

Report of an Investigation into a Complaint
brought by Mr. Barry Hughes against Cllr Mike
Taylor of Tonbridge & Malling Borough Council
and Borough Green Parish Council

Private & Confidential

Final Version

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Richard Lingard – Curriculum Vitae

Educated at Magdalen College School Oxford and Southampton University, I qualified as a solicitor in 1980. I trained in private practice and spent four years in the commercial sector before going into local government.

Until my retirement in September 2011, I was the Head of Legal & Democratic Services and Monitoring Officer at Guildford Borough Council for whom I worked for some 30 years.

Since 2011 I have undertaken and reported on some 20 investigations covering allegations of misconduct against City, County, Borough, Town and Parish Councillors and Council Officers and carried out a number of procedural and governance reviews for local authorities.

EXECUTIVE SUMMARY

This is the final version report of my investigation into a complaint against Cllr Michael Taylor of Tonbridge & Malling Borough Council (TMBC) and Borough Green Parish Council (BGPC). The investigation was commissioned by Lynn Francis, Deputy Monitoring Officer of TMBC, and has been conducted under the local arrangements adopted by TMBC pursuant to the provisions of the Localism Act 2011.

The complaint against Cllr Taylor arises from a letter dated 5 December 2014 that he wrote to the Planning Inspectorate (PINS) in relation to an appeal against the refusal of a planning application for the construction of an extension at 13 Harrison Road, Borough Green.

The complaint was lodged by Mr. Barry Hughes of 11 Harrison Road, Borough Green who describes Cllr Taylor's letter as *'An attempt to bring me, the Borough Council and the whole planning process into disrepute by innuendo and inference without any shred of evidence'*

I have concluded that there have been breaches of the TMBC and BGPC Codes of Conduct.

1. THE COMPLAINT

- 1.1 The complaint form submitted by Mr. Hughes and reproduced as Appendix 1, includes the italicised words from the third paragraph of the Executive Summary above and a copy of Cllr Taylor's letter of 5 December 2014 to the Planning Inspectorate.
- 1.2 Mr. Hughes' complaint does not cite or refer to any particular paragraphs of either the TMBC or BGPC Codes of Conduct.

2. PROVISIONS CONSIDERED

- 2.1 In common with all local authorities, TMBC and BGPC each have a Code of Conduct for Members. Upon taking office, every Councillor undertakes to abide by the Code in force for the time being.
- 2.2 TMBC adopted a new Code of Conduct on 1 July 2012 and it is set out in full in Part 5 of the Council's Constitution, whilst BGPC adopted its Code on 4 March 2013.
- 2.3 The two Codes of Conduct differ in some respects but both are based on the seven Nolan Principles of Public Life, which are set out in full at Annex 1 to Part 5 of the TMBC Constitution. In broad terms those principles require Members to have regard to the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership when acting as a Member or co-opted Member of a local authority. The Nolan Principles do not themselves form part of the Codes of Conduct so it is necessary to examine which paragraphs of the two codes may be relevant in this instance.
- 2.4 I consider that the relevant provision of the TMBC Code is the general obligation set out in Paragraph 3 (2) (f), which reads as follows:

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

2.5 I consider that the relevant provision of the BGPC Code is the obligation set out as Paragraph 1 of 'Member Obligations', which requires members to:

'behave in such a way that a reasonable person would regard as respectful.'

2.6 I do not consider that any other provision of either code is relevant to the matter under investigation and have accordingly assessed Mr. Hughes' complaint and Cllr Taylor's conduct against the two cited paragraphs.

3. PROCESS TO DATE

3.1 Upon receipt of the complaint, Ms Francis' fellow Deputy Monitoring Officer Mr. Kevin Toogood and the Monitoring Officer Mr. Adrian Stanfield consulted with TMBC's Independent Person, Mr. David Ashton and with the Chairman and Vice-Chairman of TMBC's Standards Committee and it was agreed that an independent investigator should be appointed to conduct an investigation into the matter.

