

# **East Herts District Council**

Complaint reference: EHDC/09/2011

## **Report of an investigation**

Under Section 59 of the Local Government Act 2000 – by Maria Memoli, of Local Governance Limited, solicitor, MBA, Accredited Mediator, and independent investigator appointed by the Monitoring Officer for East Herts District Council into an allegation concerning Councillor Malcolm Alexander

**10<sup>th</sup> August 2012**



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# **1 Executive Summary**

1.1 The allegation is that Councillor Malcolm Alexander is in breach of paragraphs 3 (1) and 5 of the Code of Conduct of East Hertfordshire District Council ("The Council") adopted by the Council on the 12th September 2007 (and was in force as at August 2011) for:

- Failing to treat others with respect (paragraph 3 (1))
- Bringing the Councillor's office or authority into disrepute (5)

1.2 The investigation finding is that Councillor Alexander:

- Was not in breach of paragraphs 3 (1) of the Code of Conduct of the Council.
- Was not in breach of paragraph 5 of the Code of Conduct of The Council.

# **2 Councillor Alexander's Official Details**

2.1 Councillor Alexander is a District Councillor with The Council. He was elected to office in May 1999; is Ward Member for Ware (Trinity); is Deputy Leader of the Council and is Executive Member of the Council with responsibility for Community Safety and Environment.

2.2 Councillor Alexander is a member of the following:

- Development Control Committee
- The joint meeting of Executive, Committees, Sub-Committees and Panels
- Local joint Panel
- Riversmead Housing Association

2.3 Councillor Alexander gave a written undertaking to observe the Code of Conduct upon being elected to office in May 1999.

- 2.4 Councillor Alexander has received training on the Code of Conduct and on the Members' Planning Code of Good Practice, and the Council hold details of such training.

### **3 The Relevant Legislation and Protocols**

- 3.1 The Council has adopted a Code of Conduct in which the following paragraphs are included:

**Paragraph 3**

*(1) You must treat others with respect*

**Paragraph 5**

*You must not conduct yourself in a manner, which could reasonably be regarded as bringing your office or authority into disrepute*

### **4 The Evidence Gathered**

#### **4.1 The Decision Notice of the Assessment Sub- Committee of the Council**

- 4.1.1 The Decision Notice of the Council dated 27<sup>th</sup> October 2011 identified two potential breaches of the Code of Conduct which may apply:

- Failing to treat others with respect -paragraph 3(1);
- Bringing the Councillor's office or authority into disrepute – paragraph 5

- 4.1.2 As Investigator, I have been instructed to conduct an investigation in accordance with the Decision Notice referred to in 4.1.1 above.

#### **4.2 Documents taken into account**

I have taken into account the following documents:

- 4.2.1 Decision Notice of the Assessment Sub- Committee of the Standards Committee of the Council dated the 27th October 2011.
- 4.2.2 The Code of Conduct for Members relevant at the time of the complaint adopted by The Council on the 12th September 2007 (Part 5 of the Council's Constitution at pages 310 – 322 May 2010).



- 4.2.3 Members' Planning Code of Good Practice (part 5 of the Council's Constitution at page 372.
- 4.2.4 The complaint made against Councillor Malcolm Alexander by Mr. P. A. Elliot dated the 17<sup>th</sup> September 2011.
- 4.2.5 Report of the Council's Director of Neighbourhood Services accompanying the agenda items under discussions of the Planning Applications at the meeting on the 25th August 2011.
- 4.2.6 The Statement made by Councillor Malcolm Alexander.
- 4.2.7 Summary of Heads of Terms dated 6th August 2008 between The Council and Henderson UK Property Fund, referred to as the overage agreement in the Complaint.
- 4.2.8 The Agenda item and Minutes of the Executive Meeting held on 17th March 2009 relating to the Causeway Site
- 4.2.9 Minutes of the Council Meeting held on 25th March 2009.
- 4.2.10 Agenda and Minutes of the Development Control Committee Meeting held on 25th August 2011.

#### **4.3 Other Material taken into account**

In addition, I took into account the following:

- 4.3.1 A copy of the video recording of the proceedings of the Development Control Committee meeting held on 25th August 2011.
- 4.3.2 A conversation between the Investigator and the Democratic Services Officer, Peter Mannings.
- 4.3.3 A conversation between the Investigator and The Senior Planning Officer Kevin Steptoe.
- 4.3.4 A Conversation between the Investigator and Mr. P. A. Elliot

#### **4.4 Unused Material**

In gathering the evidence, there are a number of documents I referred to but have not used as part of the evidence per se, but as background material, such as:

- East Herts Local Plan second review,
- Corporate strategic plan for 2009-2012,
- Grant Thornton's Property Appraisal Review,
- Lambeth Smith Hampton Report and Advice,
- National and Local planning policies
- Audit Reports of the Council

## **5 Summary of the Material Facts**

5.1 Councillor Alexander is Ward Member for Ware (Trinity).

5.2 Councillor Alexander's Responsibilities:

5.2.1 As Executive Member for Community Safety and Environment, Councillor Alexander's key duties and responsibilities are:

- Licensing
- CCTV Partnership Board
- Building Control
- Environmental Health
- Planning Enforcement
- Police liaison
- Development Control
- Emergency Planning Environment

- Street Scene

#### 5.2.2 As a Council Member:

The Council, comprising all 50 Members of the Council, meets on a regular basis and has overall responsibility for agreeing new policies recommended by the Executive.

Council also makes major decisions such as setting the Council Tax, adopting the policy framework and appointing the Leader of the Council. It is at Council meetings where the actions of the Executive can be questioned and debated. Reports from the Council's other committees are also received and discussed.

#### 5.2.3 The responsibilities of the Development Control Committee are:

- Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations).
- Within the framework of Council policy, and having regard to the Development Plan, other planning guidance and development briefs approved by the Council to consider and determine applications for permission required under development control, control of advertisements, tree and building preservation and conservation, hazardous substances consent and to authorise the making of Orders and Agreements and the issue of Notices in connection with development control, trees and listed buildings.

#### 5.3 Councillor Alexander's Terms of office are:

- 06/05/1999 - 05/05/2003
- 01/05/2003 - 07/05/2007
- 03/05/2007 - 09/05/2011
- 05/05/2011 - 11/05/2015

#### 5.4 Councillor Alexander, as Member of the Development control Committee, was present and addressed the Meeting of Development Control Committee ("The Committee") held on Thursday 25th August 2011 when planning applications 3/10/1964/OP (Outline Planning permission for a mixed use development comprising retail, leisure hotel, food and drink, residential, community uses, car parking, servicing and access arrangements together with alterations to the public highway and/or public realm works and flood mitigation measures on Land North of Link Road) and 3/10/1965/LC (Conservation area consent to the

Demolition of 1 The Causeway; 1,2 & 3 Old River Lane; Church Hall Water Lane; Boundary Wall north of Church Hall and Substation at Old River)(“The Planning Applications”) were debated at the Main Hall, Charis Centre, Water Lane, Bishop’s Stortford.

- 5.5 The Report of Director of the Director of Neighbourhood Services, (“The Accompanying Report”) details the proposals (the subject of the Planning Applications). The Accompanying report is shown as Document 14; and the Minutes of that Committee meeting is shown as Document 15.

#### **Attendance and speaking at the Development Control Committee,**

##### **As a Member of the Committee**

- 5.6 The Complainant states in his letter of complaint (Document 4) that *“the Chairman of the Committee reminded Members that the vote was to be taken on the issues and not on emotion”*. He claims that this statement *“only applied to those who were opposed rather than those who were for the motion”*.
- 5.7 Councillor Alexander in his statement (Document 8) says he is familiar with the Council’s Code of Conduct. Furthermore he has been on the Development Control Committee of the Council for over 13 years (paragraph 3 of Document 8). He does not believe he acted outside of the Code of Conduct.
- 5.8 Councillor Alexander as a member of the Committee had a right to attend and speak at the Committee meeting on the 25<sup>th</sup> August 2011. All members of the Development Control Committee are required to observe an additional Code – the Members’ Planning Code of Good Practice (Document 2). (Documents 9 and 10 relate).
- 5.9 In his statement (paragraph 5 of Document 8) Councillor Alexander states:

*“Both applications could have been deferred by the Committee, as a number of additional representations were made at the last minute such as comments from the Environment Agency, an outline of the proposed s. 106 planning obligations, and a number of issues concerning flooding and Waitrose’s’ land to name a few. In the final analysis if the Committee resolved to grant outline planning permission and conservation area consent; the applications would nevertheless have to be referred to the Secretary of State for approval. The Committee would not be the final Decision-Maker”*.

*“The real issue was the flood plain especially in relation to the underground car parking. The Committee decided to go ahead and hear arguments for and*

*against this issue rather than defer the matter, for the benefit of those present at the Committee meeting" (paragraph 7 Document 8)*

- 5.10 Councillor Alexander in his statement makes reference to the great concern to all Members of the Committee, of the flood plain and how Hendersons were going to address these concerns.
- 5.11 The Heads of Terms (Document 6) were already in the public domain and were referred to in the Agenda and Accompanying Report to the Committee (Document 14). Therefore Councillor Alexander was not introducing something new in the Committee, when referring to the agreement with Hendersons
- 5.12 Councillor Alexander says he wanted the Committee to know that as far as he was aware Hendersons are a reputable company with a vast experience of this type of development. He felt that some members of the public were of the opinion that Hendersons would take more from the Town than they were giving back. That the company was not fly-by night, but reputable and it is this message he wanted to get across.
- 5.13 As far as Councillor Alexander was concerned the Heads of Terms Agreement was not discussed in any great detail at the Committee meeting since it is not a planning consideration per se, although he believes it was *"useful to show the commitment by Hendersons and their long term investment with the Council and the people of East Herts"*. He says that he in no way sought to persuade the Committee.
- 5.14 The principle of development at the Causeway was already established subject to planning permission and this is evidenced by Documents 11 – 15 inclusive.
- 5.15 The Committee were informed that the planning applications would have to nevertheless be referred to the Secretary of State regardless of the outcome of the decision taken by Committee, shown in the Accompanying Report (Document 14)
- 5.16 The Committee were minded to refuse the Planning Applications, and upon seeking grounds for refusal and unable to find any, the Members of the Committee voted in favour of the recommendations in the Accompanying Report to grant planning permission in respect of the Planning Applications, subject to a number of conditions and an appropriate s. 106 Agreement being entered into by the Developer. This is reflected in the Minutes of the Meeting of the 25<sup>th</sup> August 2011 (Document 15). Councillor Alexander refers to 27 conditions being imposed on the planning permission, which was also subject to the referral to the Secretary of State.

- 5.17 The Committee, in their deliberations, took account of the relevant Planning Policies, and the Accompanying Report, as well as the debate at the Committee Meeting, both for and against the Recommendations in the Accompanying Report, upon reaching their decision.
- 5.18 Therefore I conclude the Committee came to their own conclusions based on the information and professional and legal advice given to them at the Committee Meeting on the 25<sup>th</sup> August 2011.

#### **Attendance as Deputy Leader**

- 5.19 Whether Councillor Alexander, as Deputy leader should have been present at the Committee Meeting on 25<sup>th</sup> August 2011 when discussing the Planning Applications, is a question that should be addressed.
- 5.20 Paragraph 1.3 of the Accompanying Report (Document 14) states *"As part of decisions in relation to its land holdings, the Council has disposed of its land owning interest in the public car parks to the applicant. These land disposal decisions have enabled the applicant to bring forward the development proposals."*
- 5.21 The Accompanying Report also stated that due to significant public interest, the subject of the planning applications, were formally brought before Council in November 2010.
- 5.22 The Members' Planning Code of Good Practice (Document 2) states at paragraphs 3.2 – 3.4:

*"Do be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)"* (Paragraph 3.2)

*"Don't speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances".* (Paragraph 3.3)

*"Do explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the*

*right to judge) the matter elsewhere, so that this may be recorded in the minutes". (Paragraph 3.4)*

- 5.23 Paragraph 3.2 of the Members' Planning Code of Good Practice specifically caters for applications for planning permissions, which involve the Council's land as being relevant to those Members sitting on the Development Control Committee. This is relevant not only to Councillor Alexander, but all Council Members sitting on that Committee.
- 5.24 I am aware that, to the public it must be confusing to understand the separation in the Council's roles both as Landowner and Local Planning Authority. It is not an unusual situation in Local Government. Indeed the Members' Planning Code of Good Practice makes provision for this situation as indicated in paragraph 5.23 above.
- 5.25 The Council as landowner are at liberty to dispose of their interests in their land subject to their statutory powers and for statutory purposes.
- 5.26 The Council as Local Planning Authority has an obligation to deal with all planning applications in accordance with planning legislation, and policy guidance of the Secretary of State. Anyone can make an application for a planning permission – it does not have to be the actual landowner. Often however, it is the landowner that makes the application.
- 5.27 The Council is in no different a position as a private individual under the planning regime. Extra care does need to be taken by the Council as Local Planning Authority to ensure the pre-application and the actual planning decision-making process is fair and adhered to in accordance with the Council's procedure. This is particularly so, if the application concerns the Council's land, as the Members' Planning Code of Good practice indicates.
- 5.28 The public must be confident that all planning applications are dealt with fairly.
- 5.29 In respect of the Planning Applications, it was the Developer who was the applicant. Not the Council. However the Planning Applications do relate to land owned by the Council. Therefore the Council should be extra vigilant to ensure the usual procedures are followed at the Development Control Committee Meetings, especially so, when the planning applications refer or concern land owned by the Council; to show equality of treatment and give the public confidence in the decision-making.
- 5.30 Councillor Alexander as a member of the Development control Committee has a right to attend and speak and vote on matters before the committee. The fact that he is an Executive Member does not preclude him from participating in the

decision-making process of the Committee as the Members' Planning Code of Conduct indicates.

- 5.31 Special mention has been made in the Members' Planning Code of Conduct, regarding "fettering the discretion" of a Member when wearing two hats – when dealing with a planning application concerning land belonging to the Council, (one as Development Control Committee Member and a Council Member, or other Member of a decision-making committee) when the Council's land is involved.
- 5.32 There is no evidence to suggest that Councillor Alexander fettered his discretion at the Development control Committee meeting on the 25<sup>th</sup> August 2011.
- 5.33 However the fact that Councillor Alexander is deputy leader of the Council, in my opinion, extra precaution could have been taken about addressing the Development Control Committee, when discussing the Planning Applications, particularly as those Planning Applications, concern the Council as Landowner. It could be perceived by a member of the public that Councillor Alexander did not act impartially and could possibly amount to a breach of paragraph 5 of the Code of Conduct in conducting himself in a manner, which could reasonably be regarded as bringing his office or authority into disrepute.

