# BEVAN BRITTAN REPORT APPENDIX THREE – THE COMPLAINT BY DAVID SCHOLES



# **COMPLAINT FORM**

# Your details

1. Please provide us with your name and contact details

Title:	Mr 🚜
First name:	David
Last name:	Scholes
Address:	Council Offices  Gernon Road  Letchworth Garden City
Daytime telephone:	01462 474300
Evening telephone:	
Mobile telephone:	
Email address:	david.scholes@north-herts.gov.uk

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

However, we will tell the following people that you have made this complaint:

- . the Independent Person
- \* the member(s) you are complaining about
- the monitoring officer of the authority
- . the parish or town clerk (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

July 2012

2.	Please tell us which complainant type best describes you:
	Member of the public
	An elected or co-opted member of an authority
	Member of Parliament
	Local authority monitoring officer
$\Box$	Other council officer or authority employee
	Other ( )

# 3. Equality monitoring questions

This information will only be used for statistical purposes	Please tick
White	
British.	
frish	
Any other While background (please write in)	
Mixed	
White and Black Carlbbean	
White and Black African	
White and Asian	
Any other mixed background (please write in)	
Asian or Asian British	
Indian	
Pakistani	
Bangladeshi	
Any other Black background (please write in)	The second of th
Black or Black British	10 10 10 10 10 10 10 10 10 10 10 10 10 1
Caribbean	
African	A Company of the Comp

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YES/NO
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# Making your complaint

- You should send this form to "The Monitoring Officer, North Herts District Council, Council Offices, Gernon Road, Letchworth, Herts SG6 3JF"
- You may also send your form as an e-form which is linked to the Council's web-site page 'How to complain about a member'.
   This will be sent automatically to the Monitoring Officer
- You may ask to give your complaint in person if you are unable to submit a form. Please make an appointment with the Monitoring Officer for this

The process which will be followed to consider your complaint is set out in the document 'Complaints Procedure for matters relating to the Councillors' Code of Conduct':

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 David		Leal-Bennett	North Hertfordshire District Council		
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5. Please explain in this section (or on separate sheets) what the member 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 that you believe breaches the Code of Conduct.

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It is important that you provide all the information you wish to have taken into account by the Monitoring Officer or the Sub-Committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what
  you are alleging the member said or did. For instance, instead of
  writing that the member insulted you, you should state what it
  was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form. See attached statement and appendices				
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# Only complete this next section if you are requesting that your identity is kept confidential

In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe 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 to believe that:

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider the request alongside the substance of your complaint. We will then contact you with the decision, if your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

If your complaint is dealt with by the Standards Sub-Committee at a hearing after an investigation you may be asked to attend as a wilness.

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your name and	or the details	s of your co	mplaint:		
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# Additional Help

6. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

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

If you need any support in completing this form, please let us know as soon as possible.

F.A.O Monitoring Officer

North Hertfordshire District Council

It is with following considerable deliberation that I am lodging a formal complaint under the Council's standards arrangements in relation to the actions and statements made by the elected Member of the Council Councillor David Leal-Bennett.

As Head of Paid Service I have a duty to act in the best interests of the Council overall and take appropriate steps to ensure that Council's interests are protected as best as I am able. This is the first occasion where I feel that the only reasonable course of action is to make a formal complaint about the conduct of the Member in relation to the Council's adopted Code of Conduct and the Protocol for Member and Officer Relations (both approved by Full Council on the 18th July 2013).

The supporting evidence to this complaint includes some material that may be regarded as older than that normally considered by such an investigation. I have included it partly as (a) background material to demonstrate that the matters referred to in the complaint represent a pattern of behaviour that is contrary to the Council's Code of Conduct and Protocol and is not an isolated example and (b) where it relates to conduct that could be regarded as bullying or harassment of officers which has been over a period of time.

# Breaches Of The Code Of Conduct

Section 3 of the Code of Conduct sets out the 'Rules of Conduct' based on the Nolan principles and also details the following:

Duties and Responsibilities (3.2)

Information (3.3)

Conduct (3.4);

Use of Position (3.5)

Decision Making (3,6)

Compliance With Rules & Policies (3.7)

Section 4 (set seq) deals with Declarations of Interests and steps that must be taken in dealing with those interests.

Breaches Of The Protocol for Member Officer Relations

This protocol sets out expectations about the working relationship between Members and Officers and the following sections are most relevant:

Officers can expect from Members (3.2)

Limitations on Behaviour (3.3)

I will deal with my complaint using the headings above and have provided supporting information in Appendix A (1-19) in respect of the Code of Conduct and Appendix B (1-21) in relation to the Protocol.



# Breaches Of The Code Of Conduct

I am lodging a complaint as I firmly believe that there have been breaches of the Code of Conduct by Clir Leal-Bennett in relation to the following situations:

# Duties and Responsibilities (3.2)

In his actions Cilr Leal-Bennett has breached the Code of Conduct in relation to 3.2 (b), (c) and (d),

Evidence in Appendix A demonstrates that he has falled to show consideration for others on numerous occasions – he has used behaviour that would be characterised as bullying and harassment in respect of Council Officers and its contractors and that he has used his position as an elected Councillor to seek to exert pressure and influence decision making by Council Officers, its contractors and elected Members of the Council.

# Conduct (3.4);

Councillor Leal Bennett has acted in a way on many occasions that could be regarded as bring the office or reputation of the Council into disrepute. He has criticised officers directly in the press, and has been complicit in criticising the actions of the Council in the progression of the Hitchin Town Hall Project (see Appendix A Sa,b,c,d). Most recently there has been criticism of the capability of Officers in relation to the progression of the Churchgate Project at Full Council (12<sup>th</sup> February 2015).

# Use of Position (3.5)

Clir Leal Bennett has used his position to seek to influence the progression of the Hitchin Town Hall project (where he has been until recently a Director of Hitchin Town Hall Limited(HTHL)) to the advantage of HTHL. This has involved the lobbying of officers and Members to seek to exert influence and the use of Council resources (eg access to the building and officers in a preferential manner—see Appendix B4).

# Decision Making (3.6)

There has been a failure to take into account advice from the Monitoring Officer and Head of Paid Service in relation to the declarations of interests (see Appendix A 9,11).

# Compliance With Rules & Policies (3.7)

There have been breaches of the Protocol for Member Officer Relations.

Section 4 (set seq) deals with Declarations of Interests and steps that must be taken in dealing with those interests.

Clir Leal-Bennett has falled to act in accordance with the requirements regarding Disclosure of Interests in that he:

- 1) Sought to de-register a Discloseable Pecuniary Interest (DPI) (Appendix A12)
- Did not disclose his DPI and remove himself from meetings of Hitchin Committee as required by the Constitution

- 3) Falled to remove himself from the meeting (Rt 1) of the Overview & Scrutiny Committee on the 18<sup>th</sup> December 2014 contrary to advice from the Monitoring Officer (Appendix A11).
- Falled to remove himself from the meeting of the Council on the 12<sup>th</sup> February 2015 contrary to the advice of the Monitoring Officer (Appendix A9).

# Breaches Of The Protocol for Member Officer Relations

This protocol sets out expectations about the working relationship between Members and Officers and the following sections are most relevant:

Officers can expect from Members (Paragraph 3.2)

Clir Leal-Bennett has on numerous occasions acted in a way that has been:

- 1) Falled to respect the roles, workloads and pressures of officers
- 2) Acted in a way that has lacked respect
- 3) Has bullied officers
- 4) Has sought to use his Office to advance the position of HTHL
- 5) Has criticised individual officers in public
- 6) Has failed to take into account advice from the Head of Paid Service and Monitoring
  Officer

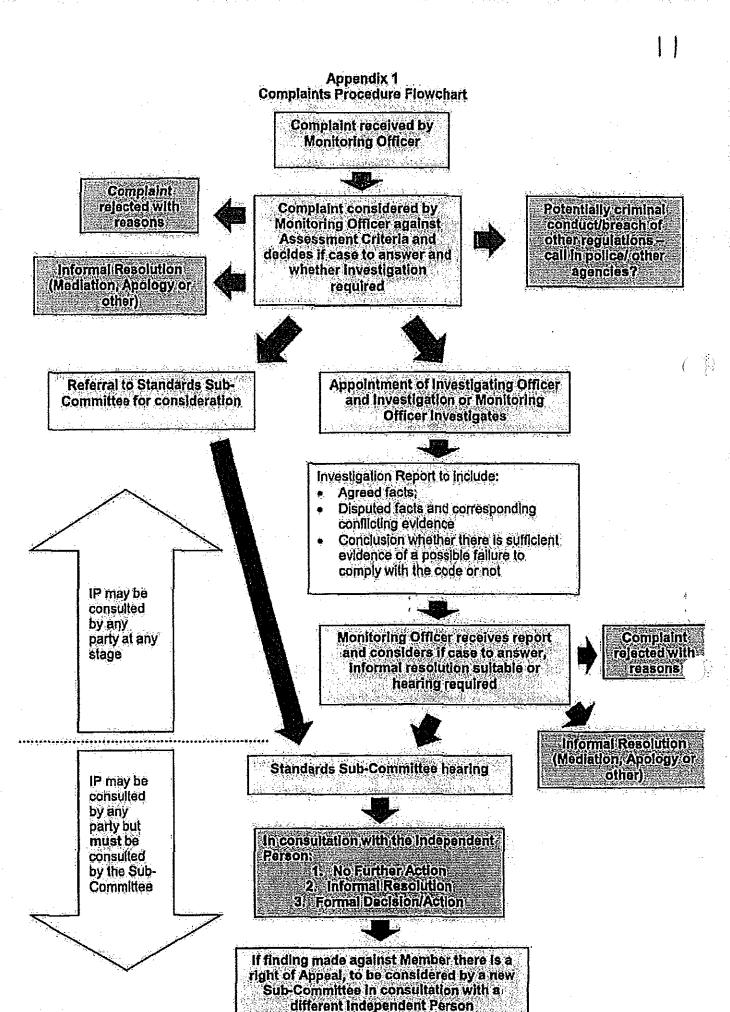
This has been a general pattern of behaviour that both myself and other senior officers have sought to influence in a positive way by informal advice and more formal contact. That general pattern of behaviour has, however, continued and it is apparent that it is not possible to continue with this situation. This has put a number of Officers including myself under unacceptable levels of pressure. Documents throughout the appendices highlight this and inparticular Appendix 8 provides examples which have either involved myself or been brought to my attention.

# Limitations on Behaviour (3.3)

Councillor Leal-Bennett has failed to respect the fact that in his dealings as a Director of HTHL he should not (mis) use the privilege of being a Member of the Council. Despite addressing this point on many occasions this has lead to a 'blurring of the lines' between his Director role and that of elected Member.

# Other Information/Witnesses

It is assumed that the person(s) conducting the investigation will seek information from other parties in relation to this complaint. I would be willing to assist in providing details of the most relevant individuals who should be contacted.



# **APPENDIX 2**

# STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which the Monitoring Officer would <u>not</u> normally decide to refer for investigation

- 1. The complaint is not considered sufficiently serious to warrant investigation; or
- 2. The complaint relates to a service or policy; or
- 3. The complaint appears to be motivated by malice or is vexatious or is "tit-for-tat"; or
- 4. The complaint appears to be politically motivated; or
- 5. It appears that there can be no breach of the Code of Conduct; for example, fallure to respond to correspondence or is about dissatisfaction with a Council decision; or
- 6. It is about someone who is no longer a Councillor.
- 7. There is insufficient information available to allow the complaint to be considered.
- The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances eg allegation of bullying, harassment etc.
- The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
- 10. The same, or similar, complaint has already been considered and there is nothing further to be gained by further consideration.
- 11. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
- 12. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

# Complaints which may be referred to the Standards Committee

- 1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
- 2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation.

- 3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
- 4. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate.
- 5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to investigate.

Whilst complainants can be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. These are important considerations where the complaint is relatively minor.

#### Appendix 3

# Investigation Procedure - information for Investigating officer

You must maintain a written record to demonstrate what information was considered at the start of each investigation and plan how you intend to carry out the investigation. As set out in the boxes below, your report should identify the paragraphs of the code that may have been breached, the facts you need to determine to establish whether there may have been a breach, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 compelling Members or witnesses to co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer. On receipt of instructions to carry out an Acknowledge Investigation from the MO, ensure sufficient receipt within 5 detail is received to commence an investigation working days Identity: Whether further information from the complainant is required. What paragraphs of the code are alleged to have been breached. The facts which need to be determined to establish if the member may have. breached the code. The evidence you need to determine the issues. How you plan to gather the evidence. How long it is likely to take to undertake the investigation. Contact complainant & request any supporting or further documentary evidence relating to the complaint Contact subject Member with details of the complaint & seek explanation Identify witnesses Request any further documentary and arrange evidence Interview(s) Interview subject Member

> Draft report and submit to MO for consideration. Report to contain:

- Agreed facts
- Disputed facts & corresponding conflicting evidence
- Conclusion as to whether there may have been a breach of the code or not

MO either accepts or asks you to reconsider vour report

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# Appendix 4

# STANDARDS SUB-COMMITTEE HEARING PROCEDURE

Item No.		<u>Procedure</u>
1		Quorum
	1.1.	Three Members must be present throughout the hearing to form a quorum.
	1.2.	Where the complaint refers to a Parish Member a non-voting Parish member of the Standards Committee may also be present.
	1.3.	The Sub-Committee must nominate a Chairman for the meeting.
2	1 V =,+v	Opening
	2.1	The Chalman must explain the procedure for the hearing and remind all parties to turn off mobile phones, audible alarms and pagers etc.
	2.2	The Chairman must ask all present to introduce themselves.
	2.3	The Member must be asked whether he/she wishes briefly to outline his/her position.
3		The Complaint
·	3.1	The Investigating Officer must present his/her report including any documentary evidence or other material (and may call witnesses). This report and documentary evidence must be based on the complaint made to the Council. No new points will be allowed.
	3.2	The Member against whom the complaint has been made (or his/her representative) may question the Investigating Officer on the content of the report and question any witnesses called by the Investigating Officer. (This is the Member's opportunity to ask questions arising from the Investigator's report and not to make a statement).
	3.3	Members of the Sub-Committee may question the Investigating Officer about the content of the report and/or any witnesses called by the investigating Officer.

