

Members' Code of Conduct Hearing Sub-Committee Agenda

Date: Wednesday, 14th November, 2012
Time: 2.00 pm
Venue: Committee Room 3 - Municipal Buildings, Earle Street,
Crewe CW1 2BJ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Election of Chairman**

To elect a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Complaint No. CEC/2011/08** (Pages 1 - 100)

The Sub-Committee is invited to consider the report of the Borough Solicitor and Monitoring Officer following an investigation into a complaint against Mrs Sally Beard and Mr David Ellis, former members of Bunbury Parish Council.

4. **Complaint No. CEC/2011/05 and CEC/2011/08** (Pages 101 - 240)

The Sub-Committee is invited to consider the report of the Borough Solicitor and Monitoring Officer following an investigation into two complaints against Mrs Jill Waits, a former member of Bunbury Parish Council.

For requests for further information

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5. **Complaint No. CEC/2011/06 and CEC/2011/08** (Pages 241 - 300)

The Sub-Committee is invited to consider the report of the Borough Solicitor and Monitoring Officer following an investigation into two complaints against Councillor Gary McCormack, a member of Bunbury Parish Council.

CHESHIRE EAST COUNCIL AUDIT AND GOVERNANCE STANDARDS HEARING AD-HOC SUB-COMMITTEE

Date of meeting: 14 November 2012
Report of: Borough Solicitor and Monitoring Officer
Title: Allegation of a Breach of the Model Code of Conduct
(Complaint CEC/2011/08)

1. Purpose of the Report

- 1.1 To enable the Hearing Sub-Committee to consider the Investigating Officer's report and to determine what action, if any should be taken.

2. Decision Required

- 2.1 The Sub-Committee is invited to consider the Investigating Officer's report in accordance with the hearing procedure and relevant legislation/guidelines in force at the time and determine whether or not there has been a breach of the Model Code of Conduct.

3. Introduction

- 3.1 This hearing arises out of allegations made by the Complainants Mrs Erica Partridge and Mrs Alex Stubbs (Complaint Number CEC/2011/08) that the Subject Members, Mrs Sally Beard and Mr David Ellis, formerly of Bunbury Parish Council have breached the Model Code of Conduct, as adopted by that Council. The details of each case are set out in the report of the Investigating Officer attached.
- 3.2 The Sub-Committee has full powers delegated to it by the Audit and Governance Committee to determine this complaint and must deliver its verbal decision on the day of the hearing; to be followed by a written decision. In the event of an adverse finding, the Subject Member(s) may appeal to the Audit and Governance Standards Appeals Panel.
- 3.3 The Sub-Committee is asked to note that the complaints were made and the investigation conducted under the provisions of the Local Government Act 2000 and the Standards (England) Regulations 2008. This legislation was repealed and replaced with the Localism Act 2011 under which this hearing will be conducted.
- 3.4 A copy of Cheshire East Council's Code of Conduct Complaints Procedure, adopted by Council on 19 July 2012 is also appended to the report (paragraphs 24 to 29 apply).

4. Hearing Procedure

- 4.1 The hearing procedure to be followed will be circulated at the meeting.

5. Complaint and Investigators Report

5.1 A complaint was received on 23 November 2011 from the Clerk to Bunbury Parish Council, Mrs Alex Stubbs on behalf of the Chairman of the Parish Council, Councillor Erica Partridge which asserted that four members of Bunbury Parish Council, namely Councillor Jill Waits, Councillor Sally Beard, Councillor David Ellis and Councillor Gary McCormack had breached the Code of Conduct.

5.2 This report deals with the Investigator's findings in respect of Councillor Sally Beard and Councillor David Ellis. The complaints relating to Councillor Jill Waits and Councillor Gary McCormack are the subject of separate reports.

5.3 The Complainants assert that the Subject Members may have breached the following paragraphs of the Model Code of Conduct:

<u>Subject Member</u>	<u>Paragraph</u>	<u>Conduct</u>
Cllr Sally Beard	9(1)	Disclosure of personal interests
	12(1)	Effect of prejudicial interests on
	12(2)	participation
Cllr David Ellis	9(1)	Disclosure of personal interests
	12(1)	Effect of prejudicial interests on
	12(2)	participation

5.4 As the complaints appeared to relate to linked or overlapping issues, the Assessment Sub-Committee of the Standards Committee considered the complaints as part of the same report on 24 January 2012, its decision being to refer matters to the Monitoring Officer for investigation.

5.5 Mr Mike Dudfield was appointed to conduct the investigation and his report was submitted for consideration to the Hearing Consideration Sub-Committee of the Standards Committee on 25 June 2012. In accordance with Regulation 17 of the Standards Committee (England) Regulations 2008, where the Investigating Officer's findings were that a breach had occurred, a hearing must be convened.

5.6 Having taken into account the report's contents and Members' obligations under the Regulations, together with relevant Guidance issued by Standards for England, the Sub-Committee's decision was that it concurred with the conclusions of the Investigating Officer in that -

- a) Councillor Sally Beard had failed to comply with paragraph **9(1)** and paragraph **12(1)(a)(ii)** of the Model Code of Conduct; and
- b) Councillor David Ellis had failed to comply with paragraph **9(1)** and paragraph **12(1)(a)(ii)** of the Model Code of Conduct

and that a hearing should be convened to consider the matters.

6. Parties attending the Hearing

- 6.1 The Subject Members have confirmed that they will not be present at the meeting but each has requested that a short statement be read out on their behalf. The Monitoring Officer has agreed to this request.
- 6.2 The Complainants have been notified of the date of the hearing but have intimated that they do not wish to be present. There is no power to compel any party to attend.
- 6.3 The Investigating Officer will be in attendance but does not intend to call any witnesses.

7. Matters for Determination

- 7.1 The Sub-Committee needs to determine whether or not it is satisfied that a breach of the Model Code of Conduct has occurred in respect of paragraphs 9(1) and 12(1)(a)(ii) of the Code.

8. Decision and Sanctions

- 8.1 If, having considered the matter, the Sub-Committee finds that the Subject Members have not breached the Model Code of Conduct, no further action will be taken.
- 8.2 If a breach is found, the Members' Parish Council would be the body to determine what, if any sanction should be applied. It should be noted that the Parish Council has no power to impose a sanction against a person who is no longer a member of it.
- 8.3 The sanctions available to the Sub-Committee are -
 - (1) Formal censure e.g. through a motion;
 - (2) Send a formal letter to the Member;
 - (3) Recommend a course of action to the Members' Group Leader/ Town/Council;
 - (4) Report findings to Council/Town or Parish Council for information;
 - (5) Issue a press release of its findings in respect of the Member's conduct.
- 8.4 The Hearing Sub-Committee has no power to suspend or disqualify a Member or to withdraw allowances.

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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

COMPLAINT FORM

Code of Conduct – Borough, Parish/Town Councillors and Co-opted Member(s). Please see attached explanatory notes.

Your details-

1. Please provide us with your name and contact details. (See *Explanatory Notes attached*)

Title:	MRS.
First name:	ALEX
Last name:	STUBBS
Address:	10 COPPERFIELDS TARPORLEY CHESHIRE CW6 0UP
Daytime telephone:	01829 733252
Evening telephone:	01829 733252
Mobile telephone:	
Email address:	bunburydesk@aol.com.

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
☐ An elected or co-opted Member(s) of an Authority
☐ An independent Member(s) of the standards committee
☐ Member(s) of Parliament
☐ Local Authority Monitoring Officer
☐ Other Council Officer or employee of the Council
☒ Other - please specify (PARISH CLERK)

3. **Making your complaint** (See *Explanatory Notes attached*.)

Please submit to -

The Monitoring Officer, Cheshire East Council, Westfields, Middlewich Road, Sandbach, CW11 1HZ.

How to make a complaint

You must make your complaint in writing (either typed or hand-written). This complaint form has been produced in order to help you make your complaint but you do not have to use it. Once you have made your complaint, you will be told in writing what will happen to it.

Timeframe

Unless there are exceptional circumstances, events which took place more than 12 months prior to the complaint being submitted, will not normally be investigated.

4. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their Authority:

Title	First name	Last name	Council or Authority name
MS	GILL	WAITS	BUNBURY PC.
MR	GARY	MCCORMACK	" "
MR	DAVID	ELLIS	" "
MS	SALLY	BEARD	" "

5. Please explain in this section (or on separate sheets) what the Member(s) has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done which you believe breaches the Code of Conduct. (See *Explanatory Notes attached.*)

Please provide us with details of your complaint. Continue on a separate sheet if there is not enough space on this form.

PLEASE SEE ATTACHED NOTES
+ EMAILS.

6. Only complete this section if you are requesting that your identity is kept confidential

In the interests of fairness and natural justice, the Council believes that Member(s) who are complained about have a right to know who has made the complaint. The Council also believes they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason. *(See Explanatory Notes attached.)*

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

7. Additional Help

As noted in paragraph 3 above (Making Your Complaint), complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please contact Diane Moulson (Tel: 01270 686476).

Neil and Alex Stubbs

From: "Partridges" <ep.partridges@btinternet.com>
To: "Alex Stubbs" <bunburyclerk@aol.com>
Sent: 04 January 2012 22:35
Attach: Councillor Jill Waits emails re declarations of interest.doc; Councillor Sally Beard emails re declaration of interests.doc; Councillor David Ellis Emails.doc; Councillor Gary McCormack emails.doc; Muir Land various interests plan.pdf; Ivy Cottage objection to planning application 11 2423 N S 73 application.pdf; Edinbane James Walton letter to Muir re S73 application 2423N.pdf; Edinbane Cottage objection to planning application 11 2423N S73 Application.pdf; D Ellis Objection Letter 07.08.110001.pdf; James Walton example emails.doc; Jill Waits emails regarding other councillors.doc; Councillor Jill Waits confirmation of appointment letter.doc; Bunbury Parish Council Query to Monitoring Officer Parish Councillors.doc
Subject: Query to Monitoring Officer re Non Compliance with the Code of Conduct 4 January 2012
Dear Alex

Paragraph 30 of the Bunbury Parish Council Standing Orders require that I notify you of any breaches in the Code of Conduct.

Please see the attached documents explaining where there may be breaches of the Code of Conduct by Councillors Waits, Ellis, Beard and McCormack. If you agree it would be appreciated if you could forward these to the Monitoring Officer at Cheshire East Council.

I have copied various relevant emails into word documents and coloured them up to mark breaks in the links. I am happy to provide any further information which is requested.

As you know the Parish Council have now introduced standing orders that correspondence must be sent by post to the clerks address and reply will be by post to limitemail access but it would be appreciated if the Monitoring Officer could also be requested, when replying, to provide any advice which may assist on how to manage this very unpleasant and complicated situation.

Yours sincerely

Erica Partridge
Chairman, Bunbury Parish Council

09/01/2012

**Query to Monitoring Officer re Bunbury Parish Councillors
and Potential Breach of Code of Conduct**

I am writing to express my concerns regarding the actions of a number of Parish Councillors as it appears that they may be in breach of the Code Of Conduct and the decision of the Monitoring Officer is requested on this matter.

I have set out the background to the issues below with a separate page relating to each of the Parish Councillors concerned as there are different issues relating to each person.

Background

1. The issues arise in relation to the development of some land at Wyche Lane, Bunbury by Muir Group Housing Association. Muir have planning permission to build 10 affordable homes on the land edged red which included a gate into the field (edged blue) at the rear of the housing land with a restriction that the access point is to be used for maintenance only. At a public meeting some years ago prior to the original planning approval Muir offered to transfer the land edged blue to the Parish Council (this was not a condition of the planning consent). Muir secured funding for the development and, in Autumn 2010, they began pre commencement discussions with the owners of the land coloured yellow and the Parish Council in relation to the transfer of the blue land.
2. I have attached a plan which shows the following :
 - the Muir housing land edged red (the houses have not been built yet)
 - the land offered to the Parish Council edged blue
 - the land owned by Cllr Gary McCormack coloured yellow with one field also edged purple
 - the land owned by Cllrs David Ellis, Sally Beard and Dennis Burrows coloured orange (Cllr Burrow has recently retired so this query does not relate to him)
 - the home of Cllr Waits coloured orange (she shares this property with her partner, James Walton) as their home but she is not an owner
 - whether those houses neighbouring the land have objected to planning application 11/2423N (explained in 5 below) 'O' or not objected 'N'.
3. James Walton is Secretary of the Local Conservative Club and Cllrs Waits and McCormack are active members of the club and are close associates and friends as well as neighbours. This also brings them into association with Michael Jones, our Borough Councillor. It is clear from numerous comments to me by Cllr Waits that she regularly discusses Parish Council matters with Michael Jones. At recent Parish Council meetings Michael Jones has made his apologies and sent his report via Cllr Waits without contacting the Clerk and he asked Cllr Waits to represent him to lay a wreath at the armistice day service in Bunbury.
4. Cllr Mc Cormack has acquired the land edged yellow in a number of tranches. He lives in the house called 'Fairview' as his home and over recent years has acquired the other land holdings now all coloured yellow. Both Muir and Cllr McCormack have confirmed that Cllr McCormack had offered to acquire the blue land from Muir at a price of £6000 with a proposal that Muir transfer the £6000 to the Parish Council and not the land. Muir have stated to me that Cllr McCormack also expressed interest in buying the red land off them. The previous owners of the yellow/purple field sold the red and blue land to Muir, including covenants for Muir to construct an accessway across the blue land to adoptable standard, or to the satisfaction of the planning authority on construction of the houses on the red land (the Muir cul de sac will not be adopted). The covenants in this contract potentially impact on the blue land in a number of ways and the Parish Council have commissioned legal advice on this matter and our negotiations in relation to the transfer of the blue land consequently involve Cllr McCormack as well as Muir. These are not finalised yet, but following discussions over this period terms have been

provisionally agreed for the Parish Council to have a ten year legal option for a transfer of the blue land for a peppercorn and solicitors are dealing with these contracts. Cllr McCormack has openly stated that his solicitors will serve an injunction on Muir to prevent the start of construction if the terms of his contract are not met. Failure to reach agreement on this matter could potentially result in the houses not being constructed. Muir also have a legal option to acquire the yellow/purple field if they obtain planning permission to construct houses on it. This can only be withdrawn with Cllr McCormack's consent which has not been forthcoming. The presence of the option is a contributing factor to the opposition to the S73 variation application referred to below.

The accessway coloured green therefore impacts not only on the blue land it crosses but also the the red land (as refusal or non compliance with Cllr McCormacks contract may result in the houses not proceeding) and the yellow/purple land it gives access to (as opposers of the houses are claiming the access will open this field to development).

5. Muir submitted a S73 planning application No. 11/2423N in August 2011 for a variation of the original conditions to construct the accessway required by Cllr McCormack's contract in the position shown by the green line and to remove the condition restricting access to the blue land to maintenance only as this would effectively prevent a transfer of that land to the Parish Council who would need to use it for community purposes. The proposal is for the green accessway to have a 'Toptrek' agricultural type surface and to be 4.5m wide to ensure compliance with planning and contract standards. This application has still not been to Cheshire East Planning Committee.
6. Cllr Ellis and James Walton (Cllr Waits' partner) have both objected to application 11/2423N. Cllrs Beard, Waits, Burrows and McCormack have not. Cllr McCormack purchased the yellow/purple field subject to the existing option agreement referred to in point 5 above and that contract requires the owners of the field to support any planning application made by Muir and so prevent him from making a formal objection.

Declaration of Interests and Code of Conduct

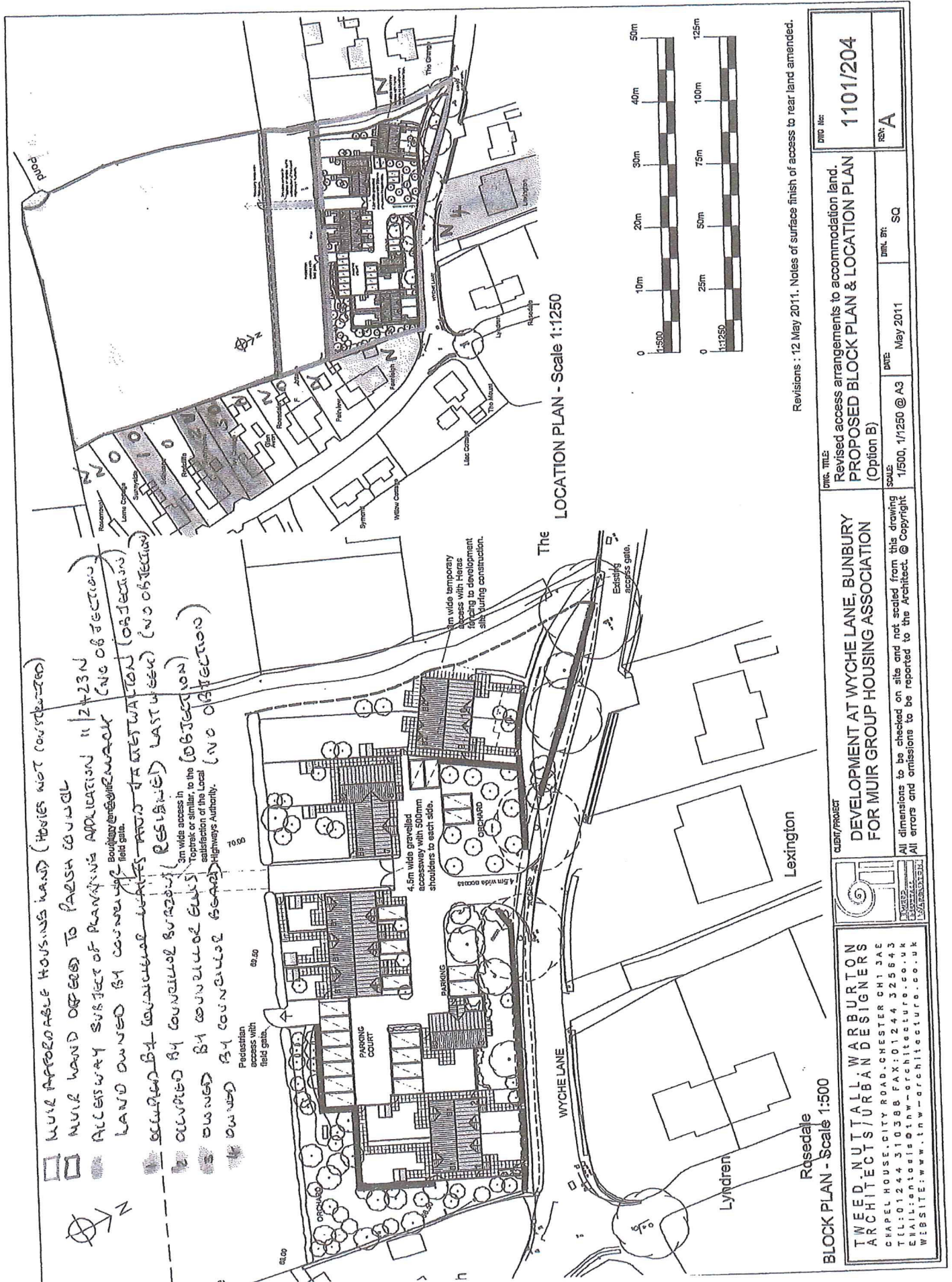
7. It has been necessary for the Parish Councillors who live in Wyche Lane to consider whether they have a personal and/or prejudicial interest to declare in relation to the above matters. The sequence of relevant events are set out below. Copies of relevant correspondence and emails are in separate attachments. Initially the discussions dealt with just the offer by Muir to transfer the land as the necessity for a further planning application did not arise until the summer of 2011. It could be that the decision may be different in relation to each aspect by individual councillors.
8. Prior to October 2010 the Muir matters had been dealt with on the basis that :
 - Cllr McCormack declared a personal and prejudicial interest in anything relating to the contracts and planning application 11/2423N and was not present when these were discussed. He did not declare any interest for purely factual matters relating to the development eg information on the development programme/allocation of the houses. He has continued on this basis to date and there is no query on this point in relation to Cllr McCormack;
 - the other Cllrs neighbouring the land did not declare any interest
 - I discussed this with the Clerk as I wondered whether this was correct, particularly as Cllr Burrows made statements such as 'we don't want allotments behind us as they look untidy' 'we don't want an orchard as kids will throw apples at our windows' 'Gary will maintain the land in good condition if it is sold to him'. As the matters are so complicated she agreed to consider it;
9. On 18th November 2010 Cllr Waits sent the attached email (pages 14/15 of JWs emails), stating that she was '**potentially affected**' by the transfer/use of the blue land as were the Cllrs Ellis, Burrows and Beard, effectively declaring an interest herself and

querying whether her neighbours should also declare an interest. Due to the complications I agreed with the Clerk that she would request the advice of the Monitoring Officer. She later confirmed to me that she had described various applicable locations in relation to the blue land to Julie Openshaw who considered the situation and sent the email reply dated 22nd November 2010 (page 10 of JWs emails) which is attached.

10. Julie Openshaw's email was circulated to Parish Councillors at the Parish Council meeting in December 2010 under 'declarations of interest' on the agenda. Those affected Cllrs who were present (Cllrs Beard and Burrows) then declared a personal and prejudicial interest in relation to the blue land and continued to act accordingly. Cllr Waits was not at the meeting so the Clerk contacted her afterwards the emails on 16th December (pages 11/12 refer to this conversation). Cllr Waits accepted without further query that she had a personal and prejudicial interest in relation to the blue land and continued to act accordingly. Cllr Ellis became a Parish Councillor in January 2011 and he was informed of the position which he queried but accepted would also apply to him and he continued to act accordingly.
11. The Parish Council decided that discussions relating to the blue land would be held separately as this would avoid 5 Cllrs having to leave the room and consequent interruption to the meeting and that a number of the matters were subject to contract/commercially sensitive and not suitable for a public meeting. These meetings were known as the 'Muir Sub Committee' although it was actually the full Parish Council excluding the public and Cllrs with declared prejudicial interests. Initially the advice and meetings were in relation to the transfer and other contractual issues relating to the blue land, the need for the planning application arose later.
12. When Muir submitted planning application 11/2423N Cllrs McCormack, Waits, Beard, Burrows and Ellis all declared a personal and prejudicial interest in that application. It was discussed at the public Parish Council meeting on 9th August. Before withdrawing from the meeting Cllr Waits asked to make a statement in which she asked the Parish Council to consider whether a public meeting would be helpful.
13. On September 12th 2011 Cllr McCormack wrote to the Clerk asking for a copy of Julie Openshaws email advising on the conflict of interest (P6 of GM emails) and saying that the Wyche Lane Parish Councillors 'about forming another Parish Council Sub Committee to protect our interests'.
14. After that a series of emails were received from James Walton on this matter culminating in a complaint against the Clerk which has now been withdrawn. He also made a Freedom of Information Act request for all the discussions/correspondence relating to the Muir Sub Committee meetings. I will comment further on James Walton later. This was followed by queries from Cllrs Waits and Beard on this matter and further queries from Cllr McCormack. Cllr Waits then informed the Parish Council that she was 'disapplying' her former declaration of interest and requested all the emails etc relating to the Muir Sub Committee discussions.
15. To resolve this issue I decided to hold all matters relating to Muir in abeyance pending further guidance being requested from the Monitoring Officer, Caroline Ellwood. She replied that she was unable to give detailed guidance but Julie Openshaw provided a copy of the explanatory guidance on the code of conduct which is most helpful. This was issued to all the councillors.
16. At the request of Cllr Waits matters relating to the Muir land were included in the agenda of the 13th December 2011 meeting. The Wyche Lane Cllrs were asked if they had any interest to declare or any further queries. Cllrs Waits, Beard and Ellis advised that they did not (reversing their earlier declaration of interests) and Cllr McCormack advised he would declare a personal and prejudicial interest relating to the Muir land

and he left the room during the discussion. Cllr Waits proposed that the Parish Council open up their previous decision relating to planning application 11/2423N to allow the Wyche Lane Councillors to contribute, this was seconded and councillors voted to re discuss the matter. The discussion also involved contractual matters relating to the blue land as the issues are interlinked. On a further vote the original decision was confirmed.

17. Original Application : I was not a councillor at the time but my understanding from those who were is that no personal or prejudicial interests were ever declared. The Chairman at the time was Cllr Dennis Burrows and the then Clerk, Colin Knowles, was a close associate with him from their membership of the Tarporley British Legion. As a village resident I could not understand why the Parish Council were so vehemently opposed to much need affordable homes but it appears that several then Parish Councillors lived in Wyche Lane.
18. It appears to me that the Parish Councillors who live in Wyche Lane should declare a personal and probably a prejudicial interest in relation to the Muir Land planning 11/2423N application and transfer and use of the blue land and in rescinding their previous declarations of personal and prejudicial interest that they may now be in breach of the Code of Conduct. The Monitoring Officers advice is requested on this matter. As the circumstances of each are different I have made separate comments on each councillor concerned below.



Comments Relating to Councillor Ellis

1. Councillor Ellis works very hard for the local community and was previously a Parish Councillor when the original planning application was considered. He has supported the construction of the affordable homes on the basis of need for the village.
2. The objections to the planning application 11/2423N by Cllr Ellis and his wife are attached. He is concerned at the potential risk of future development on the field edged purple which is behind his home and it appears that this alone gives rise to a personal and probably prejudicial interest in that application.
3. At the December Parish Council meeting, Cllr Ellis actually voted in favour of the existing Parish Council decision to support planning application on hearing the more detailed information on the potential risk to the development of these houses from contractual litigation if the application is refused. He said he considered them to be more important than the other 'risks' which would be dealt with should they ever arise later. Following the meeting Cllr Ellis asked 'what is a prejudicial interest?' – I therefore do not think he has fully understood the guidance and how it applies to himself.
4. It therefore appears to me that Cllr Ellis may have broken the following codes of conduct:

9 (1) 'disclosure of personal interests'

Potentially 12 (1) and 12(2) 'effect of prejudicial interests on participation'

EMAILS RELATING TO COUNCILLOR DAVID ELLIS DECLARATIONS OF INTEREST

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

From: David Ellis
To: 'Partridges'
Sent: Wednesday, August 17, 2011 9:02 AM
Subject: RE: Muir E-mails & communications

Hi Erica

Having seen James's reply to you I have held back from letting you know that I have also heard that the passing of this variation will not satisfy Gary and that he has a further one or two ideas in his bag to frustrate the development. It is only rumour but comes from a fairly reliable source. I think the time is fast approaching when the PC has to issue a statement to let the locals know that the continued delay on this development is nothing to do with the PC but is the result of a legal dispute between Gary and Muir. I also strongly believe that both litigant's names should be on the statement and not just referred to as the owner of the adjoining land. A number of people are of the opinion that the PC is party to all of this nonsense and trying to delay the building and to be perfectly honest I do not like being accused of something I have no control over. I have not held back from naming Gary as the person fighting it but an official statement needs to be made.

Regards
David

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

From: Partridges
To: David Ellis
Cc: 'Bunbury Parish' ; m.jones1@btconnect.com
Sent: Friday, August 12, 2011 10:09 AM
Subject: Re: Planning applications 11/2423N & 11/2575N

David

Thank you for your email.

The two planning applications have caused much confusion. The Clerk to the Parish Council and the Borough Councillor are looking into this matter. The Parish Council acted on what they understood the situation to be. Michael Jones has advised that he asked for application 2575 to be called in last week on the basis that 2423 was to be withdrawn but he is also asking for 2423 to be called in today. This will allow time for the issue to be resolved and comments recorded against the correct planning application which is to go forward or comments to be recorded against both. If necessary, the Parish Council will review their decision when this is clarified.

As you say, the Toptrek is an agricultural surface which would not support a residential development which would be subject to planning application.

The Parish Council Ownership of the PC strip is seen by villagers as an important factor in relation to this development. To enable this to happen the Parish Council must be able to use the land for community benefit and have sufficient access to it. In transferring the land/granting rights to the Parish Council, Muir are also required to provide the accessway in a way which will discharge their obligation under the contract to the owner of the adjacent field. The Parish Council considered the application resolves these issues. There is no suggestion of residential development on the adjacent field. The transfer of the PCT strip is not a planning condition and is currently not a contractual obligation on Muir. The Parish Council have decided to take a legal option on the PC strip to allow time for consultations on the use, obtain planning permission and funding and this is currently subject to contract.

In considering the issues created by the covenant where it directly impacts on the Parish Council relating to transfer of the PC strip the Parish Council wrote to the owners of the adjacent field to ask if they would give up their rights for an accessway across the PC strip as they have alternative access as this would remove constraints on the use of the PC strip created by this covenant. It would also have had the additional benefit of removing the public anxiety which now appear to be created by it. The owners replied that they did not wish to vary the covenant so the Parish Council must proceed on the basis of the existing contracts.

I hope this clarifies the position for you and allays some, if not all of your concerns.

Kind regards

Erica Partridge
Chairman, Bunbury Parish Council

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

From: David Ellis

To: 'Partridges'

Cc: 'Bunbury Parish'; 'jill waits'; m.jones1@btconnect.com

Sent: Thursday, August 11, 2011 4:46 PM

Subject: Planning applications 11/2423N & 11/2575N

FOR YOUR URGENT ATTENTION PLEASE

Dear Erica

I had sincerely hoped that I would not have to come back to you again on this most unsatisfactory matter but having just received a copy of the minutes from your sub committee meeting last night I am writing to point out an error that your group has made and also to express my dismay at the fact that you all decided to ignore one of the most important points in the proposed variation.

Firstly you are totally incorrect in stating that application 11/2575N is the one to which you should be referring and not 11/2423N, which is the one posted on the gate of the development. As you can imagine this has caused considerable concern as I and my neighbours have been objecting to 11/2423N which means that none have been recorded against 11/2575N. As soon as I read your minutes I printed off a copy of both applications and to all intents and purposes they are identical except that one has a signature and the other does not, perhaps someone on your committee should have physically checked this documentation before making a decision. As a result I telephoned the planners and asked to speak to Ben Haywood but needless to say he would not speak to me so I was eventually put on to Mr Earlin Smith who referred my query to Haywood whilst I waited on the phone. To start with they claimed that both applications were valid as they were different but when I asked them to read both very carefully they admitted that there was no difference in them. Also they could not explain why there was only one public notice referring 11/2423N on the gate. After some considerable debate at their end they admitted that they had made a mistake and that 11/2423N was the correct application and not 11/2575N as quoted in your minutes. I also obtained a guarantee from them that they would transfer the objections from 11/2575N to 11/2423N so that these objectors would not be ignored. I would have thought that someone at your meeting would have realised that 11/2423N was the correct one as that was the one posted on the gate to the development. Perhaps if one of the councillors who knows the details of the application was present this mistake would not have occurred!!!! Will you please ensure that your comments to the council refer to the correct application number. Also I was disturbed when I was told by Earlin Smith that Haywood would know the answer to my query because he was the one who would be making the decision on the application and not the planning committee. I sincerely hope that Michael will call it in as he promised and not let us be bullied by someone like Haywood who seems to be very cosy with Muir but I suspect that your decision last night will now prevent this from happening which is totally against the wishes of your constituents. Unfortunately your decision was reached by a group of people who are not at all affected by this application and one in particular is very keen to get the development started because of the rash promises he has made to the village over the past few years and he is unable to see that this will open up Gary's field for possible future development by either Muir or Gary subject to planning.

On reading your decision I am quite happy with your recommendation about the surface of the track/road but I am very unhappy that your group completely ignored the residents concerns on the width of the entrance being increased to 4.5 metres. We have been told that the land behind is for agricultural purposes so it certainly does not need as big an access as this. A normal size agricultural access would be sufficient to allow access by tractors etc. Once this wider access is agreed anything could happen to the land at some future date, subject to planning of course. Also if you look at the original layout the original access would cover just one parking space but if it is wider it will cover two which I think destroys one of their reasons for lodging this application. I think that you need to rethink your decision in the light of these comments which are endorsed by my neighbours.

I look forward to hearing from both you and Michael.

Yours sincerely
David

From: Partridges <ep.partridges@btinternet.com>
To: Bunbury Parish <Bunburyclerk@aol.com>; Brian Dykes <b.dykes@btinternet.com>
Sent: Wednesday, 24 August, 2011 19:37:51
Subject: Re: Rumours about around Wyche Lane

Hi Alex

I think we should just put a large notice in the notice board but I am happy to go with a circulation if you and Brian think it will help.

Regards
Erica

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

From: Bunbury Parish
To: Erica Partridge ; Brian Dykes
Sent: Wednesday, August 24, 2011 7:15 PM
Subject: Rumours about around Wyche Lane

Hi Both

David Ellis rang me this morning to say that he had been stopped by 3 people in the village who wanted to know about the 50 houses being built at Wyche Lane. He says that he thinks he knows where this rumour originates.

He wondered if the Parish Council should put out a notice correcting the rumour.

My personal view is that if people don't read the minutes on the board, they probably won't read a correction either but I'm happy to put something up if required.

What do you think? Do you think we need to go as far as a mail drop in the village basically saying the same thing as the minutes? We could do this easily if I printed them and then councillors helped to deliver.

Regards
Alex

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

From: David Ellis
To: 'Partridges'
Cc: 'Bunbury Parish'
Sent: Sunday, August 07, 2011 2:25 PM
Subject: RE: Land at the rear of Muir Development

Dear Erica

Thanks for your reply but as I said I do not have to agree with the policy but will abide by it. I am quite aware of Gary's position but there is no need for the access to be up to adoption standard as agricultural use does not require this but I suspect that Gary is working to another agenda of which we are not party. You need not worry about me on Tuesday as I will leave the meeting as soon as the application comes up. It is strange, however, that **none of us were excluded from the meetings when the very first application came up back in 2004/5 but that is now history but the present situation certainly does not sit very easily with our neighbours who are asking us to do something about the**

problem. As there will be a lack of objections to the application because so many people are away and is likely to be decided by delegated powers what the few of us have to say will probably have no affect on the outcome and we will just have to wait for the application for a very large housing estate in the middle of the village. It would appear from the actual application details that the planning officers are very cosy with Muir and have been advising them on how to present the application. If the information is released to my neighbour under the Freedom of Information Act and we find that there has been some collusion between the various parties then there will be real trouble!

Regards
David

From: Partridges [mailto:ep.partridges@btinternet.com]
Sent: 07 August 2011 13:23
To: David Ellis
Cc: Alex Stubbs
Subject: Land at the rear of Muir Development

Dear David

Firstly - please can you use my btinternet address above and delete the old tiscali one.

Thank you for letting me know what is happening generally and about the planning application, Alex has been away and hopefully she will have received the notice to include for discussion at Tuesdays meeting.

As you know the Parish Council has been advised that the neighbouring Councillors have a personal and prejudicial interest in relation to this land and do not therefore take part in the meeting on this item. This also means, as you say in your third paragraph, that the neighbouring Parish Councillors may deal with matters in relation to this land as private individuals, not Parish Councillors. This means that there is no need to review your position as a councillor on this matter as the declaration of interest already does that for you. I hope and trust that this allays your concerns on this point. I have copied Alex in so she can confirm also.

I am not sure if you are aware that the land owned by Mr and Mrs McCormack includes an obligation on Muir to construct an access across the land being offered to the Parish Council connecting the McCormacks land to the Muir development and this access can be up to 'adoption standard'. This is a publicly available document which can be obtained from the Land Registry and you may wish to obtain a copy for information.

Regards

Erica

Dear Erica

Just by chance today I found out that Muir has submitted a planning application to vary the decision reached by the Inspector at the last appeal. I and none of my neighbours have received notices of this application and understand that just three houses have been notified, one of which was Gary. The first we heard of it was when the notice appeared yesterday or the day before but as I was away I did not see it until today.

The application is seeking to change the access to the land at the rear from agricultural to a main stream road which would enable any future owner to apply for planning to develop it and they are claiming that the current approval is a constraint on future owners of the land, both the land to be transferred to the PC and Gary's land. As with the previous application it has been submitted at the height of the summer when most people are away and with a very short timescale in which to object (the 24th August 2011).

Obviously if this comes up at a future PC meeting then it can only be discussed by a minority of the members with the people most affected being excluded which we find to be unsatisfactory, particularly as I am not sure if at least one of this minority really does not know what is going on and is constantly barking up the wrong tree.

I, and my neighbours, will not allow this application to go unchallenged as it flies in the face of the Inspector's decision and as I am not able to use the PC to fight it I will have to do it as a private individual but I do not think that I can sit in both camps as one could end up fighting the other. Obviously as far as I am concerned this application needs fighting and I cannot rely on the minority committee to come to the same decision as me so I might have to seriously consider my position on the PC.

Should Muir obtain approval to their application then I suspect that they will exercise their option to buy the land, which I think has another 3 years to run, and at some future date apply to develop it in spite of Robinson saying at an open meeting that they were now not interested in it. It also follows that should they not exercise their option then Gary will be sitting on a very desirable piece of land as far as developers are concerned!!! I suspect, however, that they will go with the former suggestion just to spite Gary!!

I am writing this as a matter of courtesy to let you know what is happening but you should also know that I have today written to Eric Pickles, and copied to the Chief Executive of East Cheshire, to complain at the way this matter has been handled by East Cheshire and the fact that the majority of Bunbury PC do not have a say in what is happening to this land. I accept that you have been advised on this matter but it does not mean that I have to agree with the advice given to you.

I would also mention that one of my neighbours has today applied under the Freedom of Information Act to see all of the documentation and meeting notes relating to any meetings held between Muir and the planners at East Cheshire.

I will keep you informed.

Kind regards

David

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

From: David Ellis
To: 'Partridges'
Cc: 'Bunbury Parish'
Sent: Monday, July 25, 2011 8:13 AM
Subject: RE: Draft minutes from last weeks meeting.

Hi Erica

Thanks for your e-mail and telephone call. I was aware of the sub committee being set up and I voted for it to save us having to leave the meeting but since then I have had a number of people approach me to seek advice as to what is happening to the "ransom strip" behind the Muir development and I have felt completely impotent in not being able to answer their questions. As I have told Alex one lady in particular, Anne James, who backs right on to the piece of land is particularly concerned because of the rumour she has heard that one or two councillors are in favour of selling it to Gary, and although I am aware of this sentiment I have been unable to reassure her that this will not happen and she will not approach the councillors who have mentioned this option with the sale proceeds going to the pavilion!!! We are not very well thought of in the village and I seem to have become the sounding board for a lot of people because they do not feel able to approach our more established members because they are set in their ways. Even yesterday at a lunch in support of Eton church I was button holed by a very senior legal person who lives in Bunbury asking me just what the PC did. I explained that things had changed since you came on board and that you and Alex were the sole reason for me going back on to the council as I would not have contemplated it under the previous regime. Unfortunately in the eyes of this person nothing has really changed because so many of the hard core are still on board but I told him that this is something only the likes of him can change by standing for election. You are doing a great job but I fear that the old ways will take a long time to eradicate and I am concerned that I am again going to be

confrontational with the likes of Brian because I have very little patience with people like him and do not suffer fools lightly. Should this happen and I find that I am disrupting the meeting then I will have to consider my position.

As far as the Muir thing is concerned I am not going to put the PC to the expense of seeking further legal advice and I will keep the advice of the Borough solicitor to myself and I will now not pursue the matter further but advise any enquirer in the future that I cannot help them and that they will just have to wait like me until something is published in the minutes. Not satisfactory but necessary.

Thanks for your time in contacting me.

Regards

David

From: Partridges [mailto:ep.partridges@btinternet.com]

Sent: 22 July 2011 10:08

To: David Ellis

Cc: Alex Stubbs

Subject: Re: Draft minutes from last weeks meeting.

Hi David

The exclusion of all Parish Councillors who live backing onto the area were excluded as Alex says, on the advice of CE. (Alex - can you please let David have a copy of that advice), as having a personal and prejudicial interest which means they have to be excluded from the item.

The Parish Council then appointed a sub committee to take the matter forward, (to avoid the need for the Wyche Land councillors to have to leave the meeting) which comprised all the councillors not backing onto the land. All this was approved by the Parish Council.

Muir have offered an option on the land for 10 years to the Parish Council which the sub committee have decided is the best course of action at the moment. It is impossible for the Parish Council (via the sub committee) to take the matter any further in terms of uses for the land including whether to take a transfer of it or not until Muir are able to sort out their planning and contractual matters.

Taking the legal option guarantees the possibility of the Parish Council taking the land for the next 10 years and prevents other purchasers acquiring the land to prevent the Parish Council from doing so. It effectively turns the Muir 'promise' into a contractual obligation and there is no obligation on the Parish Council to do anything. This means the Parish Council can take time deciding on the matter.

It might be possible for Muir to sell the land subject to the option, but the option would then continue with another purchaser.

The sub committee came back to the Parish Council to explain the proposal and request authority to sign the contract. This was explained at the Parish Council meeting but you could not attend. We have not received a draft contract yet but now have Parish Council approval to proceed to contract.

I understand the frustrations of the Wyche Lane Councillors, the matter is very difficult and I had hoped that the matter could have been treated differently but one Councillor raised the question of conflict of interest so Alex had to take advice and act on it.

I am not sure the Parish Council can accept advice from a solicitor acting independently for a Councillor as the same conflict of interest arises. If for some reason your own legal advice differs from that already given to the Parish Council, then the Parish Council may have to obtain it's own legal advice or as CH to comment on it/take legal advice.

I am sure you appreciate that Alex and I are not trying to be obstructive but have had to proceed in accordance with the governance procedures and the advice Alex has been given.

Thank you for seeking legal advice, I am very much interested to hear the outcome.

Best regards

Erica

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

From: Bunbury Parish

To: David Ellis

Cc: Erica Partridge

Sent: Wednesday, July 20, 2011 7:38 PM
Subject: Re: Draft minutes from last weeks meeting.

Hi David

I know what you mean, I feel that I'm treading on eggshells with all these exclusions.

We haven't signed anything yet but have received a draft 10 year option from Muir. It simply secures the land behind the Muir development for the Parish Council, so that Muir can't do anything else with it or sell it to anybody else. However, at any time during the 10 years the Parish Council can simply walk away and decide that we don't want the land without taking on any financial or other responsibilities for it.

The sub-committee felt that this gave the PC some time for the legalities around the proposed road/accesses etc to be sorted out without the PC having to be involved - the PC can sit back, wait for everything to be resolved (possibly!), review the situation and then make a final decision on whether it wants the land or not when we see what obligations come with it. It also gives us time to investigate what the village wants to do with the land and also to look at fund raising/grants etc.

I am happy to go along with whatever guidance the solicitor comes up with, but when we did investigate with CE before, they did suggest the exclusions.

I hope that I've explained it all clearly, but do please let me know if you want any further information.

Regards

Alex

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

From: David Ellis
To: 'Bunbury Parish'
Sent: Tuesday, July 19, 2011 9:57 AM
Subject: RE: Draft minutes from last weeks meeting.

Hi Alex

Can you please provide me with more details of the proposed 10 year option on the Muir land which is coming to the village. Being excluded from the meetings discussing this matter is really very unsatisfactory and I feel that everyone should be able to attend but not able to comment as in normal meetings when you have an interest in the subject. I have written to the Borough solicitor asking for guidance on this matter of exclusion.

Regards

David

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

From: David Ellis
To: 'Partridges'
Cc: 'Bunbury Parish'
Sent: Thursday, March 31, 2011 9:02 AM
Subject: Muir

Hi Erica

Thanks for the note. I agree entirely with your thoughts and this latest episode is just very silly. I do not really know what Gary is going on about as the original planning approval by the Inspector allowed for an access road to the land behind, now owned by Gary, through the centre of the development where he has put his gate. So what is his gripe? He has tried to get me on board with his fight with Muir but I have just told him that it is nothing to do with the PC and he and his solicitor must deal with it themselves without involving anyone else. It looks to me as if too many people are on the PC to fight their own personal battles and not look at the bigger picture!

Hey ho such is life!!

Regards

David

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

From: Partridges
To: David Ellis
Cc: Alex Stubbs
Sent: Wednesday, March 30, 2011 5:55 PM
Subject: Muir

Hi David

Please note - my new email address is ep.partridges@btinternet.com

Thanks - a note about hedge cutting was handed over last night by Jill from Dennis. I commented that it said Muir needed to check the hedge for nesting before starting work which sparked a disagreement on whether the nests were new or old. I agree it is all a bit silly and rather desperate. We will need to see if Muir enter on the site this week - Gary was threatening private injunctions if they do without having planning consent for his access road, which is up to him. Alex and I think we may have to arrange a tripartite meeting about fixing the location of the road but we need to see if Muir are actually progressing first.

Regards

Erica

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

From: David Ellis
To: 'Erica Partridge'
Cc: 'Bunbury Parish'
Sent: Tuesday, March 29, 2011 12:21 PM
Subject: Muir

Hi Erica

It looks as if one or two members of the PC are gunning for Muir again and I have just about had enough of this stupid behaviour and have today sent a note to Dennis to this effect (see below). They are now trying to delay the start of the project by claiming that they should not be demolishing hedges at this time of the year. I think you will find my note self explanatory!! I am sending you this as I will not be at the meeting but wanted you to be aware of my very strong thoughts and that I will not let it go when I get to the next meeting. Whilst writing should we have put up a notice inviting new applicants to apply to come on to the PC? We would probably not get any one but I would love to see a vote for members to see what the locals actually think of us!!!

Hi Dennis

Here is the information you asked for but I have to say that I believe that we should now let Muir get on with it as no one seems to be thinking of the youngsters needs in the village. I speak to the youngsters all of the time and am helping a number of them with their applications as they do not believe that the Parish Council gives one jot for their needs and that we are just playing games with their future. We have lost the planning application and we now have to make the most of what we have got and do as much as we can for the youngsters of our village and not antagonise Muir any more than we have to. We waste so much time talking about ways in which to stop Muir and in my opinion this has to stop and we must put our local families first and not our own personal feelings. Unfortunately I will not be at the next meeting but I will fight any attempt to delay this project as best I can so that I can look the youngsters straight in the eye and say that at least one member of the PC is sticking up for them.

Sorry to be as strong as this about it but we need to speak our mind sometimes and I will certainly let the applicants know why there are delays in providing them with affordable housing.

Regards

David

Comments relating to Councillor Beard

1. Councillor Beard works very hard as a Parish Councillor, particularly in relation to the Playing Fields Committee.
2. She has not objected to planning application 11/2423N and queried whether she should declare a personal and/or prejudicial interest in relation to the blue land as she lives over the road from the proposed affordable houses and believes the field may not be visible from her home. However, her home is located opposite to the entrance to the houses and the blue field so she would be affected by any activity. She has also stated in a Parish Council meeting that further information on Muir's funding for the houses was needed for the Wyche Lane residents to further their plans.
3. In the discussion on 11/2423N at the December meeting she voted against the application giving the potential risk to future further housing development on the field edged purple as her reason which would directly impact on her home.
4. It therefore appears to me that Cllr Beard may have broken the following codes of conduct:

9 (1) ' disclosure of personal interests'
Potentially 12 (1) and 12(2) 'effect of prejudicial interests on participation'

COUNCILLOR SALLY BEARD EMAILS RELATING TO DECLARATIONS OF INTEREST

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

From: Sally Beard
To: Bunbury Parish
Cc: Erica Partridge
Sent: Wednesday, October 19, 2011 3:52 PM
Subject: Re: Openshaw letter Fw: Members' Interests query

Alex,

Erica has helped me with respect to her reply to this email. I just need to clarify whether the advice regarding 'member D' (ie. myself) in the scenario is right. Julie Openshaw's advice was that I would have a 'preudicial interest' because my property has a view of the development. Whilst I will have a view of the development, with what is going to be built I do not think that I will retain a view of the strip of 'gifted' land in question. I would consider that the Muir development has a potential affect on us but not the strip of land behind. Please can you clarify this with the Monitoring Officer.

Many thanks

Sally

PS. I presume that I don't need to produce the existing Muir plans of the development in relation to my house. We're still uncertain about the final height levels of the proposed development but based on what I've seen with the land being higher than ours by some degree, once houses are built there is no way we will be viewing the strip of land behind.

Message Received: Oct 18 2011, 09:19 PM

From: "Partridges"
To: "jill waits" , sallypbeard@fsmail.net
Cc: "Brian Dykes" , "Bunbury Parish" , "Dave Ellis" , "Dennis Burrows" , "Eric Lord" , "GMC" , "Mandy Jones" , "Nick Parker"
Subject: Re: Openshaw letter Fw: Members' Interests query

Jill and Sally and other Parish Councillors

I am afraid the messages below serve to further obscure the sequence of events and reality in this matter.

It has been explained to all Parish Councillors that they must consider there own position and exclude themselves as necessary in accordance with the Code of Conduct. The decision is not and has not been made by myself, Alex or Julie Openshaw. The purpose of the Julie Openshaw's message is to advise on the correct interpretation of the Code of Conduct to assist Councillors and nothing else. There has never been any question of anybody imposing a ruling on any of the Parish Councillors who have applied the advice and excluded themselves.

The solution is quite straightforward and always has been. A polite request to Alex on this basis is all that is necessary.

If Parish Councillors are concerned that they may not have interpreted the Code correctly in relation to their own situation they should each contact Alex with their queries and request that she forward them to Julie Openshaw with a plan indicating the various plots of land. Julie Openshaw can then provide further advice and, as before, the Councillors can take a decision in the light of that advice.

As each Parish Councillor has to consider their own position there may be other factors they need to take into account (as I cannot presume that the advice covers all circumstances relevant to each person).

Erica

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

From: jill.waits

To: sallypbeard@fsmail.net

Cc: [Brian Dykes](#) ; [Bunbury Parish](#) ; [Dave Ellis](#) ; [Dennis Burrows](#) ; [Eric Lord](#) ; [Erica Partridge](#) ; [GMC](#) ; [Mandy Jones](#) ; [Nick Parker](#)

Sent: Tuesday, October 18, 2011 9:40 AM

Subject: Re: Openshaw letter Fw: Members' Interests query

Hi Sally,

Many thanks for your email below and letting me know what you recall as I wasn't at the December 2010 meeting.

I note what you say about Alex circulating the Julie Openshaw email in September 2011. However, it seems to have been important enough to have been discussed before/or at the beginning of the December meeting, but not to be minuted or circulated then, which I see as a mistake, I presume on Alex's part. Why should those who were there be party to information about anything, and those who were not there excluded from that information? This seems particularly wrong when the 3 people who could not attend the meeting were significantly affected by the contents of Julie Openshaw's email. Whatever the subject I can't see how this can be regarded as a correct way to behave I'm afraid. I see Alex's job as keeping us all equally informed about anything that is the business of the PC and it seems that on this point she failed to do that. I don't see it as the responsibility of fellow members to keep those not present informed of what happens.

As to your comments on declaring an interest, I have to admit that I was the person who raised this in the first place when I was a new member and anxious, as I hope I continue to be, to do the right thing. I now believe that it was not necessary for the 4 of us from Wyche Lane (but not always Gary) to exclude ourselves from all discussions on all matters relating to Muir Homes and the land behind the development. I think there has been either inaccurate advice from Julie Openshaw, inadequate or incorrect briefing to her, or an incorrect interpretation of the information she gave (which was inaccurate itself in part when one has a proper understanding of the geography of the area and individual ownerships) which has lead to half the PC not being party to a number of decisions that 4 or 5 members should not have been excluded from. So, I agree with you that we should have been party to more decisions that we have regarding all or part of the Muir issues.

I am grateful to you for coming forward with information and your views on the matter and look forward to hearing from other councillors.

Regards,
Jill

From: Sally Beard

To: Jill Waits

Cc: [Brian Dykes](#) ; [Bunbury Parish](#) ; [Dave Ellis](#) ; [Dennis Burrows](#) ; [Eric Lord](#) ; [Erica Partridge](#) ; [GMC](#) ; [Mandy Jones](#) ; [Nick Parker](#) ; [Sally Beard](#)

Sent: Monday, 17 October 2011, 21:21

Subject: Openshaw letter Fw: Members' Interests query

Hello Jill,

I remember seeing this letter and have just checked my emails, so for your info please see below. Alex sent out an email on the 26 Sep to all Parish Councillors which if you scroll down does include the letter from Julie Openshaw.

You can also see who all the recipients were.

I have not passed this onto anyone except yourselves in this email. I was at the December 2010 meeting where the letter and its recommendations were discussed and from this I did declare 'an interest' as it seemed that I needed to. I, then along with the others on Wyche Lane have subsequently declared 'an interest' at meetings ever since. I am now uncertain as to whether we should have?

Kind regards
Sally

Message Received: Sep 26 2011, 12:34 PM

From: "Bunbury Parish"

To: "Mandy Jones" , "Brian Dykes" , "Gary McCormack" , "Erica Partridge" , "David Ellis" , "Jill Waits" , "Nick Parker" , "Eric Lord" , sallypbeard@fsmail.net, dennis.burrows@btopenworld.com

Cc:

Subject: Fw: Members' Interests query

Dear All

There seems to have been various queries about declaring personal and prejudicial interests regarding the Wyche Lane to be sold to the PC and there does seem to be some confusion. Please find below the letter received from Julie Openshaw (Deputy Monitoring Officer for CE) dated November 22nd 2010. Please also find attached a copy of Bunbury Parish Council's Code of Conduct.

We discussed the letter at our December 2010 meeting and following that discussion various members of the PC declared personal and prejudicial interests. Please take the time to revisit the letter. If you believe that your circumstances have changed then please do let me know.

Regards
Alex

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

From: OPENSHAW, Julie

To: 'bunburyclerk@aol.com'

Sent: Monday, November 22, 2010 3:39 PM

Subject: Members' Interests query

Good afternoon Alex

Further to our telephone conversation earlier, I understand that you and some of your members seek advice on what if any interests they need to declare in relation to a plot of land which has been offered for sale to Bunbury Parish Council. I will refer to this as the "for sale land".

You explained that the for sale land abuts a second strip of land which has planning permission for development, and it is the developer that has offered the for sale land to the Parish Council.

You also explained that one member (A), who owns a third strip of land which abuts the other side of the "for sale" land has already declared a personal and prejudicial interest and has absented himself from any consideration of whether the land should be purchased, but three other members are potentially affected

because of the positioning of their gardens. "B" has a garden abutting the "for sale" land, "C" has a garden abutting the land owned by the councillor who has already declared an interest, and "D" has a garden which allows a view of where the development would be. Each of them owns their home and has registered it as such in the register of interests.

My view is that due to their proximity to the for sale land, and the possible effect arising from that on the values, or desirability, of their homes, B C and D all have personal interests in the decision whether the Parish Council should purchase the land, because a decision on whether or not the PC should buy it could reasonably be regarded as affecting their well-being or financial positions to a greater extent than the majority of council tax payers ratepayers or inhabitants of the locality.

Unless they can raise some other consideration which might merit further consideration (I haven't seen a plan), they appear to have a prejudicial interest as well, because of the same considerations in terms of proximity and effect on financial position, which suggest that the proper conclusion is that "a member of the public with knowledge of the relevant facts would reasonably regard [the interest] as so significant that it is likely to prejudice your judgment of the public interest".

I gather there are 10 members of the Council, with a quorum of 4, so unless other members have prejudicial interests to declare for some other reason, you should be quorate to make the decision. If circumstances arise where interests are such that getting a quorum would be impossible, the Borough Council's Standards Committee does have power to consider, and if appropriate, grant, applications for dispensations to allow members to speak and vote where they have a prejudicial interest, but only where either more than 50% of members who would be entitled to vote being prohibited from doing so, or where the number of members that are prohibited from voting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced. As these situations are relatively rare, so are applications for dispensations. It does not sound as though the first criterion would be met; without knowing the political persuasion of the members involved, and the remainder, it's unclear if the second would apply, but you might want to consider that.

I hope this assists.

Kind regards

Julie Openshaw
Legal Team Manager (Places, Regulatory and Compliance) (Deputy Monitoring Officer)
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
CW11 51HZ
01270 685846)

Cheshire East Council**Complaint against Parish Councillors Sally Beard, David Ellis, Gary McCormack & Jill Waits****Statement of Parish Councillor Erica Partridge, Holly Mount, Whitchurch Road, Bunbury, Cheshire CW6 9SX**

1. I have been a Councillor for Bunbury Parish Council since July 2009, when I was co-opted on to the Council. I have been Chairman of the Council since May 2010. When I was co-opted, I received no documentation of any sort. I have not been offered any specific training on the Code of Conduct but, in the last 12 months, the Clerk has circulated training packages, mainly organised by CHALC (Cheshire Association of Local Councils). Unfortunately, most of the courses that were relevant to my position clashed with other appointments.
2. Mrs Alex Stubbs was appointed as Clerk in April 2010. When I was appointed Chairman the following month, we both realised that there were no Standing Orders for the control of decision-making and consideration of Council business nor were there any other procedural documents which most Parish Councils have in place. Although Mrs Stubbs has the CiLCA (Certificate in Local Council Administration) qualification, the Council has not decided to seek Quality Parish Council status. A Sub-Committee was established to produce the Standing Orders with other documents being agreed at the Parish Council meetings over a period of time and these have now been adopted by the Council.
3. The background to the issues that I have raised regarding the four Councillors is set out in the document submitted with the complaint headed 'Query to Monitoring Officer re Bunbury Parish Councillors'. I raised the matters as a query to the Clerk as it appeared to me that the Code of Conduct may have been breached in several respects and she has forwarded this information to the monitoring officer which has now been taken as constituting the complaint. This was accompanied by separate commentaries in respect of the issues concerning each of the four and relevant emails in relation to each one. There is also a separate complaint against Councillor Waits with its own documentation which I deal with under her heading.
4. Councillors McCormack and Beard were already on the Parish Council when I was co-opted. Councillor Waits was co-opted in April 2010 and Councillor Ellis was co-opted in January 2011, although he had previously served on the Parish Council. Since these complaints were lodged, Mrs Sally Beard and David Ellis have both resigned from the Council.
5. My comments on the complaints made against the individual persons follow as separate Schedules.
6. Since submitting the above queries I have resigned from the Parish Council. In these circumstances I do not wish to proceed with the complaint relating to bullying and attitude towards other councillors. I have explained the areas which I wish to withdraw in the schedules below.
5. Even though I am no longer a Parish Councillor I consider it is important for the question of the declarations of interest to be considered and established as this was the purpose of my query to the Monitoring Officer which has become these complaints.

Schedule 1 - Former Councillor Sally Beard

1. I do not wish to make any additional points other than as set out in my query to the Monitoring Officer. The paragraphs below answer the questions asked of me at the interview in explaining the events further.
2. Prior to 12th October 2010 discussions relating to Muir involved Section 106 matters and the lack of progress on the site for which I do not have the minutes. From recollection, when issues concerning the Muir development and the adjoining land were considered at meetings of the Parish Council and emails between Councillors between July 2009 and September 2010, Ms Beard did not make any declaration of interest. At the meeting on 12 October 2010 there were two items on the agenda, one concerning the proposed affordable housing development (relating to the Muir address to the Council) and the other concerning the land proposed to be transferred to the Council. Ms Beard did not make any declaration of interest in either item. At the meeting on 09 November 2010, Ms Beard again did not make any declaration of interest when there was an item on the agenda relating to the transfer to the Council.
3. Following the request from Councillor Waits for advice on potential interests and receipt of the email from Cheshire East Council's Deputy Monitoring Officer dated 22 November 2010, the email was circulated to those present at the following Council meeting on 14 December. Ms Beard was present at that meeting. The copies of the email were collected back by the Clerk as it contained personal information relating to the Councillors concerned. The discussion which took place was not referred to in the minutes but they do record the consequent action when Councillor Beard made a declaration of a personal and prejudicial interest and left the meeting whilst an update on the land offered to the Council was discussed.
4. Between that meeting and up to but not including the meeting on 13 December 2011, Ms Beard declared a personal and prejudicial interest whenever the proposed development or the transfer to the Council were discussed. As a number of queries had been raised by Parish Councillors regarding declarations of interest relating to the Muir land and planning application further advice was requested from the Monitoring Officer and I deferred all matters relating to this until the advice was received in my email dated 19th October 2011. Prior to the meeting on 13 December 2011 the further advice was received from the Deputy Monitoring Officer in an email dated 30 November 2011 and this was emailed to all Councillors on 04 December. This email contained a link to Standards for England explanatory guidance on the Code of Conduct. Ms Beard was late arriving for the meeting and had not been present when I had asked for declarations of interest. Ms Beard arrived just before the item on the Muir development and I specifically asked her whether she wished to declare any interest. After a moment's hesitation, she said 'no'. I asked her if she was sure and did she have any queries and she, again, said 'no'. At this meeting Ms Beard stated that she was voting against the planning application under consideration because of the risk of future further housing development which would directly impact on her home.
5. I have queried whether in all the circumstances the fact that no interest was declared at the meeting is correct in relation to 9 (1), 12 (1) and 12 (2) of the Code of Conduct.

Schedule 2 - Former Councillor David Ellis

1. I do not wish to make any additional points other than as set out in my query to the Monitoring Officer. The paragraphs below answer the questions asked of me at the interview in explaining the events further.
2. Although Mr Ellis has acknowledged that he did not declare any interest when the original planning applications were considered in 2004/05, I do not raise that as an issue. My only query relates to his attendance at the Council meeting on 13 December 2011.
3. After Mr Ellis was co-opted in January 2011, he was advised by the Clerk on the advice from the Deputy Monitoring Officer dated 22 November 2010 and, whilst he queried the advice, he stated that he would abide by it as his position would be similar to the other Councillors who had declared a personal and prejudicial interest following that advice. Consequently he declared a personal and prejudicial interest on each occasion that the Parish Council considered any aspect of the Muir development or land transfer. At one stage he made it clear that he was not happy with the situation and intended getting his own advice which I welcomed but he then agreed to follow the Deputy Monitoring Officer's advice. As a number of queries had been raised by Parish Councillors regarding declarations of interest relating to the Muir land and planning application further advice was requested from the Monitoring Officer and I deferred all matters relating to this until the advice was received in my email dated 19th October 2011. Prior to the meeting on 13 December 2011 the further advice was received from the Deputy Monitoring Officer in an email dated 30 November 2011 and this was emailed to all Councillors on 04 December. This email contained a link to Standards for England explanatory guidance on the Code of Conduct. At the meeting, under 'Declarations of Interest', I specifically asked whether everybody was happy with the second email from the Deputy Monitoring Officer and whether they had any further queries on the matter and there was no indication to the contrary. I then asked whether Councillors wanted to make any declaration and Mr Ellis, and other Councillors who were resident in Wyche Land, said 'no'. They said they were happy with their position.
Mr and Mrs Ellis had individually objected to planning application 11/2423N on 07 August 2011 for personal reasons related to the property and their use and enjoyment of the property. At the meeting on 13th December Mr Ellis voted in favour of the Parish Council's opposing view.
4. I have queried whether in all the circumstances the fact that no interest was declared at the meeting is correct in relation to 9 (1), 12 (1) and 12 (2) of the Code of Conduct.

This statement is a fair summary of an interview conducted by the Investigator on 27 February 2012.

..... Erica Partidge

Date 12th March 2012

Ivy Cottage, Wyche Lane, Bunbury, Cheshire CW6 9PS
Telephone/Fax: 01829 261898 E Mail: dellis7@tiscali.co.uk

17th February 2012

Mr M Dudfield
Solicitor
6 Church Hill
Nether Kellet
Carnforth
Lancs
LA6 1ER

Dear Mr Dudfield

Re: Complaints under Members' Code of Conduct – Ref CEC/2011/05,06 & 08

Thank you for your letter of 13th February 2012 with the various enclosures. I have read the enclosures with interest and will comment on all of them separately but will first of all put forward my initial defence to the allegations made against me by Mrs Partridge and then support it with fact later on.

Up until October 2011 I had always declared a personal and prejudicial interest in anything to do with the Muir development but was never happy that I had a prejudicial interest but was unable to get any guidance from the Chairman or the Clerk so I just went with the flow as this was what I was as told to do by the Chairman and a senior member of the council. Just before the 15th October 2011, when I left the country for 2 months, I had sight of a letter from Ben Hayward in which he indicated that my neighbours and I at the top end of Wyche Lane were not sent notices of the planning application as we did not adjoin the piece of land referred to in the application. I took no notice of it at that time as I was leaving for New Zealand the following day (See appendix 1 for actual letter) and really did not have time to worry about such things as this. When I returned to the UK just before the meeting on 13th December 2011 I read the letter in detail and decided that at that meeting I would not declare an interest as the application did not affect me and that I would test the "temperature of the water" with the Chairman. With hind sight I probably should have declared a personal interest but felt very strongly that I would not gain or lose from the application being agreed so did not have a prejudicial interest. As far as I was aware this was accepted by the Chairman but quite obviously she decided not to ask me for any details of why I had changed my position and did not even have the common courtesy to tell me that she was making a formal complaint against me and in so doing giving doubt to my integrity which I am not prepared to leave unanswered as you will see from the following comments.

To make things clear to you I will refer to the various points by using the same reference numbers as those used by Mrs Partridge and then the appendix numbers I have added to the various documents you sent which are now returned.

Comments on Mrs Partridge's report

Please note: The numbers beside each comment relates to the paragraph number on Mrs Partridge's report.