#### **Cavalier response by Councillor Alexander**

- 5.34 The Complainant alleges that Councillor Alexander quoted "*Hendersons are serious players and were prepared to put £105m into the town and had been here for 15 years*"
- 5.35 The Complainant goes on to say that the quote in paragraph 5.34 above is "*not a planning issue, but a money issue*". Furthermore that Councillor Alexander "*was unable to comment on the merits or otherwise of the planning issue.... It was an utterly cavalier response to a situation which will have an impact on the town for decades to come*"
- 5.36 The Complainant alleges that given the way in which Councillor Alexander addressed the Committee, he was being disrespectful and therefore in breach of paragraph 3 (1) of the Council's Code of Conduct, for failing to treat others with respect, thereby conducting himself in a manner, which could reasonably be regarded as bringing his office or authority into disrepute.



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

### **Failing to treat others with respect paragraph 3 (1) of the Code of Conduct**

- 6.1 Treating others with respect is one of the fundamental principles in the Code of Conduct. In politics, a certain amount of rivalry is to be expected. Councillors who are responsible for particular issues, or portfolio holders will campaign for their ideas; this is part of the democratic process. However, in itself, the concept does not amount to failure to treat someone with respect.
- 6.2 A certain level of demand or unreasonable demands by the public may be directed to Councillors; and Councillors, should, as far as possible, treat the public with courtesy and consideration. Rude and offensive behaviour tends to lower the public's expectations and confidence in elected Councillors.
- 6.3 The test is whether Councillor Alexander was rude and offensive either in the language he used or his behaviour.
- 6.4 I have read carefully the words referred to by the Complainant, and used by Councillor Alexander as well as viewing the Video Recording and have taken particular notes of the words used...

*"Hendersons were serious players and were prepared to put £105m into the town and had been here for 15 years".*

Whilst ideas and policies can be robustly defended in the political world, having observed the behaviour in the Video recording, I do not consider the words used, or his behaviour amount to being rude or disrespectful and therefore I do not consider Councillor Alexander failed to treat others with respect and therefore is not in breach of paragraph 3 (1) of the Council's Code of Conduct.

### **Disrepute – paragraph 5 of the Code of Conduct**

- 6.5 Paragraph 5 states:

*"You must not conduct yourself in a manner in which you could reasonably be regarded as bringing your office or authority into disrepute"*

- 6.6 The test is not whether Councillor Alexander's conduct, in his remarks about the planning proposal for the Causeway site, did actually bring his office or that of the Council into disrepute. Often in Local Government, both officers and

Councillors are required to take difficult decisions in the interest of the public. So a pragmatic view must be taken in relation to the political arena within which a Councillor operates within his or her authority. In deed it would be a very difficult task for Councillors not to use certain words, which are subject to controversy. The test is whether a member of the public, with knowledge of the circumstances in which those remarks were being made, could reasonably conclude at the time when the remarks were made that they were likely to bring his office or that of the Council into disrepute.

- 6.7 The first point to consider is whether it was appropriate for Councillor Alexander to address the Committee in the manner in which he did.
- 6.8 It is important for the public to have confidence that all planning applications are treated fairly and robustly.
- 6.9 Councillor Alexander is a Member of the Executive. He is also a Member on the Development Control Committee. In addition, he is Deputy Leader of the Council.
- 6.10 The Members' Planning Code of Good Practice (Document 2) deal with the question of twin-hatted members on the Development control Committee and other committees when dealing with land belonging to the Council.
- 6.11 Specific reference is made to twin-hatted members particularly about fettering their discretion if the Member concerned has actively been "significantly" involved personally in the application.
- 6.12 There is no evidence that Councillor Alexander has fettered his discretion, as there is nothing to suggest he had a significant personal involvement in the proposals put by Hendersons.
- 6.13 The Complainant suggests that Councillor Alexander:

*"Was unable to comment on the merits or otherwise of the planning issue because he was probably completely ignorant of the effects of the proposed development on the Main Site and the proposed Flood Compensation Area (FCA)"*

This would appear to indicate the Complainant was not of the opinion that Councillor Alexander had a significant personal involvement in the proposals put by Hendersons, the subject of the Planning Applications debated at the Committee on the 25<sup>th</sup> August.

- 6.14 The test is whether an ordinary member of the public would perceive Councillor Alexander's attendance and address to the Committee as having fettered his discretion?
- 6.15 I have established that Councillor Alexander had a right to attend and address the Committee as a member of the Committee.
- 6.16 The more important question is whether Councillor Alexander (as Deputy Leader of the Council) should have addressed the Committee; on the Planning Applications, bearing in mind they concerned the Council's land. Councillor Alexander has commented on the draft of this report suggesting it is not necessary to include this paragraph. I have considered his comments, but feel I must refer to his Executive position and thus this paragraph and the subsequent paragraph 6.17 should be read together.
- 6.17 The Members' Planning of Code of Conduct makes provision for this kind of situation. Therefore it is implied that Councillor Alexander could address the Committee, also in his capacity as Deputy Leader.
- 6.18 The further more specific question is the perception of the public. The Complainant indicates in his Complaint that probably Councillor Alexander was not aware of the effects of the proposed development; that Councillor did not comment and probably unable to comment on the merits.
- 6.19 My own view is that given the provision in the Members' Planning Code of Good Practice, there should nonetheless have been more caution exercised by Councillor Alexander in his twin-hatted role, but in the absence of any further evidence suggesting that he had fettered his discretion by having a "significant" personal involvement in the Planning Applications, I conclude that he did have a right to attend and address the Committee and vote. In conclusion therefore I consider there was no breach of either paragraph 3 (1) or paragraph 5 of the Council's Code of Conduct.

## **7 Finding**

- 7.1 I therefore find in accordance with East Hertfordshire District Council's Code of Conduct that Councillor Alexander:

### **Paragraph 3 (1)**

Did not fail to comply with paragraph 3 (1)

**Paragraph 5**

Did not fail to comply with paragraph 5



**10<sup>th</sup> August 2012**

**Maria Memoli, solicitor, MBA, Accredited Mediator  
Independent Investigator,  
Local Governance Limited**

## 8 Appendix A – Schedule of evidence taken into account and list of unused material

Schedule of Evidence taken into Account/Unused		
Core Documents		
1	Code of Conduct adopted by East Herts District Council	
2	Members' Planning Code of Good Practice	
3	Written undertaking to Observe the Code of Conduct	
4	Complaint by Mr. P. A. Elliot	
5	Assessment Sub-committee Decision Notice	
6	Summary – Heads of Terms	
Notes of telephone Conversations, letters and interviews with Witnesses		
7	Note of Conversation with Mr. P. A. Elliot	
8	Statement of Councillor Malcolm Alexander	
9	Note of Conversation with Democratic Services officer	
10	Note of Conversation with Chief Planning Officer	
Agendas, Minutes of Meetings and Reports		
11	Agenda Item 14 – Executive meeting 17 <sup>th</sup> March 2009	

12	Minutes of Executive Meeting 17 <sup>th</sup> March 2009;0	
13	Minutes of Council Meeting 25 <sup>th</sup> March 2009	
14	Agenda/report – Accompanying Report – Development control committee meeting 25 <sup>th</sup> August 2011	
15	Minutes of Development Control Committee Meeting of the 25 <sup>th</sup> August 2011	
16	Video Recording of Development Control Committee Meeting of the 25 <sup>th</sup> August 2011	
<b>Other Documentary Evidence – Unused</b>		
17	East Herts Local Plan second review	
18	Corporate strategic plan for 2009-2012	
19	Grant Thornton's Property Appraisal Review	
20	Lambeth Smith Hampton Report and Advice	
21	National and Local planning policies	
22	Audit Reports of the Council	

## **9 Appendix B – Chronology of events**

6 <sup>th</sup> Aug 2008	Summary of Heads of Terms between The Council and Henderson UK Property Fund, subject to planning approval
17 <sup>th</sup> March 2009	Executive Meeting to discuss proposals, including the Heads of Terms – sensitive documents withheld due to commercial sensitivity
25 <sup>th</sup> March 2009	Full Council Meeting to approve inter alia, the Heads of Terms and other negotiations under way between the Developer and the Council. Sensitive documents withheld due to commercial sensitivity
Early 2010	Sensitive documents released and published – Summary of Heads of Terms
15 <sup>th</sup> Nov 2010	Planning application 3/10/1964/OP and 3/10/1965/LC lodged with The Council
June 2011	Amendments lodged to the planning applications 3/10/1964/OP and 3/10/1965/LC following public consultations
25 <sup>th</sup> Aug 2011	Development Control Committee Meeting to consider planning applications 3/10/1964/OP and 3/10/1965/LC – motion moved to refuse, but lost.

Approval of application 3/10/1964/OP subject to referral to  
Secretary of State re: flooding, and subject to s. 106  
planning agreement regarding a number of matters.  
Approval of application 3/10/1965/LC subject to one  
condition

- 17th Sept 2011 Complaint made by Mr. P. A. Elliot
- 20<sup>th</sup> Oct 2011 Council Assessment Sub-Committee referred complaint for  
investigation
- 27<sup>th</sup> October 2011 Assessment Sub-committee Decision Notice issued



# **1. Code of Conduct adopted by East Herts District Council**

# **Councillors' Code of Conduct**

## **Part 1**

### **General provisions**

#### **Introduction and interpretation**

1. — (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code —
- "meeting" means any meeting of —
- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;
- "member" includes a co-opted member and an appointed member.
- (5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

#### **Scope**

2. — (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

- (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority —
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

- 3. — (1) You must treat others with respect.
- (2) You must not—
  - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be —
    - (i) a complainant,
    - (ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

**4. You must not —**

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where —

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

**5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.**

**6. You —**

(a) 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; and

- (b) must, when using or authorising the use by others of the resources of your authority —
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. — (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by —
- (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **Part 2**

### **Interests**

#### **Personal interests**

8. — (1) You have a personal interest in any business of your authority where either —
- (a) it relates to or is likely to affect —
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy

(including any political party or trade union),

of which you are a member or in a position of general control or management;

- (iii) any employment or business carried on by you;
  - (iv) any person or body who employs or has appointed you;
  - (v) person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
  - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
  - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position

or the well-being or financial position of a relevant person to a greater extent than the majority of —

- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
- (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
- (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

#### **Disclosure of personal interests**

9. — (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000].

#### **Prejudicial interest generally**

10. — (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business —

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of —
  - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly



to the school which the child attends;

- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

#### **Prejudicial interests arising in relation to overview and scrutiny committees**

**11.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

#### **Effect of prejudicial interests on participation**

**12. — (1)** Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority —

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
  - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

- (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **Part 3**

#### **Registration of Members' Interests**

##### **Registration of members' interests**

**13. —** (1) Subject to paragraph 14, you must, within 28 days of —

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

##### **Sensitive information**

14. — (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## **2. Members' Planning Code of Good Practice**

# **Members' Planning Code of Good Practice**

Background

Introduction

- 1 Relationship to the Members' Code of Conduct
- 2 Development Proposals and Interests under the Members' Code of Conduct
- 3 Fettering Discretion in the Planning Process.
- 4 Contact with Applicants, Developers and Objectors
- 5 Lobbying of Councillors
- 6 Lobbying by Councillors
- 7 Site Visits
- 8 Public Speaking at Meetings
- 9 Officers
- 10 Decision Making
- 11 Training

## **Background**

This Code of Good Practice has been prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and in consultation with the District Audit Service and the Local Government Ombudsman.

## **Introduction**

**The aim of this code of good practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

**The key purpose of Planning:** to control development in the public interest.

**Your role as a Member of the Planning Authority:** this code applies to Members at all times when involving themselves in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

## 1.0 Relationship to the Members' Code of Conduct

- 1.1 **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with.
- 1.2 **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put the Council at risk of proceedings on the legality or maladministration of the related decision.

## 2.0 Development Proposals and Interests under the Members' Code

- 2.1 **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. An exemption to declaring a personal interest applies when it arises solely from membership, general control or management on any body where they are appointed by the Council or any other body exercising functions of a public nature. In these cases, Members need only to declare if they speak. If they do not speak, they may vote without a declaration
- 2.2 **Do** then act accordingly. **Where your interest is personal and prejudicial:-**
  - **Don't** seek to improperly influence the decision or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
  - **Do** make written representations in your private

capacity.

- **Do** use a professional representative to act on your behalf.
- **Do** ask another Member to represent the views of your constituents.
- **Do** make representations, answer questions and give evidence before leaving the room if you have a prejudicial interest
- **Do** notify the Monitoring Officer in writing of your own interest and note that:
  - notification to the Monitoring Officer should be made no later than submission of the application or as soon as you become aware of your interest;
  - it is advisable that you employ an agent to act on your behalf on your proposal in dealing with officers and any public speaking at Committee (*where permitted*).

### 3.0 **Fettering Discretion in the Planning Process**

- 3.1 **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

**Fettering your discretion** in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.



- 3.2 **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 3.3 **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- 3.4 **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- 3.5 **Do** take the opportunity to exercise your separate speaking rights as a Ward Member (*with the consent of the Chairman and Committee*) where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do:
- advise the Legal Officer or Chairman that you wish to speak in this capacity before commencement of the item:
  - remove yourself from the Member seating area for the duration of that item; and
  - ensure that your actions are recorded.
- 4.0 **Contact with Applicants, Developers and Objectors**
- 4.1 **Do** refer those who approach you for planning, procedural or technical advice to officers.
- 4.2 **Don't** agree to any formal meeting with applicants,

developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Director of Neighbourhood Services to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

**4.3 Do otherwise:**

- follow the rules on lobbying;
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Director of Neighborhood Services any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

**4.4 In addition in respect of presentations by applicants/developers:**

- **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

## 5.0 Lobbying of Councillors

- 5.1 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making process and to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- 5.2 **Do** remember that your overriding duty is to the whole community not just to the people in your ward area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 5.3 **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible. Remember to register the gift or hospitality where its value is over £25.
- 5.4 **Do** copy or pass on any lobbying correspondence you receive to the Director of Neighbourhood Services at the earliest opportunity.
- 5.5 **Do** promptly refer to the Director of Neighbourhood Services any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 5.6 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts of hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 5.7 **Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
- listening or receiving viewpoints from residents, applicants or other interested parties;

- making comments to residents, applicants, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## 6.0 **Lobbying by Councillors**

- 6.1 **Don't** become a member or, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest and have to withdraw.
- 6.2 **You may** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- 6.3 **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decided how to vote in advance of the meeting at which any planning decision is to be taken.
- 6.4 **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other

Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## **7.0 Site Visits**

- 7.1 **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information.
- 7.2 **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site. The purpose of a site visit is to gain information relating to the land and buildings that is the subject of the planning application, which is not apparent from the report to be considered by the Development Control Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area. Members are encouraged to visit sites accompanied by other Members.
- 7.3 **Don't** hear representations from any other party, with the exception of the Ward/Local Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present. Members should make a note recording the details of the meeting.
- 7.4 **Don't** express opinions or views to anyone. Members should not express an opinion on the planning application and its merits (or otherwise) at the site visit.
- 7.5 **Don't** enter a site which is subject to a proposal unless:
- you feel it is essential for you to visit the site,
  - you can ensure you will comply with these good practice rules on site visits, and
  - identify yourself (if necessary).