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4	The Member's case					
	4.1 The Member against whom the complaint has been made (or their representative) may present his/her case (and call any witnesses).					
	4.2 The Investigating Officer may question the Member and/or any witnesses.					
	4.3 Members of the Sub-Committee may question the Member and/or any of the Member's wilnesses.					
5	Consultation with the Independent Person					
Nes luse	5.1 Members of the Sub-Committee must consult the Independent Person whose views are to be sought, and taken into account, by the Sub-Committee before it makes its decision on an allegation					
6	Summing Up					
	6.1 The Investigating Officer may sum up the Complaint.					
	6.2 The Member (or his/her representative) may sum up his/her case.					
7	Decision					
ŧ	7.1 Members of the Sub-Committee will deliberate in private to consider the evidence presented at the hearing.					
	7.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-					
	7.2.1 The Sub-Committee decides that the Member has falled to follow the Code of Conduct or					
	7.2.2 The Sub-Committee decides that the Member has not falled to follow the Code of Conduct.					
	7.2.3 The Sub-Committee will give reasons for its decision.					
	7.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct, it will consider any representations from the Investigator and/or the Member and/or the Independent Person as to:					
	7.3.1 Whether any action should be taken and					
	7.3.2 What form any action should take.					

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- 7.4 The Sub-Committee must then deliberate in private to consider what action, if any, should be taken.
- 7.5 On the Sub-Committee's return the Chairman must announce the Sub-Committee's decision (in relation to a Parish Member, a recommendation to the Parish Council).
- 7.6 The Sub-Committee must consider whether it should make any recommendations to the Council, or in relation to a Parish Member to the Parish Council, with a view to promoting high standards of conduct among its Members.
- 7.7 The Chairman will confirm that a full written decision shall be issued within 7 working days following the hearing and that the Sub-Committee's minutes will be published.

# ROLE OF INDEPENDENT PERSON AND RESERVE INDEPENDENT PERSONS — NORTH HERTFORDSHIRE DISTRICT COUNCIL

#### **ROLE DESCRIPTION**

Appointed by: The Council

Liaison with:

Monitoring Officer, members of the Standards Committee, officers and members of the District Council and Town and Parish Councillors within the district, key stakeholders within the community.

Reference to the IP includes the independent Person and Reserve Independent Persons

- To assist the Council in promoting high standards of conduct by elected and coopted members of North Hertfordshire District Council and town and parish councillors and in particular to uphold the Code of Conduct adopted by the Council and the seven principles of public life, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
- To assist the Council by acting as advocate and ambassador in promoting ethical behaviour and by developing a sound understanding of the ethical framework as it operates within North Hertfordshire District Council and its town and parish councils.
- To be available for ad hoc consultation by the Monitoring Officer where the Monitoring Officer is dealing with a matter that has not reached the stage of a formal complaint.
- 4. To be available for consultation by the Monitoring Officer and/or the Standards Committee before a decision is taken as to whether to investigate a complaint or to seek local resolution of the same.
- 5. To be consulted by the Council through the Monitoring Officer and/or the Standards Committee before it makes a decision on an allegation that has been investigated and to be available to attend meetings of the Hearing Panel of the Standards Committee for an initial Hearing or for an Appeal for this purpose.
- 6. If attending a meeting of the Hearing Panel of the Standards Committee for an Initial Hearing or on Appeal pursuant to paragraph (5) above, the IP's views as to whether a breach of the Code of Conduct has occurred and any subsequent penalty will be taken into account.
- To be available for consultation by any Member, including town and parish councillors, who is the subject of a standards complaint, unless the IP is

involved in the consultation set out at paras 3-6 above in which case another (P shall undertake this function.

8. To participate in training events to develop skills, knowledge and experience and in any networks developed for independent Persons operating outside the District Council's area. To share information and promote debate and discussion amongst the Standards Committee following such training. To attend training events organised and promoted by the Council's Standards Committee and Monitoring Officer.

# Complaints Procedure for matters relating to the Councillors' Code of Conduct

# Context

- 1.1 These "Arrangements" set out how you may make a complaint that an elected or co-opted Member of this authority (or of a parish council within its area) has failed to comply with the Councillors' Code of Conduct, and sets out how the authority will deal with such complaints.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a Member or co-opted Member of the authority (or of a parish council within the authority's area), or of a Committee or Sub-Committee of the authority, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the authority to appoint at least 1 Independent Person; whose views must be sought by the authority before it takes a decision on an allegation which it has decided to investigate, and whose views can be sought by the authority at any other stage; or by a Member (or a Member or co-opted Member of a Parish Council) against whom an allegation has been made.

# 2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available for inspection on the authority's website and on request from Reception at the Council Offices.
- 2.2 (Each Parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should inspect any website operated by the parish council and/or request the parish clerk to allow you to inspect the parish council's Code of Conduct).
- 3, Making a complaint
- 3.1 If you wish to make a complaint, please write or email to:

The Monitoring Officer, North Hertfordshire District Council, District Council Offices, Gemon Road, Letchworth Garden City SG6 3JF

or

monitoring.officer@north-herts.gov.uk

- 3.1 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Member misconduct.
- 3.2 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Reception desk at the Council Offices.
- 3.3 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclosure your name and address to the Member against whom you make the complaint, without your prior consent.
- 3.4 The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3:5 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.6 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance.
- 4 Who is the Independent Person?
- 4.1 The Independent Person is appointed by the Council. A description of their role is set out in Appendix 5.
- 4.2 There are restrictions contained within the legislation that set out who can be an independent Person. A person can not be "independent" if he/she:
- 4.2.1 Is, or has been within the past 5 years, a Member, co-opted Member or officer of the authority;
- 4.2.2 Is a relative or close friend, of a person within paragraph 5.3.1 or 5.3.2 above. Further detailed information is available from the Monitoring Officer regarding what is meant by a "relative".

- 4.2.3 There is an exception to the 5 year rule contained in regulations for former Members or co-opted Members of the Standards Committee.
- 4.3 The Council has appointed Reserve Independent Persons who carry out the role of the Independent Person when he/she is unavailable, or has a conflict of interest: References to the Independent Person in this document includes the Independent Person and the Reserve Independent Persons.
- 5 How will my complaint be handled?
- 5.1 The Monitoring Officer will acknowledge receipt of your complaint.
- 5,2 The Monitoring Officer will review every complaint received and may consult the Independent Person before taking a decision as to whether it:
- 5.2.1 Merits no further investigation;
- 5.2.2 Medis further investigation; or
- 5.2.3 Should be referred to the Standards Sub-Committee.
- This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria annexed at Appendix 2. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the Member against whom your complaint is directed. (Where your complaint relates to a Parish Councillor, the Manitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council clerk before deciding whether the complaint merits formal investigation).
- After the Monitoring Officer decides whether there is a case to answer, the Member complained of will be contacted (and in the case of a Parish Councillor also the clerk) to notify them as to whether the complaint is proceeding or not and, if so, what the next steps are:
- 5.5 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer may consult the Independent Person on such action. Informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the

authority. Where the Member or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint ments further investigation.

- 5.6 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.
- 6 How is the Investigation conducted?
- 6.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.
- 6.2 If the Monitoring Officer, in consultation with the Independent Person, decides that a complaint merits further investigation, he/she may appoint an investigating Officer, who may be enother senior officer of the authority, an officer of another authority or an external investigator. The investigating Officer or Monitoring Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to seen, and who needs to be interviewed.
- The Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he/she needs to see and who he/she needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or where disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the Investigation has progressed sufficiently.
- At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
- 6.5 Having received and considered any comments which you may make on the draft investigation Report. Where an investigating Officer has been

appointed the Investigating Officer will send his/her final report to the Monitoring Officer.

- 7 What happens if the Investigating Officer, or Monitoring Officer, concludes that there is no evidence of a failure to comply with the Code of Conduct?
- 7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned (and to the Parish Council clerk, where your complaint relates to a Parish Councillor), notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigation Final Report.
- 7.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the investigating Officer to reconsider his/her report.
- 8 What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?
- 8.1 If an investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Standards Sub-Committee or, in consultation with the Independent Person, seek an informal resolution.

# 8.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult the independent Person and you as complainant and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member compiles with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (and the Perish Council) for information, but will take no further action.

# 8.1.2 Hearing

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Normal Committee rules apply as to whether the Sub-Committee meets in public or private.

If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will present the Investigation Report to the Sub-Committee which may conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

The Council has agreed a procedure for hearing complaints, which is attached as Appendix 4 to these arrangements.

At the hearing, the Investigating Officer or the Monitoring Officer will present her/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has falled to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fall to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Member an opportunity to make representations to it and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

Please note that in accordance with section 28(7) of the Localism Act 2011 the views of the Independent Person are to be sought, and taken into account, by the Sub-Committee before it makes its decision on an allegation that it has decided to investigate.

9 What action can the Standards Sub-Committee take where a Member has failed to comply with the Code of Conduct?

- 9.1 The Council has delegated to the Sub-Committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. The Sub Committee will impose sanctions (or a combination of sanctions) commensurate with the nature and gravity of the breach of the Code of Conduct. Accordingly the sanctions available to the Sub-Committee are:-
- 9.1.1 Publish its findings in respect of the Member's conduct;
- 9.1.2 Report its findings to Council (or to the Parish Council) for information;
- 9.1.3 Recommend to Council (or to the Parish Council) that the Member be issued with a formal censure or be reprimanded;
- 9.1.4 Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that the Member be removed from any or all Committees of Sub-Committees of the Council;
- 9.1.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 9.1.6 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Member;
- 9.1.7 Recommend to Council the removal (or recommend to the Parish Council that the Member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Parish Council);
- 9.1.8 Recommend to Council that (or recommend to the Parish Council that it withdraws) facilities provided to the Member by the Council, such as a computer, website and/or email and internet access be withdrawn;
- 9.1.9 Recommend to Council that for recommend that the Parish Council exclude) the Member be excluded from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings; or
- 9.1.10 Take no further action.
- 9.2 The Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' basic or special responsibility allowances.
- 10 Who are the Standards Sub-Committee?

- 10.1 Your complaint may be considered by a Sub-Committee comprising Councillors sitting on the authority's Standards Committee.
- 10.2 The Standards Sub-Committee will comprise a maximum of three Councillors of the Standards Committee, with the aim of achieving cross party political representation wherever practicable. If the Councillor complained about is a Member of a Parish Council, a Parish Councillor who is a Member of the Standards Committee will also be invited to attend the Sub-Committee. The Parish Councillor's role is to advise the Sub-Committee and provide a Parish perspective, he/she does not take part in the decision making process.
- An independent Person is invited to attend all meetings of the Sub-Committee and his/her views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.
- 11 What happens at the end of the hearing?
- 11.1 At the end of the hearing, the Chair will state the decision of the Standards Sub-Committee with reasons as to whether or not the Member falled to comply with the Code of Conduct and, if the member did fall to comply, any actions which the Sub-Committee resolves to take.
- 11.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to you, to the Member (and to the Parish Council), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.
- 12 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

Complainant

- 13.1 There is no right of appeal for you as complainant against a decision of the Monitoring Officer or of the Sub-Committee.
- 13.2 If you feel that the authority has falled to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

#### Member

- 13.3 In the event that a Member or Co-opted Member is found to have breached the Code of Conduct the Member shall have a right to Appeal against the finding, or against any sanction imposed, or both. Such appeal will be heard by a further meeting of the Standards Sub-Committee comprising a panel of Members and an Independent Person not involved in the initial Sub-Committee hearing.
- 13.4 A Member wishing to exercise this right of appeal must write to the Monitoring Officer within 21 days of the date of despatch of the Decision Notice of the Standards Sub-Committee confirming that the Member is exercising his/her right of appeal and the grounds for that appeal. The grounds of appeal may be one or more of the following grounds:-
  - Any findings of fact which the Member feels have been wrongly made, explaining why it is considered the Sub-Committee was in error.
  - Any error of procedure or law which the Member feels has been made, explaining why it is considered the Sub-Committee was in error.
  - Any other relevant grounds for believing that the Sub-Committee came to a wrong decision that the Member failed to follow the provisions of the Code of Conduct.
  - Appealing about a decision to sanction or to require the Member to take some other action, explaining why it is considered that the decision was inappropriate.
- 13.5 The Sub-Committee considering the Appeal shall conduct a re-hearing following the same procedure as the initial Sub-Committee, whilst considering the grounds of appeal and any new evidence available.
- 13.6 The Sub-Committee considering the Appeal shall have available to it the same range of findings and sanctions as the first Sub-Committee.

13.7 There shall be no further right of Appeal after the decision of the Sub-Committee which considered the Appeal. If the Member is still not satisfied the Member may make a complaint to the Local Government Ombudsman.

Appendix 1 - Complaints Procedure Flowchart

Appendix 2 - Standard Complaints Assessment Criteria

Appendix 3 - Standard Complaints Investigation Procedure

Appendix 4 - Complaints Standards Sub-Committee Procedure

Appendix 5 - Independent Person and Reserve Independent Persons Role Description

# **SECTION 17**

# NORTH HERTS DISTRICT COUNCIL CODE OF CONDUCT FOR COUNCILLORS (AND VOTING CO-OPTEES)

# (Approved by Council on 18 July 2013)

# 1. Introduction

- 1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office-holders. The Council has therefore adopted this Code of Conduct to promote and maintain high standards of conduct in public life. It is each Councillor's responsibility to comply with the provisions of this Code.
- 1.2 The Code of Conduct applies to all elected Councillors, voting co-opted members and appointed members.
- 2. When does the Code of Conduct apply?
- 2.1 In this Code "meeting" means any meeting of
  - (a) the authority;
  - (b) the executive of the authority:
  - (c) any of the authority's or its executive's committees, sub committees joint committees, joint sub-committees, or area committees,
  - (d) informal meetings with other members and/or officers relating to the discharge of the authority's functions.
- 2.2 The Code of Conduct applies-
  - (a) whenever you conduct the business, or are present at a meeting, of the authority; or
  - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed; or
  - (c) whenever you act, claim to act or give the impression you are acting as a representative of the authority; or
  - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5; or
  - (e) in respect of any criminal offence for which you have been convicted during your term of office.