Comment 2: In my preamble I referred to a letter from Ben Hayward, Planning Officer at East Cheshire (See Appendix 1) in which he said that as certain properties did not share a boundary with the application site they were not sent a notice of the planning application and if you look at the plan (Appendix 2) you will see that this is quite correct and that the houses belonging to myself, Dennis Burrows and Jill Waits are not near the "ransom" strip. In fact I can only see the land in question if I lean, dangerously, out of one bedroom window on the first floor of my house and when the big silver birch tree at the bottom of my garden is in full leaf we cannot see it at all!! I will show you this when you visit me on 5th March. In fact when we bought the house in 2001 we were well aware that the land behind us was prime development land and as a result installed a fast growing hedge which could be allowed to go to 12/15 feet and some trees which will completely shield us from the land behind our property. I admit that my wife and I objected to the planning application to increase the size of the access to Mr McCormack's field but this was because Muir were trying to change the decision made by the Inspector at the appeal following the first Muir application and we felt very strongly that this was incorrect and made a mockery of the process around planning appeals.

Comment 3: Why is Mr Walton referred to in this report as he is not a councillor and never has been and I know for a fact that the statement made by Mrs Partridge that Jill Waits is a member of the local Conservative Association is totally incorrect and what relevance it has to my case I am at a loss to understand. Perhaps Mrs Partridge should check her facts before making wild accusations against people. Also why should a Parish Councillor not speak to their local Borough Councillor? After all we are all supposed to be representing the same people and sometimes need to speak to other councillors to clarify some points.

Comment 4: The final paragraph of this section does not set out my real objection that the access now being sought does not comply with the Inspector's decision on access to the field behind the Muir development, and you will see later on that my wife and I are not opposed to the building of the new houses and I resent Mrs Partridge's claim that we are opposed to them. Again perhaps she should get her facts right before making wild claims such as this.

Comment 6: Again why am I commented upon alongside James Walton who is not a councillor and can do exactly as he pleases without fear of being reported for code of conduct breaches such as the one against me.

Comment 8: Here she reiterates that I did not declare an interest in the Muir discussion but can I please refer you to the Haywood letter (Appendix 1) and my explanation above in comment 2 which sets out my position on this point. Perhaps if Mrs Partridge had the common courtesy to approach me this whole matter could have been sorted out without resorting to the heavy handed approach she decided to take. The saying that taking a sledgehammer to crack a nut comes to mind!!

What relevance Dennis Burrows' comments have to my case is beyond me and I do not recall seeing these comments in the minutes which were approved after they were supposed to be said. Surely comments such as this should have been reported in the minutes presented for approval at the next meeting which I have been unable to find? If they were said outside the meeting between two people these are personal comments between those people and should not be reported, and is extremely worrying if notes are taken of all outside conversations in order to keep records on people. The suspicion of selective reporting comes to mind. I very strongly suspect that Mrs Partridge is trying to "tar me with the same brush" and suggesting that these comments would also apply to me but if she is going to make personal notes of what everyone says in a meeting or outside it why did she not make a note of the fact that these comments came about because I suggested that a good use of the "ransom" strip would be to rent it out for allotments and this was why Mr Burrows responded in this way. Also Mrs Partridge has failed to note that my wife wrote to the Clerk asking that they support allotments in the village so if she is trying to suggest that I have the same feelings as Dennis Burrows then I will require a full apology from her for once again trying to damage my reputation.

Comment 9: I think that the relevant word here is "potentially" as this shows that Jill Waits was not sure if she had a prejudicial interest and I was of the same mind but stupidly did not query it at the time.

Please note that the Julie Openshaw e-mail referred to in this section was not attached to the papers you sent me so I cannot comment on it.

Comment 10: Quite rightly Mrs Partridge states that I queried the situation regarding the declaration of interests when I joined the council in January 2011 but was not happy with it but went along with the rest because that is what we were told we should do by the Chairman, Clerk and a senior member of the council. With hindsight, which is a marvellous thing, I should have expressed my doubts at this point instead of just going along with everybody else, three of whom have now challenged the advice and has forced the resignation of two of us namely myself and Sally Beard.

Comments 11 & 12: I have already covered my thoughts on my declaration of a prejudicial interest so will not cover it again but will refer to it in my summing up at the end.

Comment 13: Why have I been included in this suggested "setting up of a separate sub committee"? I admit that I received an e-mail from Mr McCormack suggesting just this but I ignored it and did not reply. Where is Mrs Partridge's evidence that I was party to this suggestion? Again she needs to get her facts right before making such statements.

Comment 15: I think this section is very significant because Mrs Partridge admits that Caroline Ellwood was unable to give any firm advice on the problem but that Julie Openshaw just pointed out various points from the Code of Conduct. Who was it helpful to as quoted by Mrs Partridge? It was not helpful to me as I have not seen it unless it was included in the plethora of e-mails that were going around at the time which I completely ignored as I did not want to get embroiled in the nonsense that

was going on at the time. An explanation of the Code of Conduct would not have been of any use to me in any case as I required a firm decision on my particular situation which was not going to be forthcoming from Caroline Ellwood and was not subsequently forthcoming from the Chairman and the Clerk.

Comment 16: I readily admit that on the 13th December 2011 I was asked by the chairman if I needed to declare an interest in the discussion on the Muir development which was to be discussed later in the meeting. I along with the two other councillors decided to rely on the letter I had seen from Ben Haywood at Cheshire East (See appendix 1) and not declare an interest. I hasten to add that this was my decision and I cannot comment on why the others did not declare an interest and you must ask them for their reasons. When the Muir subject came up we were told of the reasons behind the decisions which had been made by the Muir Sub Committee and it was at this stage that I learnt of some pertinent facts which had been denied us prior to this and as a result I was unable to vote on the proposal and as far as I am aware I abstained. However the inclusion of the three Wyche Lane councillors did not change the vote originally taken by the sub committee. The disclosure of the facts surrounding the dispute between Muir and Mr McCormack had been kept from us prior to this meeting and nothing had ever appeared on the notes taken at the sub committee meetings about this problem. This strengthened my thoughts that the sub committee set up by the Chairman had been devisive and had denied a number of Councillors the true facts behind the case. As I mentioned before I perhaps should have declared a personal interest because the land was in the vicinity of my house but I still am unsure about having a prejudicial interest for reasons I will state later.

Comment 17: What happened at the original Muir application is not relevant and was a decision taken by the then chairman, as has the current chairman taken a decision now, but it is also interesting to note that the senior member of the council who has insisted on declarations of interest at this time did not do so at the original discussions. Why have things changed so dramatically? I am at a loss to see what relevance the relationship between the then clerk and the chairman has on the situation today. I suspect that it is a round about way of bringing criticism on those two people who cannot now answer for themselves.

I very strongly reject Mrs Partridge's suggestion that the opposition came solely from the councillors living in Wyche Lane at the time of the original application. Can I please refer you to Appendix 3 where you will see that at a special meeting of the Council on 23rd July 2007 I proposed that the development should go ahead but it did not even attract a seconder!!! Not even from the councillors living in other parts of the village. It was voted that the council should oppose the application with just me voting against it. I resent Mrs Partridge's suggestion that I was opposed to the scheme and again she should get her facts right before making such far reaching remarks. What annoyed me at the time was that no one on the council had done any research into the application and made such inane remarks as "We had hundreds of objections last time so nothing has changed this time". This could not be further from the truth as on the first application there were over 300 objections but on the second there just 24 and if you look at the attached analysis (Appendix 4) some of these 24 came from very few houses!! Not mine I hasten to add!! This document was presented to the council but they chose to ignore it. Obviously fact does not matter which unfortunately we are now seeing again. I know that what happened in 2007 is not

relevant to what is happening now but I felt you needed to know where I stand on the Muir issue and as Mrs Partridge decided to bring it up I felt that I needed to provide you with the true facts of the case. Unfortunately she has yet again made an assumption that is not true in fact.

Personal Comments made by Mrs Partridge about me

Again I will use her reference numbers for ease of clarity.

Comment 1: She has at least acknowledged that I am in favour of the development and I have helped a number of young people to submit applications to a previous affordable homes development and they know that I would have helped them again once the Muir houses are built. Something the action of the Chairman has now denied them as I will not be able to provide them with the advice they deserve from a councillor and cannot be done as a private individual.

Comment 2: I have already admitted that I was probably too hasty in not declaring a private interest but Mrs Partridge at least agrees that there might be a case for me not declaring a prejudicial interest by using the word “probably”. The use of this word shows that she is unsure of her ground on this point and it is a terrible shame that she did not see fit to approach the matter in a more adult and sensible manner, but that is all history now.

Comment 3: I think that Mrs Partridge has once again got her facts wrong as she has stated that I voted in favour of the decision to support the planning application but in fact because of the information provided to us that night, which had been denied us previously, presented me with a quandary as on the one hand I was disputing the challenge to the Inspector’s report and on the other I now learnt that the problems were really down to the dispute between Muir and Mr McCormack, and as far as I can recall I abstained and did not vote one way or the other. If this information had been forthcoming at an earlier stage I do not think we would be wasting our time justifying actions I took that night. Unfortunately we still do not know everything that was said at these sub committee meetings but that is of no concern to me now. Mrs Partridge also states that I asked her what a prejudicial interest was but I should point out that this was said in the Nags Head pub after the meeting had finished, so it is another case of her making notes of personal conversations outside the formal meeting. A worrying trait!!

Your attachments

I do not intend to spend much time on the various attachments you sent me as most of it is covered in the preceeding comments but I will comment on one (Appendix 5). Why was Brian Dykes the only person apart from the chairman consulted in the e-mail dated 24th August? I have to ask how many other things he has been consulted on during this affair seeing that he is the one who now insists that I declare an interest but at the original application he did not. I do not intend to pursue this point but would like you to take note of my concern.

The other point was made on the e-mail dated 7th August from Mrs Partridge to me where she says, and I quote “As you know the Parish Council has been advised that

the neighbouring Councillors have a personal and prejudicial interest in relation to the land and do not therefore take part in the meeting on this item” (See Appendix 6) How does this sit with her comment in her main report where she says in comment 16 and I again quote “She (Caroline Ellwood) replied that she was unable to give detailed guidance but Julie Openshaw provided a **copy** of the explanatory guidance on the code of conduct which is most helpful” If they could not provide detailed guidance how did Mrs Partridge and the Clerk come to the conclusion that I should be excluded from the meeting and had a prejudicial interest in the debate. It suggests a loose interpretation of the general guidance which has now resulted in me being accused of something I do not believe I am guilty of.

If you read the e-mail dated 29th March 2011 from me to Mrs Partridge (Appendix 7) I think you will realise that I am passionate about this development going ahead and am prepared to criticise other councillors even if they are my neighbour. I do not do things behind a person’s back unlike Mrs Partridge in her treatment of my colleagues and myself with this underhanded way of raising a complaint against us.

Summary

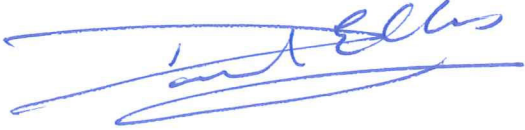
I am sorry that I have gone to such lengths to get my point across but as I was denied the opportunity of putting forward my defence to the assessment committee I felt that I needed to make sure that you were appraised of all the facts and not just what you have been told by Mrs Partridge. I have to say that I think the procedure is totally unfair on the accused and is causing me considerable embarrassment in the village as people are asking me what I have done to have to resign from the council. This is a small village and, as they say, there is no smoke without fire and the speculation on what I might or might not have done is extremely damaging to my reputation, something which I hold dear, but is obviously of little concern to Mrs Partridge.

I have already admitted that perhaps I should have declared a personal interest but I am still confused about declaring a prejudicial interest. As I understand it a prejudicial interest should be declared if you are likely to have a monetary gain or loss from the subject being discussed. If this is the case how can I be accused of worrying about my monetary interests if I bought my house in the full knowledge that development would take place at the rear of our property at some future date and I took steps to alleviate any problem this might cause. Also would I promote the development of the Muir houses, **as I did on my own in 2007**, if I was concerned about any monetary loss I might suffer. I think not. Another point you need to consider is my suggestion to turn the ransom strip into allotments. Again would I have done this if I was worried about myself? Further more would I have taken on my neighbour for trying to delay the development by making very silly objections such as nesting birds.

I am also enclosing a copy of my resignation letter and an e-mail I sent to Mrs Partridge concerning this complaint where you will see that I have known her for many years and have always respected her judgement and decision making in our professional and personal lives. Unfortunately the action she has now taken against me is not worthy of her and I really do not understand why she has adopted this high handed attitude to something that could have been sorted out amicably and not cost Bunbury Parish Council two councillors who actually work for the local residents.

I trust that you will read all of my comments and I will answer any of your queries on the points I have raised when we meet on the 5th March. In the meantime if you require any further information do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Ellis', with a long horizontal flourish extending to the left.

David Ellis FCIB

APPENDIX 1



James Walton
Edinbane Cottage,
Wyche Lane
Bunbury
Cheshire
CW6 9PS

PLANNING AND POLICY

TOWN HALL, MACCLESFIELD,
CHESHIRE, SK10 1DP

E- MAIL: Planning@cheshireeast.gov.uk

TEL: 01270 537502

FAX: 01270 537496

Your ref: _____ Our-ref: 11/2423N _____ DATE: 13TH OCTOBER 2011

Dear Mr. Walton

**RE: PROPOSED VARIATION OF CONDITIONS AT WYCHE LANE
BUNBURY**

Thank you for your letter dated 17th August 2011, I am sorry for the delay in my response.

As I explained in my letter of 18th August 2011, the Town and Country Planning (Development Management) Procedure Order, requires Local Planning Authorities to either post a notice on the site or to write to properties which share a boundary with the site. In this case we have written to adjoining properties and placed a notice on the site. You were not contacted directly by letter initially because your property does not share a boundary with the application site.

I then wrote again on 12th August 2011 to those on the initial consultation list to advise them that application 11/2575N had been withdrawn and that the description of development in respect of application 11/2423N had been amended slightly. For this reason the letter dated 12th August 2011 states that "I recently wrote to you". However, I asked our support team to extend the circulation of this letter to those who had not been directly consulted originally but who had subsequently made representations on the applications, which included yourself.

I acknowledge that we should have removed the phrase "I recently wrote to you" from the letters to individuals who were not recipients of the original letter and I apologise for this and any confusion which it may have caused.

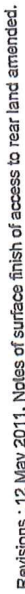
I hope that you will have by now received my letter of 18th August 2011, which I trust answers the questions posed in your letter of 4th August 2011.

I trust that the above is of assistance.

Yours sincerely

B.D. Haywood

Ben Haywood
Principal Planning Officer



Please see page 2

Special meeting of the Bunbury Parish Council held on Monday 23rd July in the Trinity Methodist Chapel, Bunbury at 7.30pm.

Present: Mr D Burrows (Chairman), Mr D Ellis, Mr E Lord, Mr N Parker, Mrs T Welch, Mr I Whittingham.

Apologies for absence had been received from Mr B Dykes.

Members' Declaration of Interests: Mr D Burrows declared an interest in item 5 (Planning Application PO7/O867).

Minutes of the public meeting held on Thursday 19th July 2007. Mr Lord proposed these be adopted, seconded by Mr Ellis, all agreeing.

Planning Application: PO7/O867 10 affordable homes in Wyche Lane.. Mr Ellis said that, following the public meeting, the Clerk had received an emailed confirmation from David Robinson that the 4-week rule would be extended to 12 weeks. He had also been pleased to hear that residents of Bunbury would be given priority in allocation and that two councillors would sit on the allocation panel. Mr Parker said that Mr Ellis's intervention at the meeting had been timely and achieved the assurances the Council had been seeking. The Chairman said that the feedback he had received was that it was the right scheme in the wrong place. Mr Ellis said that he felt that a majority at the meeting had been in favour of the proposal, but those who might benefit most from the scheme had failed to attend. The Chairman said that he was pleased that a number of young people had attended and made their presence felt. He believed that our Borough Councillor should ask for a site visit by the Control and Development Committee. Mr Parker said that, although the points on which he had objected originally had been addressed in the Muir proposal, he was still very concerned that the development would close the natural gap between Higher and Lower Bunbury. He felt, like others, that it was a good scheme in the wrong place. Mr Ellis said that, in his view, Muir had done everything required to address the Inspector's reasons for refusal of the appeal. Mr Whittingham expressed concern at there being only sixteen parking spaces on the development. If these were full, visitors would have to park on Wyche Lane close to two bends on a very narrow road. Mr Ellis said that the number of parking spaces had been based on historical data for this kind of development. Mr Lord said that the 2011 plan assumes that road parking is acceptable. Mr Parker said that it would not be acceptable in Wyche Lane, and that a further four or five spaces were needed. Mr Burrows said that problems had occurred on the Castlemead development, with vehicles being parked in Queen Street, sometimes blocking access.

Mr Ellis said that the proposal has to be voted upon. Mr Parker said that he was reasonably happy to support it, but he certainly had reservations. Mr Burrows said that the village had objected strongly to the previous proposal and, so far as he could see, this new application was no different. Mr Ellis said that the Council was making a judgement based on the attitudes of the meeting which had constituted only 6% of the population. Mr Parker said that the credibility of the Parish Council was in question should it support the application after the

previous rejection. Mr Ellis said that one of the main changes from the previous proposal was that the access to the rear field would effectively be blocked. Mr Lord pointed out that all the reasons listed in the previous rejection by Crewe and Nantwich still applied. Mr Parker said that a decision was required in order to guide the Clerk in his reply. He thought that a site visit by the Development and Control Committee was essential.

Mr Ellis then proposed that the Council support the application subject to a site visit and the provision of an additional four or five parking spaces. There was no seconder for this proposal.

Mr Lord said that according to the adopted Statement of Community Involvement a developer must consult with the local community before submitting a planning application if the development was considered significant. He believed that ten houses in Bunbury could be considered significant. Mr Ellis said that Muir had attempted to consult with the Parish Council back in March. Mr Lord said that Wulvern was to make a proposal in September for a more suitable site. Mr Ellis said that this was extremely unlikely as the landowner involved had heard nothing from Wulvern since July 2006. Mr Parker said he felt it very unlikely that the Wulvern proposal would reach the planning office by the suggested date.

Mr Parker then proposed that the Council object to the scheme on the grounds that 1) it would close the gap between the two parts of the village, 2) there was inadequate parking, 3) the narrowness of the lane was critical, 4) the removal of the hedge was a significant threat to wildlife, 5) the fact that the land was some three metres higher than that of the lane and houses opposite and would overshadow those properties. Mr Whittingham seconded the proposal. This was carried with one abstention (Mr D Burrows) and one objection (Mr D Ellis). Councillor Dykes is to be asked to arrange a site visit if possible.

Pavilion extension: Questions were asked as to whether an extension was worthwhile. Mr Parker said that a disability toilet was absolutely essential. With the extension built, modifications could then be made to the existing structure to improve changing accommodation. Mr Ellis proposed that the Playing Fields Committee be allowed to submit a planning application. This was seconded by Mr Parker, all agreeing.

There being no other business, the meeting closed at 8.25pm.

Signed

Date

MUIR HOUSING ASSOCIATION

At the special meeting held on 23rd July 2007 it was stated that at the previous application "the village had objected strongly to the application and that this new application was no different in the strength of objections". It was also stated that the "credibility of the PC would be compromised if they went against the feeling of the village this time".

The previous application attracted just over 300 written objections but this new application attracted just 24 written objections.

Details behind the objections for the new application:

- 1) 2 letters from the Parish Council
- 2) 10 letters from Wyche Lane from 9 houses.
- 3) 4 letters from Wyche Road from 3 houses
- 4) 4 letters from the remainder of the village from 2 houses
- 5) 3 letters from Bunbury Residents Association and professional advisor to Gary??????????????
- 6) 1 letter from an unknown source.
- 7) In total just 14 houses from the whole village objected to the new scheme.
- 8) Of the 12 cottages backing immediately on to the field on which the development will take place just 3 objected (Gary, Dennis & Dennis's neighbour)

In contrast to the objections to each application there was one supporting letter last time from the then owners of the land but this time there was a petition sent in from the village which was signed by 65 residents of Bunbury recommending that the development went ahead.

This data shows that the vote taken at the last meeting, when it was recommended by a majority of 4 to 1 with 1 abstention, to refuse the application was made on the false premise that the objections were as strong this time as they were for the first application and that the village as a whole would expect the PC to vote against it. This came about because insufficient research had been done to gauge the mood of the villagers before this important decision was taken.

The record needs to be set straight as the information reported from the meeting of the 23rd July was incorrect.

Yours sincerely
David

From: Partridges <ep.partridges@btinternet.com>
To: Bunbury Parish <Bunburyclerk@aol.com>; Brian Dykes <b.dykes@btinternet.com>
Sent: Wednesday, 24 August, 2011 19:37:51
Subject: Re: Rumours abound around Wyche Lane

Hi Alex

I think we should just put a large notice in the notice board but I am happy to go with a circulation if you and Brian think it will help.

Regards

Erica

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

From: Bunbury Parish

To: Erica Partridge ; Brian Dykes

Sent: Wednesday, August 24, 2011 7:15 PM

Subject: Rumours abound around Wyche Lane

Hi Both

David Ellis rang me this morning to say that he had been stopped by 3 people in the village who wanted to know about the 50 houses being built at Wyche Lane. He says that he thinks he knows where this rumour originates.

He wondered if the Parish Council should put out a notice correcting the rumour.

My personal view is that if people don't read the minutes on the board, they probably won't read a correction either but I'm happy to put something up if required.

What do you think? Do you think we need to go as far as a mail drop in the village basically saying the same thing as the minutes? We could do this easily if I printed them and then councillors helped to deliver.

Regards

Alex

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

From: David Ellis

To: 'Partridges'

Cc: 'Bunbury Parish'

Sent: Sunday, August 07, 2011 2:25 PM

Subject: RE: Land at the rear of Muir Development

Dear Erica

Thanks for your reply but as I said I do not have to agree with the policy but will abide by it. I am quite aware of Gary's position but there is no need for the access to be up to adoption standard as agricultural use does not require this but I suspect that Gary is working to another agenda of which we are not party. You need not worry about me on Tuesday as I will leave the meeting as soon as the application comes up. It is strange, however, that none of us were excluded from the meetings when the very first application came up back in 2004/5 but that is now history but the present situation certainly does not sit very easily with our neighbours who are asking us to do something about the

problem. As there will be a lack of objections to the application because so many people are away and is likely to be decided by delegated powers what the few of us have to say will probably have no affect on the outcome and we will just have to wait for the application for a very large housing estate in the middle of the village. It would appear from the actual application details that the planning officers are very cosy with Muir and have been advising them on how to present the application. If the information is released to my neighbour under the Freedom of Information Act and we find that there has been some collusion between the various parties then there will be real trouble!

Regards
David

From: Partridges [mailto:ep.partridges@btinternet.com]
Sent: 07 August 2011 13:23
To: David Ellis
Cc: Alex Stubbs
Subject: Land at the rear of Muir Development

Dear David

Firstly - please can you use my btinternet address above and delete the old tiscali one.

Thank you for letting me know what is happening generally and about the planning application, Alex has been away and hopefully she will have received the notice to include for discussion at Tuesdays meeting.

As you know the Parish Council has been advised that the neighbouring Councillors have a personal and prejudicial interest in relation to this land and do not therefore take part in the meeting on this item. This also means, as you say in your third paragraph, that the neighbouring Parish Councillors may deal with matters in relation to this land as private individuals, not Parish Councillors. This means that there is no need to review your position as a councillor on this matter as the declaration of interest already does that for you. I hope and trust that this allays your concerns on this point. I have copied Alex in so she can confirm also.

I am not sure if you are aware that the land owned by Mr and Mrs McCormack includes an obligation on Muir to construct an access across the land being offered to the Parish Council connecting the McCormacks land to the Muir development and this access can be up to 'adoption standard'. This is a publicly available document which can be obtained from the Land Registry and you may wish to obtain a copy for information.

Regards

Erica

Dear Erica

Just by chance today I found out that Muir has submitted a planning application to vary the decision reached by the Inspector at the last appeal. I and none of my neighbours have received notices of this application and understand that just three houses have been notified, one of which was Gary. The first we heard of it was when the notice appeared yesterday or the day before but as I was away I did not see it until today.

The application is seeking to change the access to the land at the rear from agricultural to a main stream road which would enable any future owner to apply for planning to develop it and they are claiming that the current approval is a constraint on future owners of the land, both the land to be transferred to the PC and Gary's land. As with the previous application it has been submitted at the height of the summer when most people are away and with a very short timescale in which to object (the 24th August 2011).

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

From: Partridges

To: David Ellis

Cc: Alex Stubbs

Sent: Wednesday, March 30, 2011 5:55 PM

Subject: Muir

Hi David

Please note - my new email address is ep.partridges@btinternet.com

Thanks - a note about hedge cutting was handed over last night by Jill from Dennis. I commented that it said Muir needed to check the hedge for nesting before starting work which sparked a disagreement on whether the nests were new or old. I agree it is all a bit silly and rather desperate. We will need to see if Muir enter on the site this week - Gary was threatening private injunctions if they do without having planning consent for his access road, which is up to him. Alex and I think we may have to arrange a tripartite meeting about fixing the location of the road but we need to see if Muir are actually progressing first.

Regards

Erica

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

From: David Ellis

To: 'Erica Partridge'

Cc: 'Bunbury Parish'

Sent: Tuesday, March 29, 2011 12:21 PM

Subject: Muir

Hi Erica

It looks as if one or two members of the PC are gunning for Muir again and I have just about had enough of this stupid behaviour and have today sent a note to Dennis to this effect (see below). They are now trying to delay the start of the project by claiming that they should not be demolishing hedges at this time of the year. I think you will find my note self explanatory!! I am sending you this as I will not be at the meeting but wanted you to be aware of my very strong thoughts and that I will not let it go when I get to the next meeting. Whilst writing should we have put up a notice inviting new applicants to apply to come on to the PC? We would probably not get any one but I would love to see a vote for members to see what the locals actually think of us!!!

Hi Dennis

Here is the information you asked for but I have to say that I believe that we should now let Muir get on with it as no one seems to be thinking of the youngsters needs in the village. I speak to the youngsters all of the time and am helping a number of them with their applications as they do not believe that the Parish Council gives one jot for their needs and that we are just playing games with their future. We have lost the planning application and we now have to make the most of what we have got and do as much as we can for the youngsters of our village and not antagonise Muir any more than we have to. We waste so much time talking about ways in which to stop Muir and in my opinion this has to stop and we must put our local families first and not our own personal feelings. Unfortunately I will not be at the next meeting but I will fight any attempt to delay this project as best I can so that I can look the youngsters straight in the eye and say that at least one member of the PC is sticking up for them.

Sorry to be as strong as this about it but we need to speak our mind sometimes and I will certainly let the applicants know why there are delays in providing them with affordable housing.

Regards

David

David Ellis

From: David Ellis [dellis7@tiscali.co.uk]
Sent: 28 January 2012 10:59
To: 'Partridges'
Subject: FW: Code of Conduct complaint (CEC/2011/08)

Dear Erica

Here is the letter I have sent to Cheshire East in response to your complaint to them. I am probably not supposed to contact you in these circumstances but I would not like you to think that I am doing anything behind your back. A courtesy you did not afford me.

Regards
David

From: David Ellis [mailto:dellis7@tiscali.co.uk]
Sent: 28 January 2012 10:54
To: 'diane.moulson@cheshireeast.gov.uk'
Subject: Code of Conduct complaint (CEC/2011/08)

Dear M/s Moulson

Re: Code of Conduct Complaint (CEC/2011/08)

Thank you for your recent letter advising me of the complaint made against me by Erica Partridge and of the sub-committee meeting that took place on Tuesday 24th January 2012. Unfortunately I did not receive your letter until the 26th January, two full days after the committee met. Also you did not provide me with any details of what I had done to offend Mrs Partridge apart from the paragraphs of the Code of Conduct which is of no use whatsoever as it does not relate to any specific action/event.

The late notice of the meeting and the fact that I could not put forward my side of the case is totally unsatisfactory and undemocratic and I am at a loss to see how the sub-committee can consider the complaint without hearing my side of the story.

As you did not provide me with sufficient details for me to address your complaint I contacted Mrs Partridge and asked her what I was supposed to have done which encouraged her to make this complaint against me. She told me that it was all to do with the Parish Council meeting of the 13th December 2011 when three members of the council decided that they did not need to declare an interest in the discussion on the Muir housing development in Wyche Lane, Bunbury. Unfortunately she did not contact us after the meeting to ascertain our reasons for not declaring an interest on this occasion but just decided to take this heavy handed action of making a specific complaint against me. She further told me that she needed to obtain guidance from you on the declaration of interests by the Wyche Lane members and this was the only way she could do it, which I think is a strange way to go about things..

The land over which the discussion took place does not affect me or my property and I cannot see it apart from one small window at the back of the house and it was on this premise that I decided on this occasion that I did not need to declare an interest. With hindsight I, perhaps, should have declared a personal interest but I have always been confused as to whether or not I have a prejudicial interest, and is something I have always challenged, but I have not received any clear guidance to clarify this point for me.

As the meeting took place four days ago I would have thought that you would have advised me of the outcome by now and not leave me to worry even longer over this most unsatisfactory affair.

I look forward to hearing from you.

Yours sincerely
David Ellis

16/02/2012

Ivy Cottage, Wyche Lane, Bunbury, Cheshire CW6 9PS
Telephone/Fax: 01829 261898 E Mail: dellis7@tiscali.co.uk

3rd February 2012

Mrs Erica Partridge
Holly Mount
Whitchurch Road
Bunbury
CW6 9SX

Dear Erica

It is with the deepest regret that I am writing this letter to inform you of my immediate resignation from Bunbury Parish Council.

Since you decided to take the completely unexpected action of lodging a complaint against me I have had many sleepless nights and a considerable amount of worry because of your slur on my integrity. Throughout my personal and working life I have never done anything dishonest or been accused of any dishonest act, something you have now personally set out to destroy.

Regardless of the outcome of the investigation by the Standards Committee at East Cheshire I will find it impossible to work with someone I will constantly be in fear of reporting me to the powers to be for something I say or do. It makes for a completely unworkable relationship.

I will be advising East Cheshire of my decision but ask them to continue with their investigation so that your unfounded accusations can be decided one way or the other.

As I said to you on the telephone I have found your action not worthy of the Erica Partridge I have known and respected for some considerable time both in our working and private lives.

I wish you well in the future.

Yours sincerely

David Ellis

Ivy Cottage, Wyche Lane, Bunbury, Cheshire CW6 9PS
Telephone/Fax: 01829 261898 E Mail: dellis7@tiscali.co.uk

7th August 2011

The Head of Planning
East Cheshire Council
Town Hall
Macclesfield
Cheshire
SK10 1DP

Dear Sir

Re: Planning application 11/2575N

I am writing to object to the above mentioned planning application which has just come to my notice through the posting of a notice at the site. Also I would like to know why my neighbours and myself, who are all affected by this application, have not received a personal notice advising us of Muir's intention to vary the original planning permission.

As you will be aware this development site was the subject of an appeal by Muir Group Housing Association on 4th & 5th April 2006 to contest the fact that the then council had refused their application to build 10 dwellings on the land off Wyche Lane, Bunbury. The Inspector appointed by the First Secretary of State, Mrs K. A Ellison BA(Hons), MPhil, MRTPI, dismissed the appeal in her decision on 6th June 2006. In this dismissal she stated that and I quote: "At the enquiry, it was confirmed that the Appellant no longer intended to pursue a second phase. Even so, the layout of the scheme to the rear of the houses, in terms of access road and parking areas, still reflects that earlier intention with the result that the access to the rear field has been designed to a higher standard than would be normally be associated with a simple field access." To me this suggests that she was not happy with Muir's stated intention not to try to develop the remainder of the field. Mrs Ellison went on to say in paragraph 14 of her report that "The fact that the layout of this scheme would be compatible with further residential development is therefore of great concern to me since it would make the land to the rear more attractive to potential developers."

In her conclusions Mrs Ellison states in paragraph 23 that "I have found that, even though the level of need is so compelling as to outweigh in principle the harm arising from development of this site, the proposal as it stands is unacceptable because the layout of the rear access road and parking areas. On this ground alone, the appeal fails."

As I understand it permission was eventually given for the building of 10 affordable homes but the access to the rear of the houses should be restricted to agricultural access only so that the field could be dealt with on an agricultural basis and a strip of land immediately behind the houses should be gifted/sold to Bunbury Parish Council

for the benefit of the local community. I understand that negotiations on this transfer of land are currently ongoing.

Now, quite out of the blue, Muir have returned to you seeking to vary the original planning application by stating in their application that "Condition 17 as constituted may have the effect of constraining unnecessarily some future possible lawful use (whether or not planning permission is necessary) of the land edged blue and the adjacent accommodation land to which it in turn gives access". The land edged blue refers to the land to be passed to the Parish Council.

From the application it can be seen that it was submitted after a meeting was held between Muir and your Ben Hayward and Bob Vass on 26th May 2011 where the principle of the application was agreed. Since when have your staff been given permission to go along with over ruling the concerns of one of Her majesty's Inspectors? If they now have this sort of power what is the point of having The Planning Inspectorate?

I need to ask the question as to why the access road now needs to be brought up to highway standard and widened to 4.5metres as the land being passed to the Parish Council will not be developed and the agricultural land to the rear of that only needs an access wide enough to accommodate agricultural vehicles and the standard of the road surface needs only be hardcore with a top dressing with no services. If you read again the comments from the Inspector you will see that this was just the fear she expressed.

I object most strongly to this application and to the way it has been handled by your planning staff and insist that it should not be considered by your officers under delegated powers but passed to the full Planning Committee for consideration.

I trust that you will take notice of this objection.

Yours sincerely

David Ellis

Ivy Cottage, Wyche Lane, Bunbury, Cheshire CW6 9PS

7th August 2011

The Head of Planning
East Cheshire Council
Town Hall
Macclesfield
Cheshire
SK10 1DP



Dear Sir

Re: Planning application 11/2423N

I am writing to object to the above planning application.

This land was subject to an appeal by Muir Housing Association against the refusal of its original application to build 10 houses on the land in Wyche Lane, Bunbury. The Inspector appointed by the First Secretary of State, was Mrs K. A. Ellison BNA (Hons), MPhil, MRTPI who concluded in paragraph 23 of her decision as follows:- "I have found that, even though the level of need is so compelling as to outweigh in principle the harm arising from development of this site, the proposal as it stands is unacceptable because of the layout of the rear access road and parking areas. On this ground alone, the appeal fails." (Paragraphs 13 and 14 give Mrs Ellison's reasoning about this).

Permission was subsequently given to build the 10 houses when a new application was made but access to the rear of the houses had to be restricted to agricultural access only and the piece of land which was no longer to be developed by Muir would be gifted to The Bunbury Parish Council.

What is the point of having Planning Inspectorates and spending enormous amounts of state money to hold such enquiries, then to have the Council be able to overturn the Inspector's decision by agreeing to an application to have conditions overturned. Your officers Bob Vass and Ben Hayward, who apparently had a meeting with Muir on 26th May 2011, agreed in theory the principle of the new application.

Is it of some considerable coincidence, or perhaps planned, that this application has, yet again, been submitted during the summer holidays when so many people are away on holiday?

I reiterate that I strongly object to this new application to enlarge the entrance to the land which is to be given to the Bunbury Parish Council to 4.5 metres, and also to provide a road and drainage to the land at the rear as it is totally unnecessary, this being all agricultural land which the Inspector deemed should not be built on in the future. I request that this planning application should be passed to the full Planning Committee for a decision and not dealt with under delegated powers.

Yours faithfully

Margaret Ellis

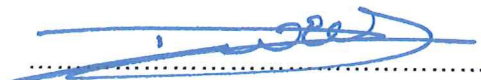
Cheshire East Council**Complaint against Parish Councillors Sally Beard, David Ellis, Gary McCormack & Jill Waits****Statement of David William Ellis, Ivy Cottage, Wyche Lane, Bunbury, Cheshire CW6 9PS**

1. I have already submitted to the Investigator a response to the documents sent with the complaint by Mrs Partridge. This statement is supplemental to that response.
2. I am a retired bank director and I jointly own Ivy Cottage with my wife. I was previously on Bunbury Parish Council between 2004 and 2007 and I agreed to be co-opted in January 2011. Following the making of this complaint, I resigned from the Parish Council on 03 February 2012 but have since received a letter from the Council saying that it hoped I might consider rejoining the Parish Council at some point in the future!! During both periods of office as a Parish Councillor I did not undertake any training on the Code of Conduct.
3. When I was co-opted in January 2011 the Clerk, Alex Stubbs, spoke to me and told me of the advice that she had received from Cheshire East although I was not shown a copy of that until I received an email from Alex on 26 September 2011. I didn't agree with the advice that Alex was giving me as I did not believe that I had a prejudicial interest, but I went with the flow and that was the course being taken by the other Parish Councillors who live on Wyche Lane. I followed that course until the September meeting but I was beginning to feel pressured and was uneasy that there was no information coming out of the Muir Sub-Committee and residents in the village did not understand why I had nothing that I could tell them. I missed the October and November meetings as I was in New Zealand. I did access my emails but I deleted or parked most of them as it seemed to be that many of them were becoming very vitriolic. When I returned, shortly before the meeting on 13 December 2011, I had not considered the email of 04 December and the second advice from Mrs Openshaw, although it could have been in my inbox before I deleted it for the reason quoted above.
4. I attended the meeting on 13 December 2011 and, having read the letter from Ben Hayward, Cheshire East Planning, decided that I would not declare an interest as it appeared from the letter that the planning application did not affect me. I recognise now, as I say in the response, that I should have declared a personal interest, but I do not believe that I had a prejudicial interest. Mrs Partridge did ask whether we wished to make any declaration of interest and for the reasons stated I said 'no'. The minutes indicate that myself and Mrs Beard 'raised concerns that the wider access way might open up the field behind for housing'. I do not recall either of us making that specific statement. I know that I felt strongly about the proposed change of the access road, as is set out in my letter of objection. I also felt strongly about the need for affordable housing to be built in the village and the 10 houses proposed by Muir are a necessary part of that provision. I support the youngsters of the village wanting to live in the village when they become adults. I do recall making comment to the effect that 'do you know what Gary has in mind for that field?' A reasonable question in my view seeing that my previous exclusion from the Muir discussions and the poor reporting of those meetings prevented me from obtaining this information, which would have helped in answering the questions from the local

community. I do not know why I did not challenge the accuracy of the minutes at the January 2012 meeting.

5. When we bought Ivy Cottage in 2001, our solicitor warned us that the land to the rear of our property was prime development land, so we expected development proposals to come forward at some stage, and took appropriate measures to shield the house from the field by planting trees and a hedge. I understand that responsibility for the making of a declaration of interest rests with the Councillor and that it was for me to make that decision. However, it did seem to me that there was a lot of uncertainty about the matter involving all the Councillors who live on Wyche Lane and there was no clear advice coming from the Chairman or the Clerk. I also understand now that the approach adopted by Ben Hayward for neighbour consultation is different and more restrictive than the interpretation of the existence of a personal interest. As I have already said I recognise that I should have declared a personal interest when any matter concerning the whole of this field was being considered.
6. As to my interest being prejudicial, I appreciate there is a test in paragraph 10(1) of the Code and that it is from the point of view of a member of the public with full knowledge of the facts. The view that I take is this. In relation to the Muir development land and the adjoining strip of land over which the Parish Council is considering taking an option, my property does not adjoin either of those two pieces of land and they are not visible from my property in normal circumstances. Any reasonable development of either piece of land will, in my opinion, have no effect on my financial position. I therefore do not have a prejudicial interest. In relation to the land to the rear of my property, as I have said, we took into account the likelihood of that land being developed at some stage when we bought the property and I believe, and have always believed that there was no financial interest and, therefore, no prejudicial interest. I understand that some may take a different view.
7. In relation to the meeting on 13 December 2011, the issue being debated was the Parish Council's response to a planning application amending the access way over the Muir land and the option strip to the field at the rear of my property. If I said what is written in the minutes then I accept that a member of the public would regard my interest as being prejudicial. As I have already said, I do not recall saying the words set out in the minute but the contribution that I recall making may be seen by some to make a similar point.

This statement is a fair summary of an interview conducted by the Investigator on 05 March 2012.



Date 12/3/12

mikedudfield

From: "Sally Beard" <sallypbeard@fsmail.net>
To: <mikedudfield@btopenworld.com>
Sent: 20 February 2012 12:36
Attach: Letter of PC resignation 040112.docx
Subject: RE: Code of Conduct complaint 1 of 6

Dear Mr Dudfield,

I am writing in response to your letter of 13 February and your request for suitable dates and times to be interviewed. You are welcome to come to my home and the dates/times when I am available during the period specified are: 8th at 11.00am or 9th at 11.30am.

After being away, I have only just been able to read your letter today, so I haven't really had chance to absorb it all yet. I have sorted out some emails and attachments to send to you for information on my behalf. Apart from the emails below + attachment, I will be forwarding 5 additional emails (a couple with attachments) and will label them accordingly. Please can you confirm receipt of all.

I will have another look at everything and in particular the Comments relating to myself which at first glance look unfamiliar in part. Presume these will be up for discussion when we meet?

Regards

Sally Beard

=====

Message Received: Feb 13 2012, 02:21 PM

From: "Sally Beard"
To: "Erica Partridge"
Cc:
Subject: Parish Council resignation

Dear Erica,

Over the last few days I have spent some time considering my position and have come to the conclusion that I do wish to resign and for you to accept my resignation letter which you received last week.

Not only are my personal circumstances quite complicated at the moment but I feel I would find it difficult to fully participate in Council meetings because of this 'code of conduct complaint' against me. Regretfully, this has now led me to believe that I no longer want to be a Councillor.

Please pass on my regrets to Brian and let him know of my simultaneous resignation of the post as Secretary to the Playing Fields Committee.

Regards

Sally

=====

Message Received: Feb 04 2012, 04:15 PM
From: "Sally Beard"
To: "Erica Partridge"
Cc:
Subject: Parish Council resignation

Dear Erica,

Please find attached my letter of resignation, which I have also posted to you.

From my point of view, I very much hope that the 'code of conduct complaint' is resolved without cause for further concern and hope that you find a 'willing volunteer' to replace me (however, I can't help but think that there should be some sort of 'health warning!').

Please also pass on my regrets to Brian and let him know of my simultaneous resignation of the post as Secretary to the Playing Fields Committee.

Good luck in what I'm sure will be a difficult time.

Regards

Sally

Lexington
Wyche Lane
Bunbury
Tarporley
Cheshire
CW6 9PD

4th February 2012

Mrs Erica Partridge
Holly Mount
Whitchurch Road
Bunbury
Tarporley
Cheshire
CW6 9SX

via post and email

Dear Erica

PARISH COUNCIL RESIGNATION

With everything that is going on at the moment in relation to my personal life and with the added extra pressure of a unexpected code of conduct complaint made against me, I have not unsurprisingly come to the conclusion that I no longer wish to offer my services as a Parish Councillor and therefore am resigning with immediate effect.

As you know, I have recently had an operation, both of my parents are seriously ill, and I also have to juggle the needs of a young family and work, so my time is precious.

After several years of loyal service as a Parish Councillor and never having had an official complaint made against me personally or at work, I am genuinely disappointed and upset by this. By your actions in this matter, I now regret the day I offered to be a Parish Councillor.

Finally, as a person who always takes an active interest in her local community, I am sure that I will continue to be involved and appreciated in other areas.

Yours sincerely

Sally Beard

From: MOULSON, Diane
Sent: 03 February 2012 14:55
To: 'sallypbeard@fsmail.net'
Subject: RE: Code of Conduct Complaint

[Response sent on behalf of Caroline Elwood](#)

Dear Cllr Beard

Thank you for your e mail.

The procedure for dealing with complaints under the Model Code of Conduct is that the written complaint is referred to a specially convened meeting of the Assessment sub committee, which is a sub-committee of the Council's Standards Committee . The sub-committee considers whether or not to refer the matter for formal investigation based upon the details as set out in the written complaint. Neither the complainant nor the subject member is present at the meeting which consists solely of the Committee members, committee clerk and professional adviser. No other evidence is submitted or considered at this initial stage.

I can confirm that the complaint was considered on 24 January 2012 and has been referred for investigation. A formal letter setting out the reasons for the decision will be sent to you separately. The Investigator will be in touch and full details of the complaint will be provided at that stage. You will obviously have the opportunity to make full representations to the investigator who will subsequently provide a written report setting out his/her findings which will be considered further by members of the sub-committee.

I am enclosing the link to the Council's website which sets out guidance notes on the process to making a formal complaint which I hope will be helpful to you.

http://www.cheshireeast.gov.uk/council_and_democracy/your_council/councillor_conduct/making_a_complaint.aspx

Yours Sincerely

Caroline Elwood

Borough Solicitor/Monitoring Officer

Cheshire East Council

Westfield's

Middlewich Road

Sandbach

CW11 1HZ

Tel: 01270 685882

caroline.elwood@cheshireeast.gov.uk

Diane Moulson
Snr Member Development Officer
[Cheshire East Council](#)
Democratic Services, Ground Floor, Westfields
Middlewich Road, Sandbach CW11 1HZ
Email: diane.moulson@cheshireeast.gov.uk
Tel: 01270 686476

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

From: Sally Beard [mailto:sallypbeard@fsmail.net]

Sent: 30 January 2012 14:34

To: MOULSON, Diane

Subject: Code of Conduct Complaint

Diane,

Please find attached my letter in response to your letter regarding the Code of Conduct Complaint raised by Mrs Erica Partridge of Bunbury Parish Council.

I look forward to your reply.

Regards

Sally Beard

Lexington
Wyche Lane
Bunbury
Tarporley
Cheshire
CW6 9PD

29th January 2012

Ms Diane Moulson
Legal and Democratic Services
Cheshire East Council
Westfields
Middlewich Road
Sandbach
Cheshire
CW11 1HZ

via post and email

Dear Ms Moulson

CODE OF CONDUCT COMPLAINT (CEC/2011/08)

I am writing in reply to your letter of 20 January 2012 which arrived on 26 January about a complaint raised by Councillor Erica Partridge of Bunbury Parish Council. Firstly, it was totally unexpected and secondly it seems poor timing to advise about an Assessment Sub-Committee meeting to assess the complaint when it has already taken place without me able to provide any information from my side. I presume I will get this chance? However, I do feel I would like to offer some information now.

I contacted Mrs Partridge to query the situation and understood that this complaint arose from my response at the Parish Council meeting on 13 December in connection with Muir and the strip of land behind the proposed development on Wyche Lane.

On 19 October, following questions raised by other Councillors which caused me to doubt my previous declaration of personal and prejudicial interest in these matters, I did, as Mrs Partridge instructed, raised a detailed written request of clarification from the Monitoring Officer, via Mrs Stubbs the Parish Clerk. I was expecting a written reply offering some advice regarding the specific clarification I was seeking.

On 4 December, the Clerk circulated to all Councillors some links to general code of conduct advice from Julie Openshaw. Mrs Partridge stated to me a couple of days ago that the Clerk had also received advice from Caroline Ellwood that she was unable to provide any specific advice as her primary role was to deal with complaints. I never received this information, whenever it was sent to the Clerk, nor a reply to my request for clarification; consequently I thought my specific request was still outstanding. Unfortunately, with a number of serious personal events going during the last couple of months, I did not follow up my outstanding query to the Monitoring Officer with the Clerk.

\cont'd

There followed the meeting on 13 December. I arrived late to the meeting and was not there for the introduction and member's declaration of interests. In fact, according to Mrs Partridge I arrived just before the Muir item occurred in the agenda. I was immediately asked if following the further advice from the council I had any questions to raise and if I wished to declare any interests in relation to the agenda. I know I hesitated and said 'no' but in truth I felt thrown in to something without a proper chance to understand what I was doing. There was no explanation of what saying 'no' at this point was going to mean and obviously in retrospect I should have reiterated my outstanding query, which I now understand would have meant the item would have been deferred to the next meeting. I would have expected some warning about the outcome of my actions at this stage or even afterwards from Mrs Partridge, but nothing was said or written.

I have an exemplary conduct record in my life and would never wish to put myself in a position where a complaint is made for this reason. I do not believe that I have ever not declared a personal interest but my position only altered recently, where I sought specific advice because I was unclear as to whether it was also 'prejudicial'. If, in receipt of clarification to convince me that I had made an error of judgement, then I would make the 'personal and 'prejudicial' declaration and hopefully would avoid making myself a candidate for a 'code of conduct complaint'!

This whole situation leads me to conclude that a 'complaint' needs to be raised before any queries regarding personal/specific situations can be answered? Certainly, when I very recently discovered that Caroline Ellwood had stated that she was unable to provide any specific advice as her primary role was to deal with complaints then this would appear to confirm this? May be you can clarify this for me?

I look forward to your reply.

Yours sincerely

Sally Beard

mikedudfield

From: "Sally Beard" <sallypbeard@fsmail.net>
To: "mikedudfield" <mikedudfield@btoopenworld.com>
Sent: 20 February 2012 13:14
Subject: Code of Conduct Beard 3 of 6

Message Received: Jan 27 2012, 01:00 PM
From: "Sally Beard"
To: "Erica Partridge"
Cc:
Subject: Re: December PC minutes and letter submitted for meeting

Erica,

I have now taken a look at the December minutes and have a number of issues to query. I wasn't at the January meeting to query these due to my operation and have no record of the minutes and agenda being sent to my computer before the meeting (which isn't unusual - as Alex knows she has had to send documents separately on previous occasions). I did offer my apologies for the meeting to Alex.

Firstly, as you may remember, I was late to the December meeting (as usual since I have to drop off my daughter around the same time) and do not think I was there for the members declarations of interest.

Secondly, in relation to Muir Matters, I think the minutes are inaccurate. I don't believe the Councillors living on Wyche Lane withdrew their declarations of interest - as I understood it we retained personal interest but didn't believe it was 'prejudicial interest' which affects participation in the meeting. Although I did not raise any questions at the time, I did believe that questions regarding my personal situation were still being considered by the Monitoring Officer at Cheshire East. I had seen the general advice but since I had not received a personal written response from Alex, that she had received from Caroline Elwood at Cheshire East, I was still believing I would be getting proper specific advice.

Thirdly, I have a query with respect to the correspondence received at the meeting. Please see below for something that I submitted with Alex in time for the meeting which does not appear on the letters received. Has Mrs Goodfellow been responded to? Obviously, I had left the meeting before this was discussed but Alex had assured me it would be included.

I look forward to your reply.

Sally

Message Received: Dec 12 2011, 08:11 PM
From: "Sally Beard"
To: "BunburyClerk"
Cc:
Subject: Re: Letter for inclusion with Parish Council meeting

Hello Alex,

20/02/2012

Thanks for the info. I have attached the letter and its reference for you to include in correspondence.

Kind regards

Sally

Message Received: Dec 12 2011, 06:15 PM
From: "BunburyClerk"
To: sallypbeard@fsmail.net
Cc:
Subject: Re: Further applicants for clerks position

Hi Sally, can you email out your shortlist to Erica please as she is created a 'matrix' of preferences.

Yes, if you scan the letter in, I'll include it in correspondence.

See you tomorrow.

Alex

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

From: [Sally Beard](#)

To: [BunburyClerk](#)

Sent: Monday, December 12, 2011 2:49 PM

Subject: RE: Further applicants for clerks position

Hello Alex,

Thanks for all the cvs. I have to leave tomorrow's meeting at 8.55pm so I guess I'll miss the discussion on this. I have been looking through and made my own shortlist which I can bring with me or email if you prefer.

Also, I have been sent a letter from one of the residents of School Lane regarding the 'speeding article' in a recent edition of the Parish Link. The lady in question has been in contact with neighbours and the school and wants to send in letters to the council about this. She has come to me to bring it up at the Parish Council meeting. I would raise it in AOB but again don't think I'll still be there. Can I scan the letter for you to include?

Kind regards

Sally

mikedudfield

From: "Sally Beard" <sallypbeard@fsmail.net>
To: "mikedudfield" <mikedudfield@btopenworld.com>
Sent: 20 February 2012 13:30
Subject: Code of Conduct Beard 5 of 6

Message Received: Oct 19 2011, 07:25 PM

From: bunburyclerk@aol.com
To: sallypbeard@fsmail.net
Cc: ep.partridges@btinternet.com
Subject: Re: Can't spell sorry

Hi Sally,

Have asked the Monitoring for some advice and will let you know her response.

Regards
Alex

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

From: Sally Beard
To: Bunbury Parish
CC: Erica Partridge
Sent: Wed, 19 Oct 2011 16:59
Subject: Can't spell sorry

Alex,
Just reread my email to you and had to laugh at my spelling of prejudicial. Sorry it came out so wrong - what's 'preducial'?? Any way hope you can help clarify things for me.
Kind regards
Sally

mikedudfield

From: "Sally Beard" <sallypbeard@fsmail.net>
 To: "mikedudfield" <mikedudfield@bopenworld.com>
 Sent: 20 February 2012 13:25
 Subject: Code of Conduct Beard 4 of 6

Message Received: Jan 26 2012, 05:41 PM
 From: "Sally Beard"
 To: "Erica Partridge"
 Cc:
 Subject: Code of Conduct and Monitoring Officer info request

Erica,

I have been somewhat concerned to receive a letter from Cheshire East Council reference a code of conduct complaint made against me. Back on Oct 19 I sent you and Alex an email (see below) requesting specific clarification with the Monitoring Officer regarding my specific situation. As yet I have not received a reply, only general references to code of conduct info. I presume this was forwarded to the Monitoring Officer as you requested in your email and I in mine. Please can you investigate as a matter of urgency and send me a copy of the request to the Monitoring Officer.

Regards

Sally

Message Received: Oct 19 2011, 04:52 PM
 From: "Sally Beard"
 To: "Bunbury Parish"
 Cc: "Erica Partridge"
 Subject: Re: Openshaw letter Fw: Members' Interests query

Alex,

Erica has helped me with respect to her reply to this email. I just need to clarify whether the advice regarding 'member D' (ie. myself) in the scenario is right. Julie Openshaw's advice was that I would have a 'prejudicial interest' because my property has a view of the development. Whilst I will have a view of the development, with what is going to be built I do not think that I will retain a view of the strip of 'gifted' land in question. I would consider that the Muir development has a potential affect on us but not the strip of land behind. Please can you clarify this with the Monitoring Officer.

Many thanks

Sally

PS. I presume that I don't need to produce the existing Muir plans of the development in relation to my house. We're still uncertain about the final height levels of the proposed development but based on what I've seen with the land being higher than ours by some degree, once houses are built there is no way we will be viewing the strip of land behind.

Message Received: Oct 18 2011, 09:19 PM
 From: "Partridges"
 To: "jill waits", sallypbeard@fsmail.net
 Cc: "Brian Dykes", "Bunbury Parish", "Dave Ellis", "Dennis Burrows", "Eric Lord", "GMC", "Mandy Jones", "Nick Parker"
 Subject: Re: Openshaw letter Fw: Members' Interests query

Jill and Sally and other Parish Councillors

I am afraid the messages below serve to further obscure the sequence of events and reality in this matter.

It has been explained to all Parish Councillors that they must consider their own position and exclude themselves as necessary in accordance with the Code of Conduct. The decision is not and has not been made by myself, Alex or Julie Openshaw. The purpose of the Julie Openshaw's message is to advise on the correct interpretation of the Code of Conduct to assist Councillors and nothing else.

There has never been any question of anybody imposing a ruling on any of the Parish Councillors who have applied the advice and excluded themselves.

The solution is quite straightforward and always has been. A polite request to Alex on this basis is all that is necessary.

If Parish Councillors are concerned that they may not have interpreted the Code correctly in relation to their own situation they should each contact Alex with their queries and request that she forward them to Julie Openshaw with a plan indicating the various plots of land. Julie Openshaw can then provide further advice and, as before, the Councillors can take a decision in the light of that advice.

As each Parish Councillor has to consider their own position there may be other factors they need to take into account (as I cannot presume that the advice covers all circumstances relevant to each person).

Erica

20/02/2012

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

From: jill.waits

To: sallypbeard@fsmail.net

Cc: [Brian Dykes](#); [Bunbury Parish](#); [Dave Ellis](#); [Dennis Burrows](#); [Eric Lord](#); [Erica Partridge](#); [GMC](#); [Mandy Jones](#); [Nick Parker](#)

Sent: Tuesday, October 18, 2011 9:40 AM

Subject: Re: Openshaw letter Fw: Members' Interests query

Hi Sally,

Many thanks for your email below and letting me know what you recall as I wasn't at the December 2010 meeting.

I note what you say about Alex circulating the Julie Openshaw email in September 2011. However, it seems to have been important enough to have been discussed before/or at the beginning of the December meeting, but not to be minuted or circulated then, which I see as a mistake, I presume on Alex's part. Why should those who were there be party to information about anything, and those who were not there excluded from that information? This seems particularly wrong when the 3 people who could not attend the meeting were significantly affected by the contents of Julie Openshaw's email. Whatever the subject I can't see how this can be regarded as a correct way to behave I'm afraid. I see Alex's job as keeping us all equally informed about anything that is the business of the PC and it seems that on this point she failed to do that. I don't see it as the responsibility of fellow members to keep those not present informed of what happens.

As to your comments on declaring an interest, I have to admit that I was the person who raised this in the first place when I was a new member and anxious, as I hope I continue to be, to do the right thing. I now believe that it was not necessary for the 4 of us from Wyche Lane (but not always Gary) to exclude ourselves from all discussions on all matters relating to Muir Homes and the land behind the development. I think there has been either inaccurate advice from Julie Openshaw, inadequate or incorrect briefing to her, or an incorrect interpretation of the information she gave (which was inaccurate itself in part when one has a proper understanding of the geography of the area and individual ownerships) which has led to half the PC not being party to a number of decisions that 4 or 5 members should not have been excluded from. So, I agree with you that we should have been party to more decisions that we have regarding all or part of the Muir issues.

I am grateful to you for coming forward with information and your views on the matter and look forward to hearing from other councillors.

Regards,

Jill

From: Sally Beard

To: Jill Waits

Cc: [Brian Dykes](#); [Bunbury Parish](#); [Dave Ellis](#); [Dennis Burrows](#); [Eric Lord](#); [Erica Partridge](#); [GMC](#); [Mandy Jones](#); [Nick Parker](#); [Sally Beard](#)

Sent: Monday, 17 October 2011, 21:21

Subject: Openshaw letter Fw: Members' Interests query

Hello Jill,

I remember seeing this letter and have just checked my emails, so for your info please see below. Alex sent out an email on the 26 Sep to all Parish Councillors which if you scroll down does include the letter from Julie Openshaw.

You can also see who all the recipients were.

I have not passed this onto anyone except yourselves in this email. I was at the December 2010 meeting where the letter and its recommendations were discussed and from this I did declare 'an interest' as it seemed that I needed to. I, then along with the others on Wyche Lane have subsequently declared 'an interest' at meetings ever since. I am now uncertain as to whether we should have?

Kind regards

Sally

Message Received: Sep 26 2011, 12:34 PM

From: "Bunbury Parish"

To: "Mandy Jones"; "Brian Dykes"; "Gary McCormack"; "Erica Partridge"; "David Ellis"; "Jill Waits"; "Nick Parker"; "Eric Lord"; sallypbeard@fsmail.net, dennis.burrows@btopenworld.com

Cc:

Subject: Fw: Members' Interests query

Dear All

There seems to have been various queries about declaring personal and prejudicial interests regarding the Wyche Lane to be sold to the PC and there does seem to be some confusion. Please find below the letter received from Julie Openshaw (Deputy Monitoring Officer for CE) dated November 22nd 2010. Please also find attached a copy of Bunbury Parish Council's Code of Conduct.

We discussed the letter at our December 2010 meeting and following that discussion various members of the PC declared personal and prejudicial interests. Please take the time to revisit the letter. If you believe that your circumstances have changed then please do let me know.

Regards

Alex

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

From: OPENSHAW.Julie

To: bunburyclerk@aol.com

Sent: Monday, November 22, 2010 3:39 PM

Subject: Members' Interests query

Good afternoon Alex

Further to our telephone conversation earlier, I understand that you and some of your members seek advice on what if any interests they need to declare in relation to a plot of land which has been offered for sale to Bunbury Parish Council. I will refer to this as the "for sale land".

You explained that the for sale land abuts a second strip of land which has planning permission for development, and it is the developer that has offered the for sale land to the Parish Council.

You also explained that one member (A), who owns a third strip of land which abuts the other side of the "for sale" land has already declared a personal and prejudicial interest and has absented himself from any consideration of whether the land should be purchased, but three other members are potentially affected because of the positioning of their gardens. "B" has a garden abutting the "for sale" land, "C" has a garden abutting the land owned by the councillor who has already declared an interest, and "D" has a garden which allows a view of where the development would be. Each of them owns their home and has registered it as such in the register of interests.

My view is that due to their proximity to the for sale land, and the possible effect arising from that on the values, or desirability, of their homes, B C and D all have personal interests in the decision whether the Parish Council should purchase the land, because a decision on whether or not the PC should buy it could reasonably be regarded as affecting their well-being or financial positions to a greater extent than the majority of council tax payers ratepayers or inhabitants of the locality.

Unless they can raise some other consideration which might merit further consideration (I haven't seen a plan), they appear to have a prejudicial

interest as well, because of the same considerations in terms of proximity and effect on financial position, which suggest that the proper conclusion is that "a member of the public with knowledge of the relevant facts would reasonably regard [the interest] as so significant that it is likely to prejudice your judgment of the public interest".

I gather there are 10 members of the Council, with a quorum of 4, so unless other members have prejudicial interests to declare for some other reason, you should be quorate to make the decision. If circumstances arise where interests are such that getting a quorum would be impossible, the Borough Council's Standards Committee does have power to consider, and if appropriate, grant, applications for dispensations to allow members to speak and vote where they have a prejudicial interest, but only where either more than 50% of members who would be entitled to vote being prohibited from doing so, or where the number of members that are prohibited from voting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced. As these situations are relatively rare, so are applications for dispensations. It does not sound as though the first criterion would be met; without knowing the political persuasion of the members involved, and the remainder, it's unclear if the second would apply, but you might want to consider that.

I hope this assists.

Kind regards

Julie Openshaw
Legal Team Manager (Places, Regulatory and Compliance) (Deputy Monitoring Officer)
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
CW11 51HZ
01270 685846)

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Cheshire East Council**Complaint against Parish Councillors Sally Beard, David Ellis, Gary McCormack & Jill Waits****Statement of Sally Beard, Lexington, Wyche Lane, Bunbury, Cheshire CW6 9PS**

1. I was co-opted on to Bunbury Parish Council in 2006 and remained a Parish Councillor until my resignation on 04 February 2012. During that time I had no training on the Code of Conduct. I am a joint owner of Lexington.
2. Until December 2010, I made no declaration of interest in respect of any matter concerning the field opposite my property and the proposed Muir development and the option land being considered by the Parish Council. I do not think that I had a full understanding of the interest provisions at that time and, as no-one else was making any declarations in respect of these matters, it did not occur to me that I should. At the meeting those present were shown a copy of an email dated 18 November 2010 from Cheshire East's Deputy Monitoring Officer although the copies were then collected in. Following sight of this email offering relatively 'specific' advice to some of the affected Councillors I made the decision that I should declare a personal and prejudicial interest in the proposed Muir development. I did so at the meeting on 14 December 2010 and each meeting that I attended up to and including July 2011. Paragraph 12 of Erica Partridge's introduction says I was present at the meeting on 09 August 2011 but that is not true - the minutes show that I sent an apology.
3. At the September 2011 Parish Council no-one declared any interests and I had left before some correspondence referring to Muir was raised. Just prior to the meeting Gary McCormack had contacted me and others from Wyche Lane about forming another Parish Council Sub Committee to 'protect our interest'. I think this was because we were not seeing any minutes of the Muir sub-committee so were being effectively excluded and not informed about what was happening regarding the strip of land behind the Muir development. I did not act on this but then started to look more carefully at my personal and prejudicial interest in this situation.
4. On 26 September 2011 Alex Stubbs had circulated the Openshaw email as she said that there had been various queries about interests in Wyche Lane and there seems to be some confusion. At the 11 October Parish Council meeting, in the declarations of interest, I was a member who would 'decide to review the correspondence and then decide if interest should be declared'. There was some correspondence regarding the planning application 11/2423N but again I had left the meeting long before this so was not involved. On 17 October I sent an email to Jill Waits stating that I was uncertain whether I should have been declaring an interest and I recalled to her my account of what happened at the meeting in December 2010. Jill replied that she believed it was now not necessary for all the Wyche Lane Councillors, apart from Gary McCormack, to exclude ourselves from all discussions on all matters relating to Muir and the land behind the development. Jill also stated that she thought the advice was inaccurate as Julie Openshaw had been inadequately or incorrectly briefed. On 18 October Erica Partridge sent an email by way of explanation following which, on 19 October, I emailed Alex Stubbs asking her to clarify my position with regard to the option strip with the Monitoring Officer.
5. At the 08 November meeting no-one declared an interest as all Muir matters were deferred pending advice which had been sought from Cheshire East. At this time I

assumed that this advice would include the request in my email of 19 October. On 04 December I received the second Openshaw advice but this didn't specifically answer my query and I still thought at that time, that I would be getting a further specific response. At the 13 December meeting I was late arriving at the meeting and, therefore, had not been aware of what had happened earlier, particularly under 'declarations of interest'. The Council was about to discuss Muir matters and Erica asked me specifically whether I was making any declaration of interest. I hesitated. In hindsight I should have said that I did not know as I was awaiting a specific response to my query, and, in my mind, I wasn't decided. I didn't wish to hold up the meeting and said 'no'. My gut feeling was that I had a personal and prejudicial interest in the Muir development site but regarding the strip of land behind, which was what I thought was being discussed, I was uncertain about that and thought my interest may not be prejudicial. However, I was hoping to get some clarification. I realise now that I should have raised this again at the meeting, but I wasn't aware at the time that I was making such an 'error' of judgement. The meeting discussed the planning application for the amendment of the access way to the option strip and the other field which had first been considered at the August meeting when I was away. I did state that I was concerned at the width of the road from the development into the option strip and the field beyond because it didn't seem to make sense - I couldn't understand the need for it. Erica in note 3 of her comments on me says that I voted against the application because of the risk of further housing development which would directly impact on my home. I do not recall saying that but I certainly said that the road was too wide. I voted against mainly because I thought the width and surface of the proposed access way was totally inappropriate for the field. 4.5m wide is wider than much of Wyche Lane and it leads off a small proposed development into a field. I am disappointed the minutes didn't reflect this. I never saw the minutes, or was able to query them until after the January meeting and the start of this complaint. My additional thoughts at the time were that the wider access way could mean that the field behind the strip of land could potentially be opened up for future housing which would impact on all of Wyche Lane and the Village through increased traffic. Since then I have wondered about whether 4.5m access between 2 houses with no pavements would be a suitable access point to further housing and think probably not so if possible would withdraw my comment relating to the potential risk of opening up the field behind for further development.

