

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

2 October 2015

To: MEMBERS OF THE STANDARDS HEARING PANEL
(Copies to all Members of the Council)

**NB ONLY MEMBERS
OF THE PANEL MAY
PARTICIPATE**

Dear Sir/Madam

Your attendance is requested at a meeting of the Standards Hearing Panel to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Monday, 12th October, 2015 commencing at 9.30 am

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

1. Apologies for absence

2. Declarations of interest

Decisions to be taken by the Committee

3. The Hearing Panel to determine whether the confidential report may be considered in public

Matters for consideration in Private

4. Exclusion of Press and Public

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information

PART 2 - PRIVATE

Decisions to be taken by the Committee

5. Code of Conduct Complaint against a Borough Councillor 5 - 214

(Reasons: LGA 1972 Sch 12A Paragraph 1 and 2 – Information relating to an individual and information which is likely to reveal the identity on an individual)

MEMBERSHIP

Cllr Miss J L Sergison (Chairman)
Cllr D J Cure (Vice-Chairman) and Cllr D A S Davis (Vice-Chairman)

Cllr Mrs P A Bates
Cllr Mrs B A Brown

Mr D Thornewell
Mr D S Ashton – Independent Person

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TONBRIDGE & MALLING BOROUGH COUNCIL

HEARING PANEL OF THE JOINT STANDARDS COMMITTEE

12 October 2015

Report of the Monitoring Officer

Part 2 - Private

Delegated

LGA 1972 - Sch 12A Paragraph 1 and 2 – Information relating to an individual and information which is likely to reveal the identity of an individual

1 CODE OF CONDUCT COMPLAINT

Members are asked to consider the report of Wilkin Chapman Goolden Solicitors LLP in respect of allegations that Councillor Mike Taylor has breached the Code of Conduct of Tonbridge and Malling Borough Council

1.1 Introduction

- 1.1.1 On 31 July 2015 the Council convened a Hearing Panel of the Joint Standards Committee to consider the report of Mr Jonathan Goolden, Solicitor, in respect of allegations that Cllr Mike Taylor had breached the code of conduct of Tonbridge & Malling Borough Council.
- 1.1.2 That hearing was adjourned due to the non-availability of one of the witnesses through illness. The original report and its annexes are attached to this report at Annex 1.
- 1.1.3 In the period between that hearing and the reconvened hearing, a number of procedural issues have been raised by the Subject Member and Independent Person which the Panel should be aware of.

Pre-Hearing Matters

- 1.1.4 The Independent Person has raised a number of queries regarding the hearing and pre-hearing process. I have reviewed the numerous points made which are summarised and addressed here:

(a) Is a complaint form required before an allegation can be investigated?

In the present case, Cllr Taylor referred himself for investigation. The arrangements provide that an allegation “must be made in writing and addressed to the Monitoring Officer using the Complaint Form...”

The allegation was made in writing, in detail, and the Monitoring Officer exercised his discretion under paragraph 14 to depart from the requirement that the Complaint Form is to be used, as this was considered expedient in the circumstances, to secure the effective and fair consideration of the matter.

(b) What is the role of the Independent Person (IP) at the hearing?

The Hearing Panel procedure requires that the IP's views must be sought and taken into consideration before the Hearing Panel takes any decision on:

- (i) whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct; and
- (ii) as to any sanction to be taken following a finding of failure to comply with the Code of Conduct

The IP does not sit as part of the Panel, and does not retire with the Panel during their deliberations. Nor does the IP have a vote on the decision to be made.

Paragraph 3.7 of the Hearing Procedure states that at the appropriate point in proceedings, the *“Chairman will invite the Independent Person to express their view on whether they consider that **on the facts** presented to the Hearing Panel, there has been a breach of the Code of Conduct or no breach as the case may be.”* (my emphasis)

It is clear therefore that in seeking the IP's views on (i) above, such views must be reached on, and be limited to, the facts presented to the panel (including the investigating officer's report, witness statements and the witnesses' and Subject Member's oral testimony). No extraneous material should be referred to by the IP.

(c) Who is the “investigating officer” for the purposes of the Hearing?

The Council appointed Wilkin Chapman Goolden LLP (“WCG”), a firm of solicitors, to carry out the investigation, and this is clear from the terms of that firm's appointment. Whilst the investigating officer's report was written by Jonathan Goolden, a partner in the firm, the investigations and interviews were carried out by Martin Dolton, a member of that firm.

However, it is right that should the Hearing Panel or Subject Member wish to ask questions of the Investigating Officer, the Investigating Officer presenting the report must have sufficient knowledge of the report and its conclusions.

Mr Goolden is not available for the Hearing (and is unlikely to be available for a considerable time). He has indicated to me by email that Mr Dolton has had *“a significant involvement in every step of the investigation, including the gathering of evidence, the summarising of that evidence... and the formulation*

of the reasoning in the report, he is able to respond ably and fully to any questions which the subject member or the panel may wish to put to the [Investigating] Officer”.

The Panel is therefore requested to consider whether it is expedient, in the interests of securing the effective and fair consideration of the matter, to permit Mr Dolton to appear on behalf of WCG.

(d) Whether the Hearing should be held in public

The details provided in this Report, and in the hearing, would fall under the provisions in Paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972 and therefore constitute “exempt information” for the purposes of that Act. Where “exempt information” is to be discussed, a committee (or in this case the Hearing Panel) may pass a resolution to exclude the press and public from that Hearing.

At paragraph 3.1(f) of the Hearing Panel Procedure, this requires that the Panel will receive representations from the Monitoring Officer “and/or” Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press.

Cllr Taylor has indicated that he believes the hearing should be conducted in public.

It is, however, for the Panel ultimately to decide whether the Hearing should be public or private and which, if any, documents should be withheld.

Witnesses

- 1.1.5 In an email dated 2nd August, Cllr Taylor, raised a point regarding the calling of witnesses.
- 1.1.6 Paragraph 3.5 of the Hearing Panel Procedure (Annex 4 of the Arrangements) indicates that a Subject Member may call their own witnesses.
- 1.1.7 Cllr Taylor indicated in his email that he wished to call two witnesses, Brian Gates and Kirstie Parr. In an email reply dated 24th August, I indicated that whilst it was open to the Subject Member to call witnesses, as indicated in the Arrangements, they could not be compelled to attend (and the same is true for witnesses of the Investigating Officer). As at the date of this report I am not aware that the Subject Member has contacted those witnesses or whether they have confirmed they will attend the hearing.

Purpose of the Hearing

- 1.1.8 In a further email dated 24 August, the Subject Member appeared to indicate that he intends to produce evidence regarding the historical relationship between himself and the Borough Council and *“why relationships became so strained”*.
- 1.1.9 It should be noted that the purpose of the hearing in the first instance is to decide *as a matter of fact* whether Cllr Taylor is in breach of the code. Any “justification” as to a potential breach is not relevant to that finding of fact. Therefore, Cllr Taylor may only give evidence (including calling witnesses) as to whether or not a breach has occurred; he is not entitled under the Arrangements to call witnesses as to the justification for his behaviour.
- 1.1.10 If a breach is found on the facts, he is then entitled to make representations only as to the *form* of sanctions and at that stage could outline why he acted as he did.

It should also be noted that any finding of the Panel can only relate to Cllr Taylor’s conduct since becoming a member of the Borough Council in January 2014.

1.2 Legal Implications

- 1.2.1 Section 28(4) of the Localism Act 2011 requires that *“a failure to comply with a relevant authority’s code of conduct is not to be dealt with otherwise than in accordance with the arrangements made under subsection (6)...”*
- 1.2.2 Those arrangements are the “Arrangements for Dealing with Code of Conduct Complaints Under the Localism Act 2011” as adopted by the Council and attached to this report at Annex 2.
- 1.2.3 Therefore the entire procedure for dealing with the allegation is contained within those arrangements.
- 1.2.4 Paragraph 14 of the Arrangements provides that either a Hearing Panel or Monitoring Officer has *“the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.”*

1.3 Recommendations

- 1.3.1 As set out in Paragraph 1.3 of the Report of the Monitoring Officer dated 31 July 2015 attached to this report at Annex 1.

contact: Kevin Toogood

Kevin Toogood
Deputy Monitoring Officer



TONBRIDGE & MALLING BOROUGH COUNCIL

EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

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23 July 2015

To: MEMBERS OF THE STANDARDS HEARING PANEL
(Copies to all Members of the Council)

**NB ONLY
MEMBERS OF
THE PANEL MAY
PARTICIPATE**

Dear Sir/Madam

Your attendance is requested at a meeting of the Standards Hearing Panel to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Friday, 31st July, 2015 commencing at **10.00 am**

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

1. Apologies for absence
2. Declarations of interest

Decisions to be taken by the Committee

3. The Hearing Panel to determine whether the confidential report may be considered in public

Matters for consideration in Private

4. Exclusion of Press and Public

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information

PART 2 - PRIVATE

Decisions to be taken by the Committee

5. Code of Conduct Complaint against a Borough Councillor 5 - 174

(Reasons: LGA 1972 Sch 12A Paragraph 1 and 2 – Information relating to an individual and Information which is likely to reveal the identity of an individual)

MEMBERSHIP

Cllr Miss J L Sergison (Chairman)
Cllr D J Cure (Vice-Chairman) and Cllr D A S Davis (Vice-Chairman)

Cllr Mrs P A Bates
Cllr Mrs B A Brown

Mr D S Ashton – Independent Person
Mr D Thornevell - Parish Council
representative

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TONBRIDGE & MALLING BOROUGH COUNCIL
HEARING PANEL OF THE JOINT STANDARDS COMMITTEE

31 July 2015

Report of the Monitoring Officer

Part 2 – Private

Delegated

Reasons: LGA 1972 – Sch 12A Paragraph 1 and 2 – Information relating to an individual and Information which is likely to reveal the identity of an individual.

1 CODE OF CONDUCT COMPLAINT

Members are asked to consider the report of Mr Jonathan Goolden, Solicitor in respect of allegations that Councillor Mike Taylor has breached the Code of Conduct of Tonbridge & Malling Borough Council.

1.1 Introduction

- 1.1.1 On 8 July 2014 Councillor Mike Taylor referred himself to me as Monitoring Officer in respect of allegations that he had breached the Code of Conduct.
- 1.1.2 In accordance with the Council's adopted arrangements for Code of Conduct complaints, the initial assessment of this complaint took place on 16 July 2014. Present at that meeting were Cllr Sergison (Chairman of Joint Standards Committee), Cllr Dave Davis (Vice-Chairman of Joint Standards Committee), David Ashton (Independent Person) and Alex Oram (Chi & I Associates, acting on behalf of the Monitoring Officer). The decision of those present was to refer the complaint for investigation.
- 1.1.3 The Deputy Monitoring Officer delegated his investigatory functions, as the Monitoring Officer in respect of this matter, to an independent investigator. Mr Goolden is a Solicitor and Partner at Wilkin Chapman LLP and is experienced in acting as an independent investigator, pursuant to section 82A of the Local Government Act 2000.
- 1.1.4 A copy of Mr Goolden's report is attached as **Annex 1**. The report is confidential at this stage pursuant to paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972. As with all exempt information decisions, the Hearing Panel must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosure. In most cases the public interest in transparent decision making by the Hearing Panel will outweigh the subject member's interest in limiting publication of an unproven allegation that has yet to

be determined. The Panel should invite representations from the Monitoring Officer and Cllr Taylor prior to making their decision on this issue.

- 1.1.5 If the Hearing Panel is minded to hold the hearing in public, then copies of the Investigation Report will be distributed to any persons present and published on the Council's website.
- 1.1.6 In summary Mr Goolden has concluded that Councillor Taylor did breach the Code of Conduct.
- 1.1.7 Mr Goolden's final report has been reviewed by the Deputy Monitoring Officer, in consultation with the Chairman and Vice-Chairmen of the Joint Standards Committee, and Mr Ashton (Independent Person). In accordance with paragraph 3.3 of the adopted arrangements, they have decided to refer the matter for consideration by the Hearing Panel.

1.2 Procedure

- 1.2.1 A Hearing Panel Procedure was adopted by the Joint Standards Committee on 26 June 2012 to facilitate the determination of Standards complaints referred to it under the adopted local arrangements in order to discharge the responsibilities of the Borough Council for ethical standards under the Localism Act 2011.
- 1.2.2 A copy of such Hearing Panel procedure appears as **Annex 2** for ease of reference and should be followed when dealing with the complaint.

1.3 Key Issues/Recommendations

- 1.3.1 The key issues for the Hearing Panel are whether Councillor Taylor breached the following provisions of the Code of Conduct:
- 1.3.2 General Obligation paragraph 3(2) You must not: (a) bully any person...;
- 1.3.3 General Obligation paragraph 3(2) You must not (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.
- 1.3.4 The Hearing Panel's role is to decide, based on the facts in the investigating Officer's report, whether it agrees that the Code has been breached. The relevant standard of proof is the civil one which is that they must be satisfied that "on the balance of probabilities" that the Code has been breached. This means that the Hearing Panel has to be satisfied that it is more likely than not that the Code has been breached.
- 1.3.5 If the Hearing Panel concludes that the Code has been breached, the available sanctions are set out at paragraph 4 of the procedure at **Annex 2**.

contact: Lynn Francis
Kevin Toogood

Adrian Stanfield
Monitoring Officer

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PRIVATE AND CONFIDENTIAL



**Tonbridge & Malling
Borough Council**

Case reference:

Report of an investigation by Jonathan Goolden, appointed by the Deputy Monitoring Officer for Tonbridge & Malling Borough Council, into allegations concerning Councillor Mike Taylor of that Council.

10th April 2015

**VOLUME 1
REPORT**

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CONFIDENTIAL FINAL REPORT

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CONFIDENTIAL FINAL REPORT

Contents	Page
1. Executive Summary	4
2. Councillor Taylor's official details	5
3. Relevant legislation and protocols	6
4. The evidence gathered	8
5. Summary of the material facts	31
6. Councillor Taylor's additional submissions	32
7. Reasoning as to whether there have been failures to comply with the Code of Conduct	37
8. Finding	43
Volume 2	Schedule of evidence taken into account and list of unused material

CONFIDENTIAL FINAL REPORT**1. Executive Summary**

- 1.1 Councillor Taylor is an elected member of Tonbridge & Malling Borough Council and Borough Green Parish Council.
- 1.2 Since 2007, Councillor Taylor has taken significant interest in a planning matter at Isles Quarry West, a site that was within his Ward. Councillor Taylor had expressed concerns about the designation of Isles Quarry West as a development site and during 2013-14 about matters relating to the subsequent planning permission on the site.
- 1.3 During May and June 2014 Councillor Taylor sent numerous emails to Officers of the Council about the development at Isles Quarry West. Some of those emails contained comments which caused concern to the Officers. Councillor Taylor also posted information on a public website that repeated the comments which had caused concern.
- 1.4 Councillor Taylor was invited to a meeting with Senior Officers of the Council to discuss his behaviour and the concerns raised by the content of some of his emails and his website. Following the meeting Councillor Taylor referred himself for investigation.
- 1.5 I have considered whether Councillor Taylor was acting in an official capacity when he sent the emails and made the website postings. I am satisfied for the detailed reasons set out in this report that Councillor Taylor was acting in an official capacity.
- 1.6 I have considered whether the content of the emails could reasonably be considered as likely to bring the authority into disrepute. I consider that comments in the emails and on the website are derogatory of some Senior Officers of the Council and that it was unwise and unnecessary for these comments to be published in such a public manner.
- 1.7 I have concluded that it would be reasonable to believe that it was likely that the comments could diminish the repute of the Council and therefore might bring the authority in to disrepute.
- 1.8 I have considered whether any of the comments made by Councillor Taylor could be construed as bullying. I am mindful that Councillor Taylor is a Member of the Borough Council that employs the Officers who have been the subject of his comments and therefore has an influence over their employment. I consider that some of Councillor Taylor's comments were designed to humiliate and intimidate Officers of the Council and therefore could be considered to be acts of bullying
- 1.9 My finding is that there has been a breach of the code of conduct of the authority concerned by Councillor Taylor.

CONFIDENTIAL FINAL REPORT

2. Councillor Taylor's official details

- 2.1 Councillor Taylor is a member of Tonbridge and Malling Borough Council having been elected in January 2014.
- 2.2 Borough Green Parish Council co-opted Councillor Taylor to that Council in the year 2000, and he continued to serve until 2003.
- 2.3 In 2009 he was elected as a member of Borough Green Parish Council, and re-elected in 2011.
- 2.4 He became Chairman of the Parish Council in 2011, and remains in that position.

CONFIDENTIAL FINAL REPORT**3. Relevant legislation and protocols**

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which Tonbridge and Malling Borough Council is one) must promote and maintain high standards of conduct by members and co-opted members of the Council. In discharging this duty, the Council must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.

3.2 Section 28 of the Act provides that the Council must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-

- (a) Selflessness;
- (b) Integrity;
- (c) Objectivity;
- (d) Accountability;
- (e) Openness;
- (f) Honesty;
- (g) Leadership.

3.3 The Council has adopted the Kent Code of Conduct for Members (attached at JTG 1) in which the following paragraphs are included:-

Preamble

.....

(B) The Code is based on the Seven principles of Public Life under section 28(1) of the Localism Act, which are set out in Annexe 1.

(C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.

.....

Scope

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

.....

General obligations

3.

(2) You must not:

CONFIDENTIAL FINAL REPORT

(a) *bully any person;*

.....

(f) *conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;“*

.....

Annex 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from that the Authority cannot accept allegations that they have been breached.

.....

INTEGRITY

.....You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

CONFIDENTIAL FINAL REPORT

4. Evidence and facts*My appointment*

- 4.1 After consulting the appointed Independent Persons the Assessment Panel of the Council's Standards Committee referred the matter to Mr K Toogood, the Council's Deputy Monitoring Officer, for investigation.
- 4.2 Mr Toogood nominated me to perform his investigatory functions as a Monitoring Officer in respect of this matter.
- 4.3 I hold a Bachelor of Arts in Law degree from the University of Sheffield. I am a solicitor and an accredited mediator. I was employed by various local authorities as a solicitor for a period of 14 years and have held the position of Monitoring Officer in two authorities for six years. I practice law as a solicitor and am a partner with Wilkin Chapman LLP. I have carried out over 200 investigations of members of local authorities and other public bodies.
- 4.4 I was assisted in the conduct of the investigation by Martin Dolton. Mr Dolton is a retired senior police officer who through his 30 years of police service conducted many sensitive police misconduct investigations. He holds a Bachelor of Science Honours degree in Public Policy and Management awarded by the Department of Local Government Studies at Birmingham University. He has been an associate investigator for the Standards Board for England. With this firm, its predecessor and the Standards Board for England. He has conducted numerous investigations into alleged breaches of the Code of Conduct of Councillors and discipline enquiries concerning senior staff in local government. He was a full time Town Clerk and Responsible Financial Officer of a large town council for 3 years.
- 4.5 I was also assisted in the drafting of this report by Alan Tasker. Mr Tasker is a former Monitoring Officer and was the Clerk to a large town council. He has significant experience of code of conduct investigations.

The investigation

- 4.6 During the investigation Mr Dolton held face to face meetings with, and obtained signed statements from:-
- Julie Beilby – Chief Executive of the Council (signed statement obtained 23 October 2014)
 - Adrian Stanfield – Director of Central Services and Monitoring Officer at the Council (signed statement obtained 13 October 2014)
 - Steve Humphrey – Director of Planning, Housing and Environmental Health at the Council (signed statement obtained 15 October 2014)
 - Lindsay Pearson – Chief Planning Officer at the Council (signed statement obtained 21 October 2014)
- 4.7 Mr Dolton conducted a face to face audio recorded interview with Councillor Taylor on 24 October 2014 from which a transcript was prepared. Councillor Taylor was given an opportunity to comment on the transcript of the interview and returned a signed copy to indicate his agreement with its contents on 15 November 2014.

CONFIDENTIAL FINAL REPORT

- 4.8 Copies of the above, together with other relevant documents are annexed to this report and listed in a schedule of evidence. Copies of the various emails which are referred to by witnesses are set out in date order in a separate schedule at JTG 10 for ease of reference.
- 4.9 I wish to record my thanks and those of Mr Dolton for the co-operation and courtesy shown to us by all those we had cause to contact during the investigation.

Background

- 4.10 For a number of years Councillor Taylor has taken an interest in the planning status of an area within the Parish of Borough Green known as Isles Quarry.
- 4.11 Since the Council commenced a review of its Local Plan in 2003, Isles Quarry has been the subject of consideration and consultation. This continued under the development of the Local Development Framework. This process included public consultation and public examination leading to the adoption by the Council of the Core Strategy and Development Land Allocation. As a result, Isles Quarry was removed from the Green Belt and identified as a strategic development site.
- 4.12 Councillor Taylor has consistently opposed this designation for Isles Quarry.
- 4.13 In June 2013 planning permission was granted for the residential development of Isles Quarry.
- 4.14 In January 2014 Councillor Taylor was elected to the Council to represent the Borough Green and Long Mill ward which included the Isles Quarry site. Since his election Councillor Taylor has made numerous Freedom of Information requests for documents relating to the planning permission for the site. Councillor Taylor has also made public his concerns about aspects of the development on the site, how his requests for information were being dealt with and the conduct of Officers of the Council. His comments have been posted on an internet website.
- 4.15 Councillor Taylor's conduct in this matter caused concern for the Officers of the Council, including the Council's Monitoring Officer. Because of these concerns Councillor Taylor was invited to a meeting with the Monitoring Officer and Chief Executive to discuss Councillor Taylor's conduct. A comprehensive note of the meeting taken by Adrian Stanfield is attached at JTG 2.
- 4.16 Following the meeting Councillor Taylor decided to refer himself to the Monitoring Officer by e-mail (set out in the paragraph below) as it appeared to him that others considered his conduct to be in breach of the Council's Code of Conduct. Though unusual, I am satisfied that such self referral was capable of amounting to a written allegation within the meaning of section 28(9) of the Act and thus one which fell to be considered under the Council's arrangements for investigating and deciding on such matters.

Complaint

- 4.17 In an email dated 8 July 2014, sent to an extensive number of individuals and copied to the Council's Monitoring Officer, Chief Executive and others, Councillor Taylor stated:-

CONFIDENTIAL FINAL REPORT

'At a recent meeting with Julie Beilby and Adrian Stanfield it was alleged that I had committed serious breaches of the Standards Code regarding "lack of respect and inappropriate comments and language to Council Officers", specifically Steve Humphrey and Lindsay Pearson.

Whilst I clearly take a different view, after some thought I realised that the code is more important than individual beliefs, and that justice must be seen to be done.

As a responsible Member of this Authority, I am therefore formally reporting myself to the Monitoring Officer for the alleged breaches of the Standards Code.'

- 4.18 The Council's code does not contain an explicit requirement to treat others with respect. In this report, I have considered whether or not Councillor Taylor may have failed to follow elements of the Council's Code relating to bullying and disrepute.
- 4.19 In an e-mail dated 7 April 2015 sent to Mr Toogood, Mr Stanfield, Ms Beilby, Mr Dolton and me, Councillor Taylor questioned my reference in the draft version of this report to bullying, indicating that he had referred his lack of respect for officers. He considered that the complaint could not be expanded to cover bullying.
- 4.20 Whether an investigating officer may consider elements of the Code not identified by the complainant is a matter which has been considered by the former Adjudication Panel for England and its successor, the First Tier Tribunal General Regulatory Chamber (Local Government Standards in England). Both tribunals existed as a function of the statutory standards framework which was removed by the Localism Act 2011. However, in the absence of other relevant statutory provision, case law or provision in the Council's arrangements for the consideration of complaints, I consider that the tribunal decisions indicate the proper approach to be taken.
- 4.21 In *Bartlett, Milton Keynes Council* (2008) APE 0401, the tribunal found that the original complaint did not fix the scope of the investigation – it is simply the initiating act. The tribunal found that it was legitimate for the investigating officer to ultimately allege a breach of the Code not identified by the complainant.
- 4.22 In *Rayment, Hampshire Police Authority* (2010) LGS/2010/0479, the appellant raised a procedural issue about the ability of the investigator appointed by the Deputy Monitoring Officer to consider additional potential breaches of the Code, beyond the breach they were originally charged with investigating. The appellant queried whether the investigator, on finding that another part of the Code may have been breached, should have referred the matter back to the Deputy Monitoring Officer. The tribunal found that it was entirely proper for the investigator to consider, based on the facts of the allegation, whether more than one breach had occurred. What the person investigating the case was required to do was to decide whether on the facts that underlay the allegation there was a breach or breaches of the Code. One set of facts can, and often does, involve more than one breach of the Code.

CONFIDENTIAL FINAL REPORT

- 4.23 Councillor Taylor's e-mail of 8 July 2014 referred to allegations regarding "lack of respect and inappropriate comments and language to Council Officers". This refers to alleged behaviour rather than a specific provision of the Code. It is for the investigating officer to determine what areas of the Code might be relevant to the conduct referred for investigation.

Julie Beilby

- 4.24 Mr Dolton conducted an interview with Julie Beilby, which resulted in the signed statement attached at JTG 3.
- 4.25 Ms Beilby is the Chief Executive and Head of Paid Service of the Borough Council, a position she had held since February 2103. Prior to that she was Central Services Director from January 2009 and had been employed by the Council since 1984.
- 4.26 She first became aware of Isles Quarry in 2010 through local Members and Councillor Taylor in his capacity as a Parish Councillor. Through meetings, discussions and emails she had seen a continuous theme to the position adopted by Councillor Taylor in relation to the development of Isles Quarry.
- 4.27 It was clear that Councillor Taylor held a personal belief that there were flaws in the process leading to the allocation of Isles Quarry. Councillor Taylor had repeatedly articulated his belief that there had been lies and falsifying of documents. Ms Beilby stated these allegations had been investigated through a range of processes including the Borough Council's complaints procedure, the Planning Inspectorate and Kent Police. None of these complaints had been upheld.
- 4.28 She had no doubt that Councillor Taylor believed the allegations he had made and that he was entitled to challenge, question, debate and criticise and to express these views within the code of conduct. That is with respect to individual officers and the organisation's reputation.
- 4.29 Ms Beilby stated that Officers had consistently treated Councillor Taylor's requests for information in a polite and respectful manner and in a timely fashion.
- 4.30 She believed Councillor Taylor had shown commitment to his residents by asking challenging questions. She also believed that Councillor Taylor had shown disrespect to individual officers that was neither acceptable nor justified. She provided examples in respect of three individuals. These examples included inappropriate language and unproven allegations distributed to a wide audience through his own website and extensive distribution of emails from his personal email account expressing his own views but 'badged' as Parish Council views.
- 4.31 First, on 14 June 2014 Councillor Taylor sent an email to all members of the Borough Council with the subject matter "Adrian Stanfield" (enclosed at JTG 10 **email 6** in the email schedule). Mr Stanfield is the Director of Central Services and Monitoring Officer, he is the most senior qualified Solicitor employed by the Council. In the email Councillor Taylor made a clear accusation that Mr Stanfield had deliberately set out to mislead Members. Ms Beilby stated that she knew Mr Stanfield acted in a manner consistent with his professional role and ethics and in accordance with the Council's Code of Conduct for Officers. To suggest Senior Officers deliberately misled was reputationally damaging.

CONFIDENTIAL FINAL REPORT

- 4.32 In a further email sent on 18 June 2014, copied to all Members of the Council, (enclosed at JTG 10 **email 10** in the email schedule) Councillor Taylor questioned Mr Stanfield's role stating *"I cannot understand how you have countenanced and condoned withholding information."* Ms Beilby believed this to be a clear accusation that Mr Stanfield had condoned an unlawful act, this being potentially damaging to his reputation on a personal and professional level and also to the Borough Council.
- 4.33 Julie Beilby explained why she asked for Counsel's opinion. Councillor Taylor was making accusations about the way the Council had dealt with issues of contamination at Isles Quarry. These were clearly visible on the Borough Green News website and widely available to Members, other agencies, the press and public. She considered that whilst Councillor Taylor had his own beliefs it was right and proper that the Council took the reputational issues seriously and hence the balance and check of Counsel's Opinion to establish and provide confidence in the process and share that with others.
- 4.34 The second example of an Officer to receive an inappropriate email was Lindsay Pearson, the Council's Chief Planning Officer. On 20 May 2014 Councillor Taylor sent Mr Pearson an email which was also sent to Steve Humphrey and copied to others (enclosed at JTG 10 **email 2** in the email schedule)
- 4.35 In the email Councillor Taylor stated *"Hiding and withholding this information merely reinforces my case that something dodgy is happening, and that you are covering it up"*. Julie Beilby stated this was a clear accusation that Mr Pearson was withholding information, an accusation that was damaging to Lindsay Pearson and by implication to the Council.
- 4.36 Councillor Taylor sent a further email to Lindsay on 12 June 2014 (enclosed at JTG 10 **email 4** in the email schedule) this was copied to a wide audience including Parish Councillors, Crest and the Environment Agency. The email contained accusations in relation to Mr Pearson as an individual and to the Planning Department, in relation to Mr Pearson it stated:

"What angers me most is the Obstruction Report was wilfully omitted by you.."

and in relation to the Planning Department it stated:

"It is now perfectly clear that the Planning Department has waged a concerted campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information, the secrecy endemic is not acceptable "

- 4.37 Ms Beilby stated this was potentially damaging to the reputation of the Planning Department and thus by implication to the Council.
- 4.38 The third example of an Officer to be subject to comment by Councillor Taylor was Steve Humphrey, the Director of Housing, Planning and Environmental Health. In an extract from the Borough Green News website (attached at JTG 4) Councillor Taylor wrote;

"My personal belief is that the contamination has been buried on site, and I do not know if that can be deemed as safe – we have been assured repeatedly over many years by TMBC that contamination will

CONFIDENTIAL FINAL REPORT

be dealt with appropriately, and despite all our efforts they have failed us. I hold Steve Humphrey and Lindsay Pearson directly responsible for this almost criminal behaviour, and will seek to have action taken against them and Crest Nicholson unless matters are addressed forthwith”.

- 4.39 Ms Beilby stated there was potential reputational damage to individuals in making such statements, albeit that “almost criminal behaviour” had little meaning, it did portray inappropriate behaviour by two senior officers of the Council, and was therefore by implication damaging to the reputation of the Council.
- 4.40 Ms Beilby was concerned about the damage to the reputation of the Council and some Senior Officers and to the demoralising effect such comments were having on the Planning Service. The widespread dissemination of the unproven allegations to Members of the Parish and Borough Council, the residents via the website and other agencies via email was of reputational concern to her as Chief Executive of the Council.
- 4.41 She stated the Council had a history of open communication with Members so, with Mr Stanfield as Monitoring Officer, they decided to invite Councillor Taylor to an informal meeting to discuss his language and behaviour. The minutes of the meeting recorded a number of concerns which Councillor Taylor did not agree. Councillor Taylor justified his behaviour, referring to his long held views of the Parish Plan process and adoption of the core strategy.
- 4.42 Ms Beilby pointed out that the Council was generally held in high regard exemplified by a track record of high performance under the Comprehensive Performance Assessment inspections and more recently the low record of complaints referred to the Local Government Ombudsman. A Peer Review report completed in early 2014 commented on the positive relationships.
- 4.43 Ms Beilby concluded by stating that in her opinion Councillor Taylor had taken actions that were potentially damaging to the Council and individual officers without any proven justification.

Adrian Stanfield

- 4.44 Mr Dolton conducted an interview with Adrian Stanfield, which resulted in the signed statement attached at JTG 5.
- 4.45 Mr Stanfield was the Director of Central Services and Monitoring Officer of the Council, a position he had held since February 2013. Prior to that he was the Chief Solicitor and Monitoring Officer from May 2011. Mr Stanfield was a qualified Solicitor and had been employed in local government legal practice since October 1996 and had worked at 5 different local authorities.
- 4.46 Mr Stanfield stated that the matters in his statement were true to the best of his knowledge and belief and were derived from his own knowledge and from the inspection of emails and files held by the Council.
- 4.47 He confirmed that Councillor Taylor was elected as an Independent Member to the Council in January 2104 as one of three members for the Borough Green and Longmill Ward. Councillor Taylor was also the Chairman of Borough Green Parish Council.

CONFIDENTIAL FINAL REPORT

- 4.48 Mr Stanfield recorded that Councillor Taylor ran a local news website under the name of 'Borough Green News'
- 4.49 He explained that within the Council's area and in the Borough Green and Longmill Ward was land at Isles Quarry West referred to as "Isles Quarry". He had been aware of Isles Quarry since 2010, since when he had been in correspondence with Councillor Taylor on numerous occasions. Throughout his dealings with Councillor Taylor the overwhelming majority of communication had concerned Isles Quarry.
- 4.50 Mr Stanfield set out a brief history of Isles Quarry since it was identified as a strategic site for housing in September 2007 and was included in the Development Land Allocation DPD adopted in April 2008. The Core Strategy had been subject to a Public Examination in 2007 at which Councillor Taylor appeared as a witness opposing development at Isles Quarry. The Inspector concluded that the Core Strategy was sound.
- 4.51 Mr Stanfield explained that for a number of years Councillor Taylor believed that the Core Strategy and the allocation of Isles Quarry for development was flawed. Councillor Taylor had pursued complaints about the process saying the Council had been untruthful about events that unfolded at the Examination in Public. These complaints had been pursued through various channels including the Council, the Local Government Ombudsman, the Planning Inspectorate and Kent Police. Mr Stanfield was not aware of any of these bodies upholding Councillor Taylor's complaints.
- 4.52 Mr Stanfield stated that in June 2011 he and Steve Humphrey prepared a briefing note for Members on Isles Quarry, the Borough Green Parish Plan and their relationship with the Local Development Framework. This note included a chronology of the Isles Quarry designation and Councillor Taylor's complaints (attached at JTG 6).
- 4.53 In June 2013 planning permission was granted by the Council for the erection of 177 dwellings, the creation of 6.82 hectares of public open space, a new vehicular access and access roads, footpaths, landscaping and associated infrastructure at Isles Quarry. On 14 November 2014 Councillor Taylor emailed Mr Humphrey, Mr Pearson and Mr Stanfield to raise concerns that development had commenced without the discharge of various conditions relating to ground water and contamination. Since then Councillor Taylor had made numerous complaints about compliance by the developer and the Council's role in monitoring and enforcing the conditions. Councillor Taylor had also made a number of complaints about the supply of information to him in connection with the issue.
- 4.54 Mr Stanfield pointed out it was legitimate for a Member to raise concerns about the implementation of development within their ward. However, the tone of Councillor Taylor's correspondence became increasingly personal and accusatory and these personal accusations were circulated to a wide audience including other Members of the Council, Borough Green Parish Councillors, and third parties such as Crest and the Environment Agency. Mr Stanfield believed there was a clear distinction between legitimate issues for consideration and the manner and tone in which it is pursued. From his discussions with Councillor Taylor it was apparent Councillor Taylor saw no such distinction.

CONFIDENTIAL FINAL REPORT

4.55 During May and June 2014, Mr Stanfield was copied into numerous email exchanges with Councillor Taylor relating to Isles Quarry from which it was clear to him the personal attacks by Councillor Taylor were becoming increasingly frequent. A number of examples were referred to:

- (a) Email dated 20 May 2014 (enclosed at JTG 10, **email 2** in the email schedule)

Councillor Taylor directed various allegations at the Planning Department and Lindsay Pearson. The email was copied to a large number of recipients including all Members of Borough Green Parish Council.

In the final paragraph Councillor Taylor stated:

"I realise Planners still don't really understand the concept of transparency, but surely you can see that the longer you withhold information, the less credibility it has. Whilst contemporaneous notes can still be 'fudged', they have a truth they don't have weeks later when eventually dragged into the light. This whole fiasco could have been averted had planners simply kept us up to date, as is our right. I am sure Martin is duly angry at yet another expensive FOI, but I have been forced to use them as a last resort to obtain withheld information. Hiding and with-holding this information merely reinforces my case that something dodgy is happening, and that you are covering it up."

- (b) Email dated 30 May 2014 (enclosed at JTG 10 **email 3** in the email schedule)

Councillor Taylor accused the Council Leader, Chief Planning Officer, Director of Planning, Housing and Environmental Health, Chief Executive and Mr Stanfield of *"breaking the law"*. The email was copied to a large number of recipients including Jennifer Wilson of the Environment Agency.

Later in the email Councillor Taylor stated:

"I am fairly secure, the websites are hosted overseas so cannot be reached by the British Courts, your Standards System does not have sanctions available, legal action against me would be welcome, but fruitless – I have no assets; and a cyber attack against the sites would definitely result in a media storm"

- (c) Email dated 12 June 2014 (enclosed at JTG 10 **email 4** in the email schedule)

Councillor Taylor made allegations about the conduct of Lindsay Pearson and the Planning Department. The email was copied to a large number of recipients including Members of Borough Green Parish Council, Russell Dawkins of Crest and Jennifer Wilson of the Environment Agency. In the email Councillor Taylor made the following allegations:

"What angers me most is that the Obstruction Report was wilfully omitted from the FOI documents, by you."

"It is now perfectly clear that the Planning Department has waged a concerted campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information"

CONFIDENTIAL FINAL REPORT

“The secrecy endemic in your department is not acceptable in this day and age”

- 4.56 On 13 June 2014 Mr Stanfield wrote to Councillor Taylor, his fellow ward colleagues, the Clerk to Borough Green Parish Council and others to set out a summary of Counsel’s advice which had been sought in view of allegations made by Councillor Taylor. Councillor Taylor immediately responded to that email with an email (enclosed at JTG 10 **email 5** in the email schedule), which was copied to all Members of Borough Green Paris Council, that commenced:

“My first response to your email began with b, and ended cks.”

And concluded:

“Time and again we have demonstrated clear evidence of ‘irregularities’ your stock response is ‘we don’t see it that way’, ‘not our responsibility’, you are misinformed’. I do accept that final failing, we are misinformed – by you..”