- 2.3 Where you are elected, appointed or nominated by the authority to serve on any other authority or body you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.
- 2.4 Where you are elected, appointed or nominated by the authority to serve on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

#### 3. Rules of Conduct

Integrity

Accountability

**Openness** 

Honesty

Leadership

3.1 As a Member of North Hertfordshire District Council you shall have regard to the seven principles of public life.

Selflessness Holders of public office should act solely in terms of the public interest.

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must deciate and resolve any interests and relationships.

Objectivity Holders of public office must act and take decisions impartially, fairly and on ment, using the best evidence and without discrimination or bies.

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and tawful reasons for so doing.

Holders of public office should be truthful,

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

These general principles are the underlying principles behind the rules of conduct set out below.

# 3.2 Duties and Responsibilities

# You must:

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people; regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others:
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the authority.

#### 3.3 Information

#### You must not;

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so:
- (b) prevent any person from gaining access to information to which that person is entitled by law.

### 3.4 Conduct

#### You must

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute:
- (b) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the authority.
- (c) comply with any request of the authority's monitoring officer or section 151 officer, in connection with an investigation conducted in accordance with their respective statutory powers.

#### 3.5 Use of your Position

#### You must not:

- (a) In your official capacity or otherwise, use or altempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the authority-

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- (i) Imprudently;
- (ii) In breach of the authority's requirements;
- (iii) unlawfully;
- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
- (iv) improperly for political purposes; or
- (vi) Improperly for private purposes.

# 3.6 Decision Making

You must

- (a) when participating in meetings or reaching decisions regarding the business of the authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the authority's officers, in particular by—
  - (i) the authority's head of paid service;
  - (ii) the authority's s.151 officer/ chief finance officer,
  - (iii) the authority's monitoring officer/ chief legal officer;
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.
- 3.7 Compliance with the Law and the Authority's Rules and Policies

You must:

- (a) observe the law and the authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) comply with the authority's Gifts and Hospitality Policy;
- (c) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code of Good Practice for Members.

#### 4. Interests

4.1 Remember - breaches of the requirements of the Localism Act 2011 relating to Disclosable Pecuniary Interests can constitute a criminal offence.

# Disclosable Pecuniary Interests

You have a Disclosable Pecuniary Interest if you, or your spouse or civil partner, have a pecuniary interest as defined by regulations made by the Secretary of State. The description of Disclosable Pecuniary Interests published by DCLG in their Guide for Councillors "Openness and Transparency on Personal Interests" is attached in Appendix A. Interests or your spouse or civil partner are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

### 4.3 You must:

(a) within 28 days of taking office as a member or co-opted member, notify the Monitoring Officer of any Disclosable Pecuniary Interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's; or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

(b) ensure that your register of interests is kept up to date and hotify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your Disclosable Pecuniary Interests.

- Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website:
- 4.5 If a function of the authority may be discharged by a member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with in the course of discharging that function, you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

#### Declarable Interests

4.8 You have a Declarable Interest in an item of business of the Council where:

(a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or your employer or a person or body with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which you have been elected or otherwise of the Council's administrative area; or

- (b) it relates to or is likely to affect any of the interests listed in the Appendix to this Code in respect of a member of your family (other than covered in the legislation) or your employer or a person or body with whom you have a close association; or
- (c) 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; or
- (d) the interests of any person or body from whom you have received a gift or hospitality with an estimated value of at least £50 (or such other figure set in the Council's Gifts and Hospitality Policy). You need not disclose this interest if it was registered more than 6 years before the date of the meeting; or
- (e) it relates to or is likely to affect any body of which you are a member or in a position of general control or management which:
  - (i) you are appointed or nominated to by the authority; or
  - (ii) exercises functions of a public nature; or
  - (iii) is directed to charitable purposes; or
  - (iv) as its principal purposes includes the influence of public opinion or policy (including any political party or trade union)

and that interest is not a Disclosable Pecuniary Interest.

### 5. Sensitive information

- A Disclosable Pecuniary Interest may not be published or made available for inspection where the nature of the Interest is such that you and the Monitoring Officer consider that disclosure of details of the Interest could lead to you or a person connected with you being subject to violence or intimidation if it is entered in the register of interests. Copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011.
- 5.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 5.1 is no longer sensitive information, notify the Monitoring Officer.

# 6. Declaring Interests at meetings

6.1 If you are present at a Meeting at which an item of business in which you have a Disclosable Pecuniary Interest is to be considered or is being considered you must a make verbal declaration of the existence and nature of the Disclosable Pecuniary Interest at the meeting at or before the consideration of the item of business or as soon as the interest becomes apparent. If the interest is not registered and is not the subject of a pending notification you must notify the Monitoring Officer of the interest within 28 days of the Meeting

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6.2 If you attend a meeting at which any item of business is to be considered and you are aware that you have a Declarable Interest in that item, you must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

# 7. Effect of Interests on Participation at Meetings

- 7.1 If you are present at a meeting of the council and you have a Disclosable Pecuniary Interest relating to any business that is or will be considered at the meeting, you must not:
  - (a) participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting participate further in any discussion of the business, or (b) participate in any vote or further vote taken on the matter at the meeting.
- 7.2 The prohibitions at paragraph 7.1 apply to any form of participation, including speaking as a member of the public. In certain circumstances you can request a dispensation from these prohibitions from the Monitoring Officer.
- 7.3 If you are present at a meeting of the council and you have a Declarable interest relating to any business 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 you must not participate in the discussion or vote on the item, although you may speak as a member of the public.
- 7.4 If you have a Disclosable Pecuniary Interest, or a Declarable Interest which is so significant that you must not participate, you must leave the room or chamber where the meeting is being held unless you have received a dispensation from the Monitoring Officer.
- 7.5 If you are leaving the room or chamber in accordance with paragraph 7.4 you may listen to any speeches from the public but must leave prior to the Item being presented or in any other case, whenever it becomes apparent that that business is being considered at that meeting.
- 8. Dispensations
- 8.1 Section 33 of the Localism Act 2011 allows the Council in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority, even if the member has a Disclosable Pecuniary Interest relating to that business. If you would like the Council to consider granting you a dispensation, you must make a written request to the Monitoring Officer, who has been authorised by the Council to make decisions on requests for dispensations.

Appendix A

Description of Disclosable Pecuniary Interests (from DCLG Guide for Councillors Openness and Transparency on Personal Interests" Merch 2013)

If you have any of the following pecuniary interests, they are your Disclosable Pecuniary Interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Other payments received

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your Disclosable Pecuniary Interests following your election or re-election, or when you became aware you had a Disclosable Pecuniary Interest relating to a matter on which you were acting alone.

### Contracts

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- . Under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

#### Land

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

#### Licences

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authorly for a month or longer.

#### Corporate tenancles

Any tenancy where (to your knowledge) -

the landlord is your council or authority; and

 the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

#### Securities

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the erea of your council or authority; and

### (b) either =

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class; the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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### Sarah Dobor

From:

Michael Havis <michael.havis@hertsessexnews.co.uk>

Sent:

16 February 2015 11:10

To: Sublect: Nicola Lennox; Sarah Dobor; Joanna Softly
FW: Comment on last Thursday's Council meeting

Attachments:

Mercury dlb.docx

HI team,

We've had these comments with regards to the stand-off over the town hall the other night.

Would It be possible to get a response from the council chair, particularly to Clir Leal-Bennett's comments, by the end of the day?

All the best,

1ichael Havis Mercury Reporter 01992 526685

Judi Billing said: I am really appalled that for the second time in the last few months the business of the council has been held up by an internal squabble between Conservative ruling group members which the rest of us are expected to put up with despite that fantastic self-indugence of it all. We must have been hanging around for a good half hour whilst they behaved insanely.

Thursday night's council meeting was probably the most important of the year. We debated the Council Budget, plans for Churchgate and many important issues. But the Tories insistence in washing their dull and dirty linen in public detracted from the importance of the Hitchin Town Hall, meant that it couldn't be discussed and wasted a lot of time for us all late in the evening. It is quite astonishing that personal animosities between the Council and Hitchin Town Halls Umited are allowed to ruin an otherwise excellent potential development.

I call on the Tory Councillors to sort themselves out, learn how to behave and let conscientious and hard working Labour Souncillors get on with representing the people who elected us to act intelligently on their behalf!

From: David Leal-Bennett [mailto:dlb@syssol.net]
Sent: 16 February 2015 10:28
To: Michael Havis
Cc: Laura Burge
Subject: Comment on last Thursday's Council meeting

### Michael

I thought you handled the report of the meeting on Thursday incredible well, not too sure about the photo?

When we had our confidential coffee meeting some while ago I elaborated on my position which is basically to represent the electorate and ask searching questions often for clarity and sometimes for fact.

This ongoing saga is all about who is able to ask those questions, please see attached my comment.

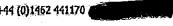
As always happy to chat.

Regards

David

David Leal-Bennett

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#### Press comment

I am appalled at the action of the Chair of NHDC who decided, with questionable advice from officers, that I should not attend the Full Council meeting last week.

On Tuesday I asked the officer responsible for the Museum Project to confirm that it would be 6 months late and £750,000 over the original budget.

I did not receive a reply but on Thursday there was an attempt to exclude me from the Full Council meeting.

I have received advice from my MP Peter Lilley and the Conservative Councillors' Association both of whom state categorically that there is absolutely no reason for exclusion and that my interpretation is totally correct.

I was elected to represent the residents of Highbury and they expect me to ask questions of officers. I do not have, nor have I ever had, a pecuniary interest and in suggesting that I have the officers are attempting to fetter the democratic process. It would appear that certain officers are immune from any form or criticism.

I will NOT be intimidated by non elected individuals who appear to be making every effort to stop the democratic right of members to ask questions, especially when these questions concern an over-spend of taxpayers' money.

I have written to the Leader of the Council as follows, note the Chair is always advised by officers:

"Lyndo
For the record, I believe last night was handled appailing badly by the chair and
officers. It is only "advice" that is given by the Monitoring Officer and it not his place to
do anything else, I am not obliged to take it especially when I have received my own
advice from the highest level; of which you are well aware.

This was a Part 1 item and all the detail was in the public domain, the fact that there was a "financial decision" to be made, and this was used as the reason to exclude me, is totally irrelevant. The statement made to me by the Monitoring Officer that " Fallure to do so (i.e. leave the room) puts any decision made tonight at risk" is completely ridiculous.

She has also ensured that the 'additional cost' request has been stalled through bureaucratic nonsense.

If you look at the historic public reports it is clear that this project is at least £750,000 over budget and someone needs to be held to account."

I consider this so serious that I will be writing to the District Auditor with my concerns.

David Leal-Bennett
Chair NHDC Hitchin Area Committee

16-Feb-15

3.5 Use Of Position

### **David Scholes**

To: Subject: 'HTCI Info'

Grant application ~ 15 Brand Street

Hi Keith

Good morningl

I note from reviewing the minutes of the previous Hitchin Area Committee in readiness for the next meeting that

"The HCM advised the Committee that due to Unavoidable delays there would need to be a new planning application regarding works at 15 Brand Street, Hilchin which was in turn an Important part of the North Heritordshire Museum and Community Facility and would provide an extra 56 square metres of floor space but not affect the proposed entrances. As there was an additional fee of £3,500 the HCM indicated that he wished to submit a grant application on behalf of the Hilchin Town Centre initiative for a contribution towards the costs of the application fee at the next meeting of the Hilchin Committee scheduled for 5 March 2013."

hat further, the committee recommendation read;

1 . ...at a decision on a grant application by Hitchin Town Centre Initiative as a contribution lowerds the costs of a planning application fee for a property at 15 Brand Street be determined at the meeting scheduled for 5 March 2013;"

I thought it would be useful to clarify the position with regard to any such grant application being made to the Hitchin Area Committee please.

I have had it confirmed to me that such an application would be outside the Constitutional terms of reference for the Hitchin Area Committee (To allocate discretionary budgets within the terms determined by the Council) and the Council's approved grant criteria ( edition dated April 2012), and hence any such grant application for the above reasons would be unlikely to meet the tests set down by the current criteria as approved by Council.

Further, and more importantly, the incorporation of number 15 Brand Street into the development scheme is still subject to formal decision by Cabinet/Council.

For these reasons I would therefore suggest that the best approach here would be to incorporate any costs of additional planning fees into the overall project development costs, and any associated additional costs, which will be incorporated into any formal report requesting members' agreement to proceed with a development which then includes number 15 Brand Street too please.

I Sout of the office this afternoon, but more than happy to discuss any other time Kelth If necessary - just let me know.

T. ...iks Regards

### NORTH HERTFORDSHIRE DISTRICT COUNCIL

#### HITCHIN COMMITTEE

Meeting held at Benslow Music Centre, Benslow Lane, Hitchin, Tuesday 8 January 2013 at 7.30 p.m.

#### MINUTES

PRESENT:

Councillors: Rey Shakespeare — Smith (Chairman), R.A.C. Thake (Vice-Chairman), Alison Ashley, David Billing, Judi Billing, Paul Clark, Joan Kirby, David Leal — Bennett, Bernard Lovewell, Alan Millard and Lawrence Oliver.

IN ATTENDANCE:

Richard Kelly - Senior Planning Officer Margaret Bracey (Community Development Officer) Nigel Scholield (Committee and Member Services Officer).

At commencement approximately 26 members of the public, including two registered speakers.

75. APOLOGIES FOR ABSENCE

> An apology for absence was received from Councillors Lisa Courts and Deborah Segalini.

MINUTES - 13 NOVEMBER 2012 76. RESOLVED: That the Minutes of the Meeting held on 13 November 2012 be approved as a true record of the proceedings and be signed by the Chairman.