6. With regard to point 2 in Erica's 'comments', I did not consider planning application 11/2423N because I was away a lot during August, which is also why I wasn't at the August Parish Council Meeting. I didn't look at it until much later in September. My home is located opposite to the entrance to the Muir housing site but when the houses are built I would have no view of the strip of field behind. I have absolutely no recollection of stating in a Parish Council meeting that 'further information on Muir's funding for the houses was needed for the Wyche Lane residents to further their plans'. There are no minutes that mention this. I may have asked about funding in the past but can't recall a specific situation but would never have said 'for the Wyche Lane residents to further their plans' - it doesn't make sense to me. I'm certainly not actively planning anything! I can only think this must be some reference back to the period 2004-2007 when a large proportion of the village were against the housing development on this 'rural exceptions' site and the original application was refused, went to appeal and was refused again and finally succeeded after several amendments, conditions, strip of land offer etc later. There have been a lot of issues in reaching a Section 106 agreement and in early 2010 a variation to this was proposed changing the houses into all rental, instead of a mixture of shared ownership and rental. Cllr Jones, the Cheshire East ward Councillor, stated at the September 2011 meeting that there were no grant monies available for shared ownership housing at the

time, so this would seem to have implications for funding.

7. I first saw the minutes for the December meeting after the meeting on 10 January 2012 and after an operation. I sent an email on 27 January to Erica querying certain aspects of the minutes and I have handed a copy of this email to the Investigator. I have never had any response to the request in my email of 19 October 2011.
8. The Investigator has gone through the interest provisions in the Code. From his explanation I understand that I have 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 I would have had a prejudicial interest also. It is unfortunate that those Councillors living in Wyche Lane did not have more information and advice and they would then have had a better understanding of the interest provisions and none of this would have arisen.

This statement is a fair summary of an interview conducted by the Investigator on 08 March 2012.



Date 20/3/12

**MINUTES OF A MEETING OF BUNBURY PARISH COUNCIL held at the Bunbury Village Hall on
Tuesday 13th December 2011.**

Present: Cllrs. E.Partridge (Chairman), S. Beard, B. Dykes, D.Ellis, Mandy Jones,
G.McCormack, E.Lord, N.Parker, J Waits

In Attendance: A. Stubbs – Clerk
Members of the public – Michael Thomas

The Chairman welcomed the members of the public.

11.12.01 Apologies for Absence

Apologies were received from Cllr. Michael Jones of Cheshire East.

11.12.02 Members Declarations of Interest

Cllr McCormack declared a personal and prejudicial interest in relation to the Parish Council strip of land behind the Muir development and planning application 11/2423N.

Cllr. Lord declared a personal interest in the tree felling review and footpath 14.

11.12.03 Minutes

Cllr. Lord proposed that the burglary discussed at the last meeting be added to the agenda. There were no seconders for this proposal and it was confirmed that the burglary would be discussed at the Police Cluster meeting.

Cllr. McCormack objected to comments in the minutes regarding the resignation of the clerk and Cllr. Waits proposed that Cllr. Dykes and the Chairman's remarks be removed from the minutes. There were no seconders to this proposal.

Cllr. Waits then proposed that the members of the council that had caused the resignation of the clerk be named in the minutes. There were no seconders to this proposal.

Resolved: that the minutes of the meeting held on 8th November 2011, be agreed and signed as a correct record. All agreed with 2 abstentions.

Cllr. McCormack raised the number of emails received by Parish Councillors and wondered if further filtering could be done by the clerk. After discussion, it was agreed that the current level of filtering would continue.

11.12.04 Matters Arising

Queens Diamond Jubilee

The Playing Field Committee proposed an 'It's a Knockout' competition to take place at the same time as the 'Big Lunch' and had provisionally booked an organiser. A deposit is required as soon as possible. This was discussed and councillors felt that more information was required before the Council could commit to the proposal.

Proposed: Cllr. Partridge proposed that the Parish Council support the principal of a joint event. This was seconded by Cllr. Dykes and all agreed.

Tree Felling Review

Cllr. Lord as tree warden is still awaiting the report from the tree officer at Cheshire East Council.

Dog Bin on School Lane

Mr & Mrs Barrett have been written to for suggestions of the new site of the dog bin and we are awaiting their response.

United Utilities Land on Bowes Gate Road

United Utilities have confirmed that they own no land on Bowes Gate Road and it is now suspected to be Environment Agency Land. The clerk was given permission to do a land registry search to find the owner.

Footpath 14

With Cllr. McCormack.

Resignation of Councillor Burrows/Casual Vacancy

The commemorative scroll is in progress.

Notice has now been received from Cheshire East that an election for the casual vacancy has not been requested so that the Council can co-opt a new member. 2 applications have been received, from Mr. M. Thomas and Mrs. L. Potter. Mr. Thomas was asked to leave the room while the applications were discussed.

Resolved: **that** Mr. M Thomas be co-opted to the Parish Council – proposed Cllr. Ellis, seconded Cllr. Dykes and all agreed.

Mr. Thomas returned to the room and was duly co-opted.

Protocol for internal communication

With Cllr. Parker. Draft for next meeting.

Christmas Eve Carols

Resolved: **that** proceeds of the collection go to St. Lukes Hospice, Winsford. Proposed Cllr. Dykes, seconded Cllr. Partridge and all agreed.

Cllr. Dykes reminded all councillors that the Christmas tree would be taken down on January 8th at 10.30am.

Proposed New Bus Service

Cllr. Ellis volunteered to draw up the questionnaire.

Discussion of Muir Matters

Cllr. McCormack left the meeting.

This was discussed following the decisions of those Councillors living in Wyche Lane to withdraw their declarations of interests. Cllr. Waites raised a motion requesting that planning application 11/2423N be re-visited to include the formally excluded councillors.

Resolved: **that** planning application 11/2423N be discussed including the section 73 variation to alter the width and location of the accessway across the proposed parish council strip of land. Proposed Cllr. Waites, seconded Cllr. Ellis. 5 for with 3 abstentions.

Cllr. Waites put forward her view that the the wider accessway would look unsuitable across the field. Cllrs. Ellis and Beard raised concerns that the wider accessway might open up the field behind for housing.

Cllr. Partridge confirmed that the Parish Council has asked the owner of the field behind the proposed PC strip to give up the right of access but this had been refused. Muir have stated that an agricultural access of the proposed width will meet their contractual requirements with regards to the landowner.

Cllr. Partridge also read out an extract from the minutes of the August PC which set down the Parish Council reasons for their support of the planning application.

Resolved: **that** the Parish Council continue with it's original comments on planning application 11/2423N. Proposed Cllr. Partridge, seconded Cllr. Dykes, 5 for, 2 against with 1 abstention.

Cllr McCormack returned to the meeting.

11.12.05

Planning Applications

Cllr. Beard left the meeting.

11/2043N – new farm building at Bunbury Common Road
No objections – proposed Cllr. Ellis, seconded Cllr. McCormack and all agreed.

Planning decisions - None

11.12.06

Playing FieldsNew Lease for Playing Fields

The draft lease has now been clarified and will be forwarded to the Playing Fields Committee shortly.

Insurance Valuation

The insurance company have reviewed the valuation and increased the insurance cover accordingly. The new premium has increased by £330. Cllr. Dykes to discuss this with the Playing Fields Committee as all of the new premium is incurred on behalf of the playing fields.

11.12.07 **Playing Fields Report**

Cllr. Dykes outlined the minutes of the last meeting and confirmed that the next meeting would take place on Wednesday 18th January at 7.30pm.

Cllr. McCormack raised that the language during the Saturday football matches was very unsuitable and Cllr. Dykes agreed to raise this with the organisers.

11.12.08 **Borough Councillor Report**

Given by Cllr. Waites in the absence of Cllr. Michael Jones. A new bus service had started between 9.30 and 2.00pm in the school term only. A meeting was to take place with the school regarding traffic calming measures.

11.12.09 **Parish Councillors Reports**

Cllr. Lord raised if there had been any action on the hedge at Brantwood. This was to be pursued by Cllr. Michael Jones. Clerk to raise with him.

Cllr. Ellis confirmed that the Bunbury Charities had given donations to the Wednesday club, the Bunbury first responders and the Tarporley Hospital League of Friends.

11.12.10 **Correspondence**

Letters received included:

A letter regarding 20mph speed limits from Mrs. L Potter. This deferred to a future meeting.

A letter regarding a summer house at Church Bank from Mrs. L Doyle. Clerk to reply that the PC had never received or given any information about this.

An note from Nick Lawford regarding the Bunbury website. This deferred to a future meeting.

An email from Mr. James Walton regarding confidential information. This noted by the Parish Council.

11.12.11 **Finance Matters**

It was resolved that:
the following cheques be signed:

PAYEE	DESCRIPTION	NET (£)	VAT (£)	TOTAL (£)
CHALC	Clerks Advert	25.00		25.00
Alex Stubbs	Repayment for clerks advert	96.60	19.32	115.92
Nick Parker	Additional Christmas tree bulbs	22.50		22.50

It was agreed that the budget meeting would take place on Wednesday 4th January at 7.30pm in the village hall. The committee would consist of Cllrs. Partridge, Dykes, Parker, Waites and the clerk.

11.12.12 **Any Other Business**

None

It was decided that the rest of the meeting be held in private. Members of the public were asked to leave and confidential minutes produced.

Signed: _____

Date: _____

Please find below message from Julie Openshaw with helpful links regarding the code of conduct, which will hopefully clarify whether or not you should declare interests in various matters.

Regards
Alex

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

From: OPENSHAW, Julie

To: 'bunburyclerk@aol.com'

Cc: 'ep.partridges@btinternet.com'; ELWOOD, Caroline; MOULSON, Diane

Sent: Wednesday, November 30, 2011 2:51 PM

Subject: General Advice on Parish Council Member Declarations of Interests

Dear Alex

Further to Caroline Elwood's email to you of 22 November, indicating amongst other things that we would reissue some general advice to the Parish Council on Declarations of Interest generally, please find attached three web links.

The first is to the part of Cheshire East's Council's website showing the Code of Conduct for Members within the Constitution.

The second is to an explanatory leaflet relating to Personal and Prejudicial Interests published on behalf of the Standards Committee.

The third is to Standards for England's booklet to Members explaining the Code, which was issued in May 2007, when the Code was updated.

As Caroline said, in the light of this reminder, it will then be for members of the Parish Council to consider their individual positions if necessary. As you know, the advice I provided in November 2010 was based on the circumstances you outlined to me at the time, and was confined to the issue of the offer of land to the Parish Council, not the later planning application.

http://www.cheshireeast.gov.uk/council_and_democracy/your_council/constitution.aspx (see pp 357 - 364 for the Code)

[The Model Code of Conduct - An Explanatory Leaflet Relating to Personal and Prejudicial Interests \(PDF, 71KB\)](#)

<http://www.standardsforengland.gov.uk/Guidance/TheCodeofConduct/Guidance/filedownload,16126,en.pdf> (see Section 3 for Interests).

As regards personal and prejudicial interests, the Code provisions themselves, and their application, will generally be the same for Parish Councillors as for Borough Councillors.

I hope this is of assistance.

Kind regards

Julie Openshaw
Legal Team Manager (Places) / Deputy Monitoring Officer
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
CW11 1HZ
Tel: 01270 685846
Fax: 01270 529710

mikedudfield

From: "David Ellis" <dellis7@tiscali.co.uk>
To: "mikedudfield" <mikedudfield@btinternet.com>
Sent: 07 April 2012 13:05
Subject: RE: Bunbury PC - Investigation Report
Dear Mr Dudfield

Thank you for the copy of your report which I am currently studying and will respond in more detail once I have taken in all that you have said. My first impression is one of great disappointment that you have come to the conclusion you have indicated in your report. It appears to me that our meeting was of little or no use and you could have quite easily have come to this conclusion from the submissions sent to you by Erica Partridge and myself and saved a tremendous amount of money to the tax payer. You do not seem to have taken into account any of my submissions as to why I reached the decision on prejudicial interest and I am extremely disappointed that you have seen fit not to mention in your summary the letter from Ben Haywood as mitigating circumstances which encouraged me to come to the decision I came to at that meeting. I also see that you have failed to mention that Erica used conversations outside the meeting to justify her appalling actions in this case so obviously you decided not to take note of these comments when I made them to you. I still do not believe that I have a financial interest in anything that goes on behind my house as explained to you at some length but you have your view and I have mine.

I am also not at all happy with your statement that I cannot discuss these matters with any member of the public unless advised otherwise by East Cheshire. I have received a large number of questions as to why I am no longer on the PC and in one case I was asked if I was in trouble with the police because of something I had done wrong on the Council!!! I will make my own decision on this personal matter once everything has been concluded, although there is very little point in waiting for the decision from East Cheshire as you have already made it for them.

I will be in contact again before the 21st April.

Yours sincerely
David Ellis

From: mikedudfield [mailto:mikedudfield@btinternet.com]
Sent: 07 April 2012 10:08
To: David Ellis
Subject: Bunbury PC - Investigation Report

Dear Mr Ellis,

I have completed the draft report in relation to Sally Beard and yourself and attach a copy. Those appendices that relate to you are already in your possession apart from Mrs Partridge's statement which is also attached.

Please let me have any comments you wish to make on the draft. These should be with me by 21 April, following which I will finalise the report and send it through to Mrs Elwood.

Please note that the draft report and its appendices remain confidential until they are considered by Cheshire East's Standards Committee who will determine whether they come into the public domain.

Yours sincerely,

Mike Dudfield

mikedudfield

From: "David Ellis" <dellis7@tiscali.co.uk>
To: "mikedudfield" <mikedudfield@btinternet.com>
Sent: 07 April 2012 17:48
Subject: RE: Bunbury PC - Investigation Report
Dear Mr Dudfield

I have now had a chance to read your comments in more detail and really have nothing more to add to the e-mail I sent you earlier today. It is painfully obvious that I was tried and convicted before you even came to see me so why waste any more of my valuable time on such a trivial matter. I have much more important things to do in Bunbury where my efforts are much more appreciated without the overriding fear that I will be reported to some kangaroo court for something I say or do!! I have now closed my file and await your final report to see if you have amended it to include the comments I made earlier today.

Yours sincerely
David Ellis

From: mikedudfield [mailto:mikedudfield@btinternet.com]
Sent: 07 April 2012 10:08
To: David Ellis
Subject: Bunbury PC - Investigation Report

Dear Mr Ellis,

I have completed the draft report in relation to Sally Beard and yourself and attach a copy. Those appendices that relate to you are already in your possession apart from Mrs Partridge's statement which is also attached.

Please let me have any comments you wish to make on the draft. These should be with me by 21 April, following which I will finalise the report and send it through to Mrs Elwood.

Please note that the draft report and its appendices remain confidential until they are considered by Cheshire East's Standards Committee who will determine whether they come into the public domain.

Yours sincerely,

Mike Dudfield

mikedudfield

From: "mikedudfield" <mikedudfield@btinternet.com>
To: "David Ellis" <dellis7@tiscali.co.uk>
Sent: 10 April 2012 21:41
Subject: Bunbury PC - Investigation Report
Dear Mr Ellis,

Thank you for your two emails of 07 April. These, together with this reply will be appended to the final report which I am sending to Mrs Elwood tomorrow.

The 'executive summary' is just that - a summary of the complaint and the conclusions that I have reached. The report sets out the position of Mrs Partridge, as the complainant, and Mrs Beard and yourself, as the members the subject of the allegation. The first point you make regarding the matters you took into account are explained in paragraph 38 of the report. The second is the private conversation that you had with Mrs Partridge following the meeting on 13 December 2011. You will see that this does not feature in the report, either in support of the allegation by Mrs Partridge, or your concern that she should mention a private conversation in her complaint. That conversation has not influenced my conclusions on the application of a prejudicial interest in this case and I did not feel that it was appropriate to make reference to it. My conclusions are drawn solely on the statement that you have made and the minutes of the meeting. My conclusions are recommendations to the Standards Committee and it will be for the Committee to determine whether they accept the conclusions or, in the case of a prejudicial interest, accept your reasoning for believing that your personal interest was not prejudicial in relation to the item before the Parish Council on 13 December 2011.

With regard to confidentiality, I do not set the rules, I merely apply them. In this case I have advised you of the situation and it is for you to decide whether you wish to comply with the rules, it is nothing to do with me whether or not you do so.

As I have said above, I will be forwarding a final version of the report to Mrs Elwood tomorrow and this will be unchanged as neither Mrs Partridge nor Mrs Beard has sought any changes. Paragraph 56 will be completed to reflect the responses received and my replies to those responses. The report will be accompanied by the Appendices of which you already have details and the two additional ones, M & N, covering the responses to the draft report.

Yours sincerely

Mike Dudfield

10/04/2012

mikedudfield

From: "mikedudfield" <mikedudfield@btinternet.com>
To: <sallypbeard@fsmail.net>
Sent: 10 April 2012 21:43
Subject: Re: Bunbury PC - Investigation Report
Dear Mrs Beard,

Thank you for your response. Your points will be placed before the Committee when it considers my report.

Yours sincerely,

Mike Dudfield

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

From: [Sally Beard](#)
To: [mikedudfield](#)
Sent: Tuesday, April 10, 2012 12:41 PM
Subject: RE: Bunbury PC - Investigation Report

Dear Mr Dudfield,

The only comments I wish to make are:

- To avoid further problems of this nature in future, I would suggest that guidance states that all Parish Councillors should receive mandatory code of conduct training.
- Also, I do believe, however, that apart from being given 'general' code of conduct advice, that when some more specific advice is sought that it should be given and not ignored. A brief discussion with yourself did help to clarify my position and was all I was seeking. If I had received this before in a more timely manner, I would not have made the error of judgement I did on 13 December 2011.

Yours sincerely

Sally Beard

=====

Message Received: Apr 07 2012, 10:10 AM
From: "mikedudfield"
To: sallypbeard@fsmail.net
Cc:
Subject: Bunbury PC - Investigation Report

Dear Mrs Beard,

I have completed the draft report in relation to David Ellis and yourself and attach a copy. Those appendices that relate to you are already in your possession apart from Mrs Partridge's statement which is also attached.

Please let me have any comments you wish to make on the draft. These should be with me by 21 April, following which I will finalise the report and send it through to Mrs Elwood.

Please note that the draft report and its appendices remain confidential until they are considered by Cheshire East's Standards Committee who will determine whether they come into the public domain.

Yours sincerely,

Mike Dudfield

[Draft report - Beard & Ellis.rtf (41.7 Kb)]
[Partidge p1.JPG (1159.6 Kb)]
[Partridge - Beard2.JPG (1262.3 Kb)]

10/04/2012

Complaints under the New Code – Procedure

Making a Complaint

1. Complaints must be submitted to Cheshire East Council's Monitoring Officer using the Council's standard Complaint Form setting out in sufficient detail why the Complainant considers there has been a failure to comply with the relevant Code of Conduct.
2. The Monitoring Officer will acknowledge receipt within 5 working days
3. The Subject Member will be advised that there has been a complaint and will be provided with a copy of the complaint form, unless, in exceptional circumstances, where the Monitoring Officer, in consultation with the Independent Person has granted the Complainant's request for confidentiality. Under no circumstances must the Subject Member contact the Complainant direct regarding any issues raised in the complaint.

Initial Assessment / Gateway Procedure

4. The Monitoring Officer will refer the complaint to the Audit and Governance Initial Assessment Panel within 21 days of receipt for an initial assessment.
5. After consulting the Independent Person, the Panel will determine whether to
 - **Take no action**
 - **Refer the matter to the relevant Group Leader for informal action** (NB for complaints against Cheshire East Councillors only and not generally an appropriate option if the complaint is from a member of the public)
 - **Refer the matter for Local Resolution**
 - **Refer the matter for formal investigation by an external investigator**
 - **Refer the matter to the Police or other relevant Regulatory Agency**
6. The Initial Assessment Panel's Decision on what action to take on a complaint is final. There is no right to have the decision reviewed.
7. The Complainant, Subject Member and Parish Clerk, as appropriate, will be informed of the outcome of the decision.
8. Meetings of the Panel will not be open to the public.

Local Resolution

9. The Complainant and Subject Member will be advised that the Initial Assessment Panel has concluded that the complaint is suitable for Local Resolution without the need for a formal investigation and full hearing and will be invited to submit written representations outlining the nature of the dispute using a standard template to ensure consistency.
10. Both the Complainant and Subject Member will be able to bring a Supporter and up to three witnesses each to accompany them before an ad hoc panel of three elected members together with the Independent Person. The Supporter will not represent the Subject Member but will be able to confer with him or her.
11. The Panel will consider the written representations and hear any relevant evidence before reaching a determination and considering whether any sanction is appropriate.
12. The Panel may refer the matter for a formal investigation should it become apparent that the issues are more complex or serious than was originally anticipated.
13. Local Resolution Panels will normally meet in public and will be convened within 28 days of the decision of the Initial Assessment Panel subject to availability of the relevant parties.
14. Both the Complainant and Subject Member will receive copies of each others written statements and details of any witness to be called 5 working days before the Panel meets. Copies will be made available to three Panel members and Independent Person at the same time.
15. The Panel will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
16. There is no right of Appeal from the decision of the Local Resolution Panel which is intended to resolve less serious complaints speedily and cost effectively.

External Investigation

17. The matter will be referred for an independent investigation by a suitably experienced investigative officer. In most cases the investigation is expected to be completed within 8 weeks of the referral.
18. The report of the independent investigator should incorporate the following:-

- **Executive Summary** - An outline of the allegation, who made it, the relevant provisions of the Code and whether there has been a breach.
 - **Member's official details** - A brief outline of when the Member was elected, term of office, details of committees served on and any relevant training.
 - **Complainants details and any relevant background**
 - **Summary of facts and evidence gathered**- A summary of the facts and evidence gathered highlighting facts which are in dispute and setting out the investigating officer's conclusions based on the balance of probabilities.
 - **Reasoning as to whether there has been a failure to comply with the Code and investigator's findings** – Dealing with each allegation in turn an outline of whether the investigating officer considers there has been a breach and any aggravating or mitigating facts.
 - **Schedule** - a list of witnesses interviewed and copies of relevant documents.
19. A copy of the draft report will be circulated to the Subject Member and Complainant to check for factual accuracy.
20. The Investigating Officer will take into account any comments received before sending the final report to the Monitoring Officer.

External Investigation – No Evidence of Failure to Comply

21. Where the report concludes that there is no evidence of failure to comply with the Code of Conduct, the Monitoring Officer will review the report in consultation with the Independent Person.
22. If satisfied with the conclusions, the Complainant, Subject Member and the Town or Parish Clerk (if appropriate) will be notified within 15 working days that no further action will be taken and will be given a copy of the final report.
23. If after consultation with the Independent Person the Monitoring Officer is not satisfied that the investigation has been concluded properly she may ask the Independent Investigator to reconsider the report and / or refer the matter to the Standards Hearing sub committee for a formal hearing of the issues.

External Investigation – Evidence of Failure to Comply

24. Where the report concludes that there has been a failure to comply with the provisions of the Code of Conduct the matter will be referred to the Standards Hearing sub committee who will conduct a hearing to determine if the Subject Member has failed to comply with the provisions of the Code and if so what sanction is appropriate.
25. The Hearing sub committee will consider the matter afresh having regard to the Investigators findings and all relevant evidence presented by the Complainant and Subject Member.
26. The Independent Person will be present at the hearing and will be consulted and his/ her views taken into account before any decision is reached.
27. The Hearing sub committee will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
28. Meetings of the Hearing sub committee will be subject to the normal rules for publication of agendas and access to information.
29. There will be a right of appeal of the decision of the Hearing sub committee.

Right of Appeal

30. Any appeal by the Subject Member must be lodged within 14 days of the decision of the Hearing sub committee. A meeting of the Standards Appeals Panel will then be convened within 21 days.
31. The Appeals Panel will comprise 3 Members from the Audit and Governance pool of 15 Members sitting with an Independent Person. Neither the Members nor the Independent Person will have previously been involved in the particular case.
32. The appeal will be by way of a complete re hearing of the issues and will not be confined to new evidence or only on specified grounds. The Appeals Panel may dismiss or uphold the appeal and reconsider the range of sanctions available to the Hearing sub-committee.
33. The decision of the Appeals Panel is final.

Independent Person

- 34. The Council has appointed 4 Independent Persons
- 35. The Subject Member has the opportunity to consult the Independent Person at any stage in the investigation process and prior to the final determination.

Membership of Panels / sub committees

- 36. If a Member has sat on a Local Resolution Panel which refers a matter for external investigation then he or she may not subsequently sit on any Hearing sub committee.

Vexatious Complaints

- 37. The Council will maintain a list of vexatious or repeated complaints and will report any concerns regarding abuse of the process to the Audit and Governance Committee.

September 2012

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CHESHIRE EAST COUNCIL

AUDIT AND GOVERNANCE

STANDARDS HEARING AD-HOC SUB-COMMITTEE

Date of meeting: 14 November 2012
Report of: Borough Solicitor and Monitoring Officer
Title: Allegation of a Breach of the Model Code of Conduct
(Complaint CEC/2011/05 and CEC/2011/08)

1. Purpose of the Report

- 1.1 To enable the Hearing Sub-Committee to consider the Investigating Officer's report and to determine what action, if any should be taken.

2. Decision Required

- 2.1 The Sub-Committee is invited to consider the Investigating Officer's report in accordance with the hearing procedure and relevant legislation/guidelines in force at the time and determine whether or not there has been a breach of the Model Code of Conduct.

3. Introduction

- 3.1 This hearing arises out of allegations made by the Complainants Mrs Erica Partridge and Mrs Alex Stubbs (Complaint number CEC/2011/05 and Complaint Number CEC/2011/08) that the Subject Member Mrs Jill Waits, formerly of Bunbury Parish Council had breached the Model Code of Conduct, as adopted by that Council. The details of each case are set out in the report of the Investigating Officer attached.
- 3.2 Appendix C of the Investigating Officer's report refers to example emails from Mr James Walton. These documents have been withdrawn from the report at the request of the Complainant and have not been taken into consideration by the Investigating Officer in respect of his conclusions drawn.
- 3.3 The Sub-Committee has full powers delegated to it by the Audit and Governance Committee to determine this complaint and must deliver its verbal decision on the day of the hearing; to be followed by a written decision. In the event of an adverse finding, the Subject Member may appeal to the Audit and Governance Standards Appeals Panel.
- 3.4 The Sub-Committee is asked to note that the complaints were made and the investigation conducted under the provisions of the Local Government Act 2000 and the Standards (England) Regulations 2008. This legislation was repealed and replaced with the Localism Act 2011 under which this hearing will be conducted.

- 3.5 A copy of Cheshire East Council's Code of Conduct Complaints Procedure, adopted by Council on 19 July 2012 is also appended to the report (paragraphs 24 to 29 apply).

4. Hearing Procedure

- 4.1 The hearing procedure to be followed will be circulated at the meeting.

5. Complaint and Investigator's Report

- 5.1 A complaint was received on 21 November 2011 from the Clerk to the Parish Council, Mrs Alex Stubbs on behalf of the Chairman of the Parish Council, Councillor Erica Partridge alleging that Councillor Jill Waits may have breached the Model Code of Conduct (CEC/2011/05 refers). A further allegation of a potential breach of the Code against four members of Bunbury Parish Council, namely Councillor Waits, Councillor Sally Beard, Councillor David Ellis and Councillor Gary McCormack was received on 23 November 2011 again from the Clerk and on behalf of the Chairman (CEC/2011/08 refers).

- 5.2 The paragraphs of the Model Code of Conduct which the Complainants alleged the Subject Member (Jill Waits) had breached were -

<u>Paragraph</u>	<u>Conduct</u>
3(1)	You must treat others with respect
3(2)(b)	You must not bully any person
3(2)(d)	You must not compromise the impartiality of those who work for your authority
4(a)	You must not disclose confidential information
5	You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute'
7(1)(a)	You must have regard to any relevant advice provided by
7(1)(b)	your authority's chief finance officer and your authority's monitoring officer
9(1)	Govern disclosure of personal interests
12(1) 12(2)	Govern the effects of prejudicial interests on participation

- 5.3 As the complaints appeared to relate to linked or overlapping issues, the Assessment Sub-Committee of the Standards Committee considered the complaints as part of the same report on 24 January 2012, its decision being to refer the matters to the Monitoring Officer for investigation.

- 5.4 Mr Mike Dudfield was appointed to conduct the investigation and his report was submitted for consideration to the Hearing Consideration Sub-Committee of the Standards Committee on 25 June 2012. In accordance with Regulation 17 of the Standards Committee (England) Regulations 2008, where the Investigating Officer's findings were of no breach, two possible options were available to the Sub-Committee; an acceptance of no breach or to convene a hearing. However, where the finding was that a breach had occurred, the option of acceptance of no breach was not available.

- 5.5 Having taken into account the report's contents and Members' obligations under the Regulations, together with relevant Guidance issued by Standards for England, the Sub-Committee's decision was that it concurred with the conclusions of the Investigating Officer in that –

- a) the Subject Member had failed to comply with paragraphs **9(1)**, **12(1)(a)** and **12(1)(a)(ii)** of the Model Code of Conduct; and
- b) there had been no failure to comply with paragraphs **3(1)**, **3(2)(b)**, **3(2)(d)**, **4(a)**, **5**, **7(1)(a) & (b)**, **12(1)(c)** of the Model Code of Conduct

and that a hearing should be convened to consider the matters at (a) above.

- 5.6 No further action will therefore be taken in respect of the paragraphs listed in paragraph 5.5(b) above. The Sub-Committee is only required to determine the allegations in respect of the paragraphs listed in 5.5(a).

6. Parties attending the Hearing

- 6.1 The Subject Member has confirmed that she will not be present at the meeting but has requested that a short statement be read out on her behalf. The Monitoring Officer has agreed to this request.
- 6.2 The Complainants have been notified of the date of the hearing but have intimated that they do not wish to be present. There is no power to compel any party to attend.
- 6.3 The Investigating Officer will be in attendance but does not intend to call any witnesses.

7. Matters for Determination

- 7.1 The Sub-Committee needs to determine whether or not it is satisfied that a breach of the Model Code of Conduct has occurred in respect of paragraphs 9(1), 12(1)(a) and 12(1)(a)(ii) of the Code.

8. Decision and Sanctions

- 8.1 If, having considered the matter, the Sub-Committee finds that the Subject Member has not breached the Model Code of Conduct, no further action will be taken.
- 8.2 If a breach is found, the Member's Parish Council would be the body to determine what, if any sanction should be applied. It should be noted that the Parish Council has no power to impose a sanction against a person who is no longer a member of it.
- 8.3 The sanctions available to the Sub-Committee are -
- (1) Formal censure e.g. through a motion;
 - (2) Send a formal letter to the Member;
 - (3) Recommend a course of action to the Members' Group Leader/ Town/Council;
 - (4) Report findings to Council/Town or Parish Council for information;
 - (5) Issue a press release of its findings in respect of the Member's conduct.

- 8.4 It should be noted that the Hearing Sub-Committee has no power to suspend or disqualify a Member or to withdraw allowances.

Officer: Caroline Elwood
Designation: Borough Solicitor and Monitoring Officer
Tel No. 01270 685882
Email: caroline.elwood@cheshireeast.gov.uk

CONFIDENTIAL

Cheshire East Council

Standards Committee Complaints CEC/2011/05 & 08

Report of an investigation by Mike Dudfield, acting as Investigating Officer,
into allegations concerning the conduct of former Bunbury Parish Councillor Jill
Waits

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 Jill Waits may be in breach of paragraphs 5, 12(1)(a) & (c) of the Bunbury Parish Council Members' Code of Conduct in that

(1) she attended a meeting on 26 August 2011 regarding the development of land off Wyche Lane, Bunbury, in which she had previously declared a personal and prejudicial interest; and

(2) she participated in the production and circulation of letters to residents regarding a planning application affecting that development which gave rise to incorrect impressions of the application.

2. A further allegation has been made by Mrs Alex Stubbs, again on behalf of Erica Partridge, that four Councillors are in breach of various provisions of the Bunbury Parish Council Members' Code of Conduct. In relation to Jill Waits it is alleged that she failed to comply with paragraphs 3(1), 3(2)(b) & (d), 4(a), 7(1)(a) & (b), 9(1) and 12 (1) of the Code of Conduct for Bunbury Parish Council in that

(1) emails sent to the then Clerk and Mrs Partridge did not show respect to these two persons and could be regarded as constituting bullying;

(2) emails sent to the then Clerk were seeking to compromise the impartiality of the Clerk;

(3) she may have disclosed confidential information;

(4) she failed to have proper regard to advice received from the Monitoring Officer; and

(5) she failed to declare 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 at a Council meeting on 13 December 2011.

3. This report deals with the first allegation and the second insofar as it relates to one of those four Councillors, Jill Waits. Mrs Waits has since resigned as a Parish Councillor, on 20 March 2012.

In respect of the first allegation

4. I conclude that there has been **failure** by Jill Waits to comply with paragraph 12(1)(a) of the Code of Conduct for Bunbury Parish Council in that, at the meeting on 26 August 2011, Mrs Waits had a personal and prejudicial interest in the subject matter of that meeting, which was within the business of Bunbury Parish Council, did not declare that interest and remained for the duration of the meeting.
5. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 12(1)(c) of the Code of Conduct for Bunbury Parish Council in that, in her limited participation in the circulation of letters to residents regarding a

planning application affecting the development off Wyche Lane, Bunbury, she was not conducting the business of the Council or acting, claiming to act or giving the impression that she was acting as a representative of the Council when that participation took place.

6. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 5 of the Code of Conduct for Bunbury Parish Council in that, her involvement in the circulation of letters to residents regarding a planning application affecting the development off Wyche Lane, Bunbury, which gave rise to incorrect impressions of the application, and her subsequent request to the Council on 11 August 2011 to convene a public meeting to clarify the impressions that residents had, rightly or wrongly, regarding the nature of the planning application was not conduct which could reasonably be regarded as bringing her office as Councillor or the Parish Council into disrepute.

In respect of the second allegation

7. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 3(1) of the Code of Conduct for Bunbury Parish Council in that, in email correspondence to Erica Partridge during 2011, she did not fail to treat others, with respect.
8. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 3(2)(b) of the Code of Conduct for Bunbury Parish Council in that, in email correspondence to Mrs Alex Stubbs and Mrs Partridge during 2011 and her general conduct towards Mrs Stubbs and Mrs Partridge during the same period, she did not bully Mrs Stubbs and/or Mrs Partridge.
9. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 3(2)(d) of the Code of Conduct for Bunbury Parish Council in that, her conduct towards the then Parish Clerk, Mrs Stubbs, did not seek to compromise the impartiality of Mrs Stubbs.
10. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 4(a) of the Code of Conduct for Bunbury Parish Council in that, she did not breach confidentiality on 22 December 2011 when advising other Parish Councillors of the first complaint.
11. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 7(1)(a) & (b) of the Code of Conduct for Bunbury Parish Council in that, she did not fail to have regard to relevant advice given by the Monitoring Officer on 22 November 2010 and 30 November 2011.
12. I conclude that there has been **failure** by Jill Waits 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 close association with James Walton whose well-being or financial position might reasonably have been regarded as being affected when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury.
13. I conclude that there has been **failure** by Jill Waits 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 close association with James Walton who had a beneficial interest in Edinbane, 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.

14. 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

15. On 24 January 2012, Cheshire East Council's Standards Assessment Sub-Committee decided to refer the allegations made against then Councillor Waits to the Monitoring Officer for investigation under section 57A(2) of the Local Government Act 2000.
16. 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.
17. The Standards Committee (England) Regulations 2008 apply to this investigation.

Relevant Paragraphs of the Code of Conduct

18. 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).*”
19. Paragraph 3(1) states -

 “You must treat others with respect.”
20. Paragraph 3(2) states -

 “You must not -

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

 (b) bully any person;

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

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

21. Paragraph 4 states -

"You must not -

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is -
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) *(not applicable to this case)*"

22. Paragraph 7(1) states -

"When reaching decisions on any matter you must have regard to any relevant advice provided to you by -

- (a) your authority's chief finance officer; or
- (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties."

23. Paragraph 8 states -

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

- (a) *(not applicable in this case)*; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of -
 - (i) & (ii) *(not applicable to this case)*
 - (iii) other council tax payers, ratepayers or inhabitants of your authority's area

8(2) In sub-paragraph (1)(b), a relevant person is -

(a) any person with whom you have a close association;

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

24. 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).*"

25. 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).*"

26. 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

- 27. Jill Waits was co-opted on to Bunbury Parish Council on 21 April 2010 and remained a Parish Councillor until her resignation on 20 March 2012. Her partner, James Walton, was the owner of Edinbane, Wyche Lane, Bunbury but Mrs Waits acquired a half interest in the property during December 2011
- 28. Mrs Waits has not undertaken any training on the Code of Conduct.

The Evidence Obtained

- 29. I have interviewed -
 - the complainant Erica Partridge; and
 - Jill Waits.

Allegations by Erica Partridge

Background

- 30. Although the complaint forms (Appendices A & B) 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 and has indicated in her statement (Appendix D) that she does not wish to proceed with the complaints in respect of any matters other than those relating to personal and prejudicial interests. I have explained to Mrs Partridge that once a complaint has been referred for investigation, the investigation will be completed and it will be for the Standards Committee to decide how it wishes to deal with the report of the investigation.
- 31. The complaints relate to conduct associated with 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, Edinbane,

which is occupied by Mrs Waits and Mr Walton is the property numbered 1. 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.

32. 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, 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.
33. 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 3 & 4 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. Mrs Waits was not present at that meeting and she was advised of a summary of the advice the following day by email (although a full copy was not sent to her until it was circulated to all Parish Councillors on 26 September 2011).
34. 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 when required. On occasions the meetings were in public, but where commercial confidentiality was involved, the business of the meeting was conducted as exempt business. From that meeting until the meeting in November 2011, inclusive, Mrs Waits declared a personal and prejudicial interest when she was present at meetings and left the room.
35. 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. This was in August 2011

and the planning application appears to have been the catalyst for the escalation of concern and the increase in the number of emails being sent between the Clerk, Mrs Partridge, certain Councillors and Mr Walton.

The first allegation

36. This has two strands. At the time that the planning application for the amended access way was submitted, there was already some public concern as to what Muir were doing and why the development was not proceeding. The planning application threw up another issue and seemed to suggest a change of the overall plans for the whole field, even though Muir's contractor had possession of the site. On 05 August 2011, Mr Walton sent a letter to local residents in which he stated that if the application was passed it would open up the field behind the development to a major development of perhaps up to 50 houses.
37. Whilst the letter was sent in Mr Walton's name, Mrs Partridge is aware that Mrs Waits delivered some of the letters and believes that Mrs Waits is associated with the letter. Mrs Partridge accepts that she has no direct evidence that Mrs Waits was involved in the drafting of the letter but finds it difficult to believe that she was not aware of its contents. At the following Council meeting, 09 August, Mrs Waits proposed a public meeting 'to clarify the impressions that residents, rightly or wrongly, hold regarding the nature of the application'.
38. Mrs Partridge questions whether Mrs Waits' involvement in the distribution of the letter and the subsequent address to the Council is in breach of paragraphs 5 or 12(1)(c) of the Code.
39. The second issue is that Mr Walton, as a resident, contacted the Cheshire East Ward Councillor, Councillor Michael Jones, expressing his concern at the intentions behind the planning application. Councillor Jones convened a meeting to which were invited representatives of Cheshire East Planning, Muir, the Parish Council and Mr Walton and another resident. The meeting was held on 26 August 2011. Mrs Partridge was unable to attend and, although she asked all the other Councillors (other than the Wyche Lane ones) no-one was able to attend on behalf of the Parish Council.
40. Mrs Partridge subsequently received the notes of the meeting from Mrs Waits and found that Mrs Waits had accompanied Mr Walton, as a local resident, notwithstanding her previous declarations of a personal and prejudicial interest in the subject matter at Parish Council meetings. Mrs Partridge questions whether Mrs Waits' attendance at the meeting was in breach of paragraph 12(1)(a) of the Code.

The second allegation

41. It will be seen from the documentation attached to the form of complaint (Appendix B) 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 B) and the second headed 'Comments relating to Councillor ...'. There is a separate set of 'Comments' for each then Councillor and those relating to Mrs Waits are attached at Appendix C.

42. In the complaint Mrs Partridge says that Mrs Waits has sent emails displaying a lack of respect for other councillors and suggesting they resign which she believes contravenes paragraph 3(1) of the Code. Mrs Partridge also says that she considers the emails that Mrs Waits has sent to Mrs Stubbs, when coupled with those sent by Councillor McCormack to Mrs Stubbs are bullying. In relation to herself, Mrs Partridge says that the combination of emails from Mrs Waits and Mr Walton have been threatening and bullying which has made the whole situation disturbing to her.
43. Mrs Partridge claims that the emails from Mrs Waits to other councillors appear to be seeking to influence the decision of those councillors in relation to the appointment of the new Parish Clerk, Councillor Dykes and the declarations of interest. Specific reference is made to the email from Mrs Waits on 22 December 2011 advising all Parish Councillors of the fact that she had been reported to Cheshire East Standards Committee for breaching the Code, which she believes was sent in breach of confidentiality. (Appendix C first batch of emails page 1)
44. Having obtained two sets of advice from the Deputy Monitoring Officer at Cheshire East, Mrs Partridge feels that Mrs Waits should have had proper regard to that advice before changing position on the question of declaration of interest in respect of the Muir development and her failure to do so is in breach of paragraph 7.
45. At the Council meeting on 13 December 2011, under the agenda item 'Declaration of Interests', Mrs Partridge says that she specifically asked Mrs Waits whether, having considered the second advice from Julie Openshaw, she had any declaration to make. She said 'no', she was happy with her position. When the Parish Council reached the item on Muir, Mrs Waits raised a motion requesting that planning application 11/2423N be re-visited to include the formerly excluded councillors and this was passed. Mrs Waits then addressed the meeting during a discussion on the issues concerning the amendment planning application. Although the minutes do not record the voting Mrs Partridge recalls that Mrs Waits was one of the two who voted against the decision.
46. Mrs Partridge believes that Mrs Waits has a personal interest through the location of the property that she occupies with Mr Walton to the site and probably has a prejudicial interest. As she declared no interest she believes that Mrs Waits is in breach of paragraph (9)(1) and probably also paragraph 12(1)(a).

Response from Mrs Jill Waits

The first allegation

47. Mrs Waits says that when James Walton was the only resident who could attend the meeting on 26 August 2011, she thought long and hard about attending but decided to support Mr Walton as a local resident. She made this clear to everyone present, which is confirmed by the notes of the meeting, and only contributed on one occasion to the actual discussion. Mrs Waits accepts now that she should not have attended the meeting in the light of her previously declared personal and prejudicial interest in the subject matter of the

discussions.

48. She says that she did not attend the meeting on 26 August with the intention of seeking to influence a decision on Council business and, as it turned out, she could not have as no Parish Council representatives were present.
49. The letter that was sent by Mr Walton at the beginning of August 2011 to local residents was solely his and Mrs Waits says that she had no part in its preparation. All she did was deliver a small number. She did not knock on doors or seek to encourage residents to support Mr Walton's stance, she simply delivered a few letters. In requesting the Parish Council to hold a public meeting on 09 August, she was simply making a point to the Parish Council that residents were concerned regarding the intentions behind the planning application. The whole issue was not the strategic affair suggested by Mrs Partridge.

The second allegation

50. The first paragraph of the Code raised by Mrs Partridge is paragraph 3(1) - treating others, fellow Councillors, with respect. Mrs Waits says that there is only one specific critical reference to her fellow councillors in the three sets of emails relevant to her involvement and that is an email of 18 October 2011. (Appendix C second batch of emails pages 3 & 4) Mrs Waits points out that the email was copied to all the Parish Councillors and none of them has responded to suggest they were upset by the comments. Mrs Waits acknowledges that she was upset when she was forwarded an email from Parish Councillor Nick Parker to Borough Councillor Michael Jones (see Appendix P in the bundle of documents attached to Appendix E) which, she says contains far worse and less respectful words than those in her email of 18 October. Mrs Waits sees nothing wrong in her email and says that it is a reasonable opinion which she was entitled to hold.
51. Mrs Waits says that no evidence has been produced by Mrs Partridge to support the allegations of bullying Mrs Stubbs or Mrs Partridge and she categorically denies working with Councillor McCormack or Mr Walton in the emails that have been sent by any of them to either person. Any emails that she has sent have been of her own volition.
52. In relation to the Clerk, Mrs Waits acknowledges that she did send emails querying certain matters regarding the obtaining of the initial advice from Cheshire East Monitoring Officer because some of the 'factual' statements relating to her were not correct. As a result, Mrs Waits felt that she had been persuaded, wrongly, to make declarations of interest which were not required. The responses she received led to further questions regarding Parish Council procedures which, again, she says that she had the right to question in a proper manner.
53. On confidentiality, Mrs Waits says that the initial correspondence from Cheshire East did not have any 'confidentiality' heading and that she has, therefore, not breached any confidentiality. In relation to the advice from the Deputy Monitoring Officer, Mrs Waits says that she did have regard to it but when she actually had sight of the advice, she believed that it was flawed. In addition the advice states that it relates to the strip and the planning application related to the development site. Having considered the second advice, she

concluded, wrongly as she now accepts, that she did not need to declare an interest in the planning application item before the Parish Council on 13 December 2011. However, she says that she did have regard to both sets of advice and cannot, therefore be in breach of paragraph 7.

54. Mrs Waits says that she did not purchase an interest in Edinbane, Wyche Lane, until the end of December 2011. At the time she thought the fact of ownership made a difference to her position but she now accepts that the fact that she lived at Edinbane with Mr Walton and that he comes within the definition of 'close associate' in paragraph 8(2)(a) of the Code means that she had a personal interest all the time. Mrs Waits was also influenced by correspondence received by Mr Walton from Cheshire East Planning setting out their neighbour consultation policy which has more restricted parameters than the Code of Conduct but now accepts that this policy does not influence the interpretation of the Code. Mrs Waits accepts that she should have declared a personal interest on 13 December 2011.
55. With regard to whether or not that personal interest was also a prejudicial one, Mrs Waits now understands the test in paragraph 10(1) and accepts that, given the role she played in that meeting and the remarks she made, a member of the public with knowledge of the relevant facts would reasonably regard her interest as likely to prejudice her judgement. She also understands that there may be matters relating to the development site, the strip or the field where a personal interest would be declarable but not necessarily a prejudicial one. She says that no-one has previously tried to differentiate between the two.
56. Mrs Waits is also critical that the issues concerning interests was allowed to continue in the manner in which they did for 12 months without steps being taken to resolve the matter. She says the feelings set out in the emails has resulted from the situation remaining unresolved.

Facts

57. There is no dispute as to the following matters -
 - (1) the various emails attached as Appendices or part Appendices to this report were sent and received by the persons identified in them;
 - (2) Mrs Waits attended a meeting at Cheshire East offices on 26 August 2011 regarding the development at Wyche Lane, Bunbury and indicated to the meeting that she was there as a local resident even though she was also a Parish Councillor;
 - (3) prior to the meeting on 26 August 2011, Mrs Waits had declared a personal and prejudicial interest at 2011 meetings of the Parish Council when aspects of the development site at Wyche Lane or the land behind had been considered; and
 - (4) Mrs Waits attended the meeting of the Parish Council on 13 December 2011. She did not declare an interest in any item on the agenda of that meeting. When the amended planning application came to be considered, Mrs Waits moved that the previous decision of the Council be reconsidered and then spoke during the

reconsideration debate. She then voted against a motion to continue with the Parish Council's previous comments on the application.

58. There is only one factual matter that is in dispute and that relates to the action of Mrs Waits in relation to the letter of 05 August 2011 in the name of James Walton which was delivered to local residents. Mrs Partridge draws conclusions of the involvement of Mrs Waits in that the letter was from her partner, she was involved in delivering the letters to local residents, the content of the letter was misleading, and she then, at the Council meeting on 09 August, sought a public meeting to clarify the concern of local residents arising from the misunderstanding.
59. Mrs Waits denies that she was involved in the drafting of the letter although she accepts that she delivered a number of the letters to help her partner. When residents started to raise questions on the planning application, as she was not entitled to take part in any debate at Council meetings because of her previously declared personal and prejudicial interest, she requested a public meeting to clarify the situation.
60. Although the conclusions that Mrs Partridge reaches are understandable, there is no evidence to support those conclusions. I therefore conclude, as fact, that Mrs Waits was not involved in the drafting of that letter and not responsible for its contents.

Application of the Code to the facts found

The first allegation

61. The first matter to determine is the application of the Code of Conduct. In relation to the meeting on 26 August, that meeting was convened by Cheshire East Councillor, Michael Jones in response to a written request from Mr Walton who was very concerned at the reasoning behind the amendment planning application. The meeting was not a public meeting and Bunbury Parish Council was invited to send representatives but was unable to do so.
62. Paragraph 2(1) of the Code sets out two generic scenarios where the Code is in play -
 - (a) conducting the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) acting, claiming to act or giving the impression you are acting as a representative of your authority.

There is an argument that in attending the meeting Mrs Waits was not conducting the business of the Council, as she was not there as a representative of the Council and as she was there as a local resident, along with another local resident, and had indicated the capacity in which she was there, she cannot be said to have been acting, claiming to act or giving the impression that she was acting as a representative of the Council. However, the counter argument is that the Parish Council had been invited to the meeting and the subject matter of the meeting was business that would be considered by the Parish Council. The fact that no representative of the

Council was present is not relevant. The meeting was still part of the business of the Council and when that matter fell to be considered by the Council, Mrs Waits would be declaring a personal and prejudicial interest in that business, as she had done at Council meetings prior to the 26 August.

63. In my view the counter argument, marginally, carries more weight. As the notes of the meeting (Appendix A 17th & 18th pages) express, Mr Walton and Mrs Waits had concerns regarding the effect of the removal of the planning condition and the use to which the amended access way could be put. They were there to make representations to Cheshire East planners about the potential decision to approve the application. Whilst Mr Walton was fully entitled to be there, Mrs Waits was on record as having a personal and prejudicial interest in the planning application and her participation would be perceived to be in conflict with that. I therefore conclude that Mrs Waits was engaged in conducting the business of the Council when she attended that meeting.
64. Consequently Mrs Waits should not have attended the meeting, a fact she now accepts. I therefore conclude that there has been failure by Jill Waits to comply with paragraph 12(1)(a) of the Code of Conduct for Bunbury Parish Council in that, at the meeting on 26 August 2011, Mrs Waits had a personal and prejudicial interest in the subject matter of that meeting, which was within the business of Bunbury Parish Council, did not declare that interest and remained for the duration of the meeting.
65. In relation to the letter of 05 August 2011, I have found as fact that Mrs Waits was not involved in the drafting of that letter and not responsible for its contents. In delivering the letter to some of the local residents Mrs Waits was simply assisting her partner. Neither matter is covered by the scenarios in paragraph 2(1) of the Code.
66. I conclude that there has been no failure by Jill Waits to comply with paragraph 12(1)(c) of the Code of Conduct for Bunbury Parish Council in that, in her limited participation in the circulation of letters to residents regarding a planning application affecting the development off Wyche Lane, Bunbury, she was not conducting the business of the Council or acting, claiming to act or giving the impression that she was acting as a representative of the Council when that participation took place.
67. Mrs Partridge also suggests that Mrs Waits' participation in the letter coupled with her request to the Council on 09 August was deliberate and had the effect of bringing her position or the Council into disrepute. In the light of my finding of fact, the request to Council on 09 August cannot be coupled to the publication of the letter from Mr Walton as an act which creates an element of disrepute.
68. I conclude that there has been no failure by Jill Waits to comply with paragraph 5 of the Code of Conduct for Bunbury Parish Council in that, her involvement in the circulation of letters to residents regarding a planning application affecting the development off Wyche Lane, Bunbury, which gave rise to incorrect impressions of the application, and her subsequent request to the Council on 09 August 2011 to convene a public meeting to clarify the impressions that residents had, rightly or wrongly, regarding the nature of the planning application was not conduct which could reasonably be regarded as bringing

her office as Councillor or the Parish Council into disrepute.

The second allegation

69. The basis of the evidence for the various parts of the second allegation are emails sent to the Parish Clerk, Mrs Partridge or other Parish Councillors and the Council meeting of 13 December 2011. All the emails from Mrs Waits appear to have been sent in her capacity as a councillor and the meeting was conducting business of the Council. Therefore, under paragraph 2(1)(a) of the Code Mrs Waits was conducting the business of the Parish Council in all matters contained in the second allegation.
70. The first three parts of this allegation relate to respect to fellow councillors, bullying of the then Clerk, Mrs Stubbs, bullying of Mrs Partridge and conduct likely to compromise the impartiality of those who work for or on behalf of the authority. The basis of these claims are founded on the email correspondence involving Mrs Waits, Mr Walton and Councillor McCormack on the one side and Mrs Stubbs and Mrs Partridge on the other.
71. Mrs Partridge is a professional person and it is clear to me that her approach towards the role and responsibilities of the post of Chairman of the Parish Council were well-intentioned. In relation to the Muir development site and associated issues, Mrs Partridge considered the issues involved and, once a number of the Councillors had started to declare personal and prejudicial interests, ensured that the Muir business did not interfere with the other business of the Council. It is also clear to me that the history of the development site and adjoining land was a cause for concern within Bunbury, particularly for the residents of Wyche Lane.
72. As I have already said, the amendment planning application submitted in late July/early August became a catalyst to the on-going concerns that residents had regarding Muir's activities and general approach towards the development. The issues were also complicated by the fact that Councillor McCormack had since purchased the remainder of the field beyond the development site and the strip and Mrs Partridge felt that there was a friendship between Councillor McCormack and Mr Walton and Mrs Waits which was influencing their approach towards the issues.
73. Two specific things happened. The level of email correspondence increased, far beyond the capacity of the Clerk in terms of her contracted hours. Secondly the tone of the emails also changed - when I interviewed another former Councillor in connection with a parallel complaint, he used the word 'vitriolic'. During this period, the original advice from the Deputy Monitoring Officer was circulated and the manner in which this had been obtained and its specific application gave rise to further emails and complaints about the manner in which it was procured. It is clear both Mrs Stubbs and Mrs Partridge were becoming concerned at the ability of the Parish Council to deal with the barrage of emails and the extent of their requirements. Mrs Stubbs had already made up her mind that she no longer wanted to continue in post and she gave notice terminating her employment. To a certain extent this left Mrs Partridge exposed and it was the continual email barrage that gave rise to her request to Mrs Stubbs to submit the complaint to the Standards Committee.
74. Turning to the specific issues, the first is an allegation of a failure by Mrs Waits

to respect her fellow Councillors. Mrs Partridge says that the suggestion in the email of 18 October 2011 (Appendix C second batch of emails pages 3 & 4) shows a lack of respect. This is the only email to which I have been referred in relation to this allegation. Mrs Waits says that it is an honest opinion which she is entitled to have and she compares it to an email sent by Parish Councillor Parker to Borough Councillor Michael Jones on 30 September 2011 (Appendix E - appendix P) which, she says, is far worse than her email

75. My view, very simply, is that if anyone has reason to be upset by the contents of that email, it would be Mrs Stubbs. It is critical of her previous actions and some may regard the tone as being sarcastic. I find nothing wrong with Mrs Waits' comments regarding her fellow Councillors.
76. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 3(1) of the Code of Conduct for Bunbury Parish Council in that, in email correspondence to Erica Partridge during 2011, she did not fail to treat others, namely fellow Councillors, with respect.
77. Mrs Stubbs has not made any allegation of bullying against Mrs Waits, whereas Mrs Partridge puts forward that allegation in relation to the then Clerk and herself. Whilst the Sub-Committee has Mr Walton's emails appended (Appendix C third batch of emails) I am unable to sufficiently correlate those emails to the ones from Mrs Waits in a manner which suggests collusion and a campaign to remove the Clerk and Mrs Partridge. The emails do cover the same issues but that is unsurprising. The tone of the email exchanges shows that both 'sides' were becoming entrenched. I can understand Mrs Partridge feeling that what was happening was not why she had agreed to be a Parish Councillor and I can see that this has led to her decision to resign. However, I cannot take into account Mr Walton's emails and there is insufficient adverse commentary in Mrs Waits' emails for me to conclude that there has been a campaign of bullying against either Mrs Stubbs or Mrs Partridge by Mrs Waits. Councillors and Council employees must, from time to time, expect a degree of criticism.
78. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 3(2)(b) of the Code of Conduct for Bunbury Parish Council in that, in email correspondence to Mrs Alex Stubbs and Mrs Partridge during 2011 and her general conduct towards Mrs Stubbs and Mrs Partridge during the same period, she did not bully Mrs Stubbs and/or Mrs Partridge.
79. The next issue is paragraph 3(2)(d) of the Code. This refers to a Member doing anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority. Mrs Partridge refers in the complaint to some emails to other councillors from Mrs Waits seeking to influence their decision in relation to the Parish Clerk, Councillor Dykes and also their declarations of interest. In my opinion, this sub-paragraph only covers employees of the Council and it is only those relating to the Parish Clerk that need to be considered under this heading. Having considered all the emails that I have from Mrs Waits, whilst there is criticism, justified or not, I find nothing to suggest that the Clerk was being coerced into a compromised position.
80. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 3(2)(d) of the Code of Conduct for Bunbury Parish Council in that,

her conduct towards the then Parish Clerk, Mrs Stubbs, did not seek to compromise the impartiality of Mrs Stubbs.

81. On 22 December 2011, Mrs Waits sent an email to Mrs Stubbs (Appendix C first batch of emails page 1) which she copied to all the other Parish Councillors and Borough Councillor Michael Jones advising them of the receipt by Cheshire East Monitoring Officer of the first complaint. Mrs Waits says that the letter from Cheshire East did not have a confidentiality heading and she has done nothing wrong in sending the email. Mrs Partridge says that she has breached the confidentiality of the complaints procedure. As the letter was not marked confidential Mrs Waits has not breached paragraph 4(a) of the Code.
82. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 4(a) of the Code of Conduct for Bunbury Parish Council in that, she did not breach confidentiality on 22 December 2011 when advising other Parish Councillors of the first complaint.
83. Mrs Partridge alleges that Mrs Waits has not had regard to relevant advice provided by Cheshire East's Monitoring Officer, namely the emails of 22 November 2010 and 30 November 2011 from the Deputy Monitoring Officer. Mrs Waits says that she has had regard to these emails. In respect of the first she feels that, in relation to her position, it was based on false information and in any event only related to business concerning the strip of land and not the development site, and, in relation to the second, that it enabled her to participate in the debate on 13 December 2011.
84. I am not sure that paragraph 7(1)(b) of the Code is meant to relate other than to the giving of advice by the Monitoring Officer, in that capacity, to Council, Committees, Sub-Committees, etc of principal authorities. In my opinion, the paragraph does not relate to advice given to a Parish Council about a particular situation regarding individual interests. Even if it does, Mrs Waits did have regard to the two emails although she reached the wrong conclusion.
85. I conclude that there has been **no failure** by Jill Waits to comply with paragraph 7(1)(a) & (b) of the Code of Conduct for Bunbury Parish Council in that, she did not fail to have regard to relevant advice given by the Monitoring Officer on 22 November 2010 and 30 November 2011.
86. One of the items of business on the agenda of the Council meeting on 13 December 2011 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. At the date of the meeting, Mrs Waits had a close association with James Walton, the owner of Edinbane, Wyche Lane, whose well-being or financial position might reasonably have been regarded as being affected by that item of business. Consequently Mrs Waits had a personal interest in the item of business under paragraph 8(2)(a) of the Code. Having such an interest, Mrs Waits 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.
87. I conclude that there has been **failure** by Jill Waits 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 close association with James Walton whose well-being or financial position might reasonably have been regarded as being affected when the Council was considering a planning application relating to an amended access way to proposed development of land off Wyche Lane, Bunbury.
88. 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 their 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 financial position of the Member or a relevant person which includes a close associate of the Member.
89. In this case Mr Walton owned Edinbane, Wyche Lane, and had made a written objection to Cheshire East Planning which clearly set out his concern regarding the implications should the amended planning application be approved. He had also made personal representations at the meeting with Muir and the Planners on 26 August 2011. Mrs Waits acknowledges the situation gave rise to a prejudicial interest and that she should have stated that, not participated at all in relation to the item and left the meeting.
90. I conclude that there has been **failure** by Jill Waits 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 close association with James Walton who had a beneficial interest in Edinbane, 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.

Response to Draft Report

91. I have received responses from both Mrs Partridge and Mrs Waits and these, and my reply to each, are attached at Appendices G & H.

Finding

92. 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 in relation to the first allegation with supporting documentation
- Appendix B Copy complaint form from Mrs Alex Stubbs and 'Query to Monitoring Officer re Bunbury Parish Councillors and Potential Breach of Code of Conduct' in relation to the second allegation
- Appendix C Comments from Mrs Partridge and emails relating to Jill Waits (these emails are under three headings - emails regarding declarations of interest; emails regarding other Councillors; and James Walton example emails
- Appendix D Copy statement from Erica Partridge dated 20 February 2012
- Appendix E Copy letter from Jill Waits dated 26 February 2012 and appendices
- Appendix F Copy statement from Jill Waits dated 20 March 2012
- Appendix G Copy email response to draft report from Mrs Partridge dated 08 April 2012 and my reply dated 11 April
- Appendix H Copy email response to draft report from Mrs Waits dated 09 April 2012 and my reply dated 11 April.

COMPLAINT FORM

Code of Conduct – Borough, Parish/Town Councillors and Co-opted Member(s). Please see attached explanatory notes.

Your details-

1. Please provide us with your name and contact details. (See Explanatory Notes attached)

Title:	MRS
First name:	ALEXANDRA
Last name:	STUBBS
Address:	10 COPPERFIELDS TARPOLEY CHESHIRE CW6 0UP
Daytime telephone:	01829 733252
Evening telephone:	01829 733252
Mobile telephone:	07918 912541
Email address:	bunburyderk@aol.com

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted Member(s) of an Authority
- ☐ An independent Member(s) of the standards committee
- ☐ Member(s) of Parliament
- ☐ Local Authority Monitoring Officer
- ☐ Other Council Officer or employee of the Council
- ☒ Other - please specify (PARISH CLERK)

3. **Making your complaint** (See Explanatory Notes attached.)

Please submit to -

The Monitoring Officer, Cheshire East Council, Westfields, Middlewich Road, Sandbach, CW11 1HZ.

How to make a complaint

You must make your complaint in writing (either typed or hand-written). This complaint form has been produced in order to help you make your complaint but you do not have to use it. Once you have made your complaint, you will be told in writing what will happen to it.

Timeframe

Unless there are exceptional circumstances, events which took place more than 12 months prior to the complaint being submitted, will not normally be investigated.

4. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their Authority:

Title	First name	Last name	Council or Authority name
MRS	JILL	WAITS	BUNBURY PARISH

5. Please explain in this section (or on separate sheets) what the Member(s) has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done which you believe breaches the Code of Conduct. (See *Explanatory Notes attached.*)

Please provide us with details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Please see my letter dated 15th October 2011 + associated documents and emails.

