a diversification program for Monks Green Farm which the family had acquired in 1959. This had begun as long ago as 1983 when a change of use of part of the premises had taken place in relation to storage.
- 7.6 As a land owner and businessman seeking to diversify his agricultural holding it was, in his opinion, perfectly legitimate for him to conduct his business provided he did so in a proper manner. He accepted that in so doing he must not use his position as a councillor to gain any advantage or bring about any undue influence. He was quite firm in his assertion that he had never attempted to use his position as a councillor to gain any advantage or put undue pressure on members or officers.
- 7.7 We discussed some of the applications which had been made by Cllr Ashley. The first was for the conversion of some farm agricultural units to live and work units. There were five applications in total for this use. The first, in 2008 was withdrawn, a further application that year, for 4 units was approved. This was followed by three further applications, one to increase the number of units to 6, the other two sought amendments to the configuration of the units. There were some suggestions that the units had not been developed or used in the manner intended in the approval and this had been investigated subsequent to implementation of the permission. The outcome of the investigation, during which legal advice in relation to relevant case law was sought, was that the implemented works were within the scope of the permission.
- 7.8 On 6th of November 2013 an application was submitted to discharge a condition limiting use of the space at first floor above a domestic garage. The garage forms part of the property Long Croft. The application was deferred by members to obtain further information and subsequently withdrawn by the applicant. At the 5 February 2014 meeting of the DM Committee, following the debate by the

committee at its January 2014 meeting, and in the light of the withdrawal of the application for approval, a report was submitted as an enforcement report considering whether or not action should be taken in relation to the breach of condition.

- 7.9 At the meeting of 5 Feb 2014, Members determined that formal enforcement action should be commenced. An Enforcement Notice was served which has been complied with.
- 7.10 At the 8 January 2014 meeting of the DM committee, Members considered an alleged unauthorised use of land for the storage of vehicles. The committee determined that formal enforcement action should be taken and an Enforcement Notice was subsequently served. This notice was complied with and following discussion with the landowner, the notice was withdrawn and the associated appeal, which he had lodged against the enforcement notice, was also withdrawn.
- 7.11 He had not attended any of the committee meetings when his applications were being considered and had no conversations with any members of the committee about them. He had maintained this approach even after he had ceased to be a member of the committee.
- 7.12 He produced for me a number of emails sent from his council email address which set out exchanges which had taken place between himself and some members of the council who were on the development management committee and the Head of Planning. These related to issues raised in the debate and he felt it was legitimate for him to ask questions as to the reasoning of members in coming to their decisions and also some matters which he had found greatly upsetting in relation to his conduct of the applications. In particular, he referred to suggestions from one member that he showed disrespect for the planning process and from another member that there were matters of concern at Monks Green Farm which required to be investigated. He felt it quite legitimate to approach councillors on these matters because he felt they were making unsubstantiated comments in relation to the conduct of his business and his role as a member of the Council.
- 7.13 Cllr Ashley said that Councillor 5 was vocal in the DM Committee of 6th November and had caused him much anxiety in her comments. She referred to his planning application as 'its not the first time' that I had a retrospective planning application. She also stated that he had a lack of respect for the planning system.
- 7.14 In light of Councillor 5's accusation of him using an aggressive manner in his e-mails, he had re read them and could not see any aggression in them. They were written after the decision was made on his application and did not refer to

that decision. In hearing this Member state that lacked respect, his e-mail was written asking her why she felt this and to explain her comment on a second retrospective application. He believed that both her comments should have been supported. He had never had a retrospective application before and he believe it did not provide a true picture and misled the discussion.

- 7.15 Some of the emails exchanged with members of the Council and officers are at Appendix C.
- 7.16 Since this, the press have reported on her comments and more recently on 5th June repeated her comments again after Councillor 5 and the reporter both attended the Standards Sub committee and Councillor 5 commented on the e-mails there. He had a subsequent conversation with Councillor 5 and she had referred to the e-mails as simply one of those things. At no point did she refer to them as aggressive.
- 7.17 I asked him why some of the emails he had written in connection with the follow up to his application had been written on his East Hertfordshire email and he said that this was purely a matter of convenience and he had not applied his mind to any consequences or inferences that might be drawn from such action
- 7.18 In his response to my draft report Cllr Ashley stated that he did not intend to be offensive to members of the Development Management Committee but suggested that he simply wanted them to focus on the planning issues. In support of his argument, he invited me to consider further committee discussion about more recent applications and planning processes. These concerns were, he says, compounded by press coverage which drew attention to his applications and painted him in an unfavourable light.
- 7.19 On that basis, he invited me to reconsider my finding that he had been disrespectful to members of the Development Management Committee.
- 7.20 He raised concerns about the absence of information about the complaint which had been lodged against him. Although he had now seen the complaint in full he had had extreme difficulty in obtaining this and had not seen it before the Standards Committee decided that the matter should be investigated.
- 7.21 He was also concerned that the member who had chaired the Standards Committee which made the decision to conduct an investigation was a member of the development management committee and had now given evidence to the investigation. I explained to him that if the evidence submitted by that party became in any way relevant to the conduct of the investigation that member would be asked to step down from any involvement in the proceedings.
- 7.22 He said that at the meeting on 6th November 2013 Cllr 3 requested an investigation on his farm with a comment referring to the 'goings on up there'.

Councillor 3 had referred to the press and in reading Mr Barnes letters to the Portfolio Holder, he too makes reference to the goings on and an investigation

- 7.23 The same concern applied to the vice chairman of the committee. Although no evidence had been taken from him there was a legitimate concern about his involvement in the standards process given his role as a member of the development management committee.
- 7.24 In relation to his contact with officers of the council, Cllr Ashley said that at all times he had approached them for discussion, information and advice in his capacity as an applicant and in no way attempted to assert his position as an elected member or chair of the committee in his conversations with council officers.
- 7.25 As far as he was aware, all the applications which had been approved had been in compliance with the policies of the council and he had made no attempt to ask the council to change its policies or to make relaxations from policy in order to approve his applications.
- 7.26 I drew his attention to the concerns of one of the elected members about the "aggressive nature" of his approach to her but he believed that there was no aggression or intent of aggression in the correspondence which he exchanged with her.
- 7.27 To facilitate the planning process he had encouraged and welcomed site visits from members of the development management committee and the parish council and had at all times made himself available to respond to questions and queries in relation to his applications.
- 7.28 He pointed out that at DM Committee on 6th November, a Councillor stated that she was unable to access his farm to look at the site of the application. He e-mailed her after the meeting asking her about this and advised her that there are two entrances. He asked her if she was aware of the arranged visit by the Chair and Head of Planning. The Councillor confirmed she was not made aware of the visit and therefore he believed that not all Members had the same information prior to their decision.
- 7.29 He had been upset by the considerable amount of press comment and approaches from the press which he felt in some cases were unmerited and unjustified but accepted that these were not the responsibility of the council or other members of the council.
- 7.30 William Ashley's wife, Linda Ashley, was present throughout the discussion and she confirms that as a member of the parish council she had declared all interests that she might have in applications made in relation to Monks Green Farm. She was not aware of any discussions which had been conducted at

parish council meetings against a backdrop of concern that they should not be speaking objectively about applications simply because those applications were ones in which she had an interest.

- 7.31 He believed that Members were lobbied but not by him. Not all were presented with all the information or provided with an invite to the arranged site visit. Members should be aware that in a public meeting personal views on an individual should not be expressed. Individual Members should reach their own conclusion based on the planning merits.
- 7.32 In an email dated 18th August 2014 Cllr Ashley listed areas which he believed show his respect for the Councillors code of conduct.
- 7.32.1 Shown openness by bringing issues to the attention of others, particularly in light of the press reports and applications past and present.
 - 7.32.2 Had dialogue with the Parish Council, been responsive and forthcoming with information on issues.
 - 7.32.3 Had dialogue with Planning team on all issues dating back to live/work 2012.
 - 7.32.4 Raised concerns on the receipt of anonymous letters and requested advice on reporting with CE, Leader, Director of Neighbourhood Service, Head of Planning and the police.
 - 7.32.5 Raised concerns on issues which can be interrupted as influencing the planning system and DM committee to ensure an open and transparent way of working.
 - 7.32.6 Suggested to the CE and planning manager whether future applications should be addressed by another authority.
 - 7.32.7 Informed the CE and the planning manager of imminent applications prior to submitting them.
 - 7.32.8 Followed planning processes planning as both a Member of the council and as an applicant.
 - 7.32.9 Maintained a professional relationship with the media and where brief quotes have been provided the Chief Executive has been informed.
 - 7.32.10 Made applications through approved routes whether they be planning or Rural Development Programme for England.

- 7.32.11 Provided information provided when request and otherwise maintaining that dialogue has been recorded with officers.
 - 7.32.12 Complied with the planning processes an examples being appeals, when requested additional information and site visits.
 - 7.32.13 Logged visits to site by officers, members and parish.
- 7.33 In a further written comment, Cllr Ashley said that the complainant, Mr Barnes has continued to add to his claim in support of his submission since the meeting of the Standards Sub Committee was held. He has also been quoted in the press and has now submitted a comment on a current planning PDR which Cllr Ashley has submitted. He believes that Mr Barnes is continuing to attempt to influence not only the investigation process but also a current application which has yet to be decided on. This further evidence confirmed his view that the complainant was not seeking justification on past planning issues but all planning issues, past, present and future ones. The complainant in his own words has stated that the issues are not that of planning but he remains unclear as to what section of the code of conduct his allegation relates to.
- 7.34 The complaint refers to a certificate of lawful development which was in relation of the car storage yard subject of appeal. This application was withdrawn and the tenant served notice on the property. The complaint has suggested that this has been at great expense. The expense incurred has been his in evicting the tenant of which legal fees were part of it. No doubt there was expense to the tenant in sourcing an alternative site and the logistics of relocating. As to the expense the council incurred his assumption was that this relates to officer time and no different to that of any individual wishing to make a planning application.
- 7.35 The complainant makes reference to the rental cost of Longcroft. It is unclear as to the relevance that this has on the planning permission. Longcroft has always been a rental property and has planning permission as a live/work rental property. The house is an income source for his farming business which is a separate operation from that of the Council. Any decision to rent as a live/work or live property is flexible albeit that every tenant who has occupied has chosen to work for the property as well.
- 7.36 The chicken sheds as they are described are no longer chicken sheds. Planning permission was granted and the development took place. Through the planning process a number of applications were submitted over a period of time as it became evident that amendments needed to take place. For example the original application was for 4 units which later increased to 6. An application applied for a basement which was later resubmitted without a basement.
- 7.37 It has been suggested that the 6 live properties and 6 work properties are rented separately. This is not the case, all of the properties marry up.

- 7.38 In view of a complaint raised by the complainant in April 2012 to the portfolio holder of planning, enforcement officers attended the site and work ceased whilst an investigation was carried out. This investigation was conducted by officers of the council and the Council's legal officer consulted with Counsel and concluded that there was no further action.
- 7.39 Further allegations suggest the development is not rated correctly. Both the business rates section and the Council tax section of the Council have all been informed along with the VOA and all the properties are rated accordingly. The VOA web site provides the rateable value which is being paid by the individual business.
- 7.40 The complainant has commented on the DEFRA grant which was made available to rural businesses. As a rural business (farm) this grant was made available to apply to. Permission was requested and granted prior to an application being submitted to DEFRA. The application went through a rigorous process and an independent LAG. All activity from the submission to approval to completion of the project were recorded.
- 7.41 All applications have followed a process and within the guideline set out by the Council when one of its Members submits an application. Throughout the process transparency has been evident with contact with the Council, applications submitted, reports written, the applications present to Development Control Committee and later Development Management Committee, minutes logged, web cast available at later committees, declarations of interest recorded and when he was present at committee, he left the room when his applications were discussed.
- 7.42 Cllr Ashley submitted an appeal for use of the garage as an office despite GP Cars vacating but unfortunately it was unsuccessful and the garage is not used as an office. Enforcement officers have visited the site, as has the planning manager and the matter is closed.
- 7.43 The report relating to the Certificate of lawful development was written in November 2012 following a site visit by the Councils Enforcement officer. It relates to a yard which was used for storage of vehicles. The application was withdrawn follow advice from the Planning Officer and the tenant was given notice to vacate. The tenant was the same tenant (GP Cars) who resided in Longcroft House. Over time this tenant had provided assurances that he was actively looking for an alternative site but the time taken to do so was not in agreement with the Councils Enforcement Officer and a notice was served.
- 7.44 During this period Cllr Ashley was actively working to evict the tenant which resulted in a successful court order. The enforcement notice was withdrawn by the Council once the tenant had vacated.

- 7.45 Additional information for a Variation of condition was in support of an application made for a variation to an existing condition to the first floor of the garage at Long Croft. The application was for an office and was made on the advice of the Council Enforcement Officer. The application was discussed at DM Committee in November 2013 and the officers report recommended approval. The Committee requested that officer contact him to discuss further before any decision was made. However, this application was withdrawn and the tenant was given notice to vacate Long Croft House which included the garage. This resulted in a possession notice served on the tenant and he vacated.
- 7.46 Cllr Ashley said that as a district councillor for some 15 years plus he has seen nothing within the code of conduct to prevent him submitting an application. No officer have advised otherwise and the Chief Executive of the Council has been informed that he was submitting an application. All applications have followed a process and some have been successful and others not but all based on planning merits.

8. Findings of fact

- 8.1 I have very carefully reviewed all the document supplied to me together with the various representations including the Appendices to this report and the Tables. The law requires me to reach conclusions as to facts on the basis of reasonable probability and on that basis, I find the following facts:
- 8.2 The complaint in the name of Mr Barnes is on behalf of Brickendon Residents, a group of about 60 people. The identities and addresses of group members and the impact of Cllr Ashley's activities at Monks Green Farm on them have not been disclosed.
- 8.3 Anonymous correspondence to Cllr Ashley is expressed in terms suggesting some animosity to Cllr Ashley. The reasons for that animosity have not been evidenced. It is not clear who sent this correspondence but there is no evidence that it was the complainant.
- 8.4 Five applications were made for the conversion of farm agricultural units to live and work units. The first, in 2008 was withdrawn; a further application that year for 4 units, was approved. This was followed by three further applications, one to increase the number of units to 6, the other two sought amendments to the configuration of the units. Suggestions that the units had not been developed or used in the manner intended in the approval had been investigated subsequent to implementation of the permission. The outcome of the investigation, during which legal advice in relation to relevant case law was sought, was that the implemented works were considered by the council to be within the scope of the permission. All the applications which had been approved had been in compliance with the policies of the council

- 8.5 Grants in the region of £170,000 for developments at Monks Green Farm have been awarded through the Rural Development Programme for England via Eastern Plateau. At the time the grants were made Cllr Ashley was not involved in that scheme and was not a member of the decision-making bodies.
- 8.6 An application to discharge a condition limiting use of the space at first floor above a domestic garage was submitted to Development Management Committee on the 6th of November 2013. The garage formed part of the property Longcroft, which is located at the Monks Green Farm site. The application was deferred by members to obtain further information and subsequently withdrawn by the applicant. At the 5 February 2014 meeting of the DM Committee, following the debate by the committee at its January 2014 meeting, and in the light of the withdrawal of the application a report was submitted as an enforcement report considering whether or not action should be taken in relation to the breach of condition.
- 8.7 At the meeting of 5 Feb 2014, Members determined that formal enforcement action should be commenced. An Enforcement Notice was served which was appealed by Cllr Ashley. The appeal against the notice was dismissed and the enforcement notice has been complied with.
- 8.8 Following a recent inspection it has now been established that Longcroft itself has not been constructed in accordance with the approval given as it is incorrectly sited, outside the application site that it was proposed to be constructed on. Although it is unauthorised development, it was constructed in 2005/06 and is therefore immune from any action, including action in relation to any conditions that were applied to the permission as the period during which the council can take action is 4 years.
- 8.9 At the 8 January 2014 meeting of the DM committee, Members considered alleged unauthorised use of land owned by Cllr Ashley for the storage of vehicles. The committee determined that formal enforcement action should be taken and an Enforcement Notice was subsequently served. This notice was complied with and following discussion with the landowner, the notice was withdrawn and the associated appeal, which he had lodged against the enforcement notice, was also withdrawn. This use has now ceased.
- 8.10 Councillor Ashley joined the council in May 1999 and was re-elected in 2003, 2007 and 2011. From the outset of his council membership, he was a member of the then development control committee. From 2004 to 2008 he was vice chairman and from 2008 to 2012 he was chairman of that committee. Following the elections in 2011 a number of issues arose which resulted in his stepping down from the committee in 2012.

- 8.11 His interests are set out on his declaration form as being a partner in W. Ashley and Partners and sole director of Monks Green Farm Limited. His wife Linda is a member of the parish council and a partner in W. Ashley and Partners. No detailed evidence was provided to substantiate references by two witnesses to other alleged failures to declare interests.
- 8.12 His business activities centre on Monks Green Farm which the family had acquired in 1959, including the pursuit of diversification programme for the farm. This had begun as long ago as 1983 when a change of use of part of the premises had taken place in relation to storage.
- 8.13 As a land owner and businessman seeking to diversify his agricultural holding it is perfectly legitimate for Cllr Ashley to conduct his business provided he does so in a proper manner. There is nothing in the code of conduct to prevent him submitting an application in relation to the conduct of his business.
- 8.14 Councillor Ashley is fully familiar with the Code of Conduct and has attended relevant training on a regular basis. Whenever relevant, Councillor Ashley declared his interest and withdrew from the meeting when relevant matters were under discussion. Cllr Ashley had not attended any of the committee meetings when his applications were being considered. He has maintained this approach even after he had ceased to be a member of the committee.
- 8.15 There is no evidence that Cllr Ashley lied in any planning statements or applications or misled the officers and members of the planning committee.
- 8.16 There is no evidence that Cllr. Ashley used his Chairmanship to intimidate his fellow members nor that he gained a pecuniary advantage by doing so. Any pecuniary advantage to Cllr Ashley is a result of his conduct of his business not his activities as a councillor.
- 8.17 Cllr Ashley had corresponded with members of the Development Management Committee about applications after their consideration of them, to challenge their comments and contributions at Committee.
- 8.18 Some of the emails he had written in connection with the follow up to his application had been written from his East Hertfordshire District Council email address. Emails were sent to various parties in connection with his own applications from his Council email address.