77. NOTIFICATION OF OTHER BUSINESS There were no items of other business.

78. CHAIRMAN'S ANNOUNCEMENTS

 The Chalmen welcomed everyone to the meeting, to those speaking at Public Participation and thanked those who attended Town Talk;
 Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable. Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest, and are required to notify the Chalman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring either an Other Pecuniary Interest, or a Non-Pecuniary Interest which requires they leave the room under paragraph 16.3 of the Code of Conduct, can speak on the Item, but must leave the room before the debate and vote.

Additional Item at Public Participation - Keep Hitchin Special and Churchgate Development.

79. PUBLIC PARTICIPATION - ST MUNGO'S AND NORTH HERTS SANCTUARY Ms Gayle Jones of St Mungo's thanked the Chairman for the opportunity to address the Committee and confirmed that St Mungo's a leading homelessness charity in the South of England managed the hostel known as The North Herts Sanctuary, Nightingale Road, Hitchin.

Ms Jones advised the Committee that the existing building used by the Sanctuary was not ideal. The Sanctuary was a temporary home for 17 homeless persons who shared five bedrooms and two bathrooms, with limited communal space for meetings. Ms Jones was pleased to advise the Committee that St Mungo's had secured a grant from the Homes and Communities Agency. This meant that together with fundralsed income from the Sanctuary Trustees and St Mungo's own income there could be a rebuild of the hostet and that residents would be involved in the design brief. A steering group had approved the architects design and a planning application to the Local Planning Authority would be made soon.

The proposal would be for a 19 bed purpose built hostel with an - suite bathrooms and open plan communal areas and funding was fied to a project completion date of 31 March 2016 with commencement of works in July 2013 and Ms Jones advised that during the building phase current residents would be accommodated in another property - which had yet to be secured.

Ms Jones concluded her presentation by stating that this was a project for homeless people in North Hertfordshire and that the new building would help very much in assisting clients move into independent living. Ms Jones confirmed that the project would be subject to the local planning process that would include public consultation, and there would be advertising of the proposal following the submittal of the planning application.

The Chairman thanked Ms Jones for the presentation and invited comments or questions from the Committee, Members strongly supported the proposals for the Sanctuary and wished every success to St Mungo's for the project.

### RESOLVED:

- (1) That Ms Jones be thanked for the presentation;
- (2) That the Committee supported the proposals for the rebuilding of the North Herts Sanctuary.
- 80. PUBLIC PARTICIPATION KEEP HITCHIN SPECIAL (CHURCHGATE)
  Mr Chris Parker of Keep Hitchin Special thanked the Chalman for the opportunity to address the Committee.

Mr Parker advised the Committee that Hitchin residents and Hitchin traders associated with Keep Hitchin Special supported the previous resolution made not to support an extension to the Development Agreement with Simons Developments.

Keep Hitchin Special were concerned that Simons Developments were apparently seeking an extension of 18 months as opposed to the six months requested at the meeting of Cabinet on 1 November 2012. Concern was also expressed that Simons had apparently requested a sum in the order of £2M as an inducement for a high street retailer plus rent free and business rate free terms and if this was true then such a financial outlay was in Mr Parker's opinion scandalous.

Keep Hitchin Special proposed that the Development Agreement should not be extended. Mr Parker opined that the presentation by Simons at the Community Shop in Hermitage Road was inadequate and weak and was not appropriate from a professional developer. Keep Hitchin Special considered that the scheme sketches lacked detail and there was insufficient detail on the history of the scheme and that there had been too long a gap since the last presentation of outline scheme details by Simons.

The Chairman thanked Mr Parker for the presentation.

RESOLVED: That the representative of Keep Hitchin Special be thanked for the presentation.

81. UPDATE ON REDEVELOPMENT OF CHURCHGATE AND ITS SURROUNDING AREA—INFORMATION NOTE

AREA - INFORMATION NOTE
The Chairman referred the Committee to the Information Note of the Head of Development and Building Control which reminded the Committee that at the meeting of Cabinet held on 1 November 2012 (Minute 62 refers) it had been noted that not all information was available for the Churchgate Project and that there appeared to be no compelling reason to allow an extension of the Development Agreement by six months. The Chairman referred the Committee to the timetable at Paragraph 2.7 which gave dates of the Exhibitions by Simons Developments and other meetings that sought to provide additional information for members of the public and Councillors.

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The Chairman confirmed that the three Simons Information Days had taken place on 3, 4 and 5 January 2013 at the Community Shop in Hermitage Road, Hilichin.

The Chairman advised that the outcomes of the Information Days and the next meeting of the Churchgate Liaison Forum (9 January 2013) would be included in the report to Council scheduled for Thursday 31 January 2013 with all potential options for the Churchgate Development Project presented including financial and legal implications as well as potential timescales should a time extension to the Development Agreement be agreed by Council.

The Chairman invited comments and or questions from the Committee,

From the outset of the ensuing debate it was clear that Members were extremely disappointed that no officers were present to take questions from the Committee, Comment was made as to the paucity of information in the timetable (Paragraph 2.7) as no reference was made to Members' briefings held recently or confirmation of the date of the maeting of Full Council in January which would receive the final officers' report on the Churchgale Development Project. Also, Members were unable to ask Officers about the latest proposals by Simons Developments which would have been very helpful on this very important Issue for Hitchin. A Member queried why there was no reference in the timetable to the forthcoming exhibition by Hammersmatch on the proposals for the refurbishment of Churchgate.

The Chairman advised the Committee that as this item was an information Note it was not necessary for officers to attend the meeting. The Chairman confirmed that Full Council would meet on 31 January 2013 at the Council Offices in Letchworth Garden City at 7.30 p.m. to consider the officer's report. The officer's report would include all the information necessary to enable the Council make a decision as to whether or not to grant an extension to Simons Developments beyond 19 March 2013 and any information quoted as being in the public domain should for the moment be regarded as speculation.

A Member reminded the Committee that since the signing of the Development Agreement Simons had not made any real progress towards satisfying the conditions of the Development Agreement and were now requesting an extension of 18 months rather than the six months requested at the meeting of Cabinet on 1 November 2012 (Minute 62 refers). The Member also considered that the recent exhibition by Simons was no further forward than previous presentations, it was more akin to a bid for a new scheme.

Members were clearly frustrated at the lack of information as well as very little progress with this project over the last three years which was amplified by a Member as follows: Simons had not secured an Arichor Tenant; no Development Partner had been appointed; the scheme had yet to be confirmed as financially viable; that NHDC were required to provide funds to support financial viability (the Member advised that a sum of E2M had been mentioned by Keep Hitchin Special as an inducement to a major high street retailer and that rent free and business rate free years were also required); and finally that Simons had only provided some selective artist's impressions, some draft architectural drawings and a proposed limetable for the scheme giving an opening date of 2015 or even 2016. The Member stated that as all Local Authorities were reducing costs and NHDC was no exception he could not rationalise how NHDC could provide such financial support that was believed to be requested by Simons. It was also considered that if any extension of time was granted then NHDO would find it very difficult to refuse any further requests by Simons for additional time.

Other points raised by Members included the need for a stable financial situation to allow the project to proceed – which was not case at the moment; that it would be much more than 18 months before a project could start; there had been a lot of ambiguity in the scheme proposals with no real hypothesis; the potential for a CPO regarding the Churchgale Shopping Area would add further delay; that Simons had not listened to the views of Hitchin Residents. A Member reminded the Committee that delays to providing a full analysis of the scheme and subsequent financial viability and support from NHDC had been due to the late announcement of the financial settlement grant from Government on 19 December 2012; that the timescale must be resolved; what was the compelling reason for the Development Agreement to be extended?

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what additional information would be provided in the officers report to Council on 31 January?

The Chairman considered that the Churchgate Project was an NHDC issue and that any decision must be underwritten by the Council and that the facilities at the Council Offices in Letchworth Garden City were the most suitable to accommodate all 49 Councillors, officers and members of the public. The Vice-Chairman advised that there would only be two items on the agenda for 31 January 2013. The Vice — Chairman stated that this would be the final opportunity for all 49 NHDC Councillors to make a decision on the request for an extension to the Development Agreement after considering all the information requested by Cabinet on 1 November 2012 (Minute 62 refers).

Having listened to all the points raised and concerns expressed a Member proposed a recommendation to Council which was seconded that would confirm that based on the information available Hitchin Committee should state that they believed most strongly that no extension to the Development Agreement should be granted to Simons Developments.

On being put to the vote this resolution was unanimously approved by the Committee (eleven votes for, none against)

### RESOLVED:

- (1) That the contents of the Information Note for the Update on Redevelopment of Churchgate and Surrounding Area be noted;
- (2) That the timetable of meetings in January 2013 by Simons Developments, The Churchgate Liaison Forum and Full Council be noted:
- (3) That on the basis of information before it the Committee agreed unanimously to support a recommendation to Council that no extension to the Development Agreement should be granted to Simons Developments.

RECOMMENDED TO COUNCIL: That on the basis of information before it the Hitchin Committee believed most strongly that no extension to the Development Agreement should be granted to Simons Developments at the meeting of Full Council to be held on 31 January 2013.

#### REASON FOR DECISION:

To ensure that Council would be reminded of the views of the Hitchin Committee regarding the Churchgate Project.

### 82. HITCHIN POST OFFICE DEVELOPMENT BRIEF

The Senior Planning Officer (SPO) presented the report of the Head of Development and Building Control which was a separate volume to the main agenda and that publication had been delayed due to the second consultation period not closing until 24 December 2012.

The SPO advised the Committee that the re-opened consultation received 15 responses (compared to 69 responses in the first consultation) of which 13 were submitted on line. The Committee noted that of the filteen respondents in round 2, four had made representations previously in round 1. This gave a grand total of 80 individuals or organisations who had responded over the two rounds of consultation.

The SPO referred the Committee to Appendix A which was an updated Statement of Consultation and advised Members that there remained some missing data for the online responses to particular questions presented at the first consultation. However, the analysis did cover all responses made in the second round giving a total of 61 full analysis and 23 partial analysis. The SPO also confirmed that there was now a dedicated section in the Statement of Consultation which included responses to points raised by local interest groups and societies plus an additional appendix that included a transcript of all answers to questions raised in both rounds of consultation.

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The SPO stated that the analysis of the revised consultation responses from both rounds of consultation showed that the Issues raised were essentially the same following the analysis of the first round responses. The SPO referred the Committee to Appendix C which listed the changes between the consultation version of the Development Brief and the post consultation revised Development Brief and advised that there would be no changes to the revised draft brief as presented to the Hitchin Committee on 13 November 2012, and consequently the brief as detailed at Appendix B would be presented to Cabinet for endorsement prior to presentation to Council for adoption.

The SPO concluded his presentation with comment that in broad terms the New Homes Bonus payable for six years after completion would generate approximately £1,200 per dwelling at this site to NHDC.

The Chairman thanked the Senior Planning Officer for the report and invited comments and or guestions from the Committee.

Members congratulated the Senior Planning Officer on the report and a Member was content to support the Revised Post Office Development Brief and wait for the presentation of the planning application to the Local Planning Authority.

Another Member asked the Senior Planning Officer for a response to three specific questions.

- Request for a Community Hall within the development which had been removed from the brief.
   The SPO advised that provision for Community Halls in Hitchin was included in the NHDC Community Halls Strategy and there was no reason to include such a facility at the Post Office Site. However, if the Developer wished to propose such a facility then this could be included in the planning application.
- 2. Why was the Service Yard and the building at 71-81 Hermitage Road edjoining the current site not included in the bhar?

  The SPO and Mr Shadbolt (Developer's Representative) advised that this site was in multiple ownership of some ten owners between retail units and apartments above and it was not possible to purchase the whole block due to this complexity.
- Request for clarification of building heights along the River Hiz Walkway.
   The SPO confirmed that there would be three storeys for most of the length of the Walkway and along Portmill Lane with a proposal to retain a four storey building as a landmark building at the corner of Portmill Lane.

In response to another question the SPO advised that any allocation of Section 106 montes or unliateral undertakings would be referred to the specific planning application and linked to associated schemes.

A Member concluded the debate by welcoming the involvement of a local developer and that this development should be completed in a short time scale.

### RESOLVED:

- (1) That the Statement of Consultation presented at Appendix A that included a listing of all comments made be noted;
- (2) That the updating on changes following the second round of consultation as presented at Appendix B Post Consultation revised Development Brief be noted;
- (3) That the Schedule of Changes between the two rounds of consultation as presented at Appendix C be noted;
- (4) That the Hitchin Committee agreed for the revised Hitchin Post Office Development Brief (Appendix B) to be presented to Cabinet for endorsement.

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RECOMMENDED TO CABINET: That the revised Hitchin Post Office Development Brief be endorsed.

**REASON FOR DECISION:** 

To confirm the support of the Hitchin Committee for the revised draft Hitchin Post Office Development Brief.

83. HITCHIN TOWN CENTRE MANAGER The Hitchin Town Centre Manager (HCM) thanked the Chairman for the opportunity to address the Committee.

The HCM was pleased to report that the Christmas Lights 'Switch On' had been very successful and altracted a large crowd of spectators. A young enterprise fair had also been very successful. Next year would be difficult in many ways not least the decrease in financial support for Hitchin Initiative from several sources and the HCM advised the Committee that 2013 was the last year of BIDS for Hitchin which would need a new application for BIDS Status in 2014. The HCM confirmed that BIDS supported in cash terms a lot of good work in the town.

The HCM said that there would be a Fashion Event on 11 May, a Fairbade Event on 25 May and a food festival on 7 and 8 September, all in Market Place.

The HCM advised the Commiltee that due to unavoidable delays there would need to be a new planning application regarding works at 15 Brand Street, Hitchin which was in turn an important part of the North Heritordshire Museum and Community Facility and would provide an extra 56 square metres of floor space but not affect the proposed entrances. As there was an additional fee of £3,500 the HCM indicated that he wished to submit a grant application on behalf of the Hitchin Town Centre Initiative for a contribution towards the costs of the application fee at the next meeting of the Hitchin Committee scheduled for 5 March 2013.