6. Only complete this section if you are requesting that your identity is kept confidential

In the interests of fairness and natural justice, the Council believes that Member(s) who are complained about have a right to know who has made the complaint. The Council also believes they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason. (*See Explanatory Notes attached.*)

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

7. Additional Help

As noted in paragraph 3 above (Making Your Complaint), complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please contact Diane Moulson (Tel: 01270 686476).

BUNBURY PARISH COUNCIL

10 Copperfields, Tarporley, Cheshire, CW6 0UP. Telephone 01829 733252
Email : bunburyclerk@aol.com

The Monitoring Officer
Cheshire East Council
Westfields
Middlewich Road
Sandbach
CW11 1HZ

15th October 2011

Re: Breach of Code of Conduct

I have been asked to contact you by my Chairman, Cllr. Erica Partridge, who is concerned that one of the Councillors on Bunbury Parish Council, Cllr. Jill Waits is in serious breach of the Code of Conduct. She has therefore asked me to refer the facts to you and the Standards committee for a determination on the matter.

With regards to Clause 12(c) of the Code of Conduct

Cllr. Waits has declared a personal and prejudicial interest in the matter of the potential acquisition of a piece of land by the Parish Council behind the proposed development by Muir Homes of 10 affordable houses on Wyche Lane, Bunbury. She has also declared a personal and prejudicial interest in planning application 11/2423N, recently submitted by Muir Homes to vary the conditions of their original planning application P07/0867 which affects this piece of land.

Subsequent to planning application 11/2423N, letters were posted through local residents doors claiming that 'if 11/2423N is passed this would open up the field behind the Muir site to a major development of perhaps up to fifty houses', when in fact it is an application to vary an access to enable the development of 10 houses which already has planning permission to proceed. The widespread anxiety created by this literature is known to the Parish Council and evident in statements included in objections to the application that residents are opposed to the building of 50 houses. Parish Councillors have also had many queries of the form 'when are they starting to build the 50 houses?'. Please see attached emails from 24th – 26th August outlining concerns raised by residents and a copy of the notice that the Parish Council placed on the noticeboard in an attempt to put calm residents fears.

Please find attached email dated 5th October in which Cllr. Partridge raised the question with Cllr. Waits of whether she had been involved with these letters as they had originated from her residence. Cllr. Waits replied dated 7th October with

a further communication from Cllr. Partridge dated 10th October and confirmation from Cllr. Waits that she had delivered some of the letters dated 14th October. Mr. James Walton, the partner of Cllr. Waits, also emailed dated 7th October.

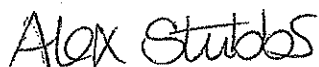
At the meeting of Bunbury Parish Council held on 11th August (see attached minutes), Cllr. Waits requested a public meeting to clarify the impressions that residents 'rightly or wrongly hold' regarding the nature of the application. It is now clear that she had herself circulated the literature giving rise to incorrect impressions of the planning application. These actions could also be said to be in breach of clause 5.

With regards to Clause 12(a) of the Code of Conduct

Cllr. Waits attended a meeting with the planning officer, Councillor Michael Jones, Mr. James Walton and representatives from Muir Homes. The purpose of the meeting was to discuss the planning application in which Cllr. Waits had declared a personal and prejudicial interest. Councillor Jones had invited Mr. James Walton and 'another resident' to attend the meeting but Cllr. Waits attended with her partner. She disclosed attendance at the meeting as per the attached email dated 31st August 2011 and included her notes from that meeting also attached.

Please do not hesitate to contact me if you require any further information.

Yours sincerely



Alex Stubbs
Clerk to Bunbury Parish Council

Neil and Alex Stubbs

From: "Partridges" <ep.partridges@btinternet.com>
To: "Alex Stubbs" <bunburyclerk@aol.com>
Sent: 16 October 2011 21:07
Subject: Fw: Rumours abound around Wyche Lane
From: B DYKES
To: Partridges ; Bunburyclerk@aol.com
Sent: Friday, August 26, 2011 12:01 AM
Subject: Re: Rumours abound around Wyche Lane

Evening Erica and Alex

I agree just a simple Notice for the Parish Notice Board is sufficient, the residents of Bunbury know that the Parish Notice Board is there to keep everyone informed.

Regards

Brian

From: Partridges <ep.partridges@btinternet.com>
To: Bunbury Parish <Bunburyclerk@aol.com>; Brian Dykes <b.dykes@btinternet.com>
Sent: Wednesday, 24 August, 2011 19:37:51
Subject: Re: Rumours abound around Wyche Lane

Hi Alex

I think we should just put a large notice in the notice board but I am happy to go with a circulation if you and Brian think it will help.

Regards
Erica

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

From: Bunbury Parish
To: Erica Partridge ; Brian Dykes
Sent: Wednesday, August 24, 2011 7:15 PM
Subject: Rumours abound around Wyche Lane

Hi Both

David Ellis rang me this morning to say that he had been stopped by 3 people in the village who wanted to know about the 50 houses being built at Wyche Lane. He says that he thinks he knows where this rumour originates.

He wondered if the Parish Council should put out a notice correcting the rumour.

My personal view is that if people don't read the minutes on the board, they probably won't read a correction either but I'm happy to put something up if required.

17/10/2011

What do you think? Do you think we need to go as far as a mail drop in the village basically saying the same thing as the minutes? We could do this easily if I printed them and then councillors helped to deliver.

Regards
Alex

BUNBURY PARISH COUNCIL

DEVELOPMENT OF

AFFORDABLE HOMES ON

WYCHE LANE

Muir Homes have planning permission to build 10 affordable homes on their site at Wyche Lane. They have NO further plans for any future development on this site.

Bunbury Parish Council are in the process of taking a 10 year option to buy the land immediately behind the planned 10 homes so that consultation with residents of Bunbury can take place regarding it's future use.

Further information regarding the consultation process will be announced in the next few months, but if you would like any further information on this matter or would like to put forward a suggestion for the future use of the Parish Council strip please contact the clerk:

Alex Stubbs
Clerk to Bunbury Parish Council
10 Copperfields
Tarporley
CW6 0UP
email: bunburyclerk@aol.com
tel : 01829 733252

Neil and Alex Stubbs

From: "Partridges" <ep.partridges@btinternet.com>
To: "Jill Waits" <jillwaits@yahoo.co.uk>
Cc: "Alex Stubbs" <bunburyclerk@aol.com>
Sent: 05 October 2011 10:48
Subject: letter re housing ?
Dear Jill

A matter has come to my attention which, as Chairman, I am obliged to clarify with you to establish the involvement of a Parish Councillor in the matter below.

I understand that a letter was put through the doors of Wyche Lane residents asking if they want to see 50 houses built behind the houses on Muir Lane and that this would be the consequence if planning application 11/2423N is approved and they need to object to the planning application to prevent this happening. It has also been mentioned that you were seen delivering these letters.

Can you please let me know :

- did you write these letters ?
- did you print them for circulation ?
- did you deliver these letters ?
- did you receive one of these letters ?

Apologies for bothering you individually if this is not the case but as you have been specifically mentioned I thought it best to ask you first before asking Alex to make enquiries of all the Parish Councillors.

I look forward to hearing from you.

Yours sincerely

Regards
Erica Partridge
Chairman, Bunbury Parish Council

15/10/2011

Neil and Alex Stubbs

From: "Partridges" <ep.partridges@btinternet.com>
To: "Alex Stubbs" <bunburyclerk@aol.com>
Sent: 07 October 2011 10:45
Subject: Fw: letter re housing ?
From: jill waits
To: Partridges
Sent: Thursday, October 06, 2011 7:05 PM
Subject: Re: letter re housing ?

Dear Erica,

I have just returned from working in Worcester and found your email. The answer to your questions is as follows:

- did you write these letters ? No, I did not
- did you print them for circulation ? No, I did not
- did you deliver these letters ? I delivered a small number when we were out walking the dogs, as a help to James. I help him to deliver party political leaflets from time to time, as he helps me to deliver letters for the Playing Fields Committee. I see this as normal behaviour between a couple.
- did you receive one of these letters ? No

As I have explained to you before James and I are our own people and do what we will without influence from the other party. We may live together under one roof, but we have two heads, not one. I have no control over James and what he does or says and would not wish to, as I would expect him to afford me the same freedom of action.

I'm not sure where your email is going, but can assure you that nothing James does is driven by me or vice versa. I hope that makes things clear.

See you on Tuesday at 7.30pm.

Regards,
Jill

Neil and Alex Stubbs

From: "Partridges" <ep.partridges@btinternet.com>
To: "Alex Stubbs" <bunburyclerk@aol.com>
Sent: 14 October 2011 09:33
Subject: Compliance with Code of Conduct

From: jill waits
To: Partridges
Sent: Thursday, October 13, 2011 9:21 AM
Subject: Re: letter re housing ?

Dear Erica,
Thanks for your email. It may well clarify matters that if my memory serves me right I recall I delivered 2 letters for James in total.
Regards,
Jill

From: Partridges <ep.partridges@btinternet.com>
To: jill waits <jillwaits@yahoo.co.uk>
Sent: Monday, 10 October 2011, 11:48
Subject: Re: letter re housing ?

Dear Jill

Thank you for responding to my query and I note the points you have raised. I also note that you state all your actions are taken independently and you take full responsibility for them.
The Code of Conduct makes it clear when and how Parish Councillors must consider their prejudicial interests in relation to other actions they may take and Standing Orders dictate how such matters are to be dealt with so I will proceed accordingly.

Regards
Erica

17/10/2011

Neil and Alex Stubbs

From: "James E Walton" <james@apogee-relocation.com>
To: <ep.partridges@btinternet.com>
Cc: "BunburyClerk" <bunburyclerk@aol.com>
Sent: 07 October 2011 10:16
Subject: My letter of 5th August 2011
Dear Erica,

As a result of your communication with Jill regarding my letter of 5th August 2011, I feel that it is incumbent upon me to explain the chronological order of events.

I became aware that Muir Group Housing Association (MGHA) had submitted a variation to P07/2575N on or around 2nd August 2011. I was asked for help by a worried elderly resident who had received communications from Cheshire East Planning on 27th July 2011, 29th July 2011 and finally 2nd August 2011. At that time I was unaware that anyone else had received these communications (subsequently I know now that only four properties had received them).

At that time Cheshire East Planning web site was experiencing difficulties, so was not available to others and me. The statutory Yellow Notification had not been put on the MGHA site entrance, the Parish Council were in recess, half the Bunbury residents were on holiday and to top off the confusion Cheshire East Planning issued a second variation to P07/2575N. With previous knowledge of MGHA modus operandi and my suspicion that Cheshire East Planning were working together with MGHA to smooth the way for the variation, and as no accurate information was available concerning the submitted variations and time was an issue (closing date for comment 24th August 2011) I embarked on a series of actions to bring this issue to your parishioners' attention.

I printed a letter on 5th August 2011 that had in it a sentence that read "If passed this would open up the field behind the Muir site that in some cases is behind your house to a major development of perhaps up to fifty houses." I printed off an initial run of twelve letters, and whilst delivering them I soon realised that most people that I spoke to around Wyche Lane, Wyche Road and Whitegates wanted a copy, so a further run of seventeen was produced and distributed most of which were delivered by me. Further to the distribution, your parishioners on Wyche Road and Wyche Lane copied and distributed further copies.

I now realise that I perhaps over-egged the pudding, however, I stand by the actions that I took and continue to take. As far as I am concerned we are nearing the end of the beginning of this process, but I shall continue to fight for the your parishioners who are desperately worried about MGHA and their intentions who have no representation on the Parish Council. A fight I might add, that should be being fought by Parish Councillors (not me) who are in my opinion are incorrectly barred from any discussion regarding MGHA.

We (not Jill) are in the process breathing new life into The Bunbury Residents Association, an association that is registered with Cheshire East as an interest group, due to the total lack of representation on the Parish Council.

Regards

James Walton
DDI 0044 (0) 1829 260195
Mob 0044 (0) 7971 818294

15/10/2011

**MINUTES OF A MEETING OF BUNBURY PARISH COUNCIL held at the Bunbury Village Hall on
Tuesday 9th August 2011.**

Present: Cllrs. E.Partridge (Chairman), B. Dykes, D.Ellis, M.Jones, E.Lord, N.Parker, J Waits

In Attendance: A. Stubbs – Clerk
M.Jones – Cheshire East

No members of the public were present.

Cllr. Michael Jones presented a photograph and letter from Cheshire East Council to Cllr. Dykes in recognition of all his years of service at both Crewe and Nantwich and Cheshire East. He also announced his appointment as Head of Resources within Cheshire East.

11.08.01 Apologies for Absence

Apologies were received and accepted from Cllrs. S.Beard, D.Burrows and G. McCormack

11.08.02 Members Declarations of Interest

Cllrs. Ellis and Waits declared a personal and prejudicial interest in planning application 11/2575N in item 3. It was agreed discussion of this application would be left until the end of the meeting.

11.08.03 Planning Applications

11/2479N – New farm building at Bunbury Commons Lane

No objections – proposed Cllr. Dykes, seconded Cllr. Ellis and all agreed.

During discussion, Cllr. Parker pointed out that a hen house at the site had been placed over the public footpath. Cllr. Ellis to mention this to the owners.

11/2441N – amendments at Oaklands, Long Lane

No objections – proposed Cllr. Parker, seconded Cllr. Ellis and all agreed.

11/2298N – extension at Little Orchard, College Lane

No objections – proposed Cllr. Ellis, seconded Cllr. Dykes and all agreed.

11.08.04 Discussion of LDF and questionnaire to be returned to Cheshire East

After discussion it was decided that the parish council would not return the LDF questionnaire but that members would each fill in a copy. Councillors would also encourage residents to complete the questionnaire. The clerk was requested to put a notice on the noticeboard and distribute copies of the questionnaire to Tilly's, Burrows butchers, the Co-op and the Surgery.

It was also agreed that a working group would start work on a Bunbury Village/Neighbourhood plan. Cllrs. Dykes, Mandy Jones, Partridge and Waits to form the working group. The clerk to enquire at Cheshire East about funding.

11.08.05 Finance Matters

It was resolved that:

the following cheques be signed – proposed Cllr. Dykes, seconded Cllr. Parker and all agreed.

PAYEE	DESCRIPTION	NET (£)	VAT (£)	TOTAL (£)
Black Cat Fireworks	Fireworks	1052.80	210.56	1263.36
Audit Commission	Audit 2010/2011	135.00	27.00	162.00
Bunbury Village Hall	Hire of Hall extra meeting August 2011	15.00		15.00
CHALC	Planning Training for Jill	40.00		40.00
Rubell Print	2000 maps	1140.00		1140.00

11.08.06 Any Other Business

Cllr. Dykes reported that the pavilion had now been re-painted. He raised concerns about the traffic in the centre of the village but councillors decided that any traffic calming measures would be too restrictive and detract from the atmosphere in the village. The clerk was asked

to raise the hedge at Brantwood with Cheshire East Council as it requires trimming to prevent it encroaching on the road.

Cllr. Dykes also reported that while roads in the rest of the village had been resurfaced, the centre of the village was a 'high stress' area and would be done next year with a better quality dressing.

Cllr. Michael Jones reported that:

- Cheshire East are reviewing the standards committee.
- Cheshire East have no assets in Bunbury that require transferring.
- Arriva will not put on a bus to Bunbury so that a 'Dial-a-Ride' service is in the process of being set up.

Cllr. Ellis reported that donations from Village Day had been sent to 20 organisations in the village. He also reported that £500 had been set aside for next year to provide security guards on the playing field during the preparations for village day due to the very disappointing vandalism by young people that had taken place this year.

Cllr. Waits requested that the council consider holding a public meeting to discuss the land behind the Muir development and the recent planning application from Muir Housing to vary the conditions.

Cllrs. Ellis and Waits then left the meeting.

The clerk confirmed that several applications had been received to vary the conditions of the planning permission for the Muir housing development on Wyche Lane, 11/2575N and 11/2423N. It was agreed that 11/2575N was the correct application and that Cllr. Michael Jones should be formally requested to ensure the withdrawal of 11/2423N.

The Parish Council discussed the background to the application as follows:

1. The planning application 11/2575N is for a variation in the planning approval for the Muir affordable homes (P07/0867) to vary:
 - condition 17 which states that 'the use of the access gate at the land to the rear of site shall be restricted to vehicles used in connection with maintenance of that land only and for no other purpose'
 - condition 2, amending the plans to include a new accessway across the land offered to Bunbury Parish Council to the adjacent field.
2. At the time of the first planning permission, Muir made a statement that they were not interested in developing any further houses in Bunbury and they would offer the balance of their site to the Parish Council (now called the PC strip). The field beyond the PC strip is not owned by Muir but they do still have an option to purchase this land.
3. The original plans included a gate into the PC strip which was difficult to access and obstructed by a car space. The gate is subject to condition 17 which means that the Parish Council would not have access to the PC strip for any other purpose than to maintain it, thus preventing other uses of this land.
4. The Muir Group is covenanted to the owner of the field beyond the PC strip to provide an accessway connecting the field to the Muir housing development on commencement of construction on it's site. The access route is to be to a standard approved by Cheshire East Council and may be up to 'adoptable standard'. Muir are also obligated to maintain the accessway.
5. The Parish Council have been in discussion with Muir regarding the PC strip. It is not possible for the Parish Council to take on the liability of a strip of land which does not have access other than for maintenance and which consequently cannot be used for any purpose. The Parish Council need to use the land for community benefit.
6. In considering options for the PC strip, the Parish Council wrote to the owners of the adjacent field asking if they would agree to give up the right to have the accessway

constructed across the PC strip, as an alternative means of access to the field is available. They have declined to do so, which means Muir are obligated to construct the accessway with the houses and the Parish Council must take this into account in relation to the PC strip.

7. The accessway proposed within the new planning application specifies a 'Toptrek' surface which is an agricultural type surface and access, it is not to 'adoptable standard' and would not be suitable for any housing.

The planning application therefore removes the access problem to the PC strip and ensures that the Parish Council have planning permission to use the two accesses into and across it – these accesses to be provided by Muir with the new housing.

8. Muir have offered the Parish Council a legal option on the PC strip which will secure the availability of the land and allow time for suitable community benefit use and any necessary funding and planning applications to be arranged. The legal option would also ensure that the Parish Council would not be responsible for maintaining the proposed accessway or any costs of maintaining it. The Parish Council have agreed to proceed with the option and legal contracts are being prepared.
9. The field adjacent to the PC strip is outside the village settlement boundary and any application to develop this land for any purpose would be subject to usual planning regulations, which would include demonstrating the need for development to the Parish Council and Cheshire East Council.

Taking into consideration all of the above, the Parish Council decided:

- that a public meeting would serve little purpose at present but one would be set up to discuss the possible uses of the PC strip when all legalities were finalised.
- that the Parish Council supported planning application 11/2575N but would additionally request that conditions are added which restrict the surface of the accessway to Toptrek or an alternative agricultural surface.

There being no further business, the meeting closed at 9.15pm.

Signed: _____

Date: _____

Neil and Alex Stubbs

From: "Partridges" <ep.partridges@btinternet.com>
To: "Alex Stubbs" <bunburyclerk@aol.com>
Sent: 31 August 2011 13:09
Attach: Meeting 26 Aug 2011 without Js note.docx
Subject: Fw: Meeting with MGHA, CEC Planning, Housing and Michael Jones

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

From: [jill waits](#)
To: [ep.partridges@btinternet.com](#)
Sent: Wednesday, August 31, 2011 10:54 AM
Subject: Meeting with MGHA, CEC Planning, Housing and Michael Jones

Dear Erica,

Hope all is well with you.

I'm sure you know that James has been active in trying to get the recent variation and removal of planning conditions that MGHA are seeking stopped. Much has happened, and on Friday last week Michael Jones facilitated the above meeting with Muir and CEC and James. David Ellis had hoped to attend, but was unavailable, so I went along, making it clear that although I was a Parish Councillor, I was attending the meeting as a resident and not a representative of the BPC.

I am attaching our notes of the meeting for your information. The ultimate outcome was that Steve Irvine of the CEC Planning Department offered to facilitate and attend a meeting between MGHA and Gary McCormack with a view to seeing if there was an acceptable way forward in all this. I don't know when this is to be.

I hope my attendance at the meeting does not give the Parish Council any cause for concern. I don't believe it should, or I wouldn't have gone.

I'm not sending you these with a view to receiving any comment from you, but just to keep you informed.

Regards,

Jill

Notes from a meeting with Muir Homes Housing Group and Cheshire East Council Officers 26 August 2011 at Westfields, Sandbach.

Present: Steve Irvine – CEC Planning, Vikki Jeffrey – CEC Housing, Michael Jones – CEC Councillor, Tony Robinson – MGHA, Jill Waits and James Walton – Bunbury residents.

Cllr Michael Jones organised and facilitated a meeting at CEC, Westfields to enable serious issues regarding variation 11/2423N, to be aired between MGHA, CEC Planning, James Walton and Jill Waits. James Walton thanked both Cllr Michael Jones and Stephen O'Brian MP for their support in this issue and their categorical statements regarding their view that Wyche Lane cannot support any further development past that already planned.

Cllr Jones briefly highlighted the difficulties perceived by many residents in Wyche Lane and beyond regarding the proposed variation to condition 2 and removal of condition 17 requested by MGHA for the proposed development of affordable housing on Wyche Lane, Bunbury. The purpose of the meeting was to air these concerns and see if there was a way forward.

Mr Walton explained that he and Mrs Waits did not formally represent parishioners but were present to voice their own concerns regarding the current variation and removal of planning conditions by MGHA. He said that the majority of residents in Wyche Lane feel that the Parish Council and the Borough Council are, rightly or wrongly, dancing to the tune set by Muir Group and that for some reason he appeared to have become their standard bearer on opposing the current planning application variation and removal. Therefore, their main focus and desirable outcome from the meeting and subsequently the full planning committee is that the track through the optional land remains a track of about 3m for agricultural use only.

Mr. Robinson was pressed by Mr. Walton regarding when he knew that MGHA had obligations under the TP1 agreement, originally signed in July 2005. Mr. Robinson eventually agreed that he had known about MGHA obligations since the signing of the TP1. Despite this knowledge, MGHA had pursued the development as outlined in permission 07/0867 through all its procedures and processes, on the assumption (Mr. Robinson's words) that they could sort it out later with the TP1 landowner.

Mr Walton pointed out that errors, omissions and inaccuracies by MGHA had led to many villagers feeling very uncertain about MGHA and their behaviour. What might appear to be unfortunate mistakes and poor timing could and were being perceived by villagers as smoke and mirrors tactics by MGHA, including the current planning application variations, which are seen by many as a reflection of MGHA's ongoing erosion of safeguards that residents had been given in 2007 at a public meeting. These had been further supported by the report of the Inspector of Planning, Mrs K A Ellison. He quoted paragraph 22 of the Inspector's report following the enquiry held on 4 & 5 April 2006 "In the circumstances, I consider that they would be highly likely to expose this land to considerable developer interest, making further erosion of the gap more difficult to resist".

Mr Robinson was asked why MGHA wanted to continue to have an option to build on the field at the rear of the proposed development and the strip. Mr Robinson confirmed that Muir had no intention of building more than the 10 houses currently approved. With this in mind, he agreed to explore the

rescinding of Muir's option. (After the meeting he advised Cllr Jones, Mr Walton and Mrs Waits that based on the legal advice just received the rescinding of the option to buy the field at the rear was not possible.)

Cllr Jones warned that if the current difficulties between the parties involved could not be resolved, it may go to judicial review, with substantial cost all round.

When questioned further by Mr Walton, Mr Robinson agreed that it had been Muir's error to commit to putting in the stipulated access road to the rear field. However the new and current owner of the field wanted something different from the previous owners. Mr Robinson confirmed that Muir's original plan was for 20 houses on the site, but this had not been well investigated and the proposal was quickly reduced to 10.

Mr Walton asked for details of the financing of the proposed scheme in relation to the use of public monies and the responsibility of CEC with regard to their duty of care regarding public funds. Ms Jeffrey said she believed approximately £140,000 (50%) had been allocated in March 2011 from the Homes and Community Agency, plus a commuted sum from the Council of around £100,000. It was confirmed that the total cost of the scheme is expected to be £1.1m and that if the development cannot proceed MGHA will have to repay all the money allocated.

Mr Walton had referred to the strip at the rear of the proposed development as a ransom strip, but Mr Robinson pointed out that this cannot be regarded as a ransom strip. Mr. Robinson agreed that at the July 2007 public meeting he offered the retained land (Ransom Strip) to the PC as a PR offering. This strip of land now has no useful purpose, due to the requested roadway to run through it. If MGHA did not meet its contractual commitments with Mr McCormack by putting in a 4.5m road, an injunction could come from Mr McCormack enforcing this.

Mr Walton pointed out the ridiculousness of the proposed roadway at 4.5m, particularly as Wyche Lane was only 3.2m wide in places but was able to accommodate delivery tankers, combine harvesters, etc. He suggested that a 3m road would look less out of place and should be limited to agricultural use and the use of the Parish Council, their servants and others authorised by the Parish Council.

Cllr Jones asked Mr Irvine for his view from a planning perspective who said that from appearances it looked simple and straightforward. He said the Council was just likely to look at it as a track and not consider future possible developments, as this is what they are charged to do. On this basis they would be likely to approve the variation and removal of the conditions. He also confirmed that 4.5m plus drainage is the minimum standard expected by the Council.

Numerous references were made by Mr Walton and Mr Irvine to the Planning Inspector's report, particularly in relation to her concerns about the unacceptability of the original planning application for the MGHA development. Mr Irvine quoted from the enquiry in relation to the roadway "It must protect the amenity of neighbouring occupiers". He confirmed that a short road built to adoptable standards, off a private courtyard which was not built to adoptable standards, would be unlikely to be adopted. Mr. Robinson asked if a roadway of a private drive could ever be adopted, and Mr Irvine thought it could not be adopted.

In conclusion, Cllr Jones said that MGHA rescinding their option to buy the rear land would reassure residents about Muir's objectives.

Mrs Waits wished to report that, although she is a Parish Councillor for Bunbury, she was there today as a member of the public and not as a Parish Councillor.

Ms. Jeffrey agreed to send details of the selection criteria for the proposed houses to Cllr Jones.

In response to a question Mr Robinson explained briefly the difficulties of mortgages for shared owners, which were discouraging shared ownership generally.

With regard to paragraph 6 of MGHA's letter of 23 August 2011 to CEC, Cllr Jones asked if the changes proposed by MGHA will satisfy the TP1 in full. Mr Robinson confirmed that they would. He also confirmed that in normal circumstances a Section 73 application would go to the Parish Council before going to the Borough Council, but admitted that on this occasion it had not. Mrs. Waits pointed out that it was this kind of error that lead parishioners to feel very uncertain about the actions of MGHA, particularly when the last public interface between MGHA and the public had been in 2007. She believed that parishioners will have left the meeting feeling reassured about the unlikelihood of further development of the field behind the proposed development in Wyche Lane.

Cllr Jones summarised the meeting by highlighting the lack of trust by some parishioners in MGHA and CEC to a degree. The applications made by MGHA could be turned down and Cllr. Jones asked Mr. Robinson to consider the effect this might have on MGHA.

Mr Irvine agreed to offer to be a mediator between MGHA and Mr McCormack at a "without prejudice" meeting to see if a compromise could be found.

Following discussion it was agreed that a public meeting, after the proposed meeting with Mr McCormack, would be called.

Mr Walton agreed to send Cllr. Jones Mr. McCormack's telephone number.

In response to various criticisms of earlier planning difficulties, Mr Irvine said that a new process of pre-application items is being introduced in CEC from October which he hoped would improve matters and smooth the way to a better planning process.

Mr. Irvine asked if a delay in the consideration of 11/2423N by CEC would be helpful. Councillor Jones and Mr Walton agreed to respond to this point.

Mr Robinson agreed to let Cllr Jones have a schedule of meetings held between MGHA and Mr McCormack.

James Walton
Edinbane Cottage, Wyche Lane, Bunbury, Cheshire, CW6 9PS

4th August 2011

Mr. Ben Haywood
Development Management Town Hall
Cheshire East Council
Macclesfield
SK10 1DP

Cheshire East Council

- 8 AUG 2011

Post Room

Dear Mr. Haywood

Regarding: Variation of planning permission 11/2575N

I am writing to you regarding this particular planning variation and the conduct of Muir Group Housing Association (MGHA) in general.

I understand that specific conditions had been laid down in Planning Application P07/0867 by an appeal court judge, specifically to limit the development of the field behind Wyche Lane to that development approved in P07/0867. I, amongst many other parishioners, was at a meeting with Mr. David Robinson of MGHA in the village hall where he gave specific assurances concerning no further development of the remainder of the field as clause 2 and clause 17 of the original application would stop this from happening. This, and the strip of land to be transferred to the Parish Council, was to be "our security blanket", I think, are the words he used.

I find the timing of this application 11/2575N to have been suspiciously constructed to ease its passage due to the Parish Council not meeting until September and most of the parishioners being away on holiday, thereby limiting any response to the proposed changes.

As I and my neighbours are directly affected by these changes sought, I am just a little surprised that we have not been notified of this proposed variation. Is there a reason for this? I understand that a very small number of people have received a letter regarding Variation 11/2575N dated 29th July 2011.

You are no doubt aware that MGHA have started work on the site. Could you please advise me that MGHA's actions are in accordance with current planning laws and regulations, and that the extensive changes to the site plans are correctly documented and are also in accordance with current planning laws and regulations and the currently approved planning permission? Would you mind further confirming that all the subsequent changes to P07/0867 including drawings have been communicated to the Parish Council?

Quite frankly I am appalled that both the assurances given by MGHA at the public meeting and the decisions of an Appeal Court Judge both appear to be being ignored, or brushed under the carpet by MGHA. The Borough Council is surely there to respect and comply with the law and respond to the promises made to the population it is there to defend. Can I ask what is being done to keep, at least, the Parish Council advised of MGHA's seemingly underhand behaviour in this regard?

James Walton
Edinbane Cottage, Wyche Lane, Bunbury, Cheshire, CW6 9PS

I request that you delay reaching any decision on this matter until the Parish Council and all those people potentially affected by it have time to consider the implications of what MGHA are proposing and submit their views to Cheshire East Council at a later date than the deadline you propose of 24 August 2011. I also, in view of what appear to be major discrepancies in process, may well have to brief counsel to decide on my future actions. I also request that any decision regarding Variation 11/2575N be called in to the full council planning committee. Furthermore could I please have under the Freedom of Information Act 2000 & 2005, all e-mails, minutes, memoranda and records relating to conversations and meeting that past and present Council Officers, past and present Councillors, have had with MGHA regarding the Wyche Lane development.

I look forward to receiving your reply.

Yours faithfully,

James Walton

CC: Chairman Parish Council
CC: Clerk of the Parish Council
CC: Councillor Michael Jones.
CC: Wyche Lane Neighbours

CC. A. Fisher

James Walton
Edinbane Cottage, Wyche Lane, Bunbury, Cheshire, CW6 9PS

12th September 2011

Mr. D. Robinson
Muir Group Housing Association Limited
PO Box 136
Frodsham
Cheshire WA6 1AW

Cheshire East Council
Received
13 SEP 2011

Dear Mr. Robinson

Thank you for your letter of 9th September. The following points are raised as a result of this letter and as a result of the meeting that you attended at Cheshire East Council (CEC) offices on 26th August 2011.

In your third paragraph you repeat, yet again, that Muir have no plans to develop the land behind your proposed development, - so nothing is new there then. You miss the point totally, that an assurance from Muir means absolutely nothing to the residents of Bunbury. Muir could sell on the option to purchase the land to another developer. Are they the new option holders then going to be bound by your repeated promises?

In paragraph six, you refer to the variation to 07/0867 to change the width of the track into the field from 3 metres to 4.5 metres, as I understand it, within the provisions of Section 38 of the 1980 Highways Act. These provisions are to be complied with. The Act states that there must be a 4.5m wide road with a 2m curb and path on each side for the roadway with full use. This would be an 8.5m wide road into a field. However, if the road is restricted use, only one of the curbs or paths can be reduced to 1m, which would be a total width of 7.5m road into a field. At the meeting in CEC offices you were unhappy with me describing the retained land as a ransom strip. However, after some discussion it was agreed that this is what it (the retained land) was. This land was to be donated to the Parish Council as a public relations exercise, in that this retained land with a 3 metre track through it would provide total confidence to the people of Bunbury that the field could not be developed. You actually agreed at the meeting in CEC's offices that the retained land with a 4.5 m (or is it 8.5m?) roadway running through it was useless for the purpose that it was offered in the first place, i.e. a ransom strip.

In reading the Parish Council's minutes of their meeting 9th August, 2011, item 9) that a public meeting would serve little purpose at present but one would be set up to discuss the possible uses of the PC strip when all legalities were finalised. At the meeting in CEC offices it was agreed by you, Mr. S. Irvine and Councillor M. Jones that a public meeting would be set up and facilitated by Councillor M. Jones. This meeting was to be set up once you had had a three way meeting with the

James Walton
Edinbane Cottage, Wyche Lane, Bunbury, Cheshire, CW6 9PS

owner of the land, Mr. Irvine (CEC Planning) and yourself, and when you had written to Councillor M. Jones explaining why Muir could not give up the option to buy the land behind the development. Can you please give me your assurances that this has all taken place? Also is your proposed public meeting to be the same public meeting that Councillor Jones kindly offered to set up and facilitate?

In your final paragraph you say that you hope your letter addresses concerns that we may have and whilst this may well have been your intention, I am afraid it does not, as it does not address the real issue that Bunbury residents would only feel confident in seeing a 3 m track into the field as required by Mrs K A Ellison in her Inspector's report and in the original planning permission 07/0867 granted by the officers of Crewe and Nantwich Council's Planning Department.

Yours sincerely

James E Walton

Cc Cllr M Jones, Mr A Fisher (CEC Planning), Bunbury Parish Council, Wyche Lane residents.

COMPLAINT FORM

Code of Conduct – Borough, Parish/Town Councillors and Co-opted Member(s). Please see attached explanatory notes.

Your details-

1. Please provide us with your name and contact details. (See Explanatory Notes attached)

Title:	MRS.
First name:	ALEX
Last name:	STUBBS
Address:	10 COPPERFIELDS TARPOLEY CHESHIRE CW6 0UP
Daytime telephone:	01829 733252
Evening telephone:	01829 733252
Mobile telephone:	
Email address:	bunburyclerk@aol.com.

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
☐ An elected or co-opted Member(s) of an Authority
☐ An independent Member(s) of the standards committee
☐ Member(s) of Parliament
☐ Local Authority Monitoring Officer
☐ Other Council Officer or employee of the Council
☒ Other - please specify (PARISH CLERK)

3. Making your complaint (See Explanatory Notes attached.)

Please submit to -

The Monitoring Officer, Cheshire East Council, Westfields, Middlewich Road, Sandbach, CW11 1HZ.

How to make a complaint

You must make your complaint in writing (either typed or hand-written). This complaint form has been produced in order to help you make your complaint but you do not have to use it. Once you have made your complaint, you will be told in writing what will happen to it.

Timeframe

Unless there are exceptional circumstances, events which took place more than 12 months prior to the complaint being submitted, will not normally be investigated.

4. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their Authority:

Title	First name	Last name	Council or Authority name
MS	GILL	WATTS	BUNBURY PC.
MR	GARY	MCCORMACK	" "
MR	DAVID	ELLIS	" "
MS	SALLY	BEARD	" "

5. Please explain in this section (or on separate sheets) what the Member(s) has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done which you believe breaches the Code of Conduct. (See Explanatory Notes attached.)

Please provide us with details of your complaint. Continue on a separate sheet if there is not enough space on this form.

PLEASE SEE ATTACHED NOTES
+ EMAILS.

6. Only complete this section if you are requesting that your identity is kept confidential

In the interests of fairness and natural justice, the Council believes that Member(s) who are complained about have a right to know who has made the complaint. The Council also believes they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason. (*See Explanatory Notes attached.*)

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

7. Additional Help

As noted in paragraph 3 above (Making Your Complaint), complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please contact Diane Moulson (Tel: 01270 686476).

Neil and Alex Stubbs

From: "Partridges" <ep.partridges@btinternet.com>
To: "Alex Stubbs" <bunburyclerk@aol.com>
Sent: 04 January 2012 22:35
Attach: Councillor Jill Waits emails re declarations of interest.doc; Councillor Sally Beard emails re declaration of interests.doc; Councillor David Ellis Emails.doc; Councillor Gary McCormack emails.doc; Muir Land various interests plan.pdf; Ivy Cottage objection to planning application 11 2423 N S 73 application.pdf; Edinbane James Walton letter to Muir re S73 application 2423N.pdf; Edinbane Cottage objection to planning application 11 2423N S73 Application.pdf; D Ellis Objection Letter 07.08.110001.pdf; James Walton example emails.doc; Jill Waits emails regarding other councillors.doc; Councillor Jill Waits confirmation of appointment letter.doc; Bunbury Parish Council Query to Monitoring Officer Parish Councillors.doc
Subject: Query to Monitoring Officer re Non Compliance with the Code of Conduct 4 January 2012
Dear Alex

Paragraph 30 of the Bunbury Parish Council Standing Orders require that I notify you of any breaches in the Code of Conduct.

Please see the attached documents explaining where there may be breaches of the Code of Conduct by Councillors Waits, Ellis, Beard and McCormack. If you agree it would be appreciated if you could forward these to the Monitoring Officer at Cheshire East Council.

I have copied various relevant emails into word documents and coloured them up to mark breaks in the links. I am happy to provide any further information which is requested.

As you know the Parish Council have now introduced standing orders that correspondence must be sent by post to the clerks address and reply will be by post to limitemail access but it would be appreciated if the Monitoring Officer could also be requested, when replying, to provide any advice which may assist on how to manage this very unpleasant and complicated situation.

Yours sincerely

Erica Partridge
Chairman, Bunbury Parish Council

09/01/2012

**Query to Monitoring Officer re Bunbury Parish Councillors
and Potential Breach of Code of Conduct**

I am writing to express my concerns regarding the actions of a number of Parish Councillors as it appears that they may be in breach of the Code Of Conduct and the decision of the Monitoring Officer is requested on this matter.

I have set out the background to the issues below with a separate page relating to each of the Parish Councillors concerned as there are different issues relating to each person.

Background

1. The issues arise in relation to the development of some land at Wyche Lane, Bunbury by Muir Group Housing Association. Muir have planning permission to build 10 affordable homes on the land edged red which included a gate into the field (edged blue) at the rear of the housing land with a restriction that the access point is to be used for maintenance only. At a public meeting some years ago prior to the original planning approval Muir offered to transfer the land edged blue to the Parish Council (this was not a condition of the planning consent). Muir secured funding for the development and, in Autumn 2010, they began pre commencement discussions with the owners of the land coloured yellow and the Parish Council in relation to the transfer of the blue land.
2. I have attached a plan which shows the following :
 - the Muir housing land edged red (the houses have not been built yet)
 - the land offered to the Parish Council edged blue
 - the land owned by Cllr Gary McCormack coloured yellow with one field also edged purple
 - the land owned by Cllrs David Ellis, Sally Beard and Dennis Burrows coloured orange (Cllr Burrow has recently retired so this query does not relate to him)
 - the home of Cllr Waits coloured orange (she shares this property with her partner, James Walton) as their home but she is not an owner
 - whether those houses neighbouring the land have objected to planning application 11/2423N (explained in 5 below) 'O' or not objected 'N'.
3. James Walton is Secretary of the Local Conservative Club and Cllrs Waits and McCormack are active members of the club and are close associates and friends as well as neighbours. This also brings them into association with Michael Jones, our Borough Councillor. It is clear from numerous comments to me by Cllr Waits that she regularly discusses Parish Council matters with Michael Jones. At recent Parish Council meetings Michael Jones has made his apologies and sent his report via Cllr Waits without contacting the Clerk and he asked Cllr Waits to represent him to lay a wreath at the armistice day service in Bunbury.
4. Cllr Mc Cormack has acquired the land edged yellow in a number of tranches. He lives in the house called 'Fairview' as his home and over recent years has acquired the other land holdings now all coloured yellow. Both Muir and Cllr McCormack have confirmed that Cllr McCormack had offered to acquire the blue land from Muir at a price of £6000 with a proposal that Muir transfer the £6000 to the Parish Council and not the land. Muir have stated to me that Cllr McCormack also expressed interest in buying the red land off them. The previous owners of the yellow/purple field sold the red and blue land to Muir, including covenants for Muir to construct an accessway across the blue land to adoptable standard, or to the satisfaction of the planning authority on construction of the houses on the red land (the Muir cul de sac will not be adopted). The covenants in this contract potentially impact on the blue land in a number of ways and the Parish Council have commissioned legal advice on this matter and our negotiations in relation to the transfer of the blue land consequently involve Cllr McCormack as well as Muir. These are not finalised yet, but following discussions over this period terms have been

provisionally agreed for the Parish Council to have a ten year legal option for a transfer of the blue land for a peppercorn and solicitors are dealing with these contracts. Cllr McCormack has openly stated that his solicitors will serve an injunction on Muir to prevent the start of construction if the terms of his contract are not met. Failure to reach agreement on this matter could potentially result in the houses not being constructed. Muir also have a legal option to acquire the yellow/purple field if they obtain planning permission to construct houses on it. This can only be withdrawn with Cllr McCormack's consent which has not been forthcoming. The presence of the option is a contributing factor to the opposition to the S73 variation application referred to below.

The accessway coloured green therefore impacts not only on the blue land it crosses but also the the red land (as refusal or non compliance with Cllr McCormacks contract may result in the houses not proceeding) and the yellow/purple land it gives access to (as opposers of the houses are claiming the access will open this field to development).

5. Muir submitted a S73 planning application No. 11/2423N in August 2011 for a variation of the original conditions to construct the accessway required by Cllr McCormack's contract in the position shown by the green line and to remove the condition restricting access to the blue land to maintenance only as this would effectively prevent a transfer of that land to the Parish Council who would need to use it for community purposes. The proposal is for the green accessway to have a 'Toptrek' agricultural type surface and to be 4.5m wide to ensure compliance with planning and contract standards. This application has still not been to Cheshire East Planning Committee.
6. Cllr Ellis and James Walton (Cllr Waits' partner) have both objected to application 11/2423N. Cllrs Beard, Waits, Burrows and McCormack have not. Cllr McCormack purchased the yellow/purple field subject to the existing option agreement referred to in point 5 above and that contract requires the owners of the field to support any planning application made by Muir and so prevent him from making a formal objection.

Declaration of Interests and Code of Conduct

7. It has been necessary for the Parish Councillors who live in Wyche Lane to consider whether they have a personal and/or prejudicial interest to declare in relation to the above matters. The sequence of relevant events are set out below. Copies of relevant correspondence and emails are in separate attachments. Initially the discussions dealt with just the offer by Muir to transfer the land as the necessity for a further planning application did not arise until the summer of 2011. It could be that the decision may be different in relation to each aspect by individual councillors.
8. Prior to October 2010 the Muir matters had been dealt with on the basis that :
 - Cllr McCormack declared a personal and prejudicial interest in anything relating to the contracts and planning application 11/2423N and was not present when these were discussed. He did not declare any interest for purely factual matters relating to the development eg information on the development programme/allocation of the houses. He has continued on this basis to date and there is no query on this point in relation to Cllr McCormack;
 - the other Cllrs neighbouring the land did not declare any interest
 - I discussed this with the Clerk as I wondered whether this was correct, particularly as Cllr Burrows made statements such as 'we don't want allotments behind us as they look untidy' 'we don't want an orchard as kids will throw apples at our windows' 'Gary will maintain the land in good condition if it is sold to him'. As the matters are so complicated she agreed to consider it;
9. On 18th November 2010 Cllr Waits sent the attached email (pages 14/15 of JWs emails), stating that she was 'potentially affected' by the transfer/use of the blue land as were the Cllrs Ellis, Burrows and Beard, effectively declaring an interest herself and

querying whether her neighbours should also declare an interest. Due to the complications I agreed with the Clerk that she would request the advice of the Monitoring Officer. She later confirmed to me that she had described various applicable locations in relation to the blue land to Julie Openshaw who considered the situation and sent the email reply dated 22nd November 2010 (page 10 of JWs emails) which is attached.

10. Julie Openshaw's email was circulated to Parish Councillors at the Parish Council meeting in December 2010 under 'declarations of interest' on the agenda. Those affected Cllrs who were present (Cllrs Beard and Burrows) then declared a personal and prejudicial interest in relation to the blue land and continued to act accordingly. Cllr Waits was not at the meeting so the Clerk contacted her afterwards the emails on 16th December (pages 11/12 refer to this conversation). Cllr Waits accepted without further query that she had a personal and prejudicial interest in relation to the blue land and continued to act accordingly. Cllr Ellis became a Parish Councillor in January 2011 and he was informed of the position which he queried but accepted would also apply to him and he continued to act accordingly.
11. The Parish Council decided that discussions relating to the blue land would be held separately as this would avoid 5 Cllrs having to leave the room and consequent interruption to the meeting and that a number of the matters were subject to contract/commercially sensitive and not suitable for a public meeting. These meetings were known as the 'Muir Sub Committee' although it was actually the full Parish Council excluding the public and Cllrs with declared prejudicial interests. Initially the advice and meetings were in relation to the transfer and other contractual issues relating to the blue land, the need for the planning application arose later.
12. When Muir submitted planning application 11/2423N Cllrs McCormack, Waits, Beard, Burrows and Ellis all declared a personal and prejudicial interest in that application. It was discussed at the public Parish Council meeting on 9th August. Before withdrawing from the meeting Cllr Waits asked to make a statement in which she asked the Parish Council to consider whether a public meeting would be helpful.
13. On September 12th 2011 Cllr McCormack wrote to the Clerk asking for a copy of Julie Openshaw's email advising on the conflict of interest (P6 of GM emails) and saying that the Wyche Lane Parish Councillors 'about forming another Parish Council Sub Committee to protect our interests'.
14. After that a series of emails were received from James Walton on this matter culminating in a complaint against the Clerk which has now been withdrawn. He also made a Freedom of Information Act request for all the discussions/correspondence relating to the Muir Sub Committee meetings. I will comment further on James Walton later. This was followed by queries from Cllrs Waits and Beard on this matter and further queries from Cllr McCormack. Cllr Waits then informed the Parish Council that she was 'disapplying' her former declaration of interest and requested all the emails etc relating to the Muir Sub Committee discussions.
15. To resolve this issue I decided to hold all matters relating to Muir in abeyance pending further guidance being requested from the Monitoring Officer, Caroline Ellwood. She replied that she was unable to give detailed guidance but Julie Openshaw provided a copy of the explanatory guidance on the code of conduct which is most helpful. This was issued to all the councillors.
16. At the request of Cllr Waits matters relating to the Muir land were included in the agenda of the 13th December 2011 meeting. The Wyche Lane Cllrs were asked if they had any interest to declare or any further queries. Cllrs Waits, Beard and Ellis advised that they did not (reversing their earlier declaration of interests) and Cllr McCormack advised he would declare a personal and prejudicial interest relating to the Muir land

and he left the room during the discussion. Cllr Waits proposed that the Parish Council open up their previous decision relating to planning application 11/2423N to allow the Wyche Lane Councillors to contribute, this was seconded and councillors voted to re discuss the matter. The discussion also involved contractual matters relating to the blue land as the issues are interlinked. On a further vote the original decision was confirmed.

17. Original Application : I was not a councillor at the time but my understanding from those who were is that no personal or prejudicial interests were ever declared. The Chairman at the time was Cllr Dennis Burrows and the then Clerk, Colin Knowles, was a close associate with him from their membership of the Tarporley British Legion. As a village resident I could not understand why the Parish Council were so vehemently opposed to much need affordable homes but it appears that several then Parish Councillors lived in Wyche Lane.
18. It appears to me that the Parish Councillors who live in Wyche Lane should declare a personal and probably a prejudicial interest in relation to the Muir Land planning 11/2423N application and transfer and use of the blue land and in rescinding their previous declarations of personal and prejudicial interest that they may now be in breach of the Code of Conduct. The Monitoring Officers advice is requested on this matter. As the circumstances of each are different I have made separate comments on each councillor concerned below.

BLOCK PLAN - Scale 1:500

TWEED-NUTTALL WARBURTON ARCHITECTS URBAN DESIGNERS

CHapel House, City Road, Chester CH1 3AE
 TEL: 01244 310366 FAX: 01244 325643
 EMAIL: enquire@tweed-nuttall-warburton.co.uk

11

1101/204

REVISED

CLIENT/PROJECT

DEVELOPMENT AT WYCHE LANE, BUNBURY FOR MUIR GROUP HOUSING ASSOCIATION

All dimensions to be checked on site and not scaled from this drawing
 All dimensions to be reported to the Architect. © Copyright 2011

DATE

15/05/11

DATE

May 2011

DATE

11/01/2011

DATE

May 2011

BLOCK PLAN - Scale 1:500

Comments Relating to Councillor Waits

1. Cllr Waits has a background in senior NHS management and management consultancy which should lead to an understanding of the role of corporate governance in public life. She was provided with a copy of the good councillor guide and code of conduct on her appointment in 2010 (there were no written standing orders then) and she was on the committee which drafted the standing orders. She has also attended a course on dealing with planning applications which I understand included a section on conflicts of interest.
2. I have attached a number of emails which are relevant but I would make the following points :
 - in her email of 18th November 2011 she clearly states that she and her fellow Wyche Lane Cllrs are potentially affected by the transfer/use of the blue land. She later claims that she has no interest as she does not own the property in which she lives with James Walton as a couple/family and that she cannot see the land in question (the explanatory notes provided clearly bring this relationship into a personal and/or prejudicial interest);
 - the objections/correspondence (attached) made by James Walton in relation to planning application 11/2423N clearly raise concerns that this could lead to future development on the field at the rear of his property. He also circulated letters to neighbours creating concerns on this point which Cllr Waits assisted in posting. Even if these are erroneous, if they result in the accessway being refused this could impact on the affordable homes being constructed;
 - she incorrectly states that she has not seen Julie Openshaws advice and that she was unaware that she could declare a personal interest and participate (when one councillor does this at virtually every meeting);
 - she incorrectly states that Cllr McCormack has been prevented making statements when she availed herself of this right at a public meeting ;
 - she has sent emails displaying a lack of respect for other councillors and suggesting they resign (she has told me that she received no replies from other councillors)
 - she has sent what I consider to be bullying emails to the Clerk, off the back of Gary McCormack's emails
 - her emails to other councillors appear to me to be seeking to influence their decisions in relation to the Parish Clerk, Cllr Dykes and also their declarations of interest : her email of 22nd December 2011 does this particularly in informing all councillors of the confidential matter of her earlier breaches of the code of conduct and including Borough Councillor Michael Jones into this matter. Brian Dykes was formerly a Borough Councillor and on the planning committee, he has explained to me how he always declared his interests correctly on any Bunbury matters and now has no interest and I fully accept this, his manner can be abrasive but he is not intentionally offensive – I find this campaign against him disturbing;
 - she proposed the reopening of the discussions on planning application 11/2423N and voted against the application on the basis that it would look too wide and 'she would not mention the extra houses'
 - she took up Cllrs Burrows request for a letter to be sent to Muir requesting his niece be allocated one of the affordable homes;
 - she has not declared any interest when James Walton's numerous correspondence is discussed and I wonder if she should.
3. James Walton's Role : I have attached quite a number of emails from James Walton to make the situation as clear as possible. He is a private individual and so I accept his behaviour is not a matter for review. My concern is that :
 - his comments follow the same pattern and themes as Cllr Waits and McCormack
 - all the Parish Councillors have denied supplying James Walton with Julie Openshaw's internal email (which means at least one Cllr is actually lying) and he has accessed Cllrs Waits documents as he has not formally requested a copy of the Standing Orders which he quotes;

- his comments include many factual errors and incorrect assumptions (too many to detail here) so I have not included them on the basis that the accusations and insinuations he makes are correct, quite the contrary, and I can comment on each of the erroneous points if requested. I consider his messages to be a targeted bullying campaign in conjunction with Cllr Waits and Cllr McCormack to remove the clerk (in which they have been successful as she has resigned due to their harassment). From the content of the messages I also consider them to be an attempt to bully me as Chairman, and I anticipate further emails in a similar vein once the Clerk has left her post. The constant unsubstantiated references to Cllr (Alderman) Dykes are also effectively bullying myself and they suggest will probably lead to further accusations;
 - James Walton has made a Freedom of Information request for the same information Cllr Waits asked for concerning all discussions of the Muir Sub Committee. He has also contacted Muir with questions relating to those discussions. (The Clerk has been advised by CHALC that the minutes should be split between confidential and non confidential items and only the latter should be released under the FOI request and to the Cllrs with a prejudicial interest and this is being arranged);
 - Mr Walton appears to consider that his bullying behaviour carries influence and entitles him to direct events at the Parish Council and the Borough Council;
 - I was especially concerned at his emails complaining about the Clerk and in particular the email of 6th December where he provisionally withdrew his complaint pending the outcome of the Parish Councils response to Cllr Waits request to reopen the discussion on planning application 11/2423N. I considered this to be a threatening email and sought advice from CHALC on how to manage this. I proposed to abstain from the discussion and Parish Council vote on the proposal so the decision could not in any way be viewed to be influenced by this email. Jackie Weaver agreed with this approach. I then disclosed the matter of the complaint and the provisional withdrawal in a later confidential part of the meeting.
4. In summary I have found the combined emails from Cllr Waits/James Walton's home to be threatening and bullying and the whole situation to be extremely disturbing. The Parish Council have now amended their Standing Orders to require a posted letter to the Clerk and a posted response in an attempt to manage this situation.
5. From the above and attached it appears to me that Cllr Waits may be in breach of the following Codes of Conduct :
- 3 (1) 'treat others with respect'
 - 3 (2) (b) 'bullying'
 - 3 (2) (d) 'likely to compromise the impartiality of those who work for your authority'
 - Potentially 4 (a) 'disclosure of confidential information'
 - 7 (1)(a) and (b) 'you must have regard to any relevant advice provided by your authority's chief finance officer and your authority's monitoring officer'
 - 9 (1) ' disclosure of personal interests'
 - Potentially 12 (1) and 12(2) 'effect of prejudicial interests on participation'

COUNCILLOR JILL WAITS EMAILS REGARDING DECLARATIONS OF INTEREST

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

From: Jill Waits

To: Alex BunburyParish

Cc: Erica Partridge ; Gary McCormack ; Sally Beard ; Mandy Jones ; Dave Ellis ; Brian Dykes ; Nick Parker ; Michael Jones

Sent: Thursday, December 22, 2011 4:34 PM

Subject: Code of Conduct Complaint against me

Dear Alex,

I have today received a letter from Caroline Elwood advising that you have raised a complaint against me via an alleged breach of Para 5 and 12(1) of the Code of Conduct.

Unfortunately Ms Elwood's letter gives no details at all of the alleged breaches, leaving me astounded and totally unaware of any breaches I have made under the headings you have quoted (or any other headings). I would therefore be grateful if you would let me know what I have done, or failed to do, that requires the course of action you have taken.

I am copying this email to fellow councillors so that they are aware of what is happening.

I look forward to hearing from you.

Regards,
Jill

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

From: Jill Waits

To: BunburyClerk ; sallypbeard@fsmail.net ; Eric Lord ; Nick Parker ; David Ellis ; Erica Partridge ; Gary McCormack ; Brian Dykes ; Mandy Jones

Sent: Tuesday, December 06, 2011 12:07 PM

Subject: Re: General Advice on Parish Council Member Declarations of Interests

Dear All

You will have received the email below from Alex dated 4 December which also has the email from Julie Openshaw regarding the above. The documents she refers to are very helpful and I now feel much clearer about the need, or otherwise, to declare an interest and whether that is private, or prejudicial, or both. What I had not appreciated before, perhaps wrongly, is that even if it is necessary to declare a personal interest about a matter, one can stay in the meeting, speak and vote on the matter as long as one's interest is not also prejudicial.

This clearly puts matters that have been discussed by the PC on Muir Homes in a totally different light. I have to own that I believe I was the person who raised the issue of whether or not I, and other Wyche Lane residents, should declare an interest.

In any event, it now seems that several issues on the Muir development have been discussed and decided upon by a much reduced PC, due, incorrectly, to the total withdrawal of all Wyche Lane residents, save for Gary McCormack on some issues (even he should have been heard by the rest of us, and that is another issue which, I believe, needs to be addressed, but I do not seek to deal with it here.) Whilst I feel very responsible for this happening in part, I was a relatively new

member of the PC and had not faced this problem previously. My only wish in all this was to do, and be seen to be doing, the right thing. I did not have any other agenda.

I have looked back in the PC minutes and identified that Wyche Lane residents have been withdrawing from all discussions about the Muir development since the PC meeting on 11 January 2011. This raises the question as to how we remedy the only partially representative responses that the PC have put forward since that date. Should we be revisiting some or all matters that have been decided since then? What do other councillors think please?

In the light of Julie Openshaw's comments and the attached documentation, what are we now going to do about the decision made by a reduced PC on 9 August 2011, on which we now understand half of us should have been represented? I believe we are still able to revisit 11/2423N. This is a section 73 variation made by Muir Group Housing Association to change the approved planning permission 07/0867, which would alter the access route and width of roadway from the rear of the proposed housing development in Wyche Lane to the field at the rear, currently owned by Gary McCormack. I understand now that those councillors who had previously withdrawn should have remained in the meeting, had a voice and a vote. I am sure that the "non-Wyche Lane" councillors would not wish to deny them those rights as councillors, or to deny any rights to the parishioners they serve on the PC to represent.

My real concern here is not only that Sally, Dennis, David, I, and to some extent Gary, have incorrectly missed out on a number of important issues relating to Muir, but have not remained in the meeting, spoken and voted on any of these matters since December 2010. I hope we can now seek to remedy this unrepresentative position and work in a different way from now on.

I would be very interested to have fellow councillors' views on this and the need to revisit the Muir variation, based on both the above facts and the strength of feeling against this proposed variation, as shown by the representations of local residents which are available on line on the CEC planning website.

I would be grateful if this could be added to the December PC agenda please.

Sorry to go on at length, but there are some important principles here.

Regards,
Jill

From: BunburyClerk <bunburyclerk@aol.com>
To: sallypbeard@fsmail.net; Eric Lord <ericlord2@hotmail.com>; Nick Parker <nick.parker@homecall.co.uk>; Jill Waits <jillwaits@yahoo.co.uk>; David Ellis <dellis7@tiscali.co.uk>; Erica Partridge <ep.partridges@btinternet.com>; Gary McCormack <GMC@CSQ42.com>; Brian Dykes <b.dykes@btinternet.com>; Mandy Jones <mandyjones21@btinternet.com>
Sent: Sunday, 4 December 2011, 13:37
Subject: Fw: General Advice on Parish Council Member Declarations of Interests

Dear All

Please find below message from Julie Openshaw with helpful links regarding the code of conduct, which will hopefully clarify whether or not you should declare interests in various matters.

Regards
Alex

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

From: OPENSHAW, Julie

To: 'bunburyclerk@aol.com'

Cc: 'ep.partridges@btinternet.com'; ELWOOD, Caroline; MOULSON, Diane

Sent: Wednesday, November 30, 2011 2:51 PM

Subject: General Advice on Parish Council Member Declarations of Interests

Dear Alex

Further to Caroline Elwood's email to you of 22 November, indicating amongst other things that we would reissue some general advice to the Parish Council on Declarations of Interest generally, please find attached three web links.

The first is to the part of Cheshire East's Council's website showing the Code of Conduct for Members within the Constitution.

The second is to an explanatory leaflet relating to Personal and Prejudicial Interests published on behalf of the Standards Committee.

The third is to Standards for England's booklet to Members explaining the Code, which was issued in May 2007, when the Code was updated.

As Caroline said, in the light of this reminder, it will then be for members of the Parish Council to consider their individual positions if necessary. As you know, the advice I provided in November 2010 was based on the circumstances you outlined to me at the time, and was confined to the issue of the offer of land to the Parish Council, not the later planning application.

http://www.cheshireeast.gov.uk/council_and_democracy/your_council/constitution.aspx (see pp 357 - 364 for the Code)

[The Model Code of Conduct - An Explanatory Leaflet Relating to Personal and Prejudicial Interests \(PDF, 71KB\)](#)

<http://www.standardsforengland.gov.uk/Guidance/TheCodeofConduct/Guidance/filedownload.16126.en.pdf> (see Section 3 for Interests).

As regards personal and prejudicial interests, the Code provisions themselves, and their application, will generally be the same for Parish Councillors as for Borough Councillors.

I hope this is of assistance.

Kind regards

Julie Openshaw
Legal Team Manager (Places) / Deputy Monitoring Officer
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
CW11 1HZ
Tel: 01270 685846
Fax: 01270 529710

Mobile: 07875 195219

Hi Erica and Brian

Have received the message below from Caroline now. I have confirmed to her that JW is Cllr Waits partner and suggest we now await an answer from Cheshire East to all queries.

Regards

Alex

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

From: ELWOOD, Caroline

To: 'bunburyclerk@aol.com'

Sent: Thursday, October 20, 2011 5:50 AM

Subject: Re: Fwd: Openshaw letter Fw: Members' Interests query

Alex

I will speak to Julie about all these issues and get back to you ~ we need to be clear on our position as I also have 2 long e mails requesting advice from Mr Walton.

Please can you confirm if he is Cllr Waits partner ?

Thanks Caroline

From: bunburyclerk@aol.com <bunburyclerk@aol.com>

To: ELWOOD, Caroline

Sent: Wed Oct 19 19:40:20 2011

Subject: Fwd: Openshaw letter Fw: Members' Interests query

Sorry Caroline - got your email wrong the first time.

Alex

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

From: bunburyclerk <bunburyclerk@aol.com>

To: caroline.ellwood <caroline.ellwood@cheshireeast.gov.uk>

CC: ep.partridges <ep.partridges@btinternet.com>; brian.dykes <brian.dykes@cheshireeast.gov.uk>

Sent: Wed, 19 Oct 2011 19:11

Subject: Fwd: Openshaw letter Fw: Members' Interests query

Dear Caroline

Please could you give me some advice on the email below.

Councillor Jill Waits had previously declared a personal and prejudicial interest following advice from Ms Julie Openshaw. She has now changed her mind and is demanding that all minutes/correspondence is shown to her. Is this a reasonable thing to do and should I provide her with the information?

Please do not hesitate to contact me if you require any further information.

Regards

Alex Stubbs

Clerk to Bunbury Parish Council

01829 733252

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

From: jill waits

To: Partridges

Cc: Brian Dykes ; Bunbury Parish ; Dave Ellis ; Eric Lord ; GMC ; Mandy Jones ; Nick Parker ; sallypbeard@fsmail.net ; Michael Jones

Sent: Thursday, October 20, 2011 4:11 PM

Subject: Re: Openshaw letter Fw: Members' Interests query

Erica,

My circumstances have not changed. I did not own a property in Wyche Lane then and I do not own one now. As I did not see the full reply from Julie Openshaw until late last month, I don't think I can have known what bits of it applied to me and what didn't. She must have believed that the councillors in question all owned property in Wyche Lane.

I am emailing Alex to ask her to check that the register of interests is correct in this regard. If it is, as I assume, I can only believe that Julie Openshaw was briefed incorrectly on this point. I am also asking Alex to check with Julie if she believes this means I don't have to declare an interest. I am therefore grateful that you have decided to suspend all further involvement regarding Muir until all matters are clear.

Regards,

Jill

From: Partridges <ep.partridges@btinternet.com>

To: jill waits <jillwaits@yahoo.co.uk>

Cc: Brian Dykes <b.dykes@btinternet.com>; Bunbury Parish <Bunburyclerk@aol.com>; Dave Ellis <dellis7@tiscali.co.uk>; Eric Lord <ericlord2@hotmail.com>; GMC <GMC@CSQ42.com>; Mandy Jones <mandyjones21@btinternet.com>; Nick Parker <nick.parker@homecall.co.uk>; sallypbeard@fsmail.net; Michael Jones <m.jones1@btconnect.com>

Sent: Wednesday, 19 October 2011, 16:19

Subject: Re: Openshaw letter Fw: Members' Interests query

Jill

Julie Openshaws advice was only relevant to the Councillors involved, as Alex explained.

You appear to be stating that the legal advice given to the Parish Councillors was incorrect in some respects rather than your circumstances having changed and also raise the point that the circumstances in relation to the Muir land changed over this period. As previously, and as you have already declared a personal and prejudicial interest, I am uncertain as to the procedures in this situation so I think it is best to seek clarification. I will ask Alex to make further enquiries with the Monitoring Officer.

All Parish Council matters relating to the Muir land will be deferred in the meantime to ensure they are correctly dealt with. I do not want there to be any further misunderstandings going forward.