- 4.57 The previous email was followed the next day by an email from Councillor Taylor (enclosed at JTG 10 **email 6** in the email schedule), copied to all Members of the Council. The message was headed ‘Adrian Stanfield’ and stated:

“further to my email yesterday, I could not resist the opportunity to analyse Adrian’s email/ Counsel’s opinion in much greater detail, but I am afraid it is intended to mislead rather than inform.”

Mr Stanfield found this unacceptable as it inferred he was attempting to mislead Members of the Council.

- 4.58 Mr Stanfield stated that Councillor Taylor had also posted his thoughts on Counsel’s opinion on the Borough Green News website, in addition to publishing Mr Stanfield’s email the following statement was posted:

“UPDATE: in a most interesting development, I received this letter from DCLG, Eric Pickles office, that seems to support our view that T&MBC should be doing more to keep us informed about IQW. Completely unconnected, of course, I then receive this email from T&M’s Solicitor, Adrian Stanfield, he seems worried that he has taken Counsel’s advice to try and prove T&M are obeying the rules. Ever suspicious, I asked to see what question Adrian asked to get such a biased answer...Watch this space!!! (Adrian Stanfield’s email without highlighting). Adrian has wasted £1625 of OUR money obtaining a flawed opinion, because he biased the question!!!”

- 4.59 Mr Stanfield stated he then received an email from Councillor Taylor on 18 June 2014 (enclosed at JTG 10 **email 10** in the email schedule) which was copied to all Members of Borough Green Parish Council. In the email Councillor Taylor suggested that the instructions to Counsel were biased and the opinion that resulted was ‘manipulated’. Mr Stanfield found one paragraph of the email particularly offensive as Councillor Taylor sought to impugn his integrity by accusing him directly of condoning an alleged unlawful act. The paragraph stated:

CONFIDENTIAL FINAL REPORT

"I must also question your role in this affair, Adrian as someone whose duty is to advise the Council how to comply with the Law and the Council's own rules, I cannot understand how you have countenanced and condoned the withholding of information. Before you say that priorities and work load prevented 'immediate responses', Lindsay and Steve could have used the many pages lecturing me on why I was wrong, simply to click 'forward' and release the information"

- 4.60 Mr Stanfield stated that in the event he had already composed an email to Councillor Taylor to express concern about Councillor Taylor's continued accusations against officers. On the same day, 18 June 2014, Mr Stanfield, in his capacity as Monitoring Officer and the officer with responsibility for Information Rights, emailed Councillor Taylor (enclosed at JTG 10 **email 8** in the email schedule) setting out his concerns, as the statutory officer responsible for ethical standards, regarding Councillor Taylor's unfounded personal attacks on officers. He invited Councillor Taylor to meet with him and the Chief Executive.
- 4.61 Mr Stanfield considered the request for a meeting with Councillor Taylor appropriate. He stated he could have pursued a formal complaint against Councillor Taylor under the Code of Conduct but did not consider that course of action would have been constructive. Mr Stanfield preferred to raise his concerns with Councillor Taylor as he would with any other councillor.
- 4.62 Mr Stanfield stated it was his experience that there was a positive relationship between members and officers at the Council. This relationship was underpinned by mutual trust, respect and courtesy with any differences of opinion between officer's professional advice and Members' opinion being resolved in an amicable and professional manner.
- 4.63 Mr Stanfield stated that Councillor Taylor agreed to meet with him and the Chief Executive although in doing so Councillor Taylor continued to make accusations against officers of the Council. In an email to Mr Stanfield dated 18 June 2014 Councillor Taylor stated (enclosed at JTG 10 **email 10** in the email schedule) *"I have clear evidence of lies involving many senior officers"*. The email was copied to all Members of the Council.
- 4.64 On 25 June 2104 Councillor Taylor emailed a Senior Planning Officer, Glenda Egerton, (enclosed at JTG 10 **email 12** in the email schedule) in reply to her email earlier the same day in which she indicated that a copy of the Obstruction Survey was to be put in the post. In his email Councillor Taylor stated:

*"Dear Glenda
Very much appreciate, but do not bother. I already have the emailed pdf, and had an A2 printed yesterday. Save the postage and put it towards Adrian's collection to pay back the £1625 he paid for the flawed Opinion.
Regards
Mike"*

- 4.65 Mr Stanfield, together with the Chief Executive, met with Councillor Taylor on 27 June 2014. Also present were Councillor Mrs Kemp, Chairman of Area 2 Planning Committee, Pat Darby, Chairman of Platt Parish Council and Janet Shenton, a Committee Administrator.

CONFIDENTIAL FINAL REPORT

- 4.66 Mr Stanfield stated that the 27 June meeting was not the only time he had met with Councillor Taylor since Councillor Taylor had been elected to the Council. An earlier meeting on 6 March 2014 had been to provide training for Councillor Taylor on predetermination and bias as Councillor Taylor had not been a Member when general training was provided. The Deputy Monitoring Officer was also present at this meeting. A further meeting was held on 9 May when Steve Humphrey was also present.
- 4.67 At this meeting Councillor Taylor presented Mr Humphrey with a copy of the 2014 Supplementary Parish Plan approved by Borough Green Parish Council. Councillor Taylor's concerns relating to compliance with conditions by Crest and legal advice taken by Borough Green Parish Council regarding the adoption of the Core Strategy were discussed. Mr Stanfield recalled that Councillor Taylor sought an apology from the Council for the irregularities he believed had occurred in the past. Mr Stanfield declined to give such apology. Mr Stanfield recalled saying to Councillor Taylor that he found his personal attacks on officers in his correspondence to be unacceptable, Councillor Taylor offered no apology in response.
- 4.68 Following the meeting of 9 May Mr Stanfield was copied into two items of correspondence from Councillor Taylor.
- 4.69 Mr Stanfield stated that on 30 June 2014 he observed a post on the Borough Green News website relating to the meeting with Councillor Taylor. Mr Stanfield found the post to be unacceptable in a number of respects. In the post an entire paragraph was devoted to assessing Mr Stanfield's competence as a Solicitor and accused him of using *'devious little tricks'* and concluded by saying *'in future I will not meet him without a witness present, I am too trusting by far!!'* Mr Stanfield regarded these comments as wholly unacceptable and offensive and a direct personal attack which impugned his integrity as a Solicitor of the Senior Courts.
- 4.70 Mr Stanfield stated that the post also included a 'report' of the meeting of 27 June which was not the agreed version of the minutes which later appeared on the website but rather Councillor Taylor's own account of the meeting. The link to the report was prefaced by the comment:

"I answered a summons to appear Friday before T&MBC's Chief Exec, Solicitor and Director of Planning. They thought it was for them to read me the riot act about my 'lack of respect' for Planning Officers. Yes THOSE Planning Officers, the ones who have been misleading and lying to us for the past 7 years"

- 4.71 The post was later amended to add the following to the end *"So sad Steve couldn't make the meeting!"* Mr Stanfield took this to be a sarcastic comment about Mr Humphrey not being present.
- 4.72 Mr Stanfield concluded by stating that in his view Councillor Taylor's conduct had fallen below that expected of someone holding public office. Councillor Taylor had made a number of unjustified and provocative personal attacks on officers, and in doing so had copied these to a wide audience including publication on a website. The publication of such attacks only compounded their provocative and offensive nature.

CONFIDENTIAL FINAL REPORT

Steve Humphrey

- 4.73 Mr Dolton conducted an interview with Steve Humphrey, which resulted in the signed statement attached at JTG 7.
- 4.74 Mr Humphrey is the Director of Planning, Housing and Environmental Health at the Council and had been a Director at the Council for 11 years. He is a member of the Corporate Management team with responsibility for a range of functions including the Council's town and country planning function. He is a Chartered Town Planner.
- 4.75 Mr Humphrey stated that in 2007 the site known as Isles Quarry West was identified for housing in the Council's Local Development Framework Core Strategy. The site was allocated to contribute towards meeting the housing need, including affordable homes, in the western part of the Borough. The site constituted previously developed land and was in accordance with the policy to make best use of 'brownfield' land.
- 4.76 In June 2011 a planning application for residential development on the site was submitted. Planning permission was granted in June 2013 subject to conditions covering many technical matters, one of these conditions required the submission and approval of a remediation strategy to deal with contaminated land. The condition used by the Council reflected previous 'model' conditions and followed convention and practice by planning authorities.
- 4.77 Mr Humphrey stated that as far as he was aware Councillor Taylor's involvement with Isles Quarry West stemmed from the mid 2000's as a Borough Green Parish Councillor during consideration of the site in the Local Development Framework process. He believed Councillor Taylor may have previously had personal association with the site over a much longer period. Councillor Taylor had expressed misgivings about how the site was referred to in the Borough Green Parish Plan and of irregularities he believed were in the final presentation of that Plan. Mr Humphrey understood Councillor Taylor felt that the LDF process and the Planning Inspector's decision was improperly influenced by that. His own view was that the Planning Inspector arrived at her judgement taking all planning matters into account and, whatever the circumstances with the Parish Plan, her decision was sound and properly made. There had been formal investigations into Councillor Taylor's concerns by various agencies all of which had concluded that no further action was warranted. As recently as September 2014 Councillor Taylor had sought an apology from the Council over the alleged irregularities in the process.
- 4.78 Mr Humphrey stated that more latterly Councillor Taylor had focussed his attention on various issues to do with the implementation of the development at Isles Quarry West with particular concern about land remediation. These matters were legitimate planning matters and, as far as Mr Humphrey was aware, were raised with good intentions. Mr Humphrey stated this aspect of Councillor Taylor's role as a Local Member providing his local observations had been helpful and constructive. However, on the issue of land remediation it seemed to Mr Humphrey that Councillor Taylor had not been able to accept the role of the Council as opposed to the responsibility of the developer, something Councillor Taylor had been advised on, on many occasions.

CONFIDENTIAL FINAL REPORT

- 4.79 Mr Humphrey explained that aspects of the planning system could be misunderstood. This could become very frustrating to those with strongly held views. Officers involved in the planning system came across this from time to time and were generally well practiced in dealing with the situation. Mr Humphrey said that this was his perspective of the situation here.
- 4.80 Mr Humphrey stated that as well as displaying frustrations Councillor Taylor's approach appeared to also be based on a belief that a number of Council Officers had conspired to mislead him or withhold information on the subject of remediation. This had led to accusations from Councillor Taylor in communications between him and officers which had been copied to others outside the Council. Mr Humphrey was concerned that the reputation of the Council and the planning service had been unjustly harmed.
- 4.81 Mr Humphrey stated that Council Officers had tried on many occasions to reassure Councillor Taylor on the approach to land remediation. This included taking advice of Counsel although this had not appeared to satisfy Councillor Taylor on the appropriateness of the Council's approach. Mr Humphrey said many meetings had taken place between Officers and Councillor Taylor where the issue was addressed. He referred to a meeting on 9 May which he recalled was to review progress and consider more constructive dialogue. This did not seem to move matters forward demonstrated by the content of an email from Councillor Taylor later that day (enclosed at JTG 10 **email 1** in the email schedule).
- 4.82 Mr Humphrey explained that the development at Isles Quarry West was well underway and that there was continuing dialogue with the developer about various matters including progress on land remediation. This had included a meeting between Council Officers, representatives from Crest Nicholson and Councillor Taylor where a number of initiatives were agreed to provide Councillor Taylor with assurances about progress. These included programmed visits to the site by Councillor Taylor designed to replace his unauthorised and unaccompanied visits. Crest also agreed to the appointment of an independent consultant in addition to their own professional advisors. These matters were not a requirement of the planning permission but were seen as helpful by the developer in order to demonstrate good practice.
- 4.83 Mr Humphrey explained he was making these points for two contextual reasons. First, to emphasise that significant attention had been given to the issues raised by Councillor Taylor and second, that there was some way to go on the development and the process of validation of the remediation strategy. Mr Humphrey said Officers from his department including Lindsay Pearson, Glenda Egerton and Kirstie Parr continued to liaise with the developer and the Environment Agency to ensure works progressed in accordance with the planning permission.
- 4.84 Mr Humphrey stated that the approach by Councillor Taylor had not been appropriate for an elected Member of the Council insofar as unfounded allegations had been made irrespective of the rational explanations provided.
- 4.85 Mr Humphrey acknowledged that the substantive matters raised by Councillor Taylor were legitimate and that he understood Councillor Taylor's desire to pursue them. Mr Humphrey recognised the frustrations of the planning system and that these could give rise to tension and disagreement.

CONFIDENTIAL FINAL REPORT

4.86 Where Mr Humphrey did take a more serious view was in the detail of particular contact Councillor Taylor had made. Mr Humphrey provided examples of emails from Councillor Taylor dated 12 June 2014 timed at 5.59 (enclosed at JTG 10 **email 4** in the email schedule) and 4 July 2014 timed at 4.20 (enclosed at JTG 10 **email 13** in the email schedule). He considered Councillor Taylor's comments, directed at Lindsay Pearson but copied to others to be beyond the limit which he would consider acceptable conduct between Members and Officers of the Council. Mr Humphrey considered this to be particularly so in the context of the general Member/Officer relationship at the Council that he had found to be excellent and respectful even on the infrequent occasions when differing views arose.

Lindsay Pearson

4.87 Mr Dolton conducted an interview with Lindsay Pearson, which resulted in the signed statement attached at JTG 8.

4.88 Mr Pearson stated he had been employed by the Council since 1989. He is currently the Chief Planning Officer, a position he had held since late 2009. Prior to that his role was as Chief Planner (Development Control).

4.89 Mr Pearson provided a summary of the history of a planning application at Isles Quarry in the parish of Borough Green explaining that the application was submitted in late 2011. The application was subject to extensive discussion, negotiation and amendment all carried out in the context of consultation and re-consultation with Borough Green Parish Council. During this process the Parish Council took a close interest in the project. Planning permission was granted in late 2013.

4.90 Mr Pearson explained that at the time of the consideration of the application Councillor Taylor was Chairman of the Parish Council but not a Member of the Borough Council.

4.91 Mr Pearson commented on his knowledge of Councillor Taylor's involvement on the project. He stated he was aware that Councillor Taylor had taken a close interest in the future of Isles Quarry West for many years. Mr Pearson explained that he was not responsible for the plan making function at the time the site was identified in the LDF Core Strategy. He was aware that Councillor Taylor, possibly initially as an individual prior to his membership of the Parish Council, sought to be engaged in the Local Development Framework process for allocating development sites. Mr Pearson believed Councillor Taylor gave evidence at one of the examination sessions.

4.92 Mr Pearson was aware that following the allocation of the site within the LDF Councillor Taylor pursued a number of avenues seeking to demonstrate that somehow the process leading to the adoption of the allocation had been inappropriate. Mr Pearson understood that no fault had been found by any organisation that was asked by Councillor Taylor to investigate his concerns.

4.93 Mr Pearson stated that judging by a recent meeting he attended with Councillor Taylor and others Councillor Taylor remained of the view that the investigations had not been comprehensive enough to have reached the right conclusion as he saw it. This position seemed to influence Councillor Taylor's wider attitude to the Council and especially the planning process.

CONFIDENTIAL FINAL REPORT

- 4.94 Mr Pearson stated that Councillor Taylor had quite appropriately taken a close interest in the development of Isles Quarry through the planning applications process and that Councillor Taylor was fully entitled to take the interest forward as part of the construction process. Mr Pearson explained that dealing with contaminated materials, which was subject to planning control by way of a typical planning condition, was an aim shared by Council Officers and Members alike and was the right thing to do.
- 4.95 Mr Pearson explained that there remained some difficulty as Councillor Taylor wished to see a different approach, a more continuously interventionist approach, than was envisaged in the planning process. Mr Pearson felt this was at the heart of the current tensions. He explained that in light of Councillor Taylor's concerns the Council took advice from legal Counsel who he understood advised that the Council's adopted approach was consistent with Government expectations. Mr Pearson believed that Councillor Taylor did not accept this advice and that Councillor Taylor believed in the application of processes not normally encountered as a matter of routine in the planning process.
- 4.96 Mr Pearson stated there was always the opportunity to debate the appropriateness of process but this must be done in the light of an accurate reading of Government guidance.
- 4.97 Mr Pearson explained that Councillor Taylor claimed an historic experience of the use of the site from when he was employed there and that Councillor Taylor had identified the informal deposit of waste and contamination from up to 40 years ago. A consequence of this is that Councillor Taylor had disputed almost all aspects of the technical documentation but not from a perspective of scientific or technical experience or training. Mr Pearson stated Councillor Taylor was within his rights to question things on a continual basis but explained it caused problems in that Councillor Taylor's obvious frustrations that Officers could not endorse his interpretation of the appropriate process or much of what he suggests in terms of actual contamination seemed to lead to some intemperate behaviour. Particularly in email exchanges and website postings which Mr Pearson stated he had chosen not to follow.
- 4.98 Mr Pearson stated that his face to face contact with Councillor Taylor in meetings, including those relating to Isles Quarry West, Planning Committees and Council Boards, had in his experience been reasonably civilised.
- 4.99 Mr Pearson stated that it was his view that it was not productive to generate a list of instances of what he felt might be less than appropriate wording of emails as he thought it commonplace for those disgruntled with matters, whether or not their concerns were justified, to express their views in quite intemperate terms. Mr Pearson stated often face to face discussion of the same matter would be more even-tempered.
- 4.100 Mr Pearson also pointed out that as a Town Planner with 40 years' experience, much of that at a senior level, he was used to attempting the reconciliation of incompatible views. Mr Pearson stated that in most planning cases there were those who considered themselves winners and those who felt like losers. He said losers seemed often to feel free to express their disappointment in no uncertain terms. Mr Pearson said that he supposed there were not many terms of abuse that had not been levelled at him at some time during his career. He said it went with the territory.

CONFIDENTIAL FINAL REPORT

- 4.101 What Mr Pearson was not used to was such attitudes being expressed by elected Council Members whether at this Council or any other authorities where he had worked and certainly not in writing or broadcast through the internet.
- 4.102 Mr Pearson drew attention to one email dated 12 June (enclosed at JTG 10 **email 4** in the email schedule) in which Councillor Taylor alleged that the officer corps, but possibly directed at Mr Pearson personally, had deliberately withheld a document that should have been released under a freedom of Information request. Mr Pearson found such a false allegation quite disturbing and offensive. Mr Pearson stated he could not begin to understand either how, or more importantly why, the Council or its Officers would wish to withhold information. Mr Pearson explained that the Council and Councillor Taylor have a shared interest in ensuring that the site was developed in a way that ensured that contamination was adequately dealt with but that they may have different perspectives as to what that concept implied.
- 4.103 Mr Pearson pointed out that the file of email and other documentation provided as evidence for the investigation indicated a clear tenor of correspondence from Councillor Taylor, predominately sarcastic and betraying a disbelief in any view on these matters, especially anything said by officers, other than that which coincided with the view that Councillor Taylor held.
- 4.104 Mr Pearson stated that he found this rather sad and disappointing rather than more offensive.
- 4.105 Mr Pearson stated that he did not think that Councillor Taylor had behaved as he would hope a Member would behave even if in a state of dispute with the Council and Officers. Mr Pearson said even if there is disagreement there is no place for sarcasm or misplaced allegations of misbehaviour.
- 4.106 Mr Pearson said that in his experience Member/Officer relationships at the Council were well balanced and strong. He explained that Members did not slavishly follow Officer advice or alternatively, that they actively and continuously sought to dispute such advice. Mr Pearson said there was mutual respect even when there was disagreement. Debate was conducted in a mature and adult fashion and Members recognised the professional background of the Officers. In Mr Pearson's experience there was a strength of agreement in the role of public service and this was reflected in Members' respect for senior and also more junior Officers. Mr Pearson stated that most of his planning staff would have contact with Members not infrequently.

Councillor Mike Taylor

- 4.107 Councillor Taylor was interviewed by Mr Dolton in person on 24 October 2014. The interview was voice recorded and a transcript prepared (enclosed at JTG 9). Councillor Taylor was given the opportunity to make comments on the transcript.
- 4.108 In the interview Councillor Taylor confirmed that he was a Member of Tonbridge and Malling Borough Council having been elected in January 2014 and Chairman of Borough Green Parish Council since 2011. He also confirmed that he understood the purpose of the interview.

CONFIDENTIAL FINAL REPORT

- 4.109 Councillor Taylor explained that some of the remarks he had made could be interpreted as a breach of the code. However, the context of the last seven years of Isles Quarry and his inter relationship with planning officers and Members of the Council meant that it was part of a process. He felt that his meeting with the Chief Executive and Borough Solicitor where these concerns were raised was an attempt to intimidate him and silence him. When the Chief Executive and Borough Solicitor failed to take the threatened standards action forward, as an honourable person, he referred himself for investigation. He considered if an allegation has been made it should be tested not swept under the carpet.
- 4.110 Councillor Taylor explained that until 1977 he worked for ARC and Stangate Quarry. He then became a tipper owner/driver working out of Stangate and Isles Quarry and other places explaining that he had an intimate knowledge of Isles Quarry and what was buried there.
- 4.111 In 2007 he became aware of advanced plans to include Isles Quarry in the Local Development Framework for the building of 200 plus houses. He attended a Local Development Framework enquiry in 2007 and sat in front of the inspector and across from the then Chief Planning Officer, Brian Gates.
- 4.112 He argued with Brian Gates at great length about contamination at Isles Quarry. Mr Gates made a statement saying that the people of Borough Green supported housing development at Isles Quarry. Brian Gates produced a copy of the Parish Plan which Councillor Taylor said he found out later included references to support for development at Isles Quarry. Councillor Taylor said he had had a significant role in the production of the Plan and knew that the only reference to Isles Quarry in the Plan was as a derelict quarry in need of restoration.
- 4.113 Councillor Taylor said he then found out Borough Councillor Sue Murray, who was also Chair of the Parish Council, had taken the publicly witnessed Plan and inserted ten action points. Councillor Taylor said he was subsequently told by the Police who investigated the matter that the ten action points were drawn up by a planner. They were in what would loosely be referred to as "planner speak". He suspected that a planner was involved with Councillor Murray in forging the Parish plan so he spent much time, through the Standards Board, the Ombudsman, the Planning Inspectorate and the Government Ombudsman, trying to get somebody to look at the process. He believed that the system was iron clad and that if somebody raised something that had gone wrong, the system would investigate. He said it (the system) had not, so we were left with 200 houses to be built at Isles Quarry.
- 4.114 Councillor Taylor said that in 2010 he lodged a complaint against the Council for their part in the matter. The complaint was heard by the now Chief Executive, Julie Beilby and the now Borough Solicitor Adrian Stanfield.
- 4.115 In the subsequent letter to him about the investigation, the then Chief Executive, David Hughes, cited Brian Gates as having said that the Parish Plan was not mentioned in front of the Inspector. Councillor Taylor then wrote complaining to every Member of the Council and every Senior Officer and Executive of the Council. A very honourable member of the Council anonymously sent him a copy of a briefing note sent by Steven Humphrey and Brian Gates to all Members of the Council wherein Brian Gates said Mike Taylor had ample opportunity to discuss the Parish Plan in front of the Inspector.

CONFIDENTIAL FINAL REPORT

- 4.116 Councillor Taylor said these two statements were contradictory so he had evidence that a Senior Officer of the Council lied. He said this set the stage for his belief about the behaviour of Officers. He said he didn't know if there was anything criminal behind what happened or whether it was just a question of colleagues covering up for what Brian Gates did wrong with Sue Murray.
- 4.117 He said he still did not know but he had found that since then information was withheld from him. He said that even though he was a Borough Councillor with access to all Council documents he had to resort to the Freedom of Information Act to achieve those documents and even then documents were withheld. He said there was clear evidence in all the paperwork that had been released over the last nine months of documents being withheld from him. He said they might be released after a month but the problem was they were dealing with a live construction site where every day they were moving forward so the delays meant that contamination was not being dealt with properly at Isles Quarry.
- 4.118 Councillor Taylor then moved to late 2013 when they were waiting for the planning condition on contamination to be issued. About 11, 12 or 13 November he was notified by residents that work had commenced at Isles Quarry before the planning permission had been issued. He went and checked and took photographs. There was major excavation underway and the buildings had been virtually demolished.
- 4.119 On contacting the Planning Department Councillor Taylor was told by Lindsay Pearson that it wasn't excavation, it was species related ecological investigation. He thought it was shortly after this that he made the b***cks comment. He said it was clearly untrue, you did not do ecological investigations with 20 ton diggers and 40 ton dump trucks and you did not dig massive holes.
- 4.120 On 21 December 2013 the Planning Officers issued planning permission by email under delegated powers so the contamination permission was never tested in a Planning Committee which is what Councillor Taylor had asked for. Councillor Taylor said that since then he had pressed and pressed and pressed to ensure that the site was developed safely. He acknowledged he had spent several years trying to stop the site happening in the first place but once the permission was issued in March 2013 the focus changed. As it was going to happen it was now to ensure that it was done safely and he said he did not have any faith in the Officers' ability to keep Crest on the straight and narrow.
- 4.121 Councillor Taylor stated that on 7 March 2014 an emergency item was raised at an Area Planning Committee meeting about the contamination remediation at Isles Quarry. Members were assured by Planning Officers that everything was under control, there was no danger to public safety, future residents, the environment and the water system; they had a full handle on contamination remediation.
- 4.122 He said that at about the same time he received a large bundle of emails under the Freedom of Information Act. These indicated that no Planning Officer had visited the site until 28 February 2014, bearing in mind work started in November 2013. Councillor Taylor said they had aerial photographs and the main contamination had been moved on 8 December 2013. The Scientific Officer for the Council responsible for contamination first visited the site on 28 February 2014 and had to ask for directions. Councillor Taylor said that clearly the Planning Officers were not exerting proper control over

CONFIDENTIAL FINAL REPORT

remediation on the site. He said that was vindicated by a recent email where the officers had finally capitulated and started asking to require Crest to remediate properly.

- 4.123 Councillor Taylor acknowledged that he was aware the current investigation was only looking into his conduct and admitted that he had gone as close to the line of breach of code as he could.
- 4.124 He said the only way he could get any response was to kick hard and keep kicking. He tried to be pleasant and build relationships and said if his relationship with Officers elsewhere at the Council and at Kent County Council were investigated it would be found that he was capable of building very strong friendly relationships for the benefit of his community. He stated he had been unable to develop that sort of relationship with Planning Officers because he believed they were hiding things from him and the only way was to kick and kick hard.
- 4.125 He went on to say he had a friendly relationship with Planning Officers on a face to face basis as he needed their help for the benefit of his community. He was not going to willingly breach the possibility of a good relationship but the Isles Quarry issue was so important to Borough Green as it was increasing the village by 10 percent and risking the water supply, the environment and the future residents' health.
- 4.126 Councillor Taylor acknowledged that there were emails to Officers that were robust but a lot of the time he was friendly to the Officers as he wanted a friendly relationship. He said he had found his dealings with the Planning Officers over many years to be friendly but if there were things that needed a more thorough response unless he was robust he got the fluffy planning speak answer. He was convinced that had he followed a course of action that an ordinary Councillor might take he would not have achieved what he had today.
- 4.127 In response to a question about an email dated 19 May 2014 from mike.truck to Steve Humphrey and Adrian Stanfield, Councillor Taylor acknowledged that he was the sender of the email. He also confirmed that it had been sent to quite a wide circulation including members of Borough Green Parish Council.
- 4.128 Councillor Taylor confirmed that in the email he referred to '*you lot in the developer's pocket*' by that he was meaning that Development Control implied ensuring the developer complies with the terms of planning conditions. If the developer was not complying and the Planning Department did not take them to task it indicated an unhealthy relationship between the planner and the developer. He explained that what he meant was that the planner was there to assist the developer and if the developer was crooked it followed that the planners were. He stated that he did not believe there were any financial implications in the relationship.
- 4.129 Councillor Taylor went on to explain that the public saw planners as ensuring development was carried out properly but the planners did not see it that way. The planners saw their role as persuading the developer to do things right and draw back from enforcement more than the public realised. He said development control was not a very good term; perhaps it should be development persuasion.

CONFIDENTIAL FINAL REPORT

- 4.130 Councillor Taylor stated he could not know how others would view his comment that the planners were in the developer's pocket and said if they needed clarification they could ask him. He said his comment made the statement even more robust than he actually intended and in a sense that was to the good. Councillor Taylor acknowledged that it was feasible that copying the message to Members of the Parish Council could be viewed as him questioning the integrity of Senior Officers and therefore questioning the repute of the authority. He confirmed he was questioning the integrity of the Officers.
- 4.131 Councillor Taylor also confirmed that an email dated 20 May 2014 was sent by him to Lindsay Pearson and Steve Humphrey and copied to Members of the Parish Council (enclosed at JTG 10 **email 2** in the email schedule). In the email he stated he had been forced to use a Freedom of Information request and stated *"hiding and withholding information merely reinforces my case that something dodgy is happening"*. He explained that he had asked for every possible mortal item of information and that Lindsay Pearson had released a big block of emails in response. In one of the emails released there was an attachment called 002 obstruction report. This was a report given to the Planning Department by Crest Nicholson itemising all the material removed from the site during the first few days. He asked why he had not received the attachment as it was clearly part of the Freedom of Information request as it was attached to the email. As it was not released to him Councillor Taylor stated that it means they were hiding it from him; that was withholding.
- 4.132 Councillor Taylor considered his comments appropriate as he had asked for the information and it had been deliberately withheld. He said he was at the end of his tether and he used words that were on the line.
- 4.133 The next email was dated 30 May 2014 sent by Councillor Taylor to the Leader of the Council and the Chief Executive and copied to Senior Officers and Jennifer Wilson of the Environment Agency (enclosed at JTG 10 **email 3** in the email schedule) Councillor Taylor confirmed that the message was addressed *"Dear all"* and in the email he stated *"So you are breaking the law"*. By this he was referring to the Freedom of Information Act and that not all of the documents requested had been sent to him. The Act was the law therefore he considered the comment entirely appropriate.
- 4.134 Councillor Taylor confirmed that a further email was addressed personally to Lindsay Pearson and was copied to others including the Parish Council. He also confirmed that in the email he stated *"the obstruction report was wilfully omitted from the FOI documents by you"* and that this was a direct reference to Lindsay Pearson. He accepted that it might have been a lowly clerk in the Planning Department who actually printed the emails, punched holes in them, put the tag through them and put them in an envelope but they were sent on behalf of Lindsay Pearson and it was he who wrote the email saying they had been posted.
- 4.135 Councillor Taylor accepted that in the email he also stated *"it is now perfectly clear that the planning department has ways to concert and campaign missing information, lies and deception, and deliberately withheld information"*. He acknowledged that he was saying the Planning Department and the Council partakes in lies and deception and that this could be seen as an attack on the repute and integrity of that department.

CONFIDENTIAL FINAL REPORT

- 4.136 Councillor Taylor considered his comments appropriate as information was deliberately withheld from him. The Officers had lied whoever formulated the lie. He considered it appropriate to copy the email outside the Council because people have a right to know what is being done on their behalf. The Council was elected by the people and Council Officers were employed to serve the people of the Borough. *"They are employed by us to do what we want them to do."*
- 4.137 Councillor Taylor confirmed that an email dated 13 June 2014 was sent by him to Adrian Stanfield (enclosed at JTG 10 **email 5** in the email schedule). In the email he began by stating *"my first response to your email began with b and ended with cks"*. He explained that he considered the comment appropriate as if somebody sent him an email which was bollocks he would call it bollocks but that it was done politely.
- 4.138 Councillor Taylor further explained that his response was to an email from Adrian Stanfield which had selectively quoted Counsel's opinion. He stated he had used the word selectively as the Counsel's Opinion reinforced his opinion that the Council had a responsibility to monitor remediation at Isles Quarry.
- 4.139 Councillor Taylor stated Adrian Stanfield deliberately submitted a question to Counsel to lead Counsel's answer by inferring that he wanted continuous monitoring. Counsel responded saying continuous monitoring was not appropriate which Councillor Taylor said he agreed with. What Councillor Taylor was asking for was occasional monitoring so he stated that the way Mr Stanfield had phrased the question to Counsel and the way he had interpreted Counsel's opinion back to Members was *"bollocks"*.
- 4.140 Also in the same email Councillor Taylor confirmed that the comment *"we are misinformed by you"* was directed to Adrian Stanfield. He considered this an appropriate comment to make in an open email as he believed in transparency. By explanation Councillor Taylor stated that if he had done something wrong he was quite happy for it to be widely circulated pointing out that every member of the Council and the Parish Council knew of the standards complaint against him. He said he thought he had even spoken to the press about the complaint.
- 4.141 Councillor Taylor confirmed that an email dated 14 June 2014 was sent by him to all Members of the Council (enclosed at JTG 10 **email 6** in the email schedule), the subject of the email was headed *"Adrian Stanfield"*. Councillor Taylor stated that the purpose of the email was to inform all the Council Members what Officers are doing on their behalf hence the comment *"but I'm afraid it is intended to mislead"*. Councillor Taylor acknowledged the comments directly challenged the integrity of the Senior Solicitor and that in turn would have an effect on the repute of the Council. Councillor Taylor went on to explain that it was not his email that brought the Council into disrepute; it was the actions of the Chief Solicitor that had done that.
- 4.142 Councillor Taylor confirmed that two emails dated 18 June 2014 were sent by him, the first headed *"Counsel's Opinion release of documents"* (enclosed at JTG 10 **email 7** in the email schedule) which was personally addressed to Adrian Stanfield and copied to others including the Parish Council Members. In the email Councillor Taylor stated *"I must also question your role in this affair Adrian as someone whose duty is to advise the Council how to comply with both the law and the Council's laws"*.

CONFIDENTIAL FINAL REPORT

- 4.143 Councillor Taylor confirmed this was a direct challenge of Adrian Stanfield's integrity as he believed Adrian was at fault. Councillor Taylor believed it was correct to challenge Adrian Stanfield in a widely circulated email as he believed in transparency and the recipients had a right to know what was being discussed. As Council Members, Parish Councillors and members of the public they had a right to know that he believed that the evidence showed that Adrian Stanfield had not carried out his job properly.
- 4.144 In a second email to Adrian Stanfield on 18 June which was also copied to others Councillor Taylor stated "*I have clear evidence of lies involving many senior officers*". Councillor Taylor said it was appropriate to put that in an email as letters in 2010 and a subsequent briefing were directly contradictory so there was a lie. He stated other Senior Officers had condoned that lie and there was an email trail that indicated the Senior Officers involved in the lie. He stated the short statement could be an over clarification, an over simplification.
- 4.145 Councillor Taylor confirmed that he sent an email to Glenda Egerton on 25 June 2014 (enclosed at JTG 10 **email 12** in the email schedule). In the email he made a humorous dig at Adrian Stanfield in a comment about the cost of the Counsel's Opinion. The comment was in response to an offer to send Councillor Taylor some documents he said "*save the postage and put it towards Adrian's collection to pay back the £1,625 he paid for the flawed opinion*". Councillor Taylor said this was not an insult towards Glenda Egerton but a colleague based humorous comment.
- 4.146 Councillor Taylor confirmed that he attended a meeting on 27 June 2014 at which Adrian Stanfield, Julie Beilby, Councillor Mrs Kemp and Councillor Darby were also present. Councillor Taylor believed the purpose of the meeting was to try to intimidate him into silence. He said he tried to steer the meeting towards the behaviour of the Council with regard to Isles Quarry and why that had generated the things Adrian Stanfield was concerned about. Councillor Taylor confirmed that the minutes of that meeting were an accurate record and could be attached to this report as evidence (attached at JTG 11).
- 4.147 Councillor Taylor explained that he thought there was a very good relationship between Officers and Members at the Council and pointed out that he had stated at the meeting on 27 June that he thought "*Tonbridge and Malling are a bloody good Council except for this one flaw*". He said that he hoped there was a good relationship between him and Officers and other Members on anything apart from Isles Quarry.
- 4.148 Councillor Taylor confirmed that the website 'Borough Green News' was his own personal website. It was paid for by him and was hosted in America so the Council could not do anything about it. He confirmed that he was the only one who could post items on to the website but there was a guest book for others to leave comments.
- 4.149 Councillor Taylor confirmed that he published an email dated 13 June on the website and in that email he stated "*A Stanfield is the Council's solicitor and he has wasted money obtaining a flawed opinion because he biased the question*". He explained that whilst the website was accessible worldwide only the people of Borough Green read it. He considered it appropriate to post the email on the website as it did not contain anything he had not said directly to Adrian Stanfield. He also believed that the waste of public money was a matter that the public should know about. A print out from the website is attached at JTG 12.

CONFIDENTIAL FINAL REPORT

- 4.150 Councillor Taylor also confirmed that he posted on the website a reference to the meeting held on 27 June and that in the post he referred to Mr Stanfield using his little devious tricks and that in future he would not meet him without a witness being present. Councillor Taylor considered these comments appropriate on that forum as the public had a need to know how the Members they elect and the Officers they employ are behaving and if that behaviour is wrong, people need to know. Councillor Taylor also confirmed that the same post referred to Planning Officers saying *“the ones who have been misleading us for the past seven years”*. A print out from the website is attached at JTG 12.
- 4.151 Councillor Taylor explained that the purpose of the website was to inform the public if employees or elected members are guilty. He said he was also aware that Officers and Members read the website so it gives them a second prick at their conscience.
- 4.152 Councillor Taylor considered that having gone through all the emails and other documents he had not been as bad as he first thought. He went on to state that he was angry at the time and there was nothing there that he would not say again today.
- 4.153 Councillor Taylor confirmed that he was aware of the Code of Conduct and the particular sections relevant to the allegations made. He believed that he had maintained a high standard of conduct and had acted with integrity. He did not consider he had bullied any Officer particularly as he believed he had no authority over the Officers. He believed they had authority over him referring to the increase in the size of the village where he lived. Councillor Taylor believed it was the Officers who had brought the Council into disrepute.