Hammersmatch would be presenting to the public their proposals for the refurbishment of Churchgate at 1A Churchgard from Thursday 17 January 2013 to Saturday 19 January 2013 to which all residents and interested parties were invited.

The HCM concluded his presentation by referring to the problem of broken paving slabs and other highway problems in Hitchin Town Centre and that the precise location and aligned problem had been emailed to Herifordshire Highways and a response was awaited.

A Member enquired about reported incidents of anti – social behaviour in Hitchin at the recent Hitchin Community Surgery and the HCM confirmed that there had been odd occurrences but neither Hitchin Rangers or Pub Watch had reported any major incidents. The HCM advised that problems seemed to occur in Hitchin at events organised by outside promoters.

The Chalman thanked the Town Centre Manager for the updates and information.

### RESOLVED:

- (1) That the information on past and future events in Hilchin be noted;
- (2) That a decision on a grant application by Hitchin Town Centre Initiative as a contribution towards the costs of a planning application fee for a property at 15 Brand Street be determined at the meeting scheduled for 5 March 2013;
- (3) That the Community Development Officer be requested to liaise with the Hitchin Town Centre Manager to facilitate the above grant application.

84. MEMBERS OF THE HITCHIN COMMITTEE APPOINTED AS NHDC REPRESENTATIVES TO OUTSIDE BODIES

The Chairman invited updates or comments from Members on outside bodies,

Hitchin Educational Foundation

Councillor David Leal-Bennett advised the Committee that he had recently attended a meeting of this outside body which involved Free School Trustees. Councillor Leal — Bennett was impressed by the efficiently run meeting, a good statement of accounts, and many grants had been made to individuals. Councillor Leal-Bennett was happy to continue as the NHDC representative to the Hitchin Educational Foundation.

85. CHAMPION NEWS AND FINANCE REPORT

The Community Development Officer (CDO) presented the report of the Head of Policy and Community Services and confirmed that she had one update to the written report concerning K Entertainers. She then gave a brief summary of the activities and future events in the report with which she had been involved since the last meeting on 13 November 2012.

K ENTERTAINERS - The CDO advised the Committee that K Entertainers would be pleased to give Information on their activities and performances to any Member on request via the Community Development Officer.

BRIDGING THE GAP — There had been four sessions at Westmill where the young and not so young had undertaken art workshops culminating in an exhibition at The Lawns, and that this work would continue for the generations to bridge the perception gap with similar projects to progress the work in Westmill.

TRIANGLE RESIDENTS' ASSOCIATION — The CDO advised that due to lack of support this association would be wound up with ratification at the AGM on 4 February 2013 with a decision on dispersal of any surplus funds to a suitable organisation; It was also expected that the Comet Newspaper would soon publish an article on the achievements of the association.

HIGHWAYS MATTERS - The CDO advised Members that this item would now be included in every Champion News, The CDO referred the Committee to Appendix C - The Area Committee Work Programme which listed and track the progress of joint funded Highways Schemes or other highway issues. The Committee noted that new schemes would be logged on the work programme and referred to the appropriate Hertfordshire County Councillor for action.

There were no other highway issues raised other than at the beginning of the meeting where several Members expressed concern that there had apparently been no progress on securing anti – parking measures on grass verges in Periwinkle Lane.

Another Member enquired about the status of the petition for re-instated street lighting in Milestone Road, Hitchin and was advised that the petitioner had received a response from Hertfordshire Highways with confirmation that currently there was no proposal to change from the current arrangement of street lights being switched off between 12 midnight and 0600.

The CDO next referred the Committee to the two grant applications listed in the report (Minutes 86 to 87).

The Committee proceeded to review and determine the two grant applications as detailed at Minutes 86 to 87 below:

### RESOLVED:

(1) That the actions taken by the Community Development Officer to promote greater community capacity and well being since the last meeting of the Hitchin Committee held on 13 November 2012 be noted;

- (2) That the budgetary expenditure, balances and carry forwards from the Development Budgets and Visioning Budgets as presented at Appendix A be noted.
- (3) That the process for receiving and monitoring highway matters be agreed.

### **REASON FOR DECISION:**

- (1) To ensure that the Committee are kept informed of the work of the Community Development Officer, confirm allocation of funds and acknowledge the status of budgets:
- (2) To ensure that the procedure for receiving and monitoring highway schemes and highway issues was maintained.

### 86. GRANT APPLICATION - THE CHARLTON SOCIETY

RESOLVED: That the sum of £1,000 be awarded 'in principle' as a contribution towards the costs of installing a village sign in Charlton which would include reference to the bi — centennial Bessemer celebrations in 2013 with the proviso that this grant would not be released until the Community Development Officer had confirmation that the balance of the funds required had been achieved.

Note: The Priory Ward Members advised the Committee that Priory Ward would contribute £500 from their ward budget with the same proviso that the full cost must be confirmed before payment was made by the Community Development Officer.

REASON FOR DECISION: To support the community in and around Hilchin.

# 87. GRANT APPLICATION - HITCHIN SWIM CENTRE

RESOLVED: That there be no award of a grant to Stevenage Leisure Limited to support additional swim sessions at Hitchin Swim Centre In the summer of 2013.

#### REASON FOR DECISION:

That very few people took up the opportunity to swim outside normal opening hours in previous years and that it would not be appropriate to fund this scheme in 2013.

The meeting closed at 9.03 p.m.

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### HITCHIN COMMITTEE

Meeting held at The Main School Hall, Hitchin Boys School, Hitchin, Tuesday 5 March 2013 at 7.30 p.m.

### MINUTES

PRESENT:

Councillors: Rey Shakespeare — Smith (Chairman), R.A.C. Thake (Vice-Chairman), Alison Ashley, David Billing, Judi Billing, Paul Clark, David Leal — Bennett, Bernard Lovewell, Alan Millard,

Lawrence Oliver and Deborah Segalini,

IN ATTENDANCE:

Margaret Bracey (Community Development Officer)

Nigel Scholield (Committee and Member Services Officer),

At commencement 20 members of the public, including three

registered speakers.

88. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillors: Mrs Joan Kirby and Lisa Courts.

89. MINUTES - 8 JANUARY 2013

RESOLVED: That the Minutes of the Meeting held on 8 January 2013 be approved as a true record of the proceedings and be signed by the Chairman,

Minute 85 - Champion News and Finance Report - Highway Matters

A Member enquired what progress had been made as to the petition requesting reinstalement of street lighting in Milestone Road even though the lead petitioner had received communication from Hertfordshire Highways that there would not be any change to the current arrangements. The Member stated that the needs of Milestone Road had not been met and proposed that an officer from Hertfordshire Highways should be invited to a future meeting of the Hitchin Committee to clarify the rationale for the non lighting between 12 midnight and 06,00.

The Vice-Chairman in his role as a Herifordshire County Councillor advised the Committee that there would be a review of the street lighting programme this summer and opined that there would not be a full retraction of the current arrangements. However, it was acknowledged by Hertfordshire Highways that there had been problems in some areas - including North Hertfordshire - which would be considered as part of the review. The Vice-Chairman advised the Committee that he would ask the Executive Member for Highways and Transport for a statement on street lighting and the forthcoming street lighting review which would be circulated to all NHDC District Councillors.

Several Members expressed a view that it was essential that District Councillors should be invited to contribute to the Terms of Reference of the Street Lighting Review alongside Hertfordshire County Councillors and that the review should be agreed before it took place. Notwithstanding this request it would still be important and valid for Hertfordshire Highways to attend a future meeting of the Hitchin Committee as it would be essential for the exact review process to be clarified.

90. NOTIFICATION OF OTHER BUSINESS There were no items of other business.

91. CHAIRMAN'S ANNOUNCEMENTS

(1) The Chairman welcomed everyone to the meeting, to those speaking at Public Participation and thanked those who attended Town Talk;

(2) Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest, and are required to notify the Chairman of the nature of any interest declared at the commencement of the relevant Item on the agenda. Members declaring a

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Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the Item. Members declaring either an Other Pecuniary Interest, or a Non-Pecuniary Interest which requires they leave the room under paragraph 16.3 of the Code of Conduct, can speak on the item, but must leave the room before the debate and vote.

(3) The Chairman wished good luck to all candidates in the forthcoming County

Council elections on Thursday 2 May 2013.

92. PUBLIC PARTICIPATION - HITCHIN FORUM - HOUSING OPTIONS

Mr Gurney thanked the Chairman for the opportunity to address the Committee and confirmed that he was speaking as leader of the Planning Group of Hitchin Forum with regard to the latest housing options proposed for North Hertfordshire.

Mr Gurney had four points he wished to raise: 1. Process, 2. Hitchin, 3. South West of Hitchin and 4. Possible ways forward. Hitchin Forum was concerned that the approach taken by NHDC to receive speculative proposals from landowners and developers could result in poorly planned development which would be concentrated in areas of greatest sensitivity and ensuing infrastructure problems.

With regard to Hilchin Mr Gumey considered that Hilchin had very few sites left for housing and that Hilchin had taken some 60 per cent of the population increase in the four North Herts towns in the last ten years — mostly flats — and if Hilchin had to take more homes then the proportion would be some 2,700 new dwellings to meet local needs and migration. Hilchin Forum were very concerned about the possible expansion of sites on the edge of towns and into the Green Belt which had major accessibility problems for example Hilchin to Letchworth and Hilchin to Stevenage.

Mr Gurney opined that taking land for housing to the south west of Hilchin would be unacceptable for three reasons: Preserving the setting and character of historic towns; Safeguarding the countryside and Green Belt from encroachment; and Prevention of Encroachment Into the Countryside, Any development would double size of Hilchin and Increase the population by some 50 per cent with the necessary changes to transport and services for such an increase. Mr Gurney referred the Committee to the Council's Landscape Sensitivity Study which Inter alia suggested that even a very limited development outside Hitchin in the Green Belt would have an unacceptable impact and that the area of countryside around Hitchin was important for recreation. Just as important were the spaces maintained between Hitchin and Stevenage with the villages/hamlets of St. Ippolyts, Gosmore, Charlton, Little Wymondley and Timore Green contributing much to the rural character of this area.

Hitchin Forum considered that Hilchin had reached its environmental capacity and was constrained by its historic centre and setting and housing needs would have to met from land within the Green Belt. Mr Gurney referred the Committee to the map projected onto the screen which had the housing option siles added and this showed very clearly that the triangle of Letchworth, Hitchin and Stevenage was under great pressure and would become very congested.

Mr Gurney concluded his presentation by proposing that a new settlement north of Hilchin should be considered in a sustainable location with appropriate transport provision. This proposal was supported by the National Planning Policy Framework in the support for the building of separate new developments on Garden City principles and that either Bedfordshire to the north or to the north — east between Royston and Cambridge could be worth consideration due to a growing economic base and employment potential.

The Chairman thanked Mr Gurney for the presentation and several Members were pleased to have the problem of housing options in and around Hitchin highlighted. A Member suggested that there was a need to be more proactive on other areas to those proposed. Another Member considered that it was not what was on the plan. It was more the aspirations of Stevenage, Luton and Mid Beds that would be problematic, and there was the threat of such outside authorities encroaching on land within North Herts of Luton east of the airport. Concern was expressed over the true target for dwellings for North Herts, was if 8,400 or 10,700, there would be pressure to build more houses and large swathes of land could be swallowed up.

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Another Member suggested that Councillors should encourage residents to participate in the consultation. The Committee agreed that there should be no linking up of towns and loss of the Green Belt e.g. Hitchin to Stevenage and Hitchin to Letchworth and Letchworth to Baldock.

RESOLVED: That Mr Gurney and Hitchin Forum be thanked for the presentation:

93. PUBLIC PARTICIPATION - RHYTHMS OF THE WORLD FESTIVAL 2013

Mr Smither thanked the Chairman for the opportunity to address the Committee.

Mr Smither reminded the Committee that the 2012 ROTW Festival at The Priory had been badly affected by bad weather, there had been a lot of damage to the grounds and unfortunately The Priory had declined to have the Festival back again. By the time this decision had been taken it was too late to book an alternative venue even if a suitable venue could be found. The Queen Mother Theatre was fully booked due the closure of Hitchin Town Hall and Plinston Hall in Letchworth. Mr Smither confirmed that ROTW would remain in or very near Hitchin but for 2013 it was considered that the best course of auton would be to hold some form of entertainment in Hitchin,

Consequently a decision had been made to hold a Family Funday on Sunday 14 July in the Market Place to keep the spirit of ROTW alive, maintain contact with over 800 volunteers and keep to the charitable objectives of the Festival. Mr Smilher confirmed that there would no other location in the town used for the Funday.

Although there was a balance of £40,000 in the funds for future Festivals Mr Smither advised the Committee that the Festival Trustees did not think it appropriate to release funds to support the Funday — hence the Grant Application. The Funday would be for family activities, young people performances, Voice of Hitchin Youth talent competition, choirs and small scale clique workshops using a small stage between 11.00 and 16.00, (allowing for build before 11.00 and break down after 16.00) but no bands. Mr Smither advised that there would be some performances in St Marys Church on the Funday and that there would be events at Club 85 throughout the year.

Ms Liz Barclay addressed the Committee and advised that the past four years of Family Fundays at ROTW were very successful and were very important to the local community. The ROTW Committee did not wish to have a festival gap in peoples' lives and more volunteers were needed.

The Chairman thanked Mr Smither and Ms Barclay for the presentation and a Member enquired if the Council had been approached about the need for a licence and Mr Smither responded with confirmation that this Funday would be covered under the Town Centre licence issued by the Town Centre Manager. Nevertheless the Member suggested that it would be good practice to consult with the Council's Licensing Manager to ensure that all conditions for public performances would be met.