Erica

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

From: jill waits <jillwaits@yahoo.co.uk>

To: Partridges <ep.partridges@btinternet.com>

CC: Brian Dykes <b.dykes@btinternet.com>; Bunbury Parish <Bunburyclerk@aol.com>; Dave Ellis <dellis7@tiscali.co.uk>; Dennis Burrows <dennis.burrows@btopenworld.com>; Eric Lord <ericlord2@hotmail.com>; GMC <GMC@CSQ42.com>; Mandy Jones <mandyjones21@btinternet.com>; Nick Parker <nick.parker@homecall.co.uk>; sallypbeard <sallypbeard@fsmail.net>; Michael Jones <m.jones1@btconnect.com>

Sent: Wed, 19 Oct 2011 13:48

Subject: Re: Openshaw letter Fw: Members' Interests query

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

From: BunburyClerk

To: jill waits

Cc: sallypbeard@fsmail.net ; Eric Lord ; Nick Parker ; Jill Waits ; David Ellis ; Erica Partridge ; Gary McCormack ; Brian Dykes ; Mandy Jones

Sent: Sunday, October 30, 2011 7:06 PM
Subject: Re: Openshaw letter Fw: Members' Interests query

Jill

I can confirm that you did not declare that you owned any property in the register of interests.

I have contacted Caroline Ellwood with your query and am awaiting her reply.

Alex

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

From: jill.waits@btinternet.com
To: bunburyclerk@aol.com
Cc: b.dykes@btinternet.com; dellis7@tiscali.co.uk; dennis.burrows@btopenworld.com; ericlord2@hotmail.com; ep.partridges@btinternet.com; GMC@CSQ42.com; mandyjones21@btinternet.com; nick.parker@homecall.co.uk; sallypbeard@fsmail.net
Sent: Thursday, October 20, 2011 4:11 PM
Subject: Re: Openshaw letter Fw: Members' Interests query

Dear Alex,

You did send me a short email on 15 December giving what you seemed to believe was definitive guidance on the need to declare an interest or otherwise. No details were given at all other than Sally, Dennis and I should declare an interest. I am at a loss to understand why I do need to declare an interest, given the advice in Julie Openshaw's email "Each of them owns their home and has registered it as such in the register of interests". I do not own any property in Bunbury and I don't believe I have made a false declaration in the register of interests stating that I do. I would be grateful if you would check this for me please on the register. Because I didn't see the details of Julie Openshaw's reply until you sent out copies on 26 September this year, I had no way of knowing what it actually said until then. No discussion about it was in the minutes I received of the December BPC, despite the fact that I have been told it was.

Perhaps you would be good enough to contact Julie Openshaw about this issue again in order to clarify if I have to declare an interest or not. Her email seems to suggest not to me.

Perhaps I should point out that the "land for sale" cannot even be seen from this house.

Regards,

Jill

From: "bunburyclerk@aol.com" <bunburyclerk@aol.com>
To: jill.waits@yahoo.co.uk; sallypbeard@fsmail.net
Cc: b.dykes@btinternet.com; dellis7@tiscali.co.uk; dennis.burrows@btopenworld.com; ericlord2@hotmail.com; ep.partridges@btinternet.com; GMC@CSQ42.com; mandyjones21@btinternet.com; nick.parker@homecall.co.uk
Sent: Wednesday, 19 October 2011, 18:54
Subject: Re: Openshaw letter Fw: Members' Interests query

Dear Jill

Just to reply to your accusations - I emailed you on December 15th 2010 following the Parish Council meeting, detailing the contents of the email and the advice that was given. You neither queried the advice nor asked to see the email.

Alex

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

From: [Partridges](#)
To: [Brian Dykes](#); [Eric Lord](#); [Mandy Jones](#); [Nick Parker](#)
Cc: [Alex Stubbs](#)

Sent: Wednesday, October 19, 2011 4:14 PM
Subject: Muir sub group

Dear Councillors

I am sure you will have seen the email from Councillor Waits requesting that other Councillors forward all messages and minutes relating to the Muir Sub Group to her.

As this is 'unchartered territory' Alex is seeking legal advice on this situation from Cheshire East to ensure that as a Parish Council our actions are correct, as we have done in the past.

Consequently I have deferred all actions relating to the Muir land until we have that advice, so please do not send any information to Jill as that in itself may constitute a breach of the Code of Conduct which we are seeking to avoid in all respects in relation to all Parish Councillors.

Alex will then respond to Jill's email appropriately in the light of the advice received from Cheshire East. Alex is going on holiday for a week so there will be some delay but I trust you will bear with that as it is important to behave correctly.

Regards
Erica

Hi Erica,

Thank you for your email below.

However, it does not address the point made in the first full paragraph of my letter. If you feel that you have, then I am afraid you are missing the point. No councillor can request any item of correspondence when they didn't know that it existed, it is not copied to them and that it was discussed by members but not minuted at all. The point I am making is that selective circulation of individual matters to some councillors, but not others, should not be regarded as acceptable. So I would still be grateful to hear your views on this point.

As to the matter of declaring an interest, I agree that it is the responsibility of individual councillors to decide if they need to do that. At the time I raised this point I had been a councillor for less than a year and had never experienced the need to do this before in this forum. I don't think discussion on this point was minuted, but my recollection is that I raised it for consideration and believed that it was the right thing to do at the time. Other councillors in Wyche Lane clearly felt the same. At the time no-one could have anticipated the events that have followed in relation to the Muir development.

In view of what you stated in your email and the advice given in Julie Openshaw's email (even though some of the details were wrong) I wish to withdraw my declaration of interest on matters relating to Muir and hope that other councillors (except Gary on certain issues) will do likewise. Because so much has happened, I hope that Alex will please be good enough to furnish me with all previous minutes and correspondence relating to all issues discussed by the Muir sub-group and perhaps before the sub-group was set up. I suspect that I will also need to request that the other councillors on the group also please let me have copies of communications with each other, Muir or CEC, so that I can bring myself back up to speed with this. I know this is an

email to you Erica, but hope that you and the other relevant colleagues on the circulation list will please take this as a request from me and respond accordingly.

Regards,
Jill

From: Partridges <ep.partridges@btinternet.com>
To: jill waits <jillwaits@yahoo.co.uk>; sallypbeard@fsmail.net
Cc: Brian Dykes <b.dykes@btinternet.com>; Bunbury Parish <Bunburyclerk@aol.com>; Dave Ellis <dellis7@tiscali.co.uk>; Dennis Burrows <dennis.burrows@btopenworld.com>; Eric Lord <ericlord2@hotmail.com>; GMC <GMC@CSQ42.com>; Mandy Jones <mandyjones21@btinternet.com>; Nick Parker <nick.parker@homecall.co.uk>
Sent: Tuesday, 18 October 2011, 21:19
Subject: Re: Openshaw letter Fw: Members' Interests query

Jill and Sally and other Parish Councillors

I am afraid the messages below serve to further obscure the sequence of events and reality in this matter.

It has been explained to all Parish Councillors that they must consider their own position and exclude themselves as necessary in accordance with the Code of Conduct. The decision is not and has not been made by myself, Alex or Julie Openshaw. The purpose of the Julie Openshaw's message is to advise on the correct interpretation of the Code of Conduct to assist Councillors and nothing else. There has never been any question of anybody imposing a ruling on any of the Parish Councillors who have applied the advice and excluded themselves.

The solution is quite straightforward and always has been. A polite request to Alex on this basis is all that is necessary.

If Parish Councillors are concerned that they may not have interpreted the Code correctly in relation to their own situation they should each contact Alex with their queries and request that she forward them to Julie Openshaw with a plan indicating the various plots of land. Julie Openshaw can then provide further advice and, as before, the Councillors can take a decision in the light of that advice. As each Parish Councillor has to consider their own position there may be other factors they need to take into account (as I cannot presume that the advice covers all circumstances relevant to each person).

Erica

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

From: jill waits
To: sallypbeard@fsmail.net
Cc: [Brian Dykes](#) ; [Bunbury Parish](#) ; [Dave Ellis](#) ; [Dennis Burrows](#) ; [Eric Lord](#) ; [Erica Partridge](#) ; [GMC](#) ; [Mandy Jones](#) ; [Nick Parker](#)
Sent: Tuesday, October 18, 2011 9:40 AM
Subject: Re: Openshaw letter Fw: Members' Interests query

Hi Sally,

Many thanks for your email below and letting me know what you recall as I wasn't at the December 2010 meeting.

I note what you say about Alex circulating the Julie Openshaw email in September 2011. However, it seems to have been important enough to have been discussed before/or at the beginning of the December meeting, but not to be minuted or circulated then, which I see as a mistake, I presume on Alex's part. Why should those who were there be party to information about anything, and those who were not there excluded from that information? This seems particularly wrong when the 3 people who could not attend the meeting were significantly affected by the contents of Julie Openshaw's email. Whatever the subject I can't see how this can

be regarded as a correct way to behave I'm afraid. I see Alex's job as keeping us all equally informed about anything that is the business of the PC and it seems that on this point she failed to do that. I don't see it as the responsibility of fellow members to keep those not present informed of what happens.

As to your comments on declaring an interest, I have to admit that I was the person who raised this in the first place when I was a new member and anxious, as I hope I continue to be, to do the right thing. I now believe that it was not necessary for the 4 of us from Wyche Lane (but not always Gary) to exclude ourselves from all discussions on all matters relating to Muir Homes and the land behind the development. I think there has been either inaccurate advice from Julie Openshaw, inadequate or incorrect briefing to her, or an incorrect interpretation of the information she gave (which was inaccurate itself in part when one has a proper understanding of the geography of the area and individual ownerships) which has led to half the PC not being party to a number of decisions that 4 or 5 members should not have been excluded from. So, I agree with you that we should have been party to more decisions that we have regarding all or part of the Muir issues.

I am grateful to you for coming forward with information and your views on the matter and look forward to hearing from other councillors.

Regards,
Jill

From: Sally Beard <sallypbeard@fsmail.net>
To: Jill Waits <jillwaits@yahoo.co.uk>
Cc: Brian Dykes <b.dykes@btinternet.com>; Bunbury Parish <Bunburyclerk@aol.com>; Dave Ellis <dellis7@tiscali.co.uk>; Dennis Burrows <dennis.burrows@btopenworld.com>; Eric Lord <ericlord2@hotmail.com>; Erica Partridge <ep.partridges@btinternet.com>; GMC <GMC@CSQ42.com>; Mandy Jones <mandyjones21@btinternet.com>; Nick Parker <nick.parker@homecall.co.uk>; Sally Beard <sallypbeard@fsmail.net>
Sent: Monday, 17 October 2011, 21:21
Subject: Openshaw letter Fw: Members' Interests query

Hello Jill,

I remember seeing this letter and have just checked my emails, so for your info please see below. Alex sent out an email on the 26 Sep to all Parish Councillors which if you scroll down does include the letter from Julie Openshaw.

You can also see who all the recipients were.

I have not passed this onto anyone except yourselves in this email. I was at the December 2010 meeting where the letter and its recommendations were discussed and from this I did declare 'an interest' as it seemed that I needed to. I, then along with the others on Wyche Lane have subsequently declared 'an interest' at meetings ever since. I am now uncertain as to whether we should have?

Kind regards
Sally

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

From: jill waits
To: BunburyClerk ; Mandy Jones ; Brian Dykes ; Gary McCormack ; Erica Partridge ; David Ellis ; Nick Parker ; Eric Lord ; sallypbeard@fsmail.net ; dennis.burrows@btopenworld.com
Sent: Monday, October 17, 2011 6:04 PM
Subject: Re: Email from Ms. Julie Openshaw dated November 22nd 2010

Alex,

As I have never been given or sent a copy of Julie Openshaw's email I can confirm that it did not come from me.

Regards,
Jill

From: BunburyClerk <bunburyclerk@aol.com>
To: Mandy Jones <mandyjones21@btinternet.com>; Brian Dykes <b.dykes@btinternet.com>; Gary McCormack <GMC@CSQ42.com>; Erica Partridge <ep.partridges@btinternet.com>; David Ellis <dellis7@tiscali.co.uk>; Jill Waits <jillwaits@yahoo.co.uk>; Nick Parker <nick.parker@homecall.co.uk>; Eric Lord <ericlord2@hotmail.com>; sallypbeard@fsmail.net; dennis.burrows@btopenworld.com
Sent: Monday, 17 October 2011, 12:14
Subject: Email from Ms. Julie Openshaw dated November 22nd 2010

Dear All

A resident of Bunbury, James Walton, has received a copy of the above email and claims it is from 'a member of the Parish Council'.

Please could you all confirm whether or not you have forwarded this email on to him.

Regards
Alex

Message Received: Sep 26 2011, 12:34 PM

From: "Bunbury Parish"
To: "Mandy Jones", "Brian Dykes", "Gary McCormack", "Erica Partridge", "David Ellis", "Jill Waits", "Nick Parker", "Eric Lord", sallypbeard@fsmail.net, dennis.burrows@btopenworld.com
Cc:
Subject: Fw: Members' Interests query

Dear All

There seems to have been various queries about declaring personal and prejudicial interests regarding the Wyche Lane to be sold to the PC and there does seem to be some confusion. Please find below the letter received from Julie Openshaw (Deputy Monitoring Officer for CE) dated November 22nd 2010. Please also find attached a copy of Bunbury Parish Council's Code of Conduct.

We discussed the letter at our December 2010 meeting and following that discussion various members of the PC declared personal and prejudicial interests. Please take the time to revisit the letter. If you believe that your circumstances have changed then please do let me know.

Regards
Alex

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

From: OPENSHAW, Julie
To: 'bunburyclerk@aol.com'
Sent: Monday, November 22, 2010 3:39 PM
Subject: Members' Interests query

Good afternoon Alex

Further to our telephone conversation earlier, I understand that you and some of your members seek advice on what if any interests they need to declare in relation to a plot of land which has been offered for sale to Bunbury Parish Council. I will refer to this as the "for sale land".

You explained that the for sale land abuts a second strip of land which has planning permission for development, and it is the developer that has offered the for sale land to the Parish Council.

You also explained that one member (A), who owns a third strip of land which abuts the other side of the "for sale" land has already declared a personal and prejudicial interest and has absented himself from any consideration of whether the land should be purchased, but three other members are potentially affected because of the positioning of their gardens. "B" has a garden abutting the "for sale" land, "C" has a garden abutting the land owned by the councillor who has already declared an interest, and "D" has a garden which allows a view of where the development would be. Each of them owns their home and has registered it as such in the register of interests.

My view is that due to their proximity to the for sale land, and the possible effect arising from that on the values, or desirability, of their homes, B C and D all have personal interests in the decision whether the Parish Council should purchase the land, because a decision on whether or not the PC should buy it could reasonably be regarded as affecting their well-being or financial positions to a greater extent than the majority of council tax payers ratepayers or inhabitants of the locality.

Unless they can raise some other consideration which might merit further consideration (I haven't seen a plan), they appear to have a prejudicial interest as well, because of the same considerations in terms of proximity and effect on financial position, which suggest that the proper conclusion is that "a member of the public with knowledge of the relevant facts would reasonably regard [the interest] as so significant that it is likely to prejudice your judgment of the public interest".

I gather there are 10 members of the Council, with a quorum of 4, so unless other members have prejudicial interests to declare for some other reason, you should be quorate to make the decision. If circumstances arise where interests are such that getting a quorum would be impossible, the Borough Council's Standards Committee does have power to consider, and if appropriate, grant, applications for dispensations to allow members to speak and vote where they have a prejudicial interest, but only where either more than 50% of members who would be entitled to vote being prohibited from doing so, or where the number of members that are prohibited from voting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced. As these situations are relatively rare, so are applications for dispensations. It does not sound as though the first criterion would be met; without knowing the political persuasion of the members involved, and the remainder, it's unclear if the second would apply, but you might want to consider that.

I hope this assists.

Kind regards

Julie Openshaw
Legal Team Manager (Places, Regulatory and Compliance) (Deputy Monitoring Officer)
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
CW11 51HZ
01270 685846)

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

From: [jill waits](#)

To: [Bunbury Parish](#)

Sent: Thursday, December 16, 2010 10:35 AM

Subject: Re: Land at Wyche Lane

Alex,

Many thanks for letting me know what happened on the above point. I imagine it is often difficult in villages when this potentially important type of land issue is discussed. Thank goodness we don't all live on the perimeter!

I am feeling a bit better but still coughing well thanks, but James is at the GPs as I write, trying to shake off the hacking cough before the big day.

I hope everything went well at the meeting and later.

Many thanks for your words of advice about training. I will come back to you with something solid in the new year.

I hope you have a good break and look forward to seeing you in 2011.

Kind regards,

Jill

--- On Wed, 15/12/10, Bunbury Parish <Bunburyclerk@aol.com> wrote:

From: Bunbury Parish <Bunburyclerk@aol.com>

Subject: Land at Wyche Lane

To: "Jill Waits" <jillwaits@yahoo.co.uk>

Date: Wednesday, 15 December, 2010, 14:21

Jill

Hope you are feeling better today. Just thought I ought to keep you up to date with something that was reported at the last meeting.

Following your disquiet about declaring an interest for the Muir land discussion, I contacted the monitoring officer for advice. She confirmed that she thought both you, Dennis and Sally should declare personal and prejudicial interests in the discussion and abstain. Dennis had already told me that he was going to take no part in the decision making and Sally also declared an interest at the meeting when informed of the email.

Hope this is helpful for future meetings. I will let you have a copy of the minutes when I have completed them.

Cheers

Alex

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

From: jill waits

To: Partridges ; Alex Stubbs

Sent: Monday, July 04, 2011 5:48 PM

Subject: Re: Fw: Muir Homes

Hi Erica (and Alex),

Hope you had a good holiday. I thought you must have been away.

Below is the reply I received - sorry about that. I was at pains in my letter to say that I was writing as a private individual, though David Robinson seems only to see my Parish Council hat. I wrote it more as a favour to Dennis Burrows, although I am all for making housing adjustments that make common sense and offer a family a home that Polly no longer needs. This wasn't done to create difficulties and I sincerely hope it hasn't.

Do let me know if you need anything else.

Regards,

Jill

I'd still be grateful if you'd give me a call Erica, when you have caught up with yourself. My

number is 260195.

Regards,
Jill

From: David Robinson <David.Robinson@Muir.org.uk>
Subject: Properties and Wyche Lane, Bunbury
To: "jillwaits@yahoo.co.uk" <jillwaits@yahoo.co.uk>
Cc: "bunburyclerk@aol.com" <bunburyclerk@aol.com>, "Tracey Ashton" <Tracey.Ashton@Muir.org.uk>
Date: Friday, 17 June, 2011, 14:38

Good afternoon Mrs Waits

Many thanks for your letter dated the 8th June '11, which I only received yesterday, concerning Mrs Paul Owen potential application for the properties we are building at Wyche Lane.

I have passed your letter on to David Hull our Regional Manager who will be responsible for the allocation of the completed units. I have also asked David to advise you of any other steps Mrs Owen should look to take to ensure her application for these houses is correctly progressed.

I'd also advise that my colleague, Tracey Ashton will be working very closely with you and your colleagues on the Parish Council to ensure that we arrange at least 1 public meeting during the constriction period to give all local people full details of the proposed houses, and more importantly the allocation process that will be followed. Tracey will work with the Parish Council to ensure maximum local publicity not only of the public meeting but of the availability of the houses for local people.

I'd also advise that we will work with the Parish Council to explore the potential for one of the Councillors to sit as an observer on Muir's allocation panel to help us ensure the homes go to households not only with a housing need but also with a clear local connection.

Many thanks for contacting Muir and please do not hesitate to contact either Tracey or myself if you have any further queries or would like any further information.

With regards

David

David Robinson
Director of Development
Muir Group Housing Association
Oakmere House,
Meres Edge Helsby Cheshire WA6 0DJ
Tel: 01928 728048 Fax: 0870 7315057

Registered Office: Muir Group Housing Association Limited
Old Government House, Dee Hills Park, Chester CH3 5AR
<http://www.muir.org.uk>

--- On Mon, 4/7/11, Partridges <ep.partridges@btinternet.com> wrote:

From: Partridges <ep.partridges@btinternet.com>
Subject: Fw: Muir Homes
To: "Jill Waits" <jillwaits@yahoo.co.uk>, "Alex Stubbs" <bunburyclerk@aol.com>
Date: Monday, 4 July, 2011, 16:03

Hi Jill/Alex

Just returned from holiday and going through my emails.

The reply from Muir was not attached to the earlier email or the letter from Jill - Jill, can you send these please ?

The BPC must be seen to not influence the allocation of a property in favour of an individual but just ensure the correct process is followed.

Alex will probably need to send a message clarifying this.

Regards
Erica

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

From: Jill Waits
To: Erica Partridge ; Alex Stubbs
Sent: Saturday, June 18, 2011 5:12 PM
Subject: Fw: Playing Fields Pavilion Consultation village day - Final

Dear Erica and Alex,

I wrote to Muir Homes on 6 June, as a private individual, but mentioning that I was a member of BPC, to support Polly Owen's wish to be relocated from a 3 bed house opposite the church to a 2 bed one in Wyche Lane, when they are built.

I am attaching a copy of the reply which I have shared with Polly and Michael Owen as some of the points David Robinson makes in his email may be of help/importance later, depending on what happens.

Also, despite the fact that I made it clear I was writing as a private individual, he seems to have ignored this and appears only to refer to my Parish Council membership, which was not my intention.

I have no plans to copy it to anyone else at present, unless either of you feels it would be beneficial.

Regards,
Jill

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

From: Jill Waits
To: Partridges ; Dennis Burrows ; Nick Parker ; Brian Dykes ; Sally Beard ; Philip Elsegood ; Alex BunburyParish ; Eric Lord
Sent: Thursday, November 18, 2010 3:49 PM

Subject: Re: TP1 for Muir Land at Wyche Lane

Erica, Alex and fellow Councillors,

First, thanks for doing all this work Erica.

I am sure you are right that we need some legal advice on the points you have raised, as several items seem open to interpretation and need to be considered in the light of circumstances moving in a number of different directions.

The crux of the matter is to me, as Alex wrote in her email, that the village is offered no protection with regard to future development of the vacant land currently owned by Gary & Suzie, which is presumably why the strip of land was withheld from sale in the first place.

I can't help feeling that the Parish Council is being rendered rather powerless in all this, and thus, so are the villagers. I have to admit that this whole business leaves me feeling uneasy, as a Parish Councillor, potentially a neighbour of any future development and as a member of the village.

However, on another tack, both I, and presumably Dennis, and maybe even Sally, could then be deemed to be affected by the potential development of this land and perhaps should not therefore be involved in the discussion. I don't know how you see this, but I want to point out that I did not become a Parish Councillor to protect my own interests, but those of the village first and foremost. The village will still be here when I am long gone and I would like to believe that the Parish Council has done the right things for the right reasons. I will therefore abide by whatever decision is reached on my appropriateness in being involved or otherwise in decisions relating to this land.

This is already a complex issue and I am sorry to be seen to throw another spanner in the works!

Regards,
Jill

--- On Wed, 17/11/10, Partridges <ep.partridges@btinternet.com> wrote:

From: Partridges <ep.partridges@btinternet.com>
Subject: Re: TP1 for Muir Land at Wyche Lane
To: "Brian Dykes" <brian.dykes@cheshireeast.gov.uk>, "Dennis Burrows" <dennis.burrows@btopenworld.com>, "Eric Lord" <ericlord2@hotmail.com>, "Jill Waits" <jillwaits@yahoo.co.uk>, "Nick Parker" <nick.parker@homecall.co.uk>, "Phillip Elsegood" <Phillip.Elsegood@eel.co.uk>, "Sally Beard" <sallypbeard@fsmail.net>, "Bunbury Parish" <Bunburyclerk@aol.com>
Date: Wednesday, 17 November, 2010, 13:16

All

I have now had time to read the TP1 transfer to Muir - the plan provided by Muir at the meeting appears to be the plan referred to, I think we should request the coloured plan for the TP1 from the Land Registry (I would have expected them to provide this) - can . I have attached a pdf of this plan - I have assume the land sold is the area with 'access through to field' marked on (now registered as Muir title CH540350 - attached), and the 'retained land' referred to is the remainder of the title CH 246628 (now owned by Gary - attached). Gary therefore steps into the shoes of the 'transferor' in this document.

The relevant parts of the document are :

The Accessway - defined as any means of access on foot and vehicles

13.3.6 - this grants a right of way to Gary over the Accessway 'in connection with the occupation' of his land but the cost of maintaining the Accessway falls on Muir or their successors in title 'according to user'.

13.4 - Part (a) obligates Muir (or a future owner of the Muir land) to construct the Accessway at the same

time as they construct the dwellings. In this clause references to the Accessway now refer to Muir constructing a road to adoptable standards and maintaining it until it is adopted. Part (b) obligates Muir to erect and maintain a fence and gate to Gary's land.

The route of the accessway is not fixed, so Muir can decide the location to fit with their development.

It appears to me that this means that Gary owns a piece of land to which Muir are obliged to provide access suitable for the use of the land. If the use is grazing then the access can be a simple track but he can argue it needs to be adequate for agricultural vehicles. If Gary obtains planning permission to build on his land, then Muir will have to provide a road to adoptable standards suitable for the housing development.

Legal advice may be needed on the following aspects :

- whether the words in red do relate to Gary's land use
- whether there is an ongoing requirement for Muir to construct suitable access for Gary's purpose ie whether if they have provided a track under 13.3.6, they still have to provide a further upgraded access if needed
- how this would apply to a successor in title of part of the land on which houses are not being built (ie the potential BPC area) ie could the freehold obligation remain with Muir in such a case
- clause 13.3.6 does not say that the right of way is in conjunction with all others entitled to use the access - we need to know if this means the right is exclusive access to Gary's land (but it does not say the right is exclusive either).

I can only assume that when Muir agreed to these clauses they presumed that they would be building houses on the whole area and would be building an adoptable road anyway, so the agreement effectively meant they would just need to provide an access to their road and gate into the field at some point on the boundary. As the position now stands this could prove very expensive to them. It also explains their statement that they are not happy with their position on this site.

So what does all this mean in relation to BPC potentially taking the land offered by Muir ? :

- the freehold land remains subject to these covenants, so when Muir build the houses they will have to put a track through and this may be upgraded to a road in the future;
- BPC could ask Gary to release Muir from the covenants but there would be legal costs and why should he give up this significant benefit to himself;
- if BPC take the freehold they could inherit the obligation to maintain the road (construct relates to the houses) (subject to legal advice on this point);
- BPC could take the land on a long lease (100 yrs +) from Muir, recognising the fact that there will be a track or road maintained by Muir, BPC possibly picking up the fence liability - as Muir are obligated to do this if they keep the land and there has been no stated intention to pass a liability to BPC;
- the BPC interest in this land cannot therefore prevent residential development on Gary's land, it could only prevent sale of the land used for community benefit either side of an access road to Gary's land. A residential developer may consider the community use a benefit (depending on what it is), or may want to acquire this land when BPC would have some leverage;
- sale of the land to Gary for the £6000 mentioned (subject to valuation) may save Muir the additional costs of the track/road (depending on their agreement) which would far exceed the £6k and Gary could offer to buy out their whole title CH 540350 which removes all obligations from Muir.

As Alex says, developers can insure against covenants but this involves a risk assessment of someone with the benefit of the covenant claiming under it - in this case the risk relates to Gary obtaining planning consent for residential development on his land, and the insurance issue would apply on a sale of the Muir land to a third party. The fact that Gary owns adjacent land which would benefit from the covenant keeps it relevant. Again legal advice can be sought if necessary.

If BPC want to proceed with looking further at taking the land, then the feedback to Muir may be a long leasehold, but I do think we would need legal advice on the above interpretation points.

Re the possibility of allotments, the site area is just under half an acre which would give 7 allotments allowing for the access way. The access way may be useful if the area is used for allotments provided all can use it.

It might be worth sharing views by email before the meeting as this is such a complicated issue. All views welcome !

Regards
Erica

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

From: Bunbury Parish
To: Sally Beard ; Philip Elsegood ; Nick Parker ; Jill Waits ; Erica Partridge ; Eric Lord ; Dennis Burrows ; Brian Dykes
Sent: Monday, November 15, 2010 11:47 AM
Subject: TP1 for Muir Land at Wyche Lane

Please find attached PDF scan of the TP1 transfer agreement for the land at Wyche Lane. The contentious point seems to be the covenant on page 7 which mentions the construction of an 'Accessway'. The Accessway is defined as pedestrian and vehicular access between the southerly and northerly boundaries of the property, which would then run through the land that they propose to transfer to the Parish Council.

I think that a developer when faced with a covenant such as this which cannot be carried out, would normally pay a sum of money to the other affected party in lieu of carrying out the covenant. I also think that Muir would still have to create a 'bellmouth' to the land behind, in case a road is needed in the future. This isn't shown on their proposed site plan.

If you can't read the document or you would prefer a hard copy, please let me know.

Regards
Alex

COUNCILLOR JILL WAITS EMAILS REGARDING OTHER COUNCILLORS

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

From: jill waits

To: Partridges

Sent: Monday, October 31, 2011 12:33 PM

Subject: Private and confidential

Dear Erica,

I'm sad that we have had a terse exchange of emails between us and, as a result, have decided to email just you in confidence. When I read what you have written to me I wonder if I am in touch with the same person I spoke to some months ago on the phone about my thoughts and frustrations with the parish council.

Since becoming a parish councillor in May last year I have attended PC meetings, where, as you know, I find the behaviour of some of my fellow councillors very unprofessional and, in relation to Brian Dykes' behaviour towards you and other councillors quite unacceptable. I recall you saying that it was Brian's way and you would just carry on regardless. Clearly you are content to put up with this. If I were you, I would not be, but I have to acknowledge that we are all different.

I know that you are aware of the content of an email written by Nick Parker about me and Dave Ellis to Michael Jones is scathing and, in my view, unjustified terms. I can't complain formally about this as it would put Michael in a very difficult position and I am not prepared to do that. You will therefore appreciate, I hope, that I am not in a position to take this matter any further. However, it does show how divided some councillors are and unprofessional in writing in such a way to a CEC councillor.

In the circumstances I can only suggest we put this matter to one side. I believe there are some important things to do for the village in relation to the village plan and hope that we can work together effectively on this in the near future.

Regards,

Jill

From: Partridges <ep.partridges@btinternet.com>

To: jill waits <jillwaits@yahoo.co.uk>

Cc: Brian Dykes <brian.dykes@cheshireeast.gov.uk>; Alex Stubbs <bunburyclerk@aol.com>; David Ellis <dellis7@tiscali.co.uk>; Gary McCormack <GMC@CSQ42.com>; Eric Lord <ericlord2@hotmail.com>; Mandy Jones <mandyjones21@btinternet.com>; Nick Parker <nick.parker@homecall.co.uk>; Sally Beard <sallypbeard@fsmail.net>

Sent: Wednesday, 26 October 2011, 18:56

Subject: Re: Fwd: Gary McCormack Muir

Dear Jill

I am disappointed with your reply.

If you wish to make a complaint against a Parish Councillor you should contact Alex to take appropriate action.

Your third paragraph continues to be disrespectful whether intended or not. The Parish Council needs a mix of ages/experience/residency and as Councillors resign over a period of time for whatever reason they are replaced by new blood.

Regards

Erica

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

From: Jill Waits
To: Partridges
Cc: Brian Dykes ; Alex Stubbs ; David Ellis ; Gary McCormack ; Eric Lord ; Mandy Jones ; Nick Parker ; Sally Beard
Sent: Wednesday, October 26, 2011 5:43 PM
Subject: Re: Fwd: Gary McCormack Muir

Dear Erica,

I'm sorry to hear you have been unwell.

I am sure, like me, you are disappointed to hear about unprofessional behaviour from one parish councillor towards another. Information has been passed on to me, and, I believe, to you, regarding an email that was written by a parish councillor regarding me, in what can only be seen as unfounded and inciteful terms. As I have said already, I presume that councillor knows about whom I write. Unfortunately the email was written about me, not to me, and I therefore feel unable to let you have a copy without implicating others. I regard this as divisive behaviour by a fellow parish councillor and I don't believe you are in a position to tell me otherwise. You write to me as if I had started something, when I see myself as the brunt, and then demand an apology. Am I missing something here?

As to your point about my comments being disrespectful to other parish councillors, I find this an interesting interpretation of what I said. The purpose of writing this was to suggest that several councillors have been in their positions for many years and maybe this was a good time to seek new and younger input as the young parishoners, like Mandy, are the future of the village. No disrespect was intended and I fail to see how you can think there was.

I am afraid I don't understand why you comment on the removal of the fencing in the next paragraph.

I did not say that I am unhappy being a parish councillor. I said that Bunbury PC was not a happy place to be at present. Maybe you feel otherwise, but please don't twist what I say. I am not seeking to "spread discontent" as you put it, just to be honest about how I feel. If fellow parish councillors are unhappy with me doing that, then I am sorry they feel that way, but no-one has implied that to me.

Like you, I just want to get on with the business of the PC. I would be happy to apologise if I could see anything to apologise for and am sorry that you feel that way.

Regards,
Jill

From: Partridges <ep.partridges@btinternet.com>
To: Jill Waits <jillwaits@yahoo.co.uk>
Cc: Brian Dykes <brian.dykes@cheshireeast.gov.uk>; Alex Stubbs <bunburyclerk@aol.com>; David Ellis <dellis7@tiscali.co.uk>; Gary McCormack <GMC@CSQ42.com>; Eric Lord <ericlord2@hotmail.com>; Mandy Jones <mandyjones21@btinternet.com>; Nick Parker <nick.parker@homecall.co.uk>; Sally Beard <sallypbeard@fsmail.net>
Sent: Wednesday, 26 October 2011, 13:24
Subject: Re: Fwd: Gary McCormack Muir

Jill

Although your message below is to Alex, it raises a number of matters to which I am obliged to respond as Chairman. I have been ill recently otherwise I would have responded sooner.

I am at a loss to understand the motivation for or intent of your message in inciting the divisive behaviour which you complain about.

In making open insinuations about Parish Councillors I consider the content of the second paragraph below to be unprofessional and if you have any information (other than gossip) on such matters please provide it to Alex so action can be taken, if appropriate.

Further, your message is totally disrespectful to other Parish Councillors who commit a considerable amount of their time and in some cases their lives to serving the local community.

The advice to which you are referring was supplied by Cheshire East Deputy Monitoring Officer, not Alex Stubbs, and the Code of Conduct states that a Parish Councillor must have regard to any relevant advice provided to them by the authority's monitoring officer. As you know further advice is requested, which as before will be passed on to Councillors. I have already clarified that I reported the change of Muir contractor to the Parish Council meeting in relation to the removal of the fencing.

I note that you are extremely unhappy at being a Parish Councillor. I am sorry to hear that. I am also sorry that you are seeking to spread discontent amongst your colleagues.

Perhaps you have now had time to reconsider and trust you are now able to make an apology to your fellow Councillors.

I hope this can then be put behind us and we can all continue to work together in the future.

Regards

Erica

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

From: jill waits

To: bunburyclerk@aol.com ; b.dykes@btinternet.com ; dennis.burrows@btopenworld.com ; dellis7@tiscali.co.uk ; gmc@csq42.com ; ericlord2@hotmail.com ; mandyjones21@btinternet.com ; nick.parker@homecall.co.uk ; sallypbeard@fsmail.net ; ep.partridges@btinternet.com

Sent: Tuesday, October 18, 2011 11:56 AM

Subject: Re: Fwd: Gary McCormack Muir

Alex,

Gary has his own way of expressing himself which perhaps isn't my way. However, I do feel he has a right to point out anything that he perceives as unfair or inappropriate behaviour by you or another member of the PC.

I think we would all recognise that Bunbury Parish Council is not a happy place to be at present. Over the past few months I have become increasingly worried about the divisive behaviour of some members towards others and a hurling of unfounded and ridiculous accusations behind individual councillor's backs, which I find totally unprofessional and unacceptable. I have no doubt that these councillors know who they are. Perhaps this is the right time for some councillors who have served the parish for many years to step away and give new faces and opinions a chance to come forward and do their bit for the village.

Whilst I am sorry to see you go in many respects, what has come about serves to highlight how important it is that the clerk serves all, and is seen to serve all, councillors equally. All councillors should not deny that this is a difficult task with the volume and complexity of the issues the PC is involved in and recognise that this is only likely to increase in the future.

The Muir issues have caused a rift in the PC which are making it look incapable of behaving appropriately. I certainly don't feel that I have been advised correctly about whether or not to

declare an interest in specific matters. Perhaps it would be better if the whole Council was to resign and then it could start again. I would be interested to hear what other councillors think.

I am sure you will find a happier environment to work in than Bunbury PC Alex and wish you well.

Regards,
Jill

From: "bunburyclerk@aol.com" <bunburyclerk@aol.com>
To: b.dykes@btinternet.com; dennis.burrows@btopenworld.com; dellis7@tiscali.co.uk; gmc@csq42.com; ericlord2@hotmail.com; mandyjones21@btinternet.com; jillwaits@yahoo.co.uk; nick.parker@homecall.co.uk; sallypbeard@fsmail.net; ep.partridges@btinternet.com
Sent: Sunday, 16 October 2011, 20:10
Subject: Fwd: Gary McCormack Muir

Dear All

Please can I have your comments on Garys email and if you concur with his opinion.

Regards
Alex

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

From: CSQ Office <gmc@csq42.com>
To: bunburyclerk <bunburyclerk@aol.com>
Sent: Sun, 16 Oct 2011 19:29
Subject: Re: Gary McCormack Muir

Alex

Very disappointed at the cavalier approach you have to reporting news to the members of the PC. I was under the impression that you were the paid Parish Council Clerk who reported to all the Parish Council Members.

From your email it looks as if you report the information that you think is important to one member only. I have made it quite clear in all my emails to you that I have given you as the Clerk information which I assumed you passed on to the other members of the PC relating to all issues regarding Muir.

Reading your email it sounds as if you do not require my permission to forward the email on to Brian. I have made it evidently clear that I and other members of the PC do believe that Brian has a prejudicial interest in the Muir development. It is well documented and Brian never stops talking about Muir.

Regardless. Why did you not inform PC Members?
Why did you not mention any of the above at the PC meeting?
Why did you not support Brian at the meeting by informing the rest of the PC that you had informed Brian some weeks ago but had not thought it important to notify any PC members?

Alex

Our last Clerk Colin Knowles lived in the village and if you have read his correspondence to Muir. You will be aware of what he stood for. From my point of view you treat Bunbury as a job. You have no interest in Bunbury. You do not live in the village and from your actions you have your own inner circle who are receiving information excluding other PC Members.

The proposed development is a very important issue in the Village and if you are not informing members correctly or the minutes are not being updated with information that other PC members should be made aware of then we have a big problem.

I am just flying to the Middle East. So will pick up mails in the morning.
Alex, I do not have a problem sending this email to all members of the PC.

I await your reply.
Gary

On 15/10/2011 16:48, "bunburyclerk@aol.com" <bunburyclerk@aol.com> wrote:

Hi Gary

I knew that RBL had gone bust, Tracey Ashton told me it was a possibility ages ago when I phoned her about floor levels at the development. I also checked the internet and found it was true. I've probably told Brian at some point as it wasn't a secret.

Can I forward your email to Brian so that he can answer your accusation directly?

Alex

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

From: CSQ Office <gmc@csq42.com>
To: BunburyClerk <bunburyclerk@aol.com>
Sent: Wed, 12 Oct 2011 10:18
Subject: Gary McCormack Muir

Hi Alex

Re last nights meeting.

Just wanted to raise a concern about Muir. I have been in contact with Stephen Irvine at Cheshire East
Stephen Irvine
Planning and Development Manager. He had no information as to what had happened at the Muir site.

His reply was

Gary,

Not a jot I'm afraid. I'll follow it up tomorrow.

Regards,

How come the only person who had any information was Brian Dykes? He informed the PC that RBL
Construction had gone bust.

Cheshire East had no news.

Michael Jones had no News

My Lawyers had no News.

I did not want to bring this issue up in the meeting as Brian was pleased with his new awarded honour.

As I have highlighted before Brian should be declaring a private and prejudicial interest regarding Muir
Homes.

Regards Gary

Cheshire East Council**Complaint against Parish Councillors Sally Beard, David Ellis, Gary McCormack & Jill Waits****Statement of Parish Councillor Erica Partridge, Holly Mount, Whitchurch Road, Bunbury, Cheshire CW6 9SX**

1. I have been a Councillor for Bunbury Parish Council since July 2009, when I was co-opted on to the Council. I have been Chairman of the Council since May 2010. When I was co-opted, I received no documentation of any sort. I have not been offered any specific training on the Code of Conduct but, in the last 12 months, the Clerk has circulated training packages, mainly organised by CHALC (Cheshire Association of Local Councils). Unfortunately, most of the courses that were relevant to my position clashed with other appointments.
2. Mrs Alex Stubbs was appointed as Clerk in April 2010. When I was appointed Chairman the following month, we both realised that there were no Standing Orders for the control of decision-making and consideration of Council business nor were there any other procedural documents which most Parish Councils have in place. Although Mrs Stubbs has the CiLCA (Certificate in Local Council Administration) qualification, the Council has not decided to seek Quality Parish Council status. A Sub-Committee was established to produce the Standing Orders with other documents being agreed at the Parish Council meetings over a period of time and these have now been adopted by the Council.
3. The background to the issues that I have raised regarding the four Councillors is set out in the document submitted with the complaint headed 'Query to Monitoring Officer re Bunbury Parish Councillors'. I raised the matters as a query to the Clerk as it appeared to me that the Code of Conduct may have been breached in several respects and she has forwarded this information to the monitoring officer which has now been taken as constituting the complaint. This was accompanied by separate commentaries in respect of the issues concerning each of the four and relevant emails in relation to each one. There is also a separate complaint against Councillor Waits with its own documentation which I deal with under her heading.
4. Councillors McCormack and Beard were already on the Parish Council when I was co-opted. Councillor Waits was co-opted in April 2010 and Councillor Ellis was co-opted in January 2011, although he had previously served on the Parish Council. Since these complaints were lodged, Mrs Sally Beard and David Ellis have both resigned from the Council.
5. My comments on the complaints made against the individual persons follow as separate Schedules.
6. Since submitting the above queries I have resigned from the Parish Council. In these circumstances I do not wish to proceed with the complaint relating to bullying and attitude towards other councillors. I have explained the areas which I wish to withdraw in the schedules below.
5. Even though I am no longer a Parish Councillor I consider it is important for the question of the declarations of interest to be considered and established as this was the purpose of my query to the Monitoring Officer which has become these complaints.

Schedule 4 - Councillor Jill Waits

1. As I am no longer a Parish Councillor I do not wish to proceed with the following issues raised against Councillor Waits and I request that the information supplied relating to the following areas of the Code of Conduct are withdrawn and discarded and I do not wish them to be considered by the Standards Committee.
The areas I wish to withdraw are :
3 (1)
3 (2) (b)
3 (2) (d)
4 (a)
7 (1) (a)
2. In relation to all other matters I do not wish to make any additional points other than as set out in my query to the Monitoring Officer. The paragraphs below answer the questions asked of me at the interview in explaining the events further.
3. Councillor Waits was co-opted on to the Parish Council in April 2010. From recollection, when issues concerning the Muir development were discussed at meetings of the Parish Council and emails between Councillors Councillor Waits did not declare any interest until the meeting on 11 January 2011. On 18 November 2010 Councillor Waits sent an email to all the other Parish Councillors, apart from Councillor McCormack, and to the Clerk questioning whether she, Mrs Beard and then Councillor Burrows had an interest in the discussions that were going on with regard to the land offered to the Council, as they were all neighbours of the site and potentially affected by it. I had already queried with the Clerk the comments that some Councillors were making with regard to the development and the land offered to the Council and, when the email was received, I agreed with the Clerk that she would seek advice from the Monitoring Officer at Cheshire East Council. An email containing advice was received on 22 November from the Deputy Monitoring Officer. This was circulated to those present at the following Council meeting on 14 December. The copies of the email were collected back by the Clerk as it contained personal information relating to the Councillors concerned. The discussion which took place was not referred to in the minutes but they do record the consequent actions and declaration of a personal and prejudicial interest by those present. Councillor Waits was not present at the meeting.
4. Following the meeting, I spoke to the Clerk and she informed me that she had spoken to Councillor Waits, read out the advice from Julie Openshaw and Councillor Waits had indicated that she would accept the advice and this was confirmed in emails between them.
5. As a number of queries had been raised by Parish Councillors regarding declarations of interest relating to the Muir land and planning application further advice was requested from the Monitoring Officer and I deferred all matters relating to this until the advice was received in my email dated 19th October 2011. Prior to the meeting on 13 December 2011 the further advice was received from the Deputy Monitoring Officer in an email dated 30 November 2011 and this was emailed to all Councillors on 04 December. This email contained a link to Standards for England explanatory guidance on the Code of Conduct. At the meeting, under 'Declarations of Interest', I specifically asked whether everybody was happy with the second email from the Deputy Monitoring Officer and whether they had any further queries on the matter and there was no indication to the contrary. I then asked whether Councillors wanted to make any declaration and Ms Waits, and other Councillors who were resident in Wyche Land, said 'no'. They said they were happy with their position.

6. Councillor Waits has stated that that she does not own the house, Edinbane, Wyche Lane, Bunbury, where she lives with her partner. In Paragraph 8(2)(a) of the Code of Conduct a relevant person includes any person with whom the Member has a close association. Edinbane is closely located to the field of which the proposed development is sited and the land to be transferred to the Council. Ms Wait's partner objected to planning application 11/2423N for reasons related to his property and his use and enjoyment of the property.
7. I have queried whether in all the circumstances the fact that no interest was declared at the meeting is correct.
8. There is a further issue under interests that is the subject of a separate complaint lodged on 15 October 2011. This concerns Councillor Waits' behaviour in helping her partner to circulate letters to residents in which it was claimed that planning application 11/2423N would open up the field for the development of 50 houses. I have not seen this letter but Ms Waits and her partner have confirmed that this occurred. The vast majority of objections to the planning application refer to the impact of the further development. Ms Wait's partner was invited to a meeting at Cheshire East organised by the Ward Councillor, Michael Jones, to which a representative of the Muir Group was also invited. The Parish Council were invited to send someone but no-one without an interest was available to attend. Councillor Waits accompanied her partner to the meeting.
9. At the meeting on 9th August 2011 when the application was being considered, Councillor Waits requested to make a statement before leaving the room in which she requested that the Parish Council arrange a public meeting to discuss all the rumours which were going round the village regarding expansion of the Muir development.
10. I have queried whether the above actions are in breach of the Code of Conduct in relation to 9 (1), 12 (1) and 12 (2) of the Code of Conduct.

Jill Waits
Edinbane, Wyche Lane, Bunbury CW6 9PS
01829260195 07714211636 jillwaits@yahoo.co.uk

Mr M Dudfield,
Solicitor,
6 Church Hill,
Nether Kellet,
Carnforth,
Lancs LA6 1ER

Dear Mr Dudfield,

26 February, 2012

Complaints under Members' Code of Conduct – Ref nos CEC/2011/05, 06 & 08

Further to your letter to me of 13 February 2012 please find enclosed my response to the complaints submitted with appendices.

As explained in my email to you of 24 February I have not copied Cllr Partridge's (or Mrs Stubbs') evidence in this regard, with a view to keeping papers to a minimum. I will therefore have to ask you to refer to their papers in reading my replies, to avoid them being hard to follow. I hope that this is not a problem for you, but please let me know if it is.

Can I please remind you that in my email to you of 14 February I requested that you interview James Walton and that this request still stands. James is also available on that afternoon. It would be easier for me if you saw him after me.

As confirmed by email, I can make the afternoon of Thursday 8th March to fit in with your schedule. Can I please request that it is not before 1pm as I am otherwise engaged that morning?

Do please let me know if you need anything else beforehand. I am away from 28 February to 2 March 2012 and unlikely to access emails.

I remain very sad that my wish to help the village by joining the Parish Council has come to this stressful and unnecessary position.

Yours sincerely,



Jill Waits (Mrs)

Complaints under Members' Code of Conduct – CEC/2011/05, 06 & 08

26 February, 2012

General points

I joined Bunbury Parish Council in 2010 in order to do something useful for the village and not for my own ends, an objective which I have made repeatedly clear and still stand by. I do feel strongly that the future of the village belongs to residents who are, in the main, younger than the current parish councillors, me included.

I want to make it clear at the outset that I value my integrity and do not jeopardise that by lying. This can make me an uncomfortable colleague, but my emails often show that I am aware of this and acknowledge that this can make things difficult. As an example, please see my email dated 31 October 2011 to Cllr Partridge attached at **appendix A** where I open by saying "I'm sad that we have had a terse exchange of emails between us" and close by saying "In the circumstances I can only suggest we put this matter to one side. I believe there are some important things to do for the village in relation to the village plan and hope that we can work together effectively on this in the near future". I sent this as private and confidential, but I'm afraid believe it is important to use it here.

My intention was, and is, to do the right thing whenever possible – an aim in which I know I fail from time to time. However, it is never my intention to upset any colleague, but merely to voice my opinions and defend those of other parishioners.

The evidence that has been presented against me is merely a selected series of snapshots from random points in time and cannot put what really happened in clear context for you, or the Council's Standards Committee, to consider. I will, of course, suffer from the same problem in responding. However, I hope you can see for yourself that many of the items of evidence that Cllr Partridge has presented are not pertinent to me or my actions. Others are based on assumptions and innuendo. Also, due to repeated references to my partner, James Walton, who is not a parish councillor, I cannot help feeling that I am being made to pay for his communications with the Parish Council. Forty pages of the copied emails in the bundle sent to me only mention my name in passing and are not relevant to me in any significant way.

Many members of the Parish Council have been Councillors for decades and are, and should be, far more experienced than me in carrying out their duties and understanding procedures and protocols.

It should be noted that of the 5 Parish Councillors from Wyche Lane, one resigned in December 2011 and two more in January and February of 2012. One cannot help feeling that there is a move afoot by the Chairman and the Vice Chairman to rid the Council of all Wyche Lane residents.

I would like to clarify that I am not against the development of affordable housing on the proposed Wyche Lane site in Bunbury.

Response to the points raised against me and the evidence put forward by Cllr Partridge in the order, and using the numbers, that she has used.

Background

1. What Cllr Partridge does not say in this paragraph is that Muir Group Housing Association, on 27 June 2011, submitted a planning variation 11/2423N to remove conditions in respect of the existing approved planning application which will result in a 4.5m roadway, as a minimum, being made as an extension of the roadway coming through the proposed housing development from Wyche Lane. The housing roadway will not be built to adoptable standards and will therefore be significantly smaller than the proposed roadway extension into the field owned by Cllr McCormack. Local opposition to this is broadly based on the fact that such a wide roadway would be entirely inappropriate in this setting, particularly as parts of Wyche Lane are no wider than 3.2m in places. Also this raises again the potential for further residential development in the field currently owned by Cllr McCormack to the concern of dozens of Bunbury residents, as indicated by their written opposition to the changes proposed by Muir GHA on the CEC planning website.
Please note that I did not write to CEC opposing the proposed changes to the current planning application.
- 2 I did not own any property in Bunbury at that time, but now do and have reported this to the Bunbury Parish Clerk so that she can make the necessary amendments to her records.

I note that Cllr Partridge states that she has attached a plan which shows “whether those houses neighbouring the land have objected to planning application 11/2423N ... or not”. Our home, Edinbane is identified as objecting. By this, please be clear that it is my partner, James Walton, who objected and not me, as this appears to me to be Cllr Partridge’s implication. My reading of this is that Cllr Partridge uses information in a particular way to give her desired outcome, rather than giving the full facts. Neither would I want you to think

that these were the only objections, as there were over 30 in total, not all from Wyche Lane residents.

- 3 I am not, and never have been, a member of any political party. But if I was, is being a member of the Conservative Party, or any political party, a crime? I do not see why this is raised at all.

I am a neighbour of Cllr McCormack who lives 8 doors away and I chat to him and his family as we all do with our neighbours. Until last Sunday, when he and Mrs McCormack (who has been very ill) called in to show that she was on the mend, it must have been at least 6 months since I entered the McCormack house, or he ours, so I hardly think this makes us "close associates and friends". Even if we were, this is not unusual in village like Bunbury.

Cllr Partridge states that "... I regularly discuss(es) Parish Council matters with Michael Jones". I don't think this is surprising as he is our Borough Councillor and regularly attends PC meetings in order to advise and support the PC. I therefore don't think it is irregular or incorrect that I discuss PC matters with Cllr Jones.

Just minutes before the PC meeting on 11 October 2011 Cllr Jones rang me, as he hoped I would not yet have left home for the meeting, to advise that he was unable to attend, having spent 11 hours that day at CEC agreeing budgetary issues. He had not phoned the Parish Clerk as he knew she would have left home for the meeting. He asked if I would advise the PC, for information, of a couple of items that he had actioned and this I gladly agreed to do. I explained the circumstances at the meeting. As my comments were not even recorded in the minutes, or Cllr Jones' apologies, they were clearly thought to be of no consequence at the time, but Cllr Partridge now seems to believe they are. I find this rather confusing and cannot see what the problem is that Cllr Partridge is alluding to.

As to Cllr Jones asking me to lay a wreath on his behalf at the Armistice Day service in Bunbury, I was honoured to be asked by him. I did not offer to do this, so you would have to ask Cllr Jones for his motives, if this is wrong, as I am not my brother's keeper. Is it a crime to lay a wreath when asked to do so in remembrance of those who lost their lives in war? I am not at all sure what my errors are here.

I find paragraph 3 quite offensive in the way that it implicates others who are not being complained against here. Surely I am not to be held responsible for the actions of others.

- 4 I was about to say that the content of this section is made up of facts regarding the Muir GHA lands and land owned by Cllr McCormack. However I have just noticed that Cllr Partridge states “(...as opposers of the houses are claiming the access will open this field to development)”. This shows Cllr Partridge’s total lack of understanding regarding the concerns raised by parishioners to the Section 73 11/2423N variations proposed by Muir GHA, in that those who oppose the variations do not necessarily “oppose the houses”, but simply a 3m track into a field being changed to an adoptable standard 4.5m roadway with sewers and possible footpaths and utilities. A lack of understanding, or is Cllr Partridge trying to distort the facts again?
- 5 I have no comments as there does not appear to be an allegation against me in this section.
- 6 I have no comments as there does not appear to be an allegation against me in this section.

Declaration of Interests and Code of Conduct

- 7 Cllr Partridge states that “...the necessity for a further planning application did not arise until the summer of 2011.” This is untrue, as Muir GHA has known since 2005 that a further application would be necessary, as would anyone with knowledge of the TP1. This was confirmed by David Robinson of Muir GHA at a meeting on 26 August 2011 with CEC when he confirmed that Muir had pursued the development along the lines of the planning permission from 2007, “on the assumption that they could sort it out later with the TP1 landowner” (see 4th paragraph of minutes at **appendix B**). I find it hard to believe that Cllr Partridge did not know that, despite having received a copy of the notes of that meeting which I submitted to her on 31 August 2011, as I thought she would be interested in reading them. (See **appendix B** of my email to Cllr Partridge and the attached notes of the meeting.)
- 8 Cllr Partridge’s comments relating to all Muir matters prior to October 2010 refer to Cllrs McCormack and Burrows in this section, other than her statement “the other Cllrs neighbouring the land did not declare an interest”. As the house in which I then lived (and now part own) does not neighbour any land owned by Muir, I believed my actions in not declaring an interest in Muir items to be correct. Also Ben Haywood of Cheshire East Council wrote to James Walton on 13 October 2011 (see **appendix E**) regarding the planning application 11/2423N and said “...your property does not share a boundary with the application site.”

9 Cllr Partridge is correct in that I emailed her, the clerk and fellow Councillors stating that I and other Wyche Lane residents “could then be deemed to be affected by the potential development of this land and perhaps should not therefore be involved in the discussion...” I don’t see this as “effectively declaring an interest” as Cllr Partridge states, but rather to seek guidance on the matter. This is what the clerk did and Julie Openshaw from the Monitoring Office replied in her email of 22 November 2010 (attached at **appendix C**). Please note that the discussions at the December 2010 PC meeting referred to by Cllr Partridge in her email of 26 September 2011 (**appendix C**) happened either before the meeting started, or after it ended or were just not minuted. I was not present at that meeting but advised of what happened by Cllr Sally Beard on 17 October 2011 (please see **appendix D**). Please note that this was 10 months after the event.

10 I was not present at the December 2010 meeting because I was ill. Cllr Partridge is correct that the clerk sent me a brief email on 15 December 2010, stating “...I contacted the monitoring officer for advice. She confirmed that she thought both you, Dennis and Sally should declare personal and prejudicial interests in the discussion (on Muir) and abstain.” I took this at face value and did as I had agreed to do, declaring an interest in all Muir matters thereafter until December of the following year. However, I did not receive a full copy of Julie Openshaw’s email until **26 September 2011** when Mrs Stubbs finally decided to circulate the full email to all parish councillors (see **appendix C**). If I had known the FULL advice given in the email and the information on which the advice had been based, I would not have declared an interest in the majority of the Muir matters.

As Ms Openshaw makes clear, her advice was given in respect of the need, or otherwise, to declare an interest “in relation to a plot of land which has been offered for sale to Bunbury Parish Council” and in her email of 30 November 2011 to Mrs Stubbs “NOT the later planning application” (see **appendix F**). In her email of 22 November 2010 (**appendix C**) Ms Openshaw keeps stating “you explained” as it appears that the then parish clerk, Mrs Stubbs, requested advice from Ms Openshaw over the phone and explained the not uncomplicated ownership arrangements of parish councillors in relation to the various pieces of land during that phone call. Ms Openshaw states (wrongly) that “each of them owns their home and has registered it as such in the register of interests”. I cannot expect Ms Openshaw to know who owned what, but Mrs Stubbs knew that I did not own any property in Bunbury at that time, as she was the keeper of the register of interests and I latterly checked with her that the entry for me was correct, which she confirmed by email.

Ms Openshaw then advise Mrs Stubbs of her view “that due to their proximity to the for sale land, and the possible effect arising from that on the values, or desirability, of their homes, B C and D all have personal interests in the decision whether the Parish Council should purchase the land, because a decision on whether or not the PC should buy it could reasonably be regarded as affecting their well-being or financial positions to a greater extent than the majority of council tax payers ratepayers or inhabitants of the locality.” B, C and D are, I assume, Cllrs Burrows, Waits and Beard.

She continued “Unless they can raise some other consideration which might merit further consideration (I haven't seen a plan), they appear to have a prejudicial interest as well, because of the same considerations in terms of proximity and effect on financial position, which suggest that the proper conclusion is that ‘a member of the public with knowledge of the relevant facts would reasonably regard [the interest] as so significant that it is likely to prejudice your judgment of the public interest’.”

Ms Openshaw then debates the issue of being quorate, which is not relevant here, but finally concludes that “without knowing the **political persuasion** of the members involved, and the remainder, it's unclear if the second would apply, but you might want to consider that.”

I fear that Ms Openshaw was not accurately or well briefed by Mrs Stubbs on the topic of the Muir lands and the property ownership of the Wyche Lane councillors. I understand that you are not considering these issues to decide if the advice given was right or wrong, but I hope you will let me explain that it is hard to give credibility to advice, which was wrong in parts, was given on complex ownership and use without the benefit of, at least, a plan. Also, to suggest that the PC's purchase or otherwise of a small strip of land, which appears to serve no significant purpose at all to Bunbury or Wyche Lane residents, could affect the financial position of anyone in Wyche Lane is, quite honestly, a nonsense, and I believe would not stand up if considered by a property expert.

As to the fact that Ms Openshaw refers to “the political persuasion of members involved”, which is totally irrelevant and out of order, I'm sorry to state that this defies belief.

I hope you can see that I was unhappy with the response given on several counts and because of its errors and assumptions, I found it hard to give it any credibility. I do believe that Ms Openshaw should have been more accurately instructed in the first place, which

may have lead to a different conclusion. With hindsight, I realise that I should have queried this at the time with Ms Openshaw, in view of its importance but I'm afraid I did not. However, James Walton did receive a letter from Ben Haywood of Cheshire East Council dated 13 October 2011 (see **appendix E**) regarding the planning application 11/2423N which states that "...your property does not share a boundary with the application site."

Please also note that in her email of 30 November 2011 (see **appendix F**) Julie Openshaw states that "As you know, the advice I provided in November 2010 was based on the circumstances you outlined to me at the time, and was **confined** to the issue of the offer of land to the Parish Council, **not the later planning application.**" This suggests that my original confusion about whether I and other Wyche Lane Councillors should declare an interest on a number of Muir issues was still not clearly resolved at this stage on several aspects of the Muir housing proposals, and, as Ms Openshaw states "it will be for members of the Parish Council to consider their individual positions if necessary". This is what I have done.

I would like to explain that I raised the whole issue of whether or not to declare an interest on the Muir issues and now wish I hadn't, though it was done with the best of intentions, seeking to be fair, and be seen to be fair. This was never totally resolved, and I and the other Wyche Lane councillors did begin to declare our interests in December 2010, apart from Cllr McCormack who was already doing so. At that point the vice chairman and chairman in particular were firm in their views that we should remove ourselves totally from the room in which the PC was meeting, thus not being allowed to make representations, answer questions or give evidence. However, my reading of section 12 (2) of the Bunbury Parish Council Code of Conduct (**appendix G**) and section 7 d of the Bunbury PC Standing Orders (**appendix H**) both implied, in my eyes, that we should have been able to do this, even if we had declared a prejudicial interest in a matter. It was not until an Explanatory Leaflet Relating to Personal and Prejudicial Interests (Model Code of Conduct) was circulated in December 2011 that I began to feel clearer, albeit not convinced, about these confusing issues. If I have interpreted the BPC Code of Conduct and Standing Orders incorrectly then I am at fault on this point and have to hold my hand up and apologise. I do still find this very ambiguous however and think it should be worded more clearly in order to avoid this kind of confusion in future.

Having read all the advisory documents forwarded by Ms Openshaw, I still believe that I was wrong in declaring a prejudicial interest in the proposed Muir Housing development and the

strip of land to the rear of that site which is being sold to BPC for a peppercorn by Muir. As to the declaration of a personal interest on these matters, I believe it depends if the item on the agenda is purely for information or discussion and decision.

- 11 Cllr Partridge quotes that a number of Muir matters to be discussed by the Muir Sub Committee, which she claims is actually the full Parish Council excluding the public and Cllrs with declared prejudicial interests, were "subject to contract/commercially sensitive and not suitable for a public meeting". I am not clear on what basis she makes this claim, as my understanding is that ALL business discussed by the Parish Council is public information, which is what I was advised at my parish councillor training by CHALC. Neither do I know what was discussed and if it was indeed subject to contract or commercially sensitive, but this seems highly unlikely when a strip of land is being sold for a peppercorn.
- 12 What Cllr Partridge does not say in this paragraph is that the Muir planning application 11/2423N was NOT on the agenda for the Parish Council meeting on 9 August 2011 (see appendix J), which is a direct breach of procedure and ensures that no members of the public can be present at the meeting, thus making any comment from parishioners, which is their right, impossible. Despite this, discussion on the Muir items went ahead and the remaining members of the PC decided to support Muir's planning application.

On 6 December 2011 I raised the declaration of interests issue on Muir matters in an email to all parish councillors specifically asking for 11/2423N to be revisited as it had incorrectly been discussed and agreed without appearing on an agenda. I requested that it be added to the December PC agenda, quite honestly expecting that some councillors would not support the idea of revisiting it. I had to write to Mrs Stubbs on 8 December (appendix K) to ask where it was on the agenda, as I could see no reference to it and, as such, the public would not be alerted to its discussion. Please see her reply to me of the same date (appendix K) where it is hidden away under another vague heading – 'Discussion on Muir matters' which used to appear on almost every agenda and gave no inkling of the actual planning application number, one can only assume to deny the public any right to know, **for the second time**, that this planning application was on the agenda. Either this, or in attempt to silence me once and for all on this subject. This makes me wonder why I am answering all these complaints against me, when the then parish clerk, I suspect with the chairman's agreement, continued to hide issues that should have been open to public scrutiny from the public's eyes!

13 Paragraph not relevant to me

14 I am not aware that James Walton is under any kind of scrutiny from this committee or from the Parish Council and am therefore at a loss to know why his actions appear here and in numerous other places. James' actions are not in my control and neither do I wish them to be.

I would like to respond to Cllr Partridge's point about me requesting all the emails etc relating to the Muir Sub Committee discussions. I attended Parish Councillor training in July 2011 and as a result of that and advice given to me by Jackie Weaver from CHALC who ran the course, I raised a couple of issues that were concerning me with Cllr Partridge and Mrs Stubbs (see Appendix J) You will see from the last but one paragraph of my email to them of 4 August 2011 relating to the "position of the sub-committee looking at the Muir Homes issue/s. ...However, I do have concerns about the Parish Council having non-public meetings, where I think I am right in saying the minutes are not available to be seen by any member of the public and am not sure how this fits in with what is happening." I received the attached reply from Cllr Partridge (see appendix L), but I do not know if the content is accurate in view of the advice given to me by CHALC (Cheshire Association of Local Councils).

15 No need to comment, other than please asking you to note that the guidance on the code of conduct, etc was only submitted to councillors on 4 December 2011.

16 Cllr Partridge states that, at my request "matters relating to the Muir land were included in the agenda of the 13th December 2011 meeting". Can I please refer you to the second paragraph of section 12 of my evidence where I explain the sequence of events as they happened, rather than as Cllr Partridge presents them here.