## **8.0 Public Speaking at Meetings**

- 8.1 **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as they may give the appearance of bias.
- 8.2 **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## **9.0 Officers**

- 9.1 **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Director of Neighbourhood Services, which may be incorporated into any committee report).
- 9.2 **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by the Head of Planning and Building Control to deal with the proposal at Member level.
- 9.3 **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committees or its Members.

## **10.0 Decision Making**

- 10.1 **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.

- 10.2 **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- 10.3 **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 10.4 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 10.5 **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 10.6 **Do** have recorded the reasons for Committee's decision to defer any proposal and that this is in accordance with the Council's protocol on deferrals.
- 10.7 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## 11.0 **Training**

- 11.1 **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training (including annual refresher training) prescribed by the Council.
- 11.2 **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures,

Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

- 11.3 **Do** participate in the periodic review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.



### 3. Written undertaking to Observe the Code of Conduct

## Declaration of Acceptance of Office

I, MALCOLM ROSEBICK ALEXANDER  
having been elected to the office of \* COUNCILLOR  
of the Council of the ERS HERKOWSHIRE DISTRICT

HEREBY DECLARE that I take the said office upon myself, and will duly and  
faithfully fulfil the duties thereof according to the best of my judgment and  
ability.

I undertake to be guided by the National Code of Local Government Conduct in the  
performance of my functions in that office. Date 10<sup>TH</sup> MAY 2011

(Signature).....

This declaration was made and subscribed before me

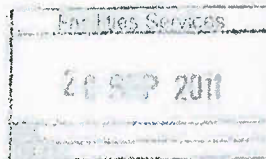
.....  
† Proper Officer of the Council of the

.....  
DISTRICT OF ERS HERKOWSHIRE.....

\* Insert description of office

† If the declaration is made by a person other than the elected member, insert the name and position of the person before whom the declaration is made.

#### 4. Complaint by Mr. P. A. Elliot



Mr. P.A Elliot

[REDACTED]

17 September 2011

Standards Committee  
East Herts District Council Offices  
Waltham  
Pegs Lane  
Hertford  
SG13 8EQ

**East Herts District Council Planning Application 3/10/1964/OP by Hendersons Global Investors Ltd  
- Old River Lane, Bishop's Stortford, Hertfordshire**

**Malcolm Alexander C. Ware Trinity**

Dear Sir / Madam,

I write to complain about the conduct of the following councillors who attended the Development and Control Planning Meeting on Thursday 25 August 2011:

[REDACTED]

2) **Cllr. Malcolm Alexander - C. Ware Trinity - Deputy Leader of EHDC**

[REDACTED]

2) **Cllr. M. Alexander - C. Ware Trinity**

Cllr. Alexander was a member of the Development and Control Committee held on Thursday 25 August 2011 at the Charis Centre, Water Lane, Bishop's Stortford.

Before the vote, the Chairman of the Development Control Committee, Cllr. W. Ashley C. Hertford Heath reminded members that the vote was to be taken on the issues and not on emotion. It seems that this only applies to those who were opposed rather than those who were for the motion.

Cllr. Alexander justified his recommendation for the motion on the basis that (quote) "Hendersons were serious players and were prepared to put £105m into the town and had been here for 15 years" (unquote). Members of the Committee, I point out that this was not a planning issue, but a money issue. All Cllr. Alexander could see was the money. He did not comment and probably was unable to comment on the merits or otherwise of the planning issue because he was probably completely ignorant of the effects of the proposed development on the Main Site and the proposed Flood Compensation Area (FCA).

It was an utterly cavalier response to a situation which will have an impact on the town for decades to come.

I urge the Standards Committee to take strong action on Cllr. Alexander.

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I enclose cuttings from the Bishop's Stortford Observer dated 1 September 2011.

I look forward to your acknowledgement of this letter within 3 working days from receipt and your estimate as to when I can expect a full reply.





## Observer COMMENT

### Schemes should be decided on merit — not on past agreements

**F**OLLOWING East Herts' decision to wave the Henderson plan through, it's hardly surprising that emotions in Bishop's Stortford are at an all-time high.

Supporters of Old River Lane say the development will not have an adverse effect on traffic and trade, a claim only time will prove. However, last Thursday's meeting raised troubling questions over the decision-making process and local democracy as a whole.

In assessing any planning application, especially one on such a huge scale, each scheme should be determined on its individual merits — yet as last week's talks opened, councillors were urged to approve the plans simply because the principle of building on that site had already been agreed.

Concerns about the impact on small businesses were likewise brushed aside; despite the overwhelming weight of public opposition, opponents were told with little evidence to back it up that a 'silent majority' wanted it.

Equally troubling for the hard-hit taxpayer is the fact that The Causeway site is not even noted on East Herts' own Local Plan — a document compiled after extensive research and consultation with the community — as a possible location for the development.

Irrespective of whether or not their criticisms were valid, many will be left feeling that the plans were simply steamrollered through by a council determined to bring them to fruition at all costs.

# Outrage over 'done deal' outlined before plan vote

THURSDAY 1 SEP 2011

OPponents of Henderson's Old River Lane scheme have slammed East Herts' finance chief after he urged fellow councillors to give the green light as it was already a done deal.

At last Thursday's crunch meeting, the district council's executive member for finance Cllr Michael Tindale told colleagues they had agreed in principle to a mixed-use development at The Causeway three years ago - and because of this, they should let the plans sail through.

Shortly before the authority took that decision in 2008, it had sold the town centre site and office to Henderson for £5.25m. Professional valuations had suggested it was worth up to £9.9m.

Cllr Tindale said: "I speak as the person responsible for reach-

By James Burton

[james.burton@hertsexpress.co.uk](mailto:james.burton@hertsexpress.co.uk)

ing agreement with Henderson three years ago. The details of that agreement are not relevant - the deal has been done.

"Many have commented that the assets were undersold... but this is not about the deal. Under discussions three years ago, the proposals went to full council and it was agreed that The Causeway would be demolished and that a mixed use development would come forward. Members spoke and voted, and the decision was made under the full glare of public debate.

"To renege on that principle now... would be morally bankrupt - not because it would be unfair to Henderson, but because it would undermine the authority of East Herts Council."

But this week, Bishop's Stortford Civic Federation president Michael Hurford said Cllr Tindale's speech was the "most disgraceful episode of the whole evening" and a "breach of the planning system".

He said: "He attempted to intimidate the whole committee - he was basically saying: 'we agreed we would give them planning permission when we sold the land and there's b\*\*\*\*r-all you can do about it'."

The civic federation has not yet decided its next move, but will soon be meeting to discuss the situation. Its supporters, including "appalled" former Stortford mayor Cllr Norma Symonds, are hoping it will call for a judicial review into the decision.

However, despite the controversy, Henderson remains confident

its project will give Stortford's retail scene a vital shot in the arm - and that it can be built without causing chaos on surrounding roads.

Fund manager Cameron Fraser told the ~~observer~~ that underground parking would be the first phase of construction, with temporary relief bays provided elsewhere to increase the number of spaces available.

Mr Fraser said: "We haven't just looked at our site by dumping a mixed-use scheme on the car park - it was very important to look back at the historical link-ages that are part of the town, and how the scheme fits into it."

Henderson says the scheme will create about 720 permanent jobs and 300 during building. It hopes to start work next summer and open by autumn 2014.

## **5. Assessment Sub-Committee Decision Notice**





## **DECISION NOTICE: REFERRAL FOR INVESTIGATION**

Reference: EHDC/09/2011

### **COMPLAINT**

On 20 October 2011, East Hertfordshire District Council's Assessment Sub-Committee considered a complaint from Mr P A Elliot concerning the alleged conduct of Councillor M Alexander, a Member of East Hertfordshire District Council.

Detailed below is a general summary of the complaint:

The District Council's Development Control Committee, at its meeting held on 25 August 2011, considered an application (by Hendersons) for development of land in Bishop's Stortford's town centre area, a substantial portion of which was previously owned by that Authority.

Councillor Alexander (a Committee Member) had addressed the Committee during its consideration of the application. The issues he identified in support of granting planning permission were not material and related to irrelevant financial matters. Councillor Alexander adopted a "cavalier" approach to "...a situation which will have an impact on the town for decades to come".

### **DECISION**

In accordance with the provisions of the Local Government Act 2000, as amended, the Assessment Sub-Committee has decided to refer the allegation to the Monitoring Officer for investigation for the following reason:

the alleged conduct, if proven, might represent a breach of the Code of Conduct.

## **POTENTIAL BREACHES OF THE CODE OF CONDUCT IDENTIFIED**

The Assessment Sub-Committee identified the following provision of the East Hertfordshire District Council's Code of Conduct which may apply to the alleged conduct:

bringing the Councillor's office or authority into disrepute.

This decision notice is sent to the person making the allegation (Mr Elliot) and the Member (Councillor M Alexander) against whom the allegation is made. All parties should take care when passing on information that is in this notice or about the notice.

## **WHAT HAPPENS NOW?**

The Council's Monitoring Officer, in accordance with the Assessment Sub-Committee's decision, will now conduct an investigation of the allegation. At the conclusion of the investigation, the Monitoring Officer must make one of the following findings and write a report for consideration by the Council's Standards Committee:

- there has been a failure to comply with the Code of Conduct, or
- there has not been a failure to comply with the Code.

A guide to the investigation process is attached.

Signed: \_\_\_\_\_

T Vickers

Chairman of the Assessment Sub-Committee

Date: 27 October 2011

## **ADDITIONAL HELP**

If you have difficulty reading this notice, for example because English is not your first language, the Council can make reasonable adjustments to assist you in line with statutory requirements. Please contact the officer named below for assistance and guidance.

Contact: Jeff Hughes – Deputy Monitoring Officer (tel: 01279 655261; 'e'-mail: [jeff.hughes@eastherts.gov.uk](mailto:jeff.hughes@eastherts.gov.uk)).

Contact address: East Herts Council, Wallfields, Pegs Lane, Hertford, Herts., SG13 8EQ.

## 6.Summary - Heads of Terms

Summary of Heads of Terms dated 6 August 2008

Parties                      East Herts Council  
                                    Henderson UK Property Fund

Agreement

1. The Fund will accept the surrender of the lease of the Causeway (90 years unexpired) and release the Council from further obligations.
2. The Council will take a 15 year lease of part of the Ground Floor of Charringtons House, fitted out to the Council's requirements, on commercial terms.
3. Details of the fit out works.
4. The Council will be permitted to continue in occupation of the Causeway offices, rent free, for up to 5 years to facilitate changing working arrangements.
5. The Council will transfer to the Fund a 999 year lease (at a peppercorn rent) of the Waitrose and Causeway car parks.
6. The Council will lease back the Causeway car park for operational use until the site is redeveloped at an agreed rent.
7. The Council will replace the existing long leases of the Causeway and Charringtons House sites with 999 year leases (at a peppercorn rent).
8. The Fund will pay to the Council the sum of £2,350,000
9. The Fund will endeavour (without obligation) to secure planning permission for a mixed use development based on the sites of the car parks and the Council offices and content previewed by the Council. An overage payment will be available to the Council on completion of any redevelopment where the profit on gross development value exceeds 15%.
10. Two council representatives will join the professional team to ensure the council has the ability to influence the scheme design.
11. The scheme proposed shall not exceed ground floor (retail including mezzanine where applicable) and three upper floors.
12. A planning brief that has been mutually approved will be attached to the Agreement.

Costs

Each party to bear their own legal costs in relation to the transfer and creation of interests in relation to this agreement.

The fund will finance all costs of working up a development proposal and securing planning consent for a mixed use scheme.

## **Confidential Background to the Landlords Offer**

The Henderson Property Group is a major property investment company operating through a number of investment funds. The Fund has owned the head leasehold interest in the Council Offices at the Causeway for more than 10 years and acquired the head leasehold interest in Charringtons House a few years later.

The Council owns the freehold interest in the site of the Causeway offices and Charringtons House, the Causeway car park and the car park leased to Waitrose on a lease with 35 years unexpired.

The Council and Henderson, together with Waitrose, control a large area of land with development potential in this key part of Bishop's Stortford town centre.

In 2007 Henderson put forward outline proposals for the development of the "Causeway Site" for a mixture of town centre uses demonstrating a sympathetic approach to the integration of new shops, and other buildings with the existing Waitrose store and the street patterns of the old town leading through to North street. The Council Offices would be demolished to connect the new "quarter" through to the current shopping centre.

Henderson have a good record of funding and developing high quality town centre developments and have invested already in concept designs and research.

The current offer to release the Council from the obligations of the remaining 90 years of the lease of the Council offices reflects the current uncertainties of the property development market. No guarantees will be given as to the date or content of any development or application for planning permission. The price paid to the Council for the interest in car park land is based on existing use value underpinned by a leaseback to the Council for up to 35 years if development is frustrated or unviable. The Council will benefit from an overage payment if gross development values exceed a normal profit level payable on completion of any development.

The terms offered reflect full market value in current circumstances and there is only limited scope for improving on them

7. Notes of Conversation with Mr. P. A. Elliot

Attendance Note Mr. P A Elliot – 13<sup>th</sup> February 2012

Attending Mr. P. A Elliot on the phone, explaining that I was investigating the complaints he had made against Cllr. Tindale and Cllr. Alexander.

I wanted to give him an opportunity to expand on his complaints, so that I could prepare a statement for him.

He simply told me he had nothing further to add and that it was all in his complaints.

I reminded him that the investigation must remain private and confidential. I would email him with my details – just in case he feels he would like to talk to me.

I followed up my telephone call with an email to him, today.

Maria Memoli  
13<sup>th</sup> February 2012

## **8. Statement of Councillor Malcolm Alexander**



Statement of Cllr. Malcolm Alexander

I, Malcolm Alexander, of The Firs, 14 The Ridgeway, Ware, Herts SG12 0RT  
WILL SAY:

1. I am an elected Member of East Herts District Council ("The Council") and represent the Ware (Trinity) Ward. I am also Deputy Leader and Executive Member for Community Safety and Environment.
2. I am familiar with the Council's Code of Conduct for Councillors and I have received training on this subject.
3. I have been on the Development Control Committee of the Council for over 13 years.
4. I was present at the Development Control Committee meeting ("The Committee") on Thursday 25<sup>th</sup> August 2011, as a Member of that Committee, when planning applications **3/10/1964/OP** (Outline Planning permission for a mixed use development comprising retail, leisure hotel, food and drink, residential, community uses, car parking, servicing and access arrangements together with alterations to the public highway and/or public realm works and flood mitigation measures on Land North of Link Road) and **3/10/1965/LC** (Conservation area consent to the Demolition of 1 The Causeway; 1,2 & 3 Old River Lane; Church Hall Water Lane; Boundary Wall north of Church Hall and Substation at Old River)("The applications") were debated at the Main Hall, Charis Centre, Water Lane, Bishop's Stortford.
5. Both these applications could have been deferred by the Committee, as a number of additional representations were made at the last minute such as comments from the Environment Agency, an outline of the proposed s. 106 planning obligations, and a number of issues concerning flooding, and Waitroses' land to name a few. In the final analysis if the Committee resolved to grant outline planning permission

and conservation area consent, the applications would nevertheless, have to be referred to the Secretary of State for approval. The Committee would not be the final Decision-maker.