CONFIDENTIAL FINAL REPORT

5. Summary of the material facts

- 5.1 Councillor Mike Taylor is an elected Member of Tonbridge and Malling Borough Council.
- 5.2 The Borough Council has adopted a Code of Conduct that includes provisions for its Members to act in accordance with the Nolan Principles. Of particular reference in this case is a requirement to show leadership. The code also states that Members should not bully any individual and should not act in a manner that might bring the Member's Office or the authority into disrepute.
- 5.3 Councillor Taylor represents the Borough Green and Long Mill Ward on the Council. Within the ward lies an area known as Isles Quarry West. Planning permission has been granted for housing development at Isles Quarry West.
- 5.4 Councillor Taylor has a long standing association with Isles Quarry having worked as a haulage contractor operating out of the quarry and also by virtue of his residence in the area. Councillor Taylor has taken a close interest in the site since the commencement of consideration of the area as a potential development site.
- 5.5 For some time Councillor Taylor has been of the opinion that the designation of the site for development was not properly considered. He has made a number of complaints about the process and other matters relating to the development of the site.
- 5.6 After Councillor Taylor's election to the Borough Council in January 2014 he took up his concerns over the development in his capacity as the ward Councillor for the area. This involved numerous emails between him and various Officers of the Council.
- 5.7 During May and June 2014 some of the emails sent by Councillor Taylor to Officers and Members of the Council, which were also copied widely outside of the Borough Council, caused concern to the Officers.
- 5.8 These emails included references to Council Officers:-
- being in the developers pocket;
 - lying and misleading Members;
 - wasting public funds; and
 - not carrying out their duties properly.
- Some of the above allegations were also posted on an open website.
- 5.9 Councillor Taylor was invited to a meeting with Senior Officers of the Council the purpose of which was to discuss his behaviour. At the meeting Councillor Taylor continued to pursue his complaints regarding Isles Quarry West. Following the meeting Councillor Taylor referred himself for investigation in relation to the issues raised regarding his behaviour.

CONFIDENTIAL FINAL REPORT

6. Councillor Taylor's additional submissions

6.1 The following comments were received from Councillor Taylor on the draft version of this report:-

(a) In an email from Councillor dated 13 March 2015 he said:-

"I absolutely refuse to accept your conclusions.

1. In your para 1.7 [1.6 in this final version of the report], I accept it could be said that I should not have publicised the irregularities discovered. However, it is the actions of Councillors and Officers that have brought the Council into disrepute, not me, I have merely reported the facts, facts based on clear and incontrovertible evidence.

2. Para 1.8 I simply cannot bully someone who is in a position of absolute power over me and my community - bullying is an abuse of power, and I have none.

OED - Bully - person using strength or power to coerce others by fear, to persecute or oppress by force

3. Para 4.2 [4.38 in this final version of the report] highlighted passage - at the time of the interview it may well have been just my belief, but as a subsequent later Urgent Item at an Area 2 Planning Committee will confirm, Crest were guilty of inappropriately burying contamination, and subsequent alterations to the remediation program are only now being completed.

I am sure the process will continue if expedient to TMBC, but I am very sad that after such a detailed "independent" investigation you have failed both me and the people of Borough Green. I appreciate that I am wasting my time bothering with any more detailed response to your report."

(b) In an email from Councillor Taylor dated 14 March 2015 he said:-

"Whilst I realise that your mind is made up, I am nothing if not tenacious, some might say obstinate, but there are real wrongs that need to be righted, and I had hoped that the intervention of an independent mind would bring that clear focus. I am undoubtedly wasting my time itemising the failures in your report, but here are my more considered thoughts. I accept the whole Isles Quarry fiasco is incredibly complicated, which has made it so much easier for TMBC Officers to mislead their members. TMBC members, apart from party loyalty, simply have enough problems in their own patch to give Borough Green the detailed work needed to understand what has been done to us, so they believe the officers.

1.2 add "since 2007" between "matter" and " Isles Quarry".

1.6 It is not me that has brought the Authority into disrepute, it is their own actions.

1.8 comment already made, but I repeat the point - to bully someone, you have to be in a position of power over them - these people hold

CONFIDENTIAL FINAL REPORT

absolute power over me and my community, and if Isles Quarry goes wrong, that includes the power of life and death. Not one word I have ever said has been used to challenge the behaviour of these officers, so I find your suggestion of bullying absolutely laughable.

4.9 I would like it highlighted that I too treated Martin [Dolton] with respect. Indeed I would go so far as to say I genuinely liked him. However, it appears I was mistaken, so I won't be meeting him for the beer he offered.

4.14 FOI information released, together with authenticated photos, and subsequent actions by Planning Officers in Oct 14 vindicate my concerns about contamination, as confirmed in para 4.79 by Steve Humphrey. However, by the time I finally forced them to agree, nearly a year had passed before they took any action.

4.27 Adrian Stanfield's request for Counsel's Opinion was framed in such a way as to obtain a biased answer in favour of TMBC's position. However, it failed, because Counsel reinforced my statement that TMBC do have a responsibility to monitor a site, particularly one as contaminated as IQW. Counsel said the "developer is principally responsible", note he does not say "Solely" - there is an onus on TMBC which they absolutely failed - clear dereliction of duty.

4.28 4.29 From commencement of works Nov 2013 until FOI release in March, FOI shows not one officer visited the site to monitor contamination remediation, despite repeated correspondence, and despite repeated assurance that everything was in hand. The obstruction report referred to was an attachment to an email in the FOI, and under the terms of the FOI should have been released. It took more correspondence and discussion before it was reluctantly released. Not releasing information that is due is withholding information.

4.46 Mr Stanfield fails to note that the briefing note and Chronology released by Steve Humphrey, Brian Gates and himself, directly contradicts the final report by David Hughes into an "investigation" into my 2010 complaint carried out by Adrian Stanfield and Julie Beilby. The briefing was copied to all mentioned in this paragraph and others, and one side of that contradiction, or the other, must therefore be a lie. simple. As time has gone by, their joint complicity in that lie means they are also guilty of the subsequent cover up.

4.63 Adrian Stanfield has made statements to me twice in meetings with only another officer present. He now denies statements made on both occasions. I cannot prove what he said because I have no witness and no contemporaneous record, but I personally know he lied. which is why I will not now meet with him, or any other officer, without a witness present.

4.64 There is enough evidence available, including those officer's own testimony, that clearly shows they have misled me, the public and the Council repeatedly over many years, and still are.

CONFIDENTIAL FINAL REPORT

4.70 TMBC failed to follow Planning Guidance that quite clearly recommends that on a site of known contamination such as IQW (not my evidence, but their own reports), that the contamination remediation should be carried out and validated before any permission is granted for development.

4.71 Mr Humphrey mentions the BG Parish Plan, but neglects to mention that this was altered after public consultation, from a consensus against further development in BG, to outright support for development recommending Isles Quarry. This "forgery" was carried out by Cllr Mrs Sue Murray, TMBC ward member for BG & Longmill, and was subsequently used by Brian Gates to prove to the Inspector that there was public support in BG. The initial Police investigation reported that the "Action Points" inserted into the Plan were written by a planner, not a member of the public.

4.89 I have never advocated a "continuous intervention" as suggested by Lindsay Pearson. I did expect occasional monitoring of the remediation process by Planning Officers, but the FOI from them, and an email from LP, clearly shows that no officer visited the site between Nov 2013 and March 2014 whilst the main contamination earthworks were carried out. And throughout that time those officers repeatedly assured all parties that everything was in hand.

4.91 Lindsay Pearson is miss-stating the facts here, I would call it lying. I have always accepted the technical contamination surveys by Hyder and URS Scott Wilson as accurate and factual, indeed I have commented that they show the situation to be more contaminated than I had thought. My dispute with the planners is that Crest/Adbly completely ignored the recommendations of the URS Scott Wilson Remediation strategy, and in the first weeks of the process removed large quantities of contaminated material from Area 1 without sampling, buried it in Area 3&4, a fact subsequently accepted by Officers in October, resulting in a requirement for Crest to carry out further ground investigations, the results of which have just been released. You may see that as an acceptable process, I see it as gross dereliction of duty by planners, risking public health, and yet they are still denying their guilt.

4.96 The first FOI released a tranche of emails in early March, but did not include an attachment to one email. Under the detailed terms of the FOI that report should have been released. After much heated correspondence that Obstruction Report was released a few weeks later. It should have been released with the emails, or at best when I noted it was missing. To my mind not releasing selected pieces of available information is with-holding, and they are clearly guilty of illegally withholding information. The fact that I have not bothered to lodge an ICO complaint does not absolve them of guilt for their actions which were incontrovertibly criminal.

4.103 What I agreed in discussion with Martin was that I accept that my comments might be taken as breach of the Code in isolation by some, when set against the backdrop of the lies and misinformation carried out by Officers in general, the use of those comments was more than justified, indeed necessary. I would even make the case that if I had not used that approach, I would not have eventually got the action by officers against Crest in October.

CONFIDENTIAL FINAL REPORT

Several of your witnesses have observed that my complaints have been investigated on many occasions, and rejected. That is simply untrue:

1. SBE [The former Standards Board for England] declined to take individual action against Parish Councillors unless I could name each individual.

2. SBE declined to take action against the PC as a body, as it is outside its remit.

3. LGO [Local Government Ombudsman] declined to take action because it was individuals, not the PC as a body, and therefore outside its remit.

4. Police investigation was halted after the original officer was moved to another task, and I understand Inspector Jon Kirby then phoned each party and asked them if they had done anything wrong, and stopped the investigation. He stated he could find no evidence of inappropriate financial action, he was actually supposed to be looking for false documents and malfeasance.

5. Planning Inspector advised me that she could only look at evidence that was presented within a 6 week period before examination, and was not allowed to use information that was presented late.

6. Planning Inspectorate have no mechanism to review the examination process, or revisit an LDF examination, so declined to pursue the matter. They have no mechanism to investigate malfeasance in the planning system.

7. Secretary of State declined to intervene, as only the Planning Authority can alter an LDF once it has been approved by an Inspector.

8. Our MP, Sir John Stanley, was very sympathetic, and sponsored me in a complaint to the Government Ombudsman. The GO declined because I had access to the Courts to seek a JR. The fact that we haven't got the money, and TMBC would waste our own money fighting us, meant that avenue was not open.

9. The only investigation that went to term was that carried out by TMBC, carried out by Julie Beilby and Adrian Stanfield, and surprise, they found that no one at TMBC had done anything wrong.

So there never has been an independent investigation into the irregularities, so when TMBC say there has, they are lying again.

If TMBC were the honest authority they profess to be, they would have listened to my evidenced concerns back in 2007, and compromises could have been reached that allowed them their houses, and kept the rest of us safe. They are building on contaminated land on a 50's unregulated landfill, on top of our drinking water aquifer. I sincerely hope that their scandalous behaviour does not result in a disaster, because it is not them that will suffer, it is me and my community.

I have always naively believed that whilst individuals may do wrong, if that wrong is uncovered, the system itself is pure, and right will triumph.

TMBC Officers and some members, have consistently lied to and misled, the Planning Inspector, the public, and the bulk of TMBC members. It is not me who has brought the Council into disrepute, it is their own disreputable behaviour.

CONFIDENTIAL FINAL REPORT

Finally, I deliberately reported this "standards allegation" myself to trigger an outside investigation, at last someone who is independent of TMBC will look at the evidence, and you have abjectly failed me and my community. And I would say the same to your face."

- (c) In an email from Councillor Taylor dated 15 March 2015 he said:-

"Further to my thoughts yesterday, outside the remit of responding to your report, but still relevant:

1. I have hard evidence going back to 2003 behind all my allegations, it is not just a product of a fevered imagination. I accept it is too complicated to be covered by your investigation, but if a proper investigation was carried out, I am sure that there is much at TMBC that would corroborate my claims, but it is a problem to know the FOI questions to ask, and I would have thought that much would have been shredded by now.

*2. If I give you the benefit of the doubt about your independence, that would mean that TMBC have no idea whether you might find me "not guilty" of breach of the Code. As there is an election coming up, having Sue Murray returned to post as a Councillor & Cabinet Member for Planning could seriously taint the whole (conservative) Council if my actions are vindicated. It would therefore make sense for them to get rid of her before any c**p hit the fan. And as I intimated quietly to Martin after the recorded interview, that is exactly what happened."*

- 6.2 I have considered Councillor Taylor's comments with care. They consist in the main of three types of comment:-

- (a) minor additions or corrections to the report. I have amended the report where appropriate;
- (b) an assertion that he was not able to bully officers as he was not in a position of power over them. I have taken account of those views in my reasoning in section 7 below;
- (c) a restatement of Councillor Taylor's views that, in essence, officers had lied to him in respect of the Isles Quarry development. I have again taken account of those views in my reasoning in section 7 below.

CONFIDENTIAL FINAL REPORT

7. Reasoning as to whether there have been failures*Official Capacity*

- 7.1 The first issue to consider is whether, at the time of the alleged incidents, Councillor Taylor was acting in his official capacity as a Borough Councillor. I am mindful that all of the email correspondence referred to was sent from a private email account; that is 'mike.truck@btconnect.com'. Each email was 'signed' Mike. Notwithstanding this, having given careful consideration to the subject matter, the recipients of the emails and Councillor Taylor's references to acting as the representative of his community, I am satisfied Councillor Taylor was acting in his official capacity. I also had regard to the email dated 30 May 2014 in which Councillor Taylor states ".....I used FOI and not just my right as a Councillor....." thus indicating that he was using his position as a Councillor to seek the information which has been the focus of these incidents.
- 7.2 I have also considered the status of Borough Green News and the posts on that website. First, the website itself has no indication of being an official site for either the Council or any individual Councillor. It clearly states the site is "funded and operated by Mike Taylor as a public service to residents". However, I have also considered the individual items posted on the site that have been referred to, these make references to Councillor Taylor's activity as a Councillor. In addition the posts on the website include and/or make reference to some of the emails referred to above and therefore, on balance, I conclude that it is reasonable to believe Councillor Taylor was acting in an official capacity when he published those items on the website.
- 7.3 Of more significance I have considered Councillor Taylor's conduct following the meeting held on 27 June. There is no doubt that Councillor Taylor's attendance at that meeting was in his official capacity as an elected Member of the Borough Council. It therefore follows that anything emanating from that meeting was entirely due to Councillor Taylor's position as a Councillor. I therefore conclude that the emails and web postings relating to that meeting were actions carried out by Councillor Taylor in and associated with his position as a Borough Councillor.
- 7.4 I therefore conclude that Councillor Taylor was acting in his official capacity as a Borough Councillor in the matters subject to consideration by this investigation and therefore subject to that Council's Code of Conduct.

Disrepute

- 7.5 The Council's code of conduct requires that members must promote and support high standards of conduct when serving in their public posts by leadership and example. Whilst this is a somewhat aspirational requirement, I consider that one of the important aspects of leadership would be maintaining the integrity of the Council. As such it is relevant to consider how any allegation of misconduct might impact on the reputation of the Council. I have therefore considered guidance issued by the then Standards Board for England (SfE). Question 43 on page 66 of the Case Review 2010 (2011 Edition) published by SfE advises that disrepute is:-

*"....a lack of good reputation or respectability.
In the context of the Code of Conduct, a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either:*

CONFIDENTIAL FINAL REPORT

- 1) *Reducing the public's confidence in that member being able to fulfil their role; or*
- 2) *Adversely affecting the reputation of members generally, in being able to fulfil their role."*

7.6 Q44 on the next page of the Case Review 2010 advises that:-

"An officer carrying out an investigation...does not need to prove that a member's actions have actually diminished public confidence, or harmed the reputation of the authority...the test is whether or not a members' conduct "could reasonably be regarded" as having these effects.

The test is objective and does not rely on any one individual's perception. There will be a range of opinions that a reasonable person could have towards the conduct in question."

7.7 Q42 on page 66 of the Case Review indicates that:-

"A case tribunal or standards committee will need to be persuaded that the misconduct is sufficient to damage the reputation of the member's office or authority, as opposed simply to damaging the reputation of the individual concerned."

7.8 In applying the Code to the circumstances of an alleged breach of disrepute, it is established that it is not necessary for the member's actions to have actually diminished public confidence, or harmed the reputation of the authority. The test is whether or not the conduct could 'reasonably be regarded' as having these effects. However, the conduct must be sufficient to damage the reputation of the member's office or the Council, not just the reputation of Councillor Taylor as an individual.

7.9 In this case, there have been a number of issues drawn to my attention during the course of this investigation. I have considered each in detail, the first being an email sent at 12.16 on 20 May 2014 (**email 2** in the schedule). In the email Councillor Taylor states:-

"I realise Planners still don't really understand the concept of transparency, but surely you can see that the longer you withhold information, the less credibility it has. Whilst contemporaneous notes can still be 'fudged', they have a truth they don't have weeks later when eventually dragged into the light. This whole fiasco could have been averted had planners simply kept us up to date, as is our right. I am sure Martin is duly angry at yet another expensive FOI, but I have been forced to use them as a last resort to obtain withheld information. Hiding and with-holding this information merely reinforces my case that something dodgy is happening, and that you are covering it up."

7.10 During interview Councillor Taylor acknowledged that he used words that were "on the line". I have carefully considered the wording and the fact that the email was copied to others outside the Borough Council. My conclusion is that on this occasion, whilst the comments were unjustified and unwise Councillor Taylor may have just stayed on the correct side of 'the line'.

CONFIDENTIAL FINAL REPORT

- 7.11 In a further email sent at 13.00 on 30 May 2014 (**e-mail 3**) Councillor Taylor's allegations become more robust. Councillor Taylor, in interview, confirmed that the email was copied to others outside the Borough Council including all Members of the Borough Green Parish Council and an employee at the Environment Agency. In the email Councillor Taylor states:-

"So you are breaking the law, which is precisely why I used FOI and not just my right as a Councillor to require sight of the evidence".

- 7.12 This is an allegation that the recipients, Nicolas Heslop, Julie Beilby and Adrian Stanfield, were guilty of breaking the law.

- 7.13 Councillor Taylor sent another email on 12 June at 17.59 (**e-mail 4**). This was addressed personally to Lindsay Pearson but was also copied to Members of the Borough Green Parish Council. The email is quite lengthy and includes some specific allegations. These include:-

"What angers me most is that the Obstruction report was willfully omitted from the FOI documents, by you, and would have answered a lot of my questions without weeks of emails, threats, speeches and questions.."

"It is now perfectly clear that the Planning Department has waged a campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information"

- 7.14 During interview Councillor Taylor acknowledged that these comments could be seen as an attack on the repute and integrity of the Planning Department.

- 7.15 Following further emails between Councillor Taylor and Officers at the Council, Councillor Taylor sent an email at 17.02 on 13 June 2014 (**e-mail 5**) to Adrian Stanfield and Hazel Damiral. This email was also copied to others. The email commenced:-

"Adrian; a big email form [sic] TMBC, it must be Friday evening again. My first response to your email began with b, and ended cks.

- 7.16 In interview Councillor Taylor confirmed that the comment was directed at Adrian Stanfield.

- 7.17 Councillor Taylor sent an email to all Members of the Borough Council at 16.07 on 14 June 2014 (**e-mail 6**). The email was copied to Adrian Stanfield. In the email Councillor Taylor stated:

"... but I'm afraid it is intended to mislead"

- 7.18 During his interview Councillor Taylor acknowledged that his comments were challenging the integrity of Adrian Stanfield and that this could have an effect on the repute of the Council.

- 7.19 Councillor Taylor sent a further e-mail at 14.29 on 18 June 2014 (**e-mail 7**). This was addressed to Adrian Stanfield and Nicolas Heslop and copied to others including members of Borough Green Parish Council. The email commenced Dear Adrian and the penultimate paragraph stated:-

"I must also question your role in this affair, Adrian: as someone whose duty is to advise the Council how to comply with both the Law

CONFIDENTIAL FINAL REPORT

and the Council's own rules, I cannot understand how you have countenanced and condoned the withholding of information."

- 7.20 Later, on 18 June 2014 at 19.07, Councillor Taylor sent an email to Adrian Stanfield and copied to other Senior Officers (**e-mail 11**). In the email Councillor Taylor states:

"I have clear evidence of lies involving many senior officers"

- 7.21 Taken in isolation like the first email referred to above some of these messages could be considered to be very close to the line. However, when direct personal allegations are made in communications that are distributed widely the intent and purpose must be questioned. Councillor Taylor continually acknowledged that his comments could be construed as an attack on the integrity of Officers and the Council and that this could affect the repute of the Council. I have no hesitation in agreeing with Councillor Taylor and have concluded that allegations he made about Officers lying, wilfully withholding information and misleading him were not appropriate and could reasonably be regarded as bringing the authority in to disrepute.

- 7.22 Whilst not part of the Council's Code as such, annexe 1 to the Code refers to the seven principles of public life and states that *"in order to help maintain public confidence in this Authority, you are committed to behaving in a manner consistent with the following principles..."*. The principle of integrity is expressed to require that:-

"...you should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside."

- 7.23 I acknowledge that Councillor Taylor feels very strongly that the Borough Council has mishandled planning issues at Isles Quarry and that Officers of the Council have withheld information from him. It is part of the role of members to hold officers to account but as Mr Stanfield says in paragraph 14 of his statement:-

"It is entirely legitimate for a member of the Borough Council to raise concerns with officers over the implementation of a major development within their ward. However, the tone of the correspondence from Councillor Taylor became increasingly personal and accusatory. Furthermore, the personal accusations made by Councillor Taylor were often copied to a wide audience including the other Borough Council Members, Members of Borough Green Parish Council and third parties such as Crest and the Environment Agency. I believe there is a clear distinction between the existence of a legitimate issue for consideration and the manner and tone in which that issue is pursued. From my conversations with Councillor Taylor, it is apparent to me that he sees no such distinction."

- 7.24 I have also considered the content of the posts on the Borough Green News website, in particular the post which referred to the meeting Councillor Taylor attended on 27 June 2014. In the post Councillor Taylor referred to Adrian Stanfield accusing him of using devious little tricks. The post also refers to Planning Officers stating *'Yes those Planning Officers, the ones who have been misleading and lying to us for the past 7 years.'*

CONFIDENTIAL FINAL REPORT

- 7.25 For the reasons set out in paragraph 7.21 above I also consider these comments to reasonably be regarded as bringing the authority in to disrepute. However, the potential impact of these comments is seriously compounded by the fact that the circulation was not limited to named individuals but posted on the internet with unlimited world wide access.
- 7.26 In reaching that conclusion, I have also had regard to Article 10 of the European Convention on Human Rights, which declares that everyone has the right to freedom of expression, including the right to hold opinions and to receive and impart information and ideas without interference by public authority. Though the exercise of such freedoms may be subject to legal restrictions those restrictions should only be what are strictly necessary. Comments on political matters or those of wider public interest should be accorded a high degree of protection unless they amount to mere personal abuse. In this case I consider Councillor Taylor's comments went beyond that which is acceptable and included personal abuse of Officers of the Council.

Bullying

- 7.27 Bullying and intimidation is referred to in the Standards Board Guidance on the Code issued in May 2007. It states on page 9 of the Guidance that:-

"Bullying may be characterized as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

This can be contrasted with legitimate challenges which a member can make in challenging policy or scrutinizing performance."

- 7.28 There are two factors to consider in this case, first whether Councillor Taylor's behaviour was offensive, intimidating, malicious, insulting or humiliating. If it is considered that the behaviour falls into one or more of those categories then I must determine whether it was directed at a weaker person or a person over whom Councillor Taylor had an actual or perceived influence.
- 7.29 Having considered the content of the emails referred to throughout this report it is clear that some of the comments are offensive, insulting and humiliating. Publicly calling a person a liar and questioning an individual's competence in their job is all of these and appears to be intended to humiliate them by circulating those comments to other individuals.
- 7.30 I therefore conclude that the emails circulated by Councillor Taylor and the posts on his website included comments that were humiliating, insulting, intimidating and offensive.
- 7.31 Were these comments directed at individuals or groups of individuals who were weaker or who Councillor Taylor had an actual or perceived influence over? Councillor Taylor is a Member of the Borough Council that employs the Officers who have been subject to the comments in his emails. As such he is a representative of the employer. This is a fact which he referred to in interview when he stated *"They're not a company set up to do their own thing. They are employed by us to do what we want them to do."* I agree with

CONFIDENTIAL FINAL REPORT

Councillor Taylor that it is reasonable to hold the view that Councillors have an influence over the Officers employed by their authority. It therefore follows that I conclude Councillor Taylor did have an actual or perceived influence over those individuals who were subject to the comments in his emails and website posts.

- 7.32 In his comments on the draft version of this report, Councillor Taylor indicated that it was Officers and not he who held the position of power over him and his community. With respect to Councillor Taylor, this is a misinterpretation of the meaning of power in the context of bullying. That Councillor Taylor considers Council Officers to have power over decisions relating to Isles Quarry does not mean that he is powerless over them. As I have said above, as a Member of the Council he holds a position of power over all employees of the Council. In addition, by his conduct, he has sought to exert power over the Officers by the inappropriate language of his e-mail communications with them and his willingness to make accusations against them in a public website controlled by him.
- 7.33 I therefore conclude that Councillor Taylor's comments could be considered to be bullying of the Officers of the Council who were the subject of his humiliating, insulting, intimidating and offensive comments. I have concluded that this is a breach of the Code of Conduct

Conclusion

- 7.34 Councillor Taylor clearly has had deep and lasting concerns about the development of Isles Quarry West. It was reasonable for Councillor Taylor to raise these concerns through the appropriate channels both within the Council and with other organisations. It is also clear that when Councillor Taylor raised his concerns both within the Council and externally he did not receive the answers he wanted. At this point he adopted the practice of sending numerous emails most of which were copied widely to other Councillors, Parish Councillors and individuals outside the authorities. These emails contained comments which in Councillor Taylor's words were "as close to the mark" as he thought acceptable.
- 7.35 As explained above it is my conclusion that Councillor Taylor's judgement was flawed and in fact the comments far exceeded what might be regarded as acceptable even taking in to account Councillor Taylor's frustrations. The nature of Councillor Taylor's comments are further exacerbated by the fact that the comments were widely circulated in emails and posted on a website. The circulation of these comments to such a wide audience was disproportionate and unnecessary.
- 7.36 I have concluded that the comments made by Councillor Taylor showed a lack of good leadership as they were intended to belittle, insult and humiliate the Officers concerned. Such comments could reasonably be regarded as likely to bring the authority into disrepute. These comments also constitute a form of bullying both by their content and the fact that they were circulated to other individuals.
- 7.37 I therefore consider that Councillor Taylor has failed to comply with the Council's code of conduct in respect of the complaint.

8. Finding

- 8.1 My finding is that there has been a failure to comply with the code of conduct of the authority concerned.

Jonathan Goolden

Jonathan Goolden BA(Law) Solicitor
Investigating Officer

10th April 2015

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PRIVATE AND CONFIDENTIAL



**Tonbridge & Malling
Borough Council**

Case reference: 1044273/1

Report of an investigation by Jonathan Goolden, appointed by the Deputy Monitoring Officer for Tonbridge & Malling Borough Council, into allegations concerning Councillor Mike Taylor of that Council.

10th April 2015

VOLUME 2 SCHEDULE OF EVIDENCE

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Appendix A**Schedule of evidence taken into account and list of unused material**

Page	Number	Description
3	JTG 1	Code of Conduct for Tonbridge and Malling Borough Council
12	JTG 2	Notes taken by Adrian Stanfield at a meeting on 27 June 2014
17	JTG 3	Statement of Julie Beilby
24	JTG 4	Borough Green news article
27	JTG 5	Statement of Adrian Stanfield
39	JTG 6	Briefing Note for Members - June 2011
42	JTG 7	Statement of Steve Humphrey
48	JTG 8	Statement of Lindsay Pearson
54	JTG 9	Interview Transcript - Councillor Taylor
82	JTG 10	Schedule of emails
110	JTG 11	Councillor Taylor's notes of his meeting with the Monitoring Officer and Chief Executive of Tonbridge and Malling Borough Council 27.06.14
112	JTG 12	Print out from the Borough Green News website

List of unused material

Investigator's notes, file correspondence and drafts.

JTG 1

Kent Code of Conduct for Members

Preamble

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:
- (a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming, or being re-elected or re-appointed, a Member or Co-opted Member of the Authority;
 - (b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of you becoming aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
 - (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of disclosing it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted
 - (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

THE CODE**1. Interpretation**

In this Code:

“Associated Person” means (either in the singular or in the plural):

- (a) a family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; 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; or
- (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 which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- (e) any body in respect of which you are in a position of general control or management:
 - (i) exercising functions of a public nature; or
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

“Authority” means Tonbridge and Malling Borough Council

“Authority Function” means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) 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 your child attends;
- (c) 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;
- (d) an allowance, payment or indemnity given to members of the Authority;
- (e) any ceremonial honour given to members of the Authority;
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

“Code” means this Code of Conduct.

“Co-opted Member” means a person who is not an elected member of the Authority but who is a member of:

- (a) any committee or sub-committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

“Disclosable Pecuniary Interest” means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

- (a) your interest or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

“Interests” means Disclosable Pecuniary Interests and Other Significant Interests.

"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 and/or joint sub-committees.

"Member" means a person who is an elected member of the Authority and includes a Co-opted Member.

"Other Significant Interest" means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the Authority which:

- (a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of: -
 - a. other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - b. (in other cases) other council tax payers, ratepayers or inhabitants of the Authority's area; or
- (b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgment of the public interest.

"Register of Members' Interests" means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

"Sensitive Interest" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

Scope

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

General obligations

3. (1) You must, when using or authorising the use by others of the resources of the Authority:
 - (a) act in accordance with the Authority's reasonable requirements; and
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes).
- (2) You must not:
 - (a) bully any person;
 - (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
 - (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
 - (d) 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 written consent of a person authorised to give it; or
 - (ii) you are required by law to do so; or

- (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:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the Authority;
- (e) prevent another person from gaining access to information to which that person is entitled by law;
- (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (g) 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.

Registering Disclosable Pecuniary Interests

4. (1) You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- (2) In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.
- (3) Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

Declaring Interests

5. (1) Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest (and you are aware that you have such an interest) in any matter to be considered, or being considered, at the Meeting, you must:
- (a) disclose the Interest; and
 - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation:
 - (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
 - (e) not seek improperly to influence a decision about that business.
- (3) Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:

- (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
 - (b) not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
 - (c) not seek improperly to influence a decision about the matter.
- (4) Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting 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. Having made your representations, given evidence or answered questions you must:
- (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - (b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

Sensitive Interests

6. (1) Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (2) You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.
- (3) The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

Gifts and Hospitality

7. (1) You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.
- (2) Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- (3) You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- (4) The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

Dispensations

- 8.(1) The Standards & Training Committee or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).
- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the Standards & Training Committee or the Monitoring Officer (where authorised) considers that:
- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
 - (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
 - (c) granting the dispensation is in the interests of persons living in the Authority's area; or
 - (d) without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
 - (e) it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

ANNEX 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

SELFLESSNESS: You should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

INTEGRITY: You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

ACCOUNTABILITY: You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

OPENNESS: You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

HONESTY: You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

LEADERSHIP: Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

ANNEX 2

Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

“**the Act**” means the Localism Act 2011

“**body in which the relevant person has a beneficial interest**” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

“**director**” includes a member of the committee of management of an industrial and provident society

“**land**” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

“**M**” means a member of the relevant authority

“**member**” includes a co-opted member

“**relevant authority**” means the authority of which M is a member

“**relevant period**” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1), or section 31(7), as the case may be, of the Act

“**relevant person**” means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

“**securities**” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the

	relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

JTG 2

Notes of meeting with Councillor Mike Taylor on 27 June, 2014 (10.00 to 10.57)

Present: Councillor Mike Taylor; Councillor Mrs Ann Kemp; Mrs Pat Darby (Platt Parish Council); Julie Beilby (Chief Executive) and Adrian Stanfield (Director of Central Services and Monitoring Officer)

Mr Stanfield opened the meeting by advising that the strength of the Borough Council lay in the positive relationship between officers and members which was based on the principles of mutual trust, courtesy and respect. This also meant that Members respected the professional advice of Officers – that didn't mean that they necessarily had to accept the advice, but they would nevertheless respect it.

He advised that comments made about officers by Cllr Taylor were not acceptable (a point he had made to him at their previous meeting with Steve Humphrey on 9 May) and that there had been a number of subsequent occasions where he had been disrespectful. Some of these had been set out in his email to Cllr Taylor dated 18 June 2014. By way of example, Mr Stanfield invited Cllr Taylor to comment on whether he felt that sending an email to him in response to Counsel's advice, in which Cllr Taylor had commented 'My first response to your email began with b, and ended with cks' was consistent with the principles of trust, courtesy and respect. Cllr Taylor considered that his behaviour was justified by the conduct of the Borough Council towards Borough Green over a number of years.

Mr Stanfield drew a distinction between having a complaint and the manner in which that complaint was made and the officers were addressed.

Cllr Taylor circulated a paper entitled 'Isles Quarry Current Issues' and stated that he had every reason to distrust any senior officer. He advised that he saw no distinction between 'a lie and covering up a lie' and that the foundation of mutual trust was based on a lie.

Mr Stanfield stated that he had a problem with the way in which Cllr Taylor's grievances were expressed to which Cllr Taylor responded 'the first time I express a grievance I will be courteous and friendly, but as time goes by & I meet the same stonewall, I get angry, and I accept that when I get angry I say things that *you might consider inappropriate*, I don't. When Officers treat me and the people of Borough Green with respect, it will be reciprocated'.

With reference to Cllr Taylor's statement that he had been lied to Mr Stanfield reminded him that, following his complaint to the Police, they had found no evidence of criminal conduct. He read to Cllr Taylor the email from Chief Inspector Kirby dated 13 July 2011, in which he had advised Cllr Taylor of the outcome of the Police investigation. Cllr Taylor responded that in his interview with Inspector John Philips (which he said pre-dated the email from Chief Inspector Kirby) the Inspector had advised that malfeasance did not need a financial motive and that no financial motive

had been found. Cllr Taylor reported that Inspector John Phillips stated that malfeasance could occur without a financial motive. Mr Stanfield repeated that Kent Police had advised Cllr Taylor that they could find no evidence of criminal conduct and that it was not a matter which they could investigate. Cllr Taylor stated that he believed that the good relationship between Kent Police and the Borough Council, and particularly the former Leader, had 'influenced' the lack of investigation into his complaint.

Mr Stanfield suggested that Cllr Taylor's approach toward current members and officers appeared to have been influenced by what he perceived as the history of Isles Quarry. Cllr Taylor responded that he wished to discuss issues which had led to the way he approached the Council and its officers.

Mr Stanfield reiterated his advice that there was a clear distinction between a grievance and how that grievance was dealt with. Cllr Taylor advised that he did not accept this distinction, trust had to be earned and the Borough Council had not earned his trust. He stated that the lack of trust arose from how he had been dealt with over issues relating to Isles Quarry. Mr Stanfield reminded him that the purpose of the meeting was to consider his conduct and not Isles Quarry. Cllr Taylor stated that it was clear that he had been lied to by Lindsay Pearson or, if he had not lied, he had compounded the lie by passing it on; Lindsay Pearson said 'this is not construction, this is species related ecological investigation'. Mr Stanfield refuted Cllr Taylor's accusation of lying or 'wilful concealment' by any officers. Cllr Taylor stated that he believed that information he had requested under FOI had been wilfully withheld which had led to him making repeated attempts to gain access to documents which he believed were held by the Council. He felt that it was irrelevant that FOI requests were time limited and that he had been faced with continual blocking and withholding of information by officers. Mr Stanfield advised that he had read all the documentation relating to the FOI request and did not perceive the same sequence of events as stated by Cllr Taylor. He did not see that officers had refused to provide information, and referred to the volume of emails sent to officers by Cllr Taylor which had created a huge amount of work. Cllr Taylor countered that he was seeking an assurance that the planning application had been dealt with according to the conditions applied and stated that there were several apparent violations of the planning conditions.

Mr Stanfield requested evidence of 'a lie' or of 'wilful withholding' of information. He indicated that he felt Cllr Taylor was very quick to categorise behaviour as 'wilful' or 'a lie' when the evidence did not support this. Cllr Taylor stated that he should not have to continually chase information which should be automatically sent to him as a local member. Mr Stanfield referred Cllr Taylor's receipt of copies of the '003 Obstruction Survey' and the 'Ground Obstruction Report' and his confusion over when these had been available and had been supplied to him. Cllr Taylor apologised for failing to realise that the survey had been attached to the email sent by Mr Stanfield on 12 June 2014, although he did not apologise for making the apology 'restricted and ring fenced' as he considered he had been chasing this for months.

Cllr Taylor expressed the belief that the ground obstruction report had been available to the planning officers before it was received (and date-stamped) by Planning Services on 21 May 2014 and claimed that he only received information after raising this issue as a question to full Council, speaking to the Leader and threatening to make a complaint to the Information Commissioner. Cllr Taylor complained that the copy of the survey annexed to the Obstruction Report was in any event illegible, to which Mr Stanfield replied that it was simply a small copy of a much larger scaled plan.

Cllr Taylor presented a 'scenario' whereby planning services could have had possession of a copy of the ground obstruction report by Barton Wilmore in March 2014 when Kirstie Atkins visited the site, and had simply asked for a further copy in May which could be forwarded with a fresh date-stamp. Mr Stanfield stated that there could be no rational response to this 'scenario' as it had absolutely no basis in fact and Cllr Taylor's mistrust of officers did not justify the allegations he made against them. Cllr Taylor responded that he could not envisage a situation where the information had not been provided at the earlier date when the Kirstie Atkins had visited the site. He believed that he could rely on his supposition although he had no evidence to support this. He alleged that a further copy had been requested in May so that this could be date-stamped and forwarded. Mr Stanfield countered that the facts contradicted Cllr Taylor's supposition. In his view, the 'scenario' was ridiculous. Cllr Taylor acknowledged that his view of the Borough Council was 'tainted' by the past treatment of himself and Borough Green residents.

Mr Stanfield raised with Cllr Taylor that none of his previous complaints about the Isles Quarry site had been upheld. Cllr Taylor replied that they had not as previous inspectors/ bodies had decided that the issue was outside their remit. He stated that the 'Standards' system was not effective.

