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Head of Democratic and Legal
Support Services

MEETING : STANDARDS SUB-COMMITTEE
VENUE : ROOM 27, WALLFIELDS, HERTFORD
DATE : THURSDAY 19 FEBRUARY 2015
TIME : 6.30 PM

PLEASE NOTE TIME AND VENUE

MEMBERS OF THE SUB-COMMITTEE

Councillors L Haysey, G Jones and P Phillips

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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.

AGENDA

1. Appointment of Chairman

To appoint a Chairman for this meeting.

2. Apologies

To receive any apologies for absence.

3. Chairman's Announcements

To receive any Chairman's announcements.

4. Declarations of Interest

5. Minutes (Pages 7 - 10)

To approve the Minutes of the meeting held on 4 June 2014

6. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

7. Exclusion of the Press and Public

To move that under Section 100 (A) (4) of the Local Government Act 1972 the press and public be excluded from the meeting during the discussion of item 8 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7C of Part I of Schedule 12A of the said Act:

The deliberations of a Standards Committee....established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

It is for the Sub-Committee to determine whether or not these items should be considered in public and the report made available for public information. Until a decision is taken, please regard the report as confidential.

8. Complaint in respect of Councillor W Ashley (Pages 11 - 130)
9. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

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MINUTES OF A MEETING OF THE
STANDARDS SUB-COMMITTEE HELD IN
THE ROOM 27, WALLFIELDS, HERTFORD
ON WEDNESDAY 4 JUNE 2014, AT 2.30
PM

PRESENT: Councillor K Crofton (Chairman).
Councillors M Newman and M Wood.

ALSO PRESENT:

Councillors D Andrews and P Moore.

OFFICERS IN ATTENDANCE:

Simon Drinkwater	- Director of Neighbourhood Services
Jeff Hughes	- Head of Democratic and Legal Support Services

ALSO IN ATTENDANCE:

Philip Copland	- Independent Person
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10 APPOINTMENT OF CHAIRMAN

RESOLVED – that Councillor K Crofton be appointed Chairman for this meeting of the Standards Sub-Committee.

11 MINUTES - 6 MARCH 2014

RESOLVED – that the Minutes of the meeting of the Standards Sub-Committee held on 6 March 2014 be confirmed as a correct record and signed by the Chairman.

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COMPLAINT AGAINST DISTRICT COUNCILLOR - EHDC/1/2014

The Monitoring Officer submitted a report on a complaint alleging that District Councillor W Ashley had breached the Authority's Councillors Code of Conduct.

Members noted that, in appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer advised that, having consulted the Independent Person, he considered that the complaint could not be resolved informally.

Members further noted that the complainant had requested that their name and address be kept confidential. The Monitoring Officer highlighted that their name and address had been kept confidential and had not been disclosed to the Member involved. The complaints form and the attachments had been redacted to exclude references to the complainant's name, address and email address. The complainant's name was, however, now a matter of public record based on the circumstances now detailed.

Members requested the Monitoring Officer to ensure that the complainant's and third parties' details be redacted in all subsequently published documentation relating to this complaint.

The Monitoring Officer also highlighted the Council's assessment criteria for such complaints. He invited the Sub-Committee to use the criteria to reach one of the following decisions on the complaint:

- (A) to refer it to the Council's Monitoring Officer for investigation, or
- (B) to take no action.

The Sub-Committee agreed to refer the complaint to the Monitoring Officer for investigation. The Monitoring Officer, in

response to Members' comments advised that he intended to appoint an independent Investigating Officer. The appointing process would also identify the timetable for the investigation to be undertaken and consequential report produced.

RESOLVED – that the complaint now submitted alleging that District Councillor W Ashley had breached the Authority's Code of Conduct be referred to the Monitoring Officer for investigation.

The meeting closed at 3.30 pm

Chairman

Date

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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

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simon.drinkwater@eastherts.gov.uk

Report Author: Simon Drinkwater

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	<i>People</i> 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 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 inresponse
- 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 emails, 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 emailed 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 Council's 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 Council's 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

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:	MR.	
First name:	LESLIE	
Last name:	BARNES	
Address:		
Contact telephone:		
Email address:		
Signature:		
Date of complaint:	1ST APRIL 2014	

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
CHLR	WILLIAM (MR)	ASHLEY

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



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 change or not*

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, 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



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.

- 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

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 COMPLAINANT AND COMPLAINANTS 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 AMOUNT 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.