6. There were probably around 250 members of the public in attendance at the Committee meeting that night. Several members of the Committee spoke on the applications, as did a number of Residents, and business representatives. There were wide-ranging views and I felt all the points made came across very well. It was a difficult decision for the Committee as tensions were quite high. We were reminded on several occasions that, if we were to make a decision, we needed to base this on planning grounds only.
7. The real issue was the flood plain especially in relation to the underground car parking. The Committee decided to go ahead and hear arguments for and against this issue rather than defer the matter, for the benefit of those present at the Committee meeting.
8. I spoke at the Committee meeting. I am aware that the Committee must only take into account planning merits when making decisions. As I say, we were reminded of this, on several occasions throughout the course of the evening. I felt it was important to inform those members of the public and business representatives present at the Committee meeting, that the Developers Hendersons are, in my opinion, a reputable company. I believe some members of the public are of the opinion that Hendersons would take more from the Town than they were giving back.
9. As far as I am aware, Hendersons engineers spent a lot of time with the Council's planning officers discussing various aspects of the proposed development the subject of the planning applications, particularly the flood plain as that is of great concern to all of us. I know that Hendersons engineers actually built the coach park next to the Tower of London – and there is always more of a risk of flooding

because of the Thames. They are a reputable company and not fly-by-night. The members of the public need to know it is highly unlikely that Hendersons would abandon us. That is the message I wanted to get across.

10. The sale of the land to Hendersons was subject to a full audit by the Internal Auditor of the Council. As deputy leader of the Council, I am happy that the officers of the Council acted in accordance with their legal obligations and the law generally, on the sale. From memory, I believe there was a full report to Council or to Cabinet. I am aware of the Overage Agreement with Hendersons, but this was not discussed in any great detail on the evening of the Committee meeting as it is not a planning consideration per se (although useful to show the commitment by Hendersons and their long term investment with the Council and the people of East Herts).
11. I do not believe that I acted outside the Code of Conduct, and that I had a cavalier attitude on the evening of the Committee meeting. After hearing all arguments put forward on that evening, I felt there was a good balance of views put forward. I did not seek to exert pressure on the Committee, I honestly felt everyone in the room should know that Hendersons are a reputable company with a vast experience of this type of development.
12. Members of the Committee debated possible reasons for refusal as indicated in the Minutes of that Committee meeting, but after a motion was put and seconded with possible reasons for refusal, after being put to the vote, the motion was lost. Eventually the vote was taken on the substantive recommendation of the Director of Neighbourhood Services, when the Committee voted to accept the recommendation that both planning applications be granted subject to the planning conditions discussed on the evening of the Committee meeting (which ultimately culminated in 27 conditions) and subject to the referral to the Secretary of State.

Private and Confidential

Statement of Cllr. Malcolm Alexander

Signed.....

Dated.....10/06/12.....

## 9. Note of Conversation with Democratic Services Officer

Attendance Note – 13<sup>th</sup> February 2012- Peter Mannings, Democratic Services Officer

Discussed the question of Cllr. Tindale's attendance at the planning committee – Development and Control Committee on the night of the 25<sup>th</sup> August 2011 concerning the Causeway Site.

I mentioned to P Mannings that having gone through the constitution and terms of reference of the cttee in question, I was unable to find any reference that allows non-ward members who are not on the D & C cttee to attend and address that cttee, and wondered whether I had missed something. Was he able to point to the constitution, some other documentary evidence?

Mr P Mannings confirmed there was nothing in the constitution nor the terms of reference of the cttee – no direct form of wording that covered such situations. He was of the view that Cllrs. had a common law right to speak at LA planning meetings, which he believes is common practice. He certainly thinks this happens at EHDC.

He then went on to say that it is the practice of Democratic services to suggest to those Members wishing to address the Dev. Control Cttee, to notify the Chairman in advance out of courtesy, but they are told that they must not take part in the general debate and they cannot vote.

Mr. P Mannings confirmed that Cllr. Tindale complied with the general principle of the planning code of conduct in that he notified the Chairman in advance of his intention to speak. Cllr. Tindale did not take part in the general debate and did not vote.

Maria Memoli  
13<sup>th</sup> Feb. 2012

## 10. Note of Conversation with Chief Planning Officer

## Attendance Note – Mr. Steptoe

Telephoning Mr. Steptoe explained who I was and I wanted to check a couple of things with him before I drafted the investigation reports.

Mr. Steptoe confirmed that the Causeway site was subject to a lot of public consultation. Yes it is true that the principle of mixed use development had been agreed several years beforehand – so the principle was not new. He is happy that the planning process was adhered to correctly.

He confirmed that Ward members are generally allowed to attend the Development and control cttee meetings to represent the views of their constituents on planning matters affecting their patch. We touched on the Planning Code of Conduct.

As far as he is aware – no there is no provision in the constitution, nor in the planning Code of Conduct, or elsewhere to his knowledge that caters for non-ward members to attend the Dev. And Control Cttee – to address them.

He did confirm that he believes Cllr. Tindale obtained the consent of the Chairman of the Development Control Cttee to address their cttee beforehand.

I asked Mr. Steptoe whether he was aware of the problems that faced Bournemouth Planning Dept? and the review that was undertaken there? He did not. I explained to him the nature of the problems that involved Executive members being involved at two levels when concerning L A land – and how this was perceived by the public and hence the reason for the Review by Sir Michael Pitt was carried. One of his recommendations was for the Executive to be kept independently and away from Planning cttee, something that was close to the heart of the Audit Commission. Fortunately no malpractice was found in that LA, but may be a point worth considering.

Maria Memoli  
June 2012



11. Agenda Item- Executive meeting 17th March 2009

AGENDA ITEM 14

EAST HERTS COUNCIL

THE EXECUTIVE – 17 MARCH 2009

REPORT BY EXECUTIVE MEMBER  
FOR RESOURCES AND INTERNAL SUPPORT

14. IMPLICATIONS OF THE CHANGING THE WAY WE WORK  
PROGRAMME (OPTIONS FOR THE CAUSEWAY OFFICES SITE)

WARD(S) AFFECTED      ALL

'D' RECOMMENDATION – that the report be received.

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1.0 Purpose of Report

1.1 To provide the commercially confidential information necessary for members to consider the terms negotiated with The Landlord to facilitate the surrender of the Council's lease of The Causeway offices.

1.2 To provide the commercially confidential information necessary for members to consider the whole life costs of alternative courses of action and the implications of any course of action on the Council's accommodation strategy and future actions.

2.0 Contribution to the Council's Corporate Objectives

2.1 The C3W Programme and the alternative courses of action in this case contribute to all the Council's corporate priorities particularly:

**Fit for purpose, services fit for you**

*Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.*

## **Caring about what's built and where**

*Care for and improve our natural and built environment.*

## **Shaping now, shaping the future**

*Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.*

### **3.0 Background**

- 3.1 The detailed background information is provided in the separate agenda item.

### **4.0 Report**

- 4.1 Appendix 'A14' (pages 4.4 – 4.21) is the independent financial appraisal and whole life costings carried out by Lambert Smith Hampton. It sets out the inputs and general assumptions and the full discounted cash flow analysis (the figures behind the results summary are also included).
- 4.2 The appraisals to determine the net present value (npv) or cost (npc) are considered over 16 years for all options for comparison purposes. In addition, where the Council is assumed to continue as the leaseholder of the Council offices (i.e. the current position and options A and B) an appraisal over 90 years (the remaining commitment on the Council's existing lease) is demonstrated.
- 4.3 Grant Thornton were asked to review the discounted cash flow model used by Lambert Smith Hampton and advise on the impact that capitalisation assumptions and the treatment in the Council's accounts would have on the affordability of any options. The advice set out in Appendix 'B14' (pages 4.22 – 4.30) addresses the robustness of the financial model but not the underlying valuation assumptions – further advice on the capitalisation issue is awaited although a positive way forward had been suggested informally. The advice covers more options than set out in this report - some of the options which were modelled were not acceptable to Hendersons. The model allows the different cash flows attached to each of the options to be compared on a like for like basis rather than attempt to set out the budget impact and affordability of the options.
- 4.4 A summary of the Landlord's offer and the background circumstances is provided in Appendix 'C14' (pages 4.31 – 4.32).

5.0 Consultation

5.1 Covered in the separate agenda item.

6.0 Legal Implications

6.1 Covered in the separate agenda item.

7.0 Financial Implications

7.1 Covered in the separate agenda item

8.0 Human Resource Implications

8.1 Covered in the separate agenda item.

9.0 Risk Management Implications

9.1 There is a general risk that financial and property assumptions will be adversely affected by future economic conditions.

9.2 Other risks are identified against the options are outlined in the previous agenda item.

Background papers

None

Contact Member: Councillor Michael Tindale – Executive Member for Resources and Internal Support

Contact Officer: Philip Hamberger – Programme Director of Change, ext 2005

Report Authors: Philip Hamberger – Programme Director of Change  
Mike Collier – Acting Director of Internal Services  
Martin Shrosbree –Asset and Estate Manager

## **12. Minutes of Executive Meeting 17th March 2009**

MINUTES OF A MEETING OF THE  
EXECUTIVE HELD IN THE COUNCIL  
CHAMBER, WALLFIELDS, HERTFORD,  
ON TUESDAY 17 MARCH 2009, AT 7.30  
PM

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PRESENT: Councillor A P Jackson (Chairman/Leader).  
Councillors M R Alexander, M G Carver,  
L O Haysey, T Milner, R L Parker and  
M J Tindale.

ALSO PRESENT:

Councillors D Andrews, K A Barnes, R Beeching,  
S A Bull, D Clark, N Clark, R N Copping,  
J Demonti, R Gilbert, P Grethe, J Mayes,  
D A A Peek, S Rutland-Barsby, J Taylor,  
R Taylor, J P Warren, M Wood, C Woodward.

OFFICERS IN ATTENDANCE:

Anne Freimanis	- Chief Executive
Simon Drinkwater	- Director of Neighbourhood Services
Philip Hamberger	- Programme Director of Change
Martin Ibrahim	- Senior Democratic Services Officer
Alan Madin	- Director of Internal Services
Lois Prior	- Head of Strategic Direction (shared) and Communications Manager
George A Robertson	- Director of Customer and Community Services
Martin Shrosbree	- Asset and Estates Manager

644 LEADER'S ANNOUNCEMENT

The Leader welcomed the press to the meeting.

645 DECLARATION OF INTEREST

Councillor N Clark declared a personal interest in the matter referred to at Minute 647 – Corporate Strategic Plan 2009-12, in that any discussion in respect of the Local Development Framework might include reference to the Stop Harlow North Campaign, of which he was the Secretary.

646 EXCLUSION OF PRESS AND PUBLIC

The Executive passed a resolution pursuant to Section 100(A)(4) of the Local Government Act 1972 to exclude the press and public during consideration of the business referred to at Minute 655 below on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the said Act.

RECOMMENDED ITEMS

ACTION

647 CORPORATE STRATEGIC PLAN 2009-12

**The Leader of the Council submitted a report outlining the Council's three-year Corporate Strategic Plan.**

**The Executive noted that the Council was required to produce details of what it planned to do. In the past, this had been produced on a year-by-year basis. However, as the Medium Term Financial Plan was now part of the Integrated Service Framework, this meant that the Council's outcomes for the next three years could now be articulated. The detail of how it would get there was not included, as this information would be incorporated within the individual service plans each year.**

**The Strategic Plan would be updated each year, to include new service developments planned for the third year of each plan and to remove outcomes once they**

were completed. These completed outcomes would then be incorporated into the Annual Report.

The Corporate Business Scrutiny Committee had also scrutinised the plan at its meeting held on 24 February 2009. A number of suggestions to improve the content of the plan, which were detailed at paragraph 5 of the report now submitted, had been addressed. The Leader also referred to the Committee's three specific recommendations for the Executive to consider.

He acknowledged the comments relating to the Local Development Framework and the suggested text that could be inserted into the Plan, as detailed at paragraph 5.3 of the report submitted. The Executive supported this amendment.

In respect of the suggestion that the target for Council Tax increases should be "under 4%" instead of "under 5%", the Leader commented that the intention of the original text was to reference existing capping levels as articulated by the Government. Therefore, he did not recommend acceptance of this suggestion. The Executive did not support this amendment.

The Committee's third recommendation related to the "Shaping now, Shaping the future" priority and suggested the inclusion of an example of unwanted development, such as a second runway at Stansted Airport. The Leader commented that the absence of a specific example provided the Council with the necessary flexibility for an area that was changing constantly. Therefore, he did not recommend acceptance of this suggestion. The Executive did not support this amendment.

In response to a question by Councillor R Gilbert, the Leader stated that some of the objectives were more specific than others as they related to activities that were further advanced.



The Executive supported the Corporate Strategic Plan as now submitted and amended.

**RECOMMENDED** - that (A) the recommendations made by Corporate Business Scrutiny Committee at its meeting held on 24 February 2009, be received;

(B) the draft Corporate Strategic Plan, attached at Appendix 'A6' of the report now submitted, be approved, subject to the addition of the proposed text relating to the Local Development Framework, as suggested by the Corporate Business Scrutiny Committee; and

CE

(C) authority to make final non-material changes, be delegated to the Chief Executive in consultation with the Leader of the Council.

CE

#### 648 **SERVICE PLANS 2009-10**

The Leader of the Council submitted a report setting out the proposed Service Plans for 2009/10.

The Executive noted that the Service Plans were produced every year by Heads of Service and set out what key actions needed to be undertaken to deliver the corporate priorities and key objectives, in line with the approved budget. These actions were linked to key performance indicators, so that achievement could be measured and tracked.

The Leader detailed the monitoring arrangements that would be undertaken by scrutiny committees.

The Corporate Business Scrutiny Committee had scrutinised the 2009/10 Service Plans at its meeting held on 24 February 2009. It had raised a number of questions at the meeting seeking further details on some of the planned activity, but overall had supported

the plans.

Councillor M Wood commented on 09-PBC15 relating to schools provision in Bishop's Stortford and suggested that this offered tacit encouragement to further development applications. In response, the Leader refuted this suggested and commented that this reflected the Council's role in engaging with its partners.

The Executive supported the Service Plans as now detailed.

**RECOMMENDED** – that the service plan activity for 2009/10, as detailed at Appendix 'A7' of the report now submitted, be approved.

CE

**649     IMPLICATIONS OF THE CHANGING THE WAY WE  
WORK PROGRAMME (OPTIONS FOR THE  
CAUSEWAY OFFICES SITE) (1)**

The Leader referred to the exempt elements of this matter, which were detailed in a separate report (see Minute 655 below). He cautioned Members to take care in their deliberations, in order that exempt information was not compromised. He advised that, if necessary, the Executive would pass a resolution to exclude the press and public from the meeting.

The Leader also commented on the history and background to this matter. He emphasised that the Council's front line presence in Bishop's Stortford would be enhanced.