9. **Evaluation of the evidence and conclusions**

9.1 In evaluating the evidence, there are a number of factors which I must consider.

9.2 The first is that of **capacity**. Section 26 of the Localism Act 2011 requires the authority to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity

9.3 Compliance with the Code is required whenever a member

9.3.1 conducts the business of the authority including the business of any office to which the member is appointed; or

9.3.2 acts, claims to act or gives the impression that the member is acting as a representative of the authority.

9.4 A key question in reviewing the evidence will therefore be, whether the allegations relate to Cllr Ashley's conduct as a councillor.

9.5 The second issue is that of **timing**. The Council adopted a code of conduct on 30th January 2013 under section 26 of the Localism Act. The relevant parts of the adopted Code are, in my view, as follows:

9.5.1 "I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

9.5.1.1 SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

9.5.1.2 HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

9.5.1.3 LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

9.5.2 Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.

9.5.3 Always treating people with respect, including the organisations and public I engage with and those I work alongside."

- 9.6 However, some of the matters raised by the complaint refer to actions alleged to have taken place before the adoption of the current code and I must therefore consider the provisions of the mandatory code included in The Local Authorities (Model Code of Conduct) Order 2007 which governed the conduct of members from 3 May 2007 to the adoption of the new Code on 30th January 2013.
- 9.7 In so far as that Code is engaged, the relevant provisions are
- 9.7.1 You must treat others with respect
- 9.7.2 You must not bully any person
- 9.7.3 You must not do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the authority
- 9.7.4 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 9.7.5 You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
- 9.8 I do not propose to go beyond the period covered by that earlier Code since, in so far as any of the alleged breaches pre-date that Code and I am not persuaded that they do, I am of the opinion that the passage of time would jeopardise the evidence base and call into question the wisdom of reverting to those matters.
- 9.9 Cllr Ashley is heavily engaged in the management and development of Monks Green Farm. In his capacity as a partner and director of the two businesses responsible for the running of the farm and associated property, he is entitled to submit planning applications and should be treated in the same manner as other applicants.
- 9.10 He has a clear responsibility, because he is a councillor, to ensure that he maintains strict separation between his role as an applicant and that of councillor. My findings of fact, as noted above, satisfy me that he has largely succeeded in doing so. He has declared his interest in his businesses and not participated in any debate or decision where his interests are affected.
- 9.11 There is nothing in the complaint or the evidence produced to me to suggest that he failed to register his disclosable pecuniary interests with the monitoring officer as required by law or that he failed to declare interests when relevant applications were considered.
- 9.12 However, I do consider that the allegations made in respect to non-disclosure of other potential disclosable pecuniary interests in relation to other applications

warrant further investigation. These are referred to at paragraphs 6.13 and 6.18.

- 9.13 When the council pursued investigations into his applications or other alleged breaches of planning requirements he responded to the council fully and where enforcement action was taken he complied. The Council did not hesitate to enforce against him when it was justified thus demonstrating that his position as a member did not attract any special treatment. When (in relation to the live/work scheme) there was a legitimate challenge to his activities which required investigation by the council he willingly complied with the requirement to cease work.
- 9.14 He cannot be faulted for using his best endeavours to achieve as favourable a position as possible for his business within the boundaries of planning legislation and policy and there was no evidence that he misled the planning authority. The complainant asserts that he lied to the planning team and fellow members but produced no evidence to substantiate this. The complainant's assertion that he gained a pecuniary advantage by using his position as a member of the council is nothing more than assertion. Any pecuniary advantage has been the result of his business operations not his position as a councillor. He did not gain any pecuniary advantage from any behaviour which breached the Code.
- 9.15 I have considered a great deal of documentation and lengthy representations from the complainant. As I explained to all the parties at the outset of the investigation my concern was to establish whether the code had been breached. The merits or otherwise of planning proposals and the decisions of the council in relation to applications and enforcement are not mine to judge. My concern is with the Code and the behaviour of a member.
- 9.16 Much of the material presented to me touched on planning merit and there was a great deal of unsubstantiated assertion about the councillor's behaviour and motives. There was however no evidence to show in what way, in his capacity as a councillor, he had breached the code in relation to his legitimate endeavours to secure planning permission and to respond to any other planning enforcement issues with the authority.
- 9.17 The complaint is about the conduct of the member. It is not about the planning merits of any decisions taken by the Council on planning policy, on specific applications or on whether or not to institute enforcement proceedings. The complainant is critical of me for taking evidence about planning issues and then not using it. I observe that it was necessary to explore these matters to enable me to ascertain if they raised issues in relation to Cllr Ashley's conduct.
- 9.18 I have taken note of the evidence that Cllr Ashley used his council email when corresponding with the Council about his applications. I have considered

whether this leads to a conclusion that he was acting in his capacity as a councillor in so doing. I believe it is difficult to reach the conclusion that he was. On balance, I do not feel he was trying to gain any advantage by corresponding in this way.

9.19 However, I do consider that it was extremely unwise of Cllr Ashley to do so. At the very least such action is capable of creating a wrong impression about his capacity. At best, it is misleading.

9.20 Accordingly, I do not find any breach of the Code of conduct in respect of the complainant's allegation that

9.20.1 Cllr Ashley has gained a pecuniary advantage in the manner in which he obtained various planning permissions bringing himself, East Herts Council and members of the Planning Committee into disrepute. Statements made in obtaining permissions appear to be very misleading.

9.20.2 He abused his position by ambiguous means in changing the fundamental framework of implementing such permissions. Some of the permissions appear to have been covered up (sic) by misleading and ambiguous statements to officers, the press and others.

9.20.3 He flagrantly breached conditions imposed on particular permissions and in doing so appears to have obtained substantial financial gain.

9.21 In light of this finding, it is not necessary to refer to the provisions of the mandatory code in operation from May 2007 until the adoption of the current code.

9.22 However, I do believe that Cllr Ashley's correspondence after the meeting of 6th November 2013 with Cllrs 1,2,3 and 5 as members who had spoken on his applications was inappropriate. I do not think it was intimidating but I do consider that it was disrespectful to members of the Committee. The tone and content of those emails gives rise to the inference that those members had not applied themselves properly to the issues before them and that in some way their judgement was faulty. I would not expect Cllr Ashley, as a former Chair of the predecessor Committee, to adopt that approach with his colleagues. I note that says that he did not intend to influence members and that he had concerns about what they were saying. However, I consider that a councillor with his experience and knowledge should understand that members are entitled to scrutinise thoroughly applications before them and to challenge the information and recommendations presented to them.

9.23 Whether the comments of the members were, as Cllr Ashley claims, disrespectful to him, is a matter of judgement but I see nothing here other than the

committee undertaking the task it was appointed to do. I was particularly impressed in considering this aspect of the matter, that, although the evidence by Cllrs 1,2, 3, 4 and 5 showed a genuine concern about his conduct towards them and his behaviour generally, they were not deflected from their perceived responsibilities to challenge robustly his applications and actions.

- 9.24 In further comment made in response to my draft report, Cllr Ashley repeats his claim that his approach was influenced by a perceived lack of respect for him on the part of the members with whom he corresponded. I am not persuaded by this argument given the right of members of the Committee to vigorously challenge his proposals.
- 9.25 I appreciate that Cllr Ashley is passionate about his work and keen to maximise his business opportunities. I have no problem with robust debate. However, I consider that on this occasion he overstepped the mark and I particularly take note of the fact that his correspondence was addressed from his council email address and that he directed some of that correspondence to an officer as well as fellow members. Cllr Ashley said in evidence that there was no significance in his use of his Council email address and that no inference should be drawn as to his motives on that account. I understand his argument but I do consider that he ought to have applied his mind to the effect that writing as a councillor would have on the recipients.
- 9.26 The Council's Protocol on the use of IT by members dated May 2011 states at paragraph 3(a) that the computer is provided to the councillor specifically to facilitate the discharge of the councillor's functions as a Councillor and the Councillor must not use the computer in any manner which is inconsistent with Council duties and activities.
- 9.27 This correspondence took place between 7th November 2013 and 21st February 2014 and it therefore falls to be considered under the current code, the relevant terms of which are noted at paragraph 9.5 as follows:
- 9.27.1 Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- 9.27.2 Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- 9.28 In my view Cllr Ashley's conduct fell short of reasonable expectations as to how he should treat his colleagues and I consider that he was using his position as a councillor to pursue that correspondence.

- 9.29 Accordingly, I find him to be in breach of the code of conduct in relation to that correspondence, in that he did not value colleagues and staff, did not engage with them in an appropriate manner and failed to treat them with respect.

10. Action by the Council

- 10.1 My report will be considered by the Monitoring Officer and by the Standards Committee.

- 10.2 In so far as the report makes a finding of breach if, after a hearing, that finding is upheld by the Standards Committee, the Committee will consider the following actions:

10.2.1 A formal letter to the Councillor found to have breached the code;

10.2.2 Formal censure by motion;

10.2.3 Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;

10.2.4 Press release or other appropriate publicity;

10.2.5 Request an apology by the member

- 10.3 I also recommend that the Monitoring Officer consider whether the allegations that other Disclosable Pecuniary Interests were not disclosed should be investigated further.

11. Recommendations to the Council on code of conduct arrangements and other matters

- 11.1 The subject member was concerned that he did not see the complaint nor have an opportunity to make initial comments before the Standards Sub-Committee met to discuss it and resolved to investigate the matter.

- 11.2 I recommend that the Monitoring Officer seek the initial comments of the subject member before deciding whether to investigate a complaint unless to do so would prejudice any formal investigation.

- 11.3 The complainant requested that his name be withheld but this did not happen for reasons not identified.

- 11.4 I recommend that the Council review its procedures to ensure that if the complainant requests not to be identified, that request be adhered to until the appropriate officer or Committee has considered the request.

- 11.5 Cllr Ashley was concerned that at the Standards Sub-committee members were present who subsequently gave evidence to the investigation. He made

particular reference to Cllr 3 who chaired the meeting and to Cllr 4 who made submissions to the meeting. I do not see any difficulty in members of the Sub-Committee engaging in the decision to investigate since my understanding is that different members will consider the Investigation report. However, it does appear that members who were not members of the Sub-Committee attended the meeting and were allowed to make submissions. This I do consider to be inappropriate.

11.6 I do also have a concern that Cllr Ashley had no opportunity to make his views known to the Standards Sub-Committee before they decided to investigate the allegation. This contrasts not only with the position of the complainant but also those members of the Council who were present at the meeting of the Standards Sub-Committee and subsequently gave evidence to me. It is for the council to set its own procedures on these arrangements but it is important that all parties are treated on the same footing.

11.7 The Council may wish to consider and review its procedures in these areas, noting that the Localism Act 2011 places responsibility on the council to keep its procedures under review.

11.8 I also recommend that the Council remind members of the conditions on which computer facilities and council email accounts are provided to members.

11.9 Although, I did not accept Cllr Ashley's request to consider the proceedings of further meetings of the Development Management Committee nor the findings of the peer review as I considered these to be outside the scope of my investigation, I have no doubt that the council will wish to consider these matters and in particular whether any guidance is needed in relation to councillors when acting as applicants.

12. **Conclusion**

12.1 I wish to thank all those who have been involved in the investigation for their patience and helpfulness in what has been a lengthy and time-consuming task for all concerned.

LIST OF ATTACHMENTS TO THIS REPORT

APPENDIX A –THE COMPLAINT

APPENDIX B-SUPPLEMENTARY COMMENT FROM COMPLAINANT FOR STANDARDS SUB-COMMITTEE

APPENDIX C CORRESPONDENCE FROM CLLR ASHLEY TO OTHER MEMBERS AND OFFICERS FOLLOWING MEETING ON 6TH NOVEMBER 2013

TABLE 1 COMMENTS OF SUBJECT MEMBER ABOUT THE COMPLAINT AND FURTHER RESPONSE OF THE COMPLAINANT

TABLE 2 LETTERS FROM THE COMPLAINANT TO THE PORTFOLIO HOLDER AND CLLR ASHLEY'S NOTES IN RESPONSE

5703951

APPENDIX A

EAST HERTFORDSHIRE DISTRICT COUNCIL

ALLEGATION OF BREACH OF THE CODE OF CONDUCT

REPORT OF THE INVESTIGATING OFFICER

THE COMPLAINT



EAST HERTFORDSHIRE DISTRICT COUNCIL

COMPLAINT FORM : CODE OF CONDUCT FOR MEMBERS

A. Your details

1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

AGENT/REPRESENTATIVE FOR RESIDENTS OF BRICKENDON

Title:	<i>MR.</i>
First name:	<i>LESLIE</i>
Last name:	<i>BARNES</i>
Address:	<i>BIRCH FARM WHITE STUBBS LANE BROXBORNE, HERTS EN10 7QA</i>
Contact telephone:	<i>01992 471333</i>
Email address:	<i>LIMCO@BTCONNECT.COM</i>
Signature:	<i>[Signature]</i>
Date of complaint:	<i>1st APRIL 2014</i>

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people may see this form:

- Monitoring Officer of the Council
- Standards Committee members
- Council's Independent Person(s)
- The subject member(s)
- the Parish Clerk (if applicable)

If you have serious concerns about your name and a summary, or details of your complaint being released, please complete **Section C** of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.

EAST HERTFORDSHIRE DISTRICT COUNCIL

Please tell us which complainant type best describes you:

- ☒ A member of the public (*MEMBERS OF THE PUBLIC*)
- ☐ An elected or co-opted Member of the Council
- ☐ An independent member of a Standards Committee
- ☐ A Member of Parliament
- ☐ A Monitoring Officer
- ☐ Other council employee, contractor or agent of the Council
- ☐ Other ()

2. Equality Monitoring Form - please fill in the attached form.

B. Making your complaint

3. Please provide us with the name of the Member(s) you believe have breached the Council's Code of Conduct:

Title	First name	Last name
<i>Cllr</i>	<i>WILLIAM (MR)</i>	<i>ASHLEY</i>

4. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

It is also important that you provide all the evidence you wish to have taken into account. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.

EAST HERTFORDSHIRE DISTRICT COUNCIL

- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

PLEASE SEE ATTACHMENTS ENCLOSED.

(Continue on separate sheet(s), as necessary)

It appears Cllr Ashley has gained a pecuniary advantage in the manner in which he obtained various planning permissions bringing himself, East Herts Council and Members of the Planning Committee into disrepute. Once he obtained various planning permissions it appears he then abused his position by ambiguous means in changing the fundamental framework of implementing such permissions.

Design and access statements and planning policies actually quoted in obtaining such permissions appear to be very misleading to ordinary members of the public such as ourselves. Once obtained some of the permissions appear to have been covered up by misleading and ambiguous statements to Officers, the press and others.

In recent times it appears he has flagrantly breached conditions imposed on particular permissions. In doing much of the above William Ashley & Partners appear to have obtained substantial financial gain, both in assets and financial payments such as rents.

* There are numerous supporting documents for the claims made above, many of which are contained in the offices of East Herts Council.

It is alleged that Cllr William Ashley has broken the code of conduct referred to in essential reference paper 'B', including selflessness, accountability, openness, honesty and leadership amongst many others. It is further alleged he has not acted within The Localism Act provisions and has failed to follow the principles to achieve best value for residents and maintain public confidence in this authority.

We have previously raised our concerns in two separate letters to the portfolio holder (Malcolm Alexander) the entire Development Management Committee, Kevin Steptoe – Head of Planning and the press (Mercury newspaper).

One letter was sent in September 2013 the other in January 2014. Both letters are enclosed for your perusal (Items A, B & C), just as a taster of evidence available and proof of our determination of uncovering the truth.

I have spoken in depth with 'The monitoring officer' – Simon Drinkwater on Friday 4th April and concluded that we must now present this to the standards committee for a final determination.

As suggested by the monitoring officer, we are submitting the application form for making a complaint as the first step. He stated supporting evidence was not necessary at this stage as we will be guided at a later date as to what will be required by the committee.

Thank you for taking the time thus far.

Yours sincerely

Mr L S Barnes
For the Residents of Brickendon

Cllr Malcolm Alexander
 The Firs
 14 The Ridgeway
 Ware
 Herts
 SG12 0RT

26.09.13

Dear Sir

Please excuse the anonymity but I and a number of residents of Brickendon Liberty have serious concerns as to the goings on at Monks Green Farm, Brickendon.

We are unable to contact our local member (Cllr William Ashley) as it is he our concerns are with and not knowing our County Councillor and of having little faith in EHDC planning department.

Although these issues have been raised with our Parish Council from time to time, they appear reluctant to take the matter further, maybe because Cllr Ashleys wife (Linda Ashley) is a member of the Parish Council and the other members are friends with the Ashley family. On that point it was suggested contacting the portfolio holder, namely you.