3.2 Following a preliminary exchange of emails, Ms Francis appointed me in an email of 20 August to conduct an investigation and subsequently sent me hard and electronic copies of a number of documents including the following, all of which are reproduced as numbered appendices to this report

- Mr. Hughes' Code of Conduct Complaint Form (Appendix 1)
- Exchanges of emails between Cllr Taylor & Ms Francis and Cllr Taylor & Mr. Adrian Stanfield, TMBC Monitoring Officer, (Appendix 2)
- Copies of the TMBC & BGPC Codes of Conduct (Appendix 3)
- Copies of Cllr Taylor's declarations of acceptance of office in respect of TMBC and BGPC, of both of which he is a member (Appendix 4)
- Details of the arrangements for dealing with Code of Conduct complaints under the Localism Act 2011 (Appendix 5)

3.3 Following receipt of my instructions, I arranged to interview Mr. Hughes and Cllr Taylor.

4. MR. BARRY HUGHES

4.1 I met Mr. Hughes (BH) at his home at 11 Harrison Road Borough Green TN15 8RU on Tuesday 1 September. His wife Patricia was also present.

4.2 In accordance with my normal practice and with their consent I made a digital audio recording of our conversation and used it as the basis of a draft note that I subsequently submitted to Mr. & Mrs Hughes for comment. They approved my draft with minor amendments and the following paragraphs are drawn from that note.

- 4.3 BH and his wife have lived at 11 Harrison Road since 1971. Before his retirement, BH worked in marine insurance. He was the first Mayor of TMBC (1983 – 1984), a member of TMBC from 1976 to 1991, a member of BGPC from 1974 until 2007, and a member of Kent County Council from 1995 to 1999. He was on the Local Area Planning Sub-Committee (Area 2) of TMBC throughout his 17 years on TMBC but was never a member of the main Planning Committee.
- 4.4 In relation to the complaint under investigation, BH explained that there had been three planning applications in respect of the adjoining property at 13 Harrison Road. The first was for a complete 'wraparound' two-storey extension, to which BH and his wife and the Parish Council objected. That application was withdrawn.
- 4.5 The second application (which is the one that is the subject of the complaint – Reference Number TM/14/02798/FL) was for a partial two-storey extension. BH and his wife objected to this one too, but the Parish Council did not. The TMBC Planners refused that application under their delegated powers and it went to appeal. PINS rejected the appeal.
- 4.6 A third application was subsequently submitted for a single storey wraparound extension to which BH and his wife did not object. For the record, I was advised that BH & his wife are on good terms with their neighbours, Mr. & Mrs Haslam, who are the applicants.
- 4.7 The Hughes' objection to the subject application was lodged with TMBC in response to a notification that it had been submitted, although Mr. & Mrs Haslam had been round to show the Hughes the plans at an earlier stage. They received the decision notice referred to above and in due course were notified that the applicants had gone to appeal.
- 4.8 They were advised that the appeal was to be dealt with by written representations and that only submissions received prior to the TMBC decision to refuse the application would be taken into account – in other words, no further submissions (for or against the application) would be accepted.
- 4.9 In conversation with one of the local TMBC Members, Cllr Sue Murray, BH learned that Cllr Mike Taylor (MT) had written to PINS and Cllr Murray asked BH if he had seen a copy of the letter. He said that he had not but upon subsequently reading the BGPC minutes, he learned that a copy of MT's letter had been sent to each BGPC member. Mrs Hughes asked the Clerk to BGPC for a copy and she brought one round for them. This was some three months after MT had sent the letter in to PINS. This was the letter the subject of Mr. Hughes' complaint.
- 4.10 Mrs Hughes believes that MT's letter was written after the PINS deadline. This point may be academic, as PINS had said that they would not accept anything above and beyond what had already been seen by the TMBC Planners as part of their consideration of the application. She added that she was not convinced that MT's letter actually went to PINS because she had not been able to trace it on their website. Again, this may simply be because it was effectively debarred from consideration.

