

CONFIDENTIAL

Cheshire East Council

Standards Committee Complaint CEC/2011/08

Report of an investigation by Mike Dudfield, acting as
Investigating Officer,

into allegations concerning the conduct of former Bunbury
Parish Councillors Sally

Beard and David Ellis

This report is submitted to the Monitoring Officer of Cheshire
East Council, Caroline

Elwood

11 April 2012

Executive Summary

1. Allegation has been made by Mrs Alex Stubbs, who at that time was Clerk to the Bunbury Parish Council, on behalf of the then Chairman of the Parish Council, Erica Partridge, that four Councillors are in breach of various provisions of the Bunbury Parish Council Members' Code of Conduct. This report deals with two of those Councillors, Sally Beard and David Ellis, both of whom have since resigned as Parish Councillors, Mrs Beard on 04 February and Mr Ellis on 03 February 2012.
2. It is alleged that both Sally Beard and David Ellis have failed to comply with paragraphs 9(1) and 12(1) of the Code of Conduct for Bunbury Parish Council in that, at a meeting of the Parish Council on 13 December 2011 neither person declared either a personal or prejudicial interest when the Council was considering the Council's consultative response to a planning application relating to an amended access way in relation to the development of land off Wyche Lane, Bunbury.
3. I conclude that there has been **failure** by Sally Beard to comply with paragraph 9(1) of the Code of Conduct for Bunbury Parish Council in that, at the Parish Council meeting on 13 December 2011, she failed to declare a personal interest, namely, her beneficial interest in Lexington, Wyche Lane, Bunbury, when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury.
4. I conclude that there has been **failure** by David Ellis to comply with paragraph 9(1) of the Code of Conduct for Bunbury Parish Council in that, at the Parish Council meeting on 13 December 2011, he failed to declare a personal interest, namely, his beneficial interest in Ivy Cottage, Wyche Lane, Bunbury, when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury.
5. I conclude that there has been **failure** by Sally Beard to comply with paragraph 12(1)(a)(ii) of the Code of Conduct for Bunbury Parish Council in that, at the Parish Council meeting on 13 December 2011, having a prejudicial interest, namely, her beneficial interest in Lexington, Wyche Lane, Bunbury, when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury, she did not withdraw from the meeting room when that business was being considered at the meeting.
6. I conclude that there has been **failure** by David Ellis to comply with paragraph 12(1)(a)(ii) of the Code of Conduct for Bunbury Parish Council in that, at the Parish Council meeting on 13 December 2011, having a prejudicial interest, namely, his beneficial interest in Ivy Cottage, Wyche Lane, Bunbury, when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury, he did not withdraw from the meeting room when that business was being considered at the meeting.

7. I find, under Regulation 14 of the Standards Committee (England) Regulations 2008, that there has been a failure to comply with the Code of Conduct.

Relevant Legislation

8. On 24 January 2012, Cheshire East Council's Standards Assessment Sub-Committee decided to refer the allegations made against then Councillors Beard and Ellis to the Monitoring Officer for investigation under section 57A(2) of the Local Government Act 2000.
9. Under section 82A of the Local Government Act 2000 the Monitoring Officer can delegate an investigation and on this occasion Mrs Elwood has delegated this investigation to me.
10. The Standards Committee (England) Regulations 2008 apply to this investigation.

Relevant Paragraphs of the Code of Conduct

11. Paragraph 2 of the Code states -

“(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you -

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

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

(2) to (5) *(not applicable to this case).*”

12. Paragraph 8 states -

“8(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect -

(i) to (viii) *(not applicable to this case)*

(ix) any land in your authority's area in which you have a beneficial interest

(x) to (xi) *(not applicable to this case)*

(b) *(not applicable to this case)*

- 8(2) *(not applicable to this case)*”
13. Paragraph 9 states -
- “9(1) Subject to sub-paragraphs (2) to (7) where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 9(2) to 9(7) *(not applicable in this case).*”
14. Paragraph 10 states -
- “10(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 10(2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in 8; or
 - (c) *(not applicable in this case).*”
15. Paragraph 12 states -
- “12(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
- unless you have obtained a dispensation from your authority’s standards committee;

- (b) *(not applicable in this case)*; and
- (c) you must not seek improperly to influence a decision about that business.

12(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (.....) but only for the purpose of making representations,, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.”