Mr Stanfield reminded Cllr Taylor of their previous conversation about the legal advice taken by the Parish Council in relation to Isles Quarry. Cllr Taylor replied that he believed that a Borough Councillor 'had forged' the Borough Green Plan and that the planning permission had been incorrectly based on three premise (need for housing, contents of village plan and the need to extinguish the lawful development certificates for Isles Quarry). He expressed the belief that there was no valid planning permission for Isles Quarry and that the development was unlawful, although he did not propose to pursue this argument. He stated that Borough Green Parish Council had obtained a draft opinion from Counsel, but they could not afford for this to be turned into a formal opinion. He added that he had however received an opinion with a little 'o' from Counsel when visiting the site, to the effect that the Parish Council could have taken action and stopped the development. He advised that the residents of Borough Green at a public meeting had chosen not to pursue this route as it would have cost too much.

Mr Stanfield restated that the essential purpose of the meeting was to consider the manner in which Cllr Taylor chose to speak to officers and advised that he felt that comments made to him had been professionally disrespectful. Cllr Taylor repeated his accusation that the Director of Central Services instructions to Counsel had been biased and had led to a biased Opinion which had been a waste of the Borough Council's money. Cllr Taylor stated that he had not requested continuous monitoring of the site. He added that Counsel had accepted that monitoring was 'principally' the responsibility of the developer. However, Cllr Taylor claimed that the use of the word 'principally' meant that the local authority retained some responsibility for monitoring in respect of complaints received from local residents.

Mr Stanfield stated that he found Cllr Taylor's comments about the 'flawed' Opinion totally unacceptable. He referred to an email Cllr Taylor had sent to Glenda Egerton, Senior Planning Officer on 25 June 2014, when, in response to an email from Ms Egerton informing Cllr Taylor that she was putting a hard copy of Obstruction Survey 003 in the post, he had responded to say that she needn't bother, adding 'Save the postage and put it towards Adrian's collection to pay back the £1625 he paid for the flawed opinion'. Cllr Taylor complained that Mr Stanfield had read selectively from the email, and that he had in fact thanked Glenda. Mr Stanfield responded by asserting that he was not complaining about the thanks Cllr Taylor had offered to Ms Egerton; rather his dissatisfaction was with the unacceptable comments that followed. Mr Stanfield then read the email from Cllr Taylor in full –

'Dear Glenda

Very much appreciated, but do not bother; I already have the emailed pdf, and had an A2 printed yesterday. Save the postage and put it towards Adrian's collection to pay back the £1625 he paid for the flawed Opinion'

Councillor Mrs Kemp enquired about the overall cost to the Council of dealing with Cllr Taylor's concerns, complaints and requests etc. J Beilby responded that Cllr Taylor had made serious allegations about the planning process, which had been repeated in the Press, and, as a responsible organisation reassurance had been sought for both members and residents. She advised that the cost of seeking Counsel's Opinion had been approximately £1600.

Cllr Taylor repeated his allegation that the Chief Executive and Director of Central Services had previously advised him that, had there been any irregularities in the process leading to the adoption of the LDF, it was too late to do anything about it. Mr Stanfield said Cllr Taylor was now changing the allegation – in the past he had alleged that the Chief Executive and he had said there had been irregularities in the process leading to the adoption of the Local Development Framework. Mr Stanfield reiterated that he had never made any statement to this effect; rather he had said the exact opposite i.e. that there had been no irregularities with the Isles Quarry process. Cllr Taylor commented that 'This is what happens when conversations were not recorded.'

Cllr Taylor stated that the Director of Planning, Housing & Environmental Health and the Director of Central Services had said at the meeting in May that once the planning permission had been issued the only responsibility of the Borough Council in relation to contamination was to receive the Final Verification Report. Mr Stanfield refuted that he or the Director of Planning, Housing and Environmental Health had said these words. Cllr Taylor commented that, in public, the Authority states that it is on top of the contamination issue while it didn't admit to any responsibility to monitor the site. He felt that this was evidenced by the officers not visiting the site from November 2013 until March 2014.

Mr Stanfield repeated his statement that the purpose of the meeting was not the planning application but Cllr Taylor's conduct towards officers. Cllr Taylor stated that he did not and would not trust the Council, that he would not be browbeaten and that the Council could take action via the Joint Standards Committee or for defamation. He stated that the people of Borough Green were his 'masters', not the Borough Council and his behaviour was a response to the way he and the residents of Borough Green had been treated by the planning officers.

J Beilby commented that the officers of the Council were extremely dedicated and did their very best for the community. She expressed concern that Cllr Taylor's comments were not prefaced with 'I believe..' but were expressed as statements. She believed that the Council's officers were dedicated to the community and served the Borough extremely well.

Cllr Taylor agreed wholeheartedly with Julie Beilby, except for the Isles Quarry blind spot. He stated that he wanted the site to be developed safely and wanted information on a daily basis that this was happening. He commented that the Local Plan showed a greater degree of consultation than the LDF and he welcomed the requirements regarding water quality monitoring and piling and believes that is solely because of the kicking by Borough Green.

Mr Stanfield repeated his advice that Cllr Taylor's comments and manner were unacceptable to which Cllr Taylor responded that he would return 'respect' when he received it.

JTG 3

**STATEMENT
FRONT COVER**

Case Ref:	1044273/1
Name:	Julie Beilby
Position Held:	Chief Executive Tonbridge & Malling Borough Council

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STATEMENT of: - Julie Beilby

1. My name is Julie Elizabeth Beilby, MBA, BCS (Hons). I am the Chief Executive (including the statutory role of Head of Paid Service at Tonbridge & Malling Borough Council (TMBC)), having been appointed to this post on 1 February 2013. Prior to this I held the position of Central Services Director from 1 January 2009. I have been employed in various roles at TMBC since 1984, becoming a Member of the Corporate Management Team in October 2005 in the post of Customer Services Manager.
2. I first became aware of Isles Quarry in Summer 2010 through contact from local Members and Cllr Taylor in his capacity as a Parish Councillor (not having been elected as a Borough Cllr until January 2014).
3. From various meetings, discussions and sight of numerous e-mails I have seen a continuous theme to the position adopted by Cllr Taylor in relation to the historic and current issues surrounding the development of Isles Quarry, Borough Green ('IQW').
4. Cllr Taylor clearly holds a long term personal belief that there were flaws in the process leading to the adoption of the Core Strategy in 2007, and the associated allocation of IQW. He has repeatedly articulated his belief that the Borough Green Parish Plan was amended by parties other, citing local Members and officers of TMBC in having "lied and falsifying documents". These allegations have been investigated through a range of processes including the Borough Council's internal complaints' procedure, the Planning Inspectorate, the Local Government Ombudsman and Kent Police. None have upheld the allegations.
5. I have no doubt that Cllr Taylor on a personal level does believe the allegations he has made, but this does not make the allegations factually correct. I believe these long held opinions are at the root of mis-trust and behaviours that Cllr Taylor demonstrates on an ongoing basis.
6. TMBC is open to challenge, question, debate and criticism. Cllr Taylor is entitled to express his own views and thoughts within the code of conduct. All

Members are free to do so and often do within a framework of respect to individual officers and the organisation's reputation.

7. Officers have consistently treated Cllr Taylor's many requests for information in a polite and respectful manner and in a timely fashion, commensurate with working in a complex, multi-dimensional organisation with competing calls on time.
8. I believe Cllr Taylor has shown commitment to his residents in asking challenging questions. I believe he has shown disrespect to individual named officers which is neither acceptable nor justified. I will refer to examples in respect of 3 named officers: Adrian Stanfield, Lindsay Pearson, and Steve Humphrey.
9. I believe Cllr Taylor has sought to damage the reputation of the Borough Council through his use of inappropriate language, and unproven allegations to a wider audience through both his own website, the Borough Green Parish Council Website (by way of a link entitled "Isles Quarry, the whole sad story") which links directly to Cllr Taylor's own Borough Green News, and through extensive distribution lists of his e-mails from his own personal e-mail account, expressing his own views "badged" as Parish Council views.
10. I have chosen to refer only to a restricted number of examples to illustrate my concerns.
11. **Adrian Stanfield** holds the position of Director of Central Services and Monitoring Officer. Adrian is a qualified Solicitor with a current Practising Certificate. He is the most senior Solicitor employed by the Council.
12. On 14 June (1607), Cllr Taylor sent an e-mail to all Members of the Borough Council. Subject matter "Adrian Stanfield".

".....I could not resist the opportunity to analyse Adrian's e-mail /Counsel's opinion in much greater detail, but I am afraid it is intending to mislead rather than inform"
13. There is a clear accusation by Cllr Taylor that Adrian has deliberately set out to mislead Members. This is damaging to Adrian Stanfield's personal reputation and that of TMBC. I know that Adrian Stanfield acts in a manner

consistent with his own professional role and ethics, and in accordance with the Code of Conduct for officers of TMBC. To suggest Senior Officers deliberately mislead Members is reputationally damaging.

14. Cllr Taylor sent an email to Adrian, copied to all Members of the Borough Green Parish Council on 18 June (1429). Cllr Taylor states the following:

“I must also question your role in this affair, Adrian as someone whose duty is to advise the Council how to comply with the Law and the Council’s own rules. I cannot understand how you have countenanced and condoned withholding of information.”

15. I believe this is a clear accusation that Adrian Stanfield has condoned an alleged unlawful act. This is potentially damaging to both Adrian’s reputation on a personal and professional level, but also to the Borough Council in suggesting that this is how we allow business to be conducted.

16. I think it may be helpful to set out why I asked that Counsel’s opinion be sought. As set out above, and clearly visible on the Borough Green News website, Cllr Taylor was making accusations into the way the Council had dealt with the issue of contamination at Isles Quarry. These allegations were widespread and the audience included Members, other agencies, the press and public through the website. Whilst Cllr Taylor has his own beliefs it is right and proper that the Council takes the reputational issues seriously and hence the balance and check of Counsel’s Opinion to establish and provide confidence in the decision process, and then share that with others.

17. **Lindsay Pearson** is the Chief Planning Officer for TMBC. On 20 May (1216), Cllr Taylor e-mailed Lindsay Pearson, also sent to Steve Humphrey and copied to others

18. The e-mail began “Dear Lindsay” and was therefore clearly addressed to an individual.

19. “..... Hiding and with-holding this information merely reinforces my case that something dodgy is happening, and that you are covering it up”

20. This is a clear accusation that the named officer is withholding information. This is damaging to both Lindsay Pearson and by implication to the Council.
21. On 12 June 2014 (1755) Cllr Taylor sent an e-mail to Lindsay Pearson, copied to wide audience (Members of BGPC, Crest and the EA). This contained accusations in relation to both Lindsay as an individual and the Planning Department. Extracts illustrate firstly in relation to Lindsay Pearson
- “What angers me most is the Obstruction Report was wilfully omitted by you...”
- And to the Planning department
- “It is now perfectly clear that the Planning Department has waged a concerted campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information.the secrecy endemic is not acceptable”
22. This is potentially damaging to the reputation of the Planning department and thus by implication to the council.
23. **Steve Humphrey** is the Director of Housing Planning and Environmental Health at TMBC. He has also been the subject of comment by Cllr Taylor. In an extract from the Borough Green News website Cllr Taylor writes “ My personal belief is that the contamination has been buried on site, and I do not know if that can be deemed as safe-we have been assured repeatedly over many years by TMBC that contamination will be dealt with appropriately, and despite all our efforts they have failed us. I hold Steve Humphrey and Lindsay Pearson directly responsible for this almost criminal behaviour, and will seek to have action taken against them and Crest Nicholson unless matters are addressed forthwith”.
24. There is potential reputational damage to individuals in making such statements, albeit that “almost criminal behaviour” has little meaning, it does portray inappropriate behaviour by two senior officers of the Council, and is therefore by implication damaging to the reputation of the Council.
25. I was concerned about the increasing damage to the reputation of the Borough Council and a number of senior Officers and also the demoralising effect such comments were having on the Planning Service overall. The widespread dissemination of these unproven allegations to Members of both

the Parish and Borough Council, the residents via the website and other agencies via e-mails was of reputational concern to me as Chief Executive of TMBC.

26. We have a history of open communications and dialogue with our Members, so along with Adrian Stanfield in his capacity as Monitoring Officer we decided to invite Cllr Taylor to a meeting to discuss his language and behaviour over recent months in an informal way. This meeting was held on 27 June 2014. Others were in attendance and the minutes are available on line.
27. The minutes recorded a number of concerns, which Cllr Taylor did not generally agree. He justified his behaviours by referral to his long held views in respect of the Parish Plan process and adoption of the core strategy. This is borne out by a post on his website with a link to the report of the meeting, prefaced by “..... Yes. THOSE Planning Officers, the ones who have been misleading and lying to us for the past 7 years”. The outcome of the meeting was that Cllr Taylor reported himself as a Standards complaint.
28. TMBC is generally held in high regard. When there were regulatory inspections in place, we had a proven track record of being a high performing authority as demonstrated under the then Comprehensive Performance Assessment, when we received the highest rating in the country. More recently our consistent low record of complaints referred to the Local Government Ombudsman, with none being upheld over many years, demonstrates the care with which we deliver our services. Before reaching escalation to the LGO, we treat complaints seriously when received and we do spend time investigating, reviewing and taking necessary action. It is damaging to the Council’s reputation to suggest otherwise.
29. The Peer Review report completed earlier this year, comments on the positive relationships. There are high standards expected and fulfilled within the organisation in relation to the demonstration of positive values and behaviours, including mutual respect amongst elected members and officers. We welcome challenge criticism and question.
30. In my opinion Cllr Taylor has taken actions that are potentially damaging to TMBC, and individual officers by name, without any proven justification. As

officers we have tried to gain common understanding and resolution, but Cllr Taylor felt the need to report himself.

I J Beilby declare that this statement is true and accurate to the best of my knowledge and belief.



Signed

Dated 23 October 2014

BOROUGH GREEN NEWS

BOROUGH GREEN NEWS. .PG MENU. .J5 SLIPS. .AIR QUALITY. .QUARRYING HISTORY. .XMAS LIGHTS. .THEN & NOW. .PAVILION. .PARISH HALL. .DIY VILLAGE. .MIKE'S MUSINGS. .BYPASS. .DA JOINT. .SKATEPARK. .MIKE'S TRUCKS. .PIPELINE. .GUEST BOOK. T&MBC MEETING

TOXIQW CONTAMINATION

After many traumatic months dragging information out of T&MBC and Crest, we finally have categoric proof that Crest failed to sample contamination comprehensively, and refuse to provide information as to where that contaminated material has gone. They have moved several hundred tonnes off site to landfill, but that was identified as inert, and there is no evidence that was the contaminated material.

My personal belief is that the contamination has been buried on site, and I do not know if that can be deemed as safe - we have been assuaged repeatedly over many years by TMBC that contamination will be dealt with appropriately, and despite all our efforts they have failed us. I hold Steve Humphrey and Lindsay Pearson directly responsible for this almost criminal behaviour, and will be seeking to have action taken against them and Crest Nicholson unless matters are addressed forthwith This is my report to T&M and the EA, GEI's Response and my analysis of GEI's response (basically threats and drive)

When I was summoned to appear before T&MBC's CEO Julie Beilby and Adrian Stanfield who accused of "lack of respect" (report T&M Notes of Meeting), they declined to report me to the Standards Committee. If I have abused Officers, it is only right that the rules are obeyed, so I have reported myself. I am now awaiting an Independent Investigation, due 11th Sept.

I think we might have finally whittled down the argument: Either T&MBC have been monitoring the progress at IQW and do have the information but are illegally refusing to release it, or they haven't got the information because they haven't been monitoring, in which case they have been deliberately misleading Borough Members and the Public. They need the Crest reports to reach the decision that the site has been developed safely. Simple !! Either Lying, or Withholding Information.

Crest began Piling recently, 907 concrete spikes through all that contaminated land onto the Aquifer : Unfortunately the "forgot" to get Planning Permission, and arrange water monitoring, so T&MBC Enforcement Officers stopped them Thursday afternoon: Crest have since volunteered to monitor the Bourne on a weekly basis, very grateful, so we have withdrawn our objections to the start of piling!!

Big meeting with Crest and T&M recently, My report was agreed by both, but my impression was one of being deflected away from answers. report

In a most interesting development, I received this letter " from Eric Pickles office, that seems to support our view that T&MBC should be doing more to keep us informed about IQW. Completely unconnected, of course,

I then received this email from T&M's Solicitor, Adrian Stanfield2 , he seems so worried that he has taken Counsel's Advice to try and prove T&M are obeying the rules. Ever suspicious, I have asked to see what question Adrian asked to get such a biased answer.... Watch this space !!! (Adrian Stanfield's original email without highlighting) Adrian has wasted £1625 of OUR money obtaining a flawed Opinion, which requires T&MBC to do SOME monitoring to ensure planning conditions are adhered to!

Crest Nicholson are building 171 new homes at Hazelbourne, Isles Quarry, contaminated industrial land on a 1950s unregulated landfill site, putting new residents at risk, and TMBC Planning Website

http://www.boroughgreen-news.com/



CARTOON OF THE WEEK

PARISH COUNCIL WEBSITE

COMMUNITY WEBSITE

LOCAL PETROL PRICES

FLOODING UPDATES

Next PC meeting 8th Sept 2014 7.30 COGS Annex.

BG Herald designed by Charles Willsher Rotating logos by Dot & Dave www.sevenoaksart.co.uk

Sure Start Children's Centres Borough Green For information on our services for 0-5 year olds, in Borough Green Village Hall CLICK HERE

Jo's Dog Walking, Halfday dog-care £10 for local residents, puppies, and holiday boarding for (well-behaved) dogs:

01732 883 609 07956 575 519 http://www.dogwalkingwithjo.co.uk/

BRIGHTSTART PLAY GROUP 07858 188867

Call Jan Niner and her team in the Parish Hall on Quarry Hill Rd

Below

08/09/2014

BOROUGH GREEN NEWS.

Page

also endangering our local drinking water aquifer. T&MBC Planners seem either powerless to make them adhere to Planning Conditions, or are secretly giving them the go-ahead. [Read the whole sad Isles Quarry West story](#) Before you buy a house at Hazlebourne Isles Quarry, read this article in [Private Eye](#)

It's not always sunny in Borough Green, although it usually feels like it



Because of the lies and misinformation by T&MBC, I issued [Freedom of Information](#) requests 7th March to try and establish what has happened to the contaminated material on this site since excavations began in November last year. Some material has been forthcoming, but seems to reinforce our concerns.

Very Good article in the [KENT MESSENGER](#) by Rachel Woods, picking up on the [National Press Stories](#) about Paddeck Wood contamination.

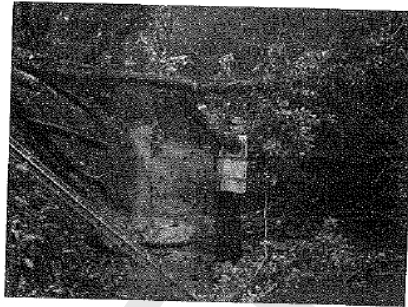
[J5 SLIPS CAMPAIGN](#) is stepping up a gear, with a petition on the famous "38 Degrees" website, [J5 SLIPS](#)

Have a look at these [AERIAL PHOTO COMPARISONS](#) and see if you can spot where the c't'p went!! [\[more pics\]](#) [\[Evidence\]](#) [Potters Mede Rebuild](#) [\[more\]](#)

[TMBC PLANNING SEARCH](#) you need TM number (eg TM/12/1234/FL)

[KCC FAULT REPORTING](#) [KCC PLANNING SEARCH](#) [Cllr Valerie Daggart](#)

What does My Parish Council ever do for me? [\[answers\]](#) Well here's Barry and me, Christmas Eve, clearing fallen trees from Thong Lane.



[Read Reports of meetings with Ann Barnes Police Commissioner](#)

[David Evans Resignation](#) [\[more\]](#)

[report](#)

<http://www.boroughgreen-news.com/>

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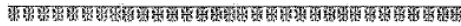


BOROUGH GREEN NEWS.

Page 1 of 3

Page 3 of 3

YOU ARE VISITOR NUMBER: **99756**



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<http://www.boroughgreen-news.com/>

08/09/2014

RESTRICTED

JTG 5

**STATEMENT
FRONT COVER**

Case Ref:	1044273/1
Name:	Mr Adrian Stanfield
Position Held:	Director of Central Services and Monitoring Officer Tonbridge & Malling Borough Council

wilkin chapman
golden
solicitors

PO Box 16,
Town Hall Square,
Grimsby
DN31 1HE

Wilkin Chapman LLP, a limited liability partnership registered in England no. OC343261,
authorised and regulated by the Solicitors Regulation Authority

STATEMENT of: - Mr Adrian Stanfield

1. My name is Adrian Stanfield and I am employed by Tonbridge and Malling Borough Council ('TMBC') as Director of Central Services and Monitoring Officer. I have held this position since 1 February 2013. Prior to my appointment as Director of Central Services I was employed by TMBC in the role of Chief Solicitor and Monitoring Officer (May 2011 to January 2013).
2. Between March 2010 and May 2011 I was employed by Sevenoaks District Council as Legal Services Partnership Manager. Within this role I was responsible for managing the legal services teams both at Sevenoaks District Council and TMBC. I also performed the role of Deputy Monitoring Officer at both authorities.
3. I am a qualified Solicitor and hold a current practising certificate. I have been employed in local government legal practice since October 1996, and have experience of working at 5 different local authorities.
4. Matters within this statement are true to the best of my knowledge and belief, and are derived from my own knowledge, and from my inspection of emails and files held by TMBC.
5. Councillor Mike Taylor was elected as an Independent Member of Tonbridge and Malling Borough Council on 9 January 2014. He is one of three local Members for the Borough Green and Longmill ward. Councillor Taylor is also the Chairman of Borough Green Parish Council.
6. Councillor Taylor runs a local news website, under the name of 'Borough Green News'. I shall return to this website later in my statement.
7. Within the administrative area of Tonbridge and Malling Borough, and the ward of Borough Green and Longmill is land at Isles Quarry West, Borough Green ('Isles Quarry').

8. I have been aware of Isles Quarry since June 2010. Since that time I have corresponded with Councillor Taylor on numerous occasions, both in his capacity as a Parish Councillor and as a Borough Councillor. Throughout my dealings with Councillor Taylor, the overwhelming majority of communications from him have concerned Isles Quarry. By way of context, I will therefore set out a brief history of Isles Quarry.
9. Isles Quarry was identified as a strategic site for housing development in the Core Strategy adopted by TMBC in September 2007, and was also included within the Development Land Allocation DPD adopted in April 2008. The Core Strategy had itself been subject to a Public Examination in 2007, at which Councillor Taylor had appeared as a witness opposing development at Isles Quarry. In the event the Inspector's report concluded that the Core Strategy was sound.
10. Councillor Taylor has for a number of years, held the belief that the Core Strategy, and the allocation of Isles Quarry for development, was flawed. He believes that there were irregularities in the process leading to the approval of the Borough Green Parish Plan (which supported the development of Isles Quarry for residential development), and has also complained that the Borough Council has been untruthful about the events that unfolded at the Examination in Public of the Core Strategy. Councillor Taylor has pursued complaints in this regard over a period of years through various channels and organisations, including the Borough Council, the Local Government Ombudsman, Planning Inspectorate and Kent Police. I am not aware of any of these bodies upholding Councillor Taylor's complaints.
11. In June 2011 Steve Humphrey (then Director of Planning, Transport and Leisure) and I prepared a briefing note for Borough Council Members on Isles Quarry, the Borough Green Parish Plan and their relationship with the Local Development Framework (attached as **Exhibit AS/1**). This note included a detailed chronology of Isles Quarry's designation within the Core Strategy, together with a history of the complaints made by Councillor Taylor.

12. On 20 June 2013 planning permission was granted by TMBC as Local Planning Authority under reference TM/11/01191/FL for the erection of 171 Dwellings, the creation of 6.82 hectares public open space, a new vehicular access onto Haul Road together with the provision of access roads, footpaths, landscaping and all associated infrastructure at Isles Quarry. The applicant was Crest Nicholson Eastern ('Crest').
13. On 14 November 2013 Councillor Taylor emailed Steve Humphrey, Lindsay Pearson and I to raise concerns that Crest had commenced development at Isles Quarry without first discharging various conditions relating to groundwater and contamination investigation / remediation. Since then Councillor Taylor has made numerous complaints to the Borough Council concerning the compliance by Crest with the conditions of their planning permission, and the Borough Council's role in monitoring and enforcing these conditions. He has also made a number of complaints regarding the supply of information to him in connection with this issue.
14. It is entirely legitimate for a member of the Borough Council to raise concerns with officers over the implementation of a major development within their ward. However, the tone of the correspondence from Councillor Taylor became increasingly personal and accusatory. Furthermore, the personal accusations made by Councillor Taylor were often copied to a wide audience, including the other Borough Council Members, Members of Borough Green Parish Council and third parties such as Crest and the Environment Agency. I believe there is a clear distinction between the existence of a legitimate issue for consideration and the manner and tone in which that issue is pursued. From my conversations with Councillor Taylor, it is apparent to me that he sees no such distinction.
15. During May and June 2014 I was copied into numerous email exchanges with Councillor Taylor relating to Isles Quarry. It was clear to me that the personal attacks by Councillor Taylor were becoming increasingly frequent. I have set out some examples below.

16. In an email dated 20 May 2014 (timed at 12.16) Councillor Taylor directed various accusations at the Planning Department, and Lindsay Pearson (Chief Planning Officer) in particular. In the final paragraph of his email Councillor Taylor stated

'I realise Planners still don't really understand the concept of transparency, but surely you can see that the longer you withhold information, the less credibility it has. Whilst contemporaneous notes can still be "fudged", they have a truth they don't have weeks later when eventually dragged into the light. This whole fiasco could have been averted had planners simply kept us up to date, as is our right. I am sure Martin is duly angry at yet another expensive FOI, but I have been forced to use them as a last resort to obtain withheld information. Hiding and with-holding this information merely reinforces my case that something dodgy is happening, and that you are covering it up'.

The email was copied to a large number of recipients, including all Members of Borough Green Parish Council. A copy of this email is attached as **Exhibit AS/2**.

17. In an email dated 30 May 2014 (timed at 13.00) Councillor Taylor accused Nicolas Heslop (TMBC Leader), Lindsay Pearson (Chief Planning Officer), Steve Humphrey (Director of Planning, Housing and Environmental Health), Julie Beilby (Chief Executive) and I of 'breaking the law' in relation to the manner in which his request for information had been dealt with, adding later in that email *'The longer T&MBC and Crest conceal evidence, the more apparent it is that you have something to hide..'*

18. Councillor Taylor later added in the email

'I am fairly secure, the websites are hosted overseas so cannot be reached by the British Courts, your Standards System does not have the sanctions available, legal action against me would be welcomed, but fruitless – I have no assets; and a cyber attack against the sites would definitely result in a media storm'.

The email was copied to a large number of recipients, including Jennifer Wilson of the Environment Agency. A copy of the email is attached as **Exhibit AS/3**.

19. In an email dated 12 June 2014 (timed at 17.55) Councillor Taylor made a number of allegations about the conduct of Lindsay Pearson and the Planning Department. In that email he made the following allegations –

'What angers me most is that the Obstruction Report was wilfully omitted from the FOI documents, by you...

'It is now perfectly clear that the Planning Department has waged a concerted campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information.'

'The secrecy endemic in your department is not acceptable in this day and age...'

The email was copied to a large number of recipients, including all Members of Borough Green Parish Council, Russell Dawkins of Crest and Jennifer Wilson of the Environment Agency. A copy of the email is attached as **Exhibit AS/4**.

20. On 13 June 2014 I wrote to Councillor Taylor, his fellow ward colleagues and others (including the Clerk to Borough Green Parish Council) to set out a summary of Counsel's advice, which had been sought in view of the serious concerns and allegations made by Councillor Taylor in respect of the compliance by Crest with their planning permission and the monitoring carried out by Borough Council Officers. That email (timed at 16.11) is attached as **Exhibit AS/5**.

21. In an email dated 13 June 2014 (timed at 17.02), Councillor Taylor responded to my email with the comment *'My first response to your email began with b,*

and ended cks'. Councillor Taylor's email was copied to all Members of Borough Green Parish Council.

The final paragraph of the email stated –

'Time and time again we have demonstrated clear evidence of "irregularities", your stock response is "we don't see it that way", "not our responsibility", "you are misinformed". I do accept that final failing, we are misinformed – by you..'

The email was copied to 9 other recipients, including the Clerk to Borough Green Parish Council. A copy of the email is attached as **Exhibit AS/6**.

22. Councillor Taylor followed his email dated 13 June with a further one the following day (timed at 16.07). On this occasion the subject heading of the email was 'Adrian Stanfield', and Councillor Taylor began the email by stating –

'further to my email yesterday, I could not resist the opportunity to analyse Adrian's email/ Counsel's opinion in much greater detail, but I am afraid it is intended to mislead rather than inform.'

The inference here was that I was attempting to mislead Members, which I find unacceptable. This email was copied to all Members of the Borough Council. A copy of the email is attached as **Exhibit AS/7**.

23. Councillor Taylor has also posted his thoughts on Counsel's opinion on the Borough Green News website, publishing my email dated 13 June in the process. In the post, Councillor Taylor makes the following statement -

'UPDATE: in a most interesting development, I received this letter from DCLG, Eric Pickles office, that seems to support our view that T&MBC should be doing more to keep us informed about IQW. Completely unconnected, of course, I then received this email from T&M's Solicitor, Adrian Stanfield, he seems so worried that he has taken Counsel's advice to try and prove T&M

are obeying the rules. Ever suspicious, I asked to see what question Adrian asked to get such a biased answer...Watch this space !!! (Adrian Stanfield's email without highlighting). Adrian has wasted £1625 or OUR money obtaining a flawed opinion, because he biased the question !!!'

A copy of the post is attached as **Exhibit AS/8**.

24. On 18 June 2014 I received an email from Councillor Taylor, timed at 14.29 (attached as **Exhibit AS/9**). The email was copied to all Members of Borough Green Parish Council. Within this email Councillor Taylor suggested that the instructions to Counsel were biased, and the opinion that resulted was 'manipulated'. I found one paragraph of the email particularly offensive –

'I must also question your role in this affair, Adrian as someone whose duty is to advise the Council how to comply with the Law and the Council's own rules, I cannot understand how you have countenanced and condoned the withholding of information. Before you say that priorities and work load prevented "immediate responses", Lindsay and Steve could have used the many pages lecturing me on why I was wrong, simply to click "forward" and release the information'.

25. By accusing me directly of condoning an alleged unlawful act, Councillor Taylor sought to impugn my integrity.

26. In the event, I had already composed an email to Councillor Taylor to express my concerns over his continued accusations against officers. That same day (18 June 2014) I emailed Councillor Taylor both in my capacity as Monitoring Officer, and as the Officer within the Borough Council with responsibility for Information Rights. As the statutory officer within the Borough Council with responsibility for ethical standards I felt I could not allow Councillor Taylor to continue to make unfounded personal attacks on officers, so I wrote to him to set out the basis of my concerns, and to invite him to a meeting with Julie Beilby (Chief Executive) and I.

27. A copy of my email is attached as **Exhibit AS/10**.
28. From my perspective, the request for a meeting with Councillor Taylor was entirely appropriate. Whilst I could have pursued a formal complaint against Councillor Taylor under the Borough Council's Code of Conduct, I did not consider that such a course of action would have been constructive. Rather, my preference was to raise these concerns with Councillor Taylor face to face, as I would do with any other Councillor.
29. In my experience, there exists a very positive relationship between members and officers at TMBC. This is underpinned by mutual trust, respect and courtesy. Whilst members are not of course obliged to follow the professional advice of their officers (and indeed there have been occasions when members have departed from the professional advice given by officers) any differences of opinion are always resolved in an amicable and professional manner.
30. Councillor Taylor agreed to meet with Julie Beilby and I, although in doing so he continued to make accusations against officers of the Borough Council. In his email to me dated 18 June 2014 (timed at 19.07 and attached as **Exhibit AS/11**) Councillor Taylor stated '*I have clear evidence of lies involving many senior officers...*'. Councillor Taylor copied his email to all Members of the Borough Council. On 25 June Councillor Taylor emailed Glenda Egerton (Senior Planning Officer) in reply to her email of the same date indicating that a copy of the Obstruction Survey was to be put in the post. In his email (attached as **Exhibit AS/12**) Councillor Taylor states

'Dear Glenda

Very much appreciated, but do not bother. I already have the emailed pdf, and had an A2 printed yesterday. Save the postage and put it towards Adrian's collection to pay back the £1625 he paid for the flawed Opinion.

Regards

Mike'

31. On 27 June 2014 Julie Beilby and I met with Councillor Taylor. Also present were Councillor Mrs Ann Kemp (Chairman of Area 2 Planning Committee), Pat Darby (Chairman of Platt Parish Council) and Janet Shenton (Committee Administrator). The agreed minutes of that meeting are attached as **Exhibit AS/13**.
32. Councillor Taylor made no apologies during the meeting for the manner in which he treated officers of the Borough Council. Instead, he contended that his behaviour was justified by the lack of respect shown by the Borough Council to Borough Green over a period of years.
33. The meeting on 27 June 2014 was not the only time I have met with Councillor Taylor since he became a Borough Councillor. Earlier meetings were held on 6 March 2014 and 9 May 2014. At the meeting on 6 March 2014, I met with Councillor Taylor accompanied by Kevin Toogood (Solicitor and Deputy Monitoring Officer) to provide training on the rules relating to predetermination and bias. I offered this training to Councillor Taylor as he had not been a Borough Council Member when I provided general training on this subject.
34. I attended a further meeting with Councillor Taylor on 9 May 2014, when Steve Humphrey was also present. As far as I can recall this meeting had been requested by Councillor Taylor, and he presented Steve with a copy of the 2014 Supplementary Parish Plan approved by Borough Green Parish Council. We discussed the concerns of Councillor Taylor relating to compliance by Crest with the conditions of their planning consent (particularly in relation to contamination and remediation), the legal advice taken by Borough Green Parish Council relating to the adoption of the Core Strategy in 2007, and I recall that Councillor Taylor also sought an apology from TMBC for the irregularities he believed had occurred in the past. Steve Humphrey and I declined to give such an apology. I recall also saying to Councillor Taylor that I found his personal attacks on officers in his correspondence to be unacceptable; Councillor Taylor offered no apology in response.

35. In the days following the meeting of 9 May, I was copied into 2 pieces of correspondence from Councillor Taylor. The first was an email sent at 16.21 on May 2014 (attached as **Exhibit AS/14**) and the second an email/ letter sent at 11.56 on 10 May 2014 (attached as **Exhibit AS/15**).
36. On 30 June 2014 I observed a post on Borough Green News relating to the meeting I had attended with Councillor Taylor. A copy of this post is attached as **Exhibit AS/16**. I found this post to be unacceptable in a number of respects. Firstly, Councillor Taylor devoted an entire paragraph to assessing my competence as a Solicitor. He accused me of using '*little devious tricks.*' and concluded by saying '*.in future I will not meet him without a witness present, I am too trusting by far!*'. I regard such comments as a direct personal attack on me, which impugn my integrity as a Solicitor of the Senior Courts. I find the comments made by Councillor Taylor wholly unacceptable and offensive.
37. The post also included a 'report' on the meeting Councillor Taylor and I had attended on 27 June 2014. This 'report' was not the agreed version of the minutes which later appeared on the website, but rather Councillor Taylor's own account of the meeting. The link to the report was prefaced by the comments –
- 'I answered a summons to appear Friday before T&MBC's Chief Exec, Solicitor and Director of Planning. They thought it was for them to read me the riot act about my 'lack of respect' for Planning Officers. Yes, THOSE Planning Officers, the ones who have been misleading and lying to us for the past 7 years.'*
38. The post was later amended to add the following at the end '*So sad Steve couldn't make the meeting!*'. I took this to be a sarcastic comment about Steve Humphrey not being present at the meeting on 27 June 2014.

A copy of the post is attached as **Exhibit AS/17**.

39. In my view, Councillor Taylor's conduct has fallen below that expected of someone holding a public office. He has made a number of unjustified and provocative personal attacks on officers, and in doing so has copied these to a wide audience (including publication on his website). The publication of such attacks only compounds their provocative and offensive nature.

I, A Stanfield, declare that this statement is true and accurate to the best of my knowledge and belief.

Signed... *A. Stanfield* Date... *13th October 2014*

JTG 6

ISLES QUARRY – BRIEFING NOTE FOR MEMBERS**Complaint history**

Mr Taylor, Chairman of Borough Green Parish Council, has made numerous complaints both to the Council, and to external bodies. These may be summarised as follows -

- On 30 June 2010 Mr Taylor met with Julie Beilby (Central Services Director and then Monitoring Officer) and Adrian Stanfield to discuss a proposed complaint that he wished to pursue under the standards framework. He was advised that complaints could only be pursued against named Councillors, and as he was not prepared to do this, no further action was taken in this regard.
- During July 2010 Mr Taylor complained to the Borough Council under our complaints procedure. His final (stage 3) complaint was investigated by David Hughes, Chief Executive, whose summary conclusion was 'I do not accept that the LDF is based on flawed evidence and there is absolutely no reason to reopen the issue in the way you appear to be seeking'.
- In August 2010 Mr Taylor complained to the Local Government Ombudsman. On 20 August 2010 the Ombudsman wrote to him to confirm that he would not be pursuing his complaint.
- In August 2010 Mr Taylor also wrote to the Planning Inspectorate to request that they revisit that part of the Core Strategy relating to Isles Quarry. On 23 September 2010 the Inspectorate wrote to Mr Taylor to confirm that they had no further jurisdiction in the matter and their involvement had ended. The letter also stated that for the Inspectorate to comment further 'would be regarded as unwarranted interference, beyond our remit. We have no further involvement until the Core Strategy is updated, resubmitted and another examination is arranged'.
- Further emails have been sent by Mr Taylor to the Chief Executive since the Borough and Parish elections last month. In the last of these emails (dated 20 May 2011) the Chief Executive concludes that 'the Council's capacity is heavily stretched and it is not sustainable for me and other senior officers continually to revisit these issues. So, this is positively my last communication on the subject of IQW and its allocation in the Core Strategy.'
- Mr Taylor has recently approached the Police in relation to these issues. However, no criminal investigation has resulted from his complaint.