A Member whilst accepting the need for prudency on part of the Trustees expressed disappointment that no funds would be released from the balance of £40,000. Mr Smither understood the Members point of view but the reserves had to be kept for initial costs that would be incurred for 2014, and there were still ongoing negotiations on a new site that was near Hitchin and the Festival would not go to Luton or Knebworth. Mr Smither was encouraged to approach other possible funders such as Hitchin BID and Hitchin Markets Limited

### RESOLVED:

- (1) That Mr Smither and Ms Barclay be thanked for the presentation;
- (2) That the Committee supported the proposals for the Family Funday on 14 July in Hilchin Market Place;
- (3) That a decision on the Grant Application be made at Agenda Item 10.

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94. PUBLIC PARTICIPATION - DISABLED CAR PARKING IN WEST ALLEY, HITCHIN Mr C. Dunham thanked the Chairman for the opportunity to address the Committee.

Mr Dunham was most concerned about the state of West Alley Car Park during bad weather such as snow and ice. A disabled driver had become stuck in snow this winter due to the non clearance or gritting of the snow and ice in this car park. Fortunately Hilchin BID Rangers were able to assist the disabled driver and had cleared a lot of the snow and ice.

Mr Dunham considered that West Alley Car Park should be cleared of snow and ice in bad weather as a priority.

The Chairman thanked Mr Dunham for the presentation and read from an officer briefing note:

'Thank you for your enquiry regarding the gritting of West Alley car park. I have spoken to the relevant officers regarding this and they have informed me that this does take place on occasion when other priority routes have been gritted and this will continue to take place. However, gritting the car park was only half of the problem as for the car park to be gritted and for it to be beneficial the grit needs to be spread out before any snowlice event takes place and then once the snowlice has fallen the grit needs to be mixed up with the snowlice which would mean the car park would need to be in constant use which is not always the case.

I would like to assure you, however that West Alley car park will still be gritted after priority routes have been addressed.

RESOLVED: That Mr Dunham be thanked for the presentation.

95. UPDATE ON REDEVELOPMENT OF CHURCHGATE AND ITS SURROUNDING AREA - INFORMATION NOTE

The Chairman referred the Committee to the Information Note which was an update since the decision made by Council on 31 January 2013 (Minute 96 refers) that the Development Agreement with Simons Developments should not be continued beyond 20 March 2013.

The Chalman advised the Committee that until 20 March 2013 and assuming no material changes before that date then the Council would advise Simons in writing that the Development Agreement has been terminated. Officers would then prepare a project closure report for the Churchgate Project Board and then report to Full Council in June 2013 on alternative options placed before Council on 31 January 2013.

Following the introduction several Members expressed disappointment (Minutes passim) again that no officer was available to present this Information Note. A Member considered that there was a paucity of information and it was unfortunate that there was no mention of the petition against Churchgate (over 3000 signatures) nor the attendance of nearly 100 objectors at the meeting of Council on 31 January 2013 in the Information Note, what meetings had been held since 31 January 2013 and that Hitchin Committee should be advised of the outcomes of these meetings.

Another Member enquired if there had been any development on the alternative options presented to Council on 31 January 2013 and whether officers would be advising this Committee of progress towards the options.

A Member who was on the Churchgate Project Board advised that a meeting of the Board was held on 13 February 2013 and the next meeting was scheduled for 25 March 2013. This Member also considered that the details in the Information Note were inadequate, there was huge public concern as evidenced by the petition, Councillors had changed their minds about Simons Developments, the change in the UK economic climate, twice opposed by this Committee but there should be no detraction from the need for the redevelopment of the Churchgate and Surrounding Area. There should be origoing work by officers to ensure that this development project did not lose momentum and that there should be strong political support from

HITCHIN (5,3,13)

the Administration and the two other political parties for the project. The Member thought that it was not helpful to the residents of Hitchin that officers considered that there was likely to be a delay of more than ten years on this project:

The Chairman acknowledged the strong views expressed by the Committee and agreed to present these views on behalf of the Committee at the meeting of Council provisionally scheduled for 27 June 2013 when the Churchgate Project closure report would be presented.

### RESOLVED:

- (1) That the contents of the Information Note for the Update on Redevelopment of Churchgate and Surrounding Area be noted;
- (2) That the Chairman of the Hitchin Committee should present at the meeting of Council provisionally scheduled for 27 June 2013 the strong views expressed at this meeting that there should not be any delays in preparing alternative options for Churchgate;

### REASON FOR DECISION:

To ensure that Council would be advised of the views of the Hilchin Committee that the Churchgate Project should not lose momentum.

86. KING GEORGE V PLAYING FIELDS, OLD HALE WAY, HITCHIN TRUST - INFORMATION NOTE
Declarations of Interest

- 1. Councillor Bernard Lovewell advised the Chairman that he had been appointed as a Trustee of the King George V Playing Fields Trust and that he would take the advice of the Acting Monitoring Officer and leave the room for the duration of the Item.
- 2. Councillors Paul Clark and David Leal Bennett advised the Chairman that they were Vice Chairman of Hitchin Rugby Club and declared a personal non-pecuniary interest and would remain in the room for the duration of the Item.
- 3. Councillors Richard Thake, Alan Millard and Lawrence Oliver declared a personal non pecuniary interest as they were appointed to represent NHDC on the Hitchin Rugby Football Club Joint Management and Advisory Committee and would remain in the room for the duration of the meeting

The Chairman referred the Committee to the Information Note provided by the Head of Finance, Performance and Asset Management that provided information on the Trust arrangements for King George V Playing Fields.

The Chaliman advised the Committee of the appointed trustees and the proposals for the Hilchin Rugby Clubhouse and the hut leased by 5<sup>th</sup> Hitchin Scouts. In both cases there would need to be a lease surrender and new leases entered into.

In response to a question the Vice - Chairman advised that the first meeting of the Trustees was scheduled for 28 March 2013.

RESOLVED: That the Information regarding King George V Playing Fields Trust be noted.

### 97. HITCHIN TOWN CENTRE MANAGER

Declaration of Interest:

Councillor Judi Billing declared a personal non — pecuniary interest as a Director of Hilphin initiative and advised that she would remain in the room for the duration of this item.

The Hilchin Town Centre Manager (HCM) thanked the Chairman for the opportunity to address the Committee and advised the Committee that this was the last year of Hilchin BID and a new tender for renewal would be made in February 2014. Also Hilchin Market Traders Ltd would be re-tendering to NHDC for renewal this August and Mr Hoskins hoped that the Council would be able to support this venture and perhaps provide more financial support. Hitchin Initiative would commence on a major fund reising effort as this was the last year of core funding from NHDC.

The HCM informed the Committee that the 2013 Hitchin Festival would run from 28 June until 24 July with the ROTW Family Funday taking place on Sunday 14 July.

The HCM advised that with respect to the Old Post Office site in Hermitage Road he had met with Whitebam Developments on 4 March 2013 and that the developer would be pleased to make a presentation to the Hitchin Committee and Hitchin Community Groups. With regard to Hammersmatch the HCM confirmed that dialogue was ongoing with Hitchin Market Traders and that the appointed Hammersmatch architect had assured the Market Traders there would be a more concerted effort to meet with the wishes and aspirations of the traders in relation to a location for the Market. The HCM was confident that a result could be achieved for both sites and there was no need to go back to 'square one' for Hitchin Town Centre Improvements.

Mr Hoskins advised that he would be pleased to use his office in Churchyard as a poste restante for the transfer of mall between the Council and the Initiative. Also, there had been in the last few weeks an increased shoppers foolfall on a Sunday in Hitchin and that the opening of The Lairage Car Park on a Sunday would help to alleviate the pressure on town centre car parks.

The HCM concluded his presentation by inviting Councillors to a business networking meeting on 13 March at 6pm at The Priory.

# RESOLVED:

- (1) That Mr Hoskins be thanked for the presentation;
- (2) That the details on Hitchin BID, Hitchin Initialive and Hitchin Festival be noted.
- 98. MEMBERS OF THE HITCHIN COMMITTEE APPOINTED AS NHDC REPRESENTATIVES TO OUTSIDE BODIES

  The Chairman invited updates or comments from Members on outside bodies.

There were no updates.

99. CHAMPION NEWS AND FINANCE REPORT

The Community Development Officer (CDD) presented the report of the Head of Policy and Community Services and gave a brief summary of the activities and future events in the report with which she had been involved since the last meeting on 8 January 2013. The Committee noted that the Triangle Residents association had been wound up with a balance of funds going to the Triangle History Group and Triangle Community Garden. The CDO advised that she was hopeful to arrange further meetings of the North Herts Minority Forum with NHDC Councillors. The CDO reterred the Committee to Paragraph 8.5 and the updating on Bandroft Gardens and that an application to the National Lottery - Parks for People grant would be presented in February 2014.

Members expressed concern again (Minutes passin) about delays to the Bandroft Project and that the process was taking far too long. A Member questioned why a consultant would be appointed by tender for a stage one lottery application when officers were well experienced in tender specifications due to previous work for the redevelopment of Howard Park and Gardens in Letchworth Garden City. Also, as the Bandroft Project was specific to Hilchin It was suggested and agreed that the Committee should have sight of and an input into the tender specification bearing in mind the Master Plan for Bandroft Gardens which remained extant. Another Member was dismayed that there would not be a lottery application until February 2014 which meant even more delay beyond this date before any works could commence as prequalification and tenders for the works would have to be issued.

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The Community Development Officer referred the Committee to Appendix B and In particular to the highways aspect and whether there were any questions from Members. A Member requested that as there was no mention of the Restricted Overnight Parking In the Hitchin Industrial Area and surrounding roads this issue should be included. The Chairman referred to previous discussions on measures to stop verge parking in Pertwinkle Lane and that to place traffic restrictions (such as double yellow lines) and bollards at the verge edges would require public consultation with an estimated cost of £3,000. The Chairman in his role as a Heritordshire County Councillor would provide £1,500 from his locality budget if the Hitchin Committee could allocate £1,500 from the Discretionary Budget. This proposal was agreed but local Ward Members requested that they be involved at all stages of the consultation and any future site visits with Heritordshire Highways.

Another Member enquired about the introduction of 20 m,p,h. restricted areas in Hitchin and had a date been set for implementation. The Vice — Chairman advised the Committee that the County Council would be conducting a review of speed limits and policy and strategies soon and the Chairman advised that the County Council Scrutny Committee had proposed to appoint a Task and Finish Group that would review the County Council transport policy and strategies (including speed limits) and it was expected to invite NHDC Councillors and other District Councillors to attend this Task and Finish Group.

The CDO next referred the Committee to the grant applications listed in the report at Appendices C to H respectively

The Committee proceeded to review and determine the grant applications as detailed at Minutes 100 to 103 below.

### RESOLVED:

- (1) That the actions taken by the Community Development Officer to promote greater community capacity and well being since the last meeting of the Hitchin Committee held on 8 January 2013 be noted;
- (2) That the budgetary expenditure, balances and carry forwards from the Development Budgets and Visioning Budgets as presented at Appendix A be noted.
- (3) That the details of the Hilchin Area Committee Work Programme and Highways Schemes as presented at Appendix B be noted.
- (4) That the sum of £1,500 be allocated from the Discretionary Budget towards the cost of consultation for traffic control measures in Perlwinkle Lane. Hitchin subject to a matching sum provided by the Hertfordshire County Councillor for Hitchin North;

#### REASON FOR DECISION:

- (1) To ensure that the Committee are kept informed of the work of the Community Development Officer, confirm allocation of funds and acknowledge the status of budgets;
- (2) To ensure that the procedure for receiving and monitoring highway schemes and highway issues was maintained.

# 100. GRANT APPLICATION - WALSWORTH FESTIVAL 2013 Declarations of Interest

Councillors Ray Shakespeare – Smith, Bernard Lovewell and Alan Millard each declared a Disclosable Pecuniary Interest as they were members of the Walsworth Festival 2013 Management Committee and advised that they would leave the room for the duration of this grant application.

HITCHIN (5.3.13)

RESOLVED: That the sum of £1,000 be awarded as a contribution towards the costs of the Walsworth Festival in 2013.

REASON FOR DECISION: To support the local Walsworth Community.

# 101. GRANT APPLICATION - VAISAKHI PROCESSION 2013

RESOLVED: That the sum of £1,000 be awarded as a contribution towards the costs of the Valsakhi Procession through Hitchin in 2013:

REASON FOR DECISION: To support the Valsakhi Procession in 2013.

# 102. GRANT APPLICATION - YOUNG PEOPLE OF THE YEAR AWARDS 2013

RESOLVED: That the sum of £300 be awarded as a contribution towards the costs of the Young People of the Year Awards in 2013.

REASON FOR DECISION: To support the Young People of the Year Awards in 2013.

# 103. GRANT APPLICATION - RHYTHMS OF THE WORLD FESTIVAL 2013

RESOLVED: That the sum of £1,500 be awarded to the ROTW Fun Day Committee as a contribution towards the costs of the Family Funday on 14 July in 2013.

REASON FOR DECISION: To support the Family Funday on 14 July 2013 and the Hilchin Community in Hilchin in 2013.

The meeting closed at 9.12 p.m.

Chalman .....





BIF

# Jill Welshman

From:

Liz Green

Sent

08 February 2013 10:28

To: Cc:

David Scholes

Subject:

Jill Welshman

15 Brand Street and advice from Margaret M

Importance:

High

Attachments:

RE: Grant funding Hitchin Area Committee; Grant application - 15 Brand Street

#### David

I hope Herts Forward was good - as I was tied up almost all day yesterday with the grants review, I chose to leave it to Kate and our shadow policy officer, Helen Rix, to go along and for me to get a few bits of more pressing work done

I have had Margaret M's advice, as has Clir Thake, which broadly supported verballm my original advice, but strengthened by her own experience of the development agreement. Her response attached,

ve spoken this moming with John R, who tells me that you have some 'concerns' about the planning application eas etc, something I know Nigel had mentioned to me, as we have not yet agreed the incorporation of number 15 brand street.

As this is SO sensitive, I have drafted an email to Keith explaining why we will not receive a grant request from him, still subject to decision etc, as also attached. I am emailing him as I know from experience having spoken to him about other 'constitutional' type issues, the powers or not that the HAC may have, that his relaying of them is often open to broad interpretation, and at times misinterpretation, so am keen he has it clearly in writing in case of any challenge.