Councillor Details

- 16. Sally Beard was co-opted on to Bunbury Parish Council in 2006 and remained a Parish Councillor until her resignation on 04 February 2012. She is a joint owner of Lexington, Wyche Lane, Bunbury.
- 17. David William Ellis was a Parish Councillor at Bunbury between 2004 and 2007 and he agreed to be co-opted back on to the Council in January 2011. He resigned on 03 February 2012. He is a joint owner of Ivy Cottage, Wyche Lane, Bunbury.
- 18. Neither Councillor has undertaken any training on either the original or the amended Code of Conduct.

The Evidence Obtained

- 19. I have interviewed -
 - the complainant Erica Partridge;
 - Sally Beard; and
 - David William Ellis

Allegations by Erica Partridge

- 20. Although the complaint forms (Appendix A) were completed by the then Clerk, Mrs Alex Stubbs, the supporting documentation was prepared by Mrs Partridge and I have only interviewed her in connection with these complaints. At this stage, I should point out that Mrs Partridge resigned from Bunbury Parish Council on 06 March 2012.
- 21. It will be seen from the documentation attached to the form of the complaint (Appendix A) that Mrs Partridge submitted two sets of documents - the first headed 'Query to Monitoring Officer re Bunbury Parish Councillors and Potential Breach of Code of Conduct (part of Appendix A) and the second headed 'Comments relating to Councillor ...'. There is a separate set of 'Comments' for each then Councillor and those relating to Mrs Beard and Mr Ellis only are attached at Appendices B & C. The only potential breach by Mrs Beard and Mr Ellis identified in that documentation relates to the question of the failure to

- declare a personal and/or prejudicial interest when issues concerning the development of affordable housing on land off Wyche Lane, Bunbury were being considered by the Parish Council.
22. The background to these and the other complaints concerns a proposal to develop a piece of land at Wyche Lane, Bunbury for affordable housing. The proposal has a long history with initial proposals in 2003/04 to develop the whole of the land being firmly opposed by the residents of Bunbury and the Parish Council. Eventually a proposal came forward for an area of the site fronting Wyche Lane to be developed for ten affordable houses, a strip of land immediately behind the development site to be given to the Parish Council and the remainder of the site not to be developed. The proposed developer is the Muir Group Housing Association. There is a plan in the bundle of documents at Appendix B which, although uncoloured gives an idea of the total site. On this plan, Mrs Beard lives at the house numbered 4 and Mr Ellis at the one numbered 3. The development site and the strip are owned by Muir and Muir also has an option to purchase the remainder of the site. From time to time, there have been a number of the Parish Councillors who have been living in Wyche Lane and it appears that prior to December 2010 only one Parish Councillor ever declared an interest in any part of the site and that is Councillor McCormack who owns property on both sides of the site. When Mrs Partridge became Chairman of the Parish Council in May 2010 she found that the Council had no Standing Orders or other procedural documents. With the then new Clerk, Mrs Stubbs, Mrs Partridge set about correcting this and a sub-committee was set up that, with the help of the Cheshire Association of Local Councils, drafted appropriate documentation for approval by the Parish Council.
 23. By the Autumn of 2010 the development proposal for the site was moving forwards and there was regular discussion on issues at Parish Council meetings. Mrs Partridge became concerned regarding the position of the Wyche Lane Councillors, excluding Councillor McCormack, and whether they should be declaring an interest when these issues were being debated. On 17 November 2010 Mrs Partridge sent a detailed email to the Councillors other than Councillor McCormack, and the Clerk setting out a number of issues concerning the potential transfer of the second part of the site to the Parish Council. In response, on 18 November, one of the Wyche Lane Councillors, Mrs Waits, commented on the issues raised but also raised a question as to whether the Wyche Lane Councillors should be involved in the discussion on the issues.
 24. As a result of Mrs Partridge's concern and the email from Mrs Waits, the Clerk spoke to the Deputy Monitoring Officer, Julie Openshaw, giving her details of the Councillors involved and asked for advice on the question of interests. Julie Openshaw gave advice by email on 22 November 2010 (see pages 4 & 5 of Appendix C). This advice was apparently circulated at the Parish Council meeting on 14 December 2010 and read by those present and then handed back to the Clerk on the basis that it contained personal information relating to the Councillors concerned. This is not minuted but the minutes do show that Mrs Beard declared a personal and prejudicial interest and left the meeting when an update on the land offered to the Council was discussed.
 25. When Mr Ellis was co-opted on to the Council, Mrs Stubbs explained to him the