Mr Taylor's request to defer consideration of the application submitted by Crest Nicholson in respect of development at Isles Quarry

An application from Crest Nicholson Eastern was validated by the Borough Council on 7 June 2011 under reference 11/01191/FL. The Council is now statutorily obliged to determine the application in accordance with prescribed statutory procedures.

1

The Parish Council will of course be consulted, and will be able to submit their comments on the proposals contained in the application.

Mr Taylor has written to Borough Council members on 2 recent occasions (emails dated 9 & 16 June 2011) to request that the application be deferred, and the Inspector be asked to return and revisit the relevant parts of the LDF.

The Chief Solicitor and I can see no valid reason to delay or defer consideration of the planning application we now have before us, nor to ask that the Inspector revisit the Core Strategy. Quite apart from the fact that any such request to the Inspectorate would properly be refused, particularly bearing in mind the previous response to Mr Taylor, we are obliged to determine valid planning applications submitted to us within prescribed timescales (the relevant time periods are set out in Article 29 of the Town & Country Planning (Development Management Procedure) (England) Order 2010).

To purposefully delay determination of this application for reasons other than dealing with the various detailed considerations related to the proposal would inevitably lead to an appeal against non-determination and an application for costs against the Borough Council (which would be significant). It is quite possible that the complexities of this major detailed application may well mean that determination could take longer than the prescribed period, but this would need to be in agreement with the applicant. This is absolutely not the same as deferring the case as has been suggested.

Status of the Borough Green Parish Plan

Parish Plans do not in themselves have any legal or formal status in the planning system. However, it is possible for Parish Plans to inform and influence the formal planning process. This may happen in the following ways -

- (1) Information gathered as part of the Parish Plan can, where relevant, provide useful information in the development of our planning policies.
- (2) It is possible for elements of a Parish Plan to be adopted by the Borough Council as a Supplementary Planning Document (SPD). SPDs may cover a variety of issues, which may expand or provide further detail on policies in a Development Plan Document e.g. affordable housing. However, they must be in conformity with existing Development Plan policies, or a saved policy in an existing development plan, and cannot be used to allocate land. They must also comply with certain statutory preparation, consultation and adoption procedures (eg there is a requirement for substantial community involvement in their preparation). Sustainability appraisals may also be required. It is important to note that an SPD cannot change existing Development Plan policies.

For a variety of reasons, it is not considered that the latest Borough Green Parish Plan is capable of being taken forward by the Borough Council as an SPD.

In the absence of either of the above, it is still possible for a Parish Plan to be capable of being a material consideration in the determination of planning applications. However, the existence of a Parish Plan will not obviate the need for the Parish Council to make representations on a given application, and make reference to the relevant parts of their Parish Plan. Members will of course be familiar with the test that is to be applied when

considering applications for planning permission that the determination must be made in accordance with the adopted development plan unless material considerations indicate otherwise. Whether a particular consideration is material in any given case will depend upon the circumstances. Furthermore, the weight that is to be attached to any given consideration is a matter for the decision maker.

We will of course advise members on the materiality of the Parish Plan on any given application that the Parish Council may respond to, and the weight to be attached thereto. However, in light of the issues raised above, our initial response to the Borough Green Parish Plan is that it will carry limited weight in the determination of planning applications within Borough Green.

The preparation of the Local Development Framework (LDF) and the Parish Plan

Much has been made by Mr Taylor about the relationship between the preparation of the Parish Plan and the Council's LDF. The first thing to say is that the weight to be given to a Parish Plan in the context of the LDF is limited in a similar way as it is in the context of the planning application. This is reflected by the fact that in weighing up the evidence that was before her at the LDF public inquiry, the inspector did not mention the Parish Plan as a determining factor in her conclusions.

Although the Borough Council did refer to the Parish Plan in evidence at the public inquiry and during the preparation of the LDF, it was used as supporting evidence. The prime evidence was the Council's own work on housing, in particular affordable housing, and a variety of matters to do with the current condition of the site. Similarly in considering the various site options earlier in the process, a comparative analysis was used based on the advice of planning officers of the Council. During that time inevitably discussions on practical matters took place with landowners and their representatives, which is a proper approach in the preparation of Development Plans.

Points have also been made by Mr Taylor that the references in reports by Borough Council officers to the representations made by the Parish Council were misleading. We have examined those again and are satisfied that there was no doubt that the representations made by the Parish Council at the time were faithfully and properly reported.

There are allegations that the version of the Parish Plan submitted to the Borough Council at the key stage in the LDF preparation was "flawed" and consequently was not submitted with the approval of the Parish Council. That is a matter for the Parish Council to consider. At the time when the Parish Plan was submitted it was taken into account appropriately by the Borough Council. In any event our consideration of the matter reveals no inappropriate steps taken by the Parish Council at the time.

As background we have annexed to this note a chronology relating to the LDF and Isles Quarry East which may be a helpful reference document.

Steve Humphrey
Director of Planning Transport and Leisure

Adrian Stanfield
Chief Solicitor & Monitoring Officer

JTG 7

**STATEMENT
FRONT COVER**

Case Ref:	1044273/1
Name:	Mr Steve Humphrey
Position Held:	Director of Planning, Housing and Environmental Health Tonbridge & Malling Borough Council

wilkin chapman
golden
solicitors

PO Box 16,
Town Hall Square,
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DN31 1HE

Wilkin Chapman LLP, a limited liability partnership registered in England no. OC343261,
authorised and regulated by the Solicitors Regulation Authority

STATEMENT of: - Mr Steve Humphrey

1. I hold the post of Director of Planning, Housing and Environmental Health at Tonbridge and Malling Borough Council. I have been a Director at the Borough Council for 11 years.
2. I am a member of the Corporate Management Team and I have responsibility for a range of operational services including the Council's town and country planning functions. I am a Chartered Town Planner.
3. In 2007 the site known as Isles Quarry West was identified for housing in the Borough Council's adopted Local Development Framework (LDF) Core Strategy. This followed a Public Examination held by an inspector appointed by the Secretary of State. The site was allocated to contribute towards meeting housing requirements for the Borough and specifically to address the need for new homes, including affordable homes, in the western part of the Borough.
4. The site constituted previously developed land and was in accordance with the prevailing planning policy thrust of making the best use of 'brownfield' land. Its allocation was confirmed by the adoption of the Development Allocations Development Plan Document forms part of the LDF.
5. In June 2011 a planning application was submitted for residential development of the site, in general accordance with the land use allocation in the LDF documents. Planning permission was granted in June 2013 subject to conditions covering many technical matters important to the successful implementation of the development. One of those conditions required the submission and approval of a remediation strategy to deal with contaminated land and the submission of a validation report to confirm implementation. The condition used by the Council reflected previous 'model' conditions and followed conventional practice by planning authorities.

6. As far as I am aware Councillor Taylor's involvement with Isles Quarry West stems from the mid 00s during the consideration of the site in the LDF process (although I believe he may have much longer personal associations with the site). At that time I believe he was a member of the Borough Green Parish Council. Councillor Taylor has expressed misgivings about how the site was referred to in the Borough Green Parish Plan (BGPP) and believes there were some irregularities in the final presentation of that plan. I understand he feels that the LDF process and the Planning Inspector's decision were improperly influenced because of that. My own view is that the Planning Inspector arrived at her judgement taking all planning matters into account and that, whatever the circumstances with the BGPP, her decision was sound and properly made – her report made that clear. There have been formal investigations around the issues to do with the relationship between the LDF and the BGPP by various agencies, as well as through the Council's own procedures, all of which have concluded that no further action was warranted. Nevertheless, as recently as 18th September, in a meeting attended by Adrian Stanfield, Lindsay Pearson and myself, Councillor Taylor sought an apology from the Council for the "irregularities" with the LDF process.
7. More latterly Councillor Taylor has focussed his attention on various issues to do with the implementation of the development at Isles Quarry West, with particular concern about the approach to land remediation. The matters that he has sought to raise have been legitimate planning matters for consideration and as far as I am aware he has done this for good intention. In some respects this aspect of Councillor Taylor's role as local Member providing his local observations has been helpful and constructive in informing discussions and following up detailed matters with the developer.
8. However, on the issue of land remediation in particular it seems to me that Councillor Taylor has not been able to accept the role of the Council, as

opposed to the responsibilities of the developer. The distinction is clear and Councillor Taylor has been advised accordingly on many occasions.

9. There is no doubt that aspects of the planning system can be misunderstood and to those with strongly held views on particular topics this can become very frustrating. Planning officers, and in particular senior officers involved with the planning system, come across this from time to time and are generally well practiced in managing such situations and dealing with people expressing frustrations. To a large extent I would say that is my perspective of the situation here.
10. However, as well as displaying frustrations, Councillor Taylor's approach has also apparently been based upon a belief that a number of Council officers have conspired to mislead him or withhold information on the subject of remediation. This has led to accusations by Councillor Taylor in communications between him and officers. In addition these unfounded expressions have been copied to others outside of the Borough Council, and in that respect I am concerned that the reputation of the Borough Council and the planning service in particular has been unjustly harmed.
11. Borough Council officers have tried on many occasions to reassure Councillor Taylor on the approach to land remediation. In particular advice of Counsel was taken to that end, although this has not appeared to satisfy Councillor Taylor on the appropriateness of the Council's approach. Many meetings have taken place between officers and Councillor Taylor where this issue was addressed. One example was a meeting on 9th May that I attended with Adrian Stanfield. I recall its purpose was to review progress and consider more constructive dialogue. Sadly, this did not seem to move matters forward demonstrated by the content of an email from Councillor Taylor later that day.
12. The development at Isles Quarry West is now well underway. As would be expected there is continuing dialogue with the developer about various matters, including progress in respect of land remediation. That has, for

example, included a meeting between senior Council officers, senior representatives from Crest Nicolson and Councillor Taylor where a number of initiatives were agreed in order to provide him with assurance about progress. These included programmed visits to the site by Councillor Taylor (designed to replace his unauthorised and unaccompanied visits to the site). Crest also agreed to the appointment of an independent consultant (as well as their own professional advisors). These are matters not required by the planning permission or conditions but seen as helpful by the developer in order to demonstrate good practice.

13. I make these points for two contextual reasons. First, to emphasise that significant attention has been given to the issues raised by Councillor Taylor. Second, that there is some way to go in this development project and as yet the process of validation of the remediation strategy is still work in progress and subject to further information and assessment. Officers of my department including Lindsay Pearson, Glenda Egerton and Kirstie Parr (Scientific Officer) continue to liaise with the Developer and the Environment Agency to ensure as far as we are able that works on site are proceeding in accordance with the planning permission and remediation strategy.
14. Overall I would say that the approach of Councillor Taylor has not been appropriate for an elected Member of the Council, insofar as unfounded allegations have been made irrespective of the rational explanations have been provided.
15. However, as I have said, the substantive matters raised by Councillor Taylor are legitimate ones and I understand his desire to pursue them. I also recognise the frustrations in the operation of the planning system that can and do give rise to tension and disagreement.
16. Where I do take a different and more serious view is in the detail of particular contact that Councillor Taylor has made. For example in emails dated 12th June 2014 (timed at 5.59) and 4th July 2014 (timed at 4.20) I consider his

comments directed primarily to Lindsay Pearson, but copied to others, to be beyond the limit I would consider to be acceptable conduct between Members and Officers of the Council. That is particularly so in the context of the general Member/Officer relationship at Tonbridge and Malling that I have found to be excellent and respectful, even on infrequent occasions when differences of view arise.

I S J Humphrey declare that this statement is true and accurate to the best of my knowledge and belief.



Signed..... Date..... 15.10.14.....

JTG 8

**STATEMENT
FRONT COVER**

Case Ref:	1044273/1
Name:	Mr Lindsay Pearson
Position Held:	Chief Planning Officer Tonbridge & Malling Borough Council

**wilkin chapman
golden
solicitors**

PO Box 16,
Town Hall Square,
Grimsby
DN31 1HE

Wilkin Chapman LLP, a limited liability partnership registered in England no. OC343261,
authorised and regulated by the Solicitors Regulation Authority

STATEMENT of: - Mr Lindsay Pearson

1. I am the Chief Planning Officer at Tonbridge and Malling Borough Council (TMBC), a post I have held since late 2009. I have been with TMBC since 1989, prior to 2009 my role was as Chief Planner (Development Control) dealing with planning application business.
2. I have been asked to provide a Summary history of a planning application at Isles Quarry in the parish of Borough Green.
3. The planning application itself was initially submitted in late 2011. It was subject to extensive discussion, negotiation, amendment, all carried-out in the context of extensive consultation and re-consultation including with Borough Green Parish Council (BGPC).
4. During the process of the application BGPC took a close interest in the project. The planning permission was eventually granted in late 2013.
5. At that time Cllr Taylor was BGPC Chairman but not yet a Member of Tonbridge and Malling Borough Council.
6. I have been asked to comment on my knowledge of Councillor Taylor's involvement in this particular planning project.
7. I am aware that Cllr. Taylor has taken a close interest in the future of Isles Quarry West for many years. While I was not responsible for the Plan-Making function when the site was initially identified in the LDF Cores Strategy (Policy CP18) I am aware that Cllr. Taylor, possibly initially as an individual before his BGPC membership, sought to become engaged in the Local Development Framework process for allocating development sites and, I believe, gave evidence at one of the examination sessions.
8. I am also aware that following the allocation of the site, with the LDF Inspector's support, Cllr. Taylor pursued a number of avenues seeking to demonstrate that somehow the process leading up to the adoption of the

allocation had been inappropriate. While not being directly involved with these investigations I understand that no fault has been found by any organisation that was asked by Cllr Taylor to investigate his expressed concerns.

9. Judging by a recent meeting that I attended with Cllr Taylor, amongst others, he remains of the view that the investigations cited in the above paragraph were not comprehensive enough to have reached the right conclusion, as he saw it. This position seems to influence his wider attitude to the Borough Council and especially the planning process.
10. Cllr Taylor has, quite appropriately, taken a close interest in the development of the Isle Quarry site through the planning applications process. He is fully entitled to take this interest forward in what is a vitally important part of the construction process and one which is subject to planning control, in this case by way of a typical planning condition utilised for such purposes. The aim of the condition is to secure a safe a uncontaminated site and is one shared by officers and Members alike - it is the right thing to do.
11. Where there remains some difficulty is that Cllr Taylor wishes to see a different approach, a more continuously interventionist approach, than is envisaged in the planning process. This is, I feel, at the heart of current tensions - in light of Cllr Taylor's concern, in respect of the formal planning control process approach, the Council took advice from legal Counsel who I understand advised that the Council's adopted approach is consistent with Government expectations. I believe that Cllr Taylor does not accept this advice and generally believes in the application of processes not normally encountered as a matter of routine in the planning process.
12. There is, of course, always the opportunity to debate the appropriateness of process but this must be done in the light of an accurate reading of Government guidance etc.
13. Cllr Taylor claims an historic experience of the use of the site, when he was employed there, and what he has identified as informal deposit of waste and contamination from up to 40 years ago.

14. A consequence of the above is that Cllr Taylor has disputed almost all aspects of the technical documentation but not from a perspective of scientific or technical experience or training. It is entirely within his rights to do this and to question things on a continual basis but it does pose problems in that his obvious frustration that officers cannot endorse his interpretation of the appropriate process, or in detail much of what he suggests in terms of actual, contamination, seems to lead to some intemperate behaviour, particularly in email exchanges and I believe website postings (which I have personally chosen to not follow).
15. Face to face contact with Councillor Taylor in meetings, including those relating to Isles Quarry West and also at Planning Committee and Council Boards has been, in my experience, been reasonably civilised.
16. In my view it is not productive to seek to generate a lengthy list of instances of what I might feel are less than appropriate wording of emails because I'm afraid that it seems to be a commonplace nowadays that those disgruntled with matters, whether or not their concerns are justified, tend often to express their views in quite intemperate terms (often a face to face discussion of the same matter will be more even-tempered).
17. I might also make the point that as a Town Planner with 40 years experience, much of that at a senior level, I am used to facing the reconciliation of incompatible views - in essence we deal with conflict resolution on individual planning judgements, but inevitably in most planning cases there are those who consider themselves winners and also those who feel like losers. Losers seem often to feel free to express their disappointment in no uncertain terms. In truth I don't suppose there are many terms of abuse that have not been levelled at me, at one time or another, during my career - it goes with the territory.
18. What I am not used to is such attitudes being expressed by elected Council members whether it be at this Council or in other authorities where I have worked, and certainly not in writing or broadcast through the internet.
19. One email that I would draw attention to is that of 12 June (17:59) in which Councillor Taylor alleges that we, the officer corps, (but possibly directed at

me personally) had deliberately withheld a document that should have been released under a Freedom of Information request. As might be imagined I find such an allegation, a false allegation, quite disturbing and offensive. I cannot begin to understand either how, or more importantly why, the Council or its officers would wish to withhold such information. What benefit would arise from withholding information? As mentioned above it is quite clear that the Council and Cllr Taylor have a shared interest in ensuring that this site is developed in a way that ensures that contamination is adequately dealt with – but we may have different perspectives as to what that concept implies.

20. The evidence file of email and other documentation, provided as part of the investigation, indicates clearly the tenor of correspondence from Cllr Taylor; predominantly sarcastic and betraying a disbelief in any view on these matters, especially anything said by Council officers, other than that which coincides with the view that he holds.
21. However in truth I find this rather sad and disappointing rather than more offensive.
22. I have been asked to comment on my overall perspective of Councillor Taylor's conduct in this matter. I am afraid that I do not think that Cllr Taylor has behaved as I would hope a Member would behave even if in a state of dispute with the Council as a whole and officers. Put simply even if there is disagreement there is no place for sarcasm or misplaced allegations of misbehaviour.
23. Member/officer relationships at TMBC are, in my experience, well balanced and strong. That is not to say that Members slavishly follow officer advice or, alternatively, that they actively and continuously seek to dispute such advice. There is mutual respect even when there can be, the inevitable, disagreement - debate is predominantly conducted in a mature and adult fashion and Members recognise the professional background of their officers. In my experience this strength of agreement in the role of public service is reflected in Members respect not only for senior officers but also more junior officers – in TMBC it is the case that most of my planning staff will have contact with members not infrequently.

I, L J Pearson declare that this statement is true and accurate to the best of my knowledge and belief.



Signed

Date 21.10.2014

RESTRICTED

JTG 9

Tonbridge and Malling Borough Council

Interview Date: 24.10.2014

Interview transcript - Councillor Mike Taylor

MT = Mike Taylor
MD = Martin Dolton

-
- MD Okay, it's 10.07 am on Friday 24th October 2014. I'm Martin Dolton of Wilkin Chapman Goolden solicitors and I'm currently at the offices of Tonbridge and Malling Borough Council in West Malling.
- MT Malling
- MD Malling in Kent. Thank you. I'm here meeting with Councillor Mike Taylor. Sorry, is it Mike or Michael?
- MT Well, it's actually Michael but everybody, I'm registered as Mike.
- MD Thank you. Councillor Mike Taylor who is an elected member of Tonbridge and Malling Borough Council and also an elected member, and I believe, Chairman, of the Borough Green Parish Council.
- MT True.
- MD Thank you. Firstly Councillor, thank you very much for coming here today and spending all this time with me. Can I ask you to confirm, for the record, that you have consented to my voice recording our discussion today?
- MT I'm happy for this to be recorded.
- MD Thank you. I believe you've also, in our initial letter to you, inviting you to this interview, been informed that you can have another person of your choosing present if you so wish and you've chosen not to. Is that correct?
- MT That is correct.
- MD Thank you. I believe you are aware of the role of our firm, Wilkin Chapman Goolden solicitors, and you've been informed, in writing, of the matters that we are considering?
- MT Yes.
- MD Thank you. Okay, if you need a break for any reason please just say so and I'll immediately stop recording and, with your agreement, I'll do the same if I need a break and we'll make it quite informally in that sense. So, could I trouble you to start councillor by just summarising, please, your background as an elected member both on the Parish Council and at this Borough Council?

MT I was co-opted to Borough Green Council in 2000 until 2003 when I stepped down because I was going to become a paid employee, a youth worker, of the Parish Council. I stood again in a by election in 2009 and was elected back onto the Parish Council. In 2011 I fielded a full team of 11 against the existing Parish Council in a main election. We won, I was elected Chair. I've been elected Chair each successive year since then. In January 2014, erm, the incumbent Borough Councillor, David Evans, resigned through ill health and I stood in a by election and won so I'm now the elected third member for Borough Green and Long Mill on Tonbridge and Malling Borough Council.

MD Thank you very much. So, in effect, you've been a member of the Borough Council now for about nine months?

MT That's correct.

MD Thank you. And, you have a long history with the Parish Council?

MT Yes.

MD Thank you. I want to make sure that we both, in this meeting and discussion, understand why we're here and the limits of why we're here indeed. Erm, and my understanding is that in your interactions with various officers at this council, that's Tonbridge and Malling Borough Council, relating to a development at Isles Quarry in Borough Green it's been suggested that the manner of some of those interactions you've had with officers may be in breach of the code of conduct for elected members. That suggestion having been made by officers. That suggestion has been made to you so you have then indeed referred those matters to the Monitoring Officer as a self referral in effect, complaining about yourself and requested that those matters be investigated.

could
MT I'd like to just clarify that. Erm, some of the remarks I have made taken *could* could be interpreted as a breach of code. However, the context of the last seven years of Isles Quarry and my inter relationship with planning officers and members of this Council mean that it is part of a process. Erm, I was felt that my meeting with the Chief Executive and the Borough Solicitor where these concerns were raised, was an attempt to intimidate me and to silence me. When they then failed to take the threatened standards action forward, as an honourable person, if an allegation has been made it should be tested. It should not be swept under the carpet. As they weren't prepared to make the complaint, I did myself. I referred myself for investigation.

MD Thank you for that clarification. Okay, we've mentioned the Isles Quarry, development shall we call it?

MT Yeah.

MD Erm, could I ask you, for the purpose of any readers of the transcript of this discussion, to give me a brief summary of how that all started - the Isles Quarry development and where it is now and where it all started etc?

MT Yes. Erm, in one sense we need to go right back to the late sixties when I was employed by ARC - [06:05 unsure] and Stangate Quarry. I worked for ARC until 1977 when I became a tipper owner/driver working out of Stangate and Isles Quarry and other places so I have an intimate knowledge of Isles Quarry and what's buried there. In 2007 we, as a Parish, as, erm, as members of the public in Borough Green

suddenly became aware that there were advanced plans to include Isles Quarry in the local development framework for the building of 200 plus houses. This was the first we publicly knew about it. I managed to attend the, erm, 2007 local development framework enquiry into Isles Quarry and I sat in front of the inspector, across from Brian Gates who was the Chief Planning Officer at the time. We argued at great length about contamination at Isles Quarry, erm, and then Brian Gates made the statement that the people of Borough Green supported housing development at Isles Quarry and I said, we didn't know anything about housing development at Isles Quarry. He produced a copy of the parish plan, a Borough Green parish plan which I found out later included references to support for development at Isles Quarry. I had had a significant role in preparing that parish plan and I knew that the only reference to Isles Quarry in that parish plan was as a derelict quarry in need of restoration. I then found out that our Borough Councillor, Sue Murray, who was also a Chair of the Parish Council, had taken the publicly witnessed parish plan and inserted ten action points. I was subsequently told by the police who investigated the matter that those ten action points were drawn up by a planner. They were in what we would loosely refer to as planner speak. They have a different way of talking. So, I suspected that a planner was involved with Councillor Murray in, shall we say, forging this parish plan. I spent much time after that through the Standards Board for England, the Ombudsman, the Planning Inspectorate, the Government Ombudsman, trying to get somebody to look at the process because I've always believed that whilst individuals may err, the system itself is iron clad and if somebody raises something that's gone wrong the system will investigate. Well, it didn't so we are left with 200 houses are going to be built at Isles Quarry.

In 2010 I lodged a complaint against Tonbridge and Malling for their part in the matter and the complaint was heard by the now Chief Executive, Julie Beilby, and the now Borough Solicitor, Adrian Stanfield. In that investigation and the subsequent letter to me about the investigation David Hughes, who was then the Chief Executive, cited Brian Gates, the Chief Planning Officer, as having said that the parish plan was not mentioned in front of the inspector. Shortly after that, there was, I wrote complaining to every single member of the borough and every senior planning officer and executive of the Council. A very honourable member of the Borough Council anonymously sent me a copy of a briefing note sent by Steve Humphrey and Brian Gates to all members wherein Brian Gates says, Mike Taylor had ample opportunity to discuss the parish plan in front of the inspector. Now, those two statements are contradictory. So, I have evidence, clear evidence, that a senior officer of this Borough Council, I don't know which one, lied. To me and to the members of this Council. So, that sets the stage for my belief about the behaviour of these officers. Now, I don't know if there was anything criminal behind what happened or whether it was just a question of colleagues covering up for what Brian Gates did wrong in the first place with Sue Murray. I still don't know that but I have found that ever since then that information is withheld from me. I have to, although I am a Borough Councillor who is, has access to all Borough Council documents, I have to resort to FOI to achieve those documents and even then, documents are withheld and there is clear evidence in all this paperwork that has been released over the last nine months, evidence of documents still being withheld. They may be released after a month. The problem is, we are dealing with a live construction site where every day they are moving forward. So, these delays mean that contamination is not being dealt with properly at Isles Quarry.

If we then jump forward to the present day, we're still waiting for the contamination condition, planning condition to be issued prior to Christmas 2013. On November, somewhere about the 11th, 12th or 13th, I was notified by residents that work had started at Isles Quarry before the planning permission had been issued. I went down

and checked and took photographs. There was major excavation underway, the buildings had been virtually completely demolished. We contacted the Planning Department. They then told me, and this was specifically Lindsay Pearson, that this wasn't excavation it was species related ecological investigation and I think it was shortly after that that I made the b star, star, star cks comment. It was clearly untrue. You don't do ecological investigations with 20 ton diggers and 40 ton dump trucks and you don't dig massive holes. We continued to press for an answer. On 21st December the Planning Officers issued planning permission, by email, under delegated powers. So, it was never tested in a planning committee, the contamination permission was never tested with the planning committee, which is what we had asked for. Since then I have pressed and pressed and pressed to ensure that this site is developed safely. All right, we spent several years trying to stop the site happening in the first place. Once the main planning permission was issued in March 2013, our focus changed. It's going to happen. What we want to do now is to ensure that it is done safely and I do not have any faith in the officers' ability to keep Crest on the straight and narrow.

In March 2014, 7th March 2014 we managed to get an emergency item about contamination remediation at Isles Quarry brought onto an Area Planning Committee Agenda and members were assured by Planning Officers that everything was under control, there was no danger to the public safety and no danger to future residents and no danger to the environment and no danger to the water system. They had a full handle on contamination remediation. At about the same time I received a large bundle of emails under FOI. It indicated that no Planning Officer had visited the site until 28th February. Bearing in mind we started work in November. The main contamination, and we have an aerial photograph on 8th December, the main contamination had been moved by 8th December. The Scientific Officer for the Borough Council, responsible for contamination, first visited the site on 28th February and had to ask for directions where it was. So, clearly, the Planning Officers are not exerting proper control over remediation on this site. And that is vindicated by the recent email where they've finally capitulated and started asking to require Crest to remediate properly.

MD Thank you very much.

MT Laughs, it wasn't too much was it?

MD No, I think it's very important that we have a context for this interview and meeting and I felt it very relevant that you gave your perspective, as you have done, on the background of the Isles Quarry development from when it first started to today. Erm, but I now have to emphasise to you that our role and my role within this is to gather and consider evidence and facts relating purely to your behaviour whilst interacting with those officers and then indeed our firm will advise the Council, by a report, whether, in our opinion, that does or does not breach the code of conduct and I want to emphasise that we will not be conducting investigations into the actions of the Council or any officers within the Council or historic actions of officers that used to be in the Council relating to the actual planning application, planning process. I just want to make that clear, for the record.

MT Well, I appreciate that this investigation is purely about my statements about Planning Officers. But, what I have found and I will admit I have gone as close to the line of breach of code as I can, because the only way to get any response, and the response, the only way to get any response is to kick hard and keep kicking. I try to be pleasant. I'm the sort of person who tries and builds relationships with people and if, that's outside the scope of this investigation, but if you investigated my relationship

with officers elsewhere in the Council and at Kent County Council you will find that I am capable of building very strong, very friendly relationships for the benefit of my community. I have been unable to develop that sort of relationship with Planning Officers because I believe they are hiding things and the only way is to kick and kick hard.

- MD Okay. Thank you. So, erm, with that background and context and with my emphasis that we're looking purely, and indeed the referral that we have, said we should look at your inter reaction with officers here at Tonbridge and Malling Borough Council since January 2014, since you were elected as an elective member of this Council, erm, how would you say, in general, not just planning department, in general, how would you describe your, say, face to face inter reaction with officers firstly? When you meet with them generally?
- MT Even with the Planning Officers I have a friendly face to face relationship and it is so important to have that friendly relationship for exactly the same reason as I do with any other member of the Council, because I need their help for the benefit of my community. So, I'm not willingly going to breach the possibility of a good relationship. But, the Isles Quarry issue is so important to Borough Green. It's increasing our village by 10 percent, it's risking our water supply, it's risking our environment, it's risking our future residents' health. We have to be as robust as we can to ensure it is dealt with properly.
- MD So, you would say that even with Planning officers as well, your face to face in personal meeting with officers, is generally a good relationship and you just feel the need to be robust because of the importance to you, at times?
- MT Yes.
- MD And would you say the same about any communications you had with officers in writing? For example, in emails or letters? Would you say again that it was a good relationship but you felt the need to be robust?
- MT Well, there are emails there, which I acknowledge are robust, but a lot of the time I am friendly with them. I want that friendly relationship.
- MD Okay. So, I think what we should do now because we've got plenty of context and we've both got a clear understanding of what this investigation is covering.
- MT Yes.
- MD It would be useful now then, because you just referred to it, to just look at some of those, as you've described them, more robust communications by email and maybe just go through the ones that have indeed been highlighted by others and I've looked through them, and I'll just kind of ask for your comments on a few of those.
- MT Yeah.
- MD The, I would like to say as well, for clarity, that I've interviewed, as I'm sure you're aware, many of the senior officers of this Council and I've obtained evidence from them and I'd like to point out that they do totally support your right to raise legitimate, or what you consider to be legitimate concerns over the development in question and indeed, some of those officers in their statements, have commented that your raising of those issues has actually been of assistance to the over all process and I feel it's an important point to make to you at this point. However, like you've commented,

that some of the email correspondences are, in your words, robust, and I think you said as near to the line as you could go.

MT Yeah.

MD Erm, I hope you understand that others have a different view about those email correspondences so I think we should, err, look at those emails.

MT Yeah.

MD Now.

MT If I can just make one small comment before you go into that?

MD Yep.

MT I have found, through my dealings with Planning Officers over many years, that it is possible to work on a friendly basis but if there are things that need more thorough response, unless you are robust, you will get the fluffy planner speak answer and I am convinced that if I had followed the course of action that perhaps an ordinary, another Borough Councillor might have taken, we wouldn't be where we are today. It is only by kicking that we have got to where we are today.

MD Okay, thank you. You can see in front of me, I have a very thick lever arch folder, full of emails.

MT Mmm.

MD And I think it's fair to say that without counting every single page that there are numerous email exchanges between yourself and various officers and departments within the Borough Council?

MT Yep.

MD Relating particularly to the Isles Quarry matter and, as I stressed to you, we have only been authorised to consider matters between January 2014 and today's date. Erm, but within these emails there are some that I want to go to. They've got various comments that I'd like your, your reaction and comment to. Erm, but for the benefit of readers of this transcript of today, I would say that the emails to which I refer form, for the minority part, the total exchanges and it's only fair and correct to point out that many of the exchanges are straight forward information exchanges, err and reasonable exchanges between people. Is that fair to say?

MT Yes, yeah.

MD Okay, the first email then I want to go to, I have in front of us here, erm, and this is an email on 19th May 2014 at 18:41 which is from yourself if you agree - mike.truck?

MT Yep.

MD Erm, and this is to Steve Humphrey, he is the director isn't he?

MT Director of Planning, yeah.

- MD Erm, Adrian Stanfield who again is a director, I believe, and is the senior solicitor for the Borough?
- MT Yeah.
- MD And it obviously doesn't give the remainder of the list but I think you would agree that it's quite a wide circulation list.
- MT Yeah.
- MD Including, who are these people?
- MT Members of the Parish Council. They're the members of Borough Green Parish Council.
- MD They were copied in?
- MT Yeah.
- MD So you've copied in all the?
- MT Yeah.
- MD Parish Council?
- MT I quite believe, I believe strongly in transparency.
- MD Okay, thank you. And, within the email I'm pointing to the third paragraph where it says "I do hope this development is safe".
- MT Yeah.
- MD "but with you lot in the developer's pocket"
- MT Yeah.
- MD Can I just ask you - what did you mean, I mean, people have all sorts of different perceptions of what that means. What do you mean by "in the developer's pocket"?
- MT The Planning Department's other sort of title is Development Control and control implies ensuring that the developer complies with the terms of planning conditions. If that developer isn't complying and the planning department do not take them to task, it indicates a relationship, an unhealthy relationship between the planner and the developer. I'm not implying any financial, that's not what I mean. What I mean is that the planner is there to assist the developer and if that developer is crooked it follows that the planners are.
- MD Okay. You made the point there that you didn't necessarily mean any particular financial benefit?
- MT Oh no, no, I have a difficulty believing there is any financial implication right across the whole process. I don't believe there is that at all.
- MD Right, but you are there indicating, shall we say, an unhealthy relationship? Would that be fair?

- MT I would look at it as that.
- MD Right.
- MT Especially from the perspective of the public. The public see the planners as ensuring development is carried out properly. The planners don't quite see it that way. They see their role as persuading the developer to do things right and they draw back far more from enforcement than the public realise. So, development control isn't really a very good term. Perhaps it should be development persuasion.
- MD Right. Erm, would you, either acknowledge or comment on a view that could be held by some that making a comment such as "in the developer's pocket" is actually making an allegation of you've explained that you meant it has unhealthy relationship but there are those that, not knowing of your explanation of that, could perceive that to be an allegation of corruption by officers.
- MT Well, I can't know how other people are going to view my words. I can only. I can make a statement. I know what I mean. If they need clarification they can ask me but if it makes the statement even more robust than I actually intended in a sense that's to the good.
- MD Okay. You understand my point?
- MT I understand the point, yeah.
- MD Copying it in to all members of the Parish Council and to various other officers it has been said that it's feasible that somebody who received a copy of that saw that as you questioning the integrity of senior officers, frankly, of the Borough Council and therefore questioning the repute of the authority?
- MT Yes.
- MD Yeah, okay. Thank you.
- MT That, that is my intention. I do question their integrity in this matter.
- MD Thank you. I'll now turn, if I may, to the next email.
- MT Yeah.
- MD Which is 20th May and we have it here in front of us. Again, if you agree that sentence from you to, this time to Lindsay Pearson who is the Chief Planning Officer, Steve Humphrey, who's the director in planning and.
- MT Again, the Parish Council.
- MD That's copied into all the members of the Parish Council?
- MT Yeah.
- MD Thank you. Err, and I've highlighted there, if we look, a couple of sentences at the bottom which talks about "but I have been forced to use, as a last resort" you're talking about freedom of information request then?

- MT Yeah.
- MD Err, "hiding and withholding this information merely reinforces my case that something dodgy is happening"
- MT Yeah.
- MD Any comments on that?
- MT Well, let me give you one specific instance. In the tranche of emails that were released, by Lindsay to me, under FOI, he actually posted a big block of them, one of, now, bearing in mind that my FOI was extremely detailed. I wanted to make sure that I had copies of every email, note, minute that was a good paragraph so I made sure that I had asked for every possible mortal item of information. In those emails, one email contained an attachment called 002 obstruction report which was a report given to the Planning Department by ~~Chris~~ Nicholson, itemising all the lumps of concrete, pieces of machinery that, the physical objects that they'd removed from the site during the first few days and the ground obstructions. Now, that was an attachment to an email they released to me under FOI and I asked them "why haven't I got 002 ground obstruction as well?" It's clearly part of the FOI because it's attached to the FOI email. Now, they didn't release that to me which means they're hiding it from me. it took several weeks to eventually get a copy. That is withholding.
- MD Okay.
- MT And because I've asked for it and they haven't released it, they're deliberately withholding it.
- MD Okay, so, if I ask you whether you think that use of words in that communication to the Chief Planning Officer is appropriate - you are saying? That it is appropriate?
- MT Yes because they are guilty of that.
- MD Okay.
- MT It's not as if. It's not as if this is a one off request. This is the end of an ongoing series of conversations.
- MD Yeah.
- MT Where I have finally got to the end of my tether and used words that are on the line.
- MD Thank you. Err, and we move on to 30th May, again from you, to Nicholas Heslop. That's the Leader isn't it?
- MT The Leader of the Council yeah.
- MD The Leader of the Council, Julie Beilby who's the Chief Exec and I think this one was also copied in, again, to Chief Planning Officer, Steve Humphrey and Adrian Stanfield. So all the senior officers and the leader?
- MT Yeah.
- MD And copied into Jennifer Wilson?

MT Yeah, she's Environment Agency.

MD Right. Ann Kemp?

MT She's the Chairman of area 2 planning.

MD Right. Would that also have gone to Parish Councillors do you know? It doesn't show on there.

MT No.

MD No, okay. Erm, and on that you address it "Dear all"

MT Yeah.

MD And there's just a comment.

MT Well, this is quite a clear one actually.

MD Yeah?

MT "So, you're breaking the law"

MD Yeah.

MT As I've said earlier, I've submitted an extremely detailed FOI request. They did not comply with all the documentation that should have turned up under that FOI, including 002 obstruction, they are breaking the law. The FOI 2000 is the law.

MD So that was your meaning of that?

MT Yeah.

MD And, if I say to you, do you believe that the use of those words is therefore appropriate in that correspondence?

MT Entirely appropriate.