Cllr Partridge makes a distinct reversal of events in the presentation of her evidence when she states that "Cllr Waits proposed that the Parish Council open up their previous decision relating to planning application 11/2423N to allow the Wyche Lane Councillors to contribute, this was seconded and councillors voted to rediscuss the matter". Although this was my ultimate aim, I did not expect to be offered the opportunity to discuss it at that meeting. It was Cllr Partridge who said to me "do you wish to re-discuss the matter now" to which I, quite incorrectly, agreed, due to my surprise at the willingness of the others to discuss it. This does not get beyond the fact that we were all out of order to discuss, or even re-discuss, a planning application without it appearing on the agenda, thus precluding the public from participating. I have to admit that I was wrong in this, but so were all councillors

present, including the Chair for suggesting it and the parish clerk for not raising a point of order. So I am not alone in my error.

- 17 I was not living in the village when the original application for affordable housing was made. I have already made it clear that I recognise and support the provision of affordable housing and am not against those proposed in Wyche Lane. However, I do know that Cllr Partridge is wrong on at least two counts in this paragraph. More implications and hearsay rather than facts.
- 18 If Cllr Partridge believed that the Wyche Lane councillors should declare an interest in all Muir issues, why, as chairman, did she not raise it with those councillors? I remind you that I, not the Chairman, was the person who raised this issue initially.

Comments Relating to Councillor Waits

- 1 Cllr Partridge is correct in her outline of my career and my co-option onto the Bunbury Parish Council in 2010.
- 2 My response to the points raised on emails attached by Cllr Partridge:
 - In my email of 18 November 2011 I did say that I and other councillors "could be deemed to be affected by" the development of the strip of land behind the proposed Muir development. It is evident from the tone of this email that I was still unclear about the need, or otherwise, to declare an interest in various aspects of the Muir issues.
 - What James writes and does is for James to decide and I regard this as inadmissible evidence. I accept that I did post one, or possibly 2, letters for him when we were out together walking our dogs to the village. I explained my actions to Cllr Partridge in an email dated 6 October 2011 which is attached (**appendix M**). I do not see it as unusual behaviour to help a friend or partner in delivering letters, whatever the content. Please see attached email of 7 October 2011 (**appendix L**) regarding James helping me to deliver leaflets for the Playing Fields Committee, of which I was a member, but he was not, as proof of our normal behaviour towards each other.
 - Cllr Partridge is correct regarding Julie Openshaw's advice. What she does not say is that I was not sent a copy until 26 September 2011 despite the fact that it was with the Parish Clerk in December of the previous year. Her comment about "one councillor (declaring a personal interest) and participate at virtually every meeting" is not correct as Cllr McCormack, to whom I assume she is referring, declares a personal and

prejudicial interest and withdraws from the chamber regularly without participating. He very rarely participates on Muir issues, so her comment is a total exaggeration, at best.

- Cllr Partridge accuses me of "incorrectly states that Cllr McCormack has been prevented making statements". I can see no evidence of this and would request advice as to when I made such a statement.
- I can only assume that the emails I am accused of sending which "display a lack of respect for other councillors and suggesting they resign" refers to one email (not several) dated 18 October 2011 sent by me to Mrs Stubbs and copied to all councillors (attached at **appendix O**). It is evident from this email that I was upset at the time and will explain why shortly. I do not see that I display a lack of respect for my fellow councillors by suggesting that those who have served for many years could step away and give others a chance. One of the longest serving councillors recently told me that he had believed for a long time that the term for a parish councillor should be limited to, say, 5 years. Some of ours have been councillors for decades, and served admirably I might add, but the future of the village is in the younger residents and I feel it is a pity that the PC doesn't reflect this.

The reason for my upset was the attached email from Cllr Parker to Borough Councillor Michael Jones dated 30 September 2011 attached at **appendix Q** in which Cllr Parker makes a number of disrespectful and unfounded attacks against me and Cllr Ellis, even referring to Putin at one point and very paranoid in its tone. I was so disappointed at this point, I was close to resigning. I privately raised this behaviour with Cllr Partridge who appears not to have seen fit to take any action. I had previously raised concerns about Cllr Dykes' outrageous behaviour with Cllr Partridge on several occasions and she had responded by saying "it was his way". I find it very disappointing that Cllrs Parker and Dykes' behaviours are ignored and mine is complained about in this formal manner.

There seems to be one rule for part of the PC and another rule for the other part.

I have asked Cllr Burrows, who resigned in December, if my reputedly offensive email was at all instrumental in his departure and he stated very strongly that it was not, but mostly due to harassment from Cllr Dykes, which Cllr Partridge is aware of but, to my knowledge, chose to do nothing about. No other councillors have ever complained to me about the content of my email. It would appear that only Cllr Partridge has taken offence and I wrote to her (**appendix Q**) when she raised the matter with me so that I could correct her misinterpretation of my statements and clarify that "I would be happy to apologise if I could see anything to apologise for and am sorry that you feel that way".

- Cllr Partridge refers to my "bullying emails" to the clerk. I can only assume that she is referring to my one email of 18 October 2011 (**appendix O**) in which I state that I am sorry to see Mrs Stubbs go in many respects and wish her well. I also recognise the difficulty and importance of her task. If there are any bullying emails to Mrs Stubbs, I would be grateful to be pointed to the evidence.
- The elements of this paragraph which are not Cllr Partridge's defence of Cllr Dykes refer to my email of 22 December 2011 to Mrs Stubbs and copied to fellow councillors and Cllr Michael Jones in which I advise that a complaint has been raised against me. The letter from CEC I refer to was NOT marked confidential and I was therefore at liberty to share the topic with anyone I chose. With regard to seeking to influence the decisions of other councillors, I would be the first person to accept that everyone has a right to their opinions and that those opinions should be respected. I don't believe Cllr Partridge has any evidence on this point. I see sharing thoughts and facts on items as a sensible way to behave within the PC.
- I don't understand what Cllr Partridge is getting at in this paragraph.
- I must admit that I made a naïve mistake in seeking to encourage common sense in the rehousing of a Bunbury resident from a 3 to a 2-bedroomed house, so that she could have a smaller home and a larger one would be available for a family. I wrote a letter as a favour and I see now that this could be seen by others to be wrong. I was therefore at fault, for which I apologise.
- I am not clear if I should declare an interest when James' correspondence is discussed. I usually refrain from making any comment, as I believe this is the appropriate action to take. With hindsight, I believe I should have done so and intend to in future.

3 James Walton's Role

I don't believe I am involved in this process in order to comment on James' actions. However he is accused by Cllr Partridge of having access to my documents, her proof being that he has not formally requested a copy of the Standing Orders but quotes from them. First, I am not aware that these are secret documents that cannot be shared with parishioners. What Cllr Partridge does not, and cannot, know is that James would never access any document of mine without asking and I would not share it with him unless it was an item that I believed could and should be available to any member of the parish on request. All my computer files and emails are password protected and I do not share those passwords with anyone. The implication of her innuendo is that I feed him information and that I lie about it. I can assure

you that I do not. I find this implication highly offensive from both my perspective and James'.

Cllr Partridge suggests a collective campaign between me, James and Cllr McCormack. I strongly refute such an idea. I have no intention of commenting on the other points she makes.

4 I see no evidence for this statement.

5 Alleged breaches of the Codes of Conduct:

3 (1) 'treat others with respect' I do not believe that Cllr Partridge's evidence has proved me guilty of this breach, whilst sadly feeling that some other councillors have not afforded me the respect that should have been forthcoming. Fortunately, several other councillors, past and present, are very helpful and supportive colleagues to me.

3 (2) (b) 'bullying' No evidence has been presented by Cllr Partridge to support this accusation which I refute strongly.

3 (2) (d) 'likely to compromise the impartiality of those who work for your authority' Again, no evidence has been presented by Cllr Partridge to support this accusation. I have never sought to intimidate Mrs Stubbs in her duties, nor undermine her neutrality.

Potentially 4 (a) 'disclosure of confidential information' Cllr Partridge has presented no evidence of me having disclosed any confidential information to anyone and I deny strongly having done so. No information that I have received from the Parish council has been marked as private and confidential, so I am at a loss to know to what she is referring.

7 (1) (a) and (b) 'you must have regard to any relevant advice provided by your authority's chief finance officer and your authority's monitoring officer' I am guilty of ignoring the advice given in Julie Openshaw's email of 22 November 2010, although I did not receive a full copy of this until 26 September 2011. However, I believe she was inaccurately briefed by Mrs Stubbs as I have stated in my earlier evidence. Neither was I an owner of any property in Bunbury at the time and Ms Openshaw's decision does make the assumption that I was. I accept that the whole issue of the need to declare an interest or otherwise is a difficult one and requires further simplification.

9 (1) 'disclosure of personal interests' and Potentially 12 (1) and 12 (2) Disclosure of personal interests 'effect of prejudicial interests on participation'

As I have stated previously, I was the first councillor to raise the need or otherwise of declaring an interest in the various matters relating to Muir GHA. This former Cllrs Burrows, Beard, Ellis and I did from December 2010 until December 2011. Despite various attempts to

clarify matters on the need or otherwise to declare an interest, personal and/or prejudicial, and whether or not you could make representations, ask questions and give evidence before leaving the chamber, I was then, and continue to be, uncertain about what is required of Councillors, due to the differing content of advice available from the Monitoring Officer, the Bunbury Parish Council Code of Conduct and Bunbury PC Standing Orders.

Response to breach of clauses 12 (c) and 12(a) of the Code of Conduct

I have already explained in earlier evidence that I did not write James Walton's letter to residents and admitted that I did push 1 or 2 (I'm afraid I genuinely can't remember exactly how many) through letterboxes for him. No malice or support was intended when I did this. It was just a normal act of behaviour on my part. I don't think this makes me responsible for what James wrote, or implies that I have any responsibility in this regard. He will do what he believes to be right and Cllr Partridge clearly believes is wrong. I'm afraid that Cllr Partridge seeks to present me as some sort of demon, rushing round the village, spreading malicious gossip. Anyone who knows me will know that nothing could be further from the truth.

As to the meeting at CEC offices that I attended as a Bunbury resident I have already touched on this under item 7 on my page 4. **Appendix B** encloses both my email to Cllr Partridge and the minutes in question which I believe sets out my position as I saw it. My only intention here was to be helpful and try to move this whole Muir logjam forward in whatever way I could. I was there as little more than a note taker, but did make my position clear, with a view to it not being misinterpreted. Unfortunately, in this I appear to have failed in Cllr Partridge's eyes.

Summary

My view of this hugely expensive exercise is that Cllr Partridge has taken extreme and damaging measures to resolve issues that could, perhaps, have been sorted out by face to face conversations with the councillors concerned. She never tried this approach with me. I cannot speak for the other councillors. As with all groups of people, we all view matters differently and believe we have the perfect solution – which will often be different to the person's sitting next to us. Often no-one is wrong or right, just has an alternative point of view. I freely admit that I have made mistakes from time to time, often out of naivety, which I regret and apologise for. However, I believe that I have acted at all times in the interests of the people of Bunbury and of justice, rather than those of me or any fellow councillors. Are not all councillors duty bound to disclose information to those people who are entitled to see it?

I am open, honest and a little direct in my approach, but I do have the interests of the village and all its residents at heart.

Please believe that I drafted my resignation from the PC some months ago and it would have been easier to go through with this than to stop on. However, this is what has happened with many parish councillors, including younger and very able contributors, who have been driven away from the PC by the behaviour of a very small number of long-serving councillors who seem to be able to dominate and rule proceedings. I have therefore stayed on the PC because of my belief in the need for a democratic PC that villagers can respect and believe in. Whether I can continue to work in the face of such pressure and aggression remains to be seen.

I cannot help feeling that I am being attacked in this way, in part, because my partner, James Walton, is perceived by Cllr Partridge as a thorn in her side. I hope that you and the members of the committee will agree that this is an unacceptable way to behave.

Conclusion

I face the complaints raised against me with a great sense of sadness, in that my sole aim to help the village by joining the Parish Council has come to this. I am not a foolish woman. I had the benefit of a good education and held down challenging and meaningful jobs in the NHS for 27 years, before setting up my own business. I came to Bunbury to retire and hopefully make myself useful to my community and am bitterly disappointed with where I appear to have arrived. I can only put my trust in you, my investigating officer and the members of the committee to do the right thing.

Subject: Private and confidential
From: jill waits (jillwaits@yahoo.co.uk)
To: ep.partridges@btinternet.com;
Date: Monday, 31 October 2011, 12:33

Dear Erica,

I'm sad that we have had a terse exchange of emails between us and, as a result, have decided to email just you in confidence. When I read what you have written to me I wonder if I am in touch with the same person I spoke to some months ago on the phone about my thoughts and frustrations with the parish council.

Since becoming a parish councillor in May last year I have attended PC meetings, where, as you know, I find the behaviour of some of my fellow councillors very unprofessional and, in relation to Brian Dykes' behaviour towards you and other councillors quite unacceptable. I recall you saying that it was Brian's way and you would just carry on regardless. Clearly you are content to put up with this. If I were you, I would not be, but I have to acknowledge that we are all different.

I know that you are aware of the content of an email written by Nick Parker about me and Dave Ellis to Michael Jones is scathing and, in my view, unjustified terms. I can't complain formally about this as it would put Michael in a very difficult position and I am not prepared to do that. You will therefore appreciate, I hope, that I am not in a position to take this matter any further. However, it does show how divided some councillors are and unprofessional in writing in such a way to a CEC councillor.

In the circumstances I can only suggest we put this matter to one side. I believe there are some important things to do for the village in relation to the village plan and hope that we can work together effectively on this in the near future.

Regards,
Jill

From: Partridges <ep.partridges@btinternet.com>
To: jill waits <jillwaits@yahoo.co.uk>
Cc: Brian Dykes <brian.dykes@cheshireeast.gov.uk>; Alex Stubbs <bunburyclerk@aol.com>; David Ellis <dellis7@tiscali.co.uk>; Gary McCormack <GMC@CSQ42.com>; Eric Lord <ericlord2@hotmail.com>; Mandy Jones <mandyjones21@btinternet.com>; Nick Parker <nick.parker@homecall.co.uk>; Sally Beard <sallypbeard@fsmail.net>
Sent: Wednesday, 26 October 2011, 18:56
Subject: Re: Fwd: Gary McCormack Muir

Dear Jill

I am disappointed with your reply.

If you wish to make a complaint against a Parish Councillor you should contact Alex to take appropriate action.

Your third paragraph continues to be disrespectful whether intended or not. The Parish Council needs a mix of ages/experience/residency and as Councillors resign over a period of time for whatever reason they are replaced by new blood.

Regards
Erica

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

From: jill waits
To: Partridges
Cc: Brian Dykes ; Alex Stubbs ; David Ellis ; Gary McCormack ; Eric Lord ; Mandy Jones ; Nick Parker ; Sally Beard

Sent: Wednesday, October 26, 2011 5:43 PM
Subject: Re: Fwd: Gary McCormack Muir

Dear Erica,

I'm sorry to hear you have been unwell.

I am sure, like me, you are disappointed to hear about unprofessional behaviour from one parish councillor towards another. Information has been passed on to me, and, I believe, to you, regarding an email that was written by a parish councillor regarding me, in what can only be seen as unfounded and inciteful terms. As I have said already, I presume that councillor knows about whom I write. Unfortunately the email was written about me, not to me, and I therefore feel unable to let you have a copy without implicating others. I regard this as divisive behaviour by a fellow parish councillor and I don't believe you are in a position to tell me otherwise. You write to me as if I had started something, when I see myself as the brunt, and then demand an apology. Am I missing something here?

As to your point about my comments being disrespectful to other parish councillors, I find this an interesting interpretation of what I said. The purpose of writing this was to suggest that several councillors have been in their positions for many years and maybe this was a good time to seek new and younger input as the young parishoners, like Mandy, are the future of the village. No disrespect was intended and I fail to see how you can think there was.

I am afraid I don't understand why you comment on the removal of the fencing in the next paragraph.

I did not say that I am unhappy being a parish councillor. I said that Bunbury PC was not a happy place to be at present. Maybe you feel otherwise, but please don't twist what I say. I am not seeking to "spread discontent" as you put it, just to be honest about how I feel. If fellow parish councillors are unhappy with me doing that, then I am sorry they feel that way, but no-one has implied that to me.

Like you, I just want to get on with the business of the PC. I would be happy to apologise if I could see anything to apologise for and am sorry that you feel that way.

Regards,
Jill

Subject: Meeting with MGHA, CEC Planning, Housing and Michael Jones
From: jill waits (jillwaits@yahoo.co.uk)
To: ep.partridges@btinternet.com;
Date: Wednesday, 31 August 2011, 10:54

Dear Erica,

Hope all is well with you.

I'm sure you know that James has been active in trying to get the recent variation and removal of planning conditions that MGHA are seeking stopped. Much has happened, and on Friday last week Michael Jones facilitated the above meeting with Muir and CEC and James. David Ellis had hoped to attend, but was unavailable, so I went along, making it clear that although I was a Parish Councillor, I was attending the meeting as a resident and not a representative of the BPC.

I am attaching our notes of the meeting for your information. The ultimate outcome was that Steve Irvine of the CEC Planning Department offered to facilitate and attend a meeting between MGHA and Gary McCormack with a view to seeing if there was an acceptable way forward in all this. I don't know when this is to be.

I hope my attendance at the meeting does not give the Parish Council any cause for concern. I don't believe it should, or I wouldn't have gone.

I'm not sending you these with a view to receiving any comment from you, but just to keep you informed.

Regards,

Jill

Notes from a meeting with Muir Homes Housing Group and Cheshire East Council Officers 26 August 2011 at Westfields, Sandbach.

Present: Steve Irvine – CEC Planning, Vikki Jeffrey – CEC Housing, Michael Jones – CEC Councillor, Tony Robinson – MGHA, Jill Waits and James Walton – Bunbury residents.

Cllr Michael Jones organised and facilitated a meeting at CEC, Westfields to enable serious issues regarding variation 11/2423N, to be aired between MGHA, CEC Planning, James Walton and Jill Waits. James Walton thanked both Cllr Michael Jones and Stephen O'Brian MP for their support in this issue and their categorical statements regarding their view that Wyche Lane cannot support any further development past that already planned.

Cllr Jones briefly highlighted the difficulties perceived by many residents in Wyche Lane and beyond regarding the proposed variation to condition 2 and removal of condition 17 requested by MGHA for the proposed development of affordable housing on Wyche Lane, Bunbury. The purpose of the meeting was to air these concerns and see if there was a way forward.

Mr Walton explained that he and Mrs Waits did not formally represent parishioners but were present to voice their own concerns regarding the current variation and removal of planning conditions by MGHA. He said that the majority of residents in Wyche Lane feel that the Parish Council and the Borough Council are, rightly or wrongly, dancing to the tune set by Muir Group and that for some reason he appeared to have become their standard bearer on opposing the current planning application variation and removal. Therefore, their main focus and desirable outcome from the meeting and subsequently the full planning committee is that the track through the optional land remains a track of about 3m for agricultural use only.

Mr. Robinson was pressed by Mr. Walton regarding when he knew that MGHA had obligations under the TP1 agreement, originally signed in July 2005. Mr. Robinson eventually agreed that he had known about MGHA obligations since the signing of the TP1. Despite this knowledge, MGHA had pursued the development as outlined in permission 07/0867 through all its procedures and processes, on the assumption (Mr. Robinson's words) that they could sort it out later with the TP1 landowner.

Mr Walton pointed out that errors, omissions and inaccuracies by MGHA had led to many villagers feeling very uncertain about MGHA and their behaviour. What might appear to be unfortunate mistakes and poor timing could and were being perceived by villagers as smoke and mirrors tactics by MGHA, including the current planning application variations, which are seen by many as a reflection of MGHA's ongoing erosion of safeguards that residents had been given in 2007 at a public meeting. These had been further supported by the report of the Inspector of Planning, Mrs K A Ellison. He quoted paragraph 22 of the Inspector's report following the enquiry held on 4 & 5 April 2006 "In the circumstances, I consider that they would be highly likely to expose this land to considerable developer interest, making further erosion of the gap more difficult to resist".

Mr Robinson was asked why MGHA wanted to continue to have an option to build on the field at the rear of the proposed development and the strip. Mr Robinson confirmed that Muir had no intention of building more than the 10 houses currently approved. With this in mind, he agreed to explore the

rescinding of Muir's option. (After the meeting he advised Cllr Jones, Mr Walton and Mrs Waits that based on the legal advice just received the rescinding of the option to buy the field at the rear was not possible.)

Cllr Jones warned that if the current difficulties between the parties involved could not be resolved, it may go to judicial review, with substantial cost all round.

When questioned further by Mr Walton, Mr Robinson agreed that it had been Muir's error to commit to putting in the stipulated access road to the rear field. However the new and current owner of the field wanted something different from the previous owners. Mr Robinson confirmed that Muir's original plan was for 20 houses on the site, but this had not been well investigated and the proposal was quickly reduced to 10.

Mr Walton asked for details of the financing of the proposed scheme in relation to the use of public monies and the responsibility of CEC with regard to their duty of care regarding public funds. Ms Jeffrey said she believed approximately £140,000 (50%) had been allocated in March 2011 from the Homes and Community Agency, plus a commuted sum from the Council of around £100,000. It was confirmed that the total cost of the scheme is expected to be £1.1m and that if the development cannot proceed MGHA will have to repay all the money allocated.

Mr Walton had referred to the strip at the rear of the proposed development as a ransom strip, but Mr Robinson pointed out that this cannot be regarded as a ransom strip. Mr. Robinson agreed that at the July 2007 public meeting he offered the retained land (Ransom Strip) to the PC as a PR offering. This strip of land now has no useful purpose, due to the requested roadway to run through it. If MGHA did not meet its contractual commitments with Mr McCormack by putting in a 4.5m road, an injunction could come from Mr McCormack enforcing this.

Mr Walton pointed out the ridiculousness of the proposed roadway at 4.5m, particularly as Wyche Lane was only 3.2m wide in places but was able to accommodate delivery tankers, combine harvesters, etc. He suggested that a 3m road would look less out of place and should be limited to agricultural use and the use of the Parish Council, their servants and others authorised by the Parish Council.

Cllr Jones asked Mr Irvine for his view from a planning perspective who said that from appearances it looked simple and straightforward. He said the Council was just likely to look at it as a track and not consider future possible developments, as this is what they are charged to do. On this basis they would be likely to approve the variation and removal of the conditions. He also confirmed that 4.5m plus drainage is the minimum standard expected by the Council.

Numerous references were made by Mr Walton and Mr Irvine to the Planning Inspector's report, particularly in relation to her concerns about the unacceptability of the original planning application for the MGHA development. Mr Irvine quoted from the enquiry in relation to the roadway "It must protect the amenity of neighbouring occupiers". He confirmed that a short road built to adoptable standards, off a private courtyard which was not built to adoptable standards, would be unlikely to be adopted. Mr. Robinson asked if a roadway of a private drive could ever be adopted, and Mr Irvine thought it could not be adopted.

In conclusion, Cllr Jones said that MGHA rescinding their option to buy the rear land would reassure residents about Muir's objectives.

Mrs Waits wished to report that, although she is a Parish Councillor for Bunbury, she was there today as a member of the public and not as a Parish Councillor.

Ms. Jeffrey agreed to send details of the selection criteria for the proposed houses to Cllr Jones.

In response to a question Mr Robinson explained briefly the difficulties of mortgages for shared owners, which were discouraging shared ownership generally.

With regard to paragraph 6 of MGHA's letter of 23 August 2011 to CEC, Cllr Jones asked if the changes proposed by MGHA will satisfy the TP1 in full. Mr Robinson confirmed that they would. He also confirmed that in normal circumstances a Section 73 application would go to the Parish Council before going to the Borough Council, but admitted that on this occasion it had not. Mrs. Waits pointed out that it was this kind of error that lead parishioners to feel very uncertain about the actions of MGHA, particularly when the last public interface between MGHA and the public had been in 2007. She believed that parishioners will have left the meeting feeling reassured about the unlikelihood of further development of the field behind the proposed development in Wyche Lane.

Cllr Jones summarised the meeting by highlighting the lack of trust by some parishioners in MGHA and CEC to a degree. The applications made by MGHA could be turned down and Cllr. Jones asked Mr. Robinson to consider the effect this might have on MGHA.

Mr Irvine agreed to offer to be a mediator between MGHA and Mr McCormack at a "without prejudice" meeting to see if a compromise could be found.

Following discussion it was agreed that a public meeting, after the proposed meeting with Mr McCormack, would be called.

Mr Walton agreed to send Cllr. Jones Mr. McCormack's telephone number.

In response to various criticisms of earlier planning difficulties, Mr Irvine said that a new process of pre-application items is being introduced in CEC from October which he hoped would improve matters and smooth the way to a better planning process.

Mr. Irvine asked if a delay in the consideration of 11/2423N by CEC would be helpful. Councillor Jones and Mr Walton agreed to respond to this point.

Mr Robinson agreed to let Cllr Jones have a schedule of meetings held between MGHA and Mr McCormack.

Subject: Fw: Members' Interests query
From: Bunbury Parish (Bunburyclerk@aol.com)
To: mandyjones21@btinternet.com; b.dykes@btinternet.com; GMC@CSQ42.com; ep.partridges@btinternet.com; dellis7@tiscali.co.uk; jillwaits@yahoo.co.uk; nick.parker@homecall.co.uk; ericlord2@hotmail.com; sallypbeard@fsmail.net; dennis.burrows@btopenworld.com;
Date: Monday, 26 September 2011, 11:30

Dear All

There seems to have been various queries about declaring personal and prejudicial interests regarding the Wyche Lane to be sold to the PC and there does seem to be some confusion. Please find below the letter received from Julie Openshaw (Deputy Monitoring Officer for CE) dated November 22nd 2010. Please also find attached a copy of Bunbury Parish Council's Code of Conduct.

We discussed the letter at our December 2010 meeting and following that discussion various members of the PC declared personal and prejudicial interests. Please take the time to revisit the letter. If you believe that your circumstances have changed then please do let me know.

Regards
Alex

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

From: OPENSHAW, Julie
To: 'bunburyclerk@aol.com'
Sent: Monday, November 22, 2010 3:39 PM
Subject: Members' Interests query

Good afternoon Alex

Further to our telephone conversation earlier, I understand that you and some of your members seek advice on what if any interests they need to declare in relation to a plot of land which has been offered for sale to Bunbury Parish Council. I will refer to this as the "for sale land".

You explained that the for sale land abuts a second strip of land which has planning permission for development, and it is the developer that has offered the for sale land to the Parish Council.

You also explained that one member (A), who owns a third strip of land which abuts the other side of the "for sale" land has already declared a personal and prejudicial interest and has absented himself from any consideration of whether the land should be purchased, but three other members are potentially affected because of the positioning of their gardens. "B" has a garden abutting the "for sale" land, "C" has a garden abutting the land owned by the councillor who has already declared an interest, and "D" has a garden which allows a view of where the development would be. Each of them owns their home and has registered it as such in the register of interests.

My view is that due to their proximity to the for sale land, and the possible effect arising from that on the values, or desirability, of their homes, B C and D all have personal interests in the decision whether the Parish Council should purchase the land, because a decision on whether or not the PC should buy it could reasonably be regarded as affecting their well-being or financial positions to a greater extent than the majority of council tax payers ratepayers or inhabitants of the locality.

Unless they can raise some other consideration which might merit further consideration (I haven't seen a plan), they appear to have a prejudicial interest as well, because of the same considerations in terms of proximity and effect on financial position, which suggest that the proper conclusion is that "a member of the public with knowledge of the relevant facts would reasonably regard [the interest] as so significant that it is likely to prejudice your judgment of the public interest".

I gather there are 10 members of the Council, with a quorum of 4, so unless other members have prejudicial interests to declare for some other reason, you should be quorate to make the decision. If circumstances arise where interests are such that getting a quorum would be impossible, the Borough Council's Standards Committee does have power to consider, and if appropriate, grant, applications for dispensations to allow members to speak and vote where they have a prejudicial interest, but only where either more than 50% of members who would be entitled to vote being prohibited from doing so, or where the number of members that are prohibited from voting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced. As these situations are relatively rare, so are applications for

dispensations. It does not sound as though the first criterion would be met; without knowing the political persuasion of the members involved, and the remainder, it's unclear if the second would apply, but you might want to consider that.

I hope this assists.

Kind regards

Julie Openshaw
Legal Team Manager (Places, Regulatory and Compliance) (Deputy Monitoring Officer)
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
CW11 51HZ
01270 685846)

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Subject: Re: Openshaw letter Fw: Members' Interests query

From: jill waits (jillwaits@yahoo.co.uk)

To: sallypbeard@fsmail.net;

Cc: b.dykes@btinternet.com; Bunburyclerk@aol.com; dellis7@tiscali.co.uk; dennis.burrows@btopenworld.com; ericlord2@hotmail.com; ep.partridges@btinternet.com; GMC@CSQ42.com; mandyjones21@btinternet.com; nick.parker@homecall.co.uk;

Date: Tuesday, 18 October 2011, 9:40

Hi Sally,

Many thanks for your email below and letting me know what you recall as I wasn't at the December 2010 meeting.

I note what you say about Alex circulating the Julie Openshaw email in September 2011. However, it seems to have been important enough to have been discussed before/or at the beginning of the December meeting, but not to be minuted or circulated then, which I see as a mistake, I presume on Alex's part. Why should those who were there be party to information about anything, and those who were not there excluded from that information? This seems particularly wrong when the 3 people who could not attend the meeting were significantly affected by the contents of Julie Openshaw's email. Whatever the subject I can't see how this can be regarded as a correct way to behave I'm afraid. I see Alex's job as keeping us all equally informed about anything that is the business of the PC and it seems that on this point she failed to do that. I don't see it as the responsibility of fellow members to keep those not present informed of what happens.

As to your comments on declaring an interest, I have to admit that I was the person who raised this in the first place when I was a new member and anxious, as I hope I continue to be, to do the right thing. I now believe that it was not necessary for the 4 of us from Wyche Lane (but not always Gary) to exclude ourselves from all discussions on all matters relating to Muir Homes and the land behind the development. I think there has been either inaccurate advice from Julie Openshaw, inadequate or incorrect briefing to her, or an incorrect interpretation of the information she gave (which was inaccurate itself in part when one has a proper understanding of the geography of the area and individual ownerships) which has lead to half the PC not being party to a number of decisions that 4 or 5 members should not have been excluded from. So, I agree with you that we should have been party to more decisions that we have regarding all or part of the Muir issues.

I am grateful to you for coming forward with information and your views on the matter and look forward to hearing from other councillors.

Regards,

Jill

From: Sally Beard <sallypbeard@fsmail.net>

To: Jill Waits <jillwaits@yahoo.co.uk>

Cc: Brian Dykes <b.dykes@btinternet.com>; Bunbury Parish <Bunburyclerk@aol.com>; Dave Ellis <dellis7@tiscali.co.uk>; Dennis Burrows <dennis.burrows@btopenworld.com>; Eric Lord <ericlord2@hotmail.com>; Erica Partridge <ep.partridges@btinternet.com>; GMC <GMC@CSQ42.com>; Mandy Jones <mandyjones21@btinternet.com>; Nick Parker <nick.parker@homecall.co.uk>; Sally Beard <sallypbeard@fsmail.net>

Sent: Monday, 17 October 2011, 21:21

Subject: Openshaw letter Fw: Members' Interests query

Hello Jill,

I remember seeing this letter and have just checked my emails, so for your info please see below. Alex sent out an email on the 26 Sep to all Parish Councillors which if you scroll down does include the letter from Julie Openshaw.

You can also see who all the recipients were.

I have not passed this onto anyone except yourselves in this email. I was at the December 2010 meeting where the letter and its recommendations were discussed and from this I did declare 'an interest' as it seemed that I needed to. I, then along with the others on Wyche Lane have subsequently declared 'an interest' at meetings ever since. I am now uncertain as to whether we should have?

Kind regards

Sally

James Walton
Edinbane Cottage,
Wyche Lane
Bunbury
Cheshire
CW6 9PS

PLANNING AND POLICY

TOWN HALL, MACCLESFIELD,
CHESHIRE, SK10 1DP

E-MAIL: Planning@cheshireeast.gov.uk

TEL: 01270 537502

FAX: 01270 537496

Your ref:

Our ref: 11/2423N

DATE: 13TH OCTOBER 2011

Dear Mr. Walton

**RE: PROPOSED VARIATION OF CONDITIONS AT WYCHE LANE
BUNBURY**

Thank you for your letter dated 17th August 2011, I am sorry for the delay in my response.

As I explained in my letter of 18th August 2011, the Town and Country Planning (Development Management) Procedure Order, requires Local Planning Authorities to either post a notice on the site or to write to properties which share a boundary with the site. In this case we have written to adjoining properties and placed a notice on the site. You were not contacted directly by letter initially because your property does not share a boundary with the application site.

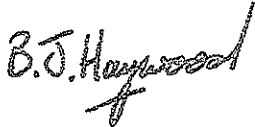
I then wrote again on 12th August 2011 to those on the initial consultation list to advise them that application 11/2575N had been withdrawn and that the description of development in respect of application 11/2423N had been amended slightly. For this reason the letter dated 12th August 2011 states that "I recently wrote to you". However, I asked our support team to extend the circulation of this letter to those who had not been directly consulted originally but who had subsequently made representations on the applications, which included yourself.

I acknowledge that we should have removed the phrase "I recently wrote to you" from the letters to individuals who were not recipients of the original letter and I apologise for this and any confusion which it may have caused.

I hope that you will have by now received my letter of 18th August 2011, which I trust answers the questions posed in your letter of 4th August 2011.

I trust that the above is of assistance.

Yours sincerely

A handwritten signature in dark ink, appearing to read "B.J. Haywood". The signature is written in a cursive style with a large, stylized "H" and a long, sweeping underline.

Ben Haywood
Principal Planning Officer

APPENDIX F

Regards,
Jill

From: BunburyClerk <bunburyclerk@aol.com>
To: sallypbeard@fsmail.net; Eric Lord <ericlord2@hotmail.com>; Nick Parker <nick.parker@homecall.co.uk>; Jill Waits <jillwaits@yahoo.co.uk>; David Ellis <dellis7@tiscali.co.uk>; Erica Partridge <ep.partridges@btinternet.com>; Gary McCormack <GMC@CSQ42.com>; Brian Dykes <b.dykes@btinternet.com>; Mandy Jones <mandyjones21@btinternet.com>
Sent: Sunday, 4 December 2011, 13:37
Subject: Fw: General Advice on Parish Council Member Declarations of Interests

Dear All

Please find below message from Julie Openshaw with helpful links regarding the code of conduct, which will hopefully clarify whether or not you should declare interests in various matters.

Regards
Alex

— Original Message —

From: OPENSHAW, Julie
To: 'bunburyclerk@aol.com'
Cc: 'ep.partridges@btinternet.com'; ELWOOD, Caroline; MOULSON, Diane
Sent: Wednesday, November 30, 2011 2:51 PM
Subject: General Advice on Parish Council Member Declarations of Interests

Dear Alex

Further to Caroline Elwood's email to you of 22 November, indicating amongst other things that we would reissue some general advice to the Parish Council on Declarations of Interest generally, please find attached three web links.

The first is to the part of Cheshire East's Council's website showing the Code of Conduct for Members within the Constitution.

The second is to an explanatory leaflet relating to Personal and Prejudicial Interests published on behalf of the Standards Committee.

The third is to Standards for England's booklet to Members explaining the Code, which was issued in May 2007, when the Code was updated.

As Caroline said, in the light of this reminder, it will then be for members of the Parish Council to consider their individual positions if necessary. As you know, the advice I provided in November 2010 was based on the circumstances you outlined to me at the time, and was confined to the issue of the offer of land to the Parish Council, not the later planning application.

http://www.cheshireeast.gov.uk/council_and_democracy/your_council/constitution.aspx (see pp 357 - 364 for the Code)

The Model Code of Conduct - An Explanatory Leaflet Relating to Personal and Prejudicial Interests (PDF, 71KB)

<http://www.standardsforengland.gov.uk/Guidance/TheCodeofConduct/Guidance/filedownload.16126.en.pdf> (see Section 3 for Interests).

As regards personal and prejudicial interests, the Code provisions themselves, and their application, will generally be the same for Parish Councillors as for Borough Councillors.

I hope this is of assistance.

Kind regards

<http://uk.mg40.mail.yahoo.com/neo/launch?.rand=dsemmul1n4h1o>

06/12/2011

Effect of prejudicial interests on participation

12

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority--
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held--
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
- unless you have obtained a dispensation from your authority's standards committee;
- (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of members' interests

13

- (1) Subject to paragraph 14, you must, within 28 days of--
- (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that

**BUNBURY PARISH COUNCIL
STANDING ORDERS – JULY 2010**

transacted.

- d Councillors with a prejudicial interest in relation to any item of business being transacted at a meeting may (i) make representations, (ii) answer questions and (iii) give evidence relating to the business being transacted but must, thereafter, leave the room or chamber.

8. Questions

- a A councillor may seek an answer to a question concerning any business of the Council provided 7 clear days notice of the question has been given to the Proper Officer.
- b Questions not related to items of business on the agenda for a meeting shall only be asked during the part of the meeting set aside for such questions.

9. Minutes

- a No discussion of the draft minutes of a preceding meeting shall take place except in relation to their accuracy. A motion to correct an inaccuracy in the minutes shall be raised in accordance with standing order 5(a)(iv) above.
- b Minutes, including any amendment to correct their accuracy, shall be confirmed by resolution and shall be signed by the Chairman of the meeting and stand as an accurate record of the meeting to which the minutes relate.
- c Upon a resolution which confirms the accuracy of the minutes of a meeting, any previous draft minutes or recordings of the meeting shall be destroyed.

10. Disorderly conduct

- a No person shall obstruct the transaction of business at a meeting or behave offensively or improperly.
- b If, in the opinion of the Chairman, there has been a breach of standing order 10(a) above, the Chairman shall express that opinion and thereafter any councillor (including the Chairman) may move that the person be silenced or excluded from the meeting, and the motion, if seconded, shall be put forthwith and without discussion.

Subject: Extra meeting of Bunbury Parish Council - 9th August 2011

From: Bunbury Parish (Bunburyclerk@aol.com)

To: m.jones1@btconnect.com; mandyjones21@btinternet.com; b.dykes@btinternet.com; GMC@CSQ42.com; ep.partridges@btinternet.com; dellis7@tiscali.co.uk; jillwaits@yahoo.co.uk; nick.parker@homecall.co.uk; ericlord2@hotmail.com; sallypbeard@fsmail.net; dennis.burrows@btopenworld.com;

Date: Monday, 25 July 2011, 12:38

Dear all

I'm afraid that I shall have to call an extra meeting of Bunbury Parish Council on 9th August 2011 as we have had a couple of planning applications in. Please find attached agenda. We shall only discuss:

1. Planning application 11/2479N - new farm building at Bunbury Common Lane. I attach the PDF plans for this building on the same site as two other farm buildings.
2. Planning application 11/2441N - amendments to plans at Long Lane, Spurstow. This is mainly amendments to the roofline and to windows. I haven't included the plans as they are complex and the (very minor) changes are easier to see on paper.
3. The LDF process currently taking place at Cheshire East. We briefly discussed this at the last meeting. I have had a chat with spatial planning. At the moment they are concentrating on the towns in the borough but they are planning a rural event for September, no details confirmed as yet. They have also promised to send out a 'Parish Council' pack of information which hopefully we will have for the meeting. Finally they want to encourage everybody to fill in the questionnaire on the website and say we can complete this as a parish council. I have attached a PDF copy for discussion at the meeting. The deadline for the questionnaire is the end of September. The consultation for the site allocations plan is underway at the moment but not due to complete until November 2013 with submission to the Secretary of State in June 2014 so we do have some time to consider this.

Finally please note that I am on holiday from 30th July until 6th August. Please do not hesitate to contact me if you require any further information.

Regards
Alex

BUNBURY PARISH COUNCIL

A meeting of the Parish Council, Tuesday 9th August 2011 at Bunbury Village Hall at 7.20pm.
All Parish Councillors are requested to attend. Please enter the Village Hall via the rear door.

AGENDA

There will be a 10 minute Open Forum where residents are invited to discuss any affairs affecting the Parish.

1. Apologies for absence
2. Members Declaration of Interests
3. Planning applications
 - Applications since last meeting
 - 11/2479N – New farm building – Bunbury Commons Lane
 - 11/2441N – Amendments at Oaklands, Long Lane
4. Discussion of LDF and questionnaire to be returned to Cheshire East
5. Finance Matters:
 - Cheques to be signed
6. Any other business

Alex Stubbs
Clerk to Bunbury Parish Council
25/07/2011

Subject: Re: Councillor Module Training and queries raised
From: jill waits (jillwaits@yahoo.co.uk)
To: ep.partridges@btinternet.com;
Cc: Bunburyclerk@aol.com;
Date: Monday, 8 August 2011, 12:26

Dear Erica,

Many thanks for your long and informative reply, which does indeed help to clarify matters in my mind. At the end of your Separation of PFC para - no, I wasn't asking Alex anything on this point thanks. As to the meeting tomorrow evening on planning applications, I have a point I prefer to raise with you now, rather than dropping out at the meeting. As I see it, the last public interface that many residents had with Muir and the Borough and Parish Councils was at the public meeting about the proposed development in Wyche Lane. Many people will have left the meeting, believing that the ransom strip would protect against any further development in the vicinity in perpetuity. Now, rightly or wrongly, they may see the current requests for amendments to the planning application as a significant change that could affect that security. I was planning to propose the calling of a public meeting to clear the air on this issue and thought I would feel more comfortable to share this with you beforehand. I am also conscious that I will need to declare an interest and withdraw, so timing of such a request might be difficult. Do you have any thoughts please?

Regards,
Jill

--- On Sun, 7/8/11, Partridges <ep.partridges@btinternet.com> wrote:

From: Partridges <ep.partridges@btinternet.com>
Subject: Re: Councillor Module Training and queries raised
To: "jill waits" <jillwaits@yahoo.co.uk>, "Alex BunburyParish" <Bunburyclerk@aol.com>
Date: Sunday, 7 August, 2011, 13:03

Jill

I am pleased the training was useful which is helpful feedback for other councillors.

VAT : Alex has looked into this matter and papers on it have been provided at previous Parish Council meetings. As the Parish Council own the land it is possible for the grant and building works to be commissioned by the Parish Council. The issues you raised were discussed and the Parish Council agreed to assist the PFC as far as possible to save VAT on the project. It was also agreed that until the project is further defined the matter can't be taken any further. The PFC need to have the risks in mind and not make any assumptions on the outcome at this stage. If they ask Alex for further copies of the papers on this I am sure she can provide them.

Separation of PFC : as you know the BPC offered to assist the PFC with reviewing the constitution and the protocols between the two organisations and one matter for discussion would have been potential conflict of interest and how this has been managed and the status of the conflict. Historically the BPC have taken the view that the PFC was effectively run as a 'sub committee' of the PC and therefore there was no conflict of interest. I have stated it is important to keep a quorum of Parish Councillors that are not on the PFC and I have insisted that I am not on that committee. In the usual course of business there is no conflict of interest as the PFC take decisions regarding the management of the playing fields under the lease they have. The PFC are trustees of the charity and are responsible for the running and management of the playing fields so there is separation of responsibility. The new lease will require the PFC to provide an annual assurance report to the BPC so the PFC accept responsibility for their decisions, although they need consent from the Parish Council for anything to do with buildings and interests in land. The Parish Council will protect itself and the village by the right to break the lease if there is a problem in the management of the playing fields. The question for potential conflict could arise where the PFC take a decision on a matter which requires BPC consent/or a funding request and then seek to drive a decision through the Parish Council by the PFC members and I do think this is a concern which is why I raised it as a matter for review. Again it has not been a problem to date as there has not been a disagreement split on these lines. If such a disagreement should arise then the conflict of interest exclusions could be applied. As you know the Parish Councillors on the PFC decided that the PC review/assistance was not required and they would deal with any such matters themselves. The PFC constitution is lodged with the Charities Commission so any change to it would need to be made by the Trustees and dealt with by an application by them to the Charities Commission. The correct place to raise a review of the constitution and PFC membership

L cont.

is the PFC as it is the trustee responsibility. There is clearly a problem achieving the number of councillors on the playing fields committee and maintaining a quorum at the BPC. The BPC as an organisation has no influence on this, but I would be happy to assist if requested as I am sure would others. Are you asking Alex to take advice on whether this is a personal or personal/prejudicial interest which should be declared at each meeting ?

Muir land sub committee : this was originally dealt with by the Parish Council on the basis that one councillor had a personal and prejudicial interest due to a contractual relationship with Muir, which meant he was excluded from the meetings, and the councillors backing onto the land had a personal interest which meant they could stay in the meeting but their views are recorded in this context. Following your enquiry as to the status of conflict of interest of the councillors neighbouring the land, Alex took advice which stated that the neighbouring councillors had a personal and prejudicial interest and cannot therefore take part in the BPC in relation to these matters. A sub committee has therefore been formed to deal with this matter and report back to the Parish Council. Alex can confirm, but my understanding is that a sub committee is not a public meeting but reports it's decisions to the BPC which is a public meeting and that is then minuted. This process has been followed. This is exactly the same as the Standing Orders committee. I am aware that this is causing frustration with the neighbouring councillors but they are all effectively members of the public on this point, and if they are asked questions by villagers they should inform them of the position and ask the villager to contact Alex with their query.

I hope this clarifies the issues raised from my perspective but Alex may have something further to add.

Regards
Erica

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

From: jill waits
To: Erica Partridge ; Alex BunburyParish
Sent: Thursday, August 04, 2011 11:42 AM
Subject: Councillor Module Training and queries raised

Dear Erica & Alex,

I had a very good afternoon at the above on 19 July. It was informative, interesting and fairly relaxed in delivery and I am sure would be helpful to Mandy when she is ready. I seem to have missed the first module somehow, but don't expect to attend everything.

One of the things it did do was enable me to ask about a couple of issues that have been bouncing about in the back of my mind recently, which I think I should share with both of you. I am sure I need to discuss the Playing Fields issue with Brian too, but thought I would raise it with you first.

This relates to the Playing Fields Committee and the matter of reclaiming (or do I mean not paying?) VAT for any replacement Pavilion. There seems to be an assumption at the PFC that the Parish Council will be willing to pay the bills for the works to achieve this and it seems that this would have several implications which should perhaps be faced sooner rather than later. If the PC was willing to do this, Jackie Weaver confirmed that it would have to be responsible for the project, if not to fall foul of Revenue & Customs and commit an offence under money laundering regulations. Also the PFC would have to be willing to give up its powers to the PC for the whole project.

Not least in all this is the potential conflict of interest for those members of the PC that are also Trustees of the PFC. I have thought for a while that it is now time to re-write the constitution of the PFC which is over 20 years old and perhaps needs re-visiting in the light of the growth of activities, time gap, changes that have taken place, etc.. I also wonder why so many members of the PC are required to be members of the PFC and believe that most centres such as this are best run by the people that use them. I am not clear why the Pavilion shouldn't run independently of the PC, as with other lessees of the playing fields.

Another reason for considering this separation is that more responsibilities will be taken on by PCs in the future and members of the PC will inevitably find themselves busier than ever. I worry that this will result in younger villagers not considering becoming Parish Councillors because they will believe they don't have the time - but this is yet another problem!

The other concern of mine is the position of the sub-committee looking at the Muir Homes issue/s. I am striving to be a parishoner here and not a resident of Wyche Lane and close to the development site. I think I was one of the first people to declare an interest in the development

and thus be excluded from some of the discussions about it. However, I do have concerns about the Parish Council having non-public meetings, where I think I am right in saying the minutes are not available to anyone not attending the meetings. My understanding is that all PC business should be available to be seen by any member of the public and am not clear how this fits in with what is happening. Please believe that I ask about this only to be sure that the PC is acting correctly and not with any personal objective on my part. I also recognise that I am a newish member and still have much to learn.

I know that both of you work very hard at doing the right things in the right way and for the right reasons, otherwise I wouldn't want to be a Parish Councillor. I just feel I should raise these points and look forward to discussing them further.

Regards,
Jill

From: jill waits
To: Partridges
Sent: Thursday, October 13, 2011 9:21 AM
Subject: Re: letter re housing ?

Dear Erica,
Thanks for your email. It may well clarify matters that if my memory serves me right I recall I delivered 2 letters for James in total.
Regards,
Jill

From: Partridges <ep.partridges@btinternet.com>
To: jill waits <jillwaits@yahoo.co.uk>
Sent: Monday, 10 October 2011, 11:48
Subject: Re: letter re housing ?

Dear Jill

Thank you for responding to my query and I note the points you have raised. I also note that you state all your actions are taken independently and you take full responsibility for them.
The Code of Conduct makes it clear when and how Parish Councillors must consider their prejudicial interests in relation to other actions they may take and Standing Orders dictate how such matters are to be dealt with so I will proceed accordingly.

Regards
Erica

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

From: jill waits
To: Partridges
Sent: Thursday, October 06, 2011 7:05 PM
Subject: Re: letter re housing ?

Dear Erica,
I have just returned from working in Worcester and found your email. The answer to your questions is as follows:

- did you write these letters ? No, I did not
- did you print them for circulation ? No, I did not
- did you deliver these letters ? I delivered a small number when we were out walking the dogs, as a help to James. I help him to deliver party political leaflets from time to time, as he helps me to deliver letters for the Playing Fields Committee. I see this as normal behaviour between a couple.
- did you receive one of these letters ? No

As I have explained to you before James and I are our own people and do what we will without influence from the other party. We may live together under one roof, but we have two heads, not one. I have no control over James and what he does or says and would not wish to, as I would expect him to afford me the same freedom of action.

I'm not sure where your email is going, but can assure you that nothing James does is driven by me or vice versa. I hope that makes things clear.

See you on Tuesday at 7.30pm.

Regards,
Jill

From: Partridges <ep.partridges@btinternet.com>
To: Jill Waits <jillwaits@yahoo.co.uk>
Cc: Alex Stubbs <bunburyclerk@aol.com>
Sent: Wednesday, 5 October 2011, 10:48
Subject: letter re housing ?

Dear Jill

A matter has come to my attention which, as Chairman, I am obliged to clarify with you to establish the involvement of a Parish Councillor in the matter below.

I understand that a letter was put through the doors of Wyche Lane residents asking if they want to see 50 houses built behind the houses on Muir Lane and that this would be the consequence if planning application 11/2423N is approved and they need to object to the planning application to prevent this happening. It has also been mentioned that you were seen delivering these letters.

Can you please let me know :

- did you write these letters ?
- did you print them for circulation ?
- did you deliver these letters ?
- did you receive one of these letters ?

Apologies for bothering you individually if this is not the case but as you have been specifically mentioned I thought it best to ask you first before asking Alex to make enquiries of all the Parish Councillors.

I look forward to hearing from you.

Yours sincerely

Regards
Erica Partridge
Chairman, Bunbury Parish Council

Subject: Re: Fwd: Gary McCormack Muir

From: jill waits (jillwaits@yahoo.co.uk)

To: bunburyclerk@aol.com; b.dykes@btinternet.com; dennis.burrows@btopenworld.com; dellis7@tiscali.co.uk; gmc@csq42.com; ericford2@hotmail.com; mandyjones21@btinternet.com; nick.parker@homecall.co.uk; sallypbeard@fsmail.net; ep.partridges@btinternet.com;

Date: Tuesday, 18 October 2011, 11:56

Alex,

Gary has his own way of expressing himself which perhaps isn't my way. However, I do feel he has a right to point out anything that he perceives as unfair or inappropriate behaviour by you or another member of the PC.

I think we would all recognise that Bunbury Parish Council is not a happy place to be at present. Over the past few months I have become increasingly worried about the divisive behaviour of some members towards others and a hurling of unfounded and ridiculous accusations behind individual councillor's backs, which I find totally unprofessional and unacceptable. I have no doubt that these councillors know who they are. Perhaps this is the right time for some councillors who have served the parish for many years to step away and give new faces and opinions a chance to come forward and do their bit for the village.

Whilst I am sorry to see you go in many respects, what has come about serves to highlight how important it is that the clerk serves all, and is seen to serve all, councillors equally. All councillors should not deny that this is a difficult task with the volume and complexity of the issues the PC is involved in and recognise that this is only likely to increase in the future.

The Muir issues have caused a rift in the PC which are making it look incapable of behaving appropriately. I certainly don't feel that I have been advised correctly about whether or not to declare an interest in specific matters. Perhaps it would be better if the whole Council was to resign and then it could start again. I would be interested to hear what other councillors think.

I am sure you will find a happier environment to work in than Bunbury PC Alex and wish you well.

Regards,
Jill

Subject: Fw: Corner Cottage
From: Michael. Jones (m.jones1@btconnect.com)
To: jillwaits@yahoo.co.uk;
Date: Saturday, 1 October 2011, 10:49

For your information

MJ

From: Nick Parker
Sent: Friday, September 30, 2011 11:49 PM
To: Michael Jones
Subject: Re: Corner Cottage

Hello Michael,

Thanks for your reply. You will have seen the e-mails from Jill and David both of which I must say I don't feel comfortable about.

They both carry an implicit threat which worries me. As you know they are in the group of councillors who have been stirring up trouble at Wyche Lane and with my cynical outlook I wonder whether they are intended to exacerbate the 'split' in the PC. I don't like it.

I know Alex has taken guidance on whether several councillors or members of the public could successfully push for a vote of no confidence in the PC and the answer was heartening. What we don't know is whether Erica and Alex will continue in their present positions with all the hassle they've had for much longer.

It would be awful if they opted for a quieter life because of the upset orchestrated by the Wyche Lane councillors and the stirred-up residents. There is no doubt what sort of replacement there might be proposed for Erica, were she to go - and it would be engineered to outnumber the non-Wyche Lane councillors.

It might be a stretched comment but we see Putin and co.....

In fifteen years on the PC I have known members to disagree in their views, which always happen, but have never seen so clear a 'them and us' split. As I said to you in July, David and Jill (plus Dennis) haven't by their actions encouraged me to trust them and I suspect a deeper meaning in the messages.

Yes if you'd like to meet to discuss Corner Cottage or have a chat on the phone I'm happy to do either but I feel that Erica, Brian and Alex should be party to what we have spoken about and may even wish to join us.

May I please forward our e-mails to Erica, Brian and Alex?

I try to act truthfully and appropriately and would not choose to damage further any member's relationships on the PC. They are already fragile.

My regards,

Nick

APPENDIX Q

Subject: Re: Fwd: Gary McCormack Muir
From: jill waits (jillwaits@yahoo.co.uk)
To: ep.partridges@btinternet.com;
Cc: brian.dykes@cheshireeast.gov.uk; bunburyclerk@aol.com; dellis7@tiscali.co.uk; GMC@CSQ42.com; ericlord2@hotmail.com; mandyjones21@btinternet.com; nick.parker@homecall.co.uk; sallypbeard@fsmail.net;
Date: Wednesday, 26 October 2011, 17:43

Dear Erica,

I'm sorry to hear you have been unwell.

I am sure, like me, you are disappointed to hear about unprofessional behaviour from one parish councillor towards another. Information has been passed on to me, and, I believe, to you, regarding an email that was written by a parish councillor regarding me, in what can only be seen as unfounded and inciteful terms. As I have said already, I presume that councillor knows about whom I write. Unfortunately the email was written about me, not to me, and I therefore feel unable to let you have a copy without implicating others. I regard this as divisive behaviour by a fellow parish councillor and I don't believe you are in a position to tell me otherwise. You write to me as if I had started something, when I see myself as the brunt, and then demand an apology. Am I missing something here?

As to your point about my comments being disrespectful to other parish councillors, I find this an interesting interpretation of what I said. The purpose of writing this was to suggest that several councillors have been in their positions for many years and maybe this was a good time to seek new and younger input as the young parishoners, like Mandy, are the future of the village. No disrespect was intended and I fail to see how you can think there was.

I am afraid I don't understand why you comment on the removal of the fencing in the next paragraph.

I did not say that I am unhappy being a parish councillor. I said that Bunbury PC was not a happy place to be at present. Maybe you feel otherwise, but please don't twist what I say. I am not seeking to "spread discontent" as you put it, just to be honest about how I feel. If fellow parish councillors are unhappy with me doing that, then I am sorry they feel that way, but no-one has implied that to me.

Like you, I just want to get on with the business of the PC. I would be happy to apologise if I could see anything to apologise for and am sorry that you feel that way.

Regards,
Jill

Cheshire East Council**Complaints against Parish Councillors Sally Beard, David Ellis, Gary McCormack & Jill Waits****Statement of Jill Waits, Edinbane, Wyche Lane, Bunbury, Cheshire CW6 9PS**

1. This statement is supplemental to my Response, dated 26 February, 2012, to the complaint documents submitted by Mrs Partridge.
2. Since April 2010, I have attended one training course, which was run by ChALC, and that was on planning and related issues. I have not received specific training in respect of the Code of Conduct. There are two basic principles that I would wish to reiterate with regard to my conduct -
 - I do not lie; and
 - Whilst I live with James Walton, we are two independent people who now live as a couple. We may have the same views on some things but he does what he wants to do, as do I. We obviously talk about the issues in the village but there is no connivance between us in relation to the way that I behave at Parish Council meetings and the way that he takes his issues forward as a local resident. In particular, I had no idea that James had made a formal complaint against Alex Stubbs until he told me that he had withdrawn it.
3. In this statement I deal with each of the headings in the Code identified by the Sub-Committee in its decision notice.

Paragraph 3(1) - treat others with respect

4. Mrs Partridge has submitted with her complaint three sets of emails that, she suggests, relate to the complaints against me. The first set deals with the question of interests, the second are my 'emails regarding other councillors' and the third are 'James Walton example emails'. There is nothing in the first set that Mrs Partridge suggests is relevant to this aspect of the Code. The only email in the second set where there is any language which could be regarded as showing a lack of respect is that of 18 October 2011 which was sent to the Clerk and copied to all other Councillors. That email was sent following sight of Parish Councillor Nick Parker's email of 30 September to Cheshire East Councillor Michael Jones (see Appendix P of the documents attached to my Response). My Response (page 11) sets out in detail why Nick Parker's email upset me and I feel that the language that he has used is far worse than in my email. My email went to all the Parish Councillors and not one of them has contacted me since to suggest that they were upset with what I said or to suggest that my remarks were out of order, apart from Mrs Partridge. I do not believe that writing to all Councillors suggesting that 'this is the right time for some councillors who have served the parish for many years to step away and give new faces and opinions a chance to come forward and do their bit for the village' is anything other than a reasonable opinion. I do not regard my words as being disrespectful to those Councillors to whom I was referring. There is nothing in the third set of emails that refers directly to my comments on other Councillors.

Paragraph 3(2) - bullying

5. Mrs Partridge says that I have sent, what she considers to be, bullying emails to the

former Clerk, Alex Stubbs, 'off the back of Gary McCormack's emails'. She goes on to state that she considers the emails sent by my partner, James Walton, to be a targeted bullying campaign, in conjunction with myself and Cllr McCormack, to remove the Clerk and, from the content of the emails, an attempt also to bully her, as Chairman. My Response contains the comments that I can seriously make to this allegation, all of which refute Mrs Partridge's claims. No specific emails have been pointed out to me as potentially containing offending material which could give rise to such a claim. In the absence of any specific wording, I do not see what further response I can give. I have already categorically denied working together with either Cllr McCormack or James Walton in the manner in which any of us have treated either Mrs Stubbs or Mrs Partridge. At no time have I, or would I, seek to undermine the position of the parish clerk.

Paragraph 3(2)(d) - likely to compromise the impartiality of those who work for the authority

6. This seems to follow on from the allegation of bullying. The only employee of the Parish Council is the Clerk and the agreed form of approach to the Clerk is by email. The information that I was seeking during the period August to December 2011 was information that, I believed at the time, I had wrongly been excluded from. I had not been provided with a copy of the 2010 advice from the Deputy Monitoring Officer although it seemed, from what the Clerk had told me, that the advice was that all the Wyche Lane Councillors had a personal and prejudicial interest in anything to do with the Muir land and the two pieces of land behind it. That was the basis on which I had made subsequent declarations of interest and left the meeting. When the amended access way planning application was submitted, I was beginning to believe that I didn't have an interest in that application and that was why there was an increase in the email correspondence to the Clerk, not only from myself but from other Councillors. This was no attempt to compromise the impartiality of the Clerk. In fact, it led to the Clerk circulating the 2010 advice, which clearly stated that the advice only related to the strip of land behind the proposed development, and not the development land itself or the land behind the property where I live. The email correspondence also led to the manner in which certain decisions of the Council had been recorded being questioned. Every Councillor has the right to question, properly, the manner in which the Parish Council operates and this was all that I was doing.

Paragraph 4(a) - disclosure of confidential information

7. This allegation appears to relate to my disclosure to the other Parish Councillors of the complaints made against me. I did this on two occasions, the first by email of 22 December 2011 to the Clerk, copied to all Parish Councillors, and the second at the Parish Council meeting on 01 February 2012 (the latter being after the complaints had been raised against me). On both occasions I was relaying information sent to me by Cheshire East Council - neither letter had any confidentiality heading.

Paragraphs 7(1)(a) & (b) - failure to have regard to relevant advice provided by the authority's chief finance officer or monitoring officer

8. This presumably relates to the alleged failure to follow the 2010 advice from Julie Openshaw. As I say in my Response, I believe that the advice was given following an improper briefing and is flawed in relation to my potential interest. Further, any decision by a councillor as to whether or not he/she has a declarable interest is one for the councillor concerned. If there is advice from the Monitoring Officer that advice should be considered

by the councillor before the councillor makes a decision. In this case, the advice stated that it related to the strip of land and the matter being discussed by the Parish Council on 13 December 2011 was an amended planning application in relation to the development of the Muir land. It is therefore questionable whether the 2010 advice was directly relevant to that planning application and, in any event, it was not given to me in full until 10 months later. For other reasons, as set out in my Response to the alleged interest breaches and below, I determined that I did not have any interest. Whether that conclusion was right or wrong, I did not breach paragraph 7(1) of the Code.

Paragraph 9(1) - failure to disclose a personal interest.

9. The first point to make is that I did not have any legal interest in any property in Bunbury until the end of December 2011, when I acquired a half interest in Edinbane from my partner, James Walton. From discussions with the Investigating Officer, I accept now (but did not at the time) this fact does not make any difference to my position as prior to having that ownership, Edinbane was wholly owned by my partner and he comes within the definition of 'close associate' in paragraph 8(2)(a). The personal interest requirements in paragraph 8(1)(a)(ix) (beneficial interest in land) applied by applying paragraph 8(1)(b). Since my acquisition they apply direct through paragraph 8(1)(a)(ix). The second matter that influenced my previous decisions in relation to declaration was a letter from Cheshire East Planning Officer indicating the basis on which certain residents, including James and myself, had not been consulted. This stated that only the owners of property directly adjoining the planning application site were consulted on an application. I understand now that Cheshire East Council's neighbour consultation policy does not set the parameters used by the Standards Committee when considering paragraph 8 of the Code. I appreciate now that I should have declared a personal interest when any aspect of the Muir development land, the strip of land beyond that and the field at the rear were the subject of discussion by the Parish Council.

Paragraph 12(1) - effect of prejudicial interest on participation

10. On those occasions where I mistakenly did not declare a personal interest, I did not give any consideration to existence or otherwise of a prejudicial interest. From the period December 2010 to November 2011 I did not participate in any consideration of business relating to any aspect of the whole field as, at those meetings where I was present, I declared a personal and prejudicial interest in according with the 2010 advice from Julie Openshaw.
11. I came on to the Parish Council in April 2010 and, in the period prior to the meeting on 14 December 2010 there may well have been instances where the Muir development or the field to the rear were discussed. Mrs Partridge has not identified any specific dates where breaches took place and, virtually two years later, I am unable to say what course of action I would have taken in each case. The one specific meeting that has been put to me is that of 13 December 2011. I have discussed the minutes of that meeting with the Investigating Officer. I accept that I was the person who raised the reconsideration of the previous Parish Council response to the planning application for the amended access way and that I chose the option of the discussion taking place then rather than at the January 2012 meeting. I did make the point that the proposed wider access way would look unsuitable across the field and, although I think that they made their points in a different context, the remarks attributable to David Ellis and Sally Beard were made at the meeting and there was concern expressed that the larger access way could open up the field behind Edinbane

for future development.

12. The Investigating Officer has explained to me the test in paragraph 10(1) of the Code and that it is what a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice my judgement of the public interest. On the basis on which the discussion took place on 13 December 2011, I understand that such a person would regard my interest as likely to prejudice my judgement. All I can say is that myself and other Parish Councillors appeared to be confused by the advice that had been given over time and that there was some ambiguity in the advice received, coupled with a suggestion that the briefing for the original advice had not been accurate. Neither the Chairman or the Clerk were clear as to what the position of various Councillors was under the interest provisions, particularly those residing in Wyche Lane and I cannot help feeling that some steps should have been taken to resolve the matter rather than to continue for over twelve months in the manner in which the Council did. The feelings set out in a number of the emails are as a result of that situation remaining unresolved.
13. There also did not seem to be any attempt to differentiate between a personal and a prejudicial interest and it is now clear to me that there may be issues that come before the Parish Council where I will have a personal interest but not a prejudicial one.