- 4.11 BH knows that the letter was copied to all BGPC members as this was recorded in the minutes. He assumes that it went to the members of TMBC Area 2 Planning Committee, but he does not know whether Mr & Mrs Haslam received a copy. He and his wife did not receive a copy direct from Cllr Taylor.
- 4.12 BH's reaction when he saw the letter was '*one of horror*' because it '*seeks to bring all involved into disrepute*'. BH commented that it is also inaccurate in that it describes him as a 'past Leader' of TMBC, a position that he never in fact held.
- 4.13 I explained that MT's stance was (as I understood it) that he wrote the letter in a personal capacity, was merely passing on what had been said to him and that he was not expressing or endorsing the views contained in the letter himself. BH's response was one of incredulity. He thinks it unlikely that whoever MT had spoken to would have been aware of BH's erstwhile position as Deputy Leader of TMBC as it was so long ago.
- 4.14 BH does not believe that the views in MT's letter were expressed to him by others but originated with him. He described MT as 'having history' on a variety of local issues with every previous TMBC Councillor who has represented Borough Green since he arrived in the village some 40 years ago.
- 4.15 Mrs Hughes told me about MT's website (www.boroughgreen-news.com) and gave me some printed extracts from it.
- 4.16 BH has no dealings with MT other than seeing him in the village from time to time. He and MT were never on the Parish Council at the same time.
- 4.17 Whilst acknowledging that he is not named in MT's letter, BH considers that there would be few people in the village who would not know that he had been Mayor and a Member of TMBC.
- 4.18 BH is adamant that he has no influence with TMBC, not least because he left the Council 24 years ago and now knows none of the senior officers except Julie Bielby, TMBC Chief Executive, whom he has known since she was very young and whose career he has therefore followed with interest. She would however have had no dealings with the application. In any event the Hughes had no contact with her in relation to the application.
- 4.19 BH knows 'a couple of the longer standing members' but had no contact with them or indeed any other member or officer (other than Julian Moat, the Case Officer) in relation to the application.
- 4.20 The only representation that BH & his wife made was in the form of their objection letter, which was sent to Mr Moat, with whom they had a meeting. Neither of them spoke to Cllr Sue Murray concerning the application – they simply copied her in on their letter of objection.
- 4.21 BH said that there had been a history of TMBC refusing applications for wraparound extensions, particularly in the Harrison Road area.
- 4.22 I told BH that MT's assertion is that the reverse is true – that there is a history of approvals despite BGPC objections and that the refusal of the Haslams'

application was a first. BH said that he does not remember any planning permissions for double storey side extensions on the estate being granted in the last 10 years or so and added that all previous permissions were granted on corner sites which did not compromise the integrity of the estate which was built as an estate for semi-detached houses.

4.23 BH considers that MT has impugned the integrity of TMBC and PINS

“...because he clearly believes that I have influence and that the Council is open to pressure from outside bodies, which in my experience never has been the case. He is complaining about the planning system itself as it allows people like me to put pressure on them and he must believe that I have some influence with the Inspectorate”.

5. COUNCILLOR TAYLOR’S RESPONSE TO THE COMPLAINT

5.1 I interviewed Cllr Taylor (MT) in the Parish Office at Borough Green Village Hall on Tuesday 1 September.

5.2 In accordance with my normal practice and with his consent I made a digital audio recording of our conversation and used it as the basis of a draft note that I subsequently submitted to Cllr Taylor for comment. He approved my draft with minor amendments and the following paragraphs are drawn from that note.

5.3 MT’s membership of BGPC initially ran from 2000 to 2003 and then again from 2009 to the present. He was most recently re-elected to office on 6 May 2014. He has been Chairman of BGPC since 2011.

5.4 He is also one of the TMBC Members for Borough Green & Longmill, having initially been elected at a by-election on 9 January 2014 and re-elected in May 2015.