The Executive Member for Resources and Internal Support submitted a report on the terms negotiated with the Landlord to facilitate the surrender of the Council's lease of The Causeway offices. He detailed the whole life costs of alternative courses of action and the implications on the Council's accommodation

**strategy and future actions.**

**The Executive Member outlined the history and background to the Council's land ownership and leasing arrangements on the site of The Causeway Offices and in its vicinity. He also reminded Members of previous decisions relating to the Council's working arrangements and its strategic approach to its accommodation needs.**

**The Executive Member detailed various options for the future of the site. He also set out the Council's different objectives and risks against which each option had been assessed. The recommended course of action had been appraised by Lambert Smith Hampton, the Council's property advisers, as well Grant Thornton, the Council's External Auditors. It was noted that commercially sensitive elements of this advice had been included in a separate exempt report on the agenda (see Minute 655 below).**

**The Executive Member reiterated the comments of the Leader in respect of the enhanced front line service in Bishop's Stortford that would ensue if his recommendations were adopted. He reminded Members of the prohibitive costs of retaining The Causeway and the future needs of services.**

**The Executive Member also referred to the latest advice on accounting implications received from Grant Thornton, which had been tabled at the meeting as Appendix 'F8'. Members noted that this advice replaced the version that had been included as Appendix 'B14' of the exempt report set out elsewhere on the agenda.**

**Some Members expressed concern over the impact of future development on the site for car parking provision in the town centre. The Leader commented that this was a planning issue and would need to be a consideration for the Planning Authority at such time**

as any application came forward.

Councillor M Wood suggested that despite the proposals for front line service provision, this would be seen by the public in Bishop's Stortford as another example of the Council expressing preference for Hertford, despite Bishop's Stortford being the largest town in the District.

He also questioned the need for further shops and homes in any proposed development in Bishop's Stortford, especially given the current climate and whether the timing was appropriate. The Executive Member responded by reiterating that front-line services in Bishop's Stortford would be enhanced and that the proposals would help deliver the C3W programme.

Councillor M Wood commented on a number of issues relating to the wider C3W programme, such as staffing, staff car parking and public consultation and was advised by the Leader that these were not relevant to this report.

Councillor N Clark asked whether an assessment of employees' expenditure in Bishop's Stortford had been carried out and was advised by the Leader that this was not relevant to this report.

Councillor D A A Peek commented that The Causeway offices were not fit for purpose and from an environmental point of view, were inefficient. He suggested that as far as the timing was concerned, the opportunity had arisen now and should be pursued.

The Executive supported the recommendations as now detailed.

**RECOMMENDED** – that (A) the in principle decision taken on 1 July 2008 to invest in Wallfields as the Council's main office base be approved;

(B) the Director of Internal Services in consultation with the Executive Member for Resources and Internal Support be authorised to:

DIS

- (1) complete negotiations with the Council's Landlord of The Causeway offices in Bishop's Stortford, to enable the Council to effect the surrender of the Council's lease of The Causeway;
- (2) effect the surrender of the Council's lease of The Causeway as soon as practicable subject to satisfactory advice being received on the accounting treatment of the transactions involved;
- (3) secure alternative premises in Charrington House, Bishop's Stortford for the ongoing provision of a face to face customer service area, a civic and democratic meeting suite and facilities and working space for Members and Officers; and

(C) the estimated revenue impact of the proposals of an initial net saving to the Council of £2,000 per year and a potential net cost of £88,000 per year once development takes place, be noted; and that Officers be requested to consider steps to mitigate this potential shortfall in future financial planning.

CE

## RESOLVED ITEMS

### 650 MINUTES

RESOLVED - that the Minutes of the Executive meeting held on 10 February 2009 be confirmed as a correct record and signed by the Leader.

### 651 ISSUES ARISING FROM SCRUTINY

The Executive received a report detailing those issues referred to the Executive by the Scrutiny Committees. Issues relating to specific reports for the Executive were considered and detailed at the relevant report of the Executive Member.

RESOLVED – that the report be received.

### 652 COMMUNITY TRANSPORT INITIATIVES AND ALLOCATION OF THE COUNCIL'S BUS SUBSIDIES BUDGET FROM APRIL 2009

The Executive Member for Planning Policy and Transport submitted a report updating the Executive on the outcome of Hertfordshire County Council's (HCC) Passenger Transport Unit (PTU) countywide review of subsidised bus routes. He also recommended the use of East Herts Council's allocation of subsidy in 2009/10 (and subsequent years) in the context of reduced budgetary provision.

The Executive Member provided an analysis as to which routes should be funded at East Herts Council's discretion, at Appendix 'B9' of the report now submitted.

The Community Scrutiny Committee, at its meeting held on 27 January 2009, had considered the proposals and its comments were detailed at Appendix 'C9' of the report now submitted. The Executive Member accepted and agreed with the comments made.

The Executive endorsed the allocation of the bus subsidy budget as now submitted.

RESOLVED – (A) the views of the Community Scrutiny 27 January 2009, as set out at Appendix 'C9', be received, and;

(B) the allocation of the Council's bus subsidy budget of £86,650 in 2009/10 as detailed at Appendix 'A9' of the report now submitted, be endorsed.

DCCS

653 FEES FOR HACKNEY CARRIAGE VEHICLE AND DRIVERS; PRIVATE HIRE VEHICLE AND DRIVERS AND PRIVATE HIRE OPERATOR'S LICENCES AND ANCILLARY CHARGES 2009/2010

The Executive Member for Community Safety and Protection submitted a report proposing increases to the fees charged to recover the costs of issuing and administering licences relating to hackney carriage and private hire vehicles.

The Executive recalled that, at its meeting held on 6 January 2009, it had recommended that the proposed increases in fees and charges for 2009/10, be approved subject to consultation (Minute 482 refers). A number of objections had been made and the Executive Member detailed these. He also outlined a response to the comments made.

The Executive Member commented that the majority of the proposed increases affected applications by new drivers and not renewals.

The Executive supported the recommendations as now detailed.

RESOLVED – that (A) the objections received be noted; and

(B) the increase in fees for the period 1 April 2009 - 31 March 2010, as set out in the Appendix to the report submitted, be approved.

DNS

654 MONTHLY CORPORATE HEALTHCHECK  
– JANUARY 2009

The Leader of the Council submitted an exception report on the finance, performance and risk monitoring for the month of January 2009.

RESOLVED – that the budgetary variances set out in paragraph 4.4 of the report submitted, be noted.

655 IMPLICATIONS OF THE CHANGING THE WAY WE  
WORK PROGRAMME (OPTIONS FOR THE  
CAUSEWAY OFFICES SITE) (2)

The Executive Member for Resources and Internal Support submitted a report detailing the exempt information relating to Implications of the Changing The Way We Work Programme (Options for the Causeway Offices Site).

The Executive agreed that the report be received.

RESOLVED – that the report be received.

(also see Minute 649 above)

The meeting closed at 8.35 pm

Chairman .....

Date .....



### **13. Minutes of Council Meeting 25th March 2009**

MINUTES OF A MEETING OF EAST  
HERTS COUNCIL HELD IN THE  
COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON WEDNESDAY 25  
MARCH 2009 AT 7.30 PM

PRESENT: Councillor Mrs D L E Hollebon (Chairman).  
Councillors M R Alexander, D Andrews,  
W Ashley, R Beeching, S A Bull, M G Carver,  
Mrs R Cheswright, D Clark, N Clark,  
R N Copping, J Demonti, A D Dodd, R Gilbert,  
Mrs M H Goldspink, P Grethe, L O Haysey,  
J Hedley, Mrs D M Hone, A P Jackson,  
M P A McMullen, J Mayes, T Milner, R L Parker,  
D A A Peek, M Pope, N C Poulton, W Quince,  
R Radford, P A Ruffles, G D Scrivener, J J Taylor,  
R I Taylor, M J Tindale, A L Warman, J P Warren,  
N Wilson, M Wood, C Woodward, B Wrangles.

OFFICERS IN ATTENDANCE:

Anne Freimanis	- Chief Executive
Caroline Goss	- Communications Officer
Philip Hamberger	- Programme Director of Change
Jeff Hughes	- Head of Democratic and Legal Support Services
Martin Ibrahim	- Senior Democratic Services Officer
Alan Madin	- Director of Internal Services
George A Robertson	- Director of Customer and Community Services
George Robertson	- Legal Services Manager

ACTION656 CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised of the various events she had attended since the previous meeting. In particular, she highlighted the various civic receptions at which she had represented the Authority.

She referred to her Civic Dinner held on 21 March 2009, at which her guests had enjoyed good food and music. She detailed the civic awards winners and advised that, to date, £5,551 had been raised in support of Isobel Hospice. She thanked everyone for their support.

Councillor N C Poulton, on behalf of Isobel Hospice, thanked the Chairman for the continued support.

The Chairman advised Members of a forthcoming and exciting event at Paradise Wildlife Park on 9 May 2009, of which further details would follow in due course.

The Chairman referred to the recent "Red Nose" day and congratulated the staff on their efforts in raising over £400 through various events.

Finally, the Chairman advised Members that the item relating to the Appointment of Members to the Independent Remuneration Panel, as detailed at Agenda Item 9, had been withdrawn from the agenda, in order that further interviews could take place.

657 MINUTES

RESOLVED - that the Minutes of the Council meeting held on 4 March 2009, be approved as a correct record and signed by the Chairman.

ACTION658 DECLARATIONS OF INTEREST

Councillor P A Ruffles declared a personal and prejudicial interest in the matters referred at Minute 659 – Public Question, Minute 660 – Members' Questions and Minute 649 – Implications of the Changing the Way We Work Programme (Options for The Causeway Offices Site), in that these related to Hendersons, in which he had a financial investment. He left the Chamber whilst these matters were considered.

Councillor N Clark declared a personal interest in Minute 647 – Corporate Strategic Plan 2009-12, in that any discussion in respect of the Local Development Framework might include reference to the Stop Harlow North Campaign, of which he was the Secretary.

659 PUBLIC QUESTION

Michael Hurford, Bishop's Stortford, submitted the following question to the Leader of the Council, in respect of Minute 649 - Implications of The Changing The Way We Work Programme (Options for The Causeway Offices Site):

Why has there been no consultation on this matter when it foreshadows a large development not in the District Plan and certain to cause increased traffic congestion; fails to reveal to the public its full costs and leaves unresolved whether the freehold, given to the old U.D.C. in 1929, can be sold by the District Council?

The Leader referred the question to the Executive Member for Resources and Internal Services. The Executive Member stated that a letter had been sent to various interested partners, including the Civic Federation. However, the Council's property arrangements were not a matter for public consultation as front line services would not be affected, but instead, would be enhanced. He commented that public consultation would become more

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relevant at the time of specific development proposals being submitted.

In respect of the costs, the Executive Member stated that outline costs had been included in the report submitted to the Executive, although the more commercially sensitive elements had been exempt from publication. Finally, he commented that he was not aware of any outstanding issues that needed resolving in respect of the lease.

In response to a supplementary question, the Executive Member reiterated that the future use of the car parks on the site would be subject to public consultation once development proposals came forward. He also clarified that there were no outstanding issues on the freehold to resolve.

660 MEMBERS' QUESTIONS

Councillor D Clark stated that the Council had been told that the proposal to dispose of the Causeway site was the culmination of four years work, yet there had been no consultation with residents, the Civic Federation, the Chamber of Commerce or even Bishop's Stortford 2020 and that the related paper, released to Members only two weeks ago, was being rushed through Council tonight. She asked the Leader of the Council if he was worried that this was a lousy deal for Bishop's Stortford and for the council taxpayer and that it would not stand up to scrutiny.

The Leader referred the question to the Executive Member for Resources and Internal Services. The Executive Member stated that in respect of the consultation issue, he had already answered this and referred the questioner to Minute 659 above. As for the remainder of the question, he commented that he was not worried.

As a supplementary question, Councillor D Clark stated that the original question had been addressed to the Leader and asked him to reply. In reply, the Leader stated that he did not disagree with the comments of the Executive Member.

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Councillor N Clark referred to the Conservatives Policy Green Paper, "Control Shift - Returning power to Local Communities", which stated that they will "require councils to regularly make basic information about their spending available to the public online. Councils will be required to list all items of expenditure above a certain level..." This strategy had already been adopted in London by the Conservative Mayor, Boris Johnson, for all items above £1,000 and by the Royal Borough of Windsor and Maidenhead, for all items above £500. He asked the Leader of the Council when East Herts Council would adopt this Conservative policy.

In reply, the Leader expressed his hope that a Conservative Government was little more than a year away at most. He read an extract from the Green Paper and expressed his support for the proposals contained within. However, he raised a slight concern in respect of the potential additional workload that would ensue in dealing with queries. He believed that the experience of the Greater London Authority and the Royal Borough of Windsor and Maidenhead would need to be evaluated.

Councillor N Clark asked a supplementary question as to whether the Leader agreed with the assertion within the policy document that the proposals would help reduce wasteful expenditure.

In reply, the Leader believed that it was too early to say and that the experience of others was needed.

661 REPORT OF THE EXECUTIVE

The Leader of the Council reported on the work of the Executive and presented the Minutes of the Executive meeting held on 17 March 2009.

The Leader commented that as this was the last Council meeting of the civic year, he wished to place on record his recognition of the energy, commitment and focus shown by

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the scrutiny committees, the Health Engagement Panel and the various task and finish groups throughout the year. He believed that through their scrutiny, they had added value to the recommendations and decisions of the Executive.

In respect of Minute 649 – Implications of the Changing the Way We Work Programme (Options for The Causeway Offices Site), Councillor M Wood reiterated the concerns he had raised at the Executive meeting on these proposals.

Councillor M Wood queried where the promised savings that would be diverted to front line services were. He questioned the need for such a decision in the current economic climate and cast doubt on the financial basis for the proposals. In particular, he expressed concern at the proposed sale of the two car parks and the costs of staff “home working”, which had not been identified. Furthermore, he stated his concern for the impact on staff with the additional travelling that would be required.

Councillor M Wood reminded Members that Bishop’s Stortford was the largest town in the District and that these proposals would cause much angst with residents. He referred to a number of major offices and centres, such as the Magistrates court, the County court, the Job Centre, Social Services, Business Link, HM Revenues and the Herts and Essex hospital, which had been lost in Bishop’s Stortford. He believed that it would be no surprise if residents felt they would be better off if Bishop’s Stortford was part of Essex.

Councillor M Wood questioned why the reception area had been refurbished recently. He also referred to the public question at Minute 659 above and posed the question as to whether the Council had the authority to sell the freehold of the land as proposed. He asked whether residents would be consulted perhaps by way of a special Community Voice meeting. He also referred to the Council being one of the two largest employers in Bishop’s Stortford and raised concerns as to the impact on the town centre economy of staff moving to Hertford.

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Finally, Councillor M Wood suggested that the Council should refurbish The Causeway offices, seek a partner to share the lease costs and retain the car parks income.

Councillor D Clark expressed her concerns that there had been no external consultation or scrutiny of the proposals. She believed that a number of questions remained unanswered and listed these in a tabled document copies of which were provided to the Chairman and the Leader.