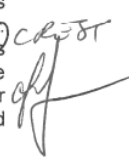
MD Okay.

MT And factual.

MD And I'm now going to move on to the 12th June. This is from you to Lindsay Pearson, the Chief Planning Officer, and copied in to others. Is that Parish Council again?

MT Yeah. This again refers back to the obstruction report that we've referred to earlier. The obstruction report should have been included with that tranche of emails. It wasn't and, despite requests, it took time to get hold of it. Therefore it was deliberately, wilfully, withheld.

MD Right and a point I'd like to say on this is that you commence the email with "Dear Lindsay" so it was clearly addressed to him personally.

- MT Yeah, Lindsay was the one who actually sent me the tranche of FOI emails in the first place.
- MD Yeah, so in there you put "the obstruction report was wilfully omitted from the FOI documents by you". So you accept you are making a direct reference to Lindsay?
- MT Yeah. I mean, I accept that it might have been a lowly clerk in the planning department who actually printed off the emails and punched the hole in them and put the tag through them and put them in an envelope and sent them to me but they were sent to me on behalf of Lindsay and it was Lindsay who wrote the email saying "these FOI emails have been posted today and will be with you" and they turned up on the Saturday morning. So, although I accept it might have been somebody else who actually sent them, it was under Lindsay's sponsorship or orders.
- MD Okay. And again, later in that email, you put "it is now perfectly clear that the planning department has ways to concert and campaign missing information, lies and deception, and deliberately withheld information". The point that some would put there are that, again, as an elected member of this borough Council, you are openly saying on, frankly an open email.
- MT Yeah.
- MD Copied in to the Parish Council, to other people, quite widely, that the planning department of this Council partakes in lies and deception.
- MT Yep.
- MD And therefore could be seen as an attack on the repute and integrity of that department?
- MT Yep.
- MD So, you accept that?
- MT Yep.
- MD Okay, thank you. Any other comments you want to make on that?
- MT Well, if we go through. We've already discussed each one of these issues separately. They obviously did deliberately withhold information. They have lied. Which individual actually created the lie or maybe the lie was created by Chris Nicholson just passed on by planning officers but they're expert enough to know a lie from the truth so, if they've passed on that lie they're as guilty of the lie as whoever formulated the lie in the first place and that is misinformation. It's misinformation and deception. That's what lies are. 
- MD And therefore you say that it is appropriate to put that into a written email?
- MT Yes.
- MD Because you believe that to be the truth?
- MT Yes.

MD And even though it is copied, frankly outside the Borough Council, i.e. to the Parish Council.

MT Yep.

MD You still feel that is appropriate?

MT Yes because people have a right to know what is being done on their behalf. The Borough Council is elected by the people of Borough Green as well and Council officers are employed by the Borough Council to serve the people of Borough Green and the rest of the Borough. They're not a company set up their own to do their own thing. They are employed by us to do what we want them to do.

MD Okay. Thank you. Erm, we now move to 13th June 2014 and this is, erm,

MT Laughs.

MD This is an email where you are writing back, this is 13th June 17:02.

MT Yeah.

MD You are writing it to Adrian Stanfield, the Director, Senior Solicitor.

MT Yes.

MD And I think to put it in context, I believe earlier that day he had sent you an email about a Counsel's opinion.

MT Yeah.

MD That he had obtained.

MT Yeah.

MD And, this is you, having seen that email from Adrian and the Counsel's opinion, this is you responding, your initial response to that. Is that correct?

MT Yeah.

MD And I've underlined there and starred your first response, you're writing to Adrian - "my first response to your email began with b and ended with cks"

MT Yes.

MD Do you think that's appropriate to write to the Senior Solicitor of the Council?

MT If somebody sends me an email which is bollocks I will call it bollocks but that was done politely.

MD Right. Who, what was erm?

MT For a start, when Adrian received his Counsel's opinion.

MD Yeah.

- MT Firstly, he sent an email with half a dozen bullet points in it that he had selectively quoted Counsel's opinion and circulated to members of the borough Council. And I've used the word "selectively" because Counsel's opinion actually reinforces what we've been saying all along. That there is a responsibility on the Borough Council to monitor the remediation at Isles Quarry because the developer is principally responsible for remediation and validation which means there is an onus on the Borough Council. Adrian deliberately submitted a question to Counsel to lead Counsel's answer by asking or by inferring that we had demanded continuous monitoring of the site. We never wanted continuous monitoring. Of course Counsel came back and said continuous monitoring is not appropriate. I believe that. I agree with that. We weren't asking for that. We were asking for them to occasionally monitor, so, the way Adrian has phrased his question to Counsel, the way Adrian has interpreted Counsel's opinion back to Borough members is bollocks.
- MD Okay. So, that like, the second line down - "my first response to your email began with b and ended in cks".
- MT Yep.
- MD Is that addressed to Adrian or is that addressed to, shall we say, the process of Counsel's opinion? Are you with me? There's a slight difference there.
- MT sighs.
- MD Are you saying what Adrian says is b.
- MT What Adrian said to me was bollocks.
- MD Okay, thank you. Erm, and again, right down the bottom here you'll see I've starred there, on the first page, the very few bottom words "we are misinformed by you".
- MT Yeah.
- MD And you'd started this off addressing it to Adrian.
- MT Yeah.
- MD So would you say you are making a clear statement there that Adrian, because that's who you've addressed it to?
- MT Yeah.
- MD Has misinformed you?
- MT Yes.
- MD Yes. And, do you think that is appropriate in an open email?
- MT If he has misinformed us he needs to be challenged. I believe he had misinformed us. And, I'm a passionate believer in transparency. If I've done something wrong I'm quite happy for that wrongdoing to be widely circulated, which it has been. Every member of this Borough Council, every member of the executive of the Borough Council, the officers, all know that there is a standards complaint against me and the details of those complaints. That's fine. I don't have an issue with that, it doesn't need to be made a secret. I've actually told the Parish Council the details of this and

I think I've even spoken to the press about it because I believe it should be public and transparent. Everything should be.

MD Okay.

MT Apart from people's wages, the entire process of the Borough Council should be open to scrutiny.

MD Thank you. So, obviously you appreciate my role to ask you.

MT Yes.

MD What you consider is the appropriateness and you are saying that even on reflection, right now, you still believe that to be an appropriate comment because of your belief that Adrian has misinformed you?

MT Yes and I would write the same email today.

MD Okay, thank you.

MT If he did it again.

MD Okay. This one is 14th June 2014 at 16:07 and this is from you to Alan Sullivan. Sorry, who's Alan Sullivan? I don't recognise that name.

MT That's a good question that.

MD Erm.

MT Oh, he's a Borough Councillor.

MD Right.

MT I think that one is to all members of the Borough Council.

MD Right. Thank you. And you've copied in Adrian Stanfield?

MT Yes.

MD And the subject you've put is "Adrian Stanfield" and, yes, this is to all members of the Borough Council.

MT This is referring back to what I've said to Adrian.

MD Yeah.

MT And his Counsel's opinion and the way he has, erm, submitted the wrong question to Counsel in the first place and then misinterpreted Counsel's opinion afterwards and I'm just highlighting the same thing so it's the same complaint as the previous email.

MD Yeah, to different people.

MT To different people because I believe that the members of the Borough Council should know what officers are doing on their behalf.

- MD And the second line of that, you say "but I'm afraid it is intended to mislead" rather than inform?
- MT Yeah.
- MD And again I'm going to put to you that some commentators on seeing those words that you've written to all the elected members.
- MT Yeah.
- MD Of the Borough Council, we believe.
- MT Yeah.
- MD Certainly you'd accept to some at least.
- MT Yeah.
- MD Yeah, erm, some would say that by writing those words about the senior solicitor.
- MT Yeah.
- MD In the Council, albeit you believe there to be either misinformation or mistakes made, you are directly challenging the integrity of the senior solicitor of your own Council?
- MT Yes.
- MD And that, in turn, would have an effect on the repute of the Council. Do you understand that? That you are challenging the repute of the senior solicitor?
- MT Mmm.
- MD Of the Council therefore it could bring, could it, this Council into disrepute?
- MT Sighs. Yes but my email hasn't brought the Council into disrepute. The actions of the chief solicitor have brought that.
- MD Right, thank you.
- MT And, and as I recall, Adrian had already sent the six point email about Counsel's opinion to all members of the Borough Council.
- MD Yes I believe that is so.
- MT So, if he was attempting to mislead me, he has also attempted to mislead every other member of the Borough Council.
- MD Okay.
- MT To mislead and misinform.
- MD Okay. Thank you. As you appreciate, I just need your reaction to the emails that we have, that have been raised with me, shall we say.
- MT No, I'm happy to go through these.

MD And this one, we now leap forward to 18th June.

MT Yeah.

MD This is, again if you agree, from you to Adrian Stanfield, err, Nicholas Heslop, the Leader.

MT The Leader.

MD And obviously it doesn't print out enough.

MT Yeah, it's probably gone to Julie Beilby and.

MD Yeah. Subject "Counsel's Opinion release of documents" and you copied it to Kevin Twogood.

MT Yeah.

MD Who is legal department I believe.

MT He keeps popping up from time to time. Occasionally I.

MD I know he's also the Deputy monitoring Officer as well. Erm, sorry, Tim Shaw?

MT That again will be the rest of the Parish Council.

MD The Parish Council?

MT Yeah.

MD So, copied in to all of the Parish Council and I'm going to the bottom paragraph on this page.

MT Yeah.

MD "I must also question your role in this affair"

MT Yeah.

MD Now, again, I point out this is headed "Dear Adrian" so it's personally addressed to Adrian Stanfield.

MT Yeah.

MD And you say you "question your role in this affair Adrian as someone whose duty is to advise the Council how to comply with both the law and the Council's laws. I cannot understand how you have countenanced and condoned the withholding of information"

MT Mmm.

MD You are, there, some commentators would say, you are there making a very direct challenge to the person, Adrian Stanfield.

- MT Yeah.
- MD Of his integrity in the advice he has given and you are saying he has countenanced and condoned the withholding of information?
- MT Yep.
- MD You are challenging his integrity?
- MT Yeah. Because he has been aware of all the issues that have been highlighted through the last six emails. He's been well aware of that. His job is to ensure that the officers comply with the law and that the Council complies with the law and the Council's own rules. Now, if, as the other emails highlight, they haven't been complying, he is at fault because he is the one with the responsibility for ensuring that compliance.
- MD Again, could it be that some commentators or observers who read that, bearing in mind it's been circulated to all the Parish Council as well.
- MT Yeah.
- MD Could say, okay, if you wish to challenge the integrity of a senior solicitor, the place to do that is not in an open email where it's copied widely, it's not written confidential etc., there must be other ways, if you strongly believe that you wish to make that challenge, but not in an open email?
- MT No, again, I believe in transparency. All these people have a right to know what is being discussed. Whether they're Borough Council members, Parish Council members, members of the public. Adrian Stanfield is the Chief Solicitor for their Borough Council. They have a right to know that he is doing the job he is being paid for and it seems to me, and I believe quite strongly that the evidence shows, that Adrian Stanfield has not carried out his job properly. So, I have challenged him on that and I have challenged him in public because he is acting for those people.
- MD Okay. Thank you. I move on to 18th June.
- MT Mmm.
- MD 2014 at 19:07. Again this is from you, if you agree, to Adrian Stanfield?
- MT Yep.
- MD And copied in is the Chief Executive, Steve Humphrey and again it doesn't show who else but it is certainly copied to other officers.
- MT Yeah.
- MD Again addressed "Adrian" so it's to him and again you've, three paragraphs down, the middle like "I have clear evidence of lies involving many senior officers".
- MT Yeah.
- MD Appropriate?
- MT Yes.

- MD Okay.
- MT The clear evidence is there. This is the letters from David Hughes and Adrian Stanfield, Julie Beilby about the complaint in 2010 and the subsequent briefing by Brian Gates and Steve Humphreys which are directly contradictory. So, there is a lie inherent highlighted by that evidence. Now, as I've said before, if somebody, one person uttered the lie in the first place. Other people have condoned that or continued that lie and they were all senior officers and there is an email trail on those documents that indicates all those senior officers, including the original Chief Executive David Hughes and the original Borough Solicitor Ian Henderson. They are all involved in that lie and if they weren't involved in the lie when it actually happened, they were involved in the lie afterwards because they didn't challenge.
- MD Okay, thank you. So, you believe it's appropriate to put it in that email?
- MT Yeah. That short statement could be an over clarification, an over simplification.
- MD Yeah.
- MT Of a complex.
- MD Yeah. Okay. And there was one other email I just wanted your passing comment on and I haven't marked it for some reason. I think I have and my little marker's fallen off. Erm, it's on, here we are, I've found it, 25th June 12:34. This is from you. Sorry, this goes from you at 12:33 on 25th June to Glenda. I believe that's Glenda Egerton?
- MT Egerton yeah.
- MD Yeah, who is a senior planning officer and was kind of the case officer for Isles Quarry?
- MT Yeah.
- MD Erm, and in that email you actually thank Glenda "very much appreciated". This is to do with sending you some more documents.
- MT Yes.
- MD Erm, and you say "save the postage".
- Clock chimes in background.
- MD We'll just stop for a second.
- MD Just to point out that whilst there are no other persons present, there is a grandfather or grandmother clock present that wanted to have it's say.
- MT Laughs.
- MD Erm, in this email, in her offer to send you the documents you say don't bother and there's a comment there "save the postage and put it towards Adrian's collection to pay back the £1,625 he paid for the flawed opinion". Any comment you want to make about that email?

MT That's just a humorous dig.

MD Right.

MT I still don't hate these people.

MD So that's a humorous dig at whom?

MT Adrian Stanfield.

MD Adrian. You don't mean any insult towards Glenda?

MT No, no, it's more of a colleague based humorous comment.

MD Okay, thank you. I understand that all the emails that are highlighted.

MT Yeah.

MD By others and I've had a look through, and I stress that, you know, I think there were nine there and I stress that that is not the majority of exchanges by any means but they are just ones that have been brought into question, shall we say.

MT Yes.

MD And I wanted to raise with you. I understand that you then had the opportunity, on 27th June, this year, to have a meeting with Adrian Stanfield, Julie Beilby the Chief Executive.

MT Yes.

MD And I understand Councillor Mrs Kemp was present?

MT Yes.

MD And a Councillor Pat Darby?

MT Pat Darby, she's Chairman of Platt Parish Council.

MD Right.

MT I asked her to come so I had somebody, not necessarily on my side, but.

MD Okay.

MT Somebody who would remember things I had heard them.

MD Okay. Thank you. Now, my understanding, to summarise, of that meeting was that it was put to you by Adrian Stanfield that he, as the monitoring officer, held some concerns.

MT Yeah.

MD In particular about some exchanges you had had with officers, some of which we've gone through today.

- MT Yeah.
- MD And he felt the need to discuss that with you, with the Chief Executive present.
- MT Yeah.
- MD Frankly about your attitude.
- MT Yeah.
- MD That was the purpose of the meeting wasn't it?
- MT Yeah.
- MD To discuss the way you were inter reacting with officers.
- MT Purported purpose of the meeting.
- MD Right. So, I understand there are now agreed minutes of that meeting, which we do have a copy of?
- MT Yes.
- MD So, without, you know, going right through those minutes, could you just give me your recollection of that meeting? The purpose of it as you see it? And how you feel that meeting went and what came from it?
- MT I believe that meeting was specifically to try and intimidate me into silence. They should know me well enough by now that that isn't going to work. Err, I tried to steer the meeting fairly successfully, more towards the behaviour of the Borough Council with regard to Isles Quarry and why that had generated the things that were raising Adrian's "concerns" but I think the purpose of the meeting was to intimidate me into silence and I actually made the point that I am not beholden to the Borough Council or to the officers, I am beholden to the people who elected me in Borough Green and Borough Green and Long Mill and I know I have their support in the approach I'm taking and that's it and I actually made the direct challenge that if he believed I had breached the standards code, if he believed I had defamed officers put me in front of the standards committee or take me to court.
- MD Okay. As I say, we do have the minutes, the agreed minutes that you've agreed.
- MT Yeah.
- MD So they can be added to the file for the reference of readers.
- MT I did also make the point at that meeting, and I made sure it was in the minutes, that I actually believe Tonbridge and Malling are a bloody good Council except for this one flaw. Why that's happened, I don't know. They are a good Council and I support a lot of what they do.
- MD Thank you. And, whilst you've said that, just a general comment that I'd like to ask you - how would you describe, you know, you'll appreciate that in my role I go all over the country considering sometimes the relationship between officers and members.

- MT Yeah.
- MD How, could I ask you to describe, as a very general comment, in light of this but in other areas as well, how would you describe the relationship generally between officers and members at Tonbridge and Malling Borough Council? Not only you but the other members that you've witnessed?
- MT I think there's a very good relationship. Erm, if we went deeper into who actually runs the Council, that's a different argument but I see it every day that there's a good relationship between officers and members and I hope on anything apart from Isles Quarry, a good relationship between myself and officers and members.
- MD Thank you. Good.
- MT And I try to, I try to keep Isles Quarry compartmentalised because I have to work with these officers on other planning issues and other issues in the Council and that wouldn't be possible if we were at war all the time on everything, so I do try and compartmentalise.
- MD Okay. Thank you for that. It's just interesting to me to see how you see, you know, the big picture.
- MT Yeah.
- MD Erm, okay. I'll go back then if I may to a couple of specifics because there's a website called Borough Green News I believe?
- MT Yes.
- MD And, and one or two issues have been raised by officers about that website and, indeed, I've had a look myself as well. Firstly, can I ask you whose website is that? Where did that originate from?
- MT It's my own personal website. I pay for it myself. It's hosted in America so the Council can't do anything about it.
- MD Okay. Erm, so you are the originator?
- MT Yes.
- MD And, basically, the owner of that domain?
- MT Yes.
- MD Who posts things on that website? Who can actually put things up?
- MT Me.
- MD Only you.
- MT Only me.
- MD So, nobody else. I couldn't go on it and post a comment that would stay on there?
- MT If you wanted to. I could give you the password and you can do it.

MD Right, so, I'd have to have a password to post a comment?

MT Yeah.

MD Right.

MT No, there is a guestbook.

MD Right.

MT So, you can go onto the site and leave comments on the guestbook.

MD Okay. Thank you. Erm, as I say, officers have raised concerns about one or two posts that are on that website.

MT Yes, I can understand that.

MD And the first of those being, I think 14th June, but it was an email, sorry, a post on the website.

MT Yeah.

MD In which you published the email of 13th June.

MT Yeah.

MD If we go back to that, that's the one from you to Adrian Stanfield where you comment about began with b and ends in cks because it's quite memorable.

MT Yeah.

MD You published that email and, within the post, state that "A Stanfield is the Council's solicitor and he has wasted money obtaining a flawed opinion because he biased the question".

MT Yes.

MD Firstly, can I say, did you author that post? Did you put that post on?

MT Yes.

MD You did. Do you feel it's appropriate on a public website that is literally worldwide, again, to make the comment about the Council's senior solicitor being biased? Do you feel that's a fair comment?

MT Well, it's true, if it's on the internet, it is worldwide but, in truth, the only people who read it are the people in Borough Green. Borough Council officers will wonder if they've popped up on the site that day and the local press. Now, there is nothing in that post that I haven't said directly to Adrian anyway and I believe that waste of public money, the people's money, not Adrian's money, not the Borough Council's money, the people's money is a matter that people should know about.

MD I draw your attention as well to a post that appears to be dated 30th June.

MT Yeah.

MD This year and this is relating to the meeting that we discussed in this discussion that you had on 27th June.

MT Yeah.

MD With Adrian, Chief Exec and some other councillors present.

MT Yeah.

MD Erm, and in that post you refer to A Stanfield as "using little devious tricks".

MT Mmm.

MD And that in future you will not meet him without a witness being present.

MT Yes.

MD Because you've learnt from experience.

MT Yes.

MD Again, do you feel, you clearly, from what you've told me, clearly feel that they are justifiable to say those things.

MT Yeah.

MD But, do you feel it wise and appropriate to say those things in a public website?

MT Yes, because the public need to know how the members they elect and the officers they pay for, employ, are behaving and if that behaviour is wrong, people need to know. It's the same justification as the press use, except I don't go into their private lives.

MD And in that same post, there are some who have raised issues about the words as well where you've put "yes, those planning officers".

MT Yep.

MD And those is in capital letters as I saw it.

MT Yeah.

MD "the ones who have been misleading us and lying to us for the past seven years".

MT Yep.

MD You know, we've brushed on that before going through the emails. You clearly feel, and it's not for me to judge at all and please don't think I am judging you.

MT No.

MD It's not for me to judge whether those comments are justified or not.

- MT Mmm.
- MD What I would say is it's obvious from the way you address the issues I've raised that you believe that those comments are justified.
- MT Yes.
- MD Again, what I'm asking is, when you look at the reputé of the whole Council, the officers of the Council, the other members of the Council and you are making those comments in a public domain.
- MT Mmm.
- MD Do you feel that is appropriate?
- MT Yes. Because, I refer back to what I said earlier. It's not me that has lied and misinformed. And, if public employees or elected members are guilty, it needs to be made public. This is a public body. The website serves two purposes that's to inform the public and I'm also very aware that officers and members read my website so it gives me a second prick at their conscience.
- MD Okay, thank you. I think we've gone through a lot of emails and I've mentioned there some stuff on the website that has been raised to me. In general then, having reviewed all the emails we have and the couple of posts on the website, is there any further general comment that you would make about your inter reaction? Now we've gone through them in some considerable detail. You know, you said at the beginning of this meeting and interview that you felt that, generally, your inter reaction, excuse me, with officers has been good and you accept that particularly over the Isles Quarry issue there have been occasions when you have felt the need to be, shall we say, very robust?
- MT Yeah.
- MD To what you describe as right to the line?
- MT Yeah.
- MD Yeah. Having now gone through those, what would be your general comments? Still the same?
- MT I don't think I was as bad as I thought I was.
- MD Okay. Right, so, having gone through them, on reflection because that's where we are now isn't it?
- MT Yeah.
- MD We're sitting here together, we've gone through them one by one so, on reflection, you would still say that the majority of interactions anyway were very straight forward anyway and a matter of information and those that have been highlighted by officers to me and we've gone through today, would you accept that they could be seen by some as being robust? But you are now saying that actually, you don't think they are as close to the line as you maybe thought they were initially?
- MT No. Laughs. But I was angry at the time.

MD Right.

MT I mean this has been an extremely useful exercise to go through them and to analyse them in that sort of detail.

MD Okay.

MT And, err, I don't think that there's anything there. No. I'll make a positive statement. There is nothing there that I wouldn't say again, today.

MD Okay.

MT And, just to extend on that, as you know we received this email from the planning officers where they seem to have had a change of heart about Isles Quarry and are now taking the developer to task. I'd love to believe that is what is going to happen but I can't generate a great deal of faith in the idea that it is going to happen.

MD Thank you. And, when we were going through the emails I did put to you, sorry, not just emails, the website as well, the communication generally, I did put to you that, erm, a different view point could be, err, either by officers themselves or, we don't know without interviewing every member of the Parish Council and may I suggest to you that is inappropriate and disproportionate to do that, it's too much for this investigation.

MT Oh yes, yeah.

MD We don't know, but I think you acknowledge that there are those who could see some of your comments in a very different light. Erm, without having the explanation that you've given today.

MT Yeah.

MD And that some officers could be insulted by what you've written?

MT I'm insulted by the behaviour of the officers over the last seven years. I'm not an idiot.

MD Thank you. Erm, I now want to turn, briefly, to the code of conduct.

MT Yep.

MD One or two little questions about that. Err, which I have here, erm, firstly, you are aware that particularly as a Borough Councillor.

MT Yeah.

MD There is a code of conduct?

MT Yes, yes.

MD It's existence.

MT I'm very aware of it and I think it's important and I'm a believer in it.

- MD Have you had any training in the code of conduct?
- MT Not specific training, no. I may have had training when I first became a Parish Councillor by KLC but that would have been general rather than specific.
- MD And remind me, how long ago was that?
- MT That would have been in 2000/2001 that sort of time.
- MD Okay, fourteen ish years ago?
- MT Yeah.
- MD Erm, and of course that would have been before the Localism Act anyway.
- MT Yeah.
- MD So, you've not had any recent training? You've not had any training as a Borough Councillor?
- MT No.
- MD Okay. I draw your attention, in general terms, to a couple of areas of the code of conduct.
- MT Yeah.
- MD Well, three really. Firstly you're aware the code of conduct is made under what is made under the Nolan Principles of public life?
- MT Yeah. The seven principles.
- MD Yeah, thank you and one of those is leadership.
- MT Yeah.
- MD And talks about high standards of conduct within your role as an elected member.
- MT Yeah.
- MD Do you, in your own mind, knowing of that content in the code of conduct feel that having gone through this that you have maintained high standards of conduct?
- MT Yes.
- MD You do?
- MT The key thing is integrity and I believe I have been, behaved with integrity. They may not see it that way. I don't care.
- MD Thank you. It also talks about bullying and intimidation as you are aware I believe?
- MT How can I bully somebody who is in authority over me?
- MD Do you see it that the officers are in authority over you?

- MT They have the, almost, life and death control over my home. They have already wielded a ten percent increase on the size of my village which will destroy the fabric of what we knew as a village so they can do that without any redress from me, so they are clearly in a position of authority over me. If I was in a position of authority over them I would have told them how to behave at Isles Quarry and they would have done it.
- MD Thank you. And, lastly, I would like to refer to a paragraph in there which is paragraph 3 2 (f).
- MT Yeah.
- MD Which talks about you must not conduct yourself in a manner that could reasonably be regarded as bringing your office, that's your office of being an elected member, or the authority, that would be the Borough Council, into disrepute. Do you, again reflecting on particularly the communications that have been pointed out today, do you feel that you have acted in any way which could be reasonably be regarded, by others, as bringing either your office as a Councillor or this authority, the Borough Council, or for that matter, the Parish Council, into disrepute?
- MT No. I believe, quite strongly, that the behaviour of officers and some members has brought this authority into disrepute. If the public believed I have brought my office, the Parish Council, the Borough Council into disrepute I wouldn't continuously be elected by them.
- MD Okay, thank you. I have, we've covered an awful lot in the last, oh gosh, hour and a quarter. I've certainly covered the areas that I wished to, to ensure that this was thorough and meaningful. Is there anything that you think has been left out or anything simply that you want to add or any comment you want to make?
- MT I am extremely grateful to you because you are independent of this and whether I am right or wrong, I will be judged fairly.
- MD Thank you. And, I can assure you that my colleague, Mr Goolden, who will make the final decision on this based on the evidence.
- MT Yes.
- MD Will almost certainly do that. He's known for it and also of course we have the benefit that he hasn't met you or the participants so he will be reading it purely on the evidence and will make that judgment.
- MT The reason I have, I mean obviously it's me that's pushed it to this point, which is why you're here today and Mr Goolden is looking over our shoulder. If I am deemed not to have broken the standards code, that sends an extraordinarily powerful message back to the other members of this Council who will then start looking at the behaviour of officers in a different light. We might actually see a flowering of democracy.
- MD Okay. Thank you very much. I think now we'll draw this to an end and, according to the clock that I've been looking at, it is now 11.21 and I intend to turn the recorder off.
- MT Fine.

MD Thank you.

END OF RECORDING

I certify that this is an accurate note of my interview with Martin Dolton on Friday 24th October 2014, save one spelling mistake & two uses of "CHRIS" instead of "CREET" as noted a initials.

Signed 

Dated *15 NOV 2014*

JTG 10

Schedule of Emails

Number	Date	Time	From	To	Cc
1	09.05.14		Councillor Taylor	Steve Humphrey Adrian Stanfield	
2	20.05.14	12:16	Councillor Taylor	Lindsay Pearson Steve Humphrey	Tim Shaw Cliff Dobson
3	30.05.14	13:00	Councillor Taylor	Nicolas Heslop Julie Beilby	Jennifer Wilson Ann Kemp
4	12.06.14	17:59	Councillor Taylor	Lindsay Pearson Steve Humphrey	Sue Murray Tony Sayer
5	13.06.14	17:02	Councillor Taylor	Adrian Stanfield Hazel Damiral	Julie Beilby Kevin Toogood
6	14.06.14	16:07	Councillor Taylor	Allan Sullivan Andy Allison	Adrian Stanfield
7	18.06.14	14:29	Councillor Taylor	Adrian Stanfield Nicolas Heslop	Kevin Toogood Tim Shaw
8	18.06.14	14:46	Adrian Stanfield	Councillor Taylor	
9	18.06.14	14:57	Adrian Stanfield	Councillor Taylor	Julie Beilby Steve Humphrey
10	18.06.14	14:57	Councillor Taylor	Adrian Stanfield	
11	18.06.14	19:07	Councillor Taylor	Adrian Stanfield	Julie Beilby Steve Humphrey
12	25.06.14	12:33	Councillor Taylor	Glenda Egerton	
13	04.07.14		Councillor Taylor	Lindsay Pearson	Adrian Stanfield Glenda Egerton

Email 1

Page 1 of 1

Adrian Stanfield - Meeting today

From: Mike Taylor <mike.truck@btconnect.com>
To: <Steve.Humphrey@tmbc.gov.uk>, Adrian Stanfield <Adrian.Stanfield@tmbc.go...>
Date: 09 May 2014 16:21
Subject: Meeting today

Dear Steve,

Again my thanks for the time given again to BGPC, and confirming the formal lodging of our approved 2014 Supplementary Parish Plan. Although I had guessed the outcome in advance, I do believe there is some good in everyone, and I need to give people every opportunity.

I reiterate that the people of Borough Green feel they were badly served by the LDF process, and the subsequent allocation of IQW for housing, and that we believe there were irregularities in that process. As an attempt at moving forward I had a mandate from the Parish Council to ask for a generic apology, however vague, and that we would waive any right to reinvestigate the matter. It was felt that this would give both "sides" the opportunity to move forward and work together to ensure these inevitable houses are safe, and our water supply is safe. Sadly that was not to be, and T&MBC retain its stance that nothing untoward happened.

I also remarked that I believe that T&MBC failed us badly in the timing of the planning conditions that would have required a construction HGV routing condition via the Haul Rd and the new entrance, saving us the constant nightmare of HGV traffic on Quarry Hill, which still doesn't have the promised 7.5 tonne limit. There is a strong feeling in the village that this was deliberate retribution for opposing the development. I accept that we should have spotted that omission, but doubt that you would have paid any more heed to that than anything else we have said.

The Parish Council has a duty to ensure as far as possible that these houses are safe, but despite the strong evidence that the developer is not complying with planning conditions 7 & 25, you maintain there is nothing you can do, and refuse to use your influence to persuade them.

I pointed out that the Parish Websites hold a lot of material that prospective buyers could find via the internet, and that could well inhibit the sale of these houses, and that we have every intention of ensuring those house hunters are aware of the full facts about this site.

I was surprised to hear that you all still labour under the misapprehension that I am a lone mouthy troublemaker, "the only one who has ever complained about contamination": surely a Parish Poll, 2 PC elections, 4 consecutive elections as Chairman, and now Borough Councillor, added to the very clear evidence from URS, should demonstrate to even the most bone-headed that IQW contamination is a serious problem that cannot be magic'ed away with a verification report: if it all does go wrong, that verification report won't do much to counter the clear opposing evidence if it ever goes before a judge.

Kind Regards
Mike

PS as your memory has clearly failed http://www.boroughgreen-news.com/rich_text_32.html contains extracts of T&M's contradictory statements as discussed at length, and the sources as published. It might even pay to have a peek at http://www.boroughgreen-news.com/rich_text_40.html which lays out the time line of what we perceive as T&M's failures.

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Email 2

Page 1 of 2

Adrian Stanfield - Isles Quarry - Piling

From: Mike Taylor <mike.truck@btconnect.com>
To: 'Lindsay Pearson' <Lindsay.Pearson@tmbc.gov.uk>, <Steve.Humphrey@tmbc.go...>
Date: 20 May 2014 12:16
Subject: Isles Quarry - Piling
CC: <tim@timshaw.wanadoo.co.uk>, 'cliff dobson' <frogskwod@hotmail.com>, 'ga...

Dear Lindsay,

I would appreciate a response to this request, please don't just file it with the ever-growing list of ignored requests.

It would appear that Crest are fast approaching the area of the site over the main landfill, where piling will be required because of the instability and risk of subsidence. I attach below Condition 3 from the EA, and your condition 24, both requiring written consent of the LPA for the foundation/piling design. Now whilst not stated, it is implicit that Crest should submit plans of their intentions, so under FOI rules I would like copies of all plans, meeting notes and all other correspondence used by the LPA to arrive at the decision to produce that written consent. Further to that, any instructions to, or correspondence with, outside agencies concerning the monitoring of the River Bourne and the extraction boreholes for potential contamination release.

I also note that I am still awaiting answers to questions asked formally, or under FOI rules, specifically:

1. What happened to the tarmac removed at the first steps in excavations in the north of the site: the old Sentinel works, between Nov 2013 and Dec 8th 2013?
2. Where did the new tarmac that appeared in the compound after Dec 8th 2013 come from?
3. What happened to the contaminated material from the northern area that disappeared between Nov 2013 and Dec 8th 2013?
4. Where did the new "contaminated material" that appeared in the compound after Dec 8th 2013 come from?
5. Has an illegal soakaway been installed adjacent to the Hornet eastern boundary?
6. Why have Crest got soakaway crates stored on a site where soakaways are banned?
7. What evidence do you have that Crest are complying with the requirement to install a geotextile barrier under 600mm of inert imported fill in all public areas?
8. Have you yet received the requested details of Crest's "new" contamination strategy?"
9. If we believe Planners' statements in the press, to Committee, and elsewhere, that the site is being continuously monitored and is compliant, why have no further documents been released under the extant FOI since 11th March?

The answers to the above questions are crucial as to determining whether Crest are compliant and Planners monitoring properly: I suspect this contamination has simply been buried in the main housing area, and as yet you have not produce a shred of evidence to disprove the theory. Unless you can provide alternative believable evidence to the contrary, I am quite justified in assuming that as the contamination has not been removed, the site is not safe, and that such facts as we have should be widely publicised.

I realise Planners still don't really understand the concept of transparency, but surely you can see that the longer you withhold information, the less credibility it has. Whilst contemporaneous notes can still be "fudged", they have a truth they don't have weeks later when eventually dragged into the light. This whole fiasco could have been averted had planners simply kept us up to date, as is our right. I am sure Martin is duly angry at yet another expensive FOI, but I have been forced to use them as a last resort to obtain withheld information. Hiding and with-holding this information merely reinforces my case that something dodgy is happening, and that you are covering it up.

Regards
Mike

Extract EA submission 27 July 2012

Condition 3 : Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express 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. The development shall be carried out in accordance with the approved details.

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Extract Decision TM/11/01191

24. Piling or any other foundation designs using penetrative methods shall not be carried out other than with the express written consent of the Local Planning Authority, such permission will only be given within those parts of the site where it has been demonstrated that there is no residual unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure that any such works are carried out with due regard to the risks to groundwater presented by contamination present in the made ground beneath the site, as highlighted from site specific investigations

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Email 3

Page 1 of 1

Adrian Stanfield - Transparency

From: Mike Taylor <mike.truck@btconnect.com>
To: <Nicolas.Heslop@tmbc.gov.uk>, Julie Beilby <Julie.Beilby@tmbc.gov.uk>, A...
Date: 30 May 2014 13:00
Subject: Transparency
CC: <jennifer.wilson@environment-agency.gov.uk>, Ann Kemp
<Ann.Kemp@tmbc.gov...>
Attachments: Isles Quarry; RE: IQW - contamination; Isles Quarry - Piling; Nic10052014.doc

Dear All,

Regarding communication over the past few weeks, samples above. I assure you that ignoring me will not make the problem disappear: I have followed this for 7 years, I am unlikely to give up now.

1. There is still material outstanding on my FOI, which you responded to on the 18th March. You are now well outside any interpretation of the 28 day period, and I note that at least records of meetings on the 11th and 13th March are still outstanding. There may well be other documents that are being withheld, but I don't know what they are. So you are breaking the law, which is precisely why I used FOI and not just my right as a Councillor to require sight of the evidence..

2. Should this matter ever end up in front of a judge, I can clearly demonstrate that my actions are based on clear hard evidence of non-compliance, and so are not frivolous or vexatious. I have offered to discuss our concerns on several occasions, to allow you the opportunity to show the site is safe.

I have again recently offered the opportunity for all parties to meet, to demonstrate to me that the site will be safe, to allow me to reassure residents.

You have the opportunity to be transparent, and there is still time to defuse the evidence on the internet prior to Crest putting the first houses on the market. There are also other avenues we will pursue that will make sales difficult, if not impossible. Why would a buyer risk a suspect house - you can't make them buy.

The longer T&MBC and Crest conceal evidence, the more apparent it is that you have something to hide, and remember should this ever go to Court, that will also allow the light of day into the flawed history of the LDF.

I am fairly secure, the websites are hosted overseas so cannot be reached by the British Courts, your Standards System does not have the sanctions available, legal action against me would be welcomed, but fruitless- I have no assets; and a cyber attack against the sites would definitely result in a media storm.

You have a duty of care to residents, even those in Borough Green, so I suggest you agree to sit and talk, and demonstrate this site is safe before it is too late

Kind Regards

Mike

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(09/07/2014) Adrian Stanfield - RE: IQW - contamination

Page 1

From: Mike Taylor <mike.truck@btconnect.com>
To: 'Lindsay Pearson' <Lindsay.Pearson@tmbc.gov.uk>
CC: 'Adrian Stanfield' <Adrian.Stanfield@tmbc.gov.uk>, 'Glenda Egerton' <Gle...>
Date: 21 May 2014 18:45
Subject: RE: IQW - contamination

Dear Lindsay,

Your response noted:

Three points at issue:

1. As a T&M Councillor I have been advised that I can simply require these documents: I used FOI simply to enforce the issue.
2. Whilst the FOI was issued earlier on the 6th March, your response was sent on the 18/19th March arriving with me on the 22nd. The latest date in the released documents is the 11/12th March. I note this misses out information/notes about the meeting between all parties on the 13th, and the internal meeting referred to on the 11th.
3. I do not believe the documents released to be comprehensive or complete.