From: Councillor Ashley (William) [William.Ashley@eastherts.gov.uk]
Sent: 08 February 2012 09:09
To: [REDACTED]
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 [REDACTED]
Sent: 08 February 2012 09:11
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: tim [REDACTED]
Sent: 17 December 2013 10:53
To: linda [REDACTED]
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 [REDACTED]
To [REDACTED]
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/>

This email and any files transmitted with it may be confidential and are intended for the sole use of the intended recipient, copyright remains with East Herts Council.
If you are not the intended recipient, any use of, reliance upon, disclosure of or copying of this email is unauthorised.
If received in error, please notify us and delete all copies.

All e-mails and attachments sent or received by East Herts Council may be subject to disclosure under access to information legislation.

Please note that the Council does not accept responsibility for viruses. Before opening or using attachments, check them for viruses.

2 Attached Images

From: Councillor Ashley (William) <William.Ashley@eastherts.gov.uk>
To: tin [REDACTED]
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.

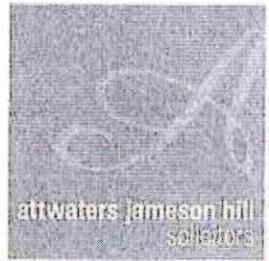
With this in mind, I am reporting your communications to the police and will take further advice from my Solicitor.

William.

From: Linda Ashley [REDACTED]

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 that reads '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
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Robert Jameson
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Joanne Westbrook
Joyli Henchie
Nicholas Evans
Clare Newton
Peter Westbrook
Tracy Kenny
Madelina Seibert
Lesley-Ann Mayhew
Sheri-Anne Mizon

Associates
Catherine Dean

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Authority
SRA No. 51886

INVESTORS IN PEOPLE | Silver

Lexcel Accredited

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.

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.

① FOR THE STANDARDS COMMITTEE TO DELIVER AN UNBIASED COMPREHENSIVE REPORT AND PUT AN END TO THIS ALLEGED CONTINUING BLIGHT ON EAST HERTS COUNCIL.

② SHOULD THE STANDARDS COMMITTEE FIND THE CODE OF CONDUCT HAS BEEN BREACHED FOR THEM (THE PROFESSIONALS) TO ADJUDICATE RESPONSIBLY IN THE MATTER.

③ 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

Working towards equal opportunities

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	Mixed	Asian	Black	Chinese or other ethnic group
White British	White and Black	Indian	Caribbean	Chinese
White Irish	Caribbean	Pakistani	African	or other ethnic
Any other White background	White and Black	Bangladeshi	Any other Black background	group
	African	Any other Asian background		Chinese
	Any other mixed background			Other
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*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

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

15680LS

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

Emm 2013 B1
Councillor To member
AF DM

From: Councillor [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

Page 82

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.

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

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 uppermost 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] 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]
Sent: 12 AUGUST 2014 13:12
To: [REDACTED]
Subject: RE: Concerns DM Committee November

Follow Up Flag: Follow up
Flag Status: Flagged

[REDACTED]

From: [REDACTED]
Sent: 21 February 2014 07:20
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

[REDACTED]

From: [REDACTED] [mailto:\[REDACTED\]@eastherts.gov.uk](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] 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 Cllr [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] 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] 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] has 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>
Page 1 Paragraph 4	<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>
Page 1 Paragraph 5	<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>

	<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.</p>		
Page Paragraph 6	1	<p>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.</p>	<p>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.</p>
Page Paragraph 1	2	<p>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 continues 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.</p>	<p>We have made it clear to yourself (and others) that of the seven letters referred to only the 2nd 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.</p>
Page paragraph 2	2	<p>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.</p>	<p>My letter of 10th 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.	
Page Paragraph 3	2	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.	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 4 th 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 10 th July 2014 Cllr Ashley purports "is an attempt to influence the investigation" was actually sent to the Mercury Newspaper 3 - 4 weeks earlier (19 th 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.
Page 2	In addition to this, when discussions took place at	Cllr Ashley flatters me if he believes I could possibly	

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 refuse 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>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 a 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	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, publicly, politically, my business and my family. In suggesting that he is concerned of intimidation, harassment, victimisation and my threatening manner, Mr Barnes has not received intimidating and harassing letters nor has he been on	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 have 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 4 paragraph 1	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 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 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 Barnard's name, despite assurance in the complaint form that he should of done.</p>
Page Paragraphs 6/7/8	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	- no 7- I telephoned Cllr Ashley at 6.03pm on Monday 16 th Jan 2012 inviting him to a Parish meeting regarding the new local plan. The email sent on