5.5 He has lived in Borough Green since about 1968 and retired from his job in the road haulage industry in 2004.

5.6 He has served on a number of TMBC’s Committees, including Area 2 Planning Committee, the Planning & Transportation Committee, Licensing Committee and the Parish Partnership Panel. He told me that BGPC does not run a committee system but considers all matters at monthly meetings of the whole Council, with occasional EGMs. There are eleven parish councillors.

5.7 MT confirmed that he was aware of the nature of the complaint against him and that the planning application that gave rise to his letter was the second of three submitted by Mr. & Mrs Haslam, the owners of 13 Harrison Road.

5.8 He explained the procedure by which BGPC responds to consultations on planning applications and confirmed that responses are determined by a straightforward vote. Occasionally he or the Clerk might draft a letter of response for discussion in relation to the more complex or more significant applications.

5.9 The application under discussion was refused by TMBC officers under their delegated powers. MT commented that in his view, far too many applications are dealt with under delegated powers. Whilst Members have the usual ability

to call applications in to Committee, MT could see no reason to call this one in.

- 5.10 He said that virtually every application for every extension or new house in Borough Green gets '*rubberstamped*' through by the Officers, regardless of what objections are submitted by residents or the Parish Council. He said that the situation now was that in the knowledge that they will be ignored, BGPC largely don't bother to raise any objections.
- 5.11 I asked MT whether he thought that such applications were by and large approved because they complied with planning policy. He said '*Yes, but planning is flexible and local people should have far more say in how the community is developed*'. He is convinced that the Planning Officers do not listen to local people.
- 5.12 MT confirmed his understanding that in dealing with written representation appeals PINS effectively re-examine the material submitted by the Officers and the Applicants together with any third party representations submitted during the original consideration at Borough level and that there is no opportunity for any further third party representations.
- 5.13 He acknowledged that his letter of 5 December sent direct to PINS would probably have been 'disqualified' under the arrangements just described. He was aware of this when he wrote the letter but still felt that PINS needed to be aware of 'local feeling' that this particular case was not as cut and dried as the TMBC Planning Officers might have made out. He does not think that he received an acknowledgement of the letter.
- 5.14 MT saw the PINS appeal decision letter, but this made no reference to his letter. He is convinced that his letter was ignored.
- 5.15 He told me that 'several people in the village' had spoken to him about the Haslams' application because it had raised concerns that because of BH's history, undue influence had been brought to bear on the Planning Officers.
- 5.16 The letter from the Hughes was, as far as MT was aware, the sole objection, indeed the only representation submitted in relation to the application.
- 5.17 I asked MT about the capacity in which he had written his letter in which he says '*I am writing this personal letter because of concerns voiced to me.*' I asked him whether he would agree that someone reading the letter might at face value infer that he was writing in an official capacity, bearing in mind that it was on TMBC notepaper and that he refers to himself as a ward member of TMBC and Chairman of BGPC.
- 5.18 He considers that this can be looked at both ways and said that it had previously been suggested to him that he is in effect one person because whatever he says, he is saying it as a member of the public, as Chairman of the Parish Council and as a Borough Councillor. He considers that there can be no subdivision and that unless he specifically states the capacity in which he is speaking, such as by saying '*This is my own personal opinion*' he is always all three of those people.
- 5.19 He confirmed that in writing his letter he was 'all three' people – a member of the public and both Borough and Parish Councillor. He had, he said,

previously been advised that even he had said something in a personal capacity, the Code of Conduct would still apply. I commented that I thought this a curious viewpoint.