- advice that had been given by Julie Openshaw in her email of 22 November 2010. Although Mr Ellis didn't agree with the advice, he said that he would abide by the advice as his position was the same as the other Wyche Lane Councillors. In order to facilitate proper discussion on the site and the strip without interfering with the other business of the Council, a Muir Sub-Committee was established which comprised all Parish Councillors other than the Wyche Lane Councillors and this met after the main Council meeting each month. From that meeting until the meeting in November 2011, inclusive, Mrs Beard and Mr Ellis declared personal and prejudicial interests when she was present at meetings and left the room. At one point Mr Ellis stated that it was his intention to get some legal advice on his position which Mrs Partridge welcomed but he then agreed to follow the advice of the Deputy Monitoring Officer.
26. As discussions progressed, some of the Wyche Lane Councillors started to express concerns that they were unable to advise residents in the village what was happening when they were approached and felt that they should be made aware of the decisions that the Sub-Committee was making. Muir then submitted a planning application to Cheshire East proposing an amendment to the access way between the development and the remaining part of the site. The Parish Council was consulted on the application. Others were becoming involved and there was an increased amount of pressure being applied to Mrs Partridge and the Clerk to explain the details of the proposals and the need for the amendment planning application. At this stage, 26 September 2011, the Clerk circulated the email of 22 November 2010 to all Parish Councillors by email. This resulted in criticisms of the Clerk for the information which she had given to Julie Openshaw and suggestions that, as the advice stated it was only related to the strip of land, it did not necessarily apply to other aspects of the development. Consequently a further approach was made to the Deputy Monitoring Officer for advice and this was given by email on 30 November 2011. (Appendix L) The email was circulated to all Parish Councillors on 04 December 2011.
27. At the Council meeting on 13 December 2011, under the agenda item 'Declaration of Interests', Mrs Partridge says that she specifically asked Mrs Waits and Mr Ellis whether, having considered the second advice from Julie Openshaw, they had any declaration to make. They both said 'no'. They were happy with their position. Mrs Beard was late arriving at the meeting and the same conversation took place with her. Mrs Beard hesitated and then said 'no'. Mrs Partridge asked her if she was sure and did she have any queries and Mrs Beard again said 'no'. The Parish Council then discussed issues concerning the amendment planning application. The minutes record Mrs Beard and Mr Ellis participating in the debate and raising their concerns that the wider access way might open up the field behind for housing.
28. Mrs Partridge believes both persons have a personal interest through the location of their properties to the site and probably prejudicial interests.

Response from Mrs Sally Beard

29. Mrs Beard acknowledges that she does not think that she had a full understanding of the interest provisions and, as no-one else was making any declarations in respect of the site it did not occur to her that she should. At the

- meeting on 14 December 2010 she read the advice from Julie Openshaw which was specific to some of the affected Councillors and decided that she should declare a personal and prejudicial interest when items concerning the development site and the adjoining land were discussed. She followed this practice up to and including the meeting in July 2011. She says she was away for the August meeting and at the September meeting no-one declared any interest and she left before the Council considered correspondence concerning the Muir development.
30. In September 2011 Mrs Beard says that she was contacted by Councillor McCormack about forming another Parish Council Sub-Committee to 'protect our interest' but she did not act on that but started to look more carefully at her personal and prejudicial interest in this situation. The email from Julie Openshaw was circulated on 26 September 2011 and she says that there seemed to be some confusion regarding the advice and their position. At the Council meeting on 11 October 2011, the only item which might have been relevant was some correspondence and Mrs Beard, and others, decided to review the correspondence and then decide if an interest should be declared. Mrs Beard left before some correspondence on the amendment planning application was considered so she made no declaration.
31. On 17 October Mrs Beard emailed Mrs Waits saying that she was uncertain whether she should have been declaring an interest and telling her what happened at the Council meeting on 14 December 2010. Mrs Waits replied that she (Mrs Waits) believed that it was not now necessary for all the Wyche Lane Councillors, excluding Gary McCormack, to exclude themselves from all discussions on all matters relating to Muir and the land behind the development. Mrs Waits also said that she thought the advice was inaccurate because Julie Openshaw had been inadequately or incorrectly briefed. On 18 October Mrs Partridge sent her email and on 19 October Mrs Beard asked the Clerk to clarify her position with regard to the option strip with the Monitoring Officer.
32. At the Parish Council meeting on 08 November 2011 all Muir matters were deferred pending advice sought from Cheshire East so there were no declarations of interest on Muir matters. Mrs Beard assumed that this advice included that which she had requested from the Clerk on 19 October. On 04 December Mrs Beard received the second advice from Julie Openshaw but this didn't answer the specific query which she had raised. At the meeting on 13 December 2011 Mrs Beard arrived late and was not there when Mrs Partridge had discussed the advice with Mrs Waits and Mr Ellis. Her arrival was just before 'Muir matters' and Mrs Partridge asked her specifically whether she was making any declaration of interest. Mrs Beard hesitated and she acknowledges, in hindsight, that she should have said that she was awaiting advice on her specific query and wasn't decided. Not wishing to hold up the meeting she said 'no' despite the fact that she admits that her gut feeling was that she had a personal and prejudicial interest in the Muir development site but that, with regard to the option strip she thought that her interest may not be prejudicial.
33. Mrs Beard says that she realises now that she should have raised this at the meeting because she still believed that she would be getting specific advice from Cheshire East on her position. The meeting discussed the amended access way