The areas of concern are as follows

The Live-work units built at Monks Green farm last year have not been built according to the plans submitted. What was supposed to be two bedroom properties is in fact 3 or 4 bedroom. The buildings appear to be much higher than what was approved. This may be demonstrated by the fact they are two storey and not single storey as on the approved plans. The units are numbered 1 to 12, why are the live units separate from the work units? Does that imply the work unit may become a live unit in time to come? *no separate work unit*

Most importantly it is common knowledge for the past year that five of the units have been rented as live units only. Does EHDC police this, as it was the main reason that planning permission was granted in the first place. It appears to the residents of Brickendon that both the Parish council and the planning department of EHDC are complicit in this gross breach of planning. Enclosed is a copy of the sales literature that *x* Councillor Ashley used to rent his properties in 2012. It shows details of the extra height, 2nd floor and many extra windows. It is also being advertised on Right Move this week.

A recent planning application (NO 3/13/1513/FO) By Cllr Ashley to change a use of a garage at long Croft monks Green farm to office use for G.P.Cars has raised concerns with many local residents. It is understood earlier this year a certificate of lawfulness was to be refused for the car sales business, so why should the business wish to expand into another building? What evidence was submitted that the work element of long Croft (approx 30%) is up to capacity that another office is required? As the garage is already operating as G.P.Cars head office (see G.P.Cars website) should not this application be retrospective?

With approximately 100 cars stored on ground adjacent to Cllr Ashleys residence, is this not a breach of planning permission?

It has been discussed by our group that if it appears nothing is done about this state of affairs in the coming weeks, then we will consider taking it

to the press, along with contents enclosed in this letter that will be supplied to show proof that you, as portfolio holder are aware of some of the residents of Brickendon's concerns. A telephone call to your advertised number will be made (anonymously) in the next couple of days to confirm you're receiving of this letter.

Yours sincerely
Concerned Brickendon Liberty residents

Councillor Alexander
The Firs
14 The Ridgeway
Ware
Herts
SG12 0RT

January 2014

Dear Sir

Re: William Ashley & Partners, Monks Green Farm

Following our previous correspondence regarding this site there remains many unanswered planning issues, including the latest enforcement hearing, which is due to be heard at The Development Management Committee meeting on 5th February 2014. The Officers bringing this to committee are stating "That no further action be taken in regard to the breach of condition" It appears Mr Steptoe's officers have lost the plot on this one and this could be a waste of public money.

Normally if you breach a planning condition you are required to remedy it. Either you make a retrospective planning application and you take your chances or you cease the use. Not in this case and bear in mind this application is for a currently elected Councillor, who was chairman of the Development Control Committee less than 2 years ago. That can be exemplified by when the applicant submitted application no 3/13/1513/FO in August 2013, it was to remove an onerous condition, NOT as stated in the officer's report stated in 1.6.

This under normal circumstances would be a "delegated decision" and even as a councillor does not have to go before the committee. The same applies to a Certificate of Lawfulness, it's a delegated decision. But as the case officer (who refused the two previous certificates of lawfulness) was made aware that this was a "Retrospective" application that dictates it must go before the Development Management Committee. Something we believe the applicant had not bargained for, otherwise why was this application not made earlier when according to the applicant's previous evidence G.P Cars have been there since 2008.

May we commend you for the way the Chairman and the committee debated the November application. The first time we believe the applicant has had an application debated and questioned. The request for more information and investigation was needed. Unfortunately the applicant withdrew his application on 19/12/13 following a request from the Development Manager to provide more information, which he declined to do (Copy of this email request enclosed)

An enforcement application followed (E/12/0314/B) on 8th January 2014 which was granted after a short debate, surprisingly it was only for the car storage and not the head office of GP Cars that operates on the site. Now we have this Non Enforcement, enforcement application. If the officer's recommendation is followed, it gives the applicant the planning permission he wanted two years ago, but without actually making a planning application and without any planning conditions attached. This surely is as bad as the England cricket team, it's just not cricket!

The officer's report appears very contentious as to Mr Steptoe's previous conclusions on the webcast of November's meeting.

PLEASE READ BELOW IN CONJUNCTION WITH OFFICERS REPORT NO: E/14/0009/B ATTACHMENT ENCLOSED (Item C)

In 1.2 the officer states that Longcroft is a Live/work unit in the first place but finishes stating it does not specifically require it to be so. The normal requirement for a live/work unit is two-thirds live and one third work "at ground level" (not basement level). Is this small office one third of the entire property or not? Is it used for the car sales business as in the applicants planning application (copy enclosed) Or is it as stated in the Mercury newspaper of November 2013 , from the tenant, his daughters do their homework in that small office and none of Longcroft is used in connection with GP Cars.

1.3 Clearly shows why there has been a continuous breach for many years according to the tenant, unseen by his landlord and neighbour for 6 years.

1.5 Shows cars and office are and have been closely linked. How can you have GP Cars sales head office (The garage) with no cars on site?

1.6 No further evidence has been provided by the applicant, lack of transparency.

1.9 The owner declines to answer the extra information sought , which members wanted answers to before making a decision on last November. Ignorance is no excuse of the owner if particular rooms, if any, are used. Contrary to the evidence submitted in his planning application. Who's fooling who? The work unit must be identified when making the application and in this case should be policed by the owner.

In 2.2 Is Longcroft a Live/work unit or not ? Subject to the NPPF would longcroft been given planning permission as a new dwelling in the greenbelt.

Compared to public plans Longcroft appears to be in the wrong place. It also appears one of the barns that was to be dismantled is still standing, with the other one not used in the construction of the building.

Note : Just like the chicken sheds; see picture enclosed, does Longcroft look like two reconstructed barns?

4.3 to 4.8 of the officer's report should be irrelevant as it was and is a breach of planning condition in the first place. It appears to be the intention of the applicant to get away with it. It was member's debate that put this on hold last November, now it's your turn again.

4.9 Were highways made aware there are 11 members of staff and the office is a Car sales office operating up to 100 cars, where no matter where the cars go the purchaser would probably have to visit the office on more than one occasion to make

the purchase. An office of 2/3 people is one thing. This is not that, it has 11 members of staff, an office, a workshop, a valeting shop and up to 100 cars. According to the original planning application it is so successful it has outgrown the 30% space at Longcroft.

4.13 Why cannot officers confirm whether there is any office use? There is an enforcement department at EHDC. Besides the applicant has invited members to view the site and as owner of Longcroft, he has the right to enter the building to inspect.

Now here comes the "Piece de resistance ". This officer makes an important note that there is no planning requirement for the office use to continue and that even if the building is used "entirely for residential purposes" it would not be a breach of planning control. THIS IS IN COMPLETE CONTRADICTION OF THE HEAD OF PLANNING. In the November meeting, in his second statement in answer to questions from Councillor Alexander & Councillor Andrews (on the webcast) about what happens if a business fails (which is not the case here) in a live work unit. Part of his answer was - quote- "What we apply and where we feel we are able to reasonably go is to say that you can't start to use that floor space that is for working purposes for residential purposes and you have got to, if you like, retain it for the potential of someone to be able to use it for a business in the future"

It is evident that you the members I.E Councillors Alexander, Andrews, Crofton, Newman, Cheswright, Moore, Symonds have called for much more information and questions to be answered by the applicant, which he has declined to do so. So how can you make a decision on that? Good Luck to you all, we once again will be watching the debate on the webcast.

* We are not happy to the lack of response to our last letter and after enduring the embarrassing way East Herts Planning department have handled the Monks Green Farm planning applications, from the "Chicken sheds" fiasco to the current day, it is now time to step up our resolve. We are currently looking for a spokesperson to speak on our behalf, as it is our concern not to be personally identified for fear of safety and persecution and retribution. We do have a candidate in mind who we hope to persuade to represent us in the near future, with a view to take the entire Monks' Green Farm debacle dating back these past 2 years especially to the standards committee. We will be looking at you (The Portfolio Holder) to advise us on this matter.

Could you please arrange for a copy of this letter and all supporting documents to be copied to all members of the committee, the Chairman and Mr Kevin Steptoe before Wednesday's development management committee meeting.

Yours sincerely

Very concerned Residents of Brickendon

A copy of this will be sent to the Mercury Newspaper today

5L E/14/0009/B – Breach of Condition 3 (restriction of use) of planning permission reference 3/06/0604/FP, following the provision of office accommodation within the upper floor of the detached garage at Longcroft, Monks Green Lane, Brickendon, Hertfordshire, SG13 8QL

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

RECOMMENDATION:

That no further action be taken in regard to the breach of condition.

_____(000914B.GRD)

1.0 Background:

1.1 The site is shown on the attached OS extracts. It is located on the western edge of a complex of buildings forming Monks Green Farm and is within the Metropolitan Green Belt. Access to the farm is via Mangrove Lane to the north of the site and the site the subject of this report comprises a detached garage building located within the immediate grounds of Longcroft, a residential dwelling located on the farm.

1.2 Planning permission was granted for the dwelling known as Longcroft in 2005 (see following planning history section) and this included a small office in one room to enable its use as a live/work unit. A basement was also permitted to provide a storage area in connection with the office use. The permission granted did not, however, specifically require the use of the building as a live/work unit and there were no conditions imposed on the permission requiring the office element of it to be retained.

1.3 The detached garage building the subject of this report was subsequently granted planning permission in 2006 under reference 3/06/0604/FP. That permission was subject, inter alia, to the following condition:

1. *The building hereby permitted shall only be used for the housing of private vehicles and for purposes incidental to the enjoyment of the dwellinghouse and not for any living accommodation or commercial activity without the prior written consent of the Local Planning Authority.*

1.4 The purpose of the garage was said to provide secure vehicle parking

E/14/0009/B

at ground floor and additional storage for the adjacent live/work unit at Longcroft within the upper floor.

- 1.5 However, Members may recall that the Council became aware that the tenant of Longcroft was using the upper floor of the detached garage as an office to carry out administrative functions associated with their car sales business. This business also currently involves the unauthorised storage of cars elsewhere within the farm but this is a separate matter that is the subject of separate enforcement action.
- 1.6 Having reminded the owner of the above condition, a retrospective application was submitted in August 2013 seeking planning permission, under reference 3/13/1513/FO, to vary the above condition to permit the use of the first floor as an office. Again, Members may recall that the application was reported to the Development Management Committee on the 6th November 2013 when Officers recommended that planning permission be granted for the variation of the condition. However, Members resolved to defer a decision on the application in order to enable officers to consider further information relating to the use of the garage and the associated house at Longcroft.
- 1.7 However, on the 19th December 2013 the applicant withdrew the application.
- 1.8 The use of the garage has, however, continued and it is therefore necessary to determine whether it is expedient in the public interest to take enforcement action to secure the cessation of the use of the first floor of the garage for office purposes.
- 1.9 Officers have sought additional information from the applicant about the use of the dwelling at Longcroft and whether there is any office use remaining within the dwelling itself. However, the owner has advised Officers that he is unable to provide that information as he is currently in a legal process with the tenant of the property and he does not wish to jeopardise that process. The owner is unaware himself as to which particular rooms in the house are used, if any, as an office area.
- 2.0 **Planning History:**
- 2.1 Planning permission was granted in 2004, under reference 3/04/0249/FP, for the conversion of two existing barns on the farm to live/work units. Later in 2004, planning permission was granted, under reference 3/04/1564/FP, to dismantle the two barns and re-erect them as a live/work unit further away from the listed farmhouse.

E/14/0009/B

- 2.2 A later revised application was submitted for the dwelling known as Longcroft under reference 3/05/0221/FP. That application sought permission for a dwelling, although the submitted plans included the provision of a small office and a basement for storage purposes for the office element of the proposal. No conditions were imposed on the dwelling to restrict its use as a live/work unit however and none to require the retention of the office space within the property.
- 2.3 The garage, the subject of this report, was approved planning permission in 2006, under reference 3/06/0604/FP and was subject to the condition referred to in paragraph 1.3 above.
- 2.4 Application 3/13/1513/FO to vary condition 3 of the permission ref: 3/06/0604/OP was withdrawn on 19th December 2013.

3.0 Policy:

- 3.1 The relevant 'saved' Local Plan policies in this application include the following:

GBC1	Appropriate Development in the Green Belt
TR2	Access to New Developments
TR7	Car Parking – Standards
ENV1	Design and Environmental Quality
ENV16	Protected Species

- 3.2 In addition, the National Planning Policy Framework is relevant, particularly Section 3.

4.0 Considerations:

- 4.1 The main planning issue to consider in this case is whether the use of the first floor of the garage building as an office is acceptable in this location.
- 4.2 The site lies within the Green Belt where there is a presumption against inappropriate development. Policy GBC1 and paragraphs 89 and 90 of the National Planning Policy Framework (NPPF) sets out some exceptions to this presumption. The NPPF allows for the re-use of buildings provided they are of permanent and substantial construction and they preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt.
- 4.3 The Local Plan supports the re-use of rural buildings for business use through Policy GBC9, provided the existing building is in keeping with its

E/14/0009/B

surroundings, is permanently and soundly constructed, the use is sympathetic to the rural character of the building and surroundings not requiring extensive alterations and that the conversion would not lead to dispersal of activity on such a scale as to prejudice town and village vitality.

- 4.4 The building is a modern build and officers consider it to be of permanent and substantial construction. At the time of a site visit by a planning officer, the office was being used to desk 3 staff within the upper floor and appeared reasonably spacious and functional. Existing dormers provide natural light. During another visit by an enforcement officer it appeared that there were four desks. As it is being used successfully in its current form as an office, officers do not consider there would be a need for substantive alteration or extension. Planning officers note that any wider use of the building, or extension of it, would require planning permission.
- 4.5 In respect of whether the use of the building is sympathetic to the rural character of the building and surroundings, it is noted that use of the office has not resulted in the need for any additional hard standing, signage or other commercial paraphernalia that may have impacted upon the open character of the Green Belt. This is unlikely to be necessary in the future, because the modest size of the unit would restrict the scope of the office use to expand which in turn restricts the number of people capable of working or visiting the site.
- 4.6 Whilst the residential dwelling Longcroft is located nearby, the office use is a daytime activity unlikely to impact significantly on the amenities of this occupier through levels of noise or late night comings and goings. Parking for two cars is available in the ground floor of the garage and the existing hard standing adjacent to Longcroft is of sufficient size to locate any other staff or visitor vehicles without a significant impact on openness or the need for additional encroachment into the rural area. Accordingly, use of the upper floor of the garage as an office would have a very limited impact on the surroundings and is considered by officers to be sympathetic to the rural character of the building and surroundings.
- 4.7 With regard to whether use of the upper floor of the building as an office impacts upon town and village vitality, officers consider that this would not be the case. The scale of the use is very limited and is unlikely to have any material impact on the economic vitality of Hertford, the nearest town. Furthermore, the NPPF supports economic growth in rural areas to create jobs and prosperity. Paragraph 28 states that to support a strong rural economy, local plans should support the growth

and expansion of all types of business and enterprise in rural areas.

- 4.8 The NPPF supports the expansion of business and enterprise in rural areas. The re-use of rural buildings is considered an appropriate form of development in the Green Belt. Use of the first floor of this building as an office would have no harmful impact on the openness of the Green Belt or the character of the area, the amenities of surrounding neighbours, highway safety or ecological matters.
- 4.9 During the consideration of the above-mentioned application ref:3/13/1513/FO, Hertfordshire Highways were consulted. They did not wish to restrict the grant of permission. They commented that, given the relatively modest size of the garage there is unlikely to be any significant impact on the free and safe flow of traffic on the public highway. The stretch of highway/right of way network accommodates a farm and other businesses with various different types of vehicles coming and going quite regularly throughout the day. Any additional traffic associated with the office is unlikely to cause a danger or inconvenience when compared to the existing situation. In addition, there appears to be sufficient parking and turning space for vehicles within the site.
- 4.10 Hertfordshire Biological Records Centre was also consulted on the earlier application. They did not formally comment although they verbally indicated that they did not wish to restrict the grant of permission. Although bats had been recorded in a local barn, there was no record to suggest the garage had been used as a bat roost. In any case, given the upper floor was already in use as an office, any impact on bats would already have taken place.
- 4.11 Natural England did not wish to restrict the grant of permission.
- 4.12 Brickendon Liberty Parish Council noted that the application was retrospective but registered no objections.
- 4.13 Officers cannot confirm whether or not there is any office use remaining within the dwelling itself. However, it is important to note that there is no planning requirement for an office use to continue within the dwelling and therefore, even if the building is currently used entirely for residential purposes, this would not be a breach of planning control and is not a material consideration in the determination of this matter relating to the garage.

5.0 Recommendation:

- 5.1 In summary, the use of the first floor of the existing building is supported in principle by the policies of the Local Plan and national policy set out in the NPPF.
- 5.2 The resulting office is of limited size and is unlikely to provide accommodation for more than 4 people. The Highway Authority does not object to this limited scale of office use as it is most unlikely to result in any significant increase in traffic generation to and from the farm. Given the farm use, and the other established businesses on the farm site, Officers concur with this view and consider that the service of an enforcement notice on these grounds would not be justified.
- 5.3 Similarly, the building is not located in proximity to any other residential properties, except those owned by the farm and therefore it would not be possible to sustain an objection to the use on neighbour amenity grounds.
- 5.4 The use is low key and does not involve any external alterations to the building. There is also ample provision for parking at the site and therefore Officers can see no objection to the use on the grounds of visual impact.
- 5.5 It is therefore recommended that no enforcement action be taken in respect of the breach of condition 3 of application reference 3/06/0604/FP.

EAST HERTFORDSHIRE DISTRICT COUNCIL

C. Confidentiality of complainant and the complaint details

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and in compliance with the rules of natural justice, we believe Members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him / her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that you have justifiable grounds, for example:

- to believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same); or
- may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender / contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of the personal and complaint details will not automatically be granted. The Assessment Sub-Committee will consider the request alongside the substance of your complaint and the Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

PLEASE SEE ATTACHED SHEET AND SUPPORTING DOCUMENTS.