I look forward to compliance as soon as possible. I copied you in on my reply to the EA: they seem to have even less idea of what is happening at IQW than the planning department.

I will repeat myself (yet again): if you or Crest can supply proof that this site is being dealt with safely, I will shut up: a verification report issued afterwards will not suffice as reassurance

Regards
Mike

-----Original Message-----

From: Lindsay Pearson [mailto:Lindsay.Pearson@tmbc.gov.uk]
Sent: 21 May 2014 18:13
To: mike.truck@btconnect.com
Cc: Adrian Stanfield; Glenda Egerton; Jane Heeley; Julie Beilby; Kevin Toogood; Kirstie Atkins; Steve Humphrey
Subject: IQW - contamination

Dear Mike,

We have explained the formal process for submission of details pursuant to the planning condition and have also provided you with some detail that has been provided to us, thus far, outside the formal process for compliance with the condition.

In light of your comments re: a continuing obligation under FOI/EIR I have taken legal advice and can confirm that these provisions are limited to the time of enquiry (i.e. our obligation to disclose information is limited to information we hold at the time of the request) and do not provide a process for requesting that a public authority provide continuous updates in respect of information that may (or may not) come into their possession at some unspecified time in the future.

Nevertheless as has been indicated previously any information provided prior to formal compliance with the condition can be shared. In this respect we are seeking further comments from Crest on the points that you have raised and for a more general update on contamination and are meeting Crest to discuss the project more generally, but in particular to seek updates on contamination matters in advance of the submission of details in relation to the condition.

We will get back to you when we have some more detailed information.

Just to let you know I shall be away from the office from tomorrow until Monday 01 June and our specialist advisor is unavailable until 10 June.
Lindsay

Lindsay John Pearson
Chief Planning Officer
Tonbridge and Malling Borough Council
tel: 01732 876237
fax: 01732 876363
website - www.tmbc.gov.uk

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(09/07/2014) Adrian Stanfield - IQW - contamination

Page 1

From: Lindsay Pearson
To: Mike Taylor
CC: Steve Humphrey; Kevin Toogood; Julie Beilby; Adrian Stanfield; Glenda Eg...
Date: 21 May 2014 18:13
Subject: IQW - contamination

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Lindsay

Lindsay John Pearson
Chief Planning Officer
Tonbridge and Malling Borough Council
tel: 01732 876237
fax: 01732 876363
website - www.tmbc.gov.uk

Email 4

Page 1 of 1

Adrian Stanfield - 2nd tranche FOI material

From: Mike Taylor <mike.truck@btconnect.com>
To: 'Lindsay Pearson' <Lindsay.Pearson@tmbc.gov.uk>, <Steve.Humphrey@tmbc.go...>
Date: 12 June 2014 17:59
Subject: 2nd tranche FOI material
CC: 'Sue Murray' <ssma.Murray1@tesco.net>, TonySayer <tony.sayer@hyder.plus....>

Dear Lindsay,

Please accept this email as confirmation of my receipt of the posted FOI material, containing the Ground Obstruction Report, and the email regarding the construction of the T19 storage tank..

I must say I now feel much more favourably disposed towards Crest, but my anger at your department's behaviour has escalated, I now understand your extreme reluctance to release the material, I wonder what else is still lurking?.

The Ground Obstruction Report, that I originally saw mentioned as attachment to an FOI email dated 6/3/2013 from Russell to Kirstie, answers most of my questions about the disposal of the two lots of tarmac. The first lot was taken from Area 1 (obstruction 7) and that is the tarmac I have been asking about for some time, it appears to have been crushed and mixed with the recycled concrete. The second lot of tarmac (obstruction 6) (which I didn't know about) was discovered adjacent to the WRG access road, and stockpiled in the compound until it was crushed and mixed a few days ago. You tried to tell me that the second lot was the tarmac I was looking for all along. What angers me the most is that the Obstruction report was wilfully omitted from the FOI documents, by you, and would have answered a lot of my questions without weeks of emails, threats, speeches and questions, and would have gone some way towards keeping Crest's reputation intact. I suspect that omission broke the Law.

I believe Jennifer Wilson at the EA would welcome a copy of this Obstruction report prior to the all parties meeting, it will enable her to make an objective decision about the tarmac, based on Crest's evidence rather than my grumbles.

The same applies to the email in this FOI from Russell, which gives a clear and comprehensive answer to a question I asked you on the 24th April, to which I have not yet had the courtesy of a response. Although I am still puzzled as to why Crest need a heap of soakaway crates.

I must belatedly compliment Crest on the detail of their record keeping, this is exactly the sort of information that should be released on a regular basis to answer people's concerns.

When we asked why Crest had started work in early November, you told us it wasn't construction, it was "species related ecological investigation". I am still waiting to find out whether that was Crest, or some sarcastic genius in the Planning Department, but it was you who passed the lie to me. The obstruction report clearly shows that there was very little surviving ecology to be investigated.

I have a duty to the residents to ensure that this controversial site is developed safely, and in the course of that duty I have asked many legitimate questions based on the only evidence we have. Several times I have been accused of misunderstanding, and being misinformed. It is now perfectly clear that the Planning Department has waged a concerted campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information.

One final observation: the secrecy endemic in your department is not acceptable in this day and age, people have the right to know how and why decisions affecting their lives are made: a valuable lesson for the future.

Mike Taylor

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Email 5

Page 1 of 3

Adrian Stanfield - RE: Isles Quarry West

From: Mike Taylor <mike.truck@btconnect.com>
To: 'Adrian Stanfield' <Adrian.Stanfield@tmbc.gov.uk>, 'Hazel Damiral' <bgpc...>
Date: 13 June 2014 17:02
Subject: RE: Isles Quarry West
CC: 'Julie Beilby' <Julie.Beilby@tmbc.gov.uk>, 'Kevin Toogood' <Kevin.Toogoo...>

Adrian : A big email form TMBC, it must be Friday evening again.

My first response to your email began with b, and ended cks.

Point 1: *in the absence of any breach* - There was clear evidence that deviations and breaches from planning conditions had occurred.

Point 2 : there was no actions at all, until a sustained campaign by us, and that is quite clear from the FOI emails

Point 3 _ we are not talking about continuous monitoring, even I have not asked for that; what we should have seen was checks being made when concerns raised, and appropriate responses made.

As I noted in my earlier email there is incontrovertible evidence that Officers wilfully withheld information over many months that could have answered residents' concerns voiced by me. So I agree : *In view of the serious nature of these concerns and allegations* what are you going to do about it? Or should I lodge a formal complaint against those officers.

Did you mention to your Counsel the months between the community asking the questions, and officer's responses? Some of which I am still waiting for.

I do note that your Counsel agrees with me that there is some responsibility on behalf of Officers to investigate concerns and act, even though *monitoring is principally the responsibility of the developer* .

I would seriously suggest you employ another Counsel if you ever go to Court, even I can pick holes in his/her opinions, Matthew H would tear them to shreds.

Finally, we employ those Planning Officers specifically to control development. We have followed procedures and lodged our complaints and concerns to them and have been subjected to ridicule lies and misinformation. I know planning officers have failed us, it would interest me to see Counsel's opinion on their behaviour. But I would imagine your request for an opinion carefully avoided any mention of that, and concentrated on our failings in BG.

I wish I had short circuited the process and gone straight to Crest in my normal direct manner, I have got more sense out of them in the past few days than from the Planners over months, but I only got that after bullying and threatening you lot to get those documents released.

Time and time again we have demonstrated clear evidence of "irregularities", your stock response is "we don't see it that way", "not our responsibility", "you are misinformed". I do accept that final failing, we are misinformed - by you..

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Mike Taylor

From: Adrian Stanfield [mailto:Adrian.Stanfield@tmbc.gov.uk]
Sent: 13 June 2014 16:11
To: Hazel Damiral; Mike Taylor; Sue Murray; Tony Sayer
Cc: Julie Bellby; Kevin Toogood; Lindsay Pearson; Martin Coffin; Nicolas Heslop; Steve Humphrey
Subject: Isles Quarry West

Dear Mike

Isles Quarry West

I am aware that particular concern has been raised by you, both in your capacity as Ward Member for Borough Green and Long Mill and as Chairman of the Parish Council, that the specific arrangements set out in the planning permission for development at Isles Quarry West, issued under reference TM/11/01191/FL, relating to the investigation and decontamination of the site have not been complied with. You have also suggested that there has been inadequate monitoring undertaken by officers to ensure that Crest Nicholson meets the requirements of the relevant conditions. In this regard I note you have suggested that the monitoring by officers should be continuous and the Borough Council should not simply rely upon the Crest's validation reports.

In view of the serious nature of these concerns and allegations, we have taken the step of seeking the advice of Counsel. The purpose of this email is to share this advice with you, your ward colleagues and the Parish Council. I shall separately be writing to all members of the Borough Council, which you will of course be copied in to.

I have set out below a summary of the key points of Counsel's advice.

- (1) Counsel is satisfied that the conditions on the planning consent relating to contamination are comprehensive in the way in which they seek to control the remediation plan for the land. In the absence of any breach of those conditions being identified there is no need for continuous monitoring other than the monitoring which is set out in the planning conditions themselves.
- (2) Counsel is further satisfied that the actions of officers in investigating and determining whether there is a breach is commensurate and in accordance with the Borough Council's powers and duties as a planning authority.
- (3) Counsel concludes that the advised regime implemented through the appropriate use of planning conditions, does not require continuous monitoring of the site which would potentially be wasteful of Borough Council resources.
- (4) Counsel is concerned that as a public authority the Borough Council must act reasonably, rationally and proportionally. He observes that a valid planning permission has been secured and as the national guidance points out, monitoring is principally the responsibility of the developer. That is made clear by through the imposition of the appropriate planning condition. Constant and continuous on site monitoring in the circumstances can be oppressive.

Thank you for sending to me and others the letter you have received from Mr Bernard Barry at the

file:///C:/Users/atsls/AppData/Local/Temp/XPgrpwise/539B2EA7tmbcgwpogibson11... 09/07/2014

Email 6

Page 1 of 1

Adrian Stanfield - Adrian Stanfield

From: Mike Taylor <mike.truck@btconnect.com>
To: Allan Sullivan <allan.sullivan@tmbc.gov.uk>, Andy Allison <Andy.allison@...>
Date: 14 June 2014 16:07
Subject: Adrian Stanfield
CC: Adrian Stanfield <Adrian.Stanfield@tmbc.gov.uk>
Attachments: Response Stanfield.doc

Dear All,
further to my email yesterday, I could not resist the opportunity to analyse Adrian's email/Counsel's Opinion in much greater detail, but I am afraid it is intended to mislead rather than inform.
I don't want to take up any more of your time, but for those interested, I have attached it with my comments in blue.
Regards
Mike

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Dear Councillor

Members will be aware that concern has been expressed by Councillor Taylor, Ward Member for Borough Green and Long Mill and Chairman of Borough Green Parish Council in relation to the implementation and monitoring of the development of 171 dwellings at Isles Quarry West.

Particular concern has been raised that the specific arrangements set out in the planning permission relating to the investigation and decontamination of the site have not been complied with. It has also been suggested that there has been inadequate monitoring undertaken by officers to ensure that the developer (Crest Nicholson) meets the requirements of the relevant conditions. In this regard it has been suggested that the monitoring by officers should be continuous and the Borough Council should not simply rely upon Crest Nicholson's validation reports.

- This is a slightly weaselly interpretation: we have never asked for continuous monitoring, just investigation of allegations. We have said that the LPA should not solely rely on the Developer's Final Validation Report, but should keep up to date with reports as the process of remediation is carried out. We do know that Officers have received ongoing reports, but have refused to release them even under FOI, until we threatened a complaint to the Information Commissioner

In view of the serious nature of the concerns and allegations, we have taken the step of seeking the advice of Counsel. The key points of that advice are set out below.

- In view of the serious nature of the concerns and allegations, we have asked for copies of the Brief to Counsel, any supporting documents, the full Opinion, and the cost, and we will go to FOI if that is withheld

(1) Counsel is satisfied that the conditions on the planning consent relating to contamination are comprehensive in the way in which they seek to control the remediation plan for the land.

- I too am content that the planning conditions are indeed comprehensive, and if adhered to will result in a safe development, now that we have corrected the false belief by the developer that it was a regulated landfill operation carried out in the 70-80s: it was in fact an unregulated 1950s landfill.

In the absence of any breach of those conditions being identified

- There is strong evidence that breaches and non-compliance have occurred, but officers refuse to investigate or provide answers to our questions

.....there is no need for continuous monitoring other than the monitoring which is set out in the planning conditions themselves.

- We have never asked, nor would we expect, continuous monitoring. What we would expect is occasional monitoring, particularly during the initial excavation and discovery period. We have evidence that T&MBC's Contamination Officer had not visited the site between work starting (illegally) on 4th November 2013, and March 2014.

(2) Counsel is further satisfied that the actions of officers in investigating and determining whether there is a breach is commensurate and in accordance with the Borough Council's powers and duties as a planning authority.

- We have been unable to get comprehensive answers to our questions and allegations. Whilst officers could well have investigated, even under FOI they have refused to keep us informed, or have wilfully misinformed us, or just ignored the questions. Clearly, they have not acted in accordance with the LPA's powers and duties.
- (3) Counsel concludes that the advised regime implemented through the appropriate use of planning conditions, does not require continuous monitoring of the site which would potentially be wasteful of Borough Council resources.
- Again, we have never asked for continuous monitoring, just answers when we raise doubts. It is not a waste of resources to carry out duties as required by Law.
- (4) Counsel is concerned that as a public authority the Borough Council must act reasonably, rationally and proportionally. He observes that a valid planning permission has been secured and as the national guidance points out, monitoring is principally the responsibility of the developer. Constant and continuous on site monitoring in the circumstances can be oppressive.
- The key word in the above paragraph is principally. The developer must record the remediation process towards a Final Validation Report to the LPA. But the inclusion of the word principally puts a duty on the LPA to monitor the process "from time to time", and in particular if allegations of breaches are made.

We do of course continue to liaise with Crest Nicholson, to ensure that the requirements of the relevant conditions are met.

- I have been told time and again, that Officers are not required to have anything to do with the development between issuing permission and receiving the Final Validation Report

Members may be interested to know that Crest has appointed an independent environmental consultant to monitor the contamination work that has occurred thus far and has also agreed to provide routine monitoring of the action of their consultants/contractors. Given that there is no obligation on Crest to adopt this approach, we believe it should be seen as a helpful response to the concerns that have been expressed.

- I suspect the reason that Crest have taken this step is because they are the ones being accused of breaches, but it is starting to appear that it is the culture of secrecy amongst Planning Officers preventing timely answers to genuine evidenced concerns, and refusing to pass on the information supplied in good faith by the developer. The more that is hidden, the more we suspect it is being hidden for nefarious reasons.
- There is a note at the end of most Planning Conditions, that requires an application process, and subsequent permission in writing from the LPA before development commences. Starting work prior to written permission is clear non-compliance, but that seems to be accepted by our Officers as the norm, it's simply too much trouble to enforce, and they are petrified of litigation: Officer's failure to enforce does not endow legitimacy on that non-compliance
- It is understood, even expected, that site conditions may require changes to the detail of the process for which permission was granted once ground conditions are exposed, but any changes should transparent and compliant.

Regards

Adrian Stanfield Solicitor
Director of Central Services
Tonbridge & Malling Borough Council

RESTRICTED

Email 7

Page 1 of 2

Adrian Stanfield - Counsel's Opinion - release of Documents

From: Mike Taylor <mike.truck@btconnect.com>
To: Adrian Stanfield <Adrian.Stanfield@tmbc.gov.uk>, <Nicolas.Heslop@tmbc.go...>
Date: 18 June 2014 14:29
Subject: Counsel's Opinion - release of Documents
CC: 'Kevin Toogood' <Kevin.Toogood@tmbc.gov.uk>, <tim@timshaw.wanadoo.co.uk>...

Dear Adrian,

Thank you for such a swift and almost comprehensive response - but where is the actual Counsel's Opinion? I have glanced through your request for Opinion, but what immediately springs to mind is that there appears to be a slight bias in the narrative compared to what actually occurred:

1. A major error before you even get started: you fail to mention in 2.2 that the former quarry was a landfill site: quite crucial to formation of a comprehensive Opinion.
2. You fail to mention anywhere that this whole chain of events was triggered by the Developer's commencement of work prior to "permission in writing by the LPA". Whilst that non-compliance is not enough to trigger enforcement, it should have triggered a site visit to investigate, not a campaign of misinformation.
3. Most notable is the assertion about Officer's site visits in 5.9. Now whilst my knowledge is based solely on the FOI emails, it was clear from them that no Officer had visited the site between the non-compliant commencement on 4th November 2013, and the period shortly after the FOI and newspaper reports in early March 2014. This is a crucial period when the bulk of contamination discovery and removal
4. In 5.10 you say that non-compliance with conditions would result in action being taken by the LPA. Complaints of non-compliance were made, and instead of action we received misinformation - "this is not excavation... this is species related ecological investigation". etc
5. Again in 5.10 is the canard that we demand continuous monitoring, what we wanted was investigation of our concerns from time to time, which would not be a waste of resources.
6. You failed to mention a most important and repeatedly ignored concern: that the required impenetrable barrier below 600mm of inert material on all garden areas appears to have been omitted-
7. No mention anywhere of the times we have asked for information and been denied, that we had to resort to FOI and threats of Information Commissioner complaints to get even the sparse reports we have had. I suspect even now there is a large volume of information still being withheld, often for many months.
8. Whilst there have clearly been "approved variations" as mentioned in 5.5, you provide no evidence of those variations, or their written approval.

I would say that as a means of resolving the matter, Counsel's manipulated opinion is a waste of £1625 of scarce resource. I would suggest that the cheapest way of dealing with this would have been to release information as and when available: it is also the most moral and legal course.

I must also question your role in this affair, Adrian : as someone whose duty is to advise the Council how to comply with both the Law and the Council's own rules, I cannot understand how you have countenanced and condoned the withholding of information. Before you say that priorities and work load prevented "immediate responses", Lindsay and Steve could have used the many pages lecturing me on why I was wrong, to simply click "forward" and release the information.

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I must admit that as more information is excruciatingly extracted, I find my focus shifting away from the behaviour of the developer, to the behaviour of T&MBC - reinforced by my knowledge of the irregularities of the past. When the all-party meeting is convened, I must insist on the presence of a Senior Member of the Planning team.

I repeat, the more you try and hide stuff, the more we are convinced you have something to hide.

Regards
Mike

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Email 8

Page 1 of 2

Adrian Stanfield - Re: Counsel's Opinion - release of Documents

From: Adrian Stanfield
To: Mike Taylor
Date: 18 June 2014 14:46
Subject: Re: Counsel's Opinion - release of Documents
CC: Julie Bellby; Lindsay Pearson; Martin Coffin; Nicolas Heslop; Steve ...
Attachments: Contaminated Land Conditions Advice (T&MBC) Isles Quarry 16-5-2014.pdf

Mike

I attach a copy of the opinion, which should have been attached to my earlier email.

Adrian

>>> Mike Taylor <mike.truck@btconnect.com> 18 June 2014 14:29 >>>

Dear Adrian,

Thank you for such a swift and almost comprehensive response - but where is the actual Counsel's Opinion?

I have glanced through your request for Opinion, but what immediately springs to mind is that there appears to be a slight bias in the narrative compared to what actually occurred:

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7. No mention anywhere of the times we have asked for information and been denied, that we had to resort to FOI and threats of Information Commissioner complaints to get even the sparse reports we have had. I suspect even now there is a large volume of information still being withheld, often for many months.
8. Whilst there have clearly been "approved variations" as mentioned in 5.5, you provide no evidence of those variations, or their written approval.

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Page 2 of 2

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I must also question your role in this affair, Adrian : as someone whose duty is to advise the Council how to comply with both the Law and the Council's own rules, I cannot understand how you have countenanced and condoned the withholding of information. Before you say that priorities and work load prevented "immediate responses", Lindsay and Steve could have used the many pages lecturing me on why I was wrong, to simply click "forward" and release the information.

I must admit that as more information is excruciatingly extracted, I find my focus shifting away from the behaviour of the developer, to the behaviour of T&MBC - reinforced by my knowledge of the irregularities of the past. When the all-party meeting is convened, I must insist on the presence of a Senior Member of the Planning team.

I repeat, the more you try and hide stuff, the more we are convinced you have something to hide.

Regards
Mike

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Email 9

Adrian Stanfield - IQW

From: Adrian Stanfield
To: mike.truck@btconnect.com
Date: 18 June 2014 14:57
Subject: IQW
CC: Julie Beilby; Steve Humphrey
Attachments: RE: IQW Further Concerns; aObstruction Survey Plan And Ground Obstruction Report - Isles_1.pdf; Transmittal - 00001.pdf

Dear Mike

I write to you both in my capacity as Monitoring Officer, and as the Officer within the Borough Council with responsibility for matters relating to Information Rights.

I was copied in to your email to Lindsay Pearson dated 12 June 2014 (timed at 17:59), in which you made a number of allegations about the conduct of Lindsay Pearson and the Planning Department. Specifically, you alleged that Lindsay Pearson had 'wilfully omitted' an Obstruction report from documents previously released to you, and later stated 'It is now perfectly clear that the Planning Department has waged a concerted campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information'.

I'm conscious that this is not the first time you have made allegations of this nature, with similar allegations having been made in your email dated 30 May 2014 (timed at 13:00). On this occasion you accused Nicolas Heslop, Lindsay Pearson, Steve Humphrey, Julie Beilby and I of 'breaking the law', adding later in the email 'The longer T&MBC and Crest conceal evidence, the more apparent it is that you have something to hide.'. I also note the following comments made by you in that email -

'I am fairly secure, the websites are hosted overseas so cannot be reached by the British Courts, your Standards System does not have the sanctions available, legal action against me would be welcomed, but fruitless- I have no assets; and a cyber attack against the sites would definitely result in a media storm.'

On 20 May 2014 (timed at 12:16) you sent an email to Lindsay which again contained various allegations about the conduct of the planning department, including 'I realise Planners still don't really understand the concept of transparency'.

On 14 June 2014, in your email (timed at 16:07) to all Members of the Borough Council, you made a number of allegations concerning the conduct of offices in responding to requests for information. These include allegations that officers had 'wilfully misinformed us' and that there is a 'culture of secrecy amongst Planning Officers'.

I will deal firstly with the specifics of your complaint in the email dated 12 June 2014 that Lindsay Pearson and the Planning Department had wilfully omitted an Obstruction Report from disclosure when dealing with a previous request made by you under the Freedom of Information Act. I have had sight of the email dated 6 March 2014 to which I assume you referring to (you state in your email that you originally saw the Ground Obstruction Report mentioned as an attachment to an FOI email dated 6 March 2013 from Russell to Kirstie, but given that Kirstie Atkins did not work for the Borough Council at this time I assume this was a typo and you meant to refer to an email from Russell Dawkins to Kirstie of the same date in 2014). The specific attachment to this email is entitled '003 Obstruction Survey' - I attach for your reference a copy of that email and supporting attachment, from which you will see that the '003 Obstruction Survey' is quite different to the 'Ground Obstruction Report', and is simply, as the name suggests, a survey plan. The Ground Obstruction Report was of course supplied to you on 11 June 2014, having been received by the Borough Council from Barton Willmore via email on 19 May 2014. A hard copy of the report was subsequently received on 21 May 2014. I attach a further copy of that report together with covering letter by way of confirmation. The report itself is date stamped with the date of receipt. For completeness I also attach a copy of the email dated 19 May.

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Page

The Ground Obstruction Report did not come into the possession of the Borough Council until 19 May 2014, approximately two and a half months after your request for information (dated 6 March 2014). It was supplied you 16 days after receipt, the intervening period also containing a period of 6 working days when Lindsay was away from the office on annual leave. Your allegation that Lindsay 'wilfully omitted' the report when dealing with your request for information dated 6 March 2014 is therefore wholly unfounded. Likewise, your suspicion that the 'omission broke the law' is also without foundation. Contrary to the allegations you make in your email, it is not at all clear to me that there has been any campaign of misinformation, lies, deception and unnecessary secrecy - quite the opposite in fact.

I should also comment on the continued exchanges between Lindsay and yourself in relation to the process for responding to FOI requests. Firstly, I should say that there are in fact 2 separate pieces of legislation dealing with access to information held by public authorities; the Freedom of Information Act 2000 (FOI) gives rights of public access to information held by public authorities. The Environmental Information Regulations 2005 (EIR) give rights of public access to environmental information held by public authorities. There are similarities between the two, but there are also important differences. Information requested relating to contamination would fall to be dealt with under EIR rather than FOI.

Under FOI, the information to be communicated to an applicant is the information held at the time of the request is received, except that account may be taken of any amendment or deletion made between that time and the time the information is communicated. The position with EIR is different, in that Regulation 5 (1) requires a public authority to make information that it holds available on request, and regulation 12(4) (a) provides an exception for information not held at the time the request is received. In either case, it is not possible to seek information that may or may not be held by a public authority at some unspecified point in the future.

If you believe that the Borough Council has failed to meet its responsibilities under either FOI or EIR, you are entitled to make a complaint to the Information Commissioner. Further information can be found on the Information Commissioner's website at www.ico.gov.uk.

As you are aware, we have in any event endeavoured to provide information to you in your position as Member of the Borough Council, rather than under the formal FOI/ EIR process. I should however point out that your right to inspect documents under the Local Government Act 1972 is not absolute as you maintain, and also that information which you are entitled to inspect under the 1972 Act may not be disclosable to the public under either FOI or EIR. As such, it may amount to a breach of confidentiality (and a breach of the Code of Conduct) to disseminate information obtained pursuant to this right, to third parties.

As Monitoring Officer, I cannot ignore the allegations you continue to make regarding the conduct of Lindsay Pearson and others. It is unacceptable for any Councillor to make spurious and unfounded allegations against Officers. I cannot put it any more simply than that. Your comments regarding the inadequacy of 'your Standards system' are particularly disappointing, given that the Parish Council of which you are Chairman participates in a joint Standards Committee between the Borough and Parish Councils.

I have today seen your latest email (timed at 14:29) in which you continue to make unnecessary and unfounded allegations against officers, including myself. I do not propose to respond to that email, save to say that I wholly dispute the allegations you make therein.

Both Julie Beilby (as Head of Paid Service) and I feel that we need to formally record our concerns over your conduct. You will be unsurprised to hear that our concerns are shared by senior colleagues, particularly Steve Humphrey as Director with responsibility for the Planning service, but it is in my formal capacity as Monitoring Officer that I write to you today. Julie and I would like to meet with you at the earliest opportunity to discuss these issues, and given the specific nature of your allegations Steve Humphrey will also be joining us. I will therefore ask our PA to contact you to arrange a suitable time.

Yours sincerely

Adrian Stanfield Solicitor
Director of Central Services

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Have you tried contacting us at www.tmbc.gov.uk/do-it-online ?

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Email 10

Page 1 of 2

Adrian Stanfield - RE: Counsel's Opinion - release of Documents

From: Mike Taylor <mike.truck@btconnect.com>
To: 'Adrian Stanfield' <Adrian.Stanfield@tmbc.gov.uk>
Date: 18 June 2014 14:57
Subject: RE: Counsel's Opinion - release of Documents

Ta

From: Adrian Stanfield [mailto:Adrian.Stanfield@tmbc.gov.uk]
Sent: 18 June 2014 14:46
To: Mike Taylor
Cc: Julie Beilby; Lindsay Pearson; Martin Coffin; Nicolas Heslop; Steve Humphrey
Subject: Re: Counsel's Opinion - release of Documents

Mike

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8. Whilst there have clearly been "approved variations" as mentioned in 5.5, you provide no evidence of those variations, or their written approval.

I would say that as a means of resolving the matter, Counsel's manipulated opinion is a waste of £1625 of scarce resource. I would suggest that the cheapest way of dealing with this would have been to release information as and when available: it is also the most moral and legal course.

I must also question your role in this affair, Adrian : as someone whose duty is to advise the Council how to comply with both the Law and the Council's own rules, I cannot understand how you have countenanced and condoned the withholding of information. Before you say that priorities and work load prevented "immediate responses", Lindsay and Steve could have used the many pages lecturing me on why I was wrong, to simply click "forward" and release the information.

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I repeat, the more you try and hide stuff, the more we are convinced you have something to hide.

Regards
Mike

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Email 11

Page 1 of 4

Adrian Stanfield - RE: IQW

From: Mike Taylor <mike.truck@btconnect.com>
To: 'Adrian Stanfield' <Adrian.Stanfield@tmbc.gov.uk>
Date: 18 June 2014 19:07
Subject: RE: IQW
CC: 'Julie Beilby' <Julie.Beilby@tmbc.gov.uk>, 'Steve Humphrey' <Steve.Humph...

Adrian,

I would be more than happy to meet you and whoever else you want to invite, I can be there in 20 minutes, so set your time. The only reservation I have is that I know that all I will get is the usual stone faced denials.

Let me be very clear - if T&MBC had not indulged in a campaign of misinformation and secrecy, I would not have had to make an FOI request, make a follow up request for missing information, threaten to report you to the ICO, or mention FOI when I asked you for the Opinion documents. If you had genuinely "made endeavours" to supply information to me as a member, why did I have to resort to FOI?

I have suffered years of dirty tricks and attempts at humiliation, you do not browbeat me, I will not be intimidated. I have clear evidence of lies involving many senior officers, as I have noted in the past. So don't make vague threats about standards, I would welcome an outside investigation.

I have an interesting comment to pass on from someone anonymous but close to the discussion : " If T&M deny any responsibility for monitoring unless there is a breach, how do they know there is a breach?". You are deliberately misinterpreting the Planning Guidance.

If I ask Lindsay specifically for an email attachment marked "003.Obstruction Survey.pdf", and then receive by post an Ground Obstruction Report dated November 2013 and TMBC stamped May 2014, I must presume that you have supplied what I asked for. As the attachment "003.Obstruction Survey.pdf", I had requested was on an FOI released email dated 6th March (2014), I am quite justified in making the assumption I did, as far as I am aware it is not a requirement in Law that an email attachment title precisely matches the physical title page. If we want to nit-pick, whilst the Ground Obstruction Report report was extremely useful, it may well not have been the survey I had requested under FOI - ie misinformation ! So Lindsay DID "wilfully omit" the attachment I specifically asked for.

The simple reason I continue to make these allegations is because I continually see the secrecy and denial endemic in the culture at T&MBC. If that were not so, why has it taken so long to release the information? And what information is still there that I don't even know about?

Mike

Email 12

>>> Mike Taylor <mike.truck@btconnect.com> 25/06/2014 12:33 >>>

Dear Glenda,

Very much appreciated, but do not bother: I already have the emailed pdf, and had an A2 printed yesterday. Save the postage and put it towards Adrian's collection to pay back the £1625 he paid for the flawed Opinion

Regards

Mike

From: Glenda Egerton [mailto:Glenda.Egerton@tmbc.gov.uk]
Sent: 25 June 2014 12:02
To: Mike Taylor; Mike Taylor
Cc: Lindsay Pearson; Steve Humphrey
Subject: Post re: IQW

Dear Mike,

Just to let you know that we are putting in the post tonight a copy of the Obstruction Survey Drawing No. 003 Rev C.

Regards
Glenda Egerton
Senior Planning Officer
01732 876362

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This e-mail may contain information which is sensitive, confidential, or protectively marked up to RESTRICTED level and should be handled accordingly. If you are not the intended recipient of this e-mail or any part of it, please inform the sender immediately on receipt and do not copy it or disclose the contents to any other person. All e-mail traffic may be subject to recording and/or monitoring in accordance with relevant legislation.
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Email 13

Page 1 of 2

Adrian Stanfield - RE: FW: Isles Quarry Borough Green, Earthworks.

From: Mike Taylor <mike.truck@btconnect.com>
To: 'Lindsay Pearson' <Lindsay.Pearson@tmbc.gov.uk>
Date: 04 July 2014 16:20
Subject: RE: FW: Isles Quarry Borough Green, Earthworks.
CC: 'Adrian Stanfield' <Adrian.Stanfield@tmbc.gov.uk>, 'Glenda Egerton' <Gle...>
Attachments: extracts.docx

Dear Lindsay,

I genuinely appreciate the attempt to keep me informed, but I am struggling to understand the relevance of the earthwork files from May to my outstanding questions about contamination, although any information is most welcome.

Referring to your earlier email: If I follow your reasoning and explanation, it seems to make the same statement that Steve and Adrian have emphatically denied making. T&M control contamination remediation by way of planning conditions, which the developer has to comply with, and has to prove compliance by means of a final verification report prior to the houses being approved for occupation. (apart from discoveries during the process) To this uneducated truck driver, that seems to mean "we issue conditions, and then await the final verification, and have no responsibility to monitor in the interim".

However: The planning department have made repeated reassurances to Members and the public that the site is being monitored and will be safe, (see att extracts.doc).

You state in this email "as far as I am aware there is no "detailed report on contamination"". Whilst you may well be formally unaware of such information, as the bulk of the contamination was discovered/removed /moved in November, URS/Crest must have recorded that work at the time, in all probability with pictures, in order to compile a Final Verification Report.

Now I could believe that you personally have not seen the document, in the light of our several complaints from that date about perceived breaches of conditions, I would have considered it prudent for the Planning Department to obtain assurance from Crest that they were compliant, in the form of the supply of that very information. Adrian's Counsel's Opinion again comes to our aid here, in that it quite clearly states " 16..... inspections in circumstances where a breach is suspected. "

As I noted in a circular to members, I can see a flaw in your logic, although I accept I could be misunderstanding, and would welcome your interpretation:

If you don't have the information to hand in order to make those assurances that the site is being monitored and is safe, you are misleading everyone. If you do indeed have such information to hand, you are clearly withholding it from me. Either path seems to me to be "deception".

I am sure that a simple email to Crest at the time of our first allegation of a breach could have obtained the information, that could have been forwarded to me, a simple and speedy resolution.

I quite enjoy these word games, trying to winkle out how you are evading the straight answer, I find it much more entertaining than "Coronation Street", but I must concur with Adrian and Julie's observations that it is wasting an extraordinary amount of Officer time, that could well have been used, say, doing some much needed enforcement before the elapse of time grants development rights by default elsewhere

file:///C:/Users/atls/AppData/Local/Temp/XPgrpwise/53B6D449tmcbgwpogibson11... 09/07/2014

Have a nice weekend

Mike

From: Lindsay Pearson [mailto:Lindsay.Pearson@tmbc.gov.uk]
Sent: 04 July 2014 13:24
To: Mike Taylor; Mike Taylor
Cc: Adrian Stanfield; Glenda Egerton; Steve Humphrey
Subject: Fwd: FW: Isles Quarry Borough Green, Earthworks.

as promised

Lindsay John Pearson
Chief Planning Officer
Tonbridge and Malling Borough Council
tel: 01732 876237
fax. 01732 876363
website - www.tmbc.gov.uk

Tonbridge and Malling Borough Council is committed to tackling the causes and effects of climate change. Please save energy and resources by not printing this e-mail unless absolutely necessary.

.....
This e-mail may contain information which is sensitive, confidential, or protectively marked up to RESTRICTED level and should be handled accordingly. If you are not the intended recipient of this e-mail or any part of it, please inform the sender immediately on receipt and do not copy it or disclose the contents to any other person. All e-mail traffic may be subject to recording and/or monitoring in accordance with relevant legislation.
.....

file:///C:/Users/atsts/AppData/Local/Temp/XPgrpwise/53B6D449tmbcgwpogibson11... 09/07/2014

JTG 11

Meeting at T&MBC 10am 27th June 2014

Present: Julie Bellby, CEO T&M; Adrian Stanfield Monitoring Officer; Ann Kemp, Chair Area 2 Planning; Pat Darby, Chair Platt PC; Janet Shenton - taking notes, & Mike Taylor

The Short Version:

The purpose of the meeting for T&M was to challenge me about my lack of "respect and trust" for Officers, and the tenor of the language I use.

My purpose was to restate my belief that T&MBC had allowed "irregularities", treated us without respect, and wilfully withheld information. I pointed out that I invariably begin with a courteous question, but as time goes by and we either get no answer, or evasions, or lectures on how we do not understand the process, I get angrier.

One can never say a meeting was a waste of time: T&MBC admit no irregularities, and I won't back down. A stalemate maybe, but not a waste of time.

Finally, trust and respect cannot be mandated, they have to be earned.

The Long Version

Adrian tackled me about the language I used when dealing with officers, I pointed out that I invariably began courteously, but as weeks dragged into months I got increasingly angry.

I said the reason for the mistrust and disrespect is based on years of lies and misinformation. Adrian denied it, and again refuted denied our written evidence.

We discussed the(failed) Police investigation, and my personal opinion that a valid case had not been fully investigated because of intervention by T&MBC. Adrian still flatly denies statements made to me during the Complaints procedure, but as I was alone with them, I cannot prove what they say : that is how enduring trust is built.

I moved the argument back towards events since the development started, and related Lindsay Pearson's (documented) lie about the major excavations being a "species related ecological survey".

We discussed the FOI at length, and my belief that documents had been , and still are being, wilfully withheld. I believe T&M had the Ground Obstruction Report in March, but refused to release it. Adrian denied that, and stated that as soon as they received it , it had been passed on. In actual fact they received it on 21st May, and sent it to me on 26th June. Adrian seems to think that is immediate, looks to me like a month's wilful delay.

We discussed the issue of the Lawful Development Certificates and their impact on the permissions.

We discussed the eventual (3 months) release of a document and my reply, where Adrian "forgot" and had to be reminded that I had begun the email with "very much appreciated" to Glenda, and then had a pop at Adrian about wasting £1625 on a flawed Counsel's Opinion.

Adrian had difficulty understanding the concept of my apology for making a mistake.

We discussed Matthew Horton's Opinion to BGPC, and my persuading a public meeting in BG that whilst we could stop IQW this time, it would happen eventually, and it would be money wasted..