into the option strip and the field beyond and Mrs Beard accepts that she commented on the width of the amended access way although she does not recall specifically making reference to further housing.

34. Having gone through the interest provisions with me, Mrs Beard acknowledges that she has always had a personal interest in all matters affecting the proposed development, the option strip and the field and that, depending on the matter being discussed there will have been a number of occasions when she would have had a prejudicial interest also. Mrs Beard feels that it is very unfortunate that those Councillors living in Wyche Lane did not have more information and advice then they would have had a better understanding of the interest provisions.

Response from David Ellis

35. Mr Ellis submitted a detailed response to my initial letter and this is at Appendix E. He says that when he was co-opted back on to the Council in January 2011 he was advised by the Clerk of the advice from Cheshire East on the question of interests of Councillors who were resident in Wyche Lane. The Clerk did not show him a copy of the advice and he didn't see it until the email of 26 September 2011. He didn't accept that the advice being given was accurate but decided to follow the course being adopted by the other Wyche Lane Councillors and declared a personal and prejudicial interest at subsequent meetings of the Council.
36. When the amendment planning application was submitted, Mr Ellis acknowledges that he and Mrs Ellis objected to the application (see Appendix G) but says that it was on principle because the original permission responded to a previous refusal which revolved around the construction of the access to the strip and land at the rear, and the new application now sought to remove that requirement. At this time, Mr Ellis says that he became concerned that no information was being made public on the decisions being made or action being taken by the Muir Sub-Committee and residents were asking questions which he was unable to answer.
37. Mr Ellis was away in New Zealand during October & November and missed both Parish Council meetings. Shortly before going to New Zealand he had seen a letter from Cheshire East Planning, Mr Hayward, explaining the criteria adopted for neighbour notifications (see Appendix E). Notice was only given to those residents whose property shared a boundary with the development site. Whilst away he was accessing his emails but he says that he deleted or parked most of them as many of them were being very vitriolic. He returned to England shortly before the Council meeting on 13 December. He says that he had not considered the second advice from Julie Openshaw although it could have been in his inbox.
38. At the Council meeting on 13 December he decided not to declare an interest for two reasons. First he took on board the information received from Mr Hayward which said that there was no notification to those who did not adjoin the development site and his property does not adjoin the development site or the strip. Secondly, when he had acquired his property in 2001 he had been advised

by his solicitor of the possibility of residential development directly behind the property and any such development would not cause him any financial loss. When questioned by Mrs Partridge he confirmed that he did not wish to make any declaration of interest.

39. During the discussion on the application he accepts that the minutes say that he (and Mrs Beard) raised concerns regarding the wider access way opening up the field behind for housing although he does not recall either of them saying those words. He does accept that he queried 'what Gary has in mind for the field'.
40. Mr Ellis now accepts that he should have declared a personal interest in the development site, the strip and the field when any matter concerning any of them was being considered by the Council. He does not believe that his interest is a prejudicial one. In relation to the development site and the strip, he says this because, in normal circumstances, he cannot see those two pieces of land and any activity on those pieces will have no affect on his financial position. In relation to the field, he says this because he expects the field to be developed for residential purposes at some stage and any proposal will, therefore, have no affect on his financial position.
41. In relation to the discussion on 13 December 2011, Mr Ellis acknowledges that he should have declared a personal interest and that, in relation to what he is reported to have said in the minutes or what he actually recalls saying, a member of the public is likely to regard his interest as prejudicial.