	<p>providing a widen 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 Ashely. 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 paragraphs	5	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

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>	<p>- evidence from Cllr Ashley required.</p>
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>	<p>All fictitious and totally irrelevant to the case.</p>

	<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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	<p>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).</p>	
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	<p>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?</p>	<p>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.</p> <p>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.</p>
Para 7	<p>With approximately 100 cars stored on ground adjacent to Cllr Ashley's residence, is this not a breach of planning permission?</p>	
Para 8	<p>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.</p>	<p>With regard to the threat of taking information to the press, despite the complainants letter, he has taken it to the press.</p>

Letter of January 2014

Reference	Sub-Reference	Letter	Response of subject member
Para 1		<p>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.</p>	<p>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.</p>
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>	<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.</p>

		<p>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.</p>	
Para 3		<p>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>	<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		<p>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</p>	<p>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. Given 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.</p>

		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 provided 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.

		<p>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.</p>	<p>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.</p>
	4.13	<p>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.</p>	<p>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.</p>
Para 6		<p>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".</p>	<p>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.</p>

		<p>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.</p>	
Para 7		<p>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.</p>	<p>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.</p>
Para 8		<p>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.</p>	<p>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</p>

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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 needs 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

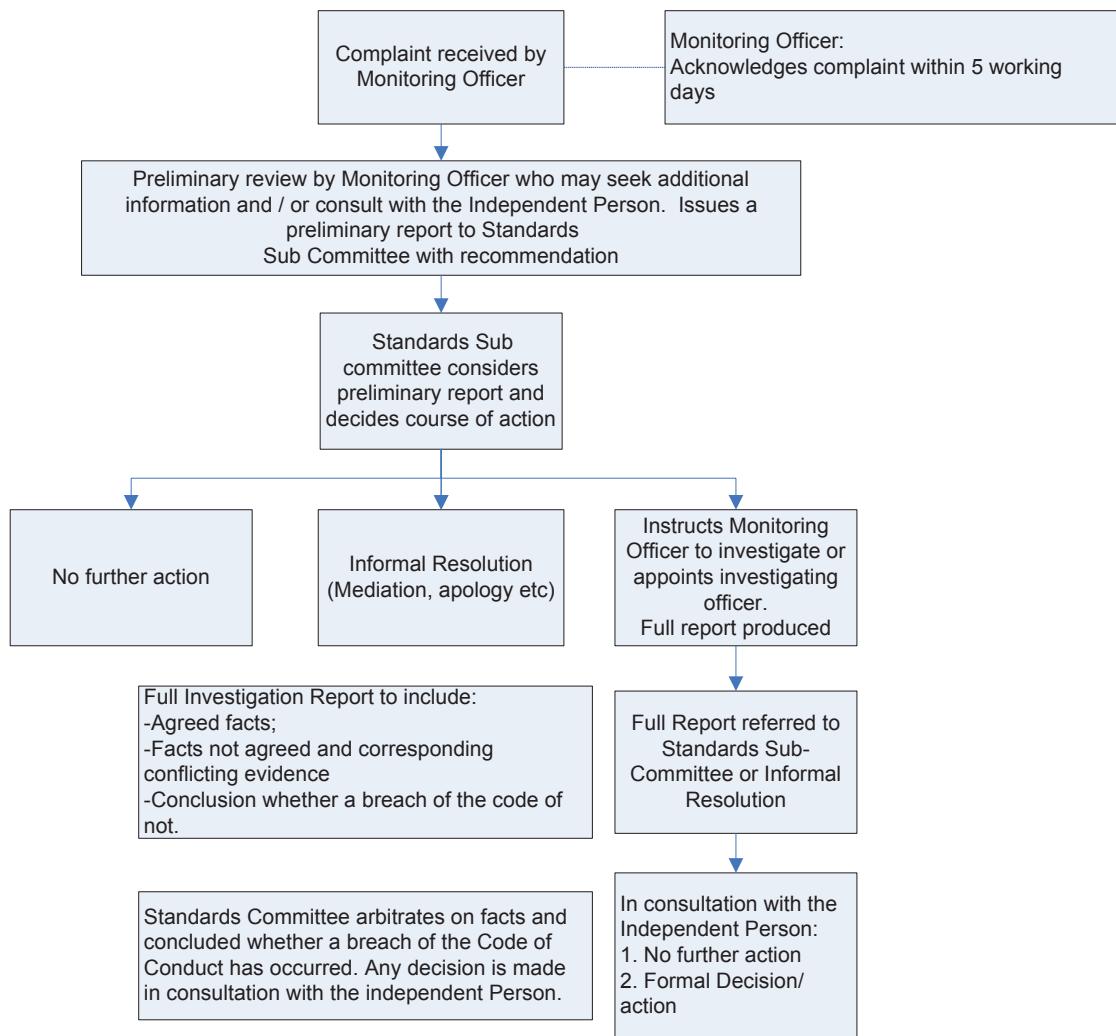
The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