I stated that I had the support of the people of Borough Green , and BG & Longmill, and it was them I answered to, not Borough Officers. I advised him that I would not be browbeaten: if he believed I had infringed Standards, put me before a committee, or sue me.

Julie Bellby then defended her officers, and said it was a good authority with dedicated people: I agreed, save for their one blind spot - Isles Quarry. I accepted that the first error/irregularity/inefficiency could well have all been started by an individual on their own, and everything we have witnessed since merely officers trying to cover up for a colleague.

I finished by stating that I believe our continual "kicking" T&M had delivered results: the Local Plan is transparent, unlike the secretive farce of the LDF, we are getting water monitoring at IQW.

Conclusion

Adrian's Counsel's Opinion states that the responsibility for monitoring lies principally with the developer, meaning there is still a duty on T&MBC to monitor between granting permission and receiving a Final Verification Report. Perhaps they will now take heed and start monitoring site progress from time to time, but as most of the contamination work is long finished, it's a bit late now.

I want to see this site developed safely, and that means I want real-time information about the remediation, and any variations from the permitted route. There is clearly a log-jam in communication: whether or not that is Crest not giving the information to T&M, or T&M not passing it on, is irrelevant.

It is apparent that some of the accusations we have made against Crest have happened because T&MBC have withheld the information they received from Crest.

I was told this morning that a vast amount of money has been wasted on Officer time answering my questions, and effectively blaming me for that loss: would it not have been cheaper, simpler, quicker and less stressful for all involved to just click "forward" every time information came in?

I appreciate that sort of openness may go against tradition, but the Electorate have the right to know their Officers are working for their best interests, as a Borough Councillor I have an absolute right to the bulk of that information, and the simplest way to prove that is a free flow of information.

It was suggested to me that what I see as "Conspiracy" could just be inefficiency and complacency: they might not be concealing evidence, they just can't be bothered to get around to it just yet, and it will probably all work out all right in the end.... Could well be, I suppose, but I cannot risk that lackadaisical attitude - We must ensure this site is developed safely, and by the time people are moving in, it will be too late.

BOROUGH GREEN NEWS

BOROUGH GREEN NEWS. .PC MENU. .JS SLIPS. .AIR QUALITY. .QUARRYING HISTORY. .XMAS LIGHTS. .THEN & NOW. .PAVILION. .PARISH HALL. .DIY VILLAGE. .MIKE'S MUSINGS. .BYPASS. .DA JOINT. .SKATEPARK. .MIKE'S TRUCKS. .PIPELINE. .GUEST BOOK. Custom Rich-Text Page

TOXICW CONTAMINATION CARTOON OF THE WEEK



I answered a summons to appear Friday before T&MBC's Chief Exec, Solicitor, and Director of Planning. They thought it was for them to read me the riot act about my "lack of respect" for Planning Officers. Yes, THOSE Planning Officers, the ones who have been misleading and lying to us for the past 7 years, report



Next PC meeting 7th JULY 2014 7.30 COGS Annex.

Now that the PC site is up and running, we don't need access to minutes etc here, but I will still keep the PC Details here .

BG Herald designed by Charles Willshar Rotating logos by Dot & Dave www.sevenscoveart.co.uk

PARISH COUNCIL WEBSITE COMMUNITY WEBSITE

LOCAL PETROL PRICES FLOODING UPDATES

UPDATE : In a most interesting development, I received this letter from ECLG, Eric Pickles office, that seems to support our view that T&MBC should be doing more to keep us informed about IGW. Completely unconnected, of course, I then received this email from T&M's Solicitor, Adrian Stanfield, he seems so worried that he has taken Counsel's Advice to try and prove T&M are obeying the rules. Ever suspicious, I have asked to see what question Adrian asked to get such a biased answer.... Watch this space !! (Adrian Stanfield's original email without highlighting). Adrian has wasted £1628 of OUR money obtaining a flawed Opinion, because he stated the question !!

Crest Nicholas are building 171 new homes at Hazelbourne, Isles Quarry, contaminated industrial land on a 1950s unregulated land fill site, putting new residents at risk, and also endangering our local drinking water aquifer. T&MBC Planners seem either powerless to make them adhere to Planning Conditions, or are secretly giving them the go-ahead. Read the whole sad Isles Quarry West story Before you buy a house at Hazelbourne Isles Quarry, read this article in Private Eye

Isles Quarry West because of the lies and misinformation by T&MBC, I have issued Freedom of Information requests 7th March to try and establish what has happened to the contaminated material on this site since excavations began in November last year (and still waiting!! and still waiting). [BANT PAGE]

Very Good article in the KENT MESSENGER by Rachel Woods, picking up on the National Press Stories about Paddock Wood contamination. T&MBC Lies and Weeds

Sure Start Children's Centres Borough Green For information on our services for 0-5 year olds, in Borough Green Village Hall 01752 5020

Jo's Dog Walking, Hattery dog-care £10 for local residents, puppies, and holiday boarding for (well-behaved) dogs:

01752 503 600 07950 575 519 Email: joan.dones@jodog.co.uk

BRIGHTSTART PLAY GROUP 07858 18887

Call Jan Minor and her team in the Parish Hall on Quarry Hill Rd

Below

Its not always sunny in Borough Green, although it usually feels like it

BOROUGH GREEN NEWS.

Page 2 of 3

We really have tried to get TAMBC to release the evidence this site is safe, but we just get ridiculed, so we have been forced to issue this **ULTIMATUM** to Council Leader Nic Hoolep, and ascribed Senior Members and Officers



COULDN'T LET THE UKIP VICTORY PASS WITHOUT COMMENT II

J5 SLIPS CAMPAIGN is stepping up a gear, with a petition on the famous "38 Degrees" website, **J5 SLIPS**

Have a look at these **[AERIAL PHOTO COMPARISONS]** and see if you can spot where the c**p went!! **[more pics]** **[Evidence]** **Petters Made Rebuild** **[more]**

TMBC PLANNING SEARCH you need TM number (eg TM/12/1234/FL)

KCC FAULT REPORTING **KCC PLANNING SEARCH** **City Website** **Danger!**

What does My Parish Council ever do for me? **[more]** **Well here's Barry and me, Christmas Eve, clearing fallen trees from Thong Lane.**



Read Reports of meetings with Ann Barnes Police Commissioner!

David Evans Resignation **[more]**

YOU ARE VISITOR NUMBER: **95810**

<http://www.boroughgreennews.co.uk/>

20/06/2014

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HEARING PANEL PROCEDURE

1. Rules of procedure

1.1 The Hearing Panel shall be comprised as follows –

(a) Where the Subject Member is a Borough Councillor, the Panel shall be comprised of five Borough Members and one Parish/ Town Member drawn from the Joint Standards Committee, one of whom shall be elected as Chairman.

(b) Where the Subject Member is a Town or Parish Councillor, the Panel shall be comprised of three Borough Members and three Parish/ Town Members drawn from the Joint Standards Committee, one of whom shall be elected as Chairman.

Where practicable, members of the Hearing Panel shall be drawn from a different planning area of the Borough than the member against whom the complaint has been made.

1.2 The quorum for a meeting of the Hearing Panel is three.

1.3 The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may submit their views on the complaint to the Hearing Panel in writing instead.

1.4 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied where it is necessary to exclude the public and press from meetings of the Hearing Panel where it is likely that confidential or exempt information will be disclosed.

1.5 All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.

1.6 Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.¹

¹ Janik v Standards Board for England & Adjudication Panel for England (2007)

2. Right to be accompanied by a representative

The Subject Member may choose to be accompanied and/or represented at the Hearing Panel by a fellow councillor, friend or colleague.

3. The conduct of the hearing

3.1 Subject to paragraph 3.2 below, the order of business will be as follows:

- (a) elect a Chairman;
- (b) apologies for absence;
- (c) declarations of interests;
- (d) in the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above);
- (e) introduction by the Chairman, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;
- (f) to receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- (g) to determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

3.2 The Chairman may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

3.3 The Hearing Panel may adjourn the hearing at any time.

3.4 Presentation of the complaint

- (a) The Investigating Officer presents their report including any documentary evidence or other material and calls his/her witnesses. No new points will be permitted;
- (b) The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer;
- (c) The Hearing Panel may question the Investigating Officer upon the content of his/her report and any witnesses called by the Investigating Officer.

3.5 Presentation of the Subject Member's case

- (a) The Subject Member or their representative presents their case and calls their witnesses;
- (b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member;
- (c) The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

3.6 Summing up

- (a) The Investigating Officer sums up the complaint;
- (b) The Subject Member or their representative sums up their case.

3.7 Views/Submissions of the Independent Person

The Chairman will invite the Independent Person to express their view on whether they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct or no breach as the case may be.

3.8 Deliberations of the Hearing Panel

Deliberation in private

- (a) The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- (b) The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and from whom.

Announcing decision on facts found

- 3.9 (a) The Hearing Panel will reconvene the hearing in public and the Chairman will announce that on the facts found, the Panel considers that there has been a breach of the Code of Conduct, or no breach, as the case may be.
- (b) Where the Hearing Panel finds that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member* and the Monitoring Officer to make their representations as to whether any sanctions (in accordance with paragraph 4 of this Annex 4) should be applied and what form they should take.

*The Subject Member will be invited to make representations on the form of any sanctions, but not as to whether any sanctions should be applied.

- (c) Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.
- (d) If evidence presented to the Hearing Panel highlights other potential breaches of the Borough or Parish Council's Code of Conduct, then the Chairman will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.

Formal Announcement of Decision

- 3.10 (a) Where the complaint has a number of aspects, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
- (b) The Hearing Panel will make its decision on the balance of probability, based on the evidence before it during the hearing.

- (c) Having taken into account the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the Chairman will announce:
- (i) the Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision;
 - (ii) the sanctions (if any) to be applied;
 - (iii) the recommendations (if any) to be made to the Borough or Parish Council or Monitoring Officer;
 - (iv) that there is no right of appeal against the Panel's decision and/or recommendations.

4. Range of possible sanctions

4.1 Subject to paragraph 4.4 below, where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/ recommended:

- (a) Recommending to the Borough/ Parish Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
- (b) Recommending to the Subject Member's Group Leader or Parish Council, or in the case of a ungrouped Subject Member, to the Borough/ Parish Council that they be removed from committees or sub-committees of the Council;
- (c) Recommending to the Leader of the Borough Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- (d) Instructing the Monitoring Officer [or recommendation to the Parish Council] to arrange training for the Subject Member;
- (e) Recommending to the Borough/ Parish Council that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the Borough/ Parish Council;
- (f) Recommending to the Borough/ Parish Council that it withdraws facilities provided to the Subject Member by the Council, such as a computer, website and/or email and internet access;
- (g) Recommending to the Borough/ Parish Council the exclusion of the Subject Member from the Borough/ Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending Borough/ Parish Council committee and sub- committee meetings;
- (h) Reporting the Panel's findings to the Borough/ Parish Council for information;
 - (i) Instructing the Monitoring Officer to apply the informal resolution process;
 - (j) Sending a formal letter to the Subject Member;
 - (k) Recommending to the Borough/ Parish Council to issue a press release or other form of publicity;
 - (l) Publishing its findings in respect of the Subject Member's conduct in such manner as the Panel considers appropriate.

4.2 The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

4.3 The Hearing Panel may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

4.4 When deciding whether to apply one or more sanctions referred to in paragraph 4.1 above, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

- (a) What was the Subject Member's intention and did they know that they were failing to follow the Borough/ Parish Council's Code of Conduct?
- (b) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
- (c) Has there been a breach of trust?
- (d) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
- (e) What was the result/impact of failing to follow the Borough/ Parish Council's Code of Conduct?
- (f) How serious was the incident?
- (g) Does the Subject Member accept that they were at fault?
- (h) Did the Subject Member apologise to the relevant persons?
- (i) Has the Subject Member previously been reprimanded or warned for similar misconduct?
- (j) Has the Subject Member previously breached of the Borough or Parish Council's Code of Conduct?
- (k) Is there likely to be a repetition of the incident?

5. Publication and notification of the [Hearing Panel's] decision and recommendations

5.1 Within 10 working days of the Hearing Panel's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Hearing Panel's decision and recommendations and reasons for the decision and recommendations on the Borough Council's website.

5.2 Within 10 working days of the announcement of the Hearing Panel's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:

- (a) the Subject Member;
- (b) the Complainant;
- (c) the Clerk to the Parish Council;
- (d) Kent County Council's Standards Committee (*applicable only where the subject Member is serving at both Borough and County level*);

5.3 The Monitoring Officer will report the Hearing Panel's decision and recommendations to the next ordinary meeting of the Joint Standards Committee for information.

TEMPLATE - DECISION NOTICE (of Hearing Panel)**Complaint No: xxxx**

On [insert date], the Hearing Panel of the Tonbridge and Malling Borough Council considered a report of an investigation into the alleged conduct of Councillor [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

Appeal

There is no right of appeal against the Hearing Panel's decision.

Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- [Clerk to the xxxx Parish/Town Council];
- Kent County Council's Monitoring Officer *[applicable only where the Councillor is serving at both [Borough] [City] [District] and County level]*

Additional help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address]. We welcome calls via Typetalk

Signed:

Date

Print name:

Chairman of the Hearing Panel

Tonbridge and Malling Borough Council

RESTRICTED

ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS UNDER THE LOCALISM ACT 2011

1. Context

- 1.1 These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that the Borough Council has adopted for dealing with complaints that an elected or co-opted member or parish councillor has failed to comply with the Code of Conduct.

2. Interpretation

- 2.1 'Borough Council' means the Tonbridge and Malling Borough Council.
- 2.2 'Code of Conduct' means the Code of Conduct, which the Borough has adopted under section 27(2) of the Localism Act 2011 at Annex 1 to these Arrangements.
- 2.3 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.4 'Disclosable Pecuniary Interest' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Code of Conduct.
- 2.5 'Hearing Panel' means the panel appointed by the Borough Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Member in accordance with these Arrangements.
- 2.6 'Independent Person' means a person or persons appointed by the Borough Council under section 28(7) of the Localism Act 2011:
- (a) whose views must be sought and taken into account by the Borough Council before a decision is made on any complaint alleging a breach of the Code of Conduct by a Subject Member;
 - (b) who may be consulted by the Subject Member about the complaint.
- 2.7 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior officer of the Borough Council, an officer of another authority or an external investigator.
- 2.8 'Monitoring Officer' is a senior officer of the Borough Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Member. It includes any other officer of the Borough Council nominated by the Monitoring Officer to act on their behalf.
- 2.9 'Parish Council' means the relevant parish/town council within the Borough of Tonbridge and Malling

- 2.10 'Parties' means the Complainant, Subject Member and the Investigating Officer, as appropriate.
- 2.11 'Subject Member' means an elected member or co-opted member of the Borough or Parish Council against whom a complaint has been made alleging a breach the Code of Conduct.

3. Appointment of Independent Person

- 3.1 The Council shall appoint the Independent Person (s) upon such terms as to remuneration and expenses as may be determined by the Borough Council from time to time.
- 3.2 The Independent Person (s) shall be treated as if they were a member of the Borough Council for the purposes of the Borough Council's arrangements for indemnifying and insuring its Members.

4. Making a complaint

- 4.1 A complaint alleging a breach of the Code of Conduct by a Subject Member must be made in writing and addressed to the Monitoring Officer using the Complaint Form at Annex 2 to these Arrangements. Complainants who find difficulty in making their complaint in writing (e.g. because of a disability), will be offered assistance.
- 4.2 The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 2 to these Arrangements).
- 4.3 The Monitoring Officer will normally acknowledge receipt of a complaint within 5 working days of receiving it. At the same time (and subject to para. 4.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph 2 of Annex 2 to these Arrangements.

5. Criminal conduct

- 5.1 In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:
- (a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become, or are re-elected or re-appointed, a Member or Co-opted Member of the Authority;
 - (b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
 - (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;

- (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
 - (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- 5.2 Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4(4) of Annex 2 to these Arrangements.
- 6. Anonymous complaints**
- 6.1 Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer in consultation with the Independent Person, providing it is accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint.
- 7. Role of Independent Person**
- 7.1 The Independent Person(s) must be consulted and have their views taken into account before the Authority makes a finding as to whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.
- 8. Preliminary tests**
- 8.1 The Monitoring Officer will, in consultation with the Independent Person(s), Chairman and Vice-Chairman of the Joint Standards Committee, put the complaint through a number of preliminary tests, in accordance with paragraph 1 of Annex 2 to these Arrangements.
- 8.2 In the event that the Independent Person is unavailable or unable to act, the time limits specified in paragraph 1 of Annex 2 to these Arrangements may either be extended by the Monitoring Officer or the Monitoring Officer may act by consulting only with Chairman and Vice-Chairman of the Joint Standards Committee in taking the decision or action.
- 9. Informal resolution**
- 9.1 The Monitoring Officer, in consultation with the Independent Person(s), Chairman and Vice-Chairman of the Joint Standards Committee, may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex 2 to these Arrangements.
- 10. Investigation**
- 10.1 If the Monitoring Officer, in consultation with the Independent Person, Chairman and Vice-Chairman of the Joint Standards Committee, decides that the complaint merits formal investigation, they will, within 10 working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.
- 10.2 The Investigating Officer will investigate the complaint in accordance with Annex 3 to these Arrangements.

11. Hearing

- 11.1 If the Monitoring Officer, in consultation with the Independent Person, Chairman and Vice-Chairman of the Joint Standards Committee, considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with Annex 4 to these Arrangements.

12. Sanctions

- 12.1 Where a Subject Member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 4 of Annex 4 to these Arrangements.

13. Appeal

- 13.1 There is no right of appeal for the Complainant or the Subject Member against decisions of either the Monitoring Officer or the Hearing Panel.

14. Revision of these Arrangements

- 14.1 The Borough Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer and the Hearing Panel the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

Kent Code of Conduct for Members

Preamble

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:
 - (g) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming, or being re-elected or re-appointed, a Member or Co-opted Member of the Authority;
 - (h) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of you becoming aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
 - (i) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (j) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of disclosing it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (k) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted
 - (l) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

THE CODE**1. Interpretation**

In this Code:

“Associated Person” means (either in the singular or in the plural):

- (a) a family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; 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; or
- (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 which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- (e) any body in respect of which you are in a position of general control or management:
 - (i) exercising functions of a public nature; or
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

“Authority” means Tonbridge and Malling Borough Council

“Authority Function” means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) 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 your child attends;
- (c) 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;
- (d) an allowance, payment or indemnity given to members of the Authority;
- (e) any ceremonial honour given to members of the Authority;
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

“Code” means this Code of Conduct.

“Co-opted Member” means a person who is not an elected member of the Authority but who is a member of:

- (a) any committee or sub-committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

“Disclosable Pecuniary Interest” means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

- (a) your interest or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

“Interests” means Disclosable Pecuniary Interests and Other Significant Interests.

"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 and/or joint sub-committees.

"Member" means a person who is an elected member of the Authority and includes a Co-opted Member.

“Other Significant Interest” means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) which:

- (a) affects the financial position of yourself and/or an Associated Person; or
- (b) relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an Associated Person;

and which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

“Register of Members’ Interests” means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

"Sensitive Interest" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

Scope

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

General obligations

3. (1) You must, when using or authorising the use by others of the resources of the Authority:

- (a) act in accordance with the Authority's reasonable requirements; and
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes).

- (2) You must not:

- (a) bully any person;
- (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation

- or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
 - (d) 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 written consent of a person authorised to give it; or
 - (ii) you are required by law to do so; or
 - (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:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the Authority;
 - (e) prevent another person from gaining access to information to which that person is entitled by law;
 - (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
 - (g) 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.

Registering Disclosable Pecuniary Interests

4. (1) You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- (2) In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.
- (3) Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

Declaring Interests

5. (1) Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest (and you are aware that you have such an interest) in any matter to be considered, or being considered, at the Meeting, you must:

- (a) disclose the Interest; and
 - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation:
 - (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
 - (e) not seek improperly to influence a decision about that business.
- (3) Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:
- (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
 - (b) not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
 - (c) not seek improperly to influence a decision about the matter.
- (4) Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting 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. Having made your representations, given evidence or answered questions you must:
- (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - (b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

Sensitive Interests

6. (1) Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (2) You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.
- (3) The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

Gifts and Hospitality

7. (1) You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and

hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.

- (2) Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- (3) You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- (4) The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

Dispensations

- 8.(1) The General Purposes Committee or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).
- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the General Purposes Committee or the Monitoring Officer (where authorised) considers that:
 - (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
 - (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
 - (c) granting the dispensation is in the interests of persons living in the Authority's area; or
 - (d) without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
 - (e) it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

ANNEX 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

SELFLESSNESS: You should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

INTEGRITY: You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

ACCOUNTABILITY: You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

OPENNESS: You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

HONESTY: You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

LEADERSHIP: Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

ANNEX 2

Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

“the Act” means the Localism Act 2011

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

“director” includes a member of the committee of management of an industrial and provident society

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

“M” means a member of the relevant authority

“member” includes a co-opted member

“relevant authority” means the authority of which M is a member

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1), or section 31(7), as the case may be, of the Act

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour

	Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

PROCEDURE ON RECEIPT OF A COMPLAINT

1. Preliminary tests

1.1 The complaint will be assessed by the Monitoring Officer in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee against the legal jurisdiction test in paragraph 1.2 and, if applicable, the local assessment criteria test in paragraph 1.4 below.

1.2 Legal jurisdiction criteria test:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the person complained of a member of the Borough or Parish Council at the time of the alleged conduct?
- (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
- (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?
- (e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?
- (f) The complaint is about dissatisfaction with the Borough or Parish Council's decisions, policies and priorities, etc.

1.3 If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

1.4 Local assessment criteria test:

If the complaint satisfies the jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

- (a) The complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (b) The complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
- (d) The complaint is malicious, trivial, politically motivated or 'tit-for-tat';
- (e) The Complainant is unreasonably persistent, malicious and/or vexatious;
- (f) The alleged misconduct happened more than 3 months ago*;
- (g) The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;
- (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;
- (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;

- (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (k) The complaint is about a deceased person;
- (l) The complaint is about a person who is no longer a Borough or Parish Councillor or Co-opted Member.

* The Monitoring Officer may depart from this test where he/ she is satisfied that exceptional circumstances exist. In determining whether such exceptional circumstances exist the Monitoring Officer will have regard to the seriousness of the alleged breach, the time when the alleged breach first came to the attention of the Complainant and the consequences of the delay for a fair disposal of the complaint.

- 1.5 If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

2. Notification of complaint to Subject Member

- 2.1 Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member [and, if applicable, the Parish Clerk].
- 2.2 The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish Clerk] to submit initial views on the complaint within 10 working days, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below). Views received from the Subject Member [and/or Parish Clerk] after the 10 working day time limit may be taken into account at the discretion of the Monitoring Officer, providing the views are received before the Monitoring Officer issues their written decision on how the complaint will be dealt with.

3. Asking for additional information

- 3.1 The Monitoring Officer may ask the Complainant and the Subject Member [and, if applicable, the Parish Clerk] for additional information before deciding how to deal with the complaint.

4. What process to apply - informal resolution or investigation and/or no action?

- 4.1 The Monitoring Officer may at any stage (whether without the need for an investigation or before or after the commencement or conclusion of an investigation) seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer or the Borough/ Parish Council make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- 4.2 The Monitoring Officer in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee may refer the complaint for investigation when:

- (a) it is serious enough, if proven, to justify the range of sanctions available to the Joint Standards Committee (see paragraph 4 of Annex 4 to these Arrangements);
 - (b) the Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Borough or Parish Council and there is no other avenue left to deal with it short of investigation and, in considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.
- 4.3 Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 3 to these Arrangements.
- 4.4 If the complaint identifies criminal conduct or breach of other regulations by the Subject Member or any other person, the Complainant will be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. In such cases, the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and in consultation with the Independent Person will apply the local assessment criteria test in paragraph 1.4 above.
- 4.5 The Monitoring Officer in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee, will take no action on the complaint when one or more of the following apply:
- (a) on-going criminal proceedings or a police investigation into the Subject Member's conduct or where the complaint is suspended in accordance with paragraph 4.4 above;
 - (b) investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings;
 - (c) the investigation might prejudice another investigation or court proceedings;
 - (d) on-going investigation by another prosecuting or regulatory authority;
 - (e) genuine long term (3 months or more) unavailability of a key party;
 - (f) serious illness of a key party.
- 4.6 Within 20 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member [and, if applicable, the Parish Clerk] of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 2):
- (a) not to refer the complaint for investigation; or
 - (b) to refer the complaint for investigation; or
 - (c) to apply the informal resolution process either before or after an investigation;
or

- (d) following investigation, to refer the complaint to the [Hearing Panel]; or
 - (e) to take no action and close the matter; or
 - (f) to refer the complaint to the relevant political group leader for action.
- 4.7 There is no right of appeal against the Monitoring Officer's decision. However, in the event that the Complainant submits additional relevant information, the Monitoring Officer will consider and decide if the matter warrants further consideration under these Arrangements, in which case it shall be treated as a fresh complaint.

5. Confidentiality

- 5.1 If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer in consultation with the Independent Person when they initially assess the complaint (see paragraph 1 above).
- 5.2 As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity if they are satisfied that the Complainant has reasonable grounds for believing that they or any other person (e.g. a witness):
- (a) is either vulnerable or at risk of threat, harm or reprisal;
 - (b) may suffer intimidation or be victimised or harassed;
 - (c) works closely with the Subject Member and are afraid of the consequences, e.g. fear of losing their job;
 - (d) suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this);
 - (e) may receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing Borough or Parish Council service provision or any tender/contract they may have with or are about to submit to the Borough or Parish Council.

OR where early disclosure of the complaint:

- (a) may lead to evidence being compromised or destroyed; or
 - (b) may impede or prejudice the investigation; or
 - (c) would not be in the public interest.
- 5.3 Relevant public interest factors favouring disclosure (not an exhaustive list) include:
- (a) to facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;

- (b) to raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;
- (c) justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large;
- (d) bringing out in the open serious concerns about the behaviour/conduct of an individual.

5.4 The Monitoring Officer, in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity (or that of another person) withheld from the Subject Member. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons, within 15 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

6. Informal resolution

6.1 The Monitoring Officer may after consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee seek to resolve a complaint informally at any stage in the process, whether without the need for an investigation or before or after an investigation has been commenced or concluded. The Monitoring Officer will consult with the Complainant and the Subject Member to agree what they consider to be a fair resolution which will help to ensure higher standards of conduct for the future.

6.2 Informal resolution may be the simplest and most cost effective way of resolving the complaint and may be appropriate where:

- (a) The Subject Member appears to have a poor understanding of the Code of Conduct and/or related Borough/ Parish Council procedures; or
- (b) There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or
- (c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct; or
- (d) The conduct complained of appears common to a number of members of the Borough or Parish Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other Borough/ Parish Council procedures, etc; or
- (e) The conduct complained of appears to the Monitoring Officer not to require a formal censure; or
- (f) The complaint appears to reveal a lack of guidance, protocols and procedures within the Borough/ Parish Council; or
- (g) The Complainant and the Subject Member are amenable to engaging in an informal resolution; or
- (h) The complaint consists of allegations and retaliatory allegations between councillors; or
- (i) The complaint consists of allegations about how formal meetings are conducted; or

- (j) The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

6.3 Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Member, but may extend to other councillors including the whole Borough/ Parish Council where it may be useful to address systemic behaviour:

- (a) training;
- (b) conciliation/mediation;
- (c) mentoring;
- (d) apology;
- (e) instituting changes to the Borough or Parish Council's procedures;
- (f) conflict management;
- (g) development of the Borough or Parish Council's protocols;
- (h) other remedial action by the Borough or Parish Council;
- (i) other steps (other than investigation) if it appears appropriate to the Monitoring Officer in consultation with the Independent Person.

6.4 If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer will report the matter to the Joint Standards Committee [and, if applicable, the Parish Council] for information, but will take no further action.

6.5 Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer may after consultation with the Independent Person(s) and the Chairman and Vice-Chairman of the Joint Standards Committee reconsider whether the complaint should be investigated, or an investigation concluded.

EXAMPLE TEMPLATE – COMPLAINT FORM

The complaint form may be viewed on the Council's website via the following link -

<http://www.tmbc.gov.uk/services/council-and-democracy/councillors,-democracy-and-elections/council-constitution/articles/standards-committee>

EXAMPLE TEMPLATE - DECISION NOTICE (of the Monitoring Officer): e.g. REFERRAL FOR INVESTIGATION

Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature, or may be personal information.

Complaint No:**Complaint**

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Consultation with Independent Person(s)

[Summarise the Independent Person(s) views in numbered paragraphs]

Consultation with the Chairman & Vice-Chairman of the Joint Standards Committee

[Summarise their views in numbered paragraphs]

Decision

Having consulted and taken into account the views of the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee, the Monitoring Officer decided to refer the complaint for investigation.

Potential breaches of the Code of Conduct identified

At this stage, the Monitoring Officer is not required to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed [insert name] as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

[detail relevant Code of Conduct paragraphs]

Notification of decision

This decision notice is sent to the:

- Complainant

- Member against whom the complaint was made
- [Clerk to the relevant Parish or Town Council]
- Kent County Council's Monitoring Officer (*applicable only where the Subject Member is serving at both [Borough] [City] [District] and County level*)

What happens now

The complaint will now be investigated under the Borough Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Additional Help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address]. We welcome calls via [Typetalk](#)

Signed:

Date

Print name:

Monitoring Officer of the Tonbridge and Malling Borough Council

Gibson Building

Gibson Drive

Kings Hill

West Malling

Kent ME19 4LZ

2. PROCEDURE FOR INVESTIGATING THE COMPLAINT

1. Preliminaries

- 1.1 The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the Data Protection Act 1998, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2 The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3 The Subject Member and the Complainant will be advised that the investigation is for fact finding purposes only.
- 1.4 Witnesses will be identified at the investigation stage and their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5 The Investigating Officer will not make recommendations on sanctions.
- 1.6 Within 10 working days of being appointed, the Investigating Officer will notify the Subject Member and the Complainant of their appointment and:
 - (a) provide details of the complaint to the Subject Member;
 - (b) detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
 - (c) detail the sections of the Code of Conduct that appear to be relevant to the complaint;
 - (d) request contact details of any potential witnesses;
 - (e) require that confidentiality is maintained and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.
- 1.7 It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.
- 1.8 The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the [Monitoring Officer] [Hearing Panel].

2. The draft report

- 2.1 On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT') to the Monitoring Officer for review.
- 2.2 Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'CONFIDENTIAL' and will detail:

- (a) the relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
- (b) a summary of the complaint;
- (c) the Subject Member's response to the complaint;
- (d) relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
- (e) a list of any documents relevant to the matter;
- (f) a list of those persons/organisations who have been interviewed;
- (g) a statement of the Investigating Officer's draft findings of fact and reasons;
- (h) the Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
- (i) that the Investigating Officer will present a final report once they have considered any comments received on the draft.

2.3 Once the Investigating Officer has received any responses from the Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL'.

3. Consideration of Investigating Officer's final report

3.1 The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee.

3.2 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person(s), Chairman and Vice-Chairman of the Joint Standards Committee, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

3.3 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person(s), Chairman and Vice-Chairman of the Joint Standards Committee concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

- (a) take no action or
- (b) seek informal resolution or
- (c) refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 2 to these Arrangements.

HEARING PANEL PROCEDURE

1. Rules of procedure

1.1 The Hearing Panel shall be comprised as follows –

(a) Where the Subject Member is a Borough Councillor, the Panel shall be comprised of five Borough Members and one Parish/ Town Member drawn from the Joint Standards Committee, one of whom shall be elected as Chairman.

(b) Where the Subject Member is a Town or Parish Councillor, the Panel shall be comprised of three Borough Members and three Parish/ Town Members drawn from the Joint Standards Committee, one of whom shall be elected as Chairman.

Where practicable, members of the Hearing Panel shall be drawn from a different planning area of the Borough than the member against whom the complaint has been made.

1.2 The quorum for a meeting of the Hearing Panel is three.

1.3 The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may submit their views on the complaint to the Hearing Panel in writing instead.

1.4 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied where it is necessary to exclude the public and press from meetings of the Hearing Panel where it is likely that confidential or exempt information will be disclosed.

1.5 All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.

1.6 Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.¹

¹ Janik v Standards Board for England & Adjudication Panel for England (2007)

2. Right to be accompanied by a representative

The Subject Member may choose to be accompanied and/or represented at the Hearing Panel by a fellow councillor, friend or colleague.

3. The conduct of the hearing

3.1 Subject to paragraph 3.2 below, the order of business will be as follows:

- (a) elect a Chairman;
- (b) apologies for absence;
- (c) declarations of interests;
- (d) in the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above);
- (e) introduction by the Chairman, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;
- (f) to receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- (g) to determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

3.2 The Chairman may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

3.3 The Hearing Panel may adjourn the hearing at any time.

3.4 Presentation of the complaint

- (a) The Investigating Officer presents their report including any documentary evidence or other material and calls his/her witnesses. No new points will be permitted;
- (b) The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer;
- (c) The Hearing Panel may question the Investigating Officer upon the content of his/her report and any witnesses called by the Investigating Officer.

3.5 Presentation of the Subject Member's case

- (a) The Subject Member or their representative presents their case and calls their witnesses;
- (b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member;
- (c) The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

3.6 Summing up

- (a) The Investigating Officer sums up the complaint;
- (b) The Subject Member or their representative sums up their case.

3.7 Views/Submissions of the Independent Person

The Chairman will invite the Independent Person to express their view on whether they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct or no breach as the case may be.

3.8 Deliberations of the Hearing Panel**Deliberation in private**

- (a) The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- (b) The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and from whom.

Announcing decision on facts found

- 3.9 (a) The Hearing Panel will reconvene the hearing in public and the Chairman will announce that on the facts found, the Panel considers that there has been a breach of the Code of Conduct, or no breach, as the case may be.
- (b) Where the Hearing Panel finds that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member* and the Monitoring Officer to make their representations as to whether any sanctions (in accordance with paragraph 4 of this Annex 4) should be applied and what form they should take.

*The Subject Member will be invited to make representations on the form of any sanctions, but not as to whether any sanctions should be applied.

- (c) Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.
- (d) If evidence presented to the Hearing Panel highlights other potential breaches of the Borough or Parish Council's Code of Conduct, then the Chairman will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.

Formal Announcement of Decision

- 3.10 (a) Where the complaint has a number of aspects, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
- (b) The Hearing Panel will make its decision on the balance of probability, based on the evidence before it during the hearing.

- (c) Having taken into account the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the Chairman will announce:
 - (i) the Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision;
 - (ii) the sanctions (if any) to be applied;
 - (iii) the recommendations (if any) to be made to the Borough or Parish Council or Monitoring Officer;
 - (iv) that there is no right of appeal against the Panel's decision and/or recommendations.

4. Range of possible sanctions

4.1 Subject to paragraph 4.4 below, where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/ recommended:

- (a) Recommending to the Borough/ Parish Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
- (b) Recommending to the Subject Member's Group Leader or Parish Council, or in the case of a ungrouped Subject Member, to the Borough/ Parish Council that they be removed from committees or sub-committees of the Council;
- (c) Recommending to the Leader of the Borough Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- (d) Instructing the Monitoring Officer [or recommendation to the Parish Council] to arrange training for the Subject Member;
- (e) Recommending to the Borough/ Parish Council that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the Borough/ Parish Council;
- (f) Recommending to the Borough/ Parish Council that it withdraws facilities provided to the Subject Member by the Council, such as a computer, website and/or email and internet access;
- (g) Recommending to the Borough/ Parish Council the exclusion of the Subject Member from the Borough/ Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending Borough/ Parish Council committee and sub- committee meetings;
- (h) Reporting the Panel's findings to the Borough/ Parish Council for information;
- (i) Instructing the Monitoring Officer to apply the informal resolution process;
- (j) Sending a formal letter to the Subject Member;
- (k) Recommending to the Borough/ Parish Council to issue a press release or other form of publicity;
- (l) Publishing its findings in respect of the Subject Member's conduct in such manner as the Panel considers appropriate.

4.2 The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

4.3 The Hearing Panel may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

4.4 When deciding whether to apply one or more sanctions referred to in paragraph 4.1 above, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

- (a) What was the Subject Member's intention and did they know that they were failing to follow the Borough/ Parish Council's Code of Conduct?
- (b) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
- (c) Has there been a breach of trust?
- (d) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
- (e) What was the result/impact of failing to follow the Borough/ Parish Council's Code of Conduct?
- (f) How serious was the incident?
- (g) Does the Subject Member accept that they were at fault?
- (h) Did the Subject Member apologise to the relevant persons?
- (i) Has the Subject Member previously been reprimanded or warned for similar misconduct?
- (j) Has the Subject Member previously breached of the Borough or Parish Council's Code of Conduct?
- (k) Is there likely to be a repetition of the incident?

5. Publication and notification of the [Hearing Panel's] decision and recommendations

5.1 Within 10 working days of the Hearing Panel's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Hearing Panel's decision and recommendations and reasons for the decision and recommendations on the Borough Council's website.

5.2 Within 10 working days of the announcement of the Hearing Panel's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:

- (a) the Subject Member;
- (b) the Complainant;
- (c) the Clerk to the Parish Council;
- (d) Kent County Council's Standards Committee (*applicable only where the subject Member is serving at both Borough and County level*);

5.3 The Monitoring Officer will report the Hearing Panel's decision and recommendations to the next ordinary meeting of the Joint Standards Committee for information.

TEMPLATE - DECISION NOTICE (of Hearing Panel)**Complaint No: xxxx**

On [insert date], the Hearing Panel of the Tonbridge and Malling Borough Council considered a report of an investigation into the alleged conduct of Councillor [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

Appeal

There is no right of appeal against the Hearing Panel's decision.

Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- [Clerk to the xxxx Parish/Town Council];
- Kent County Council's Monitoring Officer *[applicable only where the Councillor is serving at both [Borough] [City] [District] and County level]*

Additional help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address]. We welcome calls via [Typetalk](#)

Signed:

Date

Print name:

Chairman of the Hearing Panel

Tonbridge and Malling Borough Council

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