Facts

42. There is no dispute as to the facts. At the Bunbury Parish Council meeting on 13 December 2011 -
 - (1) no declaration of interest was made by either Mrs Beard or Mr Ellis in relation to the consultation on the planning application for the amendment of the access way from the development site into the area behind;
 - (2) at the time of that meeting, both persons had beneficial interests in properties on Wyche Lane, in Mrs Beard's case, directly opposite the development site, and, in Mr Ellis's case, backing on to the field at the rear of the development site; and
 - (3) according to the minutes of the meeting and their own recollections, Mrs Beard and Mr Ellis both spoke on the planning application item and made comments indicating concern at the size of the amended access way.

Application of the Code to the facts found

43. The first matter to determine is the application of the Code of Conduct. The meeting on 13 December 2011 was a formal meeting of Bunbury Parish Council. Mrs Beard and Mr Ellis were present at the meeting as Members and were conducting the business of the Council under paragraph 2(1)(a) of the Code.

44. One of the items of business on the agenda of that Council meeting was the reconsideration of the planning application from the Muir Group for the amendment of the access way from the development site at Wyche Lane, Bunbury, to the strip and the field at the rear. This item of business related to or was likely to affect property in which Mrs Beard and Mr Ellis had beneficial interests in property, respectively, Lexington and Ivy Cottage, Wyche Lane, Bunbury. Consequently both persons had a personal interest in the item of business under paragraph 8(1)(a)(ix) of the Code. Having such an interest, both persons should have made a declaration under paragraph 9(1) of the Code of the existence and nature of that interest at the commencement of the consideration of that item of business.
45. I conclude that there has been failure by Sally Beard to comply with paragraph 9(1) of the Code of Conduct for Bunbury Parish Council in that, at the Parish Council meeting on 13 December 2011, she failed to declare a personal interest, namely, her beneficial interest in Lexington, Wyche Lane, Bunbury, when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury.
46. I conclude that there has been failure by David Ellis to comply with paragraph 9(1) of the Code of Conduct for Bunbury Parish Council in that, at the Parish Council meeting on 13 December 2011, he failed to declare a personal interest, namely, his beneficial interest in Ivy Cottage, Wyche Lane, Bunbury, when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury.
47. Under paragraph 10(1) of the Code, where a Member has a personal interest in any business of the authority that Member also has a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest. Paragraph 10(2)(a) restricts the application of paragraph 10(1) by stating that a Member does not have a prejudicial interest in any business of the authority where that business does not affect the Member's financial position.
48. In this case Mrs Beard lives immediately opposite the development site and the access way, of whatever width and format, will enter Wyche Lane virtually opposite the entrance to her property. Mrs Beard acknowledges that she expressed concerns at the meeting regarding the width and accepts now that her interest was a prejudicial one. Consequently, she should have declared that fact and left the meeting when the business was being considered under paragraph 12(1)(a)(ii).
49. I conclude that there has been failure by Sally Beard to comply with paragraph 12(1)(a)(ii) of the Code of Conduct for Bunbury Parish Council in that, at the Parish Council meeting on 13 December 2011, having a prejudicial interest, namely, her beneficial interest in Lexington, Wyche Lane, Bunbury, when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury, she did not withdraw from the meeting room when that business was being considered at the meeting.

50. Mr Ellis lives a small distance away from the development site and it is barely visible from his property. Mr Ellis submitted to me that he was aware of the possibility of residential development when he bought the property in 2001 and that his financial interest must be taken to reflect that possibility. Whilst I understand the point that he makes, it does not matter whether he paid a price for the property that reflected future development or that he was prepared to accept there would be a reduction in value when development took place. His property currently has a value and it is arguable that should there be future development of the field that value will reduce. Further, his personal letter of objection to the planning application suggests that he had concern regarding the possibility of more residential development beyond the ten units already approved. Therefore, the exception in paragraph 10(2)(a) does not apply and the test in paragraph 10(1) has to be applied. Mr Ellis accepts that a member of the public applying the test and hearing whatever he may have said at the meeting could conclude that a prejudicial interest exists.
51. I conclude that there has been failure by David Ellis to comply with paragraph 12(1)(a)(ii) of the Code of Conduct for Bunbury Parish Council in that, at the Parish Council meeting on 13 December 2011, having a prejudicial interest, namely, his beneficial interest in Ivy Cottage, Wyche Lane, Bunbury, when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury, he did not withdraw from the meeting room when that business was being considered at the meeting.