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

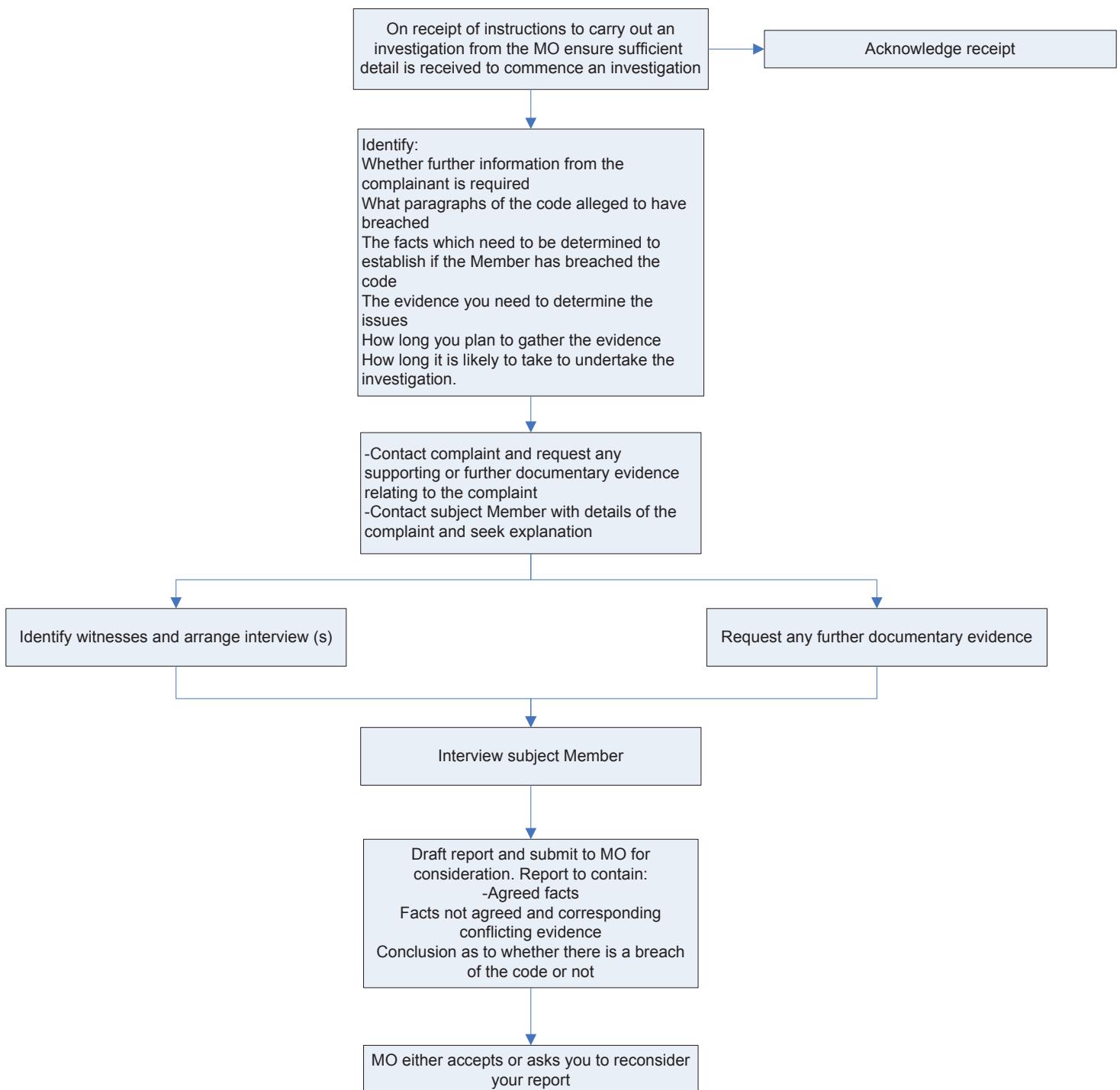
1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, 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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