Paragraph 12(1)(a) - attending meeting on 26 August 2011 on business where had previously declared a personal and prejudicial interest

14. This meeting was held following the making of objections against the amended access way application and was facilitated by Councillor Michael Jones and hosted by Cheshire East planners. Representatives from Muir Homes attended. It had been hoped that Councillor McCormack or his representatives would attend but it was clear that this wasn't going to happen and that neither Council could get directly involved in any land ownership dispute between the two. The Parish Council was invited but were unable to send anyone. James Walton was invited, as one of the objectors, and he was to be accompanied by David Ellis but at the last minute David was unable to go. I thought long and hard about attending but decided that I would support James, as a local resident, and make this clear to everyone present. I only contributed once to the discussions apart from making my position clear.
15. It is clear to me now that I should not have attended the meeting, even as a local resident.

Paragraph 12(1)(c) - seeking improperly to influence a decision about Council business when I had a personal and prejudicial interest

16. As the Parish Council representatives were not present at the meeting on 26 August 2011, I could not have influenced a decision about Parish Council business on that occasion. I did not go there with that intention and, as I have already acknowledged in the previous paragraph, I should not have attended that meeting.
17. As to the circulating of letters from James Walton, as I have said in the Response and an earlier document, the letter was solely James' and I delivered a very small number when walking. I did not knock on any doors or seek to encourage residents to support James' stance, I simply delivered them.

This statement is a fair summary of an interview conducted by the Investigator on 08 March 2012.


.....
Date 20/3/12

To : Mike Dudfield
Comments on draft reports dated 7 April 2012

Draft Reports re Former Councillors Beard and Ellis

I have no comments to make on these.

Draft Report re Former Councillor Waits

I have the following comments to make in relation to this draft report. Although I have stated that I only wish to proceed with the issues relating to declarations of interest and wish to withdraw all other comments, I feel that a number of comments in the draft require further clarification. The numbers below relate to the paragraphs in your report :

34 : The Muir Sub-Committee did not meet every month. It only met as necessary and the meetings were either excluding the public (were commercial sensitivity made this necessary) or in public at the end of the Parish Council meetings.

I have amended this paragraph to reflect the true position.

9, 43 and 79 : My suggestion of 'seeking to influence' related to other Parish Councillors only in which aspect it was successful. If Clause 3(2)(d) of the Code of Conduct would only apply in relation to the Clerk then I am happy to accept that it would not be applicable. I have withdrawn this aspect of the complaint anyway.

Noted.

51, 70, 72: As my complaints in relation to Councillor McCormack have been withdrawn is there a need to mention him by name in this report ? As he has not yet had an opportunity to respond including him by name might be inappropriate and I respectfully request it be deleted or referred to generically if/where possible as eg any other councillor'.

There are various references to Councillor McCormack in the report and the Committee will be aware of the extent of his 'involvement' even though they will not be considering his case. I do not think that giving anonymity to one or two references will make any difference to the understanding of the Committee.

10, 53 and 81 : Although I have withdrawn this aspect of the complaint I feel these statements require further clarification and possibly further enquiry as the stated facts may be inaccurate, and I am concerned that if I do not comment this may be taken as agreement of the factual position. I did not receive any correspondence relating to the first complaints, those went to Mrs Stubbs. The correspondence I received on the second complaints dated 2nd February arrived in an envelope clearly marked that it was from Cheshire East Council and with 'private and confidential' (or something to that effect) clearly marked on the envelope, but not on the letters inside. It may be that correspondence to individual councillors concerned are treated differently, but enquiry of the Council as to their procedures would clarify this point. Clause 30 of the Standing Orders also states that all notifications relating to breaches of the code of conduct are confidential, although I appreciate you are not investigating a breach of standing orders. My comments here are just to ensure that the facts are correct.

At my interview with you on 27th February, I handed to you a further email from Mrs Waits dated 26th January 2012, in which she emailed all Parish Councillors advising them of further details of the complaint and stating that I had made the complaint. I also advised that in the public Parish Council meeting of 14th February Mrs Waits

stated that she was in dispute regarding her declaration of interest in relation to the Muir issues and that the complaints made against her were being investigated and she would keep other Councillors informed. I do not know whether or not this was minuted. You did inform me that you would decide whether to incorporate this further evidence or not. I do not dispute this, I am just raising the point in case it was missed as this information does not appear in the report and it is relevant to this aspect.

Mrs Waits received two letters relating to the different complaints each of which had no confidentiality heading. Although we discussed subsequent events at our meeting on 27 February, following our later discussions and your 'withdrawal' of this complaint I decided that it was inappropriate to consider the later evidence and that is why it does not feature in my report.

55. The last sentence is incorrect. It was always clear that different declaration of interests may apply to different aspects of the Muir matters, although Mrs Waits may not have thought about the matter that way. This was made explicitly clear by the clerk at my request at the meeting on 14th February where both the planning application and the option strip of land were under discussion.

The last sentence is Mrs Waits' view up to the submission of the complaint. I appreciate that you do not accept that and that other Councillors have declared personal interests at Council meetings, one on a regular basis.

56. I do not understand this statement. Declarations of interest were declared and when they were queried by the Councillors involved further advice was requested and this took place in the autumn of 2011.

Paragraphs 47-56 of the report are a summary of the views of Mrs Waits. It may not be logical given what happened but it is the view that Mrs Waits has.

8, 51, 75, 77 – I am surprised that the report does not include any comments from Mrs Stubbs (who actually submitted the complaint) on this point.

Mrs Stubbs has made her own complaint and I am dealing with that separately. Whilst Mrs Stubbs submitted the complaints against the four Councillors, the supporting statement came from yourself and you are the person I have looked to for the initial supporting evidence. I have interviewed Mrs Stubbs. The emails for the period leading up to her resignation are with the documentation you supplied. There is one particular email that specifically led to both her resignation and her complaint, and that email is not from Mrs Waits.

5, 65. I am happy to accept Mrs Waits statement that she did not draft the letter. However, she was aware of the content of the letter that she was delivering and that it related to a planning application which was Parish Council business and in which she had declared a personal and prejudicial interest. I am unclear as to why the code of conduct would not apply and respectfully request that this is clarified further in the report.

The Code of Conduct does not prevent a Councillor who has a personal and prejudice interest from doing anything in relation to the subject matter of that interest. I have not seen the letter from Mr Walton but I understand it to comment on the planning application submitted by Muir under section 73. There is no reason why a Councillor with an interest cannot garner local support against that application and seek to encourage other residents to raise their concerns. Your complaint tied Mrs Waits' possible involvement in the drafting of the letter and its distribution with her subsequent request at the August 2011 Council meeting for a public meeting. The

Code allows a Councillor with a P&P interest the same rights at meetings that residents have in relation to the same subject matter. A Councillor with a P&P interest may address the Council, having first declared the P&P interest, on aspects of a planning application in that part of the meeting where residents could do so. When the Code was changed in 2007, paragraph 2 was changed to restrict the application of the Code to the business of the Council and not to impose unreasonable restrictions on their personal life. I do not intend elaborating on this in the report. The Committee members understand the current Code and the restrictions in its application. They will have a copy of this note and reply.

71 – I have no objection to being described as dealing with the issues in a professional manner. However, I respectfully request that the words 'used her professional expertise in considering the issues involved' be deleted as the matters concerned were dealt with by me in the capacity of a parish councillor only. Could this be corrected please ?

Yes, have done.

73. I assume the word 'vitriolic' does not refer to emails from myself as I intended to always be polite, perhaps this could be clarified.

That interpretation came from a former Councillor and I am sure he was not referring to your emails.

77. In my email to you of 6th March I requested that all information relating to James Walton be discarded and withdrawn as it is no longer relevant to the complaint. As the complaint has never been directly against James Walton, and as stated in paragraph 77 these details cannot be taken into account I respectfully request that they are removed from the information and not referred to. The details were only supplied on the basis that they would be treated confidentially in relation to the complaint.

12, 13, 27, 31, 35, 36, 37, 39, 40, 42, 46, 47, 49, 51, 54, 58, 61, 63, 67, 70, 72, 77, 86, 87, : James Walton is mentioned by name in all these paragraphs (and there may be others I have missed). In the circumstances I respectfully request that these references are more suitably dealt with in a different way eg by being replaced by 'a close associate' or 'a resident'. I hope you agree this would fit better with his context in this matter.

There are two separate issues here - Mr Walton's emails and the references to Mr Walton in the report. I will raise the circulation of the emails with the Monitoring Officer given the circumstances and your request, but I would point out that I have considered these during the investigation and the preparation of the report - see paragraph 77. The specific references to Mr Walton, given that he is the partner of Mrs Waits, are, I feel, appropriate. Mr Walton has involved himself in the issues that were being considered by the Parish Council and, indeed, in the manner in which the Council was being advised. I am not sure, therefore, that Mr Walton is entitled to any anonymity.

In respect of the comments that I have made in paragraph 77, the report does not say that I have not considered the emails, in fact the paragraph states the contrary. The penultimate sentence effectively states that I cannot equate Mr Walton letters as being those of Mrs Waits for the purposes of the Code. It is Mrs Waits' conduct that is the subject of the report.

I also respectfully request that any consideration of this matter be held in private, due to the necessary references to details relating to a private individual.

The initial consideration of my report will be in private. If the Committee decides to hold a hearing, it will be a decision for the hearing Committee to decide whether the hearing will be public or private and, if public, whether any parts of my report or supporting documentation should be excluded from public consideration. The Committee will have this letter and will consider your request.

Thank you for reading and considering the above comments.

Erica Partridge
8th April 2012

APPENDIX H**mikedudfield**

From: "mikedudfield" <mikedudfield@btinternet.com>
To: "jill waits" <jillwaits@yahoo.co.uk>
Sent: 11 April 2012 15:56
Subject: Re: Bunbury PC - Investigation Report
Dear Mrs Waits,

Please see my replies to your comments below in bold. Your response and my reply are being appended to the report.

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

From: jill waits
To: mikedudfield
Sent: Monday, April 09, 2012 3:29 PM
Subject: Re: Bunbury PC - Investigation Report

Dear Mr Dudfield,

Many thanks for your email of 7 April enclosing your draft report and Mrs Partridge's statement.

I have read these and have the following comments which I would be grateful if you would record.

First, the bulk of the content of your report is acceptable to me and reflects the meeting we had to discuss the various complaints raised against me by Mrs Partridge.

I believe it would be fair to state that the allegation against me in 1(2) that I "...participated in the production...of letters to residents..." has not been proven, as Mrs Partridge has no evidence that can prove it. The lack of comment on this item in your report may lead the committee to believe that I lied, and I do not wish this to happen as I did not and the accusation is untrue.

I have reviewed the various paragraphs where this is dealt with. I have amended para 49 to read -

49. The letter that was sent by Mr Walton at the beginning of August 2011 to local residents was solely his and Mrs Waits says that she had no part in its preparation. All she did was deliver a small number. She did not knock on doors or seek to encourage residents to support Mr Walton's stance, she simply delivered a few letters. In requesting the Parish Council to hold a public meeting on 09 August, she was simply making a point to the Parish Council that residents were concerned regarding the intentions behind the planning application. The whole issue was not the strategic affair suggested by Mrs Partridge.

Para 60 is the finding of fact and I think this is clear.

I accept the failures regarding my interpretation of the Code of Conduct in that I failed to declare an interest when I should have done. Thanks to your succinct explanation I now understand that I should always have taken the view that perception was reality as far as parishioners were concerned and I am happy to apologise for that. It would never have been my intention to behave inappropriately on any Parish Council business.

In para 33 I consider it important to note that both Mrs Stubbs and Mrs Partridge had seen it as important that they obtain advice from Julie Openshaw, share that advice, in full, with those councillors who were present, but find it very strange that they saw fit not to minute the matter at all. I would also like it to be made clear that I was advised of a summarised version (not the full response that some other councillors had seen) by email the following day. I did not receive a copy of the full response for a further 9 months, and then only because Mrs Beard

11/04/2012

kindly sent me one - not the parish clerk or Mrs Partridge. In any event this advice only related to the ransom strip behind the proposed housing development and, as Julie Openshaw has made very clear, not to any other planning matters in respect of the Muir site.

Paras 30-46 of the report are a summary of the various issues raised by Mrs Partridge and paras 47-56 summarise your response. My determinations do not start until para 57. In this instance I have amended para 33 to clarify what you received and when.

Now to para 37 regarding the letter sent by Mr Walton to local residents. I am not clear what Mrs Partridge means when she says that she believed that I was "associated with the letter". This, to me, still implies that I had some sort of hand in its preparation, presumably because I was helping James when I pushed 1, or perhaps 2, through letterboxes in Whitegates, which incidentally only has 4 properties in it. Mrs Partridge may find it hard to believe, but it is the truth when I state that James and I were operating independently of each other, with James taking the initiative to protect his own position and that of other fellow property owners. My later suggestion to hold a public meeting was with the sole intention of creating clarity - nothing more - and this is what I said at the time.

This is dealt with in the revised para 49 and para 60.

Para 38 If Mrs Partridge was concerned about my behaviour in respect of any aspect of the Code of Conduct, or Standing Orders, then why did she not raise this with me for discussion rather than going behind my back to the Monitoring Officer? She was entitled to discuss it with me at any point, but she did not do so.

Para 40 I was the person who sent Mrs Partridge the notes of the meeting with CEC planning, Cllr Jones and Muir held on 26 August 2011 as I believed she would be interested in the content. I fear your/Mrs Partridge's statement that "Mrs Partridge subsequently received the notes of the meeting and found that Mrs Waits had accompanied Mr Walton..." implies that someone else, other than me, sent them to her and that I had been "found out". This is far from the truth as I attached them to an unsolicited email sent to Mrs Partridge on 31 August for her information. I even said in the email "I hope my attendance at the meeting does not give the Parish Council any cause for concern. I don't believe it should, or I wouldn't have gone." Once again she did not raise the issue with me in respect of any matter of conduct.

I have amended para 40 to clarify that the notes came from you.

45 It is not totally accurate to say that I "...raised a motion requesting that planning application 11/2423N be re-visited..."

I had requested that the Council consider if the item should be revisited, but did not expect that it would be considered there and then. If the Council had agreed, I would have expected it to go on a future agenda. It was Mrs Partridge who asked if I wanted the item raised as a motion for discussion immediately. I was surprised by her suggestion, which she should not have made and equally I should not have accepted. Perhaps we should both be seen as guilty here, because if I am guilty of a breach, then so is she.

The wording is direct from the approved minutes of that meeting!

75 I am sorry if you find the tone of my email of 18 October 2011 potentially sarcastic, as this was not my intention. However, I still have the view that Mrs Stubbs did not treat all councillors equally, a view which I know others would support and have proof of.

I did not say that I did, merely that some may.

Now to Schedule 4 and Mrs Partridge's further comments

Para 4 Mrs Partridge's statement "I spoke to the clerk and she informed me that she had spoken to Councillor Waits, read out the advice from Julie Openshaw and Councillor Waits had indicated that she would accept the advice and this was confirmed in emails between them" is totally untrue. I received an email, only, from the Clerk with a very brief summary of Julie Openshaw's advice. No telephone conversation or face to face conversation took place between me and Mrs Stubbs on this matter. I can only suggest that Mrs Stubbs had a faulty memory on this point and had incorrectly advised Mrs Partridge. Why would she have emailed me the following day and then spoken to me, reading out the full text? If she had, I would have asked for a copy, as I would then have known some of Ms Openshaw's points were based on inaccurate briefing, rather than having to wait 9 months to find this out by chance.

Para 6 I do not accept that our house, Edinbane, is "closely located" to the field of which the housing development is planned or the ransom strip being transferred to the council, when these areas are only visible part of the year from our house and then by hanging out of an upper window.

I fear that I am beginning to split hairs here due to my frustration with Mrs Partridge's wish to continue using inaccuracies and innuendo to support her arguments because of the lack of evidence for several of her accusations. I am surprised that I have had so many points I found it necessary to comment on, as I am generally content with your report.

This matter has now been running since before Christmas last year and, not surprisingly, I shall be very pleased to see an end to it.

I hope your knee is improving.

Regards,
Jill Waits

From: mikedudfield <mikedudfield@btinternet.com>
To: jill waits <jillwaits@yahoo.co.uk>
Sent: Saturday, 7 April 2012, 10:11
Subject: Bunbury PC - Investigation Report

Dear Mrs Waits,

I have completed the draft report in relation to yourself and attach a copy. The appendices are already in your possession apart from Mrs Partridge's statement which is also attached.

Please let me have any comments you wish to make on the draft. These should be with me by 21 April, following which I will finalise the report and send it through to Mrs Elwood.

Please note that the draft report and its appendices remain confidential until they are considered by Cheshire East's Standards Committee who will determine whether they come into the public domain.

Yours sincerely,

Mike Dudfield

Complaints under the New Code – Procedure

Making a Complaint

1. Complaints must be submitted to Cheshire East Council's Monitoring Officer using the Council's standard Complaint Form setting out in sufficient detail why the Complainant considers there has been a failure to comply with the relevant Code of Conduct.
2. The Monitoring Officer will acknowledge receipt within 5 working days
3. The Subject Member will be advised that there has been a complaint and will be provided with a copy of the complaint form, unless, in exceptional circumstances, where the Monitoring Officer, in consultation with the Independent Person has granted the Complainant's request for confidentiality. Under no circumstances must the Subject Member contact the Complainant direct regarding any issues raised in the complaint.

Initial Assessment / Gateway Procedure

4. The Monitoring Officer will refer the complaint to the Audit and Governance Initial Assessment Panel within 21 days of receipt for an initial assessment.
5. After consulting the Independent Person, the Panel will determine whether to
 - **Take no action**
 - **Refer the matter to the relevant Group Leader for informal action** (NB for complaints against Cheshire East Councillors only and not generally an appropriate option if the complaint is from a member of the public)
 - **Refer the matter for Local Resolution**
 - **Refer the matter for formal investigation by an external investigator**
 - **Refer the matter to the Police or other relevant Regulatory Agency**
6. The Initial Assessment Panel's Decision on what action to take on a complaint is final. There is no right to have the decision reviewed.
7. The Complainant, Subject Member and Parish Clerk, as appropriate, will be informed of the outcome of the decision.
8. Meetings of the Panel will not be open to the public.

Local Resolution

9. The Complainant and Subject Member will be advised that the Initial Assessment Panel has concluded that the complaint is suitable for Local Resolution without the need for a formal investigation and full hearing and will be invited to submit written representations outlining the nature of the dispute using a standard template to ensure consistency.
10. Both the Complainant and Subject Member will be able to bring a Supporter and up to three witnesses each to accompany them before an ad hoc panel of three elected members together with the Independent Person. The Supporter will not represent the Subject Member but will be able to confer with him or her.
11. The Panel will consider the written representations and hear any relevant evidence before reaching a determination and considering whether any sanction is appropriate.
12. The Panel may refer the matter for a formal investigation should it become apparent that the issues are more complex or serious than was originally anticipated.
13. Local Resolution Panels will normally meet in public and will be convened within 28 days of the decision of the Initial Assessment Panel subject to availability of the relevant parties.
14. Both the Complainant and Subject Member will receive copies of each others written statements and details of any witness to be called 5 working days before the Panel meets. Copies will be made available to three Panel members and Independent Person at the same time.
15. The Panel will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
16. There is no right of Appeal from the decision of the Local Resolution Panel which is intended to resolve less serious complaints speedily and cost effectively.

External Investigation

17. The matter will be referred for an independent investigation by a suitably experienced investigative officer. In most cases the investigation is expected to be completed within 8 weeks of the referral.
18. The report of the independent investigator should incorporate the following:-

- **Executive Summary** - An outline of the allegation, who made it, the relevant provisions of the Code and whether there has been a breach.
 - **Member's official details** - A brief outline of when the Member was elected, term of office, details of committees served on and any relevant training.
 - **Complainants details and any relevant background**
 - **Summary of facts and evidence gathered**- A summary of the facts and evidence gathered highlighting facts which are in dispute and setting out the investigating officer's conclusions based on the balance of probabilities.
 - **Reasoning as to whether there has been a failure to comply with the Code and investigator's findings** – Dealing with each allegation in turn an outline of whether the investigating officer considers there has been a breach and any aggravating or mitigating facts.
 - **Schedule** - a list of witnesses interviewed and copies of relevant documents.
19. A copy of the draft report will be circulated to the Subject Member and Complainant to check for factual accuracy.
20. The Investigating Officer will take into account any comments received before sending the final report to the Monitoring Officer.

External Investigation – No Evidence of Failure to Comply

21. Where the report concludes that there is no evidence of failure to comply with the Code of Conduct, the Monitoring Officer will review the report in consultation with the Independent Person.
22. If satisfied with the conclusions, the Complainant, Subject Member and the Town or Parish Clerk (if appropriate) will be notified within 15 working days that no further action will be taken and will be given a copy of the final report.
23. If after consultation with the Independent Person the Monitoring Officer is not satisfied that the investigation has been concluded properly she may ask the Independent Investigator to reconsider the report and / or refer the matter to the Standards Hearing sub committee for a formal hearing of the issues.

External Investigation – Evidence of Failure to Comply

24. Where the report concludes that there has been a failure to comply with the provisions of the Code of Conduct the matter will be referred to the Standards Hearing sub committee who will conduct a hearing to determine if the Subject Member has failed to comply with the provisions of the Code and if so what sanction is appropriate.
25. The Hearing sub committee will consider the matter afresh having regard to the Investigators findings and all relevant evidence presented by the Complainant and Subject Member.
26. The Independent Person will be present at the hearing and will be consulted and his/ her views taken into account before any decision is reached.
27. The Hearing sub committee will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
28. Meetings of the Hearing sub committee will be subject to the normal rules for publication of agendas and access to information.
29. There will be a right of appeal of the decision of the Hearing sub committee.

Right of Appeal

30. Any appeal by the Subject Member must be lodged within 14 days of the decision of the Hearing sub committee. A meeting of the Standards Appeals Panel will then be convened within 21 days.
31. The Appeals Panel will comprise 3 Members from the Audit and Governance pool of 15 Members sitting with an Independent Person. Neither the Members nor the Independent Person will have previously been involved in the particular case.
32. The appeal will be by way of a complete re hearing of the issues and will not be confined to new evidence or only on specified grounds. The Appeals Panel may dismiss or uphold the appeal and reconsider the range of sanctions available to the Hearing sub-committee.
33. The decision of the Appeals Panel is final.

Independent Person

- 34. The Council has appointed 4 Independent Persons
- 35. The Subject Member has the opportunity to consult the Independent Person at any stage in the investigation process and prior to the final determination.

Membership of Panels / sub committees

- 36. If a Member has sat on a Local Resolution Panel which refers a matter for external investigation then he or she may not subsequently sit on any Hearing sub committee.

Vexatious Complaints

- 37. The Council will maintain a list of vexatious or repeated complaints and will report any concerns regarding abuse of the process to the Audit and Governance Committee.

September 2012

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CHESHIRE EAST COUNCIL

AUDIT AND GOVERNANCE

STANDARDS HEARING AD-HOC SUB-COMMITTEE

Date of meeting: 14 November 2012
Report of: Borough Solicitor and Monitoring Officer
Title: Allegation of a Breach of the Model Code of Conduct
(Complaints CEC/2011/06 and CEC/2011/08)

1. Purpose of the Report

- 1.1 To enable the Hearing Sub-Committee to consider the Investigating Officer's report and to determine what action, if any should be taken.

2. Decision Required

- 2.1 The Sub-Committee is invited to consider the Investigating Officer's report in accordance with the hearing procedure and relevant legislation/guidelines in force at the time and determine whether or not there has been a breach of the Model Code of Conduct.

3. Introduction

- 3.1 This hearing arises out of allegations made by the Complainant Mrs Alex Stubbs (Complaint number CEC/2011/06) and Mrs Erica Partridge and Mrs Alex Stubbs (Complaint Number CEC/2011/08) that the Subject Member, Councillor Gary McCormack of Bunbury Parish Council had breached the Model Code of Conduct, as adopted by that Council. The details of each case are set out in the report of the Investigating Officer attached.
- 3.2 The Sub-Committee has full powers delegated to it by the Audit and Governance Committee to determine this complaint and must deliver its verbal decision on the day of the hearing; to be followed by a written decision. In the event of an adverse finding, the Subject Member may appeal to the Audit and Governance Standards Appeals Panel.
- 3.3 The Sub-Committee is asked to note that the complaints were made and the investigation conducted under the provisions of the Local Government Act 2000 and the Standards (England) Regulations 2008. This legislation was repealed and replaced with the Localism Act 2011 under which the Investigator's report was first considered and this hearing will be conducted.
- 3.4 A copy of Cheshire East Council's Code of Conduct Complaints Procedure, adopted by Council on 19 July 2012 is also appended to the report (paragraphs 24 to 29 apply).

4. Hearing Procedure

- 4.1 The hearing procedure to be followed will be circulated at the meeting.

5. Complaint and Investigator's Report

- 5.1 The Clerk to Bunbury Parish Council, Mrs Alex Stubbs submitted a complaint in November 2011 which asserted that Councillor Gary McCormack had breached paragraph 3(2)(b) the Model Code of Conduct by way of the derogatory tone used in an email sent by him to the Clerk on 16 October 2011.
- 5.2 A second complaint was received on 23 November 2011 from the Clerk to Bunbury Parish Council, Mrs Alex Stubbs on behalf of the Chairman of the Parish Council, Councillor Erica Partridge which asserted that four members of Bunbury Parish Council, namely Councillor Jill Waits, Councillor Sally Beard, Councillor David Ellis and Councillor Gary McCormack had breached the Code of Conduct.
- 5.3 This report deals with the Investigator's findings in respect of Councillor Gary McCormack only. The complaints against Councillors Waits, Beard and Ellis are the subject of separate reports.
- 5.4 The Complainants assert that the Subject Member may have breached the following paragraphs of the Code of Conduct:

<u>Complaint</u>	<u>Paragraph</u>	<u>Conduct</u>
CEC/2011/06	3 (2) (b)	You must not bully any person
CEC/2011/08	3 (1)	You must treat others with respect
	3 (2) (b)	You must not bully any person
	3(2) (d)	You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority
	4(a)	You must not disclose information given to you in confidence.....

- 5.5 As both complaints appeared to relate to linked or overlapping issues, the Assessment Sub-Committee of the Standards Committee considered the complaints as part of the same report on 24 January 2012; its decision being to refer matters to the Monitoring Officer for investigation.
- 5.6 Mr Mike Dudfield was appointed to conduct the investigation. As his report was received by Council on 30 July 2012, it was submitted for consideration to the Monitoring Officer in consultation with an Independent Person (appointed by Council in accordance with the Localism Act 2011), in accordance with the Council's procedure adopted by Council on 19 July 2012.
- 5.7 Although the investigation had been conducted in accordance with previous legislation, the findings available to the Monitoring Officer and the Independent Person were the same as those which had applied before the changeover i.e. where the Investigating Officer's findings were of no breach, two possible options were available; an acceptance of no breach or to convene a hearing. However, where the finding was that a breach had occurred, the option of acceptance of no breach was not available.

5.8 Having taken into account the report's contents, together with the relevant Guidance, the Monitoring Officer and Independent Person decided that they concurred with the conclusions of the Investigating Officer in that –

- a) In respect of the first complaint, the Subject Member had failed to comply with paragraph **3(1)** of the Model Code of Conduct;
- b) In respect of the first complaint, that there had been no failure to comply with paragraph **3(2)(b)** of the Model Code of Conduct; and
- c) In respect of the second complaint there had been no failure to comply with paragraphs **3(1), 3(2)(b), 3(2)(d) and 4(a)** of the Model Code of Conduct

and that a hearing should be convened to consider the matter at (a) above.

5.9 No further action will be taken in respect of the paragraphs listed in paragraphs 5.8(b) and 5.8(c) above. The Sub-Committee is only required to determine the allegation in respect of the paragraph listed in 5.8(a).

6. Parties attending the Hearing

6.1 The Subject Member has confirmed that he will not be present at the meeting but has requested that a short statement be read out on his behalf. The Monitoring Officer has agreed to this request.

6.2 The Complainants have been notified of the date of the hearing but have intimated that they do not wish to be present. There is no power to compel any party to attend.

6.3 The Investigating Officer will be in attendance but does not intend to call any witnesses.

7. Matters for Determination

7.1 The Sub-Committee needs to determine whether or not it is satisfied that a breach of the Model Code of Conduct has occurred in respect of paragraph 3(1) of the Code.

8. Decision and Sanctions

8.1 If, having considered the matter, the Sub-Committee finds that the Subject Member has not breached the Model Code of Conduct, no further action will be taken.

8.2 If a breach is found, the Member's Parish Council is the body to determine what, if any sanction should be applied.

8.3 The sanctions available to the Sub-Committee are -

- (1) Formal censure e.g. through a motion;
- (2) Send a formal letter to the Member;
- (3) Recommend a course of action to the Members' Group Leader/ Town/Council;
- (4) Report findings to Council/Town or Parish Council for information;
- (5) Issue a press release of its findings in respect of the Member's conduct.

- 8.4 The Hearing Sub-Committee has no power to suspend or disqualify a Member or to withdraw allowances.

Officer: Caroline Elwood
Designation: Borough Solicitor and Monitoring Officer
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Cheshire East Council

Standards Committee Complaints CEC/2011/06 & 08

Report of an investigation by Mike Dudfield, acting as Investigating Officer,
into allegations concerning the conduct of Bunbury Parish Councillor Gary
McCormack

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

28 July 2012

Executive Summary

1. Allegation has been made by Mrs Alex Stubbs, who at that time was Clerk to the Bunbury Parish Council, that Councillor Gary McCormack is in breach of paragraphs 3(1) and/or 3(2)(b) of the Bunbury Parish Council Members' Code of Conduct in that, emails sent by Councillor McCormack to Mrs Stubbs during October 2011 and particularly one dated 16 October 2011, did not treat Mrs Stubbs with respect and/or bullied her as to the manner in which she should undertake her duties as Parish Clerk.
2. A further allegation has been made by Mrs Alex Stubbs, 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. In relation to Councillor McCormack it is alleged that he failed to comply with paragraphs 3(1), 3(2)(b) & (d) and 4(a) of the Code of Conduct for Bunbury Parish Council in that
 - (1) emails sent to the then Clerk and Mrs Partridge did not show respect to these two persons and could be regarded as constituting bullying;
 - (2) emails sent to the then Clerk were seeking to compromise the impartiality of the Clerk; and
 - (3) he may have disclosed confidential information.
3. This report deals with the first allegation and the second insofar as it relates to one of those four Councillors, Gary McCormack. There appears to be a duplication of the allegations insofar as they allege behaviour constituting a lack of respect and/or bullying of the former Parish Clerk, Mrs Stubbs. I have dealt with all matters concerning these two issues under the first allegation only.

In respect of the first allegation

4. I conclude that there has been **failure** by Gary McCormack to comply with paragraph 3(1) of the Code of Conduct for Bunbury Parish Council in that, the contents of the email dated 16 October 2011 go beyond reasonable criticism of an employee and show a complete lack of respect for the position of Parish Clerk.
5. I conclude that there has been **no failure** by Gary McCormack to comply with paragraph 3(2)(b) of the Code of Conduct for Bunbury Parish Council in that, the contents of the email dated 16 October 2011 do not constitute bullying of Mrs Stubbs.

In respect of the second allegation

6. I conclude that there has been **no failure** by Gary McCormack to comply with paragraph 3(1) of the Code of Conduct for Bunbury Parish Council in that, in email correspondence to Mrs Partridge during 2011, he did not fail to treat others, with respect.
7. I conclude that there has been **no failure** by Gary McCormack to comply with paragraph 3(2)(b) of the Code of Conduct for Bunbury Parish Council in that, in

email correspondence to Mrs Partridge during 2011 and his general conduct towards Mrs Partridge during the same period, he did not bully Mrs Partridge.

8. I conclude that there has been **no failure** by Gary McCormack to comply with paragraph 3(2)(d) of the Code of Conduct for Bunbury Parish Council in that, his conduct towards the then Parish Clerk, Mrs Stubbs, did not seek to compromise the impartiality of Mrs Stubbs.
9. I conclude that there has been **no failure** by Gary McCormack to comply with paragraph 4(a) of the Code of Conduct for Bunbury Parish Council in that, he did not breach confidentiality regarding the work of the Muir Sub-Committee.

Relevant Legislation

10. On 24 January 2012, Cheshire East Council's Standards Assessment Sub-Committee decided to refer the allegations made against Councillor McCormack to the Monitoring Officer for investigation under section 57A(2) of the Local Government Act 2000.
11. 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.
12. The Standards Committee (England) Regulations 2008 applied to the conducting of this investigation, although those Regulations have recently been revoked and, under the Localism Act (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012, Article 7(4) and (6), this report will be considered by the Standards Consideration Sub-Committee under the provisions of Chapter 7 of Part 1 of the Localism Act 2011.

Relevant Paragraphs of the Code of Conduct

13. 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).*”
14. Paragraph 3(1) states -

 “You must treat others with respect.”
15. Paragraph 3(2) states -

 “You must not -

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

- (b) bully any person;
- (c) *(not applicable to this case)*
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority."

16. Paragraph 4 states -

"You must not -

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is -
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) *(not applicable to this case)"*

Councillor Details

17. Councillor McCormack has been a Bunbury Parish Councillor for 10 years. He has had no training on the Code of Conduct.

The Evidence Obtained

18. I have interviewed -

- the first complainant Alexandra Stubbs;
- the second complainant Erica Partridge; and
- Councillor McCormack

Allegation by Alexandra Stubbs

19. The complaint (Appendix A) relates to emails that passed between Mrs Stubbs and Councillor McCormack in September and October 2011 and the content of one particular email, that of 16 October, which led to the making of this complaint and the resignation of Mrs Stubbs as Clerk of the Parish Council. These emails should be read in conjunction with the emails attached at Appendix B, insofar as they apply to Mrs Stubbs.

20. Mrs Stubbs says that she was appointed Clerk to Bunbury Parish Council in April 2010 and that she was contracted to work 11 hours per week. Mrs

Stubbs says that she was aware from the beginning of the tensions regarding the proposed development of the land at Wyche Lane, Bunbury by the Muir Housing Group and Councillor McCormack's interest in that matter. She says that she was, therefore, very aware of receiving confidential information and ensuring that it was dealt with without breaching the confidentiality.

21. Mrs Stubbs says that initially Councillor McCormack's interest was not a problem but since August 2011 Councillor McCormack, along with former Councillor Waits and her partner, James Walton, started bombarding her Parish Clerk email address with emails regarding the Muir development and associated issues. As time went on the tone of the emails worsened and there was a lot of criticism of her actions as Clerk, which she believes are totally unfounded. To answer all these emails necessitated her working much longer periods than those for which she was contracted.
22. On 16 October 2011 Mrs Stubbs received another email from Councillor McCormack (see Appendix A). The manner in which Councillor McCormack expected her to do her job was completely unprofessional, its contents were derogatory and she believed it was an attempt to bully her to do what he wanted. Immediately prior to that date, Mrs Stubbs had been considering resigning from her position and, on receipt of the email, she promptly did.

Allegations by Erica Partridge

23. Although the complaint form (Appendix B) was 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 the second complaint. At this stage, I should point out that Mrs Partridge resigned from Bunbury Parish Council on 06 March 2012 and has indicated in her statement (Appendix E) that she does not wish to proceed with the complaints in respect of any matters against Councillor McCormack. I have explained to Mrs Partridge that once a complaint has been referred for investigation, the investigation will be completed and it will be for the Standards Committee to decide how it wishes to deal with the report of the investigation.
24. It will be seen from the documentation attached to the form of complaint (Appendix B) 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 B) and the second headed 'Comments relating to Councillor ...'. There is a separate set of 'Comments' for each then Councillor and those relating to Councillor McCormack are attached at Appendix C.
25. In the complaint Mrs Partridge says that Councillor McCormack has displayed a lack of respect for her in the emails that he sent to her and she believes this contravenes paragraph 3(1) of the Code. Mrs Partridge also says that she considers those emails, when coupled with those sent by Mrs Waits and Mr Walton have been threatening and bullying which has made the whole situation disturbing to her.
26. Mrs Partridge claims that the emails from Councillor McCormack to Mrs Stubbs were seeking to compromise the independence of the Parish Clerk in her duties which she believes contravenes paragraph 3(2)(d) of the Code.

27. Whilst the complaint refers to a potential breach of paragraph 4(a), there is nothing in the complaint documentation to suggest that Councillor McCormack has disclosed confidential information.

Response from Councillor McCormack

The first allegation

28. Councillor McCormack's approach towards the development proposal is set out in some detail in his statement (Appendix F, paragraphs 4-10). Whilst he acknowledges that he has a personal and prejudicial interest in matters concerned with the development because of his landholdings in the vicinity of the development site, he says that the manner in which the proposed developer, Muir Housing Group, has conducted itself has created a lack of trust. He quotes examples where Muir's representatives have accepted that they 'had been less than economical with the truth' to the Cheshire East planning department, the Parish Council and the Planning Inspectorate. The original proposals had drawn overwhelming objection from the village and the present proposal for which planning permission has been granted is still not welcomed by many in the village.
29. When Mrs Partridge became Chair of the Parish Council and Alex Stubbs joined as the new Clerk, the manner in which Council meetings were run changed and became much more formal. At this time, 2010, the proposed development was, in Councillor McCormack's view, the most controversial issue on the Council agenda and, although planning permission had been granted there were still planning and legal issues that required resolution. In September/October 2010, at a Parish Council meeting, Councillor McCormack asked the Chair and the Clerk whether they had read all the files relating to Muir. He advised the Clerk of the discussions that he had had with Muir and decided to give the Clerk a file on the contractual issues that he had with Muir so that she could inform the Parish Council. He was very concerned that Muir would not necessarily be totally truthful with the Parish Council and that the Council could end up being embroiled in a legal dispute which they could not afford.
30. Prior to this period, the relationship between the previous Chair and Clerk and Muir had been very formal and they did not trust Muir. His view was that the Company's relationship with Mrs Partridge and Mrs Stubbs had become very informal and Mrs Stubbs appeared to him to be very 'chummy' with Muir which he found unsettling. Shortly after this Councillor and Mrs McCormack received letter from the Parish Council asking them if they would surrender the access to the field at the back of the development, a request that had previously been made to them by Muir and refused by the McCormacks. It seemed strange to him that the Parish Council was seeking something the developer wanted. Later he saw a note of a meeting involving the developer and a neighbouring resident, James Walton, at which Muir had said that the McCormacks could cancel an option agreement which, legally, was incorrect.
31. Running in parallel with this was the position of a long serving Parish Councillor, Councillor Dykes, who had always supported Muir. Councillor McCormack believes that Councillor Dykes has a personal and prejudicial interest in respect of the Muir Group and the manner in which Councillor Dykes was treated by the Chair and Clerk was very different to the manner in which

they treated other Parish Councillors. At the Parish Council meeting on 11 October 2011, Councillor Dykes told the meeting that Muir's selected contractor had gone bust. Neither the Chair nor the Clerk confirmed or denied this and Councillor McCormack was concerned that Councillor Dykes had information that was not available to the other Parish Councillors or even Cheshire East planners. He therefore wrote to the Clerk the following day expressing his concern at that situation.

32. The response from the Clerk of 15 October was read by Councillor McCormack in the lounge of Manchester Airport on 16 October when he was waiting to board a plane for a business trip to the Sultanate. Councillor McCormack says that the response seemed to him to confirm his concerns regarding the relationship between the Clerk, the Chair, Councillor Dykes and Muir. He says that he replied immediately because he wanted the Clerk to appreciate how important the development argument is to many people in the village and that her actions did not reflect that importance. He says that he was not trying to bully her or show her lack of respect but merely trying to get her to understand the situation and to represent the village.

The second allegation

33. Councillor McCormack says that he does not socialise with Mr Walton, Mrs Waits, Dennis Burrows (who he has known for 21 years), Davis Ellis or Sally Beard, although, living near to them, he does come into contact with them from time to time. He says that he has had no discussion with any of them regarding the manner in which village issues should be approached on the Parish Council. He says that he sent very few emails to Mrs Partridge and that he has not been disrespectful to her even though he had concerns at the manner in which she was undertaking her role.
34. Councillor McCormack denies conniving with the other Councillors and says that he has never sought to influence improperly the position of other Councillors.

Facts

35. All the allegations relate to matters flowing from the various emails attached as Appendices or part Appendices to this report. All were sent and received by the persons identified in them. There are no other material findings of fact.
36. At this stage I should point out that there are a number of side issues which have been introduced by Councillor McCormack which may well have influenced his conduct. Those side issues do not directly relate to the substantive issues alleged in the complaint documents and it is not for me to determine the accuracy of Councillor McCormack's concerns e.g. regarding Councillor Dykes' potential interest and the relationship between Mrs Partridge, Mrs Stubbs, Councillor Dykes and Muir.

Application of the Code to the facts found

37. The first matter to determine is the application of the Code of Conduct. The emails sent by Councillor McCormack were sent to Mrs Stubbs and Mrs Partridge in their respective capacities as Clerk and Chair of the Parish Council

and related to the business of the Parish Council or the manner in which Mrs Stubbs was undertaking her duties as Clerk. Therefore paragraph 2(a) applies and Councillor McCormack was conducting the business of the Parish Council.

The first allegation

38. Officers of a local authority must expect, from time to time, that Councillors will be critical of actions taken or proposed by them, particularly where there are differences of opinion. Such criticism, provided it is fair and reasonable, will not cross the threshold to bring it within paragraph 3(1) of the Code. The issue is whether the content of Councillor McCormack's emails and, particularly, the one of 16 October 2011 lacked the level of respect required of a Councillor. The threshold above which conduct would breach the Code under this paragraph was considered in Adjudication Panel decision APE 0409 (March 2009) where the Tribunal said -
51. "In the Tribunal's view it was desirable that the threshold for a failure to treat another with respect be set at a level that allowed for the minor annoyances and on occasions bad manners which are part of life. During the course of their work people often show a lack of consideration or bad manners but it is not desirable that every such slight should be considered a breach of the Code. To set too low a level might lead to complaints that were about little other than a difference of opinion over the wording of a letter or what amounts to rudeness and for this reason the Tribunal thinks that not every instance of bad manners or insensitive comment should amount to a failure to treat another with respect."
39. It is therefore necessary to consider the wording of the email in the context of the points made by Councillor McCormack in his statement (Appendix F, paragraphs 4-10). A lot of the early criticism in the email, in my opinion, does not cross the threshold set out in the above decision. The fifth paragraph compares the manner in which the previous Clerk undertook the role with the manner in which Mrs Stubbs was doing so. Councillor McCormack appears to be saying that the previous Clerk undertook the role as a local resident and not as a professional person and that he expected Mrs Stubbs to adopt the same stance. Parish Clerks should be professional and objective and should not be influenced by personal views on a parish issue, regardless of whether or not they live in the village or parish. In my opinion, these statements go beyond the threshold in the above decision - they are not insensitive comments; they are effectively saying that 'you should not be in the job, because you are not considering matters from the villager's perspective'. A Clerk must never allow a personal view to supersede a professional one.
40. Whilst I understand Councillor McCormack believed that Muir were manipulating the position and that Mrs Partridge and Mrs Stubbs appeared to be leading the Parish Council down a route that was against the villagers' wishes, I also understand the manner in which Mrs Partridge in particular was seeking to use her knowledge to give the village a measure of protection, given that planning permission had, by this time, been issued for a limited development. The more formal approach to Council business adopted by Mrs Partridge ensured that action taken was in accordance with decisions made by the Council. The extent to which villagers are against the approved development may not be as strong as Councillor McCormack makes out and there is no doubt in my mind that Councillor McCormack's personal

involvement with Muir, particularly with regard to various legal issues that were outstanding between he and his wife and Muir, were influencing his approach as a councillor and that some of the issues that he was raising were issues which, if discussed at an open meeting of the Parish Council, would have needed him to declare a personal and prejudicial interest and to leave the meeting.

41. I conclude that there has been **failure** by Councillor Gary McCormack to comply with paragraph 3(1) of the Code of Conduct for Bunbury Parish Council in that, the contents of the email dated 16 October 2011 go beyond reasonable criticism of an employee and show a complete lack of respect for the position of Parish Clerk.

The second allegation

42. The first three parts of this allegation relate to lack of respect to and/or bullying of Mrs Partridge and conduct likely to compromise the impartiality of those who work for or on behalf of the authority. The basis of these claims are founded on the email correspondence involving Mrs Waits, Mr Walton and Councillor McCormack on the one side and Mrs Stubbs and Mrs Partridge on the other.
43. Mrs Partridge is a professional person and it is clear to me that her approach towards the role and responsibilities of the post of Chairman of the Parish Council were well-intentioned. In relation to the Muir development site and associated issues, Mrs Partridge considered the issues involved and ensured that the Muir business was properly dealt with by the Council. It is also clear to me that the history of the development site and adjoining land was a cause for concern within Bunbury, particularly for the residents of Wyche Lane.
44. From August 2011 the email correspondence increased, far beyond the capacity of the Clerk in terms of her contracted hours. The tone of the emails also changed - when I interviewed another former Councillor in connection with a parallel complaint, he used the word 'vitriolic'. Advice had previously been obtained from the Deputy Monitoring Officer and the manner in which this had been obtained and its specific application gave rise to further emails and complaints about the manner in which it was procured. It is clear both Mrs Stubbs and Mrs Partridge were becoming concerned at the ability of the Parish Council to deal with the barrage of emails and the extent of their requirements. Mrs Stubbs had already made up her mind that she no longer wanted to continue in post and she gave notice terminating her employment. To a certain extent this left Mrs Partridge exposed and it was the continual email barrage that gave rise to her request to Mrs Stubbs to submit the complaint to the Standards Committee.
45. Turning to the specific issues, the first is an allegation of a failure by Councillor McCormack to respect Mrs Partridge. Mrs Partridge refers to the emails attached at Appendix B. These are the only emails that have been submitted in support of the complaint against Councillor McCormack. People holding responsible positions within local government must accept the possibility of criticism from fellow Councillors and members of the public. I find nothing in those emails that I believe shows any disrespect to Mrs Partridge either in her capacity as Chairman of the Council or in her personal capacity.

46. I conclude that there has been **no failure** by Councillor Gary McCormack to comply with paragraph 3(1) of the Code of Conduct for Bunbury Parish Council in that, in email correspondence to Erica Partridge during 2011, he did not fail to treat her with respect.
47. Mrs Partridge in the complaint documents considered herself to be the subject of a bullying campaign against her by Councillor McCormack as a result of the emails from Councillor McCormack and those from Mrs Waits and Mr Walton covering the same issues. She says that she felt extremely uncomfortable and threatened by her conclusion as to the combined approach from the three individuals. The emails do cover the same issues but that is unsurprising. The tone of the email exchanges shows that both 'sides' were becoming entrenched. I can understand Mrs Partridge feeling that what was happening was not why she had agreed to be a Parish Councillor and I can see that this has led to her decision to resign. However, I cannot take into account Mr Walton's emails, as, at all material times, he was a member of the public, and there is insufficient adverse commentary in the other emails for me to conclude that there has been a campaign of bullying against Mrs Partridge by Councillor McCormack. I have reached a similar conclusion in respect of the complaint against Mrs Waits.
48. I conclude that there has been **no failure** by Councillor Gary McCormack to comply with paragraph 3(2)(b) of the Code of Conduct for Bunbury Parish Council in that, in email correspondence to Mrs Partridge during 2011 and his general conduct towards Mrs Partridge during the same period, he did not bully Mrs Partridge.
49. The next issue is paragraph 3(2)(d) of the Code. This refers to a Member doing anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority. Mrs Partridge refers in the complaint to information given to her by other councillors regarding the conduct and expectations of Councillor McCormack towards those councillors. In my opinion, this sub-paragraph only covers employees of the Council and it is only those relating to the Parish Clerk that need to be considered under this heading. Having considered all the material before me relating to Councillor McCormack, whilst there is criticism, justified or not, I find nothing to suggest that the Clerk was being coerced into a compromised position.
50. I conclude that there has been **no failure** by Councillor Gary McCormack to comply with paragraph 3(2)(d) of the Code of Conduct for Bunbury Parish Council in that, his conduct towards the then Parish Clerk, Mrs Stubbs, did not seek to compromise the impartiality of Mrs Stubbs.
51. As I have already said at paragraph 27 above, there is nothing in the complaint documentation which suggests that Councillor McCormack has breached confidentiality. I can only assume that Mrs Partridge was referring here to Councillor McCormack's various attempts (see paragraph 3 of Appendix C) to obtain information about the decisions that were being taken with regard to the Muir development. Whilst Councillor McCormack and other Parish Councillors had declared personal and prejudicial interests in the development site and adjoining land the Muir Sub-Committee should have been issuing minutes of their meetings for public consumption even if those minutes would have been short of substance on occasions through confidentiality or the existence of exempt information. From what I have been told, it appears that this was not

happening although that situation has now been rectified. However, whilst Councillor McCormack's behaviour at times may appear to be inappropriate, bearing in mind the existence of his personal and prejudicial interest, such conduct does not breach paragraph 4(a).

52. I conclude that there has been **no failure** by Councillor Gary McCormack to comply with paragraph 4(a) of the Code of Conduct for Bunbury Parish Council in that, he did not breach confidentiality.

Response to Draft Report

53. I have received responses from Mrs Partridge and Councillor McCormack and these are attached at Appendices G & H. I have received no response from Mrs Stubbs. I have made minor amendments to certain paragraphs as a result of the comments

Finding

54. My finding is that there has been failure to comply with the Code of Conduct of Bunbury Parish Council.


Mike Duffield
Investigator

28 July 2012

Schedule of Evidence

- Appendix A Copy complaint form from Mrs Alex Stubbs with supporting documentation in relation to the first allegation
- Appendix B Copy complaint form from Mrs Alex Stubbs and 'Query to Monitoring Officer re Bunbury Parish Councillors and Potential Breach of Code of Conduct' in relation to the second allegation
- Appendix C Comments from Mrs Partridge and emails relating to Councillor McCormack
- Appendix D Copy statement from Mrs Alexandra Stubbs dated 05 March 2012
- Appendix E Copy statement from Erica Partridge dated 20 February 2012
- Appendix F Copy statement from Councillor Gary McCormack dated 25 June 2012
- Appendix G Copy comments from Mrs Partridge to draft report
- Appendix H Copy emails from Councillor McCormack re draft report

7. NOV 2011

Appendix A**COMPLAINT FORM**

Code of Conduct – Borough, Parish/Town Councillors and Co-opted Member(s). Please see attached explanatory notes.

Your details-

1. Please provide us with your name and contact details. (See Explanatory Notes attached)

Title:	MRS
First name:	ALEXANDRA
Last name:	STUBBS
Address:	10 COPPERFIELDS TARPORLEY CHESHIRE CW6 0UP
Daytime telephone:	01829 733252
Evening telephone:	01829 733252
Mobile telephone:	07918 912541
Email address:	bunburyderk@aol.com

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted Member(s) of an Authority
- ☐ An independent Member(s) of the standards committee
- ☐ Member(s) of Parliament
- ☐ Local Authority Monitoring Officer
- ☐ Other Council Officer or employee of the Council
- ☒ Other - please specify (PARISH CLERK)

3. **Making your complaint** (See Explanatory Notes attached.)

Please submit to -

The Monitoring Officer, Cheshire East Council, Westfields, Middlewich Road, Sandbach, CW11 1HZ.

How to make a complaint

You must make your complaint in writing (either typed or hand-written). This complaint form has been produced in order to help you make your complaint but you do not have to use it. Once you have made your complaint, you will be told in writing what will happen to it.

Timeframe

Unless there are exceptional circumstances, events which took place more than 12 months prior to the complaint being submitted, will not normally be investigated.

4. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their Authority:

Title	First name	Last name	Council or Authority name
MR	GARY	MCCORMACK	BUNBURY PARISH

5. Please explain in this section (or on separate sheets) what the Member(s) has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done which you believe breaches the Code of Conduct. (See *Explanatory Notes attached.*)

Please provide us with details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Please see attached email dated 16th October 2011 received by myself from Mr. McCormack. In it, he accuses me of having no interest in the village and treating the clerkship as a "job". I feel that this email is derogatory and bullying.

6. Only complete this section if you are requesting that your identity is kept confidential

In the interests of fairness and natural justice, the Council believes that Member(s) who are complained about have a right to know who has made the complaint. The Council also believes they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason. *(See Explanatory Notes attached.)*

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

7. Additional Help

As noted in paragraph 3 above (Making Your Complaint), complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please contact Diane Moulson (Tel: 01270 686476).

Neil and Alex Stubbs

From: "CSQ Office" <gmc@csq42.com>
To: <bunburyclerk@aol.com>
Sent: 16 October 2011 18:29
Subject: Re: Gary McCormack Muir
Alex

Very disappointed at the cavalier approach you have to reporting news to the members of the PC. I was under the impression that you were the paid Parish Council Clerk who reported to all the Parish Council Members.

From your email it looks as if you report the information that you think is important to one member only. I have made it quite clear in all my emails to you that I have given you as the Clerk information which I assumed you passed on to the other members of the PC relating to all issues regarding Muir.

Reading your email it sounds as if you do not require my permission to forward the email on to Brian. I have made it evidently clear that I and other members of the PC do believe that Brian has a prejudicial interest in the Muir development. It is well documented and Brian never stops talking about Muir.

Regardless. Why did you not inform PC Members?

Why did you not mention any of the above at the PC meeting?

Why did you not support Brian at the meeting by informing the rest of the PC that you had informed Brian some weeks ago but had not thought it important to notify any PC members?

Alex

Our last Clerk Colin Knowles lived in the village and if you have read his correspondence to Muir. You will be aware of what he stood for. From my point of view you treat Bunbury as a job. You have no interest in Bunbury. You do not live in the village and from your actions you have your own inner circle who are receiving information excluding other PC Members.

The proposed development is a very important issue in the Village and if you are not informing members correctly or the minutes are not being updated with information that other PC members should be made aware of then we have a big problem.

I am just flying to the Middle East. So will pick up mails in the morning.
Alex, I do not have a problem sending this email to all members of the PC.

I await your reply.

Gary

On 15/10/2011 16:48, "bunburyclerk@aol.com" <bunburyclerk@aol.com> wrote:

Hi Gary

I knew that RBL had gone bust, Tracey Ashton told me it was a possibility ages ago when I phoned her about floor levels at the development. I also checked the internet and found it was true. I've probably told Brian at some point as it wasn't a secret.

Can I forward your email to Brian so that he can answer your accusation directly?

Alex

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

From: CSQ Office <gmc@csq42.com>

To: BunburyClerk <bunburycerk@aol.com>

Sent: Wed, 12 Oct 2011 10:18

Subject: Gary McCormack Muir

Hi Alex

Re last nights meeting.

Just wanted to raise a concern about Muir. I have been in contact with Stephen Irvine at Cheshire East Stephen Irvine

Planning and Development Manager. He had no information as to what had happened at the Muir site. His reply was

Gary,

Not a jot I'm afraid. I'll follow it up tomorrow.

Regards,

How come the only person who had any information was Brian Dykes? He informed the PC that RBL Construction had gone bust.

Cheshire East had no news.

Michael Jones had no News

My Lawyers had no News.

I did not want to bring this issue up in the meeting as Brian was pleased with his new awarded honour.

As I have highlighted before Brian should be declaring a private and prejudicial interest regarding Muir Homes.

Regards Gary

01/11/2011

COMPLAINT FORM

Code of Conduct – Borough, Parish/Town Councillors and Co-opted Member(s). Please see attached explanatory notes.

Your details-

1. Please provide us with your name and contact details. (See Explanatory Notes attached)

Title:	MRS.
First name:	ALEX
Last name:	STUBBS
Address:	10 COPPERFIELDS TARPORLEY CHESHIRE CW6 0UP
Daytime telephone:	01829 733252
Evening telephone:	01829 733252
Mobile telephone:	
Email address:	burburyclerk@aol.com.

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
☐ An elected or co-opted Member(s) of an Authority
☐ An independent Member(s) of the standards committee
☐ Member(s) of Parliament
☐ Local Authority Monitoring Officer
☐ Other Council Officer or employee of the Council
☒ Other - please specify (PARISH CLERK)

3. **Making your complaint** (See Explanatory Notes attached.)

Please submit to -

The Monitoring Officer, Cheshire East Council, Westfields, Middlewich Road, Sandbach, CW11 1HZ.

How to make a complaint

You must make your complaint in writing (either typed or hand-written). This complaint form has been produced in order to help you make your complaint but you do not have to use it. Once you have made your complaint, you will be told in writing what will happen to it.

Timeframe

Unless there are exceptional circumstances, events which took place more than 12 months prior to the complaint being submitted, will not normally be investigated.

4. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their Authority:

Title	First name	Last name	Council or Authority name
MS	GILL	WAITS	BUNBURY PC.
MR	GARY	MCCORMACK	" "
MR	DAVID	ELLIS	" "
MS	SALLY	BEARD	" "

5. Please explain in this section (or on separate sheets) what the Member(s) has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done which you believe breaches the Code of Conduct. (See *Explanatory Notes attached.*)

Please provide us with details of your complaint. Continue on a separate sheet if there is not enough space on this form.

PLEASE SEE ATTACHED NOTES
+ EMAILS.

6. Only complete this section if you are requesting that your identity is kept confidential

In the interests of fairness and natural justice, the Council believes that Member(s) who are complained about have a right to know who has made the complaint. The Council also believes they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason. (*See Explanatory Notes attached.*)

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

7. Additional Help

As noted in paragraph 3 above (Making Your Complaint), complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please contact Diane Moulson (Tel: 01270 686476).

Neil and Alex Stubbs

From: "Partridges" <ep.partridges@btinternet.com>
To: "Alex Stubbs" <bunburyclerk@aol.com>
Sent: 04 January 2012 22:35
Attach: Councillor Jill Waits emails re declarations of interest.doc; Councillor Sally Beard emails re declaration of interests.doc; Councillor David Ellis Emails.doc; Councillor Gary McCormack emails.doc; Muir Land various interests plan.pdf; Ivy Cottage objection to planning application 11 2423 N S 73 application.pdf; Edinbane James Walton letter to Muir re S73 application 2423N.pdf; Edinbane Cottage objection to planning application 11 2423N S73 Application.pdf; D Ellis Objection Letter 07.08.110001.pdf; James Walton example emails.doc; Jill Waits emails regarding other councillors.doc; Councillor Jill Waits confirmation of appointment letter.doc; Bunbury Parish Council Query to Monitoring Officer Parish Councillors.doc
Subject: Query to Monitoring Officer re Non Compliance with the Code of Conduct 4 January 2012
Dear Alex

Paragraph 30 of the Bunbury Parish Council Standing Orders require that I notify you of any breaches in the Code of Conduct.

Please see the attached documents explaining where there may be breaches of the Code of Conduct by Councillors Waits, Ellis, Beard and McCormack. If you agree it would be appreciated if you could forward these to the Monitoring Officer at Cheshire East Council.

I have copied various relevant emails into word documents and coloured them up to mark breaks in the links. I am happy to provide any further information which is requested.

As you know the Parish Council have now introduced standing orders that correspondence must be sent by post to the clerks address and reply will be by post to limitemail access but it would be appreciated if the Monitoring Officer could also be requested, when replying, to provide any advice which may assist on how to manage this very unpleasant and complicated situation.

Yours sincerely

Erica Partridge
Chairman, Bunbury Parish Council

09/01/2012

**Query to Monitoring Officer re Bunbury Parish Councillors
and Potential Breach of Code of Conduct**

I am writing to express my concerns regarding the actions of a number of Parish Councillors as it appears that they may be in breach of the Code Of Conduct and the decision of the Monitoring Officer is requested on this matter.

I have set out the background to the issues below with a separate page relating to each of the Parish Councillors concerned as there are different issues relating to each person.

Background

1. The issues arise in relation to the development of some land at Wyche Lane, Bunbury by Muir Group Housing Association. Muir have planning permission to build 10 affordable homes on the land edged red which included a gate into the field (edged blue) at the rear of the housing land with a restriction that the access point is to be used for maintenance only. At a public meeting some years ago prior to the original planning approval Muir offered to transfer the land edged blue to the Parish Council (this was not a condition of the planning consent). Muir secured funding for the development and, in Autumn 2010, they began pre commencement discussions with the owners of the land coloured yellow and the Parish Council in relation to the transfer of the blue land.
2. I have attached a plan which shows the following :
 - the Muir housing land edged red (the houses have not been built yet)
 - the land offered to the Parish Council edged blue
 - the land owned by Cllr Gary McCormack coloured yellow with one field also edged purple
 - the land owned by Cllrs David Ellis, Sally Beard and Dennis Burrows coloured orange (Cllr Burrow has recently retired so this query does not relate to him)
 - the home of Cllr Waits coloured orange (she shares this property with her partner, James Walton) as their home but she is not an owner
 - whether those houses neighbouring the land have objected to planning application 11/2423N (explained in 5 below) 'O' or not objected 'N'.
3. James Walton is Secretary of the Local Conservative Club and Cllrs Waits and McCormack are active members of the club and are close associates and friends as well as neighbours. This also brings them into association with Michael Jones, our Borough Councillor. It is clear from numerous comments to me by Cllr Waits that she regularly discusses Parish Council matters with Michael Jones. At recent Parish Council meetings Michael Jones has made his apologies and sent his report via Cllr Waits without contacting the Clerk and he asked Cllr Waits to represent him to lay a wreath at the armistice day service in Bunbury.
4. Cllr Mc Cormack has acquired the land edged yellow in a number of tranches. He lives in the house called 'Fairview' as his home and over recent years has acquired the other land holdings now all coloured yellow. Both Muir and Cllr McCormack have confirmed that Cllr McCormack had offered to acquire the blue land from Muir at a price of £6000 with a proposal that Muir transfer the £6000 to the Parish Council and not the land. Muir have stated to me that Cllr McCormack also expressed interest in buying the red land off them. The previous owners of the yellow/purple field sold the red and blue land to Muir, including covenants for Muir to construct an accessway across the blue land to adoptable standard, or to the satisfaction of the planning authority on construction of the houses on the red land (the Muir cul de sac will not be adopted). The covenants in this contract potentially impact on the blue land in a number of ways and the Parish Council have commissioned legal advice on this matter and our negotiations in relation to the transfer of the blue land consequently involve Cllr McCormack as well as Muir. These are not finalised yet, but following discussions over this period terms have been

provisionally agreed for the Parish Council to have a ten year legal option for a transfer of the blue land for a peppercorn and solicitors are dealing with these contracts. Cllr McCormack has openly stated that his solicitors will serve an injunction on Muir to prevent the start of construction if the terms of his contract are not met. Failure to reach agreement on this matter could potentially result in the houses not being constructed. Muir also have a legal option to acquire the yellow/purple field if they obtain planning permission to construct houses on it. This can only be withdrawn with Cllr McCormack's consent which has not been forthcoming. The presence of the option is a contributing factor to the opposition to the S73 variation application referred to below.

The accessway coloured green therefore impacts not only on the blue land it crosses but also the the red land (as refusal or non compliance with Cllr McCormacks contract may result in the houses not proceeding) and the yellow/purple land it gives access to (as opposers of the houses are claiming the access will open this field to development).

5. Muir submitted a S73 planning application No. 11/2423N in August 2011 for a variation of the original conditions to construct the accessway required by Cllr McCormack's contract in the position shown by the green line and to remove the condition restricting access to the blue land to maintenance only as this would effectively prevent a transfer of that land to the Parish Council who would need to use it for community purposes. The proposal is for the green accessway to have a 'Toptrek' agricultural type surface and to be 4.5m wide to ensure compliance with planning and contract standards. This application has still not been to Cheshire East Planning Committee.
6. Cllr Ellis and James Walton (Cllr Waits' partner) have both objected to application 11/2423N. Cllrs Beard, Waits, Burrows and McCormack have not. Cllr McCormack purchased the yellow/purple field subject to the existing option agreement referred to in point 5 above and that contract requires the owners of the field to support any planning application made by Muir and so prevent him from making a formal objection.