General Comment

52. This case shows how an important but small issue can escalate out of control very quickly in a Parish Council. In my experience, most, if not all, Parish Councillors are well-intentioned people prepared to give service to their local community. However it is not as easy to be objective when an issue does arise as it is for a Councillor in a much larger authority. Prior to April 2010 Bunbury Parish Council operated without Standing Orders. When Mrs Partridge became Chairman she set out to regularise the procedural arrangements within the Council and did so. Unfortunately her quest for matters to be dealt with properly has resulted in the upsetting of other Members, the creation of tension within the Council and, ultimately, severe criticism within and outside the Council for apparently seeking to do things properly. This criticism has, not surprisingly, led to her resignation.
53. From the other perspective, Mrs Beard and Mr Ellis are equally well-intentioned people who were doing their best to represent the residents of the Parish. This complaint and subsequent investigation has also led to their resignations. Unfortunately, where they went wrong is that they never attended or were seriously encouraged to attend any training courses on the Code of Conduct. The application of a legal Code through the Local Government Act 2000, replacing a voluntary one, was a deliberate step by Parliament to create greater transparency in the manner in which local authorities conducted their business. My investigation has not required me to ascertain what happened at that time but

both persons were in office when the first Code was applicable, and Mrs Beard was in office when the revised Code was introduced in 2007 - yet neither has been on a training course in respect of either version of the Code.

54. This is not unusual in Parish Councils and I now cease to be surprised when investigating complaints against Parish Councillors, particularly in the area of interests. Many a time I receive minutes of a Parish Council meeting where there are a substantial number of items on the agenda, yet there is not one declaration of a personal interest by any Parish Councillor. Quite simply, I find it difficult to believe that a Member of a Parish Councillor does not have a personal interest in at least one item on the agenda. I raise this because the Localism Act 2011 changes the position with regard to interests and some Parish Councillors may, in the not too distant future, find themselves subject to a complaint for non-declaration of interest which could result in a Police investigation and possible prosecution.
55. In this case, Mrs Partridge, Mrs Beard and Mr Ellis all had their views on what an interest was and, despite the advice of the Deputy Monitoring Officer, the matter on one particular issue ends up with this investigation. I discussed the Code at some length with all three and it was clear to me that there was not the understanding that there should have been of the Code. None had attended a training session - the need for Parish Councillors to do so is likely to become even more essential after 01 July 2012.

Response to Draft Report

56. Mrs Partridge has no comment to make on the draft report. Mr Ellis has sent two emails, both dated 07 April 2012, which, together with my email reply of 10 April, forms Appendix M. I have not amended the executive summary of the Report for the reasons stated in the reply. I have no doubt the Committee will take into account the mitigation put forward by Mr Ellis when making its determination on the Report. Mrs Beard has also sent an email, dated 10 April 2012, and this, together with my email reply of the same date, is at Appendix N. The response from Mrs Beard does not call for any amendment of the draft report.

Finding

57. My finding under regulation 14(8)(a)(ii) of the Standards Committee (England) regulations 2008 is that there has been failure to comply with the Code of Conduct of Bunbury Parish Council.

Mike Dudfield
Investigator

11 April 2012

Schedule of Evidence

- Appendix A Copy complaint form from Mrs Alex Stubbs and 'Query to Monitoring Officer re Bunbury Parish Councillors and Potential Breach of Code of Conduct'
- Appendix B Comments from Mrs Partridge and emails relating to David Ellis
- Appendix C Comments from Mrs Partridge and emails relating to Sally Beard
- Appendix D Copy statement from Erica Partridge dated 20 February 2012
- Appendix E Copy letter from David Ellis dated 17 February 2012 and attachments
- Appendix F Copy letter of resignation from David Ellis dated 03 February 2012
- Appendix G Copy letters of objection to planning application from David and Margaret Ellis dated 07 August 2011
- Appendix H Copy statement from David William Ellis dated 12 March 2012
- Appendix I Copy email from Sally Beard dated 20 February 2012 and attachments
- Appendix J Copy statement from Sally Beard dated 20 March 2012
- Appendix K Copy minutes of Bunbury Parish Council dated 13 December 2011
- Appendix L Copy email from Julie Openshaw dated 30 November 2011
- Appendix M Responses to draft report from Mr Ellis dated 07 April 2012 and my reply dated 10 April
- Appendix N Response to draft report from Mrs Beard dated 10 April 2012 and my reply of the same date