Councillor D Clark's questions covered a range of issues on:

- the lack of the financial or property appraisal that had been agreed previously and the lack of staffing, legal and infrastructure costs;
- the assumptions around rental values at Charringtons House and The Causeway offices and land values in the town centre over the next fifteen years;
- the impact of the recession on the timing of the proposals and why the possibility of alternative sites had not been revisited;
- the lack of an assessment of buying the lease without selling the car parks and whether the Landlord was prepared to consider alternatives; and
- whether Grant Thornton had appraised the recommended course of action and the need for due diligence.

Councillor Mrs M H Goldspink expressed her opposition to the proposals. She believed there was no justification for selling assets, such as the two car parks, which would result in the loss of car parking spaces in the town centre. She referred to potential future development of the site and questioned whether residents wanted this. There had been no consultation and she questioned the level of influence the



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Council might have in the future.

Councillor Mrs M H Goldspink also expressed concern for staff and whether they had been fully consulted. She remained unconvinced on hot-desking and home working. She summarised her opposition to the proposals as being wrong in principle to sell off assets and to lose control of an important town centre site. She referred to the projected revenue deficit of £88,000 and the need for the Council to exercise "a duty of care".

Councillor N Clark proposed, and Councillor D Clark seconded, an amendment as follows:

Delete recommendations (A) – (C) and replace with

(A) the report be noted;

(B) the report be referred to Corporate Business Scrutiny Committee;

(C) as part of the scrutiny process, interested parties, including, but not limited to, residents, the Bishops Stortford Civic Federation, the Chamber of Commerce, members of Bishops Stortford 2020, Henderson and Grant Thornton, the External Auditors, be invited to give evidence to the Committee; and

(D) matters arising from this scrutiny be referred to Full Council before any decision is made on the future of the Causeway or Wallfield sites.

Councillor N Clark expressed the concerns of Councillor K A Barnes, who had not been able to attend the meeting.

Councillor N Clark believed that many issues of concern had been raised, but had not been answered adequately by the Executive. He commented that Members had been advised that the proposals were about property transactions only and yet, the first recommendation sought approval for moving to

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Wallfields without any rationale.

He referred to advice given in the summer 2008 that Wallfields needed some £900,000 in capital refurbishment and that the travel and disturbance costs would be nearly £250,000. These sums had not been included in these proposals despite previous decisions that final details would be submitted for approval. Therefore, it would be irrational to approve the move to Wallfields without this information.

Councillor N Clark questioned the square footage costs within the proposals as they indicated a 50% rise by leasing Charringtons House instead of The Causeway offices. He did not believe that this represented a good use of council taxpayers' money. Furthermore, he believed that the proposals involved a rushed decision based on flimsy information and cast doubt on many of the assumptions within the report.

Finally, he questioned the timing of the decision, especially as it would result in an annual revenue cost of £88,000. Councillor N Clark asked where the savings that would be directed to frontline services were. He referred to the Leader's earlier comments about scrutiny "adding value" and therefore suggested that the proposals should be scrutinised.

Councillor R I Taylor also expressed his opposition to the proposals. He referred to the value of the Council's town centre assets and questioned whether sufficient car parking spaces were available at present, let alone whilst a development was taking place. He believed that the issue should be referred to scrutiny.

The Executive Member for Resources and Internal Support responded to the many comments made. He commented that the proposals before Council had been the result of an enormous amount of work over a long period of time. He believed that the majority of Members trusted the advice of Grant Thornton, Lambert Smith Hampton (LSH) and the

ACTION

Council's Officers.

The Executive Member referred to the projected cost of the Charringtons House lease and explained that the square footage cost was higher because the term of the lease was much shorter at fifteen years. He commented that The Causeway offices were four times larger than the Council's need and that Charringtons House would be refurbished to suit the Council's specific needs.

In respect of the revenue costs, the Executive Member stated that the figure of £88,000 had been based on what was known now about interest rates. If interest rates rose then this figure would be reduced. In any event, £88,000 appeared to be a price worth paying for the certainty that would be provided about future accommodation needs. The Executive Member refuted the suggestion that the Council should allocate expenditure on refurbishing The Causeway offices.

The Executive Member reminded Council of the different roles of the Council's advisers. Lambert Smith Hampton had been engaged to look after the overall deal, whilst Grant Thornton had been asked to examine the assumptions made by LSH and the accounting treatment of the sums involved. In respect of Councillor D Clark's specific questions, he suggested that a written response could be provided.

The Leader also responded to the comments made. He understood some of the concerns raised and reiterated that public consultation would ensue whenever development proposals came forward. However, these proposals did not concern any development. He believed that if and when development proposals came forward, alternative car parking could be provided elsewhere for the duration of the works, as was the case with the recent Jackson Square redevelopment.

The Leader commented that the proposals would provide more certainty over accommodation costs in the longer term. He reiterated the Executive Member's comment that the

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existing premises were greater than was needed.

Councillor D A A Peek commented on the current lease arrangements on The Causeway offices site, which he believed were onerous. He referred to the proposals involving an extremely complicated deal and believed that the professional advice given should be heeded. He reminded Members that the current accommodation was of poor standard and that staff deserved better.

Councillor D Clark seconded the proposed amendment by taking issue with the Executive Member's comments regarding the potential impact of interest rate movements. She commented that interest rate changes would also impact on asset values and yet this had not been scrutinised. She disputed the need for selling any assets and entering a more expensive lease.

Councillor D Clark questioned whether Members had been given all the information needed and referred to Grant Thornton's advice that more due diligence was needed. She commented that the Executive Member had not provided any certainty and that there was no reason why the proposals should not be scrutinised.

Following a request for a recorded vote on the proposed amendment, the results of the vote were:

FOR:

Councillors D Clark, N Clark, Mrs M H Goldspink, R I Taylor, M Wood.

AGAINST:

Councillors M R Alexander, D Andrews, W Ashley, R Beeching, S A Bull, M G Carver, Mrs R Cheswright, R N Copping, J Demonti, A D Dodd, R Gilbert, P Grethe, L O Haysey, J Hedley, Mrs D L E Hollebon, Mrs D M Hone, A P Jackson, M P A McMullen, J Mayes, T Milner, R L Parker, D A A Peek, M Pope, N C Poulton, W Quince,

ACTION

R Radford, G D Scrivener, J J Taylor, M J Tindale,  
A L Warman, J P Warren, N Wilson, C Woodward,  
B Wrangles.

For: 5

Against: 34

Abstentions: 0

Following a request for a recorded vote on the Executive's proposals, the results of the vote were:

FOR:

Councillors M R Alexander, D Andrews, W Ashley,  
R Beeching, S A Bull, M G Carver, Mrs R Cheswright,  
R N Copping, A D Dodd, R Gilbert, P Grethe, L O Haysey,  
J Hedley, Mrs D L E Hollebon, Mrs D M Hone, A P Jackson,  
M P A McMullen, J Mayes, T Milner, R L Parker,  
D A A Peek, M Pope, N C Poulton, W Quince, R Radford,  
G D Scrivener, M J Tindale, A L Warman, J P Warren,  
N Wilson, C Woodward, B Wrangles.

AGAINST:

Councillors D Clark, N Clark, Mrs M H Goldspink, R I Taylor,  
M Wood.

ABSTENTIONS:

Councillors J Demonti, J J Taylor.

For: 32

Against: 5

Abstentions: 2

ACTION

The Executive's recommendations in respect of Minute 649 - Implications of the Changing the Way We Work Programme (Options for The Causeway Offices Site) were declared CARRIED.

RESOLVED – that the Minutes of the Executive meeting held on 17 March 2009, be received, and the recommendations contained therein, be adopted.

662 MINUTES OF COMMITTEES

(A) DEVELOPMENT CONTROL COMMITTEE  
– 18 FEBRUARY 2009

RESOLVED – that the Minutes of the Development Control Committee meeting held on 18 February 2009, be received.

(B) CORPORATE BUSINESS SCRUTINY  
COMMITTEE – 24 FEBRUARY 2009

RESOLVED – that the Minutes of the Corporate Business Scrutiny Committee meeting held on 24 February 2009, be received.

(C) ENVIRONMENT SCRUTINY COMMITTEE  
– 3 MARCH 2009

RESOLVED – that the Minutes of the Environment Scrutiny Committee meeting held on 3 March 2009, be received.

(D) LICENSING COMMITTEE – 10 MARCH 2009

RESOLVED – that the Minutes of the Licensing Committee meeting held on 10 March 2009, be received.

ACTION

(E) DEVELOPMENT CONTROL COMMITTEE  
– 11 MARCH 2009

RESOLVED – that the Minutes of the Development Control Committee meeting held on 11 March 2009, be received.

663 APPOINTMENT OF MEMBERS TO THE  
INDEPENDENT REMUNERATION PANEL

Council noted that this item had been withdrawn from the Agenda.

RESOLVED – that the withdrawal of this item from the Agenda be noted.

664 MOTION ON NOTICE – PARTY WHIP ARRANGEMENTS

Councillor N Clark moved, and Councillor D Clark seconded, the following motion:

"This Council agrees that Members should not be required to follow a party whip on issues concerning matters of conscience or matters specific to their ward."

Councillor N Clark commented that Members were elected by residents to represent them. He believed that overuse of the party whip could damage local democracy and make it difficult for the electorate to understand who was taking decisions. It could also make it difficult for Members to represent the views of their residents. He believed this was one of the reasons why there was public disillusionment with local democracy.

He suggested that his motion would demonstrate that on matters of conscience or matters specific to their wards, such as Council's earlier decision on The Causeway offices, Members were not bound by a party whip. Although political parties might wish to maintain discipline in order to deliver

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their manifestos, he did not believe that this should be at the expense of transparency and accountability in decision-making.

Councillor N Clark suggested that the Council should incorporate in its standing orders, a requirement that where whipping was applied at full Council, it should be declared at the commencement of the relevant discussions and recorded for public information and record. He suggested that Members who supported his motion must have voted according to their conscience in the earlier debate on The Causeway offices. Members who were minded to vote against his motion must agree that they were prepared to toe the party line even to the detriment of the residents they represented.

Various Members pointed out that the two abstentions in the recorded vote held earlier, demonstrated that no party whip had operated and that Members had voted according to their conscience.

The Leader of the Council supported the motion and the comments of other Members that the earlier recorded vote demonstrated that even on significant issues, Members were free to vote according their conscience. He expressed his pride in being Leader of the Conservative group.

Councillor M Wood supported the motion and commented that ward issues should be a matter of individual conscience.

Councillor D Clark seconded the motion and referred to one of the key Nolan principles of personal judgement. She believed that Members, whilst taking account of the views of others, including their political groups, should always reach their own conclusions on issues. She questioned the purpose of ward Members if they were prevented from representing residents by party whip arrangements.

After being put to the meeting, and a vote taken, the motion was declared CARRIED.



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RESOLVED – that the following motion be approved:

"This Council agrees that Members should not be required to follow a party whip on issues concerning matters of conscience or matters specific to their ward."

The meeting closed at 9.01 pm

Chairman	.....
Date	.....

Nps\Council\25 March 2009\Minutes 25 Mar 2009

14. Agenda/Report - Accompanying Report- Development Control  
Committee meeting 25th August 2011



## Public Document Pack

**Jeff Hughes**  
*Head of Democratic and Legal  
Support Services*

**MEETING** : DEVELOPMENT CONTROL COMMITTEE  
**VENUE** : MAIN HALL, CHARIS CENTRE, WATER LANE,  
BISHOP'S STORTFORD  
**DATE** : THURSDAY 25 AUGUST 2011  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

### **MEMBERS OF THE COMMITTEE:**

Councillor W Ashley (Chairman).  
Councillors M Alexander, S Bull, A Burlton, Mrs R Cheswright, J Demonti,  
G Jones, G Lawrence, M Newman, S Rutland-Barsby (Vice-Chairman),  
J Taylor and B Wrangles.

### **Substitutes:**

Conservative Group: Councillors D Andrews, E Bedford and T Page.  
Independent Group: Councillor E Buckmaster.

*(Note: Substitution arrangements must be notified by the absent Member  
to Democratic Services 24 hours before the meeting).*

**CONTACT OFFICER: PETER MANNINGS**  
**TEL: 01279 655261**

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### **3/10/1964/OP and 3/10/1965/LC**

#### **1.0 Introduction:**

- 1.1 In large measure Members will be aware of these proposals because of the significant publicity that they have generated. They were submitted formally to the Council in November of last year (2010) and, following an extensive round of public consultation, have been subject to amendment in June of this year. The applicant has now requested that the Council proceed to a decision on the proposals.
- 1.2 The Council has undertaken the appropriate consultation exercise, notifying neighbouring occupiers, placing site notices and advertising the proposals in the local paper. In addition, the applicants have undertaken their own consultation and feedback exercise, meeting with representatives of many, if not all, of the stakeholder groups in the town.
- 1.3 By way of introduction, and to deal with this issue early, it is helpful to explain the land ownership situation with regard to the site. Until recently, the Council has had a land holding interest in the area of the site within Link Road (the current parking areas) and remains as owner of part of the site located to the north of Link Road (the application site is described more fully below). As part of decisions in relation to its land holdings, the Council has disposed of its land owning interest in the public car parks to the applicant. These land disposal decisions have enabled the applicant to bring forward the development proposals.
- 1.4 As indicated, the Council remains as a land holder in relation to the land to the north of Link Road. It also remains as a tenant, currently in the Causeway office building and, upon vacation of that building, in Charringtons House only, which are located within the application site.
- 1.5 Despite the position in relation to land holding and tenancy arrangements, it is very important to set out here that these arrangements and previous decisions in relation to them should be given no weight in the planning application decision making process.

#### **2.0 Proposals:**

- 2.1 In more detail then, this application seeks outline planning permission for the comprehensive redevelopment of land at Old River Lane and north of Link Road to create a mixed use, retail led development. Conservation Area consent is also sought for the demolition of existing buildings within the site in order to facilitate the development. The application site is shown on the OS extract attached at the end of this report.

### 3/10/1964/OP and 3/10/1965/LC

modest effect on this building.

11.127 The heritage statement considers the legislative and policy background. It also refers to guidance and acknowledged good practice. It then undertakes an assessment of the development proposals in this context. It acknowledges that the development will have some impact, but it concludes that this is considered to be outweighed by the benefits of the proposals both in heritage enhancement and in other terms.

11.128 An addendum to the heritage statement has been prepared in response to the initial concerns of English Heritage and to accompany the revised submission. This contains further information on the context of the main part of the application site in relation to the significance of the heritage assets on the site and surrounding. It assesses the historical context of the site in some detail. There is a further assessment of the impact of the proposals in relation to the listed buildings and scheduled ancient monument surrounding the site. The impact with regard to each of the assets is considered in relation to acknowledged English Heritage considerations.

11.129 The addendum also considers the impact of the changes to the scheme, namely: the realignment of the route between blocks A and D; the revised treatment to the space to the west of block A (adjacent to Coopers) and the revision to the scale of block C where it adjoins the URC. In all cases the assessment is that the revisions have a positive and enhancing impact.

11.130 In conclusion the applicants assessment is that the area of the main site, in its current form, retains little historic fabric because of its 20<sup>th</sup> century development. It makes little contribution to the character of the Conservation Area or the nearby listed buildings. It is considered then that the overall scheme has the potential to make a positive contribution and better enhance or reveal the significance of these assets.