- 5.20 I asked MT who had voiced the concerns that he mentions in his letter. He said that it had been a total of three people whom he had met in the street. He told me that they all live in the Harrison Road area, although he remarked that none of them submitted an objection to the application.
- 5.21 Whilst MT cannot recall whether any of the three people specifically named BH, he said he knew who they were talking about. He had the impression that they had perhaps talked with the applicant and that the gist of what they said to MT was *'Funny how our complaints never get heeded, but 'he' complains and the application is thrown out'*.
- 5.22 I asked whether MT felt that the one objection from BH had made such a significant difference. He replied: *'In this particular instance, yes, because of who he is.'*
- 5.23 I asked what influence he felt that BH had. He replied: *'Obviously considerable'*.
- 5.24 I asked MT how he knew that BH had such influence. He replied: *'It's a circular argument'*.
- 5.25 I asked where the evidence of that influence and that it is undue was to be found. He replied: *'I know who he is; the people know who he is; the planners know who he is. I think (and so do other people) that there is an element of the TMBC Planners kowtowing to him.'*
- 5.26 I asked MT whether he really believed that the fact that BH had been a member more than twenty years ago had swayed the Planners' judgement. He replied: 'Yes'.
- 5.27 I asked MT whether in his view, having been a prominent member of the community, BH should now refrain from commenting on such issues. He did not believe that BH should be 'disenfranchised' (my word, not his) but that he should be aware of how it would be seen if he did lodge an objection and that objection was taken on board.
- 5.28 I asked: "So he shouldn't object?" MT replied: 'No'.
- 5.29 MT told me that an application had recently been submitted for a substantial development opposite where he lives. He objects on a personal basis because he thinks it is a gross over-use of the site but he said that he would not vote or comment publicly on the application.
- 5.30 He rejected my suggestion that he may well have a pecuniary interest in the application by virtue of the adverse impact that the development might have on the value of his property. He said this: *'How does it affect me? I can only gain any money out of it by selling my property and living on the street'*.
- 5.31 I sought to draw a distinction between MT's position as a potential decision-maker on the application for the development opposite his house and that of

BH as a neighbour with no decision-making role. His response was as follows:

'Influence is far more important than decisions. The power that people like Barry Hughes and (Cllr) Sue Murray have in the village still carry considerable weight even if they are not in an elected position.'

- 5.32 I asked MT again where evidence to back his claim was to be found. He replied: *There is a perception on the part of the public and mine'.*
- 5.33 I asked what that perception was based on. He said that this matter was part of a much larger argument in that if such people had had no influence, the last ten years would have been very different, but that this was outside the scope of this investigation.
- 5.34 I asked MT to clarify whether in writing his letter to PINS he was acting as a Councillor or not. He said that he was and that he was a conduit for the concerns (which he shares) that had been expressed to him. He considers himself to be one of those 'reasonable people' who has drawn the conclusion that undue influence had been brought to bear.
- 5.35 I suggested that MT appeared to be distancing himself from the stance expressed in his email of 14 March to Lynn Francis, Deputy Monitoring Officer, in which he said: *'I have made no accusation or inference but as an elected representative, merely passed on concerns raised to me. Even then I have merely noted the conclusions a reasonable person might draw from the sparse evidence available'.*
- 5.36 He said that he personally believed that the concerns were justified.
- 5.37 I asked MT whose integrity he was questioning in his letter. He replied that it was both BH's and the Planning Officers. He considers that the Planning Officers have used the 'plasticity' of the planning system to decide in BH's favour and that the only reason they did so was because of who he is. He is convinced that had the objecting neighbour been someone with no such associations or profile within the village, the application would have been approved. He does not 'point the finger' at any Planning Officer in particular – *'more the system'.*
- 5.38 MT was less than complimentary about BH's integrity but it is neither appropriate nor relevant to rehearse his remarks here as they related to issues outside the scope of this investigation.
- 5.39 I took MT to the paragraphs of the two Codes of Conduct that I considered to be relevant and invited his comments. He does not believe that anyone in the village would take him to task for having written his letter but would support his action because he was standing up for them. He believes that TMBC has already brought itself into disrepute in many ways.
- 5.40 He believes that respect has to be earned and not simply given and that if people do not respect him and his community they cannot expect respect in return. I asked whether he felt that the people and parish of Borough Green had been treated with disrespect by virtue of the rejection of the planning application and he responded that he felt that they are treated with disrespect as a matter of course.