Are you happy for me to proceed with this and in this way please, as we have not had chance to catch up on the planning side of this particular 'issue'?

Thanks Regards

RE: Grant funding Grant application -Hitchin Area... 15 Brand 5...

# Jill Welshman

From: Sent: Margaret Martinus 07 February 2013 13:31

To: Cc: 'Richard Thake'; Clir Richard Thake

Liz Green; Margaret Bracey

Subject:

RE: Grant funding Hitchin Area Committee

Attachments:

GrantCritAndForm12Revision (2).doc

Dear Councillor Thake,

Apologies for not coming back to you sooner but there were problems with the servers this morning

I have not had sight of any grant application form describing the amount of grant applied for or purpose of the grant. However, based upon the draft minutes of the last Hilchin Area Committee, my understanding is that a potential application relates to:

application relates to:
"The HCM advised the Committee that due to unavoidable delays there would need to be a new planning application regarding works at 15 Brand Street, Hitchin which was in turn an important part of the North Heritordshire Museum and Community Facility and would provide an extra 56 square metres of floor space but not affect the proposed entrances. As there was an additional fee of £3,500 the HCM indicated that he wished to submit a grant application on both of the Hitchin Town Centre Initiative for a contribution towards the costs of the application fee at the next of the Hitchin Committee scheduled for 5 March 2013."

Et. halt

"That a decision on a grant application by Hitchin Town Centre Initiative as a contribution towards the costs of a planning application fee for a property at 16 Brand Street be determined at the meeting scheduled for 5 March 2013;"

Having examined the relevant Constitutional terms of reference for the Hitchin Area Committee (To allocate discretionary budgets within the terms determined by the Council) and the Council's approved grant criteria (edition dated April 2012 and attached to this e-mail below), I do not consider that a grant application for the above reasons would be likely to meet the tests set down by the current criteria approved by Council.

Undoubtedly, each grant application should be considered on its individual ments but they do need to be assessed against the agreed criteria that has been set out in the policy document. This ensures that decisions are taken fairly, consistently and within agreed and auditable guidelines.

n addition to the other concerns highlighted by Liz Green, contributions towards planning application fees (or any other regulatory applications) do not appear as an approved category under the current criteria (and I am sure you can appreciate the possible rationale behind this). Further, having been involved on the legal side for the Development (greenent (DA) for the project, I am aware that Hitchin initiative is not a party to the agreement. Under the current or interia, the grant application must relate to matters or activities that the applicant is directly progressing. Also, I am way that there is no formal decision by the Council, as yet, to include 15 Brand Street Into the scheme.

A pave some discomfort about the use of the grant process to fund contribution towards a planning application fee there the Council is also the Local Planning Authority AND a joint majority partner for this project under the terms of a igned DA.

am sorry that I could not be more helpful at this time. For the reasons I have stated, I am not of the view that the rant process is the correct process to help here. The correct process is for any further financial funding needed from the Council for this scheme, to be dealt with in any future approvals by Council for proposals to include 15 Brand treet into the scheme.

nd regards, argaret

argaret Martinus enior Lawyer

ect Dial 01462 474268
rth Heritordshire Disirict Council
uncil Offices
mon Road
chworth Garden City
6 3JF

garet martinus@north-herts.gov.uk w.north-herts.gov.uk



From:

Margaret Bracey

Senb To:

04 February 2013 17:38 Margaret Marbous

Cc: Subject:

Liz Green; 'Richard Thake' Grant funding Hitchin Area Committee

### Margaret

Councillor Richard Thake has asked me to pass you the attached email correspondence he has had with Liz Green re a grant application to Hitchin Area Committee. Richard would like to get this 'bottomed out' and an 'interpretation of the due process in order for him to resolve the issue'.

The next meeting of Hilchin Area Committee is on Tuesday 5th March 2013,

Margaret << Message: RE: Application for grant funding for the Hitchin Initiative - planning permission costs for 15 Brand Street >>

Margaret Bracey

Community Development Officer (Hitchin)

Direct Dial: 01462 474830

Mobile:

North Hertfordshire District Council Council Offices Gernon Road Leichworth Garden City Hertfordshire SG6 3JF

margaret bracey@north-herts.gov.uk www.north-herts.gov.uk



# Jill Welshman

To: Subject: 'HTCI Info'

Grant application - 15 Brand Street

Hi Keith

Good morning

I note from reviewing the minutes of the previous Hitchin Area Committee in readiness for the next meeting that

"The HCM advised the Committee that due to unavoidable delays there would need to be a new planning application regarding works at 16 Brand Street, Hitchin which was in turn an important part of the North Heritordshire Museum and Community Facility and would provide an extra 56 square metres of floor space but not affect the proposed entrances. As there was an additional fee of £3,500 the HCM indicated that he wished to submit a grant application on behalf of the Hitchin Town Centre Initiative for a contribution towards the costs of the application fee at the next meeting of the Hitchin Committee scheduled for 5 March 2013."

And that further, the committee recommendation read:

"That a decision on a grant application by Hitchin Town Centre Initiative as a contribution towards the costs of a Single Initiative as a contribution fee for a property at 15 Brand Street be determined at the meeting scheduled for 5 March 2013;"

( u...ught it would be useful to clarify the position with regard to any such grant application being made to the Hilchin Area Committee please:

I have had it confirmed to me that such an application would be outside the Constitutional terms of reference for the Hilchin Area Committee (To allocate discretionary budgets within the terms determined by the Council) and the Council's approved grant criteria ( edition dated April 2012), and hence any such grant application for the above reasons would be unlikely to meet the tests set down by the current criteria as approved by Council.

Further, and more importantly, the incorporation of number 15 Brand Street into the development scheme is still subject to formal decision by Cabinet/Council.

For these reasons I would therefore suggest that the best approach here would be to incorporate any costs of additional planning fees into the overall project development costs, and any associated additional costs, which will be incorporated into any formal report requesting members' agreement to proceed with a development which then includes number 15 Brand Street too please.

I am out of the office this afternoon, but more than happy to discuss any other time Kelth if necessary - just let me know.

Z

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# Jill Welshman

From: Sent: Margaret Martinus

Sent: To: 06 February 2013 16:58

Subject:

David Scholes, John Robinson FW: Grant funding Hilchin Area Committee

Attachments:

Grant Guidance Doc for Community Groups and Local Organisations

DavidiJohn,

Could I please have your comments on this proposed advice to Cilr Thake. I also altach the guidance. In view of the meeting with HTH today with John, I fear some criticism in causing a hurdle to the HAC.

"Dear Councillor Thake,

I have not had sight of any grant application form describing the amount of grant applied for or purpose of the grant. However, based upon the draft minutes of the last Hilchin Area Committee, my understanding is that a potential application relates to:

"The HCM advised the Committee that due to unavoidable delays there would need to be a new planning application regarding works at 15 Brand Street, Hitchin which was in turn an important part of the North Hertfordshire Museum and Community Facility and would provide an extra 56 square metres of floor space but not affect the proposed pices. As there was an additional fee of £3,500 the HCM indicated that he wished to submit a grant application on the Hitchin Town Centre initiative for a contribution towards the costs of the application fee at the next

meeting of the Hitchin Committee scheduled for 6 March 2013." and that:

"That a decision on a grant application by Hitchin Town Centre initiative as a contribution towards the costs of a planning application fee for a property at 15 Brand Street be determined at the meeting scheduled for 5 March 2013;"

Having examined the relevant Constitutional terms of reference for the Hitchin Area Committee (To allocate discretionary budgets within the terms determined by the Council) and the Council's approved grant criteria (edition dated April 2012), I do not consider that a grant application for the above reasons would be likely to meet the tests set down by the current criteria approved by Council.

Undoubledly, each grant application should be considered on its individual ments but they do need to be assessed against the agreed criteria that has been set out in the policy document. This ensures that decisions are taken fairly, consistently and within agreed and auditable guidelines.

In addition to the other concerns highlighted by Liz Green, contributions towards planning application fees (for any other regulatory applications) do not appear as an approved category under the current criteria (and I am sure you can appreciate the possible rationale behind this). Further, having been involved on the legal side for the Development agreement (DA), for the project; I am aware that Hitchin initiative is not a party to the agreement. Under the current criteria, the grant application must relate to matters or activities that the applicant is directly progressing. Also, I am that there is no formal decision by the Council, as yet, to include 15 Brand Street into the scheme.

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ind regards, to"



nt Guidance Doc for Communi...

igards, irgaret irgaret Martinus

# Senior Lawyer

Direct Dial 01462 474268 North Herifordshire District Council . Council Offices Gemon Road Leichworth Garden Cily SG63JF

margareLmartinus@north-herts.gov.uk www.north-heifs.gov.uk

From:

Norma Allay

Senti

06 February 2013 14:58

Subject:

Margaret Martinus

RE: Grant funding Hibblin Area Committee

#### Margaret,

A couple of minor typos below in magenta. Has Richard got a copy of the grant criteria? As they are referred to in your email, he may ask so it may be an idea to attach a copy? I'd also suggest tunning it past DS and JR for awareness before it goes as it was raised at a meeting the 3 of us had yesterday.

Thanks,

Norma

From: Senti

Margaret Martinus 06 February 2013 13:08

Norma Allay

To: Subject

RE: Grant funding Hitchin Avea Committee

Hi Norma,

Nigel Scholfield is pressing me for a response by noon tomorrow because he needs to get the agenda out?

I hope you can provide me with any thoughts by their and sorry for this short timescale. I am out on HTH business all this pm, so will deal with your comments on my return.

Many thanks.

Regards, Margaret

From:

Liz Green

Senti

06 February 2013 09:38

Tol

Subject:

Margaret Martinus; Norma Atlay RE: Grant funding Hitchin Area Committee

### Thanks Margaret

That is great and clear to me that we are thinking along the same lines; I do like the fact that you have reiterated the relative roles of the HTH group lid and the Hitchin Initiative, since as you know I have concerns why one is telling us they do not need more money, the other is asking for money.

What I do Intend to do, as part of our audit of grants etc shortly, is to ensure that we are absolutely explicit within the policy what we will NOT fund, i.e. regulatory fees, as there is a potential conflict there of our two roles - regulatory and community - as we discussed yesterday. And following that to roll out the policy again across the authority, as a reminder to both officers and members that one does exist.

# Regards

liz

Fram:

Margaret Martinus

Sent

06 February 2013 09:22

Norma Allay: Liz Green

Subject:

FW: Grant funding Hitchin Area Committee

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### Hi Norma/Liz,

This is my draft response to Cilr Thake for your comments. I have not consulted on the proposed response with David ... Scholes or John Robinson, Please let me know if you think I ought to. Also, I am not sure if we can/should suggest any other possible solution for them? Many thanks. Margaret

From: Sent

To:

Margaret Bracey 104 February 2013 17:38 Margaret Martinus Uz Green; '(Nchard Thake' Grant funding Hitchin Area Committee

Cc: Subject:

### Margaret

Councillor Richard Thake has asked me to pass you the attached small correspondence he has had with Liz Green re a grant application to Hitchin Area Committee. Richard would like to get this 'boltomed out' and an 'interpretation of the due process. In order for him to resolve the Issue'.

The next meeting of Hilchin Area Committee is on Tuesday 5th March 2013.

paret << Massage: RE: Application for grant funding for the Hilchin initiative - planning permission costs for 15 Brand Street >>

Margaret Bracey

Community Development Officer (Hitchin)

Direct Dial: 01462 474830 Mobile:

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nargaret.bracey@north-herts.gov.uk www.grth-herts.gov.uk



### Jill Welshman

From: Sent: Sharon Nahal on behalf of John Robinson

Sent: To: 12 November 2014 14:28 Anthony Roche; David Scholes

Subject

FW: Confidential

FIRE-DIS

Importance: Sensitivity:

High

Confidential

Dear Both,

Please see corrected typo below.

Regards



From: Sharon Nahal On Behalf Of John Robinson Sent: 12 November 2014 11:16 To: David Scholes; Anthony Roche Subject: Confidential Importance: High Sensitivity: Confidential

### David (& Anthony),

A brief note to confirm my update following yesterday's Hitchin Area Committee agenda meeting which was chalred by Councillor Leal-Bennett - Councillor Segatini was absent.

#### Councillor Leal-Bennett advised:

- That Hilchin Town Hall Ltd would be making a presentation to Hilchin Area Committee but also that he did not know what the content of that presentation would be. I indicated that if malters referred to were prejudicial to the Council's interest Members would be advised not to debate or comment on them without an Officer report under Part 2 conditions if necessary.
- Councillor Leal-Bennett confirmed that he was still a Director of Hitchin Town Hall Ltd but intimated that he was not aware of the 'discussion they are having'.
- Councillor Leal-Bennett also indicated that he intended to stay in the meeting for the duration of the agenda item
  on Hitchin Town Hall Lid/North Hertfordshire Museum and would declare an interest. He did not feel that this
  interest precluded him from remaining in the room.

Other Officers present at the meeting were: Nigel Schofield, Claire Morgan, Liz Green, Andrew Mills, Steve Geach.

### Regards

John

3.6 - Decision Making

124

# NORTH HERTFORDSHIRE DISTRICT COUNCIL

### MINUTES

Meeting of the Council held in the Council Chamber, Council Offices, Gemon Road, Letchworth Garden City on Thursday, 12 February 2015 at 7.30pm

### PRESENT:

Councillors Tricia Cowley (Chairman), R.L. Shakespeare-Smith (Vice-Chairman), Mrs A.G. Ashley, A. Bardett, Clare Billing, Judi Billing, John Booth, P.C.W. Burt, Paul Clark (until 9.00pm), Julian Cunningham, Bill Davidson, Jane Gray, Jean Green, Gary Grindel, John Harris, Simon Harwood, Steve-Hemingway, Fiona Hill, T.W. Hone, Tony Hunter, Sal Jarvis, S.K. Jarvis, David Kearns, Lorna Kercher, Joan Kirby, David Leal-Bennett, David Levett, Bernard Lovewell, Sandra Lunn, Ian Mantle, Alan Millard, Gerald Moms, M.R.M. Mulr, Mrs L.A. Needham, Frank Radoliffe, Mike Rice, Deepak Sangha, Deborah Segalini, Adrian Smith, Mrs C.P.A. Strong, R.A.C. Thake and Michael Weeks.