11.131 In relation to the report of the EH Urban Panel the applicant comments that it is important to view this in the now wider context of the governments pro-growth agenda and the draft NPPF. It feels that the report fails to take into account the widely agreed drivers for the scheme, namely (but not exclusively):

- accepted principle of a substantial, retail led, mixed use scheme;
- more efficient use of the brownfield site in the town centre;
- long term investment needed to halt the decline of the town;
- the scale and quantum of development required to retain market share and to enable a viable scheme.

### 3/10/1964/OP and 3/10/1965/LC

What is important, and a risk for the applicant in this case is that, the replacement facilities for the URC can only be vacated willingly by their currently occupant and, if there is any delay in that respect, the proposals for the replacement of the URC facilities are equally delayed. Whatever situation prevails, the replacement provision would be required through a legal obligation agreement.

- 11.226 In addition, as part of the development, a space of 500sqm in size, is provided for community use in the block D building. It is proposed that this is managed in association with the cinema and can be made available for a whole range of community purposes. Again, control over the provision and management of this additional space can be exercised through condition or legal agreement.

#### Legal Obligation Agreement.

- 11.227 As the application is for up to 100 residential units, the need for financial contributions is required under the Council's Planning Obligations SPD and the Herts County Council (HCC) Planning Obligations Toolkit.
- 11.228 HCC have confirmed that they will require contributions towards secondary and nursery education, childcare, youth and library facilities. This is based on the number of units proposed and on the current service information for the local area. The financial contributions relating to those service areas are considered to be necessary and reasonable based on pressures that the development will place on existing infrastructure. The obligations are therefore considered to meet the tests set out in S122 of The Community Infrastructure Levy Regulations (CIL) 2010. It is noted that letters of representation comment that there is insufficient capacity in the existing schools to cope with such an increase in the population. The contributions recommended will therefore go towards future school provision in the area. The applicant has referred to these matters within a draft 'heads of terms' of a legal agreement.
- 11.229 The East Herts Council SPD also requires standard contributions towards open space provision, children and young peoples provision, recycling facilities, community centres and village halls. In relation to this development it is considered that the direct provision of the community space, as set out above, avoids any need for further financial provision in respect of this element.
- 11.230 There is no current explicit provision within the draft heads of terms for open space, children and young peoples provision and recycling facilities. However, the FCA area is to be provided as part of the proposals. Current facilities are provided within the Castle gardens close to the site. If Members are supportive of the proposals, details in relation

### **3/10/1964/OP and 3/10/1965/LC**

to provision can be further clarified. It is anticipated that recycling facilities would be required as part of the refuse disposal measures to be incorporated into the development.

- 11.231 The situation relating to affordable housing provision and sustainable transport provision are set out in the appropriate parts of the report above.

#### **12.0 Conclusion:**

- 12.1 In conclusion, much has been set out above about the significant nature of these proposals. They represent a very substantial investment into the services and facilities available in the town centre and will impact on all who use that area now – probably all residents of the town – and seek to bring more people to the area.
- 12.2 In terms of support for the proposal, the investment, the job creation and employment, the provision of enhanced facilities and the provision of additional housing all weigh strongly in support of the development. The retail situation is also well rehearsed. The Councils consultants have identified a need for significant additional retail floorspace in the town, have identified that it faces threats from nearby competing centres and that, to standstill in terms of additional provision, is akin to accepting decline. This proposal only achieves half of the identified need, so there remains spare capacity. So, in terms of retail issues, the policy background and acknowledged need, these all weigh heavily in favour of the proposals.
- 12.3 It is clear that the visual manifestation of the development is of concern to many. Expert opinion from English Heritage has advised strongly against the scheme. EH officers set out an alternative view with regard to need, considering that seeking to overcome threats from alternative possible retail centres is harmful and not as urgent as the applicant believes. Your officers however feel that, taking all the visual and heritage factors into account, whilst the impact is negative, it is not as significantly so, as other commentators have set out.
- 12.4 Transport, access and parking considerations are also a concern for many. The Highway Authority has withdrawn a recommendation of refusal in relation to the proposals and, on assessment of the case for the development, your officers are clear that this is an impact of some significance. Given the mitigating proposals put forward however, the public transport enhancement contribution, direct provision to avoid delays to the 510 service and the commitment to further analysis of the Bridge Street/ Link Road junction, your Officers have concluded that the

**15. Minutes of Development Control Committee Meeting of the  
25th August 2011**



MINUTES OF A MEETING OF THE  
DEVELOPMENT CONTROL COMMITTEE  
HELD IN THE MAIN HALL, CHARIS  
CENTRE, WATER LANE, BISHOP'S  
STORTFORD - DUE TO TECHNICAL  
PROBLEMS THE WEBCAST OF THE  
DEVELOPMENT CONTROL MEETING  
HELD ON 25TH AUGUST WILL NOT BE  
AVAILABLE UNTIL MID SEPTEMBER ON  
THURSDAY 25 AUGUST 2011, AT 7.00 PM

PRESENT: Councillor W Ashley (Chairman)  
Councillors M Alexander, E Bedford,  
E Buckmaster, S Bull, J Demonti, G Jones,  
T Page, S Rutland-Barsby, J Taylor and  
B Wrangles

ALSO PRESENT:

Councillors P Gray, P Ruffles, N Symonds,  
M Tindale, M Wood and C Woodward

OFFICERS IN ATTENDANCE:

Liz Aston	- Development Control Team Leader
Fiona Brown	- Planning Technician
John Careford	- Senior Planning Officer
Glyn Day	- Principal Planning Enforcement Officer
Simon Drinkwater	- Director of Neighbourhood Services
Annie Freestone	- Senior Planning Technician
Peter Mannings	- Democratic Services Assistant

Martin Plummer	- Assistant Planning Officer
Kevin Steptoe	- Head of Planning and Building Control

ALSO IN ATTENDANCE:

-

249 APOLOGIES

Apologies for absence were submitted on behalf of Councillors A Burlton, Mrs R Cheswright, G Lawrence and M Newman. It was noted that Councillors E Bedford, T Page and E Buckmaster were substituting for Councillors Mrs R Cheswright, A Burlton and M Newman respectively.

250 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed the press and public to the meeting. He stated that the meeting was being videoed and the subsequent recording would be posted on the Council's website.

In respect of Minute 252, the Chairman advised that, as a higher than anticipated number of people had registered to speak, he had agreed that all registered speakers should be allowed to address the Committee. He sought and received the consent of the Committee in respect of all registered speakers addressing the Committee.

251 DECLARATIONS OF INTEREST

Councillor T Page declared a personal interest in applications 3/10/1964/FP and 3/10/1965/LC in that he was a Member of the Bishop's Stortford Town Council Planning Committee.

252 (A) 3/10/1964/OP - OUTLINE PLANNING APPLICATION

FOR A MIXED USE DEVELOPMENT COMPRISING RETAIL, LEISURE HOTEL, FOOD AND DRINK, RESIDENTIAL, COMMUNITY USES, CAR PARKING, SERVICING AND ACCESS ARRANGEMENTS TOGETHER WITH ALTERATIONS TO THE PUBLIC HIGHWAY AND/OR PUBLIC REALM WORKS AND FLOOD MITIGATION MEASURES ON LAND NORTH OF LINK ROAD; AND (B) 3/10/1965/LC - DEMOLITION OF 1 THE CAUSEWAY; 1, 2 AND 3 OLD RIVER LANE; CHURCH HALL WATER LANE; BOUNDARY WALL NORTH OF CHURCH HALL AND SUBSTATION AT OLD RIVER

The Director of Neighbourhood Services recommended that, in respect of applications 3/10/1964/OP and 3/10/1965/LC, planning permission and conservation area consent be granted subject to the conditions now detailed.

The Director referred to the additional representations schedule, as well as the Section 106 legal obligation agreement and the conditions. The Committee was advised that these documents had been distributed to Members separately as they had not been finalised prior to the distribution of the Agenda.

Members were referred to the additional representations summary for the latest position in respect of the comments of the Environment Agency. The Director stressed that the Environment Agency had considered that a weir to the north of the site was no longer required for flood risk mitigation.

The Committee was advised that Officers felt they had insufficient information to advise on whether the weir should be removed.

Members could defer the applications for this issue to be investigated. Members were reminded that the applications would have to be referred to the Secretary of State if the Committee resolved to grant outline planning permission and conservation area consent.

The Director referred to the comments of the Council's retail advisors in respect of the position of Waitrose's objections to the application, given that Waitrose had control of some of the land that was the subject of these applications.

The Director advised that the Council's Solicitor felt that there remained some tension with regard to a number of issues, particularly flooding and the impact on heritage assets close to the site.

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

- Mr Hurford, Chairman of the Bishop's Stortford Civic Federation;
- Mr Edwards on behalf of the Chantry Residents' Association;
- Mr Cooper on behalf of Coopers Bishop's Stortford;
- Karen Burton;
- Jackie Colman;
- Mr Elmer;
- Mr Hare; on behalf of the Water Lane Table Tennis Club;
- Mr George on behalf of Yew Tree Place residents;
- Mr Harrison on behalf of Waitrose, Bishop's Stortford;
- Mr Moys, Solicitor for Mr and Mrs Hagon and a number of other residents.

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

- Mr Fraser and Mr Perry on behalf of Hendersons Global Investors Company;
- Mr Disney;
- Mr Lawson; and
- Sarah Stevens.

Councillor N Symonds addressed the Committee by reading out a statement on behalf of Councillor A Burlton. Councillor Burlton's concerns related to overdevelopment of the site in terms of the massing and height of the proposed development.

Councillor Burlton was also concerned that the merits of the application did not justify 3 to 4 storey buildings on this site. He had commented that buildings should be restricted to 2 to 3 stories and the residential elements of the scheme should be withdrawn.

Councillor Symonds referred to Councillor Burlton's concerns that the application would result in traffic problems, particularly in respect of the proposed 'T' junction. He was also concerned in relation to the loss of natural vegetation to make way for the flood compensation area (FCA). He had stated that the application should be refused until all outstanding issues had been resolved.

Councillor Symonds and Councillor M Wood addressed the Committee as local ward Members in respect of their concerns on both applications. Councillor Wood was concerned in respect of the loss of valuable site lines in Bishop's Stortford. He expressed concerns in relation to highways congestion and the inadequacy of the proposed temporary parking provision.

Councillor Wood queried the need for a hotel in this location given the proliferation of hotels at Stansted Airport. He also strongly questioned whether the town needed more flats and a second cinema. He was particularly concerned that the application would result in the decline of town centre businesses.

Councillor M Tindale addressed the Committee in support of the applications in his capacity as Executive Member for Finance. He referred to the decisions taken by Full Council in relation to the Causeway Offices in that the

principle of development on this site had been established.

Councillor Tindale stated that the views expressed on the applications were not fully representative of the population of East Herts. He referred to the difficulty of the decision facing the Members of the Committee.

Councillor G Jones expressed concerns that high rise development was proposed with such a narrow access route being provided to the site and between the blocks of development.

He referred to the challenging balance of judgement faced by the Committee. He stated that he was minded to vote against both applications as the scale of the proposed buildings was insensitive to the conservation area of Bishop's Stortford.

Councillor Jones stated that the application would result in traffic chaos as the town's road network was already operating at full capacity and there was insufficient car parking to support such development. He expressed concerns over the loss of the United Reformed Church Hall and the likely impact on Heritage Assets.

Councillor Jones stressed that the proposed Cinema and Hotel were poorly sited in that the site was remote from the train station. He was also concerned that the development would match and exceed the nearest tallest buildings.

Councillor J Taylor stressed that the scheme must be determined on the merits of the applications and any previous decisions must be disregarded. She reminded Members that this was an outline application and all matters were reserved. Councillor Taylor stated that Bishop's Stortford did not need an enhanced retail offer and a new cinema and hotel as the town already had sufficient shops and a cinema.

Councillor Taylor commented that such a scheme should be supported by 1043 parking spaces as opposed to the proposed 600. She expressed concerns in relation to the loss of trees on the site. She also commented that elements of the high street could resemble a ghost town if this scheme was approved.

Councillor Taylor referred to her concerns in relation to highways issues, in particular the ageing population who were unable to use public transport for legitimate reasons. She was also concerned regarding pedestrian safety at the proposed 'T' junction.

Councillors Taylor and Jones were both concerned that the site was located in the flood zone of the River Stort. Councillor Taylor was concerned as to whether flood water could be contained within the FCA. She referred to the Environment Agency's objections and stated that the application did not comply with policy ENV25 of the East Herts Local Plan Second Review April 2007.

Councillor E Buckmaster commented that there was no guarantee from Officers or from the consultation responses that the flood risk issue could be fully mitigated. He stressed that the Bishop's Stortford Town Plan and the 2020 vision document did not include a development of this nature on this site.

The Director advised that the basis for the whole proposal was what the future held for Bishop's Stortford. He referred to there being a different situation now compared to when a Districtwide retail assessment had been carried out for the towns in East Herts. He stressed that the Authority could not time when any given scheme was submitted.

The Director advised that the applicant had undertaken to maintain the current levels of parking during the implementation phase of this application. He further advised that the applicant had given some sound and forthcoming assurances that every effort would be made

to minimise disruption.

Members were advised that, as always, the Committee must make a judgement as to whether the impact of the proposals could be justified in relation to the potential benefits to Bishop's Stortford in terms of a retail led proposal with new modern facilities.

The Director reminded Members that the Authority was obliged to deliver in terms of future housing supply in East Herts. He stated the Government Policy was very much in support of delivering that supply. He stressed that the Authority had not objected to the housing numbers that East Herts had been asked to deliver.

Members were advised that East Herts had performed poorly to date in terms of future housing supply in the District. The Director stated that, in terms of the flood risk mitigation measures, the Council's Drainage Engineer had stated that although the application complied with regulations in technical terms, the risk mitigation measures were very much at the lower end of the scale of acceptability.

The Director stated that the traffic issue was to a degree intractable in that Bishop's Stortford was an historic market town with very little that could be done to improve road capacity without fundamentally altering the town's character. He commented that there was insufficient space in the town for a development that provided 1000 plus car parking spaces.

Members were advised that due to the constrained nature of the town's highway network, the only realistic solutions were improving the flow on the existing roads, such as using the SCOOT system publicised by Hertfordshire Highways. Solutions were also available that gave priority to certain types of vehicles at junctions.

The Committee was reminded that due to the geography of the East Herts area, for many people, the only solution



for getting around was the private vehicle. The Director stressed that although there were concerns in respect of 4 blocks of development on this site, Officers had felt that the impact of the proposals was not so fundamental as to outweigh the potential benefits of the scheme. Members would have to make that judgement when determining these applications.

Councillor S Bull commented that he was an experienced retired retailer and it was widely accepted that big developments of this nature increased the prosperity of the surrounding town area. He stressed that this development close to the town centre should reduce the leakage to surrounding settlements such as Cambridge and Harlow.