- 5.41 MT remarked that any honest and transparent person should be happy to be challenged. I asked him how TMBC could demonstrate to his satisfaction that they had been honest and transparent in relation to the application. His response was that TMBC had already '*gone past the point of no return*' He said that they should have treated BH's complaint in the same way as they treat most complaints, by ignoring it. This approach is, he said, the Planners' SOP (Standard Operating Procedure).
- 5.42 I asked MT whether his stance was that had TMBC Planners ignored BH's letter of objection, as he appears to wish them to have done, it would have had the merit of consistency of treatment. I put it to him that his fundamental concern was that TMBC have ignored everyone's objections and asked whether this exception to that pattern might not be interpreted as a step in the right direction as far as he was concerned.
- 5.43 His response was that if he had seen a slow change from ignoring public and Parish Council submissions towards accepting that local people should have some say, whether for or against any application, he could accept this as a change, but in his opinion this outcome was a one-off brought about by the status of the objector.
- 5.44 I suggested to MT that there is a difference between 'ignoring' a representation on the one hand and considering it and then coming to a decision that the person making the representation does not like. He suggested that the difference was only one of semantics.
- 5.45 He does not believe that there is a single example within the TMBC records of a representation by local people or BGPC making any difference to a planning application.
- 5.46 I asked MT about his Borough Green News website. This is, he told me, his own site, distinct from the Parish and Community websites, although he runs all three sites. The PC site is, in the main, controlled by BGPC and broadly speaking carries only information whilst the community site covers other areas such as the Village Hall, churches and venues. MT's site provides a platform for comment and garnering support for local issues such as the controversy over the remediation and development of the Isles Quarry site.
- 5.47 I asked MT whether he really believed that the identity of an objector is relevant in planning terms and whether the identity of this particular objector (i.e. BH) really carried any weight with the Planning Officers.
- 5.48 He does not think that the identity of an objector should carry any weight but that in this instance it carried '*100% weight.*'
- 5.49 I asked MT to what he attributed the history of approvals of applications for extensions in the Harrison Road area and whether there was a lack of consistency in approach.
- 5.50 His response was that there was no lack of consistency and that whatever objections were lodged, applications would normally be approved. He is not aware of any history of refusals although he acknowledged that some applications might well have been refused or applications modified at some time.

- 5.51 I asked MT why he thought PINS might have rejected the Haslams' appeal. He said that he did not know whether PINS gave due consideration to the application and could not comment. He does not call into question PINS' integrity *'because they haven't been to look at the site, they don't know who any of the parties are and they must place weight on Planning Officers' reports because they are Planning Officers themselves.'*
- 5.52 I asked MT whether he felt that PINS had assessed the application properly. He replied that *'With the evidence they had to hand, possibly they did. The planning system is deliberately flexible – what matters is how that flexibility is used.'*
- 5.53 Included in the instructions sent to me by Ms Francis was an exchange of emails between herself and Cllr Taylor. In response to Ms Francis advising him of the complaint made against him, Cllr Taylor said that he *'made no accusation or inference but as an elected member merely passed on concerns raised (with him)'* and added this comment: *'I have merely noted the conclusions a reasonable person might draw from the sparse evidence available'*.
- 5.54 A copy of a further email, from Cllr Taylor to fellow TMBC and BGPC Councillor Steve Perry contains the following sentences:
- '...it (the letter to PINS) was in fact sent in a personal capacity. I think the complaint is spurious because I am merely passing on concerns raised to me by residents, nowhere do I personally endorse the view that undue influence had taken place, merely that "a reasonable person might draw that conclusion"'*
- 5.55 This email to Cllr Perry was in response to a message that Cllr Perry had sent in his capacity as a BGPC member to the effect that so far as he was aware, the Parish Council had not been made aware of the circumstances *'triggering such a response from yourself for what appears to be a repetition of a scenario involving your personal relationship with TMBC'*.
- 5.56 Cllr Perry's closing comment was to the effect that steps should be taken to remove any inference of endorsement (of Cllr Taylor's comments) by the Parish Council.