NOTE: IT IS THE COMPLAINER AND COMPLAINERS WE WISH TO BE WITHHELD

AND NOT THE COMPLAINT ITSELF, I.E. RESIDENTS OF BRICKENDON.

WE ARE WILLING TO ATTEND ANY PRIVATE INTERVIEW AS REQUIRED
TO EXPLAIN THE VAST AMMOUNT OF EVIDENCE ACCUMULATED.

(Continue on separate sheet(s), as necessary)

Appendix to Item C (Confidentiality of complainant)

It is myself Mr Leslie Barnes and a number of residents of Brickendon who wish to remain anonymous. It is without doubt that myself and others may be victimised, harassed, intimidated and feel threatened by the member. *

This can be best shown by two examples from a number that have occurred in recent times.

The first one was against myself when I had the occasion to invite Mr W Ashley to a meeting of the "Brickendon Local plan group" of which I was the vice chairman.

During the conversation in January 2012 and for no apparent reason Mr W Ashley changed the subject and began throwing insults and slanderous accusations at me personally. I attempted to respond but it was futile, I begged him to stop, but he was not having any of it, which led to me putting the phone down. Over the next 3 weeks I attempted to resolve his problem with me by Email, again he was not having any of it and did not reply until the third attempt.

A)I-Please find enclosed (copy of) one of the email sent and his reply (Note on East Herts.gov.uk site).

The second example involves Mr Tim Barnard, Ex Parish Councillor of Brickendon, who resigned over the so called "Chicken Sheds" debacle at Monks Green Farm in 2012.

In December 2013 (On a request from Sarah Greek of the Mercury newspaper) Mr Barnard attempted to send two photographs he had of Monks Green Farm regarding a story they were putting together. Inadvertently (and he knows not why) he sent it to Linda Ashley, Cllr Ashley's wife.

B)I-Enclosed is a copy of that innocent email and the subsequent reply from Mr Ashley and a following letter from Mr Ashley's solicitor. It should be self explanatory.

I don't think that 2 photos and a simple email warrants such a reply, but this has happened before to Mr Barnard and similar incidents involving myself have involved torrents of abuse from Mr Ashley.

* It must be noted at this stage these are examples of why we wish to remain anonymous and is not the reason of complaint although you may find it not the way a councillor should behave. It is further repeated we would be prepared to meet with the officers and or committee to discuss the evidence surrounding the complaint.

Limco Limousines

AI

From: Councillor Ashley (William) [William.Ashley@eastherts.gov.uk]
Sent: 08 February 2012 09:09
To: limco@btconnect.com
Subject: RE:

Dear Les.

Many thanks for your e-mail. As you can appreciate I am a very busy man, lets agree to disagree.

Best regards.

William.

From: Limco Limousines [mailto:limco@btconnect.com]
Sent: 08 February 2012 07:17
To: Councillor Ashley (William)
Subject:

Dear William

Following our conversation of over 3 weeks ago I have attempted to resolve our differences by inviting you twice, by email to hold talks on the issues raised, you have ignored my contacts.

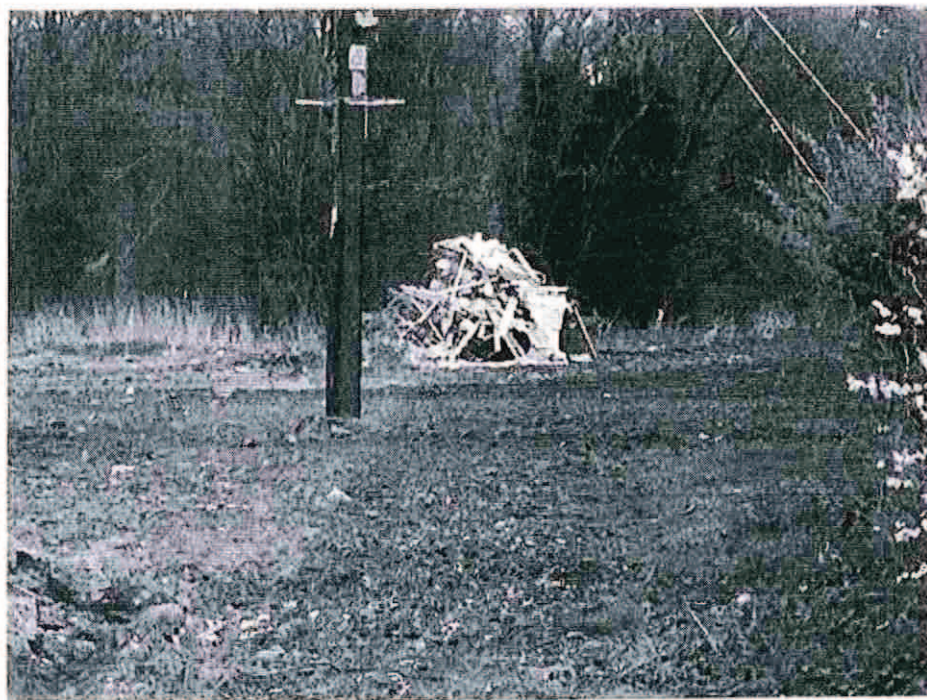
I have thought long and hard on your comments and have decided not to let the matter rest until I get the opportunity to defend myself. I find your statement that "I duped you in getting my house " totally unacceptable. You further stated I should not of got my housing development through and that I am the greediest man you know and numerous dispersions regarding Paradise Park. I find that very intimidating and personal, especially coming from my Local Councillor but more importantly coming from The Chairman of the Planning Committee.

I have spoken to others over this issue and consequently give you a third opportunity to finally put these issues where they belong.

I am only available up to Sunday as I am away for two weeks starting Monday 13/2/12.

Best regards

Les Barnes





Sent: 17 December 2013 14:09
To: Councillor Ashley (William)
Subject: FW: tim barnard shared photos with you

From: tim23@talktalk.net [mailto:tim23@talktalk.net]
Sent: 17 December 2013 10:53
To: linda@monksgreenfarm.com
Subject: Fwd: tim barnard shared photos with you

Hi Guys, welcome back! These are the two photos that I tried to send to Sarah at the Mercury that wouldn't send. They are of the before and after of chicken shed burning and tie in nicely with the report that someone has found asbestos in the field. Could you try sending them please? She was expecting them. Love, Tim

-----Original Message-----

From: tim barnard <tim23@talktalk.net>
To: tim23@talktalk.net
Sent: Tue, 17 Dec 2013 10:32
Subject: tim barnard shared photos with you

You have been sent 2 pictures.

DSC03979.JPG
DSC03968.JPG

These pictures were sent with Picasa, from Google.
Try it out here: <http://picasa.google.com/>

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2 Attached Images

From: Councillor Ashley (William) <William.Ashley@eastherts.gov.uk>

To: tim23@talktalk.net <tim23@talktalk.net>

Subject: FW: tim barnard shared photos with you

Date: Wed, 18 Dec 2013 9:42 am

Attachments: DSC03979.JPG (67K), DSC03968.JPG (63K)

Dear Mr Barnard.

My wife Linda has passed on your e-mail sent to her in error. I will keep my response to you brief but in reading the content it is evident that this is an ongoing e-mail exchange between you and another party and between you both and Sarah from the Mercury. From this and the articles written in the local newspaper I assume it is Sarah Greek.

You will recall in November 2012, your written communication to me was defamatory and prior to this you have been vocal in your opinion of me. The content of your e-mail last November concluded with me taking advice from my Solicitor and in him communicating directly with you 26th November 2012.

To now receive another communication from you a year or so on, leaves me in no doubt that you choose to continue your harassment towards me. Your communication/s are intimidating to both me and my family and harmful to my reputation as a businessman, a Councillor and as a local resident.

It is with disappointment that I find myself writing this to you but given the length of time your vendetta has lasted towards me, this leaves me with growing concern for me and my family and wondering what lengths you are prepared to go to in order to achieve whatever your intention is.

With this in mind, I am reporting your communications to the police and will take further advice from my Solicitor.

William.

From: Linda Ashley [<mailto:linda@monksgreenfarm.com>]

Our Ref: RAJ/NP/ASHLEY/120331

Date: 16 January 2014



T Barnard Esq
23 Clementsbury
Brickendon Lane
Nr Hertford
Herts SG13 8FG

72-74 Fore Street
Hertford
Hertfordshire SG14 1BY
DX 57908 Hertford
www.attwatersjamesonhill.co.uk

Dear Sir

Re: Monks Green Farm – Cllr William Ashley

You will recall that we wrote to you some 14 months ago on the 26th November 2012 with regard to the matter of your defamatory comments via your email correspondence.

Since then Mr Ashley is in receipt of a further email sent from you on 17th December 2013 to his wife Linda Ashley, clearly in error. You will be aware of the email I refer to as Mr Ashley has provided you with a reply to this on 18th December 2013 expressing his concerns.

We have advised Mr Ashley that there are two relevant areas of law which may warrant further action. The first is that if you are publishing defamatory allegations about him then he is entitled to bring proceedings against you for damages for defamation.

The second is that there is a criminal offence of harassment and Mr Ashley will ensure that communications received by him are forwarded to the police so that they can be thoroughly investigated with a view to ascertaining whether a prosecution would be justified.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Attwaters Jameson Hill'.

Attwaters Jameson Hill Solicitors

Robert Jameson
Partner
SWB : 01992 554881
DDI : 01992 568030
FAX : 01992 551885
rob.jameson@attwaters.co.uk

Partners
David Kerry
Robert Jameson
Jonathan Clarke
Stephen Tellow
Sheenagh Parsons
Andrew Flannagan
Joanne Westbrook
Joyti Henchie
Nicholas Evans
Clare Newton
Peter Westbrook
Tracy Kenny
Madeline Seibert
Lesley-Ann Mayhew
Sheri-Anne Mizon

Associates
Catherine Dean

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Authority
SRA No. 51886



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Offices also at
Ware
Harlow
Loughton

EAST HERTFORDSHIRE DISTRICT COUNCIL

D. Remedy sought

7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

- ① THE MAIN AIM OF THIS COMPLAINT IS TO SEEK THE TRUTH IN THE MOST THOROUGH AND INVESTIGATIVE MANNER POSSIBLE AS TO THE CODE OF CONDUCT OF Cllr WILLIAM ASHLEY BOTH PAST AND PRESENT.
- ② FOR THE STANDARDS COMMITTEE TO DELIVER AN UNBIASED COMPREHENSIVE REPORT AND PUT AN END TO THIS ALLEGED CONTINUING BLIGHT ON EAST HERTS COUNCIL.
- ③ SHOULD THE STANDARDS COMMITTEE FIND THE CODE OF CONDUCT HAS BEEN BREACHED FOR THEM (THE PROFESSIONALS) TO ADJUDICATE RESPONSIBLY IN THE MATTER.
- ④ TO SEEK ALTERNATIVE METHODS TO PREVENT THE POSSIBILITY FOR MEMBERS OF THE DEVELOPMENT MANAGEMENT COMMITTEE ABUSING THE SYSTEM IN THE FUTURE AND TO SUBMIT THEMSELVES TO A BETTER SCRUTINY IN SUCH MATTERS. E.G PLANNING APPLICATIONS BE HEARD BY ANOTHER ADJACENT AUTHORITY FOR PLANNING COMMITTEE MEMBERS AND/OR COUNCILLORS OF EAST HERTS DISTRICT COUNCIL.

(Continue on separate sheet(s), as necessary)

E. Additional information

8. Complaints must be submitted in writing. This includes fax and electronic submissions. Frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.
9. In line with the requirements of the Disability Discrimination Act 1995, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
10. If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

Monitoring Officer Contact details:

The Monitoring Officer – Simon Drinkwater
East Herts Council
Wallfields
Pegs Lane
Hertford
SG13 8EQ

EAST HERTFORDSHIRE DISTRICT COUNCIL

Monitoring Form – Local Assessments of Complaints Standards Committee - Assessment Sub Committee

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East Hertfordshire District Council is committed to a policy of equality of opportunity in both employment and service provision. We seek to ensure that no person receives less favorable treatment on the grounds of gender, race, or ethnic origins, marital status, disability, age, sexual orientation, family responsibilities, religion, trade union involvement or political belief or is disadvantaged by conditions or requirements which cannot be shown to be justifiable.

White

White British
White Irish
Any other White
background

☒

Mixed

White and Black
Caribbean
White and Black
African
Any other mixed
background

☐

Asian

Indian
Pakistani
Bangladeshi
Any other Asian
background

☐

Black

Caribbean
African
Any other Black
background

☐

Chinese or other ethnic group

Chinese
Other

☐

*Categories used are those utilised by
the Office of Population Censuses and
Surveys

Do you have a physical or mental impairment which has a substantial and long term adverse effect on your ability that you wish to declare under the Disability Discrimination Act?

Yes

☐

No

☒

APPENDIX B

EAST HERTFORDSHIRE DISTRICT COUNCIL

ALLEGATION OF BREACH OF THE CODE OF CONDUCT

REPORT OF THE INVESTIGATING OFFICER

SUPPLEMENTARY COMMENT FROM COMPLAINANT FOR STANDARDS SUB-COMMITTEE

~~Supplied to the~~
~~Public by the~~
~~Supplied to the~~
~~Public by the~~

Councillor William Ashley

We have been advised through the Controlling Officers Department not to include the hundreds of pages of evidence available in this matter. It was suggested and agreed that we submit a bullet point edition for your perusal and if and when required you may wish to view the evidence we have collated in recent times.

Car Storage 90+Vehicles (Adjacent to Cllr Ashley's house) for G.P.Cars – No planning consent for the last five years, attempted obtaining planning permission by 2 certificates of Lawfulness – withdrawn and one planning application – withdrawn (was applied - not retrospective) evidence available but was retrospective! Enforcement issued January 2014. Now appealing (at great public expense) saying have had car storage there for 20+ years (Untrue according to the officers) Evidence available – Does this mean this Councillor Ashley knowingly bucked the system on the 10 year rule and did not pay business rates for this use. (Evidence available)

Garage at Longcroft Used for Head Office of GP Cars – evidence available. According to Cllr Ashley planning application for office use was because the business expanded so much at the house of Longcroft that they needed to have use of the upper floor of the garage in addition – not true. According to his tenant, Longcroft has never been used for live work – only the garage - evidence available. Garage is/was Head Office for 5 years, opposite Cllr Ashley's front door. Evidence available This house is now up for rent again at £54K per annum, available from 1/5/14 evidence available. Not as a live/work unit but with the garage on an ordinary rental (live) property.

Workshop and valeting unit not identified in planning terms and or business rate terms. The house Longcroft has not been used in the requirement planning permission was granted for – evidence available. As of today 1/5/14 it is not being advertised as a live work unit. - evidence available

It appears Longcroft was not built (as per the original permission) evidence in EHDC files not so easy for public access – needs investigation.

The so called Chicken sheds (2012) were not built according to the planning permission – evidence available. The chicken sheds were not built according to the design & access statement submitted by Cllr Ashley- evidence available as well as highlighted by the Mercury Newspaper

The Chicken Sheds are not rented or advertised as live/work units – evidence available

The Chicken Sheds are not rated correctly with EHDC – evidence available

The Chicken Sheds have an extra floor – not as permission granted – evidence available

The Chicken Sheds have been split into 12 units, not the six permission was granted for – evidence available

The Chicken sheds (i.e. Cllr Ashley) received a substantial sum of money (grant) from DEFRA for conversion of the Chicken Sheds. Cllr Ashley has newly built the complex with a live element for units 6 to 12 and the work element being 1 to 6. It appears without proper approval, at an advertised rental rate of approx £2000 per unit per month. It adds up to a substantial sum of money.

It is in these items mentioned above (there are many others), it is believed a PECUNIARY GAIN has been achieved.

During last month (April 2014) it has been established there is another large car sales company operating at Monks Green Farm -A1 Autos – evidence available

On searching EHDC planning website so far there appears to be no planning permission for this use and for the building it is housed in. – evidence available

Also according to the revenue inspector at EHDC, it too is not listed for business rates and is being investigated accordingly.

Taking into account some of the anomalies at the Monks Green site, as Landlord Cllr Ashley should be aware of what is going on, on the very farm he and his family live on. It therefore remains questionable to what extent his role is in all the alleged goings on at Monks Green Farm.

It must be strongly stated it is not the planning merits of this complaint that are in question, it is whether Cllr Ashley has broken the Code of Conduct, in applying for planning permissions, achieving the planning permissions by evidence given and what he did with those planning permissions when implemented.

Having seriously digested "The Code of Conduct" in essential reference paper "B". It appears that Cllr Ashley may have broken just about every section of the code, with integrity and objectivity being borderline depending on one's point of view.

We await your response and further instructions.

Yours sincerely

L S Barnes
(Agent) for Residents of Brickendon

5703951

APPENDIX C

EAST HERTFORDSHIRE DISTRICT COUNCIL

ALLEGATION OF BREACH OF THE CODE OF CONDUCT

REPORT OF THE INVESTIGATING OFFICER

**CORRESPONDENCE FROM CLLR ASHLEY TO OTHER MEMBERS AND OFFICERS
FOLLOWING MEETING ON 6TH NOVEMBER 2013**

Cooper, Denis

Email lost by
Councillor To Member
F D M C

From: Councillor [REDACTED] ([REDACTED]@eastherts.gov.uk)
Sent: 13 August 2014 15:01
To: [REDACTED]
Subject: FW: Your Comments

Importance: High
Sensitivity: Confidential

Follow Up Flag: Follow up
Flag Status: Flagged

FYI

District Councillor [REDACTED]
[REDACTED]

From: Councillor Ashley (William)
Sent: 13 November 2013 06:39
To: Councillor [REDACTED]
Subject: FW: Your Comments

Dear [REDACTED]

Are you in the position of being able to provide me with a reply to my e-mail of 8th and subsequent e-mail of 10th? I once again remind you of the sensitivity surrounding this issue and I would have hoped that you would do me the courtesy in answering my questions and to clarify your statements.