Councillor Bull stated that this application would encourage people to continue to visit Bishop's Stortford and ensure the town was heading in the right direction.

Councillor T Page stressed that he was not satisfied that the issue of flood prevention had been satisfactorily addressed. He stated that a competently planned infrastructure had to be installed before this scheme was implemented.

Councillor Page expressed concerns that Bishop's Stortford South was the most economically challenged ward in the town and this application would further accelerate the loss of vitality of South Street. He concluded that these applications did not stand up to the provisions of ENV19 and ST1 and ST1a of the East Herts Local Plan Second Review April 2007.

Councillor M Alexander stated that Bishop's Stortford was a well respected town that was suffering due to the leaching of trade to surrounding settlements. He stressed that the applicant was a serious company that was not about to walk away from the town should this scheme be implemented.

The Director advised Members that the parking provision standards were set out in terms of maximum rather than minimum provision. He also stressed that Hertfordshire Highways had not objected to the proposals so Members should be cautious when putting forward reasons for rejecting the applications. The Committee was advised that the fact that the scheme was not included in the local plan was not sufficient as a reason for refusal.

The Director emphasised that Members could advance an argument that the scheme would have a detrimental impact on the conservation area of Bishop's Stortford. He reminded the Committee that there would be no net loss of trees as a consequence of the proposals. Members were advised that the County Archaeologist was satisfied that the investigations that had taken place were sufficient.

Members continued to debate possible reasons for refusal following the continued advice of the Director.

Councillor J Taylor proposed and Councillor J Demonti seconded , a motion that applications 3/10/1964/FP and 3/11/1965/LC be refused on the grounds that archaeological remains had not been sufficiently investigated, the flood risk issue had not been resolved, the impact on traffic in general terms was not acceptable and was contrary to policy TR1 of the East Herts Local Plan Second Review April 2007 and the scale and height of the development would have an unacceptable impact on the character of the conservation area of Bishop's Stortford.

After being put to the meeting and a vote taken, this motion was declared LOST.

After being put to the meeting and a vote taken, the Committee accepted the recommendations of the Director of Neighbourhood Services that applications 3/10/1964/OP and 3/10/1965/LC be granted subject to the conditions now detailed.

RESOLVED – that (A) in respect of application 3/10/1964/OP, subject to the referral of the application to the Secretary of State in relation to the Town and Country Planning (Flooding) (England) Direction 2007, and subject to the applicant entering into an agreement under section 106 of the Town and Country Planning Act 1990 as amended covering the following matters:

1. The provision of up to 40% affordable housing either as direct provision or through a commuted sum, or an element of both, the amount of which is to be determined;
2. Prior to demolition of the URC Church hall, the provision of replacement facilities of equal or greater quality to those currently provided in the hall in a location in close proximity to the existing URC Church hall to the satisfaction of the Council in consultation with the URC;
3. The provision of £307,916 financial contribution towards enhancing bus services that access the town centre and related infrastructure;
4. The provision of a financial contribution of up to £50,000 to enable the implementation of selective vehicle detection equipment at Adderley Road / The Causeway; Station Road (next to the bus interchange); South Street / Station Road; Riverside / Adderley Road; New access junction on Link Road (to serve the proposed development) within the town centre in order to mitigate for delays caused to bus service 510.
5. The agreement of appropriate timescales and criteria against which the operation of the Bridge Street/Link Road junction can be

monitored and, if agreed operational criteria are breached, the provision of additional improvements including signalisation at that junction;

6. The provision of an enhancement to the existing VMS (Variable Messaging Signs), (as set out within the WSP document 'Parking Guidance Signage Review' April (2011)) within the Town Centre to provide enhanced information in relation to the availability of parking and other traffic information;
7. Prior to the loss of any of the current parking provision on the site, the provision of temporary and alternative public parking to be made during the construction of the development to ensure that overall level of public parking provision currently provided on the main site is maintained throughout the construction phase;
8. The provision of a car park management plan to ensure that the parking facilities within the development site follow the overall parking strategy for the Town Centre;
9. The provision of financial contributions towards nursery and secondary education, childcare, youth and libraries in accordance with the residential type and mix as approved in any subsequent planning application and the Planning Obligations Supplementary Planning Guidance 2008;
10. Bridge – prior to the occupation of the first Class A1 or A2 or A3 or A4 or A5 unit to investigate the feasibility of the provision of a bridge and submit to the Local Planning Authority an application for planning permission to construct a pedestrian bridge

over the watercourse between Link Road and Castle Gardens and, if permission is secured, to construct the bridge within 12 months of the granting of permission. Details of maintenance liability are to be agreed with the Council.

11. The provision of fire hydrants;
12. All reasonable legal and monitoring fees are to be paid by the applicant.

planning permission be granted subject to the following conditions:

1. Application for approval in respect of all matters reserved in this permission shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this notice. (b) The development to which this permission relates shall be begun by not later than the expiration of a period of 2 years commencing on the date upon which final approval is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall not be carried out otherwise than in accordance with detailed plans and drawings showing the siting, design and external appearance of the building(s) and landscaping of the site, which shall have been approved in writing by the Local Planning Authority before any development is commenced.

Reason: To comply with the provisions of Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

3. No demolition or development shall take place within the proposed development site until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to the planning authority and approved in writing. No use or occupation shall take place until the approved written scheme of investigation for archaeological works has been implemented in full, and the Local Planning Authority has received and approved an archaeological report of all the required works, and provision has been made for analysis and publication where appropriate.

Reason: To ensure the protection of and proper provision for any archaeological remains in accordance with Policy BH2 of the East Herts Local Plan April 2007 and Planning Policy Statement 5: Planning and the Historic Environment.

4. No development shall take place until detailed plans, showing the existing and proposed ground levels of the site relative to adjoining land and buildings, together with the slab levels of the proposed buildings have been submitted to, and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the development is

properly related to the levels of adjoining development in the interests of amenity.

5. Prior to or concurrently with the submission of the first of any reserved matters applications for the site, a Design Guide shall be formulated and submitted to the Local Planning Authority for approval. The Design Guide shall be prepared in accordance with the principles and parameters established in the outline application and shall include more detailed information in relation to the following:
  1. the approach to be followed in relation to the design and external appearance of the buildings, including the ratio of glazing to other elements of the buildings, external materials to be used and colour treatments to be applied;
  2. the approach to be followed in relation to the surface treatment to be applied in any areas of the site outside of buildings, street furniture, lighting, public art and any other structures to be placed in these areas;
  3. the approach to be followed in relation to advertising to be applied to the external façade of any of the buildings or otherwise within the site;

Reason: To ensure high quality design and coordinated development in accordance with policy ENV1 and BH6 of the East Herts Local Plan Second Review April 2007

6. No development above ground level shall take place until all materials to be used for hard surfacing within the site including roads, driveways and car parking areas shall be

submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not detract from the appearance of the locality in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

7. Prior to the first occupation of any of the A1, A2, A3, A4, A5 units (retail units), a plan showing the uses designated for each unit shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with that plan and any change in use of the units within the approved plan shall be agreed in writing by the Local Planning Authority.

Reason: To ensure that there is an appropriate mix of retail and other uses to sustain the vitality and viability of the Town Centre in accordance with policies STC1 and STC2 of the East Herts Local Plan Second Review April 2007.

8. Within 12 months of commencement of the development hereby approved, details of the management and availability of any D1 community facility space have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the community facility is properly provided for within the site for the local community in accordance with policy



LRC11 of the East Herts Local Plan second Review April 2007.

9. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  1. Drawings and full details of any temporary highway works and the phasing of any highway works;
  2. Methods for accessing the site;
  3. The parking of vehicles of site operatives and visitors;
  4. Loading and unloading of plant and materials;
  5. Storage of plant and materials used in constructing the development;
  6. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  7. Wheel washing facilities;
  8. Measures to control the emission of dust and dirt during construction;
  9. A scheme for recycling/disposing of waste resulting from demolition and construction works;
  10. The management of any crossings of the public highway and/or other public rights of way.

Reason: To ensure that the construction works and associated activity are acceptable in terms of amenity of the area and highway safety.

10. No development shall take place until details

of the phasing of construction of development on the application site have been submitted to and approved in writing by the Local Planning Authority. Those details shall include:

1. the details of access to be provided to buildings located on the site which are to remain in use during construction;
2. detail of the timing of the provision of vehicular and foot access to new buildings which are to be constructed;
3. detail of the timing of the provision of the public area of the site located between proposed block A and the western perimeter of the site (adjacent to the extent of Coopers, as proposed) as shown on plan references T04 10 and T12 09.

Reason: The development shall be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

11. Prior to first occupation of any part of the development hereby approved, the Green Travel Plan as set out in Chapter 9 of the Transport Assessment shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To promote the use of non car modes of transport in accordance with national guidance in PPG13 and policy TR4 of the East Herts Local Plan Second Review April 2007.

12. No development shall take place until details of cycle parking facilities shall be submitted to

and approved in writing by the Local Planning Authority. Once agreed, those facilities shall thereafter be implemented in accordance with the approved details, made available for use prior to the first occupation of the site and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To encourage the use of sustainable means of transport in accordance with policies TR13 and TR14 of the East Herts Local Plan Second Review April 2007.

13. The development shall be carried out in accordance with the Flood Risk Assessment (WSP, October 2011 Revision 1) and the Flood Risk Addendum (WSP, March 2011) and the mitigation measures detailed within those documents.

Reason: In the interests of flood risk in accordance with policies ENV19 and ENV21 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 25: Development and Flood Risk.

14. Prior to the first occupation of the development hereby permitted, details shall be submitted to and agreed in writing by the Local Planning Authority of a specification of works to open up and naturalise the current culverted route of the watercourse within the flood compensation area and as identified in the WSP report 'Justification for not de-culverting Old River Lane culvert' 29 July 2011. Once agreed, the works shall be implemented as such and shall be completed prior to the first occupation of the development hereby agreed. The timing and specification of the works may be further varied and agreed in writing by the Local Planning Authority.

Reason: To ensure that the development maximises its ecological and biodiversity potential. In accordance with policy ENV18 of the East Herts Local Plan Second Review April 2007

15. Prior to first occupation of any part of the development a management plan for the flood compensation area and any drainage system used on the application site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To prevent flooding by ensuring that the flood compensation area and any other drainage system is satisfactorily maintained and managed by the responsible party, in accordance with policies ENV19 and ENV21 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 25: Development and Flood Risk.

16. No development shall take place until the following components to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the Local Planning Authority:-
  1. A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; potentially unacceptable risks arising from contamination at the site.
  2. A site investigation scheme, based on (1) to provide information for a detailed

assessment of the risk to all receptors that may be affected, including those off site.

3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: In the interests of groundwater protection, in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 23: Planning and Pollution Control.

17. Prior to first occupation of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the

reporting of this to the Local Planning Authority.

Reason: To ensure the site no longer poses a potential risk to groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 23: Planning and Pollution Control.

18. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. If piling is found to be necessary the development shall be carried out in accordance with the approved details.

Reason: In the interests of groundwater protection, in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 23: Planning and Pollution Control.

19. No development above ground level shall take place until details of facilities to be provided for the storage and removal of refuse from the Main site during the operational phase have been submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be provided and retained in accordance with those approved details.

Reason: In the interests of amenity, in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

20. No trees located on land within the Bishop's

Stortford Memorial Gardens or the beech tree T72 (all shown on plan reference 42806L/topo 1 of 3; 2 of 3 and 3 of 3 within Chapter 12.1 of the EIA) shall be removed, unless otherwise agreed in writing by the Local Planning Authority. Those trees shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with relevant British Standards, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

Reason: To ensure the continuity of amenity afforded by existing trees, in accordance with policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

21. Within 12 months of commencement of the development hereby approved, a management plan for all open spaces and routes within the site which are outside of buildings has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that outside spaces and routes are properly managed in the interests of the amenity of the site and the surroundings.

22. Details of replacement bat foraging, commuting and habitat to replace that lost as part of the development and the timescale for provision shall be submitted to, and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plans.

Reason: To ensure that appropriate levels of replacement bat foraging, commuting and habitat space are provided for, in accordance with policy ENV16 and ENV17 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 9: Biodiversity and Geological Conservation.

23. No development shall take place until a scheme setting out the measures to be taken to ensure the creation of new habitats within the FCA and the timing of that provision has been submitted to and agreed in writing by the local planning authority. Once agreed, the scheme shall be implemented in accordance with those agreed details.

Reason: To ensure that the development mitigates for the potential loss of existing habitats and biodiversity in accordance with policy ENV17 of the East Herts Local Plan Second Review April 2007 and Planning Policy Statement 9: Biodiversity and Geological Conservation.

24. Details of CCTV provision on the site together with a management plan shall be submitted to



and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of ensuring that the development provides adequate means to protect against crime, in accordance with policy ENV3 of the East Herts Local Plan Second Review April 2007.

25. No development shall take place until a scheme for the implementation of energy efficiency measures within the development to secure at least 10% of the energy supply of the development from decentralized and renewable or low-carbon sources, shall be submitted to and approved in writing by the Local Planning Authority, and thereafter implemented in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development assists in reducing climate change emissions in accordance with policy ENG1 of the East of England Plan May 2008 and policy SD1 of the East Herts Local Plan Second Review April 2007.

26. The development shall, except to the extent that the Local Planning Authority otherwise agrees in writing, be carried out in accordance with the details submitted with the application.

Reason: To comply with the requirements of the Town and Country Planning (General Permitted Development) Order 1995.

27. The development hereby approved shall be carried out in accordance with the following approved plans: T03A 07, T03B 08, T04 10,

T05 09, T06 08, T07 08, T08 10, T09 10, T10 10, T11 10, T12 09, T13 09, 0721/GA/010 D, 0721/GA/009 D.

Reason: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.

Directives:

1. Other legislation (01OL1)
2. Under the terms of the Water Resources Act (1992) and the Land Drainage Byelaws(1981) the prior written cosent of the Environment Agency is required for certain works in over, under or with 8 metres of a Main River (or as otherwise agreed by the Environment Agency).
3. Planning obligation (08PO1)
4. Street name and numbering (19SN4)

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the 'saved' policies of the East Herts Local Plan Second Review April 2007), and in particular policies SD1, SD2, SD3, HSG1, HSG3, HSG4, HSG6, TR1, TR2, TR3, TR4, TR7, TR8, STC1, ENV1, ENV2, ENV3, ENV11, ENV16, ENV18, ENV19, ENV21, ENV23, ENV25, LRC11, BH1, BH2, BH3, IMP1 and PPS1 Delivering Sustainable Development, PPS3 Housing, PPS4 Planning for Sustainable Economic Growth, PPS5 Planning for the Historic Environment, PPG13 Transport, PPG17 Open Space, Sport and

Recreation, PPG24 Planning and Noise, PPS25 Development and Flood Risk. The balance of the considerations having regard to those policies and the significant investment of the proposed into the town is that permission should be granted.

(B) in respect of application 3/10/1965/LC, conservation area consent be granted subject to the following condition:

1. Listed Building three year time limit (1T14)

The meeting closed at 11.05 pm

Chairman .....

Date .....