6. OTHER INFORMATION AND MATERIAL CONSIDERED

- 6.1 I sought clarification from the Planning Case Officer Julian Moat on the following points:
- The procedure adopted by PINS for dealing with Written Representations Appeals;
 - How many representations had been received in respect of the application;
 - Whether he was aware of who Mr. Hughes was and

- Whether Mr. Hughes' identity or former 'status' had had any influence on the recommendation in respect of or decision on the planning application.
- 6.2 Mr. Moat confirmed by email that the appeal had been determined on the basis of written representations under the PINS Householder Appeals Service. He believes that PINS do not take into account any further representations (i.e. representations not included as part of the original application) at the appeal stage. He suggested that Cllr. Taylor's letter to PINS during the appeal would not therefore have been taken into account by PINS in determining this appeal although as this was a matter for PINS, he could not say for certain what weight (if any) was attached to this letter.
 - 6.3 TMBC received one letter of representation (an objection) to the planning application. This was from Mr & Mrs Hughes as owners of the adjoining property.
 - 6.4 Mr. Moat was the Case Officer and therefore made the recommendation to refuse the application. Other officers involved in the decision-making process were Marion Geary (Mr. Moat's Team Leader with whom he discussed the case) and Emma Keefe (Development Control Manager) who ultimately signed off the refusal of planning permission.
 - 6.5 All three Officers were apparently aware of who Mr Hughes is but Mr. Moat stressed that this did not make any difference to the determination of the application.
 - 6.6 Finally, Mr. Moat confirmed that the Hughes had been into the Planning Office and that he met them to discuss the scheme and also visited their home prior to the determination of the application the better to understand the implications of the proposed neighbouring development in relation to their property.
 - 6.7 He understood that Mr & Mrs Hughes sent a copy of their objection to the application to Cllr. Sue Murray and asked her to bring the application before Area 2 Committee for a decision should the recommendation have been to grant planning permission.

7. WERE THE CODES OF CONDUCT ENGAGED?

- 7.1 The TMBC and BGPC Codes of Conduct were in force at the time of the incident that gave rise to the complaint, having been adopted on 1 July 2012 and 4 March 2013 respectively. I am satisfied that having signed up to the two Codes on 9 January 2014 and 6 May 2014 respectively, Cllr Taylor knew of their requirements.
- 7.2 The letter of 5 December 2014 was written on TMBC headed notepaper and the subscription to the letter describes him as 'Ward Member, Borough Green & Longmill' and as 'Chair of Borough Green Parish Council'.
- 7.3 In addition, despite the reference in his letter to '*personal capacity*', it is noteworthy that Cllr Taylor states that '*We no longer waste our time tabling objections which we know Officers will always ignore*'. 'We' is a clear reference to the Parish Council and '*the Officers*' a reference to TMBC Planning Officers.

- 7.4 The reference to '*concerns voiced to me*' suggests to me that that Cllr Taylor was acting as a conduit for those concerns – once again, in his capacity as an elected Councillor.
- 7.5 In summary, it is clear to me, both on the face of the letter and from his replies to my questioning (see in particular Paragraphs 5.17 - 5.19) that Cllr Taylor was acting in his capacity as both Borough and Parish Councillor at the material time.
- 7.6 In her instructions to me, Ms Francis rehearsed in some detail the initial 'filtration process' and tests to which Mr. Hughes' complaint had been subjected in accordance with TMBC's arrangements for dealing with such matters under the Localism Act 2011.
- 7.7 Although there had been some discussion about the timeliness of Mr. Hughes' complaint (it having been written some three months and one day after the date of Cllr Taylor's letter to PINS), the Monitoring Officer was satisfied that Mr. Hughes had not actually received a copy of the letter until shortly before he submitted his complaint and not directly from Cllr Taylor as the letter itself seeks to suggest. His complaint was therefore accepted as having been properly submitted in accordance with the adopted arrangements for dealing with complaints.
- 7.8 I have therefore concluded that the Codes of Conduct were engaged, that Cllr Taylor was bound by them and that Mr. Hughes' complaint was properly made, properly accepted and properly falls to be considered in accordance with the 'Local Arrangements'.