I am considering taking further actions and I wanted to provide you with an opportunity to address this before doing so.

Regards.

William.

From: Councillor Ashley (William)
Sent: 10 November 2013 09:35
To: Councillor [REDACTED]
Subject: FW: Your Comments
Importance: High
Sensitivity: Confidential

Dear [REDACTED]

Please see my e-mail of 8th November and provide me with a response to my questions. You will appreciate that this is a sensitive issue and I trust you will provide me with the courtesy in treating it as such.

Regards.

William.

From: Councillor Ashley (William)
Sent: 08 November 2013 16:57
To: Councillor [REDACTED]
Subject: Your Comments
Importance: High
Sensitivity: Confidential

Dear [REDACTED]

In viewing the web cast of DM Committee of 6th November, I note your comments in respect to my application reference 3/13/1513/F0.

The point which you raised was that it is imperative that we (The Council) are transparent in the dealings with it. I too agree and it's for these reasons why I have taken advice from officers, remained in contact throughout with officers, provided members with an e-mail note prior to DM Committee, welcomed representative from the Parish Council and provided responses to any questions relating to this application.

You are no doubt aware of the article in the Mercury of 31st October and you are no doubt aware of the additional publicity on their web site.

Being a family friend, you will appreciate that publicity surrounding this matter is extremely sensitive and has impacted on my family and in particular my father. In hearing you continue to suggest that 'you believe there are other issues at the farm that need to be looked at', draws attention to areas which are not part of the planning application Members were considering. You continued to add that 'you believe you do not have the full picture as to what's been going on there and that officers should carry out a full investigation of the entire operation up there'. Can you clarify what you meant by these statements?

You also raised the issue that there was enough interest from the public and the press. You received my e-mail to Members which was in light of the press report and for the reasons I felt it unfair to judge my application on an article in the press. Both [REDACTED] and Cllr [REDACTED] were presented my e-mail prior to Members. I assume in saying the public you refer to the same correspondence that Cllr [REDACTED] mentioned in his comments. Is this the case or has there been other public interest?

Cllrs [REDACTED] and [REDACTED] visited on 6th November along with [REDACTED]. Have you visited the site?

I hope you will respond on receipt of this e-mail.

Regards.

William.

From: Councillor Ashley (William)
Sent: 13 November 2013 06:37
To: Councillor [REDACTED]
Cc: Councillor [REDACTED]
Subject: FW: Comments
Sensitivity: Confidential

Dear [REDACTED]

In viewing the web cast once again, it seems evident that you addressed the meeting from a prepared script. Was this the case.

I must advise you that I am considering taking actions and I wanted to provide you with a further opportunity to address this and the previous questions asked before doing so.

Regards.

William.

From: Councillor Ashley (William)
Sent: 10 November 2013 09:32
To: Councillor [REDACTED]; Councillor [REDACTED]
Subject: FW: Comments

Dear [REDACTED]

Please refer to my e-mail of 9th November and provide me with a response to my questions. Again this matter is sensitive and should be treated as so, you will see I have copied [REDACTED] in.

Regards

William.

From: Councillor Ashley (William)
Sent: 09 November 2013 08:22
To: Councillor [REDACTED]
Subject: RE: Comments

Dear [REDACTED]

Thank you for your reply.

I note you have researched and that you have spoken to [REDACTED] and Kevin. I am pleased that you carried this out and as I have said I would always encourage Members to research applications.

As part of your research did you visit the site?

I note your apology for the distress you have caused me. As Members we have different opinions as to whether we support or not support applications and those decisions and opinions are based on planning merits.

In this case you made your position clear and I accept that. However, I feel your choice of words was not appropriate. Your comment that I have a lack of respect for the formal consultative process is offensive. I have the upmost respect for planning and our systems and expect decisions to be made with open mindedness, clarity and transparency.

I'm sure you will appreciate that throughout I have remained transparent but your comment that I have a lack of respect is offensive and I would like to know how you have reached that view of me.

Out of respect I have copied [REDACTED] in this reply as you have commented that you had spoken to her and Kevin prior to reaching your decision. You will appreciate that this is a sensitive matter and therefore should remain confidential. [REDACTED], in her capacity as Chair, I agree should remain aware of our communication and my concerns.

Regards.

William.

From: Councillor [REDACTED]
Sent: 09 November 2013 01:17
To: Councillor Ashley (William)
Cc: Councillor [REDACTED]
Subject: RE: Comments

Dear Will

Thank you for your email. My only comments at the moment are that I did research, also I spoke to Kevin and [REDACTED].

I am sure you would expect me to be objective in my observation of an application. However I apologise for distress I may have caused you.

You will notice that I have copied Rose in as I would want there to be transparency in our communication.

Kind Regards

[REDACTED]

From: Councillor Ashley (William)
Sent: 08 November 2013 10:46
To: Councillor [REDACTED]
Subject: Comments

Dear [REDACTED].

In viewing the web cast of DM Committee of 6th November, I note your comments in respect to my application reference 3/13/1513/FO.

An early point which you raised was in respect of retrospective planning. You have stated that you are concerned as this was not the first time I had 'put in' retrospective planning. You have continued to say that this appears to demonstrate a lack of respect.....

You are probably by now aware that the following is available on the Mercury web site. It is the result of your comments that I am on the receiving end of negative publicity. I would hope that your statement can be supported.

Cllr [redacted] said: "Although this is listed as a variation of condition this application is in fact I understand a retrospective planning application and this concerns me because this is not the first time this particular applicant has put in a retrospective planning and it appears to demonstrate a lack of respect for the for the formal consultative process."

You will appreciate that publicity surrounding this matter is extremely sensitive and given the evidence that I have provided in order to maintain a fair and open application. Throughout the process I have taken advice from our officers and have met with all that has been required of me and more. I fully appreciate that applications made by Councillors should be considered at DM Committee. Being a long serving Councillor of some 16 years of which many were served on the then DC Committee, I have always strived for fairness and have had the uppermost respect for others.

To hear your comments on the web cast stating that I have a lack of respect is stressful and upsetting to me and my family. In hearing such damaging comments from a colleague and one that I have always had my greatest respect for, has left me somewhat shocked that you didn't feel you could have approached me or researched the application before you attended the Committee. We all have opinions and those opinions should be on planning merits and indeed policies of which you commented on referencing retrospective planning.

I would hope that you will reply on receipt of this e-mail.

Regards.

William.

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Cooper, Denis

From: [REDACTED] [mailto:[REDACTED]]
Sent: 12 August 2014 13:12
To: [REDACTED]
Subject: RE: Concerns DM Committee November

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks

[REDACTED] ntry
PA to Simon Drinkwater (Director of Neighbourhood Services)
Tel: 01438 [REDACTED]

From: [REDACTED] [mailto:[REDACTED]@hertfordshire.gov.uk]
Sent: 21 February 2014 09:26
To: Drinkwater Simon
Subject: FW: Concerns DM Committee November

Simon

The latest in an increasingly long list of E-Mails regarding the Enforcement Notice on Monks Green Farm.

Kind regards

From: [REDACTED] [mailto:[REDACTED]@eastherts.gov.uk]
Sent: 21 February 2014 08:44
To: [REDACTED]
Subject: FW: Concerns DM Committee November

[REDACTED] - for info - I have received the message below from Cllr Ashley

Kevin

From: Councillor Ashley (William)
Sent: 21 February 2014 08:22
To: Steptoe Kevin
Subject: Concerns DM Committee November

Dear Kevin.

Following on to my last e-mail please see below the concerns raised following the DM Committee meeting in November. I would appreciate that this information remains confidential as it contains sensitive items as you will note in reading it.

First, I would like to advise you that I was in receipt of a number of anonymous letters which has highlighted some confidential issues surrounding my previous and current planning applications which are issues that are not published external to the Council. More recently I have received a letter which contains similar content to the others but also making accusations to me both personally and professionally. I

understand that this is not a matter for you to deal with but you will understand my reasons for keeping this confidential and how stressful it is. The police have been made aware and advice has been taken.

In reading my issues below you will see how a public debate can fuel such correspondence as I have briefly describe to you above.

My issue which I would like to raise is my application reference 3/13/1513/FO. This was presented at DM Committee on 6th November and in viewing the web cast, it has left me with a number of serious concerns.

My concern is not the decision which was to deferred my application, my concerns are the choice of words Members used in their discussions and the debate and how the decision was reached. There are areas which I feel are serious issues which needs to be addressed.

Cllr [REDACTED] raised the point that it is imperative that we (The Council) are transparent in the dealings with it.

I agree and I have remained transparent and as you are aware I have remained in contact with officers throughout, submitted the application on officers advice, welcomed the Parish Council on site, welcomed members on site and indeed an arranged visit by yourself. I have also provided DM Members with an email note following the press of 31st October.

Cllr [REDACTED] continues to add that 'he believes the committee do not have the full picture as to what's been going on there and that officers should carry out a full investigation of the entire operation up there'.

Cllr [REDACTED] raised the issue that there was enough interest from the public and the press. This would indicate that [REDACTED] had not reached his decision without influence of the press.

I have asked [REDACTED] to clarify his points and have provided him three opportunities to do so without an acknowledgement.

Cllr [REDACTED] on a number of occasions attended social events with my father and I have sat on the Magistrates bench with him. For these reasons I believe he should have made Members and officers aware prior to commenting. I also believe he should provide me with an explanation and support his statements. Should Cllr [REDACTED] have abstained from the vote.

Following Cllr [REDACTED]'s comments on not gaining access to the site, has resulted in this being reported on the Mercury web site and again in the newspaper of 14th November.

This comment infers that the site access was restricted which is not that case. Cllr [REDACTED] attempted to enter via a farm track with a security gate and not the public highway. As you know from your arranged visit which included Cllrs [REDACTED].

Cllr [REDACTED] has since informed me that she was not aware of this arranged visit but states she would have attended if she had been advised. In hearing this, I have asked Cllr [REDACTED] at which Councillors had difficulty accessing the site, who instigated the visit and if all members were invited. If all Members were not advised than this raises concerns as all Members attending the meeting are required to do so with an open mind and all presented with the same facts.

Cllr [REDACTED] point raised was in respect of retrospective planning. She stated that she has concerns as this was not the first time I had 'put in' retrospective planning. She continued to say that this appears to demonstrate a lack of respect.....

Cllr [REDACTED] continued that when the process is circumvented by retrospective applications the committee is denied the opportunity to properly debate whether the matter is acceptable. This shows a misunderstanding of the system.

As a result, this comment had been published on the Mercury website and in the newspaper on 14th.

Cllr [REDACTED] choice of words has had damaging consequences in the very fact that the issue was sensitive and Members were aware of this. I question whether she has considered my application on it planning

merits. Whilst I encourage opinions I do not believe Cllr [REDACTED] has entered the discussions with an open mind.

I have requested Cllr [REDACTED] responds to me on the following points, and whilst some are relevant to planning, in reading you will note that there are points relevant to planning issues but are factually incorrect.

I have asked for an you explanation to his comment referencing the Long Croft live /work being 30% to accommodate the work element. I have requested direction as to where in the decision notice this is stated.

He has suggested that the committee may have wished to place conditions on the application such as a bat survey, materials of construction and construction times. Why would the committee wish to place these conditions on a building which already has approved planning and has been built for 6 years. These conditions were on the original approved planning permission were carried out in conjunction with the Council requirements.

I have asked if the letters he has received from residents of Brickendon have been made available for all officers and Members. Did those letters form part of the representations as my communication did. During the web cast Cllr [REDACTED] said 'we have all, hopefully received letters I think'. This clearly shows that he could not confirm that these letters were available and therefore they should not have been referred to in a public meeting.

He made reference to 6 desks being used on the first floor of the building. Councillor [REDACTED] made reference to this at a later stage in the meeting and yet Cllr [REDACTED] raised it earlier in the meeting. I have asked him at what point was he advised of this. He referred to the Chair mentioning it, but was this pre the meeting and if so were all Members advised.

I understand that in considering applications the committee are not permitted to raise an applicant's personal history or motives and yet he has done so in highlighting other issues on my farm. Cllr [REDACTED] raised the issue of the cars being stored in my yard. Was this correct to do so. He is aware that Officers have agreed that this can continue until 30th November and no action taken. This should not be raised and is not relevant to the application for a variation to a garage.

The above is a brief explanation of first, the issue of my anonymous letters received and second, the issues which surrounds my application. As I say I do not expect you to make any concern in relation to the anonymous letters.

There are many unanswered questions and these are few.

- Did all Members attend the meeting with an open mind.
- Were Members decisions influenced in any way.
- Should Members have been made aware of Cllr [REDACTED]'s relationship with me.
- Were all Members provided with all information.
- Why was a site visit arranged and who instigated it -Were all Members given a opportunity to attend the arranged site visit.
- Did all Members visit the site.
- Were external letters available to Officers and Members -Why were other issues permitted to be raised and influence the decision.
- Did Members familiarise themselves correctly with the application and policies.

Throughout the meeting you was providing guidance on policies, the application and that no other issues should be included. My application illustrates the Council's own planning policies and national planning policies as you confirmed.

Again, I have remained open and transparent and taken the Enforcement Officers advice. The same officer who visited my site and advised me to submit an application for a variation when 2/3 people were working from the first floor of the garage. I followed this advice and submitted an application.

At DM Committee Members should begin the meeting with an open mind and all with the same information provided. I have always encouraged this, along with site visits and have always shared correspondence with officers.

I accept decisions provided they can be supported. I have given Members an opportunity to respond on more than one occasion but I have not been provided the courtesy. I have not questioned their decision made but I do question their choice of words when describing it and therefore describing me.

Cllr [REDACTED] intimates that there is 'something going on up there' and continues to state that officers should carry out a full investigation of the entire operation.

Cllr [REDACTED] has publicly stated that I have a lack of respect for the formal process.

Both have commented on me personally. My application should be decided through planning systems only, not me or comments in the press or a residents letter which Cllr [REDACTED] has raised and yet as I understand has not recorded with officers or added to the representations.

Members should be accountable for their conduct, how can we justify treating applicants in this manner and publicly causing embarrassment.

Please provide guidance on these issues and I ask that due to the sensitive nature they remain confidential. For your information, [REDACTED] and [REDACTED] are both aware and have provided me with their own individual views.

[REDACTED] was of the view that an independent assessor give this consideration and that the Council have a complaints procedure. I am aware that you may take the same view but in raising these issues through an open process as complaint to the Council it draws unnecessary attention to all. For me, the press have already caused damage as have the anonymous letters. Other than this I have kept all issues within the Council and would prefer to do so but attention needs to be given to the concerns I have raised. I am aggrieved by the 'system' that is in place and I question whether the correct processes were followed.

Regards.

William.