Declaration of Interests and Code of Conduct

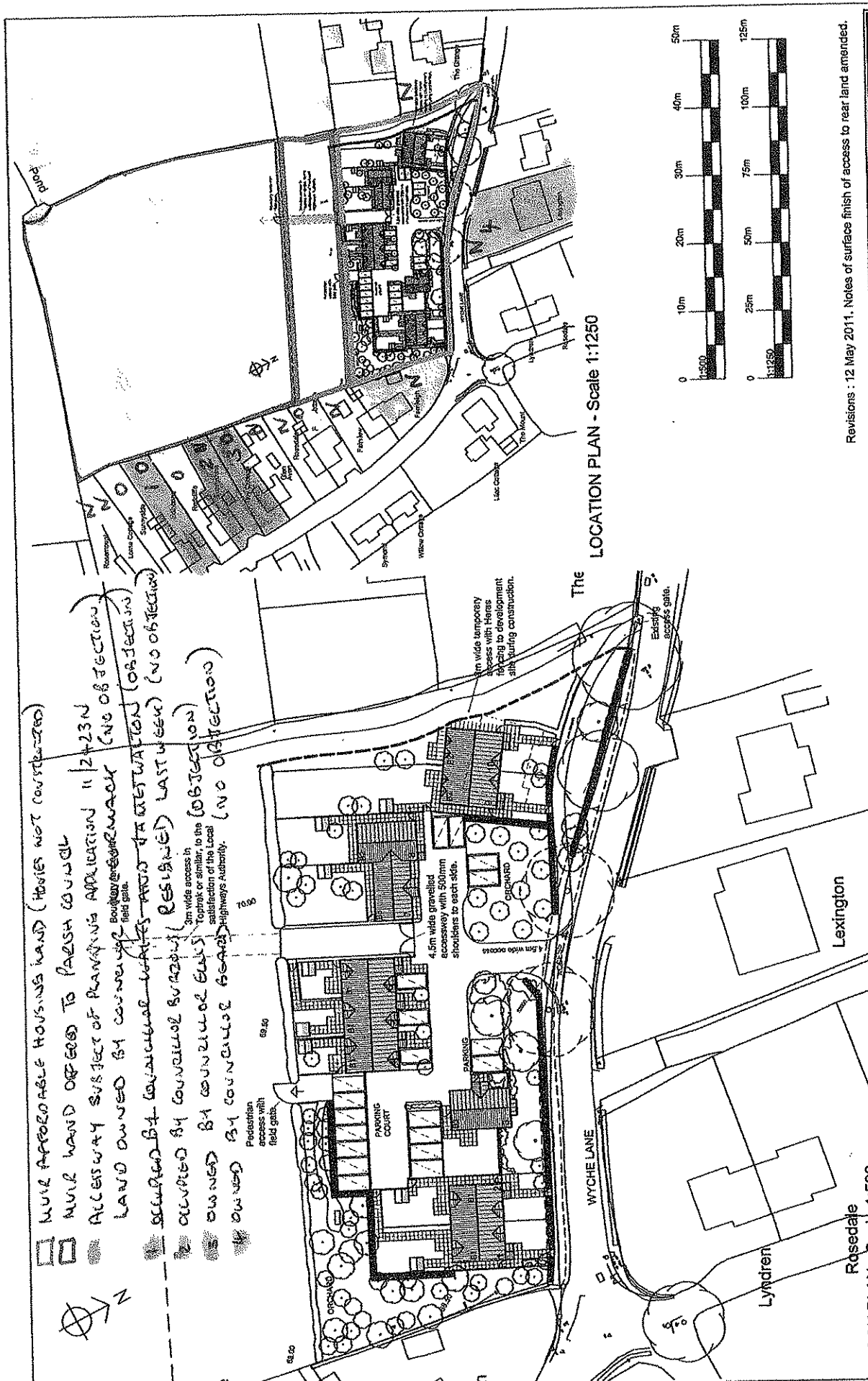
7. It has been necessary for the Parish Councillors who live in Wyche Lane to consider whether they have a personal and/or prejudicial interest to declare in relation to the above matters. The sequence of relevant events are set out below. Copies of relevant correspondence and emails are in separate attachments. Initially the discussions dealt with just the offer by Muir to transfer the land as the necessity for a further planning application did not arise until the summer of 2011. It could be that the decision may be different in relation to each aspect by individual councillors.
8. Prior to October 2010 the Muir matters had been dealt with on the basis that :
 - Cllr McCormack declared a personal and prejudicial interest in anything relating to the contracts and planning application 11/2423N and was not present when these were discussed. He did not declare any interest for purely factual matters relating to the development eg information on the development programme/allocation of the houses. He has continued on this basis to date and there is no query on this point in relation to Cllr McCormack;
 - the other Cllrs neighbouring the land did not declare any interest
 - I discussed this with the Clerk as I wondered whether this was correct, particularly as Cllr Burrows made statements such as 'we don't want allotments behind us as they look untidy' 'we don't want an orchard as kids will throw apples at our windows' 'Gary will maintain the land in good condition if it is sold to him'. As the matters are so complicated she agreed to consider it;
9. On 18th November 2010 Cllr Waits sent the attached email (pages 14/15 of JWs emails), stating that she was '**potentially affected**' by the transfer/use of the blue land as were the Cllrs Ellis, Burrows and Beard, effectively declaring an interest herself and

querying whether her neighbours should also declare an interest. Due to the complications I agreed with the Clerk that she would request the advice of the Monitoring Officer. She later confirmed to me that she had described various applicable locations in relation to the blue land to Julie Openshaw who considered the situation and sent the email reply dated 22nd November 2010 (page 10 of JWs emails) which is attached.

10. Julie Openshaw's email was circulated to Parish Councillors at the Parish Council meeting in December 2010 under 'declarations of interest' on the agenda. Those affected Cllrs who were present (Cllrs Beard and Burrows) then declared a personal and prejudicial interest in relation to the blue land and continued to act accordingly. Cllr Waits was not at the meeting so the Clerk contacted her afterwards the emails on 16th December (pages 11/12 refer to this conversation). Cllr Waits accepted without further query that she had a personal and prejudicial interest in relation to the blue land and continued to act accordingly. Cllr Ellis became a Parish Councillor in January 2011 and he was informed of the position which he queried but accepted would also apply to him and he continued to act accordingly.
11. The Parish Council decided that discussions relating to the blue land would be held separately as this would avoid 5 Cllrs having to leave the room and consequent interruption to the meeting and that a number of the matters were subject to contract/commercially sensitive and not suitable for a public meeting. These meetings were known as the 'Muir Sub Committee' although it was actually the full Parish Council excluding the public and Cllrs with declared prejudicial interests. Initially the advice and meetings were in relation to the transfer and other contractual issues relating to the blue land, the need for the planning application arose later.
12. When Muir submitted planning application 11/2423N Cllrs McCormack, Waits, Beard, Burrows and Ellis all declared a personal and prejudicial interest in that application. It was discussed at the public Parish Council meeting on 9th August. Before withdrawing from the meeting Cllr Waits asked to make a statement in which she asked the Parish Council to consider whether a public meeting would be helpful.
13. On September 12th 2011 Cllr McCormack wrote to the Clerk asking for a copy of Julie Openshaws email advising on the conflict of interest (P6 of GM emails) and saying that the Wyche Lane Parish Councillors 'about forming another Parish Council Sub Committee to protect our interests'.
14. After that a series of emails were received from James Walton on this matter culminating in a complaint against the Clerk which has now been withdrawn. He also made a Freedom of Information Act request for all the discussions/correspondence relating to the Muir Sub Committee meetings. I will comment further on James Walton later. This was followed by queries from Cllrs Waits and Beard on this matter and further queries from Cllr McCormack. Cllr Waits then informed the Parish Council that she was 'disapplying' her former declaration of interest and requested all the emails etc relating to the Muir Sub Committee discussions.
15. To resolve this issue I decided to hold all matters relating to Muir in abeyance pending further guidance being requested from the Monitoring Officer, Caroline Ellwood. She replied that she was unable to give detailed guidance but Julie Openshaw provided a copy of the explanatory guidance on the code of conduct which is most helpful. This was issued to all the councillors.
16. At the request of Cllr Waits matters relating to the Muir land were included in the agenda of the 13th December 2011 meeting. The Wyche Lane Cllrs were asked if they had any interest to declare or any further queries. Cllrs Waits, Beard and Ellis advised that they did not (reversing their earlier declaration of interests) and Cllr McCormack advised he would declare a personal and prejudicial interest relating to the Muir land

and he left the room during the discussion. Cllr Waits proposed that the Parish Council open up their previous decision relating to planning application 11/2423N to allow the Wyche Lane Councillors to contribute, this was seconded and councillors voted to re discuss the matter. The discussion also involved contractual matters relating to the blue land as the issues are interlinked. On a further vote the original decision was confirmed.

17. Original Application : I was not a councillor at the time but my understanding from those who were is that no personal or prejudicial interests were ever declared. The Chairman at the time was Cllr Dennis Burrows and the then Clerk, Colin Knowles, was a close associate with him from their membership of the Tarporley British Legion. As a village resident I could not understand why the Parish Council were so vehemently opposed to much need affordable homes but it appears that several then Parish Councillors lived in Wyche Lane.
18. It appears to me that the Parish Councillors who live in Wyche Lane should declare a personal and probably a prejudicial interest in relation to the Muir Land planning 11/2423N application and transfer and use of the blue land and in rescinding their previous declarations of personal and prejudicial interest that they may now be in breach of the Code of Conduct. The Monitoring Officers advice is requested on this matter. As the circumstances of each are different I have made separate comments on each councillor concerned below.



Revisions : 12 May 2011. Notes of surface finish of access to rear land amended.

TWEED, NUTTALL, WARBURTON ARCHITECTS/URBAN DESIGNERS CHAPEL HOUSE, CITY ROAD, CHESTER CH1 3AE TEL: 01244 310388 FAX: 01244 325643 EMAIL: enquiries@tw-architects.co.uk WEBSITE: www.tw-architects.co.uk		CLIENT/PRODUCED DEVELOPMENT AT WYCHE LANE, BUNBURY FOR MUIR GROUP HOUSING ASSOCIATION	DWG. TITLE Revised access arrangements to accommodation land. PROPOSED BLOCK PLAN & LOCATION PLAN (Option B)	DWG. No. 1101/204
All dimensions to be checked on site and not scaled from this drawing All errors and omissions to be reported to the Architect. © Copyright		SCALE 1/500, 1/1250 @ A3	DATE May 2011	SHEET A

Comments relating to Councillor McCormack

1. Councillor McCormack attends Parish Council meetings only occasionally (he travels abroad a lot) and undertakes few of the tasks he is allocated. He is most affected by the Muir housing development as he owns land all round it. His home is Fairview and he has recently purchased 'The Grange' which is a dilapidated property. He is open about seeking to prevent the development and that his solicitors will serve injunctions on Muir if they do not behave in accordance with their contract, which could be the case if planning consent is refused for a suitable accessway.
2. He could resolve a number of residents concerns relating to the planning application 11/2423N but has declined to do so, which I accept is his right as a private individual :
 - the Parish Council have asked if he would agree to abandon the requirement for the accessway as he now has alternative access to the purple field, but he has declined
 - Muir have asked if he will agree to them rescinding the option agreement on the purple field but he has declined
 - in a meeting with Muir he requested the access be wider and to adoptable standard.
3. Under Muir's option agreement for the purple land the landowner must support Muir's planning applications and this prevents Cllr McCormack from overtly objecting to the application. Consequently Cllr McCormack consistently seeks to raise concerns with others to influence them to raise objections. This has become evident in a number of ways :
 - whenever he has an opportunity he raises questions with the Muir Sub Committee members to seek information on what was discussed, this became such a problem at one meeting that I afterwards had to remind Cllrs that the Muir Sub Committee meetings were confidential ;
 - Cllrs Burrows and Ellis have told me that he consistently approaches them to discuss the matter if he sees them in their garden to the extent that it is a nuisance;
 - when discussing his objection to application 11/2423N with me Cllr Ellis said he was 'sick of being Gary's stooge';
 - Cllr Eric Lord contacted me in a very worried state because Cllr McCormack had told him that taking the blue land could cause a considerable financial liability for the Parish Council and he was extremely worried about this (he is 83 years old). I had to assure him that the matter was covered in the legal advice received and contract agreements and he resolved not to discuss this further with Cllr McCormack;
 - Cllr McCormack aggressively queried the declarations of interests of other councillors but could not progress this as his own position was clear;
 - he stated he was discussing setting up a counter Muir sub committee comprising Wyche Lane Cllrs to protect their interests.
4. Cllrs McCormack's emails to the clerk have been aggressive and bullying. He made an unimportant matter of a change in Muir's contractor into an abusive personal attack on the clerk claiming she should distribute all information to every councillor. In the December Parish Council meeting he criticised the Clerk for sending him too many emails containing council information and requested that she should edit what he receives.
5. They also raise the same issues in the same time frame as Cllr Waits and James Walton. No other councillors raise these issues. This bullying campaign is extremely unpleasant. I consider myself also to be bullied by these emails as they appear to be demonstrating how they (James Walton, Gary McCormack and Jill Waits) will approach individuals who exercise disagreement with them. This makes me feel extremely uncomfortable and threatened.

5. It therefore appears to me that Cllr McCormack may have broken the following codes of conduct:
- 3 (1) 'treat others with respect'
 - 3 (2) (b) 'bullying'
 - 3 (2) (d) "likely to compromise the impartiality of those who work for your authority"
 - Potentially 4 (a) 'disclosure of confidential information'

EMAILS RELATING TO COUNCILLOR GARY MCCORMACK

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

From: David Robinson
To: 'IRVINE, Steve' (Steve.Irvine@cheshireeast.gov.uk) ; 'JONES, Michael (Councillor)' ; JEFFREY, Vikki (Vikki.Jeffrey@cheshireeast.gov.uk) ; Sheila Whitton (Sheila.Whitton@Weightmans.com) ; bunburyclerk@aol.com
Cc: Tracey Ashton
Sent: Thursday, December 08, 2011 2:25 PM
Subject: Wyche Lane, Bunbury

Good afternoon all

I wanted to take this opportunity to advise you of Muir's position regarding the above:

1. Section 73 Application

The Application has been submitted, we understand that this will not be considered via delegated authority but will go to a full planning committee. No date for this has been given to Muir.

I reiterate the application is to ensure that we can comply with our access obligations to the rear land and is, in no way, an attempt for Muir to open up the rear land for future development.

a. Meeting with Muir, Planners and Mr McCormack

This has still not taken place, nor is there any date arranged.

I have given multiple dates that I can make a meeting to Steve and Ben, these included dates where I had previous appointments but would have cancelled them. I also confirm that I will be able to make any day, or evening in January (again this may be cancelling current appointments but so be it). There is no benefit at all for Muir to delay this meeting; I will let you decide if others feel they can benefit from an on-going delay.

2. Building Contract

The original contractor has now gone into liquidation. We have a new contractor ready to start on site once the section 73 is approved by the LA.

3. Rear Land and Muir's Future intentions

a. In Muir's ownership

We are finalising the Option Agreement with the Parish Council to transfer this land at a peppercorn to the Parish. It is hoped that the Option will be in place early in the New Year.

b. Remainder of the Field (in Mr McCormack's ownership)

Muir has an Option on the remainder of the field owned by Mr McCormack. Our lawyers advise that we cannot rescind this unilaterally, nor issue a Unilateral Undertaking (this would be against the terms of said Option Agreement). Our Lawyers have formally contacted Mr McCormack's lawyer to ask for his approval to rescind the Option Agreement. Despite chasing we have had no response from Mr McCormack nor his lawyer.

In this case it is quite obvious that there seems very little chance of Mr McCormack releasing Muir from this Option Agreement when the Option Agreement is being used against us by people objecting to this scheme.

c. Muir's Future Intentions

For clarity purposes I reiterate that Muir has no intention of building any more units at Wyche Lane. The proposed 10 affordable homes for local people constitute 100% of the housing development that we wish to undertake on this site. We are, however, very happy

to continue to work with the Parish council to develop community uses of the land to be transferred to them.

I really am at a loss to understand the on-going reasons for the delay in allowing Muir to build out these 10 affordable homes for local people; the reason for the section 73 application is clear and has nothing at all to do with any further plans to develop and I fear that local objectors to this scheme are simply using this as a further attempt to kill off this development.

I trust the above helps set our Muir's position

Regards

David

David Robinson
Director of Development
Muir Group Housing Association
Oakmere House,
Meres Edge Helsby Cheshire WA6 0DJ
Tel: 01928 728048 Fax: 0870 7315057

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

From: Nick Parker
To: Partridges
Sent: Monday, October 17, 2011 3:46 PM
Subject: Fw: Gary McCormack Muir

Dear Erica,

I am terribly upset to hear that Alex has felt the need to resign. I'm sure that you said everything which was appropriate when you spoke with her earlier today.

Last evening I sent a lengthy reply to Alex about Gary's e-mails to her which I think were nasty and unreasonable. I have forwarded my reply to Alex to you. I'm sorry it's long when you also are having to read all manner of e-mails without my adding to it.

I tried to be as supportive as I could because I know you and Alex have been inundated with lots of unreasonable e-mails from James, Gary and others they've leaned on to send them to you both.

I suspected last night that Alex might be close to feeling "Enough was enough."

To be truthful I'm feeling devastated by Alex's resignation. She is a lovely lady and has served the Parish Council way beyond what we asked her to do when she was appointed. Alex has been a brilliant clerk throughout her time with us and has gone beyond the call of duty.

I seriously think that Jill most certainly and probably Gary need to consider their position on the Parish Council. Maybe that is for another time. I don't believe they have done the 'right' thing in all of the Muir subject.

Would it be appropriate for me to send a carefully worded message to Alex or do think I should hold back while she is so upset?

Regards,

Nick

Dear Alex

I was extremely sorry to receive your letter of resignation and I accept it with regret. I will send a hard copy of the attached letter in the post.

Thank you once again for everything you have done to help me and the Parish Council.

Kind Regards

Yours sincerely

Erica Partridge
Chairman, Bunbury Parish Council

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

From: bunburyclerk@aol.com
To: ep.partridges@btinternet.com
Sent: Sunday, October 16, 2011 8:12 PM
Subject: Letter of Resignation

Hi Erica

I actually wrote this before I received Garys email but it doesn't really make any difference. I'm fed up with him and his insinuations.

Regards
Alex

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

From: Partridges
To: [Eric Lord](#) ; [Dennis Burrows](#) ; [Gary McCormack](#) ; [Jill Waits](#) ; [Sally Beard](#) ; [Nick Parker](#) ; [Mandy Jones](#) ; [David Ellis](#) ; [Brian Dykes](#)
Cc: [Michael Jones](#)
Sent: Monday, October 17, 2011 3:43 PM
Subject: Fw: Gary McCormack Muir

Dear All

Alex has asked for Councillors opinions on the message below and she has consented to me including her further reply to Councillor McCormack.
Councillor McCormack has not contacted me about this directly nor has he made any formal complaint to me in respect of the Clerk. In the circumstances, I find the content of that part of Councillor McCormacks email both distressing and shocking. I trust that Councillor McCormack will see fit to apologise to Alex as she has requested.

On other matters I make the following observations.
As Alex correctly states, the Code of Conduct applies to conflicts of interest and a number of Parish Councillors have declared a personal and prejudicial interest in relation to the Muir Homes land. All Parish Councillors have recently been reminded of their obligations relating to conflicts of interest and how they need to consider this in relation to other actions and activities.
Most of the message appears to be about the reporting of the position on the Muir site to the Parish Council last week. To clarify matters the sequence of events was as follows :
- I received a call from Alex advising that she had been contacted by Dennis to say the fencing had been removed from around the Muir site
- an email was also received from David Ellis on the same matter
- as there was likely to be further questions to the Parish Council regarding this Alex said she would contact Muir to establish the position
- as Alex was having to work from a public area due to internet problems I offered to contact Muir on this point as it was important to have this information for last Tuesdays meeting

- I contacted Muir and I reported this to the Parish Council at Tuesdays meeting. I asked Muir to confirm the position in writing to Alex which I note they have now done.

Regards
Erica

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

From: bunburyclerk@aol.com
To: gmc@csq42.com
Cc: ep.partridges@btinternet.com ; brian.dykes@cheshireeast.gov.uk ;
michael.e.jones@cheshireeast.gov.uk
Sent: Sunday, October 16, 2011 8:26 PM
Subject: Re: Gary McCormack Muir

Gary

As you have declared a personal and prejudicial interest in the Muir development, I did not think it fitting that this information was passed onto you from the Parish Council - you are in your own talks with Muir and I would expect this information to come via this route, just as I would not expect you to pass information back from your meetings.

Brian is certainly not the only member of the Parish council who has the information. If you think that Brian has a prejuducal interest then why do you not complain to the Standards Board?

I find your accusations outrageous and bullying. Yes, the Parish Clerk is a job which I approach as a professional. I know I don't live in the village but think that this is a good thing as I provide an impartial view and am not affiliated with an village groups. As far as I am concerned members are provided with the correct information at all times. The minutes are a record of Parish Council decisions and are not there to record gossip.

I await your apology.

Alex

From: "bunburyclerk@aol.com" <bunburyclerk@aol.com>
To: b.dykes@btinternet.com; dennis.burrows@btopenworld.com; dellis7@tiscali.co.uk;
gmc@csq42.com; ericlord2@hotmail.com; mandyjones21@btinternet.com; jillwaits@yahoo.co.uk;
nick.parker@homecall.co.uk; sallypbeard@fsmail.net; ep.partridges@btinternet.com
Sent: Sunday, 16 October 2011, 20:10
Subject: Fwd: Gary McCormack Muir

Dear All

Please can I have your comments on Garys email and if you concur with his opinion.

Regards
Alex

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

From: CSQ Office <gmc@csq42.com>
To: bunburyclerk <bunburyclerk@aol.com>
Sent: Sun, 16 Oct 2011 19:29
Subject: Re: Gary McCormack Muir

Alex

Very disappointed at the cavalier approach you have to reporting news to the members of the PC. I was under the impression that you were the paid Parish Council Clerk who reported to all the Parish Council Members.

From your email it looks as if you report the information that you think is important to one member only. I have made it quite clear in all my emails to you that I have given you as the Clerk information which I assumed you passed on to the other members of the PC relating to all issues regarding Muir.

Reading your email it sounds as if you do not require my permission to forward the email on to Brian. I have made it evidently clear that I and other members of the PC do believe that Brian has a prejudicial interest in the Muir development. It is well documented and Brian never stops talking about Muir.

Regardless. Why did you not inform PC Members?

Why did you not mention any of the above at the PC meeting?

Why did you not support Brian at the meeting by informing the rest of the PC that you had informed Brian some weeks ago but had not thought it important to notify any PC members?

Alex

Our last Clerk Colin Knowles lived in the village and if you have read his correspondence to Muir. You will be aware of what he stood for. From my point of view you treat Bunbury as a job. You have no interest in Bunbury. You do not live in the village and from your actions you have your own inner circle who are receiving information excluding other PC Members.

The proposed development is a very important issue in the Village and if you are not informing members correctly or the minutes are not being updated with information that other PC members should be made aware of then we have a big problem.

I am just flying to the Middle East. So will pick up mails in the morning.
Alex, I do not have a problem sending this email to all members of the PC.

I await your reply.

Gary

On 15/10/2011 16:48, "bunburyclerk@aol.com" <bunburyclerk@aol.com> wrote:

Hi Gary

I knew that RBL had gone bust, Tracey Ashton told me it was a possibility ages ago when I phoned her about floor levels at the development. I also checked the internet and found it was true. I've probably told Brian at some point as it wasn't a secret.

Can I forward your email to Brian so that he can answer your accusation directly?

Alex

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

From: CSQ Office <gmc@csq42.com>
To: BunburyClerk <bunburyclerk@aol.com>
Sent: Wed, 12 Oct 2011 10:18
Subject: Gary McCormack Muir.

Hi Alex

Re last night's meeting.

Just wanted to raise a concern about Muir. I have been in contact with Stephen Irvine at Cheshire East
Stephen Irvine
Planning and Development Manager. He had no information as to what had happened at the Muir site.
His reply was
Gary,
Not a jot I'm afraid. I'll follow it up tomorrow.
Regards,

How come the only person who had any information was Brian Dykes? He informed the PC that RBL
Construction had gone bust.

Cheshire East had no news.
Michael Jones had no News
My Lawyers had no News.

I did not want to bring this issue up in the meeting as Brian was pleased with his new awarded honour.

As I have highlighted before Brian should be declaring a private and prejudicial interest regarding Muir
Homes.
Regards Gary

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

From: Bunbury Parish
To: Gary McCormack
Cc: Erica Partridge ; Brian Dykes
Sent: Monday, September 19, 2011 10:11 AM
Subject: Member's Interests query

Dear Gary

With regards to your emails dated 15th and 18th September, the letter was reported to all
members during the December 2010 meeting which you didn't attend. I reported this fact to
you in an email dated 16th December 2010. It was also discussed when Mandy joined the PC
but it was decided that she didn't directly abut the site or overlook it and the exclusion criteria
would not therefore apply. The exclusion criteria does not apply to Brian either. David Ellis was
not a councillor at the time the advice was received but his circumstances are such that the
advice applies to exclude him as having a personal and prejudicial interest on this point.

I do realise that you have been fighting this application and that it is happening next to your
property which is exactly why you and the other councillors concerned have to declare
personal and prejudicial interests. Both Erica and myself are fully aware of the history of the
site. Planning permission has been granted for the houses - that has happened. We are now
trying, in a professional and impartial manner, to facilitate the transfer of the land behind the
site which Muir offered to the PC and this is the land referred to as being for sale. The village
are expecting this to occur.

Since taking its decision, the PC has had no notification from Cheshire East regarding the
progress of the latest variation planning application relating to the accessway to a field. If it
does go to committee, then the PC will be invited to put forward a member to speak and put
forward the PC's view (not Muir's!). This has not yet happened and nobody has been appointed
to speak. The PC will take a decision on this if and when notification is received of a planning
committee date.

As the remaining members of the Parish Council have always been quorate, we have never had to consider the implications of the last paragraph.

Regards

Alex

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

From: CSQ Office

To: Bunbury Parish

Sent: Thursday, September 15, 2011 6:39 PM

Subject: Re: Members' Interests query

Alex

I have read your email but I am concerned as to why this letter was not shown to the PC Members who have been excluded from all the PC meetings?

Correct me if I am wrong but the letter is incorrect?

No land is for sale.

PR Councilors A B C D What about E?

You have had an opinion from Julie Openshaw but the facts that were discussed are wrong, you are a PC member short. You may be two PC members short as Mandy also lives off Wyche Lane.

I did point out at the last meeting I attended that both Erica and yourself are not fully aware of the history about this very strongly objected to planning issue. All the information is available to read. I do get the feeling that you and Erica are treating this as an issue on an Agenda rather than the serious issue that is and still is. You must be aware that 5 members that live around the field have been fighting this planning application since 2004. It would be advisable for you and Erica to put yourselves in the same situation. This is not happening next to your property. The whole village who we also represent were against this from the start. The only person who was for the planning issue and is still championing the issue is Brian Dykes. From what I have heard Brian wants to speak for Muir. Surely as I pointed out before in my previous emails, my concern is Brian has a personal and prejudicial interest in this development and always has. Therefore it makes the Pc look very unprofessional especially over the recent debacle.

Gary

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

From: Bunbury Parish

To: Gary McCormack

Cc: Erica Partridge

Sent: Thursday, September 15, 2011 3:10 PM

Subject: Fw: Members' Interests query

Dear Gary

Further to your email of 12/09/2011, please find below email received from Julie Openshaw, legal team manager at Cheshire East Council.

You are, of course, free to meet with anybody but I must remind you that only Sub-committees that have been discussed and approved by the Parish Council, can be said to be 'Parish Council Sub-Committees'.

Thank you for the information contained in Item 2 of your email. I suggest that you take this point up directly with Muir as the letter is not something that the Parish Council have been involved in.

Regards

Alex

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

From: **OPENSHAW, Julie**

To: **'bunburyclerk@aol.com'**

Sent: Monday, November 22, 2010 3:39 PM

Subject: Members' Interests query

Good afternoon Alex

Further to our telephone conversation earlier, I understand that you and some of your members seek advice on what if any interests they need to declare in relation to a plot of land which has been offered for sale to Bunbury Parish Council. I will refer to this as the "for sale land".

You explained that the for sale land abuts a second strip of land which has planning permission for development, and it is the developer that has offered the for sale land to the Parish Council.

You also explained that one member (A), who owns a third strip of land which abuts the other side of the "for sale" land has already declared a personal and prejudicial interest and has absented himself from any consideration of whether the land should be purchased, but three other members are potentially affected because of the positioning of their gardens. "B" has a garden abutting the "for sale" land, "C" has a garden abutting the land owned by the councillor who has already declared an interest, and "D" has a garden which allows a view of where the development would be. Each of them owns their home and has registered it as such in the register of interests.

My view is that due to their proximity to the for sale land, and the possible effect arising from that on the values, or desirability, of their homes, B C and D all have personal interests in the decision whether the Parish Council should purchase the land, because a decision on whether or not the PC should buy it could reasonably be regarded as affecting their well-being or financial positions to a greater extent than the majority of council tax payers ratepayers or inhabitants of the locality.

Unless they can raise some other consideration which might merit further consideration (I haven't seen a plan), they appear to have a prejudicial interest as well, because of the same considerations in terms of proximity and effect on financial position, which suggest that the proper conclusion is that "a member of the public with knowledge of the relevant facts would reasonably regard [the interest] as so significant that it is likely to prejudice your judgment of the public interest".

I gather there are 10 members of the Council, with a quorum of 4, so unless other members have prejudicial interests to declare for some other reason, you should be quorate to make the decision. If circumstances arise where interests are such that getting a quorum would be impossible, the Borough Council's Standards Committee does have power to consider, and if appropriate, grant, applications for dispensations to allow members to speak and vote where they have a prejudicial interest, but only where either more than 50% of members who would be entitled to vote being prohibited from doing so, or where the number of members that are prohibited from voting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced. As these situations are relatively rare, so are applications for dispensations. It does not sound as though the first criterion would be met; without knowing the political persuasion of the members involved, and the remainder, it's unclear if the second would apply, but you might want to consider that.

I hope this assists.

Kind regards

Julie Openshaw

Legal Team Manager (Places, Regulatory and Compliance) (Deputy Monitoring Officer)

Cheshire East Borough Council

Westfields

Middlewich Road
Sandbach
CW11 51HZ
01270 685846)

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

From: CSQ Office
To: Bunbury Parish
Cc: Erica Partridge
Sent: Monday, September 12, 2011 9:02 PM
Subject: September Meeting

Good evening Alex

Unfortunately I will be unable to attend the meeting tomorrow.

I do have have two points to raise

Item 1

I have spoken to Dennis, Jill, Sally and David about forming another Parish Council Sub Committee to protect our interest. Please could you supply me with a copy of the letter from Cheshire East Solicitor which outlines the reasons for all our exclusions.

It may be that I am the only one that should be excluded as I have do have a prejudicial and private interest which has always been declared.

Item 2

The Occupiers of Wyche Lane received a letter from Muir on Friday 9th September dated the 9th September. So the letter must have been drafted on 7th Wednesday or the 8th Thursday. It states in the letter. *We are working with our lawyer and the landowner to seek a way for Muir to withdraw from this Option.*

My lawyer was sent an email on Thursday 8th. It was forwarded to me on the 9th and I read it late on Friday. As yet I have not replied back to my lawyers.

The letter is incorrect. As the landowner I am not in any negotiations with Muir about the Option Agreement. This is a false statement. Working with would entail some sort of negotiation and correspondence.

Regards Gary

Please find enclosed
Gary

On 01/06/2011 14:18, "Partridges" <ep.partridges@btinternet.com> wrote:

Gary

Letter not attached.

Regards
Erica

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

From: CSQ Office <<mailto:gmc@csg42.com>>

To: Bunbury Parish <<mailto:Bunburyclerk@aol.com>>

Cc: ep.partridges@btinternet.com

Sent: Tuesday, May 31, 2011 2:04 PM

Subject: Muir Housing MR G & MR S McCormack Private

Hi Alex Hi Erica

Just received this in my Letter Box. I would think all the neighbours have been given similar letters. I have sent a copy to my Solicitors.

We have only just received a response from Muir Solicitors that they were sent on the 2nd March. They note that their client is aware of the problems with the planning permission and are working with the planners to discuss solutions to the issues raised in our letter. They have obligations not issues.

Regards Gary

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

From: David Robinson

To: bunburyclerk@aol.com ; Chairman of Bunbury Council

Cc: Tracey Ashton ; Paul Andrew ; Nicola Deutsch (Nicola.Deutsch@weightmans.com)

Sent: Friday, June 17, 2011 2:23 PM

Subject: Feedback from Meeting with Gary McCormack 16th June 2011

Good afternoon Alex and Erika

As promised I am happy to provide the following salient points from my meeting with Gary McCormack.

My colleague, Paul Andrew and I met with Gary and his solicitor on the 16th June 2011. We advised that:

- The proposed plan showing the new access formed part of our s.73 Application which also included the request to remove Condition #17.
- That the road would be constructed to high standards but would not be adopted by the LA as the LA themselves do not want an adopted road in this location
- That the principle of the road position and proposed finish had been agreed with the Planning Officer. It was stressed that such agreement is always informal and in no way binding on the Local Planning Authority.
- That we expected the s.73 to go to a full a planning committee and not be dealt with through delegated authority action
- That the Parish Council are in support of this proposal
- That no more than enabling works will be done on the site until the s.73 approval is in place.
- That this s.73 application will be submitted the W/C 20th June.
- That we were finalising Heads of Terms with the Parish Council for retained land. This would ensure that the Parish Council had full access rights across our land, and through both proposed gates, but all the maintenance liability would for the access road would remain with Muir.

Gary made the following points:

- He was surprised that the access was this narrow as it would effectively prevent any future development of houses on the rear land
- He thought that an adopted road should be at least 7-8 metres wide. [We advised that adopted roads can be of various widths, even less than 4metres, though this of course was irrelevant as the road was being built to the approval of the LA not to adoptable standards]
- Several queries were made about the access gates, whether they would be lockable, who would have the keys etc.

Gary's solicitor made the following points:

- The proposal was a rat-run [we contested this as a high specification access road with a soft finish serving agricultural fields could hardly be classified as a rat-run]
- That Muir had covenanted to provide an adopted road to her clients land [we advised that our lawyers advise was that proposal would ensure all of Muir's obligations where met]
 - The solicitor tried to argue this point quoting clause 13.4 in the TPI, namely "....and will keep such roads and footpaths and sewers in repair until they are taken over and adopted by the Local Authority" [Our response to this as that if they are not going to be adopted then we will have to maintain this road, further we were not going to get into a legal argument without our lawyer present]
- She advised that Gary and her would consider a response, and this would include representation to the planning committee through the normal channels

I think that covers all the salient points. Please do not hesitate to contact me if you have any queries or require any further information.

Regards

David

David Robinson
Director of Development
Muir Group Housing Association
Oakmere House,
Meres Edge Helsby Cheshire WA6 0DJ
Tel: 01928 728048 Fax: 0870 7315057

Registered Office: Muir Group Housing Association Limited
Old Government House, Dee Hills Park, Chester CH3 5AR
<http://www.muir.org.uk>

Financial Services Authority No.18632R Tenant Services Authority No. L2194National Housing Federation Member
Muir Group is an exempt charity Vat No. 482594315

Cheshire East Council**Complaint against Parish Councillors Sally Beard, David Ellis, Gary McCormack & Jill Waits****Statement of Mrs Alexandra Stubbs, 10 Copperfields, Tarporley, Cheshire CW6 0UP**

1. I was appointed as Clerk to Bunbury Parish Council in April 2010. I am also a Clerk to a second Parish Council. That Council has applied for Quality Parish Council status and I obtained my CiLCA qualification in September 2010. When Councillor Partridge became Chairman we engaged on a process of drafting Standing Orders and other procedural documents for the Council as none had existed prior to that time. Those Standing Orders require a Chairman who has complaints to channel them through the Parish Clerk. If there were issues that I could resolve then I would do so. If not I would pass the matters on to Cheshire East Monitoring Officer.
2. The complaints that are being considered by this investigation comprise a group where I have been requested to forward them by the Chairman and a single complaint by me against Councillor McCormack. This statement does not comment on the first group except to say that it was always my practice when a new Councillor joined the Council to send that person a copy of the Code of Conduct, the Good Councillors Guide and a list of Members. Councillor Partridge will deal with those complaints. I will deal solely with my personal complaint.
3. From the outset, I was aware of the tensions within the Council concerning the Muir development and particularly the involvement of Councillor McCormack. I was therefore very aware of the question of my receiving confidential information that may relate to Councillor McCormack and ensuring that myself and the Council did not breach any confidentiality. In the early period I never had any problems with him. However, since August 2011 I have been bombarded with emails by Councillor McCormack, Councillor Waits and Mr James Walton, who is Councillor Waits' partner. As the correspondence has developed, the tone of the emails has worsened and there has been a lot of criticism of my actions which I believe are totally unfounded.
4. My contractual hours are 11 per week. This torrent meant that many weeks I needed to work in excess of 20 hours to reply to all the emails and undertake my other duties and responsibilities. I had already been thinking of resigning when I received the email of 16 October 2011 from Councillor McCormack. The manner in which he expected me to do my job was completely unprofessional - he basically wanted me to do what he wanted. The contents of the email finished me off and I immediately sent a letter of resignation to Councillor Partridge. When I reflected on the contents of the letter I felt even worse. The contents are derogatory and, I believe an attempt to bully me. I therefore referred this complaint to the Standards Committee.

This statement is a fair summary of an interview conducted by the Investigator on 27 February 2012.

Alex Stubbs.....

Date 5/3/2012

Cheshire East Council**Complaint against Parish Councillors Sally Beard, David Ellis, Gary McCormack & Jill Waits****Statement of Parish Councillor Erica Partridge, Holly Mount, Whitchurch Road, Bunbury, Cheshire CW6 9SX**

1. I have been a Councillor for Bunbury Parish Council since July 2009, when I was co-opted on to the Council. I have been Chairman of the Council since May 2010. When I was co-opted, I received no documentation of any sort. I have not been offered any specific training on the Code of Conduct but, in the last 12 months, the Clerk has circulated training packages, mainly organised by CHALC (Cheshire Association of Local Councils). Unfortunately, most of the courses that were relevant to my position clashed with other appointments.
2. Mrs Alex Stubbs was appointed as Clerk in April 2010. When I was appointed Chairman the following month, we both realised that there were no Standing Orders for the control of decision-making and consideration of Council business nor were there any other procedural documents which most Parish Councils have in place. Although Mrs Stubbs has the CiLCA (Certificate in Local Council Administration) qualification, the Council has not decided to seek Quality Parish Council status. A Sub-Committee was established to produce the Standing Orders with other documents being agreed at the Parish Council meetings over a period of time and these have now been adopted by the Council.
3. The background to the issues that I have raised regarding the four Councillors is set out in the document submitted with the complaint headed 'Query to Monitoring Officer re Bunbury Parish Councillors'. I raised the matters as a query to the Clerk as it appeared to me that the Code of Conduct may have been breached in several respects and she has forwarded this information to the monitoring officer which has now been taken as constituting the complaint. This was accompanied by separate commentaries in respect of the issues concerning each of the four and relevant emails in relation to each one. There is also a separate complaint against Councillor Waits with its own documentation which I deal with under her heading.
4. Councillors McCormack and Beard were already on the Parish Council when I was co-opted. Councillor Waits was co-opted in April 2010 and Councillor Ellis was co-opted in January 2011, although he had previously served on the Parish Council. Since these complaints were lodged, Mrs Sally Beard and David Ellis have both resigned from the Council.
5. My comments on the complaints made against the individual persons follow as separate Schedules.
6. Since submitting the above queries I have resigned from the Parish Council. In these circumstances I do not wish to proceed with the complaint relating to bullying and attitude towards other councillors. I have explained the areas which I wish to withdraw in the schedules below.
5. Even though I am no longer a Parish Councillor I consider it is important for the question of the declarations of interest to be considered and established as this was the purpose of my query to the Monitoring Officer which has become these complaints.

Schedule 3 - Councillor Gary McCormack

1. As I am no longer a Parish Councillor I do not wish to proceed with any of the issues raised against Councillor McCormack and request that the information supplied relating to this is withdrawn and discarded and I do not wish them to be considered by the Standards Committee.

This statement is a fair summary of an interview conducted by the Investigator on 27 February 2012.

..... Erica Partidge

Date 12th March 2012

**Cheshire East Council
Complaints against Parish Councillor Gary McCormack**

Statement of Councillor Gary McCormack, Fernleigh, Wyche Lane, Bunbury, Cheshire CW6 9PS

1. I have been a Bunbury Parish Councillor for 10 years. I have lived at Fernleigh for the past 21 years. I have had no training on the Code of Conduct. On all matters concerning the proposed development of land adjoining my property on Wyche Lane, I have always declared a personal and prejudicial interest and left the room whilst the subject matter has been discussed. As well as Fernleigh, I also own the field behind the properties in Wyche Lane and which is accessed through the proposed development site and I have recently acquired The Grange, which is on the other side of the proposed development site from my own property.
2. There are two areas of complaint against me. The first, from the former Chair of the Parish Council, Erica Partridge, refers to a number of matters concerning my conduct towards Mrs Partridge and other Councillors and suggests liaison between myself and Mr James Walton and Mrs Jill Waits, who live at Edinbane, Wyche Lane. The second is from the former Clerk, Mrs Alex Stubbs who alleges that certain emails that I sent to her in 2011 and one in particular, 16 October 2011, are lacking in respect and/or intended to bully her.
3. In respect of the first, I have known Mr Walton and Mrs Waits for the three years or so that they have lived at Edinbane. I also know Dennis Burrows, David Ellis and Sally Beard, who were Councillors until recently, and have known them for longer as they have lived in the village for some time. I do not socialise with any of them on a regular basis and would not regard them as close personal friends. Living within a short distance of each other, we are bound to come into contact from time to time and attend events in the village. I have had no discussion with any of them as to the manner in which we should approach issues on the Parish Council, especially those relating to the proposed development at Wyche Lane. The Investigator has asked me about the email of 12 September 2011 in which I refer to the possibility of the Wyche Lane Councillors setting up their own Sub-Committee. This was a tongue-in-cheek suggestion intended to portray the concern that I and the other 'excluded' Councillors had about the lack of information on the discussions taking place by the Parish Council and the decisions that they were making. I understand that Mrs Partridge has since indicated that she does not wish to pursue these complaints against me. However, for the record, I have sent very few emails to Mrs Partridge, the majority have gone to the Clerk which is the route that correspondence should take. I have not been disrespectful to the Chair although, for the reasons set out below, I did have concerns at the manner in which she undertook the role. I have not connived with the others mentioned nor have I sought to influence improperly the position of other Councillors.
4. In respect of the second complaint, to understand my approach to this matter and the content of a number of emails that I sent during this period, it is necessary for me to go into the history of the proposed development. The original proposal was for the development of the whole of the area to the rear of the Wyche Lane properties, including that part of the field that I now own. This was in 2004. The proposal drew a lot of objection from the village and the Parish Council was unanimous in objecting. A substantial number of local residents were opposed. A planning appeal was defeated and eventually the Muir Housing Group came up with the current proposal on approximately one third of the original site to provide 10 affordable houses. By this time I had acquired the field and I attended a meeting with representatives of Muir to discuss issues of concern regarding the respective ownerships and Muir obligations. At this meeting, a statement was made by Muir's representatives that there was no access to my field which I knew from my ownership deeds was incorrect. Since then I have learnt not to trust statements made by Muir as I do not believe that it is a company to be trusted. The Parish Council was also aware of the Company's tactics and strategy and the previous Clerk had written on behalf of the Parish Council strongly disapproving of the manner in which Muir were dealing with matters. In 2010 the Parish Council appointed a new Clerk, Alex Stubbs, and Erica Partridge was appointed as Chair. It was at this time that the suggestion came forward that the Parish Council should acquire a 'ransom strip' between the development and my field to guarantee that there would be no future extension of the proposed residential development.
5. Prior to 2010, the Parish Council had been run very informally. There were no Standing Orders and no other documentation specifying how the Council should operate. The previous Chair and Clerk were very experienced and they seemed to properly control the meetings. In 2010 this changed. Mrs Partridge said that the Parish Council should have proper procedures and, with the new Clerk and other Councillors, appropriate documentation was drafted and adopted by the Council. Mrs Partridge's approach to the operation of meetings was very formal, compared to the previous regime, and this seemed to change the approach towards the conduct of business. It seemed to me that she wanted to 'manage' the business of the Council. The proposed development was the most controversial issue on the Council agenda, and, even though planning permission had been granted for the 10 affordable houses, there was still opposition to the development within the village and there were still issues that required resolution from a legal or planning viewpoint. I was concerned that the new Chair and Clerk should understand the background to Muir and the issues that had arisen and on which I believe that they should not be trusted. Mr David Robinson from Muir had admitted to senior members of Cheshire East's planning department that he had been less than economical with the truth to them, the Parish Council and the Planning Inspectorate. At a Parish Council meeting I asked the Chair and the Clerk if they had read all the files relating to Muir. In September/October 2010, I pulled aside the Clerk to advise her that I had been in discussions with Muir. I was concerned that Muir would not inform the Parish Council of the correct position and I therefore took the decision to give the Clerk a file on the contractual issues that I had with Muir so that she could inform the Parish Council. My main concern was that the Parish Council would enter into a contract with Muir which would then embroil them into a legal dispute which they could not afford. There were a number of legal issues to be addressed and the Parish Council were unaware of those issues.
6. The relationship between the Clerk and Muir became very informal in distinct contrast to the stance adopted by the previous Clerk. The previous Clerk and most of the Parish Council did not trust Muir and, in my opinion, the new Clerk was very 'chummy' with them, which I found unsettling, given the unsavoury tactics adopted by Muir and their admission that they had not been straight with all the parties concerned. My wife and I (we own the field jointly) then received letters from the Clerk, on behalf of the Parish Council, asking if we would surrender the access to the field. This had previously been asked by Muir and rejected, unknown to the Parish Council. It seemed strange that the Parish Council was asking us to do something that we had already told Muir we would not do. Then there was a note of a meeting at which Mr Walton was present which suggested that my wife and I could cancel an option agreement that Muir has to purchase the field. There is a contract which controls the option arrangements and this can only be varied by agreement. One party cannot cancel the agreement without being liable to the other. Again I was concerned as to what information Muir was giving to the Parish Council in their discussions as the Parish Council appeared not to be aware of the true facts.

NIKE I ALSO KNOW
DENNIS BURROWS.
KNOWN them FOR 21 years

7. At the same time as all this was happening, there was one long serving Parish Councillor, Councillor Dykes, who I believe has a personal and prejudicial interest in respect of the Muir Group. Whenever Muir was mentioned he would speak in favour of them. On one issue he indicated to the Chair that he would wish to be the Parish Council representative who would speak on behalf of Muir when a planning application came to be considered. Whilst the Clerk, at the Chair's behest had obtained the Monitoring Officer's advice regarding the Wyche Lane Councillors, she had not sought advice with regard to this Councillor's interest and seemed to adopt a very different approach to his participation compared to other Councillors. Previously, there had been an issue with a hedgerow between the playing fields, owned by the Parish Council and let to the Playing Fields Committee, and my land where this same Councillor had taken it upon himself to substantially remove parts of the hedgerow without permission of myself or the Parish Council. On another, he indicated that he had been in direct contact with David Robinson of Muir. When I questioned why he had been in contact, the Chair on that occasion made it clear that everything should go through the Chair. The Chair and the Clerk seemed to me to adopt a different approach to his involvement in matters and I got the impression that he was receiving information that was not being sent to other Councillors. He always seemed to be first to know information and, if anything was said against him, he would 'spit out his dummy'. The Chair and Clerk would console him when he did this. Recently there was another example when he again spat out his dummy and, on this occasion, the current Chair and Clerk swiftly brought him to order. This should have been done by the previous incumbents.
8. Going back to the emails, following the submission by Muir of the application to vary the position and form of the access road, matters concerning Muir seemed to be raised on a regular basis but no information was forthcoming from those Parish Councillors not excluded from making decisions. I was concerned that some of the excluded Councillors should not in fact be excluded and I asked for a copy of the advice from Julie Openshaw. This was then circulated to all the Councillors for the first time, having previously only been seen by those Councillors present at the meeting in December 2010. The facts on which the advice given appeared to be incorrect and it seemed to me, and other Councillors, that not all the Councillors should be excluded in respect of all the matters being considered regarding Muir. These matters raised the tension in the village towards Muir.
9. At the Parish Council meeting on 11 October 2011, Councillor Dykes told the meeting that Muir's selected contractor had gone bust. Neither the Clerk nor the Chair confirmed or denied this. I did not want to raise any fuss regarding Councillor Dykes being the only Councillor to have this knowledge at the meeting as he had advised the meeting that he was to be made an Alderman by Cheshire East and he wanted the Chair to be present to represent the Parish Council. Before the meeting I had emailed the Planning & Development Manager at Cheshire East, Stephen Irvine, and he informed me that he had no knowledge of the contractor's fate. I therefore wrote to the Clerk on 12 October expressing my concern regarding Councillor Dykes. I was very surprised to receive the response from Mrs Stubbs on 15 October that she had known about the contractor going bust and this seemed to confirm my belief that she had an inner circle of friends on the Council and was passing information on to them but not other Councillors. Unfortunately, the minutes of the meeting the minutes of the meeting do not record this information being given to the Parish Council by Councillor Dykes or the fact that the Clerk knew weeks before. I was not present at the November Council meeting and did not pick up this omission. Looking back at the minutes I do not think they are a correct account of what was said. I believe the minutes by November became confused. My response to the Clerk was in reply to what was said at that meeting. Not what was minuted later.
10. I read the email of 15 October at Manchester Airport on 16 October as I was waiting to board a plane to the Sultanate. I was fuming when I read her reply and sent off an immediate response as her email seemed to confirm all my beliefs regarding her relationship with the Chair and Councillor Dykes and her relationship with Muir. She did not seem to understand just how important this development argument with Muir is to many people in the village and her actions did not reflect that importance. She seemed to be far more supportive of Councillor Dykes than other Councillors. I was not bullying Alex nor showing her lack of respect but merely trying to get her to understand the situation and to represent the village, which is why the Parish Council is there.

This statement is a fair summary of an interview conducted by the Investigator on 11 June 2012.

Date

25 JUNE 2012

Comments relating to Mike Dudfield's draft report dated 10th July re Councillor McCormack

I have advised Mike Dudfield previously, that as I have resigned from the Parish Council I am no longer interested in pursuing my complaint and have withdrawn it. However, having been provided with the draft report there are a number of matters which are incorrectly stated. Unfortunately I feel I cannot only correct some without inferring acceptance of others, consequently this response is longer than I would have wished. The following comments only to clarify a number of incorrect statements as follows :

Statement of Councillor McCormack:

Point 3 – 'Wyche Lane Councillors sub committee' – my understanding is that other councillors were approached with this suggestion.

Point 3 'I did have concerns at the manner in which she undertook her role' – Councillor McCormack said to me that he had noticed improvements in the conduct of the meetings and he approved of the changes. Each other Councillor also did the same. I was approached by a villager who had been told by a Councillor of the significant improvements in procedure and also specifically improvements in the manner of dealing with the difficult behaviour of some councillors since my appointment as Chairman.

Point 4 - 'it was at this time that the suggestion came forward that the Parish Council should acquire a ransom strip' – this decision had been taken some years previously regarding this piece of land (which is not a ransom strip) before I was a Parish Councillor and the Parish Council had previously written to Muir to that effect without legal advice. The Parish Council decided the matter should be taken forward again as the 'offer' was contingent on the houses being constructed which was becoming imminent and that the first step was to obtain suitable legal advice and establish the contractual position.

Point 5 – 'There were a number of legal issues to be addressed and the Parish Council were unaware of these issues' – the Parish Council obtained legal advice and Cllr McCormack was necessarily excluded from that advice due to his conflict of interest. I do not recall Cllr McCormack asking me about the files.

Point 6 – the first steps in dealing with this matter involved establishing the facts, to enable options and decisions on how to proceed to be established. It is not surprising that the same question was asked. It was necessary to communicate with Muir to progress matters in relation to the land. As far as I am aware all contacts were entirely professional.

Point 7 – Cllr Dykes has made statements that he does not have a personal or prejudicial interest in this matter and I was not made aware of any information to the contrary.

Cllr Dykes offered to speak on behalf of the Parish Council in relation to the Muir application (as also did another Cllr), he did not offer to speak on behalf of Muir. It was decided that no one would speak on behalf of the Parish Council at the Cheshire East Council meeting concerned.

I am not going to comment at all on the issues regarding the hedge as they are not relevant. Cllr Dykes had previously been a contact between Muir and the Parish Council, but the Muir Sub committee decided the contacts should be the Chair and the Clerk. I advised both Cllr Dykes and Muir of this, and my understanding is that the correct protocol was followed thereafter.

All unacceptable behaviour occurring in the Parish Council meetings was dealt with appropriately in and out of the meeting, and the consequence was an improvement, this applied to a number of Cllrs.

Point 9 – I have explained previously to Cllr McCormack that it was myself who reported the contractor going bust to the Parish Council. I contacted Muir to respond to urgent queries regarding the removal of site fencing as the Clerk was unavailable that day. I had spoken to Cllr Dykes on another matter before the meeting and mentioned this to him.

Point 10 – Cllr Dykes was the deputy Chair.

I do not see how any of these points are relevant.

Comments on Mike Dudfield's Report :

The report summarises Cllr McCormack's statement including a number of points I have corrected above. I have therefore not repeated these.

40 – I am concerned that the first four lines misdescribe the situation. Cllr McCormack rightly had limited information due to his conflict of interest. The authorisation of legal advice was taken in the public meeting and minuted. The wording implies that myself and the Chairman and Clerk were acting without consultation and directing the Parish Council in some way which is incorrect, all matters were thoroughly discussed and voted on. It is also implied that the Parish Council were acting against the villagers wishes – there is no information to support this as there are differing views in the village regarding this development. I assume this was not your intention and it would be appreciated if the wording in this paragraph could be reconsidered please to more accurately reflect the situation.

47. First paragraph - my statement says that 'I consider myself' ie I am explaining how I felt as a consequence of others actions, I have not made a statement of fact on this other than in relation to my feelings. This is an important distinction. I would appreciate it if this is made clear please in the first sentence.

mikedudfield

From: "CSQ Office" <gmc@csq42.com>
To: "mikedudfield" <mikedudfield@btinternet.com>
Sent: 24 July 2012 18:55
Subject: Comments re your draft Report and attachments.

Dear Mike

Thank you for your email and your report which I do believe is a correct draft of the situation. I have only three comments. Unfortunately I do not have the original draft documents that you sent but you may be aware of the following.

Item 1

In Mrs Stubbs original disclosure she states that she is not affiliated to any society in the Village. Mrs Stubbs was appointed as the Treasurer for the Playing Fields Committee by Cllr Brian Dykes. Who was the Chairman.

At the last three PC Meetings Cllr Dykes informed the PC that he would resign as Chairman as he was not happy with new recent PC directives. The new directives were all agreed by the PC but as the Chairman of the Playing Fields it was disclosed that he was not conducting himself correctly in the appropriate position. At the last AGM of the Playing Fields committee Mr Dykes walked out and resigned in the middle of the meeting and the Treasurer Mr Stubbs also resigned.

In Mrs Stubbs attachment.

In Mrs Stubbs attachment the emails sent to Mrs Stubbs by Mr Walton and Mrs Waits have no relevance to the emails and questions that I was asking the then Clerk. My question to the Clerk which she confirmed was that she was giving confidential information to certain members of the PC and not the whole PC

Mr Walton as a member of the public has the right to express himself and make criticisms if he thinks that the then Chairman and Clerk were not conducting themselves correctly he was of the opinion that gerrymandering was taking place over the minutes of meeting published.

Mrs Waite again has her own opinions and was also very much against the way the then Chairman and Clerk conducted themselves especially when it was disclosed that paperwork was produced to certain members of the PC and then withdrawn at the end of the meeting and not minuted.

Mike. Not sure if this is to be included I will take your advise as the statements are talking about three persons not just myself.

I am on my way to London again in the morning.

If you want to discuss please ring
07768 005 736.

Or I will pick up my emails around 2pm

Regards Gary

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

From: CSQ Office

To: [mikedudfield](#)

Sent: Thursday, July 26, 2012 2:21 PM

Subject: Draft Comments

Good afternoon Mike

Sorry again for the delay but the last two weeks have been extremely busy with Vip's arriving and departing back for Ramadan.

Going back to the two draft attachments made by the Ex Chair and Ex Clerk.

Firstly.

Regarding Erica Partridge Statement dated 12/03/2012

No Comments regarding her statement as Mrs Partridge has asked for the information to be withdrawn and discarded and not to be considered by the Standards Committee

I along with all the other Councillor's who have since resigned are not happy with Mrs Partridge behaviour.

Secondly

Regarding Alex Stubbs Statement dated 5/03/2012

In Para 2

Mrs Stubbs states she will deal solely with my personal complaint.

In Para 3

Mrs Stubbs states that she has been bombarded with emails by Councilor McCormack, Councilor Waites and Mr James Walton.

Mrs Stubbs complaint is against myself and I have no control of what Councillor Waite, Mr James Walton also Miss Sally Beard Dennis Burrows and Dave Ellis have sent to the Ex Clerk.

Cllr Waite, Cllr Ellis, Cllr Beard, Cllr Burrows. All these Cllr resigned because of complaints made against them by the Ex Chair and Ex Clerk. Therefore the Clerk and the Chair would be receiving lots of letters and emails from these parties who were not happy with the Clerk or the Chair. The consensus of opinion was that the BPC Chair and Clerk were being selective in disseminating information to specific councillors. If Mrs Stubbs was emailed and asked many questions by other parties then this has no relevance to the complaint made against myself.

I have looked through my sent email logs from 11.04 2010 to 16 10 2011. I sent approx 60 emails over an 18 month period. This relates to 1 email per week. Most of the early email are about boundary issues regarding my land and the PC. A number

are replies to questions asked by the Clerk and replies sent. A number are general PC business and apologies and there are a few about Muir. Most of the emails are one line replies with a few emails that are longer which you have on file. Nothing that would determine the use of the word bombarded. This is I believe an incorrect statement made by Mrs Stubbs.

Also Mrs Stubbs states in an email dated October 16th 2011 8.26pm

Para 3

Am not affiliated with an village groups

Mrs Stubbs has just recently resigned as Treasurer of the Playing Fields Committee. The Chairman was Mr Brian Dykes and I believe from past members of the committee was appointed by Mr Brian Dykes. As you are aware my main complaint has been against the Ex Clerk and her relationship with Mr Dykes.

Therefore the statement made by Mrs Stubbs that she is not affiliated with any village groups is again incorrect.

I await your comments

Regards Gary

Gary

As you have declared a personal and prejudicial interest in the Muir development, I did not think it fitting that this information was passed onto you from the Parish Council - you are in your own talks with Muir and I would expect this information to come via this route, just as I would not expect you to pass information back from your meetings.

Brian is certainly not the only member of the Parish council who has the information. If you think that Brian has a prejuducal interest then why do you not complain to the Standards Board?

I find your accusations outrageous and bullying. Yes, the Parish Clerk is a job which I approach as a professional. I know I don't live in the village but think that this is a good thing as I provide an impartial view and **am not affiliated with an village groups**. As far as I am concerned members are provided with the correct informationat at all times. The minutes are a record of Parish Council decisions and are not there to record gossip.

I await your apology.

Alex

Complaints under the New Code – Procedure

Making a Complaint

1. Complaints must be submitted to Cheshire East Council's Monitoring Officer using the Council's standard Complaint Form setting out in sufficient detail why the Complainant considers there has been a failure to comply with the relevant Code of Conduct.
2. The Monitoring Officer will acknowledge receipt within 5 working days
3. The Subject Member will be advised that there has been a complaint and will be provided with a copy of the complaint form, unless, in exceptional circumstances, where the Monitoring Officer, in consultation with the Independent Person has granted the Complainant's request for confidentiality. Under no circumstances must the Subject Member contact the Complainant direct regarding any issues raised in the complaint.

Initial Assessment / Gateway Procedure

4. The Monitoring Officer will refer the complaint to the Audit and Governance Initial Assessment Panel within 21 days of receipt for an initial assessment.
5. After consulting the Independent Person, the Panel will determine whether to
 - **Take no action**
 - **Refer the matter to the relevant Group Leader for informal action** (NB for complaints against Cheshire East Councillors only and not generally an appropriate option if the complaint is from a member of the public)
 - **Refer the matter for Local Resolution**
 - **Refer the matter for formal investigation by an external investigator**
 - **Refer the matter to the Police or other relevant Regulatory Agency**
6. The Initial Assessment Panel's Decision on what action to take on a complaint is final. There is no right to have the decision reviewed.
7. The Complainant, Subject Member and Parish Clerk, as appropriate, will be informed of the outcome of the decision.
8. Meetings of the Panel will not be open to the public.

Local Resolution

9. The Complainant and Subject Member will be advised that the Initial Assessment Panel has concluded that the complaint is suitable for Local Resolution without the need for a formal investigation and full hearing and will be invited to submit written representations outlining the nature of the dispute using a standard template to ensure consistency.
10. Both the Complainant and Subject Member will be able to bring a Supporter and up to three witnesses each to accompany them before an ad hoc panel of three elected members together with the Independent Person. The Supporter will not represent the Subject Member but will be able to confer with him or her.
11. The Panel will consider the written representations and hear any relevant evidence before reaching a determination and considering whether any sanction is appropriate.
12. The Panel may refer the matter for a formal investigation should it become apparent that the issues are more complex or serious than was originally anticipated.
13. Local Resolution Panels will normally meet in public and will be convened within 28 days of the decision of the Initial Assessment Panel subject to availability of the relevant parties.
14. Both the Complainant and Subject Member will receive copies of each others written statements and details of any witness to be called 5 working days before the Panel meets. Copies will be made available to three Panel members and Independent Person at the same time.
15. The Panel will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
16. There is no right of Appeal from the decision of the Local Resolution Panel which is intended to resolve less serious complaints speedily and cost effectively.

External Investigation

17. The matter will be referred for an independent investigation by a suitably experienced investigative officer. In most cases the investigation is expected to be completed within 8 weeks of the referral.
18. The report of the independent investigator should incorporate the following:-

- **Executive Summary** - An outline of the allegation, who made it, the relevant provisions of the Code and whether there has been a breach.
 - **Member's official details** - A brief outline of when the Member was elected, term of office, details of committees served on and any relevant training.
 - **Complainants details and any relevant background**
 - **Summary of facts and evidence gathered**- A summary of the facts and evidence gathered highlighting facts which are in dispute and setting out the investigating officer's conclusions based on the balance of probabilities.
 - **Reasoning as to whether there has been a failure to comply with the Code and investigator's findings** – Dealing with each allegation in turn an outline of whether the investigating officer considers there has been a breach and any aggravating or mitigating facts.
 - **Schedule** - a list of witnesses interviewed and copies of relevant documents.
19. A copy of the draft report will be circulated to the Subject Member and Complainant to check for factual accuracy.
20. The Investigating Officer will take into account any comments received before sending the final report to the Monitoring Officer.

External Investigation – No Evidence of Failure to Comply

21. Where the report concludes that there is no evidence of failure to comply with the Code of Conduct, the Monitoring Officer will review the report in consultation with the Independent Person.
22. If satisfied with the conclusions, the Complainant, Subject Member and the Town or Parish Clerk (if appropriate) will be notified within 15 working days that no further action will be taken and will be given a copy of the final report.
23. If after consultation with the Independent Person the Monitoring Officer is not satisfied that the investigation has been concluded properly she may ask the Independent Investigator to reconsider the report and / or refer the matter to the Standards Hearing sub committee for a formal hearing of the issues.

External Investigation – Evidence of Failure to Comply

24. Where the report concludes that there has been a failure to comply with the provisions of the Code of Conduct the matter will be referred to the Standards Hearing sub committee who will conduct a hearing to determine if the Subject Member has failed to comply with the provisions of the Code and if so what sanction is appropriate.
25. The Hearing sub committee will consider the matter afresh having regard to the Investigators findings and all relevant evidence presented by the Complainant and Subject Member.
26. The Independent Person will be present at the hearing and will be consulted and his/ her views taken into account before any decision is reached.
27. The Hearing sub committee will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
28. Meetings of the Hearing sub committee will be subject to the normal rules for publication of agendas and access to information.
29. There will be a right of appeal of the decision of the Hearing sub committee.

Right of Appeal

30. Any appeal by the Subject Member must be lodged within 14 days of the decision of the Hearing sub committee. A meeting of the Standards Appeals Panel will then be convened within 21 days.
31. The Appeals Panel will comprise 3 Members from the Audit and Governance pool of 15 Members sitting with an Independent Person. Neither the Members nor the Independent Person will have previously been involved in the particular case.
32. The appeal will be by way of a complete re hearing of the issues and will not be confined to new evidence or only on specified grounds. The Appeals Panel may dismiss or uphold the appeal and reconsider the range of sanctions available to the Hearing sub-committee.
33. The decision of the Appeals Panel is final.

Independent Person

34. The Council has appointed 4 Independent Persons
35. The Subject Member has the opportunity to consult the Independent Person at any stage in the investigation process and prior to the final determination.

Membership of Panels / sub committees

36. If a Member has sat on a Local Resolution Panel which refers a matter for external investigation then he or she may not subsequently sit on any Hearing sub committee.

Vexatious Complaints

37. The Council will maintain a list of vexatious or repeated complaints and will report any concerns regarding abuse of the process to the Audit and Governance Committee.

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