8. CONSIDERATIONS

- 8.1 I am satisfied that Cllr Taylor was acting as both Borough and Parish Councillor in writing his letter to PINS and that it therefore fell to him to act in accordance with (inter alia) the two cited paragraphs of the TMBC and BGPC Codes of Conduct.
- 8.2 I afforded Cllr Taylor every opportunity to come up with evidence (my emphasis) of the allegations of undue influence that he not only passed on but also, despite his protestations to the contrary, clearly endorsed – see Paragraph 5.36. He was unable to do so.
- 8.3 Mr. Hughes contended that Cllr Taylor had produced no evidence, but only innuendo and inference and I agree with him.

7. CONCLUSIONS

- 7.1 Cllr Taylor's letter of 5 December 2014 was almost certainly disregarded by PINS because it did not fall to be considered as part of the Written Representations process – certainly he does not recall receiving an acknowledgment of it and Mrs Hughes told me that she could find no reference to it on the PINS website. Cllr Taylor did however distribute the letter himself, although apparently not as widely as he had originally intended.
- 7.2 The letter did not therefore have the effect that Cllr Taylor was presumably seeking to achieve but it did have the effect of calling into question the

integrity and reputation of TMBC in general, of the TMBC Planning Officers (both as to the manner in which they handled applications generally and as to the alleged influence upon them of a former member of the authority), and, whilst not naming him, of Mr. Hughes himself.

- 7.3 That calling into question was based (and Cllr Taylor as good as admitted this to me) largely on feeling and perception, particularly as regards Mr. Hughes' involvement. I find it extraordinary that as an experienced Councillor, Cllr Taylor should suggest (see Paragraphs 5.27 & 5.28) that Mr. Hughes should have remained silent in relation to his concerns about a proposed development of the property next door to his home.
- 7.4 The sentiments and implications expressed in Cllr Taylor's letter not only undermine the reputation of those alluded to, but also display a lack of respect for the professional and personal integrity of Mr. Moat and his fellow TMBC officers and Mr. Hughes alike, all without any form of evidence.
- 7.5 I believe that a reasonable person reading Cllr Taylor's letter, noting that it was written on TMBC headed paper and that he referred to himself as a member of both TMBC and BGPC would be entitled to consider that his remarks and allegations carried implications of disrepute.
- 7.6 In summary, I have concluded that Cllr Taylor has breached:
- (i) The general obligation set out in Paragraph 3 (2) (f), of the TMBC Code of Conduct, namely:

'You must not conduct yourself in a manner which could reasonable be regarded as bringing your office or the authority into disrepute'

and
 - (ii) the obligation set out at Paragraph 1 of the BGPC Code as to 'Member Obligations', which requires members to:

'behave in such a way that a reasonable person would regard as respectful.'

8. COMMENTS ON THE DRAFT REPORT

- 8.1 On 25 September I submitted my draft report by email to Mr. Hughes and to Cllr Taylor inviting their comments. I also submitted a copy to the Deputy Monitoring Officer for review as to the format, content and approach of the report, but not inviting any comments on its conclusions.
- 8.2 Neither Mr. Hughes nor Cllr Taylor wished to make any amendments to the report and my draft conclusions as set out above therefore stand.

9. ACKNOWLEDGEMENT

- 9.1 I should like to acknowledge the assistance and cooperation I have received from those whom I interviewed during the course of this investigation

Richard Lingard
13 October 2015

APPENDICES

1. Mr. Hughes' Code of Conduct Complaint Form
2. Exchanges of emails between Cllr Taylor & Ms Francis and Cllr Taylor & Mr. Adrian Stanfield, TMBC Monitoring Officer
3. BGPC Code of Conduct
4. Copies of Cllr Taylor's declarations of acceptance of office in respect of TMBC and BGPC, of both of which he is a member
5. Details of the arrangements for dealing with Code of Conduct complaints under the Localism Act 2011 (which includes the Kent Code of Conduct at Annex on page 3)