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EAST HERTFORDSHIRE DISTRICT COUNCIL

ALLEGATION OF BREACH OF THE CODE OF CONDUCT

REPORT OF THE INVESTIGATING OFFICER

TABLE 1

Comments of subject member about the complaint and further response of the complainant

Response to allegation		
Reference	Cllr Ashley comment	Complainant response
Page 1 Paragraph 1 & 2	<p>Whilst I appreciate that the complaint is an alleged complaint, the complainant begins with 'it appears.....and continues to address each point in a similar way. His first paragraph of his covering note suggests that I have gained a pecuniary advantage in the manner in which various planning permissions have been taken advantage of has brought East Herts Council and its Officers. He again makes reference to his note in relation to planning issues.</p> <p>In my response, I have always had respect for our officers and have always spoken of them as being knowledgeable and professional. When Chair of Development Control for some 4 years I have considered that their view on planning application to be based on planning merits and not personal judgements. I have as evidence in an email exchange and via telephone to the complainant when he strongly disagreed with them over another planning issue in the Ward.</p>	Irrelevant
Page 1 Paragraph 3	With regard to East Herts Council, I have maintained openness with all Councillors during issues which have arisen which began in April 2012 following a complaint received in	Not true – neither I nor Mr Barnard disagreed with planning application no 3/11/1611/fp received 9/9/2011 and heard at November 2011 committee

	<p>relation to permission granted of a live/work development of redundant poultry houses. The complainant Mr Barnes and Mr Barnard who has been named within Mr Barnes complaint, disagreed with permission being granted and were vocal in their view. I fully appreciate that individuals have a view but processes were followed resulting in permission granted. The complainant and Mr Barnard both disagreed with the decision.</p>	<p>meeting. It was not until April 2012 (5 months later) following an article in The Mercury Newspaper from Mr Peter Ashley (Cllr Ashley's father) "That while away in March, the chicken sheds had been demolished" This coupled with numerous local residents passing the site during March and early April, were confronted with the view of complete demolition of the chicken sheds, piles of burning demolition waste/building materials, heaps of asbestos etc. Clearly the chicken sheds were gone and the groundwork's element of the site, for the new units (not reused buildings) was close to completion with new side panels being installed on 4/4/12. There was much anger among residents and one such person (Who I cannot name) decided to call the council and eventually the Portfolio holder, Cllr Alexander. Just for clarity I was away that Easter week and Mr Barnard did not make that call. The rest is history as to the "Chicken Sheds" debacle in documents provided to you from us and Mr Ashley.</p>
<p>Page 1 Paragraph 4</p>	<p>At the highest level, Officers and Members have been provided updates of issues dating back some 2 years. There have been reports written in the Mercury and reading the complainants submission it confirms what has been suspected for some time with regard to the source of those stories. This evidence is detailed in the attached along with my summary response to that submitted and titled summary and response to appendix C.</p>	<p>Not true, many people inside and outside Brickendon were making comments through the press and East Herts Council (re the chicken sheds) throughout 2012 and 2013.</p>
<p>Page 1 Paragraph 5</p>	<p>I note that the complainant has referred to two letters provided to the Portfolio Holder Councillor Alexander. The content of those letters have been referred to during discussions at the Development Management meeting when addressing planning application which I had submitted. In brief, at the time I questioned whether these letters which were raised were noted within additional representation</p>	<p>The two letters referred to were sent by me on behalf of The Residents of Brickendon. One in Sept 2013 and the other in Jan 2014. This was the main start of my involvement and was indeed sent anonymously for reasons known.</p>

		papers. In receiving a copy of the additional reps, the letters were not referenced. Given this and that the information within them was not factual information as the officers reports were, I raised the question whether the Portfolio Holder should have been permitted to refer to them.	
Page Paragraph 6	1	The complainant clearly has contact with the Portfolio Holder despite his letter of 26/9/13 asking to be excused for the anonymity but signing off as Residents of Brickendon. He later sends another letter in January 2014 again signing off as residents of Brickendon. In my papers I have made reference to a complaint received in April 2012 in relation to the live/work development. The same Portfolio Holder raised this complaint with the head of planning following a complaint he received. This is recorded within the Officers timeline and file notes which I have attached.	Refers to the two letters above. For clarity each of those letters was sent to all the home addresses of the 12 members of the planning committee (inc Cllr Alexander) Mr Kevin Steptoe – Head of planning EHDC and the local press (Mercury). This details my total contact with Cllr Alexander - two anonymous letters. I assume the portfolio holder retains his position over a number of years and in any case what has this got to do with the allegations of the complaint.
Page Paragraph 1	2	In addition to the above I am in receipt of anonymous letters which are detailed within my response paper titled summary response to appendix item C. These letters have been signed off as residents of Brickendon and one copy makes reference to someone within EHDC who ' <i>listens to residents</i> ', it continue to make a further comment on ' <i>having more to learn about local politics</i> '. Whilst this does not state who their contact is, it suggests it is someone in local politics.	We have made it clear to yourself (and others) that of the seven letters referred to only the 2 nd two page letter was sent by one in our group. That letter was sent to EHDC which is clearly shown by its contents. We know not how it got to Cllr Ashley; it either came from within EHDC or by Cllr Ashley himself.
Page paragraph 2	2	On 10 July 2014, the Mercury Newspaper printed a letter from Mr Barnes quoting the following <i>Over the past two years questions have been asked of Monks Green Farm of the parish council, East Herts planning department and even the portfolio holder for planning. All have failed except the latter</i> '. This is apparent that the Portfolio holder referred to is the same who has received letters, the same who spoke against planning applications and the same who raised the initial complaint in April 2012.	My letter of 10 th July 2014 (sent to all) and printed in the Mercury Newspaper does indeed state "All have failed except this letter". This should be obvious to Mr Ashley (and all others) that this can be proved and demonstrated by watching (as I do) the webcasts of the planning committee meetings of November and December 2013 and January 2014. In them not only Cllr Alexander but 6 other members of the committee (including The Chairman) queried Cllr Ashley's planning applications for the first time in history. It was then as a group we had finally been heard. It

		<p>was a milestone for The Residents of Brickendon, which ultimately has led to this Standards Committee investigation. It is obvious to us Mr Ashley is trying to detract from the core of the complaint by portraying a cloak and dagger approach that we and Cllr Alexander have formed an alliance. Nothing could be further from the truth! Since my name has been published by the Monitoring Officer at the start of the complaint, I have tried to contact the Portfolio holder by phone and email for the last 4 months. He has neither replied to my calls or emails to date. We assumed he is with the EHDC/Ashley camp. Cllr Ashley really needs to get a life, stop attacking me and answer allegations of the case.</p>
Page Paragraph 3	2	<p>From the evidence and by Mr Barnes own submission, he has provided the source of information for the local press. Following the conclusion of the Standards Sub Committee of 4th June and the decision to appoint an investigating officer, Mr Barnes provided the report with and quote the same day which was printed the next. Again, in writing a letter on 10th July it is felt that this is an attempt to influence the investigation despite having a procedure to follow.</p>
Page 2		<p>Not true, once again Mr Ashley's blinkered deliberation of me has got his facts all wrong. In the first place I was in transit of my holiday on the 4th June 2014 – the monitoring officer can confirm this as ironically my holiday start was the same day of the standards committee hearing and Mr Drinkwater had agreed to email me of the committee's decision. While I was waiting to board my flight (at Heathrow airport) 4.30pm (4/6/14) I received a phone call from the Mercury Newspaper informing me of the committees decision and asked me for a comment. My reply was simple in that I could not comment as this was a live case. The letter of 10th July 2014 Cllr Ashley purports "is an attempt to influence the investigation" was actually sent to the Mercury Newspaper 3 - 4 weeks earlier (19th June). They sat on the letter for that time (at my request) because of Cllr Ashley's father's death. The committee had not convened at the writing of the letter and should not of be considered of breaking any protocol.</p>
		<p>Cllr Ashley flatters me if he believes I could possibly</p>

Paragraph 4	<p>Development Management Committee in relation to an application which I had applied for, a Member of that committee raised concerns following the press reports. This would indicate that Mr Barnes has influenced the decision making process of the committee and the decision was taken to refused my application which was then served an enforcement notice which is explained in my paper titled response to planning issues. Having an enforcement notice served would show that I have not used my position to influence the Council in reaching their decision.</p>	<p>influence the planning committee – if only! The application referred to (I believe) was for the illegal car sales company that operated from a garage at Monks Green Farm and the up to 100 cars stored next to Cllr Ashley’s house, plus workshop plus valeting bay. The decision to refuse the two applications i.e. Office & cars was because Cllr Ashley refused to give the information requested to the manager of planning (Alison Young) and she had no alternative to dismiss it. It should be noted that Cllr Ashley’s withdrew the garage application in Dec 2013. Which lead to two enforcements. This was the start of the end of the road for Cllr Ashley.</p>
Page 2 Paragraphs 5, 6 & 7	<p>Throughout previous planning applications processes were followed accordingly and officers, be it planning, democratic services or the Director of Neighbourhood Services were all in a position to advise me otherwise. Site visits to view applications have taken place by Members, enforcement officers and planning officers.</p> <p>Over time there has been numerous communications with officers including the CE, Director of Neighbourhood Services and the Head of Planning. Also Members have been communicated and have included the Executive and the Leader of the Council. It has always seen to be important to maintain dialogue and at times when reading the press articles written it was a priority to inform the CE and the leader. I am able to provide examples of this communication if required.</p> <p>Applications have been presented to Development Control Committee which later became Development Management Committee. Reports were written and presented and applications have been both granted and refused. The committee minutes will provide evidence of declarations of interest. When present at a committee either as a committee</p>	<p>Believe all irrelevant to the investigation and not directed at me</p>

	member and later chairman, I left the room for the discussions to take place.	
Page 3 Paragraph 1-2	<p>3 To conclude, Mr Barnes has referred to the "goings on" at Monks Green Farm. In response my evidence provides information on planning applications/issues which are past and present along with dialogue which I have had with officers and members. In addition I have provided an example of communications in relation to business rates and council tax.</p> <p>The complainant concludes in saying that it must be strongly stated it is not the planning merits of the complaint that is in question but it is whether I have broken the code of conduct in applying for planning permissions, achieving them and what I did to implement them. This in itself would suggest the Council and its officers are at fault and implies that neither I nor the officers or the committee followed the correct procedure.</p>	I agree with the comment that suggests the council and its officers including the committee have not followed the correct procedure.
Page 3 Paragraph 3	In applying for planning and being granted it there is a process which has been followed and in particular when making an application as member, the process is naturally more robust. Any planning applications which are applied for are determined during at committee process which is now being web cast as well as minute being available. Officers prepare and present a report based on applications, that report is considered by 20 plus Councillors.	Not true in Mr Ashley's case.
Page 3 Paragraph 4	<p>3 Finally the complainant has further commented inferring that I have' broken just about every section of code'. This allegation alone is detrimental to my character and an attempt to damage my standing within the community, publically, politically, my business and my family. In suggesting that he is concerned of intimation, harassment, victimisation and my threatening manner, Mr Barnes has not received intimating and harassing letters nor has he been on</p>	It needs to be stated again that I represent a group of Brickendon residents now totalling over 50. Yet Cllr Ashley attacks me relentlessly through his so called defence. I may not of received intimidating letters but Cllr Ashley had personally intimidated my wife & I repeatedly in the past, but this is not what this case is about.

	subject to negative press coverage. He has however over the course of time had his complaints investigated, been listened to and action taken by a portfolio holder, sent communication to Members of Development Management Committee and influenced the decision making process through his correspondence submitted to that committee and via the local media.	
Page 3 Paragraph 5/6	It is unclear as to his reasons for his suggestion that I have broken nearly every code of conduct when I have been granted planning permission for some applications based on their planning merits but refusal of others and indeed served enforcement notices and appealed to independent bodies such as the planning inspectorate and as evidenced Counsel.	I do believe Cllr Ashley has broken the code of conduct befitting a councillor
Page 4 Summary & response to complainant	Summary and response to complainant of Appendix item C (confidentiality of complainant) – page 23 of reference papers for Standard Sub Committee of 4th June 2014.	?? Surely should it not be response to the complaint.
Page paragraph 1	4 Whilst the complainant wishes to remain anonymous, through the information which he has submitted and of his comments in the newspaper he is identifiable. In knowing this my response to page 23 and other areas among the correspondence, I will refer to him by name and submit correspondence which shows his identity. For reasons of data protection I will I understand if the investigating officer needs to redact his identity and must do so if required. The complainant is a Mr Lesley Barnes of Birch Farm.	Correction My name is Leslie not Lesley (girls spelling)
Page 4 paragraph 2/3/4	In reading Mr Barnes first paragraph it is with disappointment that he writes that he and others may be victimised, harassed, intimidated and that they feel threatened. Being an East Herts Councillor for some 16 years, previously a	Cllr Ashley is fully aware of numerous occasions he has lambasted both me and my wife Linda over many years in various recorded telephone calls.

	<p>Parish Councillor for 8 years, a resident living in the Parish all my life and working and operating my family farm for the last 35 years, it's the first time I have been describe as I have.</p> <p>It would seem that this description and use of these strong words which Mr Barnes has chosen to describe me as are of his opinion and not factual evidence. To use such language with no evidence to support this is damaging to my character and affects all aspects all of my life and that of my family. In reading the Members code of conduct I question whether his use of words are simply to benefit his complaint and not his true opinion of me or indeed the opinion of others as he says it is.</p> <p>I must point out that in all my 16 years as a Councillor, I have never been described in this manner but it would seem that Mr Barnes is intent on destroying my reputation and my name, my position at the Council, my position within the community of East Herts a and beyond, my residents and the business that I operate. From this it is evident that his wish is to damage my reputation as a whole.</p>	
Page 4 paragraph 5	<p>I note that Mr Barnes wishes to remain anonymous but has mentioned a number of residents. It is not clear as to the number of residents other than Mr Tim Barnard who he has seemed more than happy in not keeping anonymous despite Mr Barnes description of me. I assume this is because Mr Barnard has publically discredited me and has received 2 letters from my solicitor. One of which Mr Barnes has supplied but the first and the reasons which partly lead to the second, have been left out of his submission. However, these have been submitted within my supporting evidence in order for the investigating officer to judge the whole picture.</p>	<p>It was the monitoring officer who did not redact Mr Barnyard's name, despite assurance in the complaint form that he should of done.</p>
Page Paragraphs 6/7/8	<p>4 In describing the two examples of which Mr Barnes as described as the best examples, below is my response to his evidence along with supporting documents which will assist in</p>	<p>- no 7- I telephoned Cllr Ashley at 6.03pm on Monday 16th Jan 2012 inviting him to a Parish meeting regarding the new local plan. The email sent on</p>

	<p>providing a wider picture for consideration and determining whether the description Mr Barnes has portrayed of me is correct.</p> <p>Mr Barnes referenced a telephone conversation in January 2012 and has supplied his e-mail and my response. In my response to that, attached you will note a series of other e-mails sent to Mr Barnes on 21st September 2013, 2nd November 2013 and 24th December 2013.</p> <p>In speaking to Mr and Mrs Barnes at the village fete in September 2013, you will see that my e-mails were all sent in good faith with an offer of assistance. You will note that my email of 21st September begins with a mention of the village fete where they asked me to have a chat at some time. This and my subsequent e-mails received no response.</p>	<p>8/02/12 and Mr Ashley's reply, I believe speak for themselves and are not about Paradise Park planning applications. The comments of other emails sent to Mr Barnes on 21/9/13 – 2/11/13 are 19 months after the Feb 2012 email. So why does Cllr Ashley link them?</p> <p>On the 21/9/13 email the main reason for his note was to enquire about the validity of my mobile home on site, although he virtually answers his own question i.e. permitted development rights during demolition and construction. This note was received at 8.57 From then on I tried in vain all morning to speak to Cllr Ashley on the phone. On three occasions his wife Linda said he was out on the farm. I eventually got him early afternoon. I informed him I did not appreciate his note as he knew very well I had planning permission for the cabin some 2 years earlier by a letter from the head of planning. In my opinion he was just trying scaremongering tactics to make me homeless. It was a very gruff telephone conversation in which he made certain allegations, I retaliated accordingly. He quickly got off the phone saying he was running late to go to football.</p> <p>NOTE: The following week I checked with EHDC about the complaint, they said they had no such complaint on their files! No surprise there then.</p> <p>As for no response the 2/11/13 email (coupled with 21/9/13 email from Cllr Ashley. 2/11/13 email from Cllr Ashley. In the first line he says "Following on from my email and SUBSEQUENT TELEPHONE CONVERSATION" contradicting himself that he had no response. By this date the Brickendon Residents group had formed and there was no mileage in talking to Cllr Ashley again.</p>
Page 5 paragraphs	Within the e-mail you will note that I made an offer to hold a discussion on the telephone or if they preferred to arrange a	This is a continuance from above and the Paradise Park planning application element is completely false

1/2/3/4/	<p>meeting.</p> <p>In reading them you will see that they were written in my capacity as district councillor and local ward member although Mr Barnes has made a point of raising the choice of email address used. There were sent 3 e-mails and with offers of a telephone discussion or a meeting. In not receiving a reply, I considered that Mr Barnes no longer wanted to discuss any of the issues with me.</p> <p>The manners of my e-mails are friendly, considerate and hopefully an offer of assistance or advice and I'm sure no more or less than other councillors would do.</p> <p>I now refer to Mr Barnes submission which he refers to in an e-mail of 8 February 2012. A telephone conversation did take place before this e-mail but you will see from my reply of the same day, the accusations which Mr Barnes wrote were unfounded hence my brief reply as I felt that to then respond in detail would only amount to a 'tit for tat' e-mail exchange of an subject that was related to Mr Barnes views of Paradise Wildlife Park's planning application. This was a matter already in the hands of East Herts Planning Officers which was explained to Mr Barnes numerous times during the telephone call. My view was similar as the planners, Mr Barnes view wasn't, hence 'lets agree to disagree'.</p>	- evidence from Cllr Ashley required.
Page 5 Paragraphs 5/6/7/8/9	<p>Previous to that described above and not submitted within the document Mr Barnes has provided are two previous e-mails exchanges. One of which was received on 19th January 2012 from Mr Barnes and is quoting an earlier telephone call which he was expressing how unhappy he was with the planning system in relation to Paradise Wildlife Park. This was replied to on 20th January 2012 and you will note that I have responded as I believe no other local member would have. Again I have been polite, helpful and offered to discuss</p>	All fictitious and totally irrelevant to the case.

	<p>but also noting that East Herts Council have a very knowledgeable and professional planning team who are happy to give advice.</p> <p>This then lead to Mr Barnes telephone call as he has described in his e-mail of 8th February 2012. In being provided with the fuller details than Mr Barnes has submitted, you will see that it is clear that Mr Barnes had an opinion on a planning issue which we differed on and that the officers of the council also differed from the view of Mr Barnes.</p> <p>Mr Barnes has provided a second example but one that involves Mr Tim Barnard. Both have provided documents with Mr Barnes describing it as 'an innocent e-mail'. It is disappointing that it is felt that this e-mail can be described as innocent. In receiving the e-mail from Mr Barnard on 17th December 2013, and by Mr Barnes own words was it was inadvertently sent, for me it was clearly a mistake and all evidence suggests that Mr Barnard had intended it to be received by someone else and not my wife Linda and not Sara Greek of the Mercury Newspaper.</p> <p>In reading what is only a paragraph, the email was intended for a close acquaintance show in starting with 'Hi Guys, welcome back' and to end in 'love Tim'. Obviously this was not meant to be Linda Ashley (my wife). It continues saying there are two photos which Sara from the Mercury wanted but obviously Mr Barnard was having difficulty in sending them via e-mail. The photos that were attached are two of which have been submitted but are both difficult to see what they are or where they are but suggests that they are photos of burning chicken sheds which in turn would suggest to the Mercury reporter that there is a story to write.</p> <p>To then continue with a suggestion of asbestos in a field is another accusation and one of serious consequences, not only as a local member but to my business. Mr Barnard choice of</p>	
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	words..... 'tie in nicely' is written in a flippant manner and would seem that he and the intended recipient have targeted a personal attack on me . It seems there is an unnatural unhealthy obsession to target my business (farm), my work as a local member and to me personally by a few residents of which only two are apparent (Mr Barnes and Mr Barnard).	
Page paragraph 1/2/3/4/5	<p>6 In their attempt to engage the Mercury reporter which in itself is an attempt to harass me and knowing that local reporters normally follow up such stories of Councillors, is a deliberate attempt to victimise me and I don't use such strong words without cause.</p> <p>Mr Barnes has also submitted my response to Mr Barnard's e-mail sent on 18th December 2013. This identifies my actions which resulted in a letter from my solicitor of 16th January 2014. Both my response and my solicitor's letter explain my concerns but also refer to previous communications of November 2012.</p> <p>I have enclosed these communications in order to present the background which leads to this most recent.</p> <p>First is an e-mail sent to members of the Brickendon Liberty Parish council and its Clerk in November 2012. From this it can be seen that Mr Barnard had wrote a letter to the Parish expressing his opinion of me and referencing my planning permission and my live/work development. In referring to me, Mr Barnard states 'he broke the law'. The letter continues which lead to a brief e-mail exchange of 20th November 2012 which is attached. This lead to a letter from my solicitor of 26th November, again attached.</p> <p>From this it provides a clearer understanding of the events leading up to what has been described in Mr Barnes submission. Mr Barnes and Mr Barnard omitted this detail which is a significant factor as to my reasons for a further</p>	Is truth in reverse and is all a distraction of the case

		solicitors letter when in receipt of yet another of Mr Barnards damaging communications.	
Page Paragraph (last line)	6 6	In addition to that above, I question who was the real intended recipient of Mr Barnards e-mail of 17th December 2013. Mr Barnes has not given a reason why Mr Barnard made the mistake and sent the e-mail to my wife Linda. However, as it is obvious Mr Barnes and Mr Barnard are in communications together in preparing the alleged complaint about my conduct. Hypothetically I ask the question was the intended recipient Mr and Mrs Barns as Mr Barnes first name is also Linda.	I would like to make it quite clear my name is not Linda!
Page Paragraph 7	6	It is also apparent that Mr Barnes communicates with the Mercury newspaper as his then anonymous letter to Councillor Malcolm Alexander of January 2014 states he will be sending a copy to the Mercury. The author of these anonymous letters received would now seem apparent. It is somewhat of a threatening manner when making a complaint to the Council by way of tempting the involvement of the press which then begs the question of a fair hearing if already influenced by the press.	By informing the press of Cllr Ashley's own actions only makes the council aware that they are not the only ones with the said information.
Page 6 paragraph 8/9		Mr Barnes refers to Mr Barnard resigning over the so called Chicken sheds debacle. Mr Barnard made his resignation very public by his own choice and I have attached a copy of the article from the Mercury newspaper. The article which is attached, in brief states that Mr Barnard resigned due to the outcome of the planning investigation of my live/work development. That alone was a publicly documented case and Mr Barnards public resignation added to the press story continuing. In his story, Mr Barnard has included my wife, Linda Ashley as being a member of the parish council as indeed she is. Linda has her own reasons as to why she holds this post and has declared interest on any discussion related to planning	Irrelevant to case and myself and has already been explored, except the fact The Parish Council have failed us in not investigating our complaints

		application for my farm. In a comment to the paper, another parish Councillor said that Mr Barnard had extreme views that the other councillor felt unable to support. From this it would show not all support Mr Barnard and Mr Barnes view.	
Page Paragraph 2	7	Along with this I have attached a series of e-mail communication between myself and the newspaper, all of which senior officers and/or seniors Members have been made aware of at the time. In looking at the timing of the one dated 27th November 2012, it is evident that a question with regard to asbestos on my land is presenter at appropriately the same time as Mr Barnards mistaken e-mail of 17th December. My e-mail of 18th December and my solicitors letter of 16th January 2013 seems to have prevented a further story being considered and with no evidence other than two photos which I have mentioned above. This is further evidence to the efforts behind the seen to discredited my by Mr Barnard and indirectly Mr Barnes.	Supposition and refuted on my part.
Page 7 Paragraph 3/4/5/6		<p>At this stage I feel that it is appropriate to provide the investigating officer with 5 letters which have been received between November 2013 and February 2014. The author has remained anonymous but of the 5, 2 have been signed by 'Concerned Residents of Brickendon'.</p> <p>I can describe these letters as being intimidating, harassing, victimising, personal and threatening. As I said earlier these words I do not use lightly. The very nature in receiving such letters and to my home is of concern and I have reported them. A senior councillor is aware and so are senior officers of the council.</p> <p>These letters remark on my competency as a councillor and a magistrate. The focus is clearly on my live/work development, the business on my farm, and accusations of fraud and so on. The most recent has made reference to planning issues, reporting to the newspaper and this</p>	Already dealt with the letters issue. Cllr Ashley should investigate this issue and not accuse us but to look closer to home.

	<p>investigation at which point was not even known to me. This would suggest one of two things, either the anonymous letters were written is Mr Barnes (or Mr Barnard) or that the confidential systems within the Council are not robust and the investigation has been 'leaked' before I was made aware.</p> <p>As part of this investigation I have provided these letters but they are of a sensitive nature and therefore ask that they are referred to and not provided to the public if required.</p>	
Page7 Paragraph 8	<p>From that point on the personal attacks continued and I have been presented with the barrage of anonymous abuse and public humiliation of which the source has now become apparent. From a conversation via telephone in January 2012 of a difference of opinion relating to another planning application within my ward, has now become a personal vendetta of Mr Barnes and from the other evidence presented, Mr Barnard as well.</p>	<p>We as a group deny refutably that we have sent any anonymous abuse. He has brought upon himself public humiliation through his own peers by his actions. Why else would you step down being Chairman of Planning We are aware that a group of residents in the monks green area, who are sick and tired of all the goings on at Monks Green Farm. Similarly by looking at various press articles and blogs, it is obvious there is a considerable no of people who have had enough of Cllr Ashley and his antics. These include past EHDC councillors and council workers. Even 2 years ago Cllr Ashley felt compelled to offer me his position of Councillor (see attached email).</p>

EAST HERTFORDSHIRE DISTRICT COUNCIL**ALLEGATION OF BREACH OF THE CODE OF CONDUCT****REPORT OF THE INVESTIGATING OFFICER****TABLE 2**

Letters from the complainant to the Portfolio Holder and Cllr Ashley's notes in response.

Letter of 26 Sept 2013

Reference	Sub-Reference	Letter content	Response of subject member
Para 1		Please excuse the anonymity but I and a number of residents of Brickendon Liberty have serious concerns as to the goings on at Monks Green Farm, Brickendon.	Comment 'serious concerns goings on at Monks Green' – this was repeated during DM Committee of November 2013 by Cllr Crofton who continue to request a thorough investigation.
Para 2		We are unable to contact our local member (Cllr William Ashley) as it is he our concerns are with and not knowing our County Councillor and of having little faith in EHDC planning department.	
Para 3		Although these issues have been raised with our Parish Council from time to time, they appear reluctant to take the matter further, maybe because Cllr Ashley's wife (Linda Ashley) is a member of the Parish Council and the other members are friends with the Ashley family. On that point it was suggested contacting the portfolio holder, namely you.	Comment raised that the Parish Council were reluctant to take up the matter – The parish request an FOI in respect of the live/work development and were supplied information by East Herts Council. This would evidence that the Parish looking at the matter raised by the complainant. With respect to the comment on the friendship I have with the Parish Council, this is an assumption. In

			<p>village life everyone seems to know everyone and being a district councillor for over 16 years and before a parish councillor, I am acquainted with many but to describe it as a friendship is incorrect.</p> <p>With respect to my wife Linda being a Parish Councillor, this is correct but she has declared any interests prior to discussions and this has been recorded within parish minutes.</p>
Para 4		<p>The Live-work units built at Monks Green farm last year have not been built according to the plans submitted. What was supposed to be two bedroom properties is in fact three or four bedroom. The buildings appears to be much higher than what was approved. This may be demonstrated by the fact that they are two storey and not single storey as on the approved plans. The units are numbered one to 12, why are the live units separate from the work units? Does that imply the work unit may become a live unit in time to come?</p>	<p>In respect to the live/work units on the farm, site visits and include 2 officers who have measured the height and recorded it. This information has been provided along with photos from the officer file following of the investigation which took place in April 2012.</p> <p>There are 12 units, 6 live and 6 work. Comments in respect that work unit may become live units is an opinion not fact.</p>
Para 5		<p>Most importantly it is common knowledge for the past year that five of the units have been rented as live units only. Does EHDC police this, as it was the main reason that planning permission was granted in the first place. It appears to the residents of Brickendon that both the Parish council and the planning department of EHDC are complicit in this gross breach of planning. Enclosed is a copy of the sales literature that Councillor Ashley used to rent his properties in 2012. It shows details of the extra height, second floor and many extra windows. It is also being advertised on Right Move this week.</p>	<p>The comment regarding advertisements for live/work units, evidence has been provided of an advert with my agent and the complainant is referring to the previous agent whose services were not adequate. Council tax and business rates evidence as to what they are rented as has been provided.</p>

Para 6		A recent planning application (No 3/13/1513/FO) by Cllr Ashley to change a use of a garage at longCroft, monks Green Farm to office use for GP Cars has raised concerns with many local residents. It is understood earlier this year a certificate of lawfulness was to be refused for the car sales business, so why should the business wish to expand into another building? What evidence was submitted that the work element of long Croft (approx 30%) is up to capacity that another office is required? As the garage is already operating as GP Cars head office (see G.P. Cars website) should not this application be retrospective?	Regarding an application for a change of use, this was an application for a variation of an existing condition. This has been explained in an earlier e-mail in respect to planning and evidence has been provided and officer's reports are available showing a variation not change of use. The documents which were submitted for the appeal to the inspectorate are available if required. The comment regarding the storage yard being a breach, an enforcement notice was served but the complainant would not have been privy to the on-going information which had been provided to officers in respect of notice and eviction of tenant.
Para 7		With approximately 100 cars stored on ground adjacent to Cllr Ashley's residence, is this not a breach of planning permission?	
Para 8		It has been discussed by our group that if it appears nothing is done about this state of affairs in the coming weeks, then we will consider taking it to the press, along with contents enclosed in this letter that will be supplied to show proof that you, as portfolio holder are aware of some of the residents of Brickendon's concerns. A telephone call to your advertised number will be made (anonymously) in the next couple of days to confirm your receiving of this letter.	With regard to the threat of taking information to the press, despite the complainants letter, he has taken it to the press.

Letter of January 2014

Reference	Sub-Reference	Letter	Response of subject member
Para 1		Following our previous correspondence regarding this site there remains many unanswered planning issues, including the latest enforcement hearing, which is due to be heard at The Development Management Committee meeting on 5 February 2014. The Officers bringing this to committee are stating "That no further action be taken in regard to the breach of condition". It appears Mr Steptoe's officers have lost the plot on this one and this could be a waste of public money.	Contains an insulting remark directed to officers because they had considered no further action. This was for reason that they were aware of, namely the notice/eviction and court action being taken. This was not public information however the Chair of DM Committee and the Portfolio Holder would have been privy to the information. The Chairman as part of her briefing prior to committee. The Portfolio Holder as a request to provide him with an update as he was in receipt of the complainant's first letter and the fact that the complainant had threatened to inform the press.
Para 2		<p>Normally if you breach a planning condition you are required to remedy it. Either you make a retrospective planning application and you take your chances or you cease the use. Not in this case and bear in mind this application is for a currently elected Councillor, who was chairman of the Development Control Committee less than two years ago. That can be exemplified by when the applicant submitted application no 3/13/1513/FO in August 2013, it was to remove an onerous condition, NOT as stated in the officer's report stated in 1.6.</p> <p>This under normal circumstances would be a "delegated decision" and even as a councillor does not have to go before the committee. The same applies to a Certificate of Lawfulness, it is a delegated decision. But as the case officer (who refused the two previous certificates of</p>	Without knowing the details provided to officers the complainant has stated much the same as in para 1. With regard to a CLD, these are normally applications applied for where the activities are already taking place and that have been doing so for a number of years, hence my application for a CLD. A CLD is where an applicant believes the use of the site is correct and sets out to evidence this with documentation over a 10 year plus period. In respect to mine, it contains details of past companies, affidavits and support letters etc. This information is available if required.

		lawfulness) was made aware that this was a "Retrospective" application that dictates it must go before the Development Management Committee. Something we believe the applicant had not bargained for, otherwise why was this application not made earlier when according to the applicant's previous evidence GP Cars have been there since 2008.	
Para 3		May we commend you for the way the Chairman and the committee debated the November application. The first time we believe the applicant has had an application debated and questioned. The request for more information and investigation was needed. Unfortunately the applicant withdrew his application on 19/12/13 following a request from the Development Manager to provide more information, which he declined to do (copy of this email request enclosed).	<p>With regard to the debate of an application, this is what a committee would do and they have their reasons for this. My only comment is that these reasons should be on planning merits and not personal opinions. The previous letter received from the complainant of 26 Sept is believed to have influenced the debate and the comment which Members made shows this. In particular that of Councillor Crofton when he referred to the 'goings on up there' and a thorough investigation should take place. He also referred to the press.</p> <p>The application was withdrawn because the tenant was served notice which only myself, the tenant and officers of the Council were aware of at that stage. Despite the press reported request quotes from me, I had to consider the Council, my position and that of the tenant and his business.</p>
Para 4		An enforcement application followed (E/12/0314/B) on 8 January 2014 which was granted after a short debate, surprisingly it was only for the car storage and not the head office of GP Cars that operates on the site. Now we have this Non Enforcement, enforcement application. If the officer's recommendation is followed, it gives the applicant the planning permission he wanted two years ago, but without	With respect to the officer recommendation, it is believed this was reached due to the background information they had received such a court order being served on the tenant. Give this I questioned whether this report should have been listed under enforcement section and not a report and noting item. In viewing the enforcement flow chart it has not been followed and appears that a stage was missed out in the process.

		actually making a planning application and without any planning conditions attached. This surely is as bad as the England cricket team, it is just not cricket!	The flippant comment referring to not cricket was inappropriate for such a damaging letter as this.
Para 5	1.2	<p>The officer's report appears very contentious as to Mr Steptoe's previous conclusions on the webcast of November's meeting.</p> <p>PLEASE READ BELOW IN CONJUNCTION WITH OFFICER'S REPORT NO: E/14/0009/B ATTACHMENT ENCLOSED (Item C)</p> <p>In 1.2 the officer states that Long Croft is a Live/work unit in the first place but finishes stating it does not specifically require it to be so. The normal requirement for a live/work unit is two-thirds live and one third work "at ground level" (not basement level). Is this small office one third of the entire property or not? Is it used for the car sales business as in the applicant's planning application (copy enclosed). Or is it as stated in the Mercury newspaper of November 2013, from the tenant, his daughters do their homework in that small office and none of LongCroft is used in connection with GP Cars.</p>	Long Croft live/work is opinion and does not relate to the original application when permission was granted some years previous. The concept of live/work is supported within the District Local Plan and by central government. There is no percentage of use determined and an example of this is the 12 live/work units which are different from Long Croft.
	1.3	Clearly shows why there has been a continuous breach for many years according to the tenant, unseen by his landlord and neighbour for six years.	This is opinion only not factual.
	1.5	Shows cars and office are and have been closely linked. How can you have GP Cars sales head office (The garage) with no cars on site?	There has been no dispute as to the link of the yard/cars and Long Croft.
	1.6	No further evidence has been provided by the	I am unclear what is meant by this but I'm assuming

		applicant, lack of transparency.	it relates to 1.5
	1.9	The owner declines to answer the extra information sought, which members wanted answers to before making a decision on last November. Ignorance is no excuse of the owner if particular rooms, if any, are used. Contrary to the evidence submitted in his planning application. Who's fooling who? The work unit must be identified when making the application and in this case should be policed by the owner.	Answers were provide to the Enforcement Officer and the planning Manager via e-mail but given the withdrawal of the application due to the notice served to the tenant, my assumption is that the officers felt this was sufficient information.
	2.2	<p>In 2.2. is LongCroft a live/work unit or not? Subject to the NPPF would longCroft have been given planning permission as a new dwelling in the greenbelt.</p> <p>Compared to public plans LongCroft appears to be in the wrong place. It also appears one of the barns that was to be dismantled is still standing, with the other one not used in the construction of the building.</p> <p>Note: Just like the chicken sheds; see picture enclosed, does LongCroft look like two reconstructed barns?</p>	Long Croft was granted permission as a live/work property and individual tenants can use it as such.
	4.3 – 4.8	4.3 to 4.8 of the officer's report should be irrelevant as it was and is a breach of planning condition in the first place. It appears to be the intention of the applicant to get away with it. It was member's debate that put this on hold last November, now it is your turn again.	Again refers to the officers report. I refer to previous answers, I assume that as officer were in receipt of the information they requested of me and that the tenant was given notice, I assume that they felt there was no need for further action as time would remedy the use.
	4.9	Were highways made aware there are 11 members of staff and the office is a Car sales office operating up to 100 cars, where no matter	Regarding comment on the Highways view, this I cannot comment on as I am not privy to communications/discussions officers had had.

		where the cars go the purchaser would probably have to visit the office on more than one occasion to make the purchase. An office of 2/3 people is one thing. This is not that, it has 11 members of staff, an office, a workshop, a valeting shop and up to 100 cars. According to the original planning application it is so successful it has outgrown the 30% space at Long Croft.	However the comments are of opinion as to the number of staff operating on site. The Member of DM committee have the opportunity to conduct site visits and the Head of Planning arranged one for the Chair and selected Members. This was commented on by Councillor during the committee debate and 11 staff was not quoted, I recall it was 6. The complainant has made assumptions as to the operation of the business (GP Cars) in respect to customer visits.
	4.13	Why cannot officers confirm whether there is any office use? There is an enforcement department at EHDC. Besides the applicant has invited members to view the site and as owner of Longcroft, he has the right to enter the building to inspect.	With regard to officer not recognising use of the garage, it was a visit from the Enforcement Officer who in noting the use, recommended an application for a variation.
Para 6		Now here comes the "piece de resistance". This officer makes an important note that there is no planning requirement for the office use to continue and that even if the building is used "entirely for residential purposes" it would not be a breach of planning control. THIS IS IN COMPLETE CONTRADICTION OF THE HEAD OF PLANNING. In the November meeting, in his second statement in answer to questions from Councillor Alexander & Councillor Andrews (on the webcast) about what happens if a business fails (which is not the case here) in a live work unit. Part of his answer was – quote – "what we apply and where we feel we are able to reasonably go is to say that you cannot start to use that floor space that is for working purposes for residential purposes and you have got to, if you like, retain it for the potential of someone to be able to use it for a business in the future".	In respect to as the complainant states the 'piece de resistance', officers are able to comment on reports written. I am able to provide an answer which is from my point of view. Long Croft has only been rented to one tenant at any one time which encompasses the garage. The garage has never been rented separately and there was no intention of this happening. It was simply for an extension of business use from the main house. As I understand Officers could have put a condition on the use as I believe this is what the Head of Planning was explaining to Members.

		It is evident that you the members ie Councillors Alexander, Andrews, Crofton, Newman, Cheswright, Moore, Symonds have called for much more information and questions to be answered by the applicant, which he has declined to do so. So how can you make a decision on that? Good luck to you all, we once again will be watching the debate on the webcast.	
Para 7		We are not happy to the lack of response to our last letter and after enduring the embarrassing way East Herts Planning Department have handled the Monks Green Farm planning applications, from the "chicken sheds" fiasco to the current day, it is now time to step up our resolve. We are currently looking for a spokesperson to speak on our behalf, as it is our concern not to be personally identified for fear of safety and persecution and retribution. We do have a candidate in mind who we hope to persuade to represent us in the near future, with a view to take the entire Monks Green Farm debacle dating back these past two years especially to the standards committee. We will be looking at you (the Portfolio Holder) to advise us on this matter.	The comment as to chicken shed fiasco again would not should the damaging effect this letter could have and indeed has had. As to a spokesperson for the concerns of Brickendon, at the point of this letter being written, I had received anonymous letter from the concerned which have been malicious and you are aware of these. The added comments in respect to csafety, persecution and retribution, I believe that factual evidence will conclude that this is not in my nature to behaviour in this manner.
Para 8		Could you please arrange for a copy of this letter and all supporting documents to be copied to all members of the committee, the Chairman and Mr Kevin Steptoe before Wednesday's Development Management Committee meeting.	Finally the final comments note that a copy was sent to the Mercury. It would seem that the complainant despite saying otherwise to the Portfolio Holder

Complaints Procedure

1.0 Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted Member of this authority (or of a Town or Parish council within its area) has failed to comply with the Councillors’ Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the authority (or of a Town or Parish council within the authority’s area), or of a Committee or Sub-Committee of the authority, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the authority to appoint at least 1 Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a Member (or a Member or co-opted Member of a Town or Parish council) against whom an allegation has been made.

2.0 The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available for inspection on the authority’s website and on request from Reception at the Council Offices.
- 2.2 Each Town and Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should inspect any website operated by the Town or Parish Council and request the Town or Parish Clerk to allow you to inspect the Town or Parish Council’s Code of Conduct.

3.0 Making a complaint

- 3.1 If you wish to make a complaint, please write or email to:

The Deputy Monitoring Officer - Jeff Hughes
East Herts Council
Council Offices
Wallfields

Pegs Lane
Hertford
SG13 8EQ

Tel: 01279 655261

- 3.2 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Member misconduct.
- 3.3 In order to ensure that the Council has all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Reception at the Council Offices.
- 3.4 Please provide the Council with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.
- 3.5 The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.7 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance. The Council will endeavour to deal with a complaint within 3 months.

4.0 Will your complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received and, may consult with the Independent Person before referring it to the Standards Sub-Committee
- 4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the

Assessment Criteria annexed at Appendix 2. The Standards Sub-Committee will make a recommendation as to whether the complaint should be investigated. Where the Sub-Committee requires additional information in order to come to a decision, the Monitoring Officer may come back to you for such information, and may request information from the Member against whom your complaint is directed. Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Town or Parish Council before submitting it to the Sub-Committee.

- 4.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Sub-Committee will take account of this in deciding whether the complaint merits further investigation.
- 4.4 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

5.0 How is the investigation conducted?

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.
- 5.2 If the Council decides that a complaint merits further investigation, the Council may appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
- 5.3 The Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the

complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

5.4 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

5.5 Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer.

6.0 What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned and to the Town or Parish Council, where your complaint relates to a Parish Councillor, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigation Final Report. The Monitoring Officer will then report to the Standards Sub-Committee which will make a decision based on the report.

6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

7.0 What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Standards Sub-Committee and in consultation with the Independent Person seek an informal resolution.

7.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you may consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Town or Parish Council for information, but will take no further action.

7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Sub-Committee which may conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for hearing complaints, which is attached as Appendix 4 to these arrangements.

At the hearing, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Sub-Committee concludes that the Member did fail to comply with

the Code of Conduct, the Chairman will inform the Member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should recommend as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Member an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8.0 What action can the Standards Sub-Committee take where a Member has failed to comply with the Code of Conduct?

8.1 The Sub-Committee may decide to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may consider:-

- 8.2
 - i. A formal letter to the Councillor found to have breached the code;
 - ii. Formal censure by motion;
 - iii. Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;
 - iv. Press release or other appropriate publicity;

8.3 The Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

9.0 What happens at the end of the hearing?

9.1 At the end of the hearing, the Chairman will state the decision of the Standards Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.

9.2 The Monitoring Officer will prepare a formal decision notice in consultation with the Chairman of the Sub Committee, and send a copy to you, to the Member and to the Town or Parish Council, making that decision notice available for public inspection.

10.0 Who are the Standards Sub-Committee?

10.1 It is a Sub-Committee comprising Independent Members.

10.2 If the Councillor complained about is a member of a Town or Parish Council a Town or Parish Councillor who is a member of the Standards Committee will also be invited to attend the Sub-Committee.

- 10.3 The Independent Person is invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11.0 Who is the Independent Person?

- 11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Members of Council.

- 11.2 A person cannot be "independent" if he/she:

11.2.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

11.2.2 *(Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area), or*

11.2.3 Is a relative or close friend, of a person within paragraph 11.2.1 or 11.2.2 above. For this purpose, a "relative" means:

11.2.3.1 Spouse or civil partner;

11.2.3.2 Living with the other person as husband and wife or as if they were civil partners;

11.2.3.3 Grandparent of the other person;

11.2.3.4 A lineal descendent of a grandparent of the other person;

11.2.3.5 A parent, sibling or child of a person within paragraphs 11.2.3.1 or 11.2.3.2; or

11.2.3.6 A spouse or civil partner of a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5; or

11.2.3.7 Living with a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5 as husband and wife or as if they were civil partners.

12.0 Revision of these arrangements

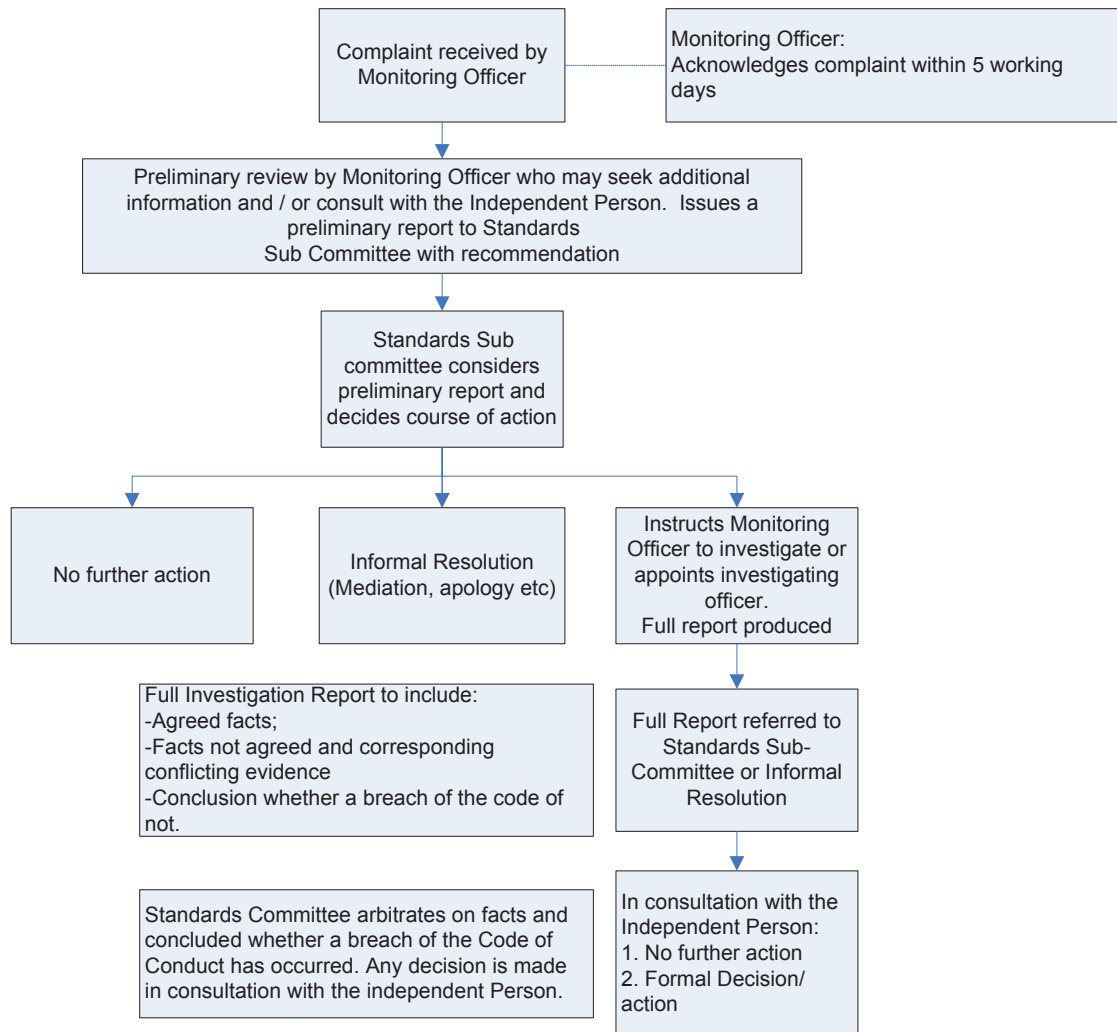
The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13.0 Appeals

- 13.1 There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or of the Sub-Committee.
- 13.2 If you feel that the authority has failed to deal with your complaint properly, you can make a complaint to the Local Government Ombudsman.

APPENDIX 1

Complaints Procedure Flowchart



Preliminary tests:

Potential breach of the code?

What to do with it?

Assessment of public interest?

Decision within 28 working days of receipt

Or seek additional information as required prior to making a decision.

Independent Persons is consulted

Complaints which would not normally be referred for investigation:

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is "tit-for-tat" or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor's private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor
6. There is insufficient information available for referral; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc.
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Council; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
11. Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

APPENDIX 2

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

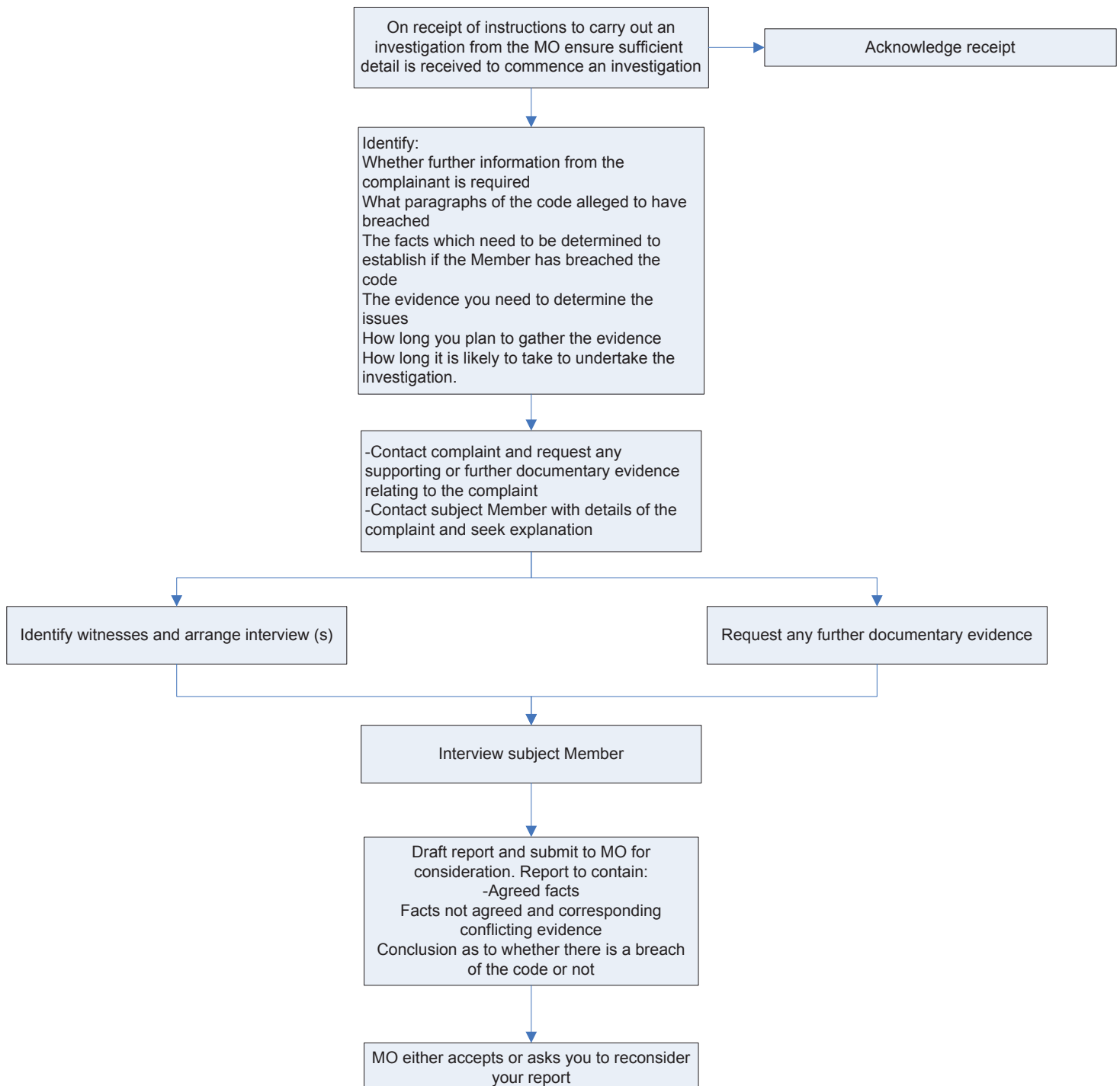
1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. it is about someone who is no longer a Councillor
5. There is insufficient information available for a referral; or
6. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc.
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Council; or
9. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
10. Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction

APPENDIX 3

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 for co-operation with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.



Appendix 4

Complaints Standards Sub-Committee Procedure

<u>Item No.</u>	<u>Procedure</u>
1	<p><u>Quorum</u></p> <p>1.1. Three Members must be present throughout the hearing to form a quorum.</p> <p>1.2. The Sub-Committee shall elect a Chairman for the meeting</p>
2	<p><u>Opening</u></p> <p>2.1 The Chairman explains the procedure for the hearing and reminds all parties to turn off mobile phones.</p> <p>2.2 The Chairman asks all present to introduce themselves</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position</p>
3	<p><u>The Complaint</u></p> <p>3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions arising from the Investigator's report and not to make a statement)</p> <p>3.3 Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer</p>
4	<p><u>The Councillor's case</u></p> <p>4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative)</p>

	<p>4.2 The Investigating Officer may question the Councillor and/or any witnesses</p> <p>4.3 Members of the Sub-Committee may question the Member and/or any witnesses</p>
5	<p><u>Summing Up</u></p> <p>5.1 The Investigating Officer may sum up the Complaint</p> <p>5.2 The Member (or their representative) may sum up their case.</p>
6	<p><u>Decision</u></p> <p>6.1 Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision</p> <p>6.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <p>6.2.1 The Sub-Committee decides that the Member has failed to follow the Code of Conduct or</p> <p>6.2.2 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct</p> <p>6.2.3 The Sub-Committee will give reasons for their decision</p> <p>6.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct the Panel will consider any representations from the Investigator and/or the Member as to:</p> <p>6.3.1 Whether any action should be taken and</p> <p>6.3.2 What form any action should take</p> <p>6.4 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person</p> <p>6.5 On the Sub-Committee's return the Chairman will announce the Sub-Committee's decision (in relation to a Parish Councillor a recommendation to the Parish Council)</p> <p>6.6 The Sub-Committee will consider whether it should make any recommendations to the Council or in relation to a Parish Councillor to the Parish Council with a view to promoting high standards of conduct among Members.</p>

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