### IN ATTENDANCE:

Chief Executive, Strategic Director of Customer Services, Strategic Director of Finance, Policy and Governance, Accountancy Manager, Acting Corporate Legal Manager, Democratic Services Manager and Committee and Member Services Manager.

### ALSO PRESENT:

15 members of the public.

# 62. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors D.J. Barnard, John Bishop, Faye Frost, Cathryn Henry, Ben Lewis, Jim McNally and A.D. Young.

# 63. MINUTES

It was moved by Councillor Mrs L.A. Needham, seconded by Councillor T.W. Hone, and

RESOLVED: That the Minutes of the meeting of the Council held on 22. January 2015 be approved as a true record and signed by the Chairman.

# 64. NOTIFICATION OF OTHER BUSINESS

No additional business was presented for consideration by the Council.

#### 65. CHAIRMAN'S ANNOUNCEMENTS

## (1) Long Service Awards

# (a) Karl Wilkins

The Chalman announced that Karl's first jobs were in engineering and then printing and book keeping. However, he always had a keen interest in trees and in 1990 at the age of 26 he joined the Council as an apprentice tree surgeon. He was quick to learn and within 9 months he was promoted to charge-hand.

When the tree maintenance service was contracted out, Karl branched out to provide temporary cover for the Council's Client Tree Officer post. He was then appointed Tree Strategy Officer and, on the retirement of the Tree Officer, Karl took on this role and now singlehandedly managed all of the Council's tree works.

Outside work, Karl lived happily with his partner Gina and their teenage son Sem. Karl had a diverse range of hobbies, including motorbikes, keeping Koi

COUNCIL (12.2.15)



Carp and attending Rock concerts. However, his favourite pastime was called 'Air Soft'. This was very much an adult version of paint-balling where Karl enjoyed eliminating his opponents by hitting them with non-metallic pellets launched via replica firearms called Airsoft guns.

### (b) lan Fullstone

The Chairman advised that Ian Joined North Herts District Council in February 1990 as an Assistant Building Control Surveyor and progressed his career through internal promotions until he became Building Control Manager in 2006 and then Head of Development and Building Control in 2009.

Ian had always applied his commercial acumen to the approach of his team because Building Control had, for many years, been in competition with the private sector. Ian's team had run building control contracts for many specialised areas of construction throughout the country and had been an industry leader in the construction of new hospital complexes.

lan was currently Project lead for the "Hertfordshire 7" initiative which was developing the business case for 7 Councils to join forces for Building Control services and create a commercial trading division.

It was moved by the Chairman, seconded by Councillor Mrs L.A. Needham, and

RESOLVED: That the Council places on record its sincere thanks to Karl Wilkins and Ian Fullstone for their long and valuable service to local government in North Hertfordshire.

The Chairman announced that Karl and lan had been unable to attend the meeting, but that she would ensure that their awards were passed to them in the near future.

# (2) Declarations of Interest

The Chairman reminded Members that, in line with the Code of Conduct, any Declarations of interest needed to be declared immediately prior to the Item in question.

### (3) Mr David Payne - Hammersmatch

The Chairman had the sad duly to report that the Managing Director of Hammersmatch, had passed away on 29 January 2015. She undertook to pass on the Council's condolences to Mr Payne's family and colleagues.

#### 66. PUBLIC PARTICIPATION

Mr Robin Dartington (Keep Hitchin Special) Re: Churchgate Area, Hitchin - Next Steps

Mr Robin Dartington advised that Keep Hitchin Special (KHS) was disappointed with the officer report. KHS had thought that the Council was investigating how something might be done on the Churchgate site in the short term, but the report spoke of "project". He asked if the Council had secretly fixed on a particular scheme. The report asked for additional funding for legal and valuation ~ if a scheme was not fixed, was that premature?

In respect of the proposed 150 year lease, Mr Darlington stated that KHS thought the Council was looking for a stop gap, to do what it could in the gap before the long held aim of total redevelopment of the Churchgate Centre became possible – perhaps after 2031 when consultants had advised the Local Plan that the District would once again need extra retail space. How was a 150 year lease a stop gap? Surely any additional lease to Hammersmatch ought only to match the unexpired term on the current lease?

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Mr Dartington advised that the biggest worry of KHS was regarding the future of Hilchin Market. The Hammersmalch scheme was to build a chema at the top of the current market site and use the rest for a car park to serve the cinema. Hammersmatch had made it clear that the market had to go. Providing a market site was a Council responsibility, it was up to the Council to decide where it would be located. The Council had been advising Hammersmatch that, if they wished the market to move, then find an alternative site. This appeared to be a stalemate.

Mr Dartington commented that the report now stated (Paragraph 8.5.1) that Hammersmatch were happy to work with Council officers and specialists to find a solution. KHS's worry was that Hammersmatch had produced 10 schemes over the years since 2001, all showing the Market on an alternative site, none acceptable to the traders. So how was a solution suddenly to be found now? What did these specialists know that the traders in Hitchin Market did not? The fear was that it was intended to use specialists as hatchet men – to cut the market down to size and cram it in a comer, is that what underlaid the statements in the report that specialist advice and alternative resources' would be required in seeking a solution without mentioning consulting the traders – or the public who used the market – or the businesses in Hilchin who benefitted from the increased footfall on market days?

Mr Dartington stated that Paragraph 8.5.1 also started off by saying that a solution was needed to the market because future re-location would affect revenue to the Council, improvement costs and management arrangements, Yes, it would, but that was a bleak way to view the problem. Hitchin Market, along with St Mary's and the Market Place, was in the forefront of the character and identity of Hitchin. Hitchin Market was perhaps the largest in the eastern region, offering up to 200 stalls on some days, many selling local produce. Its permanent stalls offered many traders a way to start a business, until they had grown to the point they could take a shop — a big leap upwards. It drew visitors from as far afield as London.

Mr Darlington advised that if officers thought Hitchin would accept a diminished, characteriess grid of standard stalls — like Cambridge or Norwich, they were making a big misjudgement. KHS considered that the recommendations in Section 2 of the report should be put in reverse order. Investigations should continue, yes — a solution for the Market should be found (or more likely be shown to be impossible) — and only then should the Council even consider granting a 150 year lease that would fix Churchgate effectively for all time — and only after that should the Council invest more in legal and valuation fees to progress the Hammersmatch scheme.

Mr Dartington concluded by stalling that KHS were sorry to see so little imagination being applied to find the right option. Section 4 of the report: Alternative Options considered, said see Section 8. Section 8 was, however, headed "THE NEXT STEPS". KHS felt that officers were not seeking any other options. KHS offered an alternative option. Hammersmatch's idea to build a new range across the top of the market, to seal off the Churchgale Centre from being degraded by contact with the Market, was sound. But why did it have to contain a cinema that required the market to be moved from the rest of the site? Just build the buffer, but put in a Market Cafe, new market tollets and community space; and Hitchin Market could then stay the same size by running straight down to Queen Street after the old tollets were removed.

The Chairman thanked Mr Dartington for his presentation.

### 67. CHURCHGATE AREA, HITCHIN - NEXT STEPS

The Council considered the report of the Project Executive for the Churchgate Project Board in respect of the Churchgate Area, Hilchin – next steps. The following appendix was submitted with the report:

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Appendix A - Site Plan from Churchgate Planning Brief.

The Leader of the Council (Councillor Mrs L.A. Needham) refuted the claim made by Mr Dartington that the Council was looking towards a stop-gap solution for Churchhgate. She further commented that the Churchgate Project Board had never been advised that Hammersmatch were not in favour of retaining Hilchin Market.

The Leader of the Council introduced and summarised the report, including the next steps in the project relating to seeking quotations for an independent valuation of the site; further discussions with Hammersmatch and other interested parties; investigating revenue implications for the Council; finding a solution for the Hitchin Market; and additional funding requirements.

It was moved by Councillor Mrs L.A. Needham, seconded by Councillor David Leal-Bennett and, following debate, was

### RESOLVED:

- (1) That an initial budget of up to £40,000 be committed at this stage to undertake an independent valuation of the site, any commercial and legal advice as may be required;
- (2) That the principle of a lease to a developer of the site for a minimum term of 150 years subject to contract be accepted, and granted only upon completion of the whole of any agreed redevelopment;
- (3) That the Council continues to require all interested developers on the Churchgate site to seek a solution for the market, at the developers' expense, in consultation with appropriate officers; and
- (4) That officers continue to investigate the Council's preferred approach for a smaller scheme in the short term and report back to Full Council setting out options and points for consideration to progress the project.

REASON FOR DECISION: To allow the Council to continue with its investigations for a smaller scheme in the short term and provide clarity on its preferred options going forward.

### 68. ELECTORAL SERVICES - SCALE OF FEES 2015/16

The Council considered the report of the Chief Executive in respect of Electoral Services — Scale of Fees 2015/16. The following appendix was submitted with the report:

Appendix A - Recommended Scale of Fees 2015/16.

It was moved by Councillor J.M. Cunningham, seconded by Councillor Mrs L.A. Needham, and

RESOLVED: That the Scale of Electoral Services Fees for 2015/16, as set out at Appendix A to the report, be approved.

REASON FOR DECISION: To enable the Council to set a Scale of Fees for 2015/16.

69. ITEM REFERRED FROM CABINET: 27 JANUARY 2015 - CORPORATE BUSINESS PLANNING - BUDGET 2016/16

The Council considered the Minute of the meeting of the Cabinet held on 27 January 2015, in respect of Corporate Business Planning – Budget 2015/16 (Minute 104 refers). A copy of the report and addendum report considered by the Cabinet was included with the agenda, as were the following appendices:

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Appendix 1 — High Level General Fund Forecasts;
Appendix 2 - General Fund Summary for 2015/16;
Appendix 3 — Expenditure reduction proposals;
Appendix 4 — Income generation proposals;
Appendix 5 — Revenue Investment proposals;

Appendix 6 – MTFS Extract – Budget assumptions; Appendix 7 – Description of earmarked reserves; and

Appendix 8 – Financial Risks assessment.

The Council was provided with a further addendum report, tabled at the meeting, which detailed the Parish and Town Council precepts for 2015/16 and total District Council Tax requirement for 2015/16.

Prior to the consideration of the Budget Setting for 2015/16, the Leader of the Council and the Cabinet Portfolio Holder for Finance and IT presented a Budget Speech.

These documents are reproduced at Appendices A and B to these Minutes.

It was moved by Councillor T.W. Hone, and seconded by Councillor Mrs L.A. Needham, that the recommendations contained in the Cabinet referral and the addendum report tabled at the meeting be approved.

The Leader of the Labour Group (Councillor Judi Billing), Shadow Portfollo Holder for Finance and I.T. (Councillor David Kearns) and Leader of the Liberal Democrat Group (Councillor S.K. Jarvis) gave responses to the speeches made by the Leader of the Council and the Cabinet Portfollo Holder for Finance and IT.

As an amendment, it was moved by Councillor David Kearns, and seconded by Councillor Frank Radcliffe, that

\*(A) Recommendation (5) in Minute 104 be deleted and replaced with:

That the inclusion of the efficiency and investment proposals in the final General Fund budget estimates for 2015/16, as set out in Appendices 3 to 5 of the report, plus

- Paperless council meetings (I-pads for Members) £21,000 (Revenue savings in year 1 £9,000, and £30,000 after that;
- (2) Administration and interest loss £60,000 (for running a new £150,000 Local Capital Fund based on population and not to be any larger than £300,000 at any one time);
- (3) External review of Management Structure and review how the Council could become more entrepreneurial £50,000 (anticipated to be recouped by savings generated);
- (4) Implement the living wage in establishment £22,000;
- (B) Delete In Recommendation (6) of Minute 104 £16,060million, and replace with £27,900,800 total gross expenditure, and £16.154million net expenditure, and General Fund balances of £5,600million and total balances of £7,342,600; and
- (C) Delete in Recommendation (7) of Minute 104 1.9% and replace with 1,99%."

Following debate and upon being put to the vote, the amendment was lost.

As a further amendment, it was moved by Councillor S.K. Jarvis, and seconded by Councillor Sal Jarvis, that a 0% Council Tax rise be approved for 2015/16.

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Upon being put to the vote, this amendment was lost,

Upon the substantive motion being put to the vote, it was

### RESOLVED:

- (1) That it be noted that the provisional finance settlement for 2015/16 is £4.361million, which is broadly in line with previous estimates, and that it be further noted that the final settlement announcement is expected in late January/early February 2015;
- (2) That the estimated position on the Collection Fund, as referred to in Section 9.1 of the report, be noted, and that:
  - a contribution of £1,2million from the General Fund to the Collection Fund be made in respect of Business Rates to cover the share of the deficit position; and
  - a contribution of £83,000 to the General Fund from the Collection Fund be made in respect of Council Tax for the share of the surplus position;
- (3) That the position relating to the Council's General Fund balance be noted, and that due to the risks identified in Paragraph 9.2.3 of the report, a minimum balance of £1.673million is recommended to be maintained for the known and unknown financial risks, and that it is prudent to maintain reserves at a higher level to ensure continued sustainability over the medium to longer term given the current uncertainties about future funding:
- (4) That the position of the Council's other reserves and provisions, as identified in Section 9.3 of the report, and that the Chief Finance Officer considers the estimates robust and the budgeted level of reserves adequate, be noted;
- (6) That the inclusion of the efficiency and investment proposals in the final General Fund budget estimates for 2015/16, as set out in Appendices 3 to 5 of the report, be approved;
- (6) That the estimated 2015/16 net expenditure of £16,050million, as detailed in Appendix 2 of the report be approved;
- (7) That a 1.9% Increase on the Council Tax rate for 2015/2016 be agreed;
- (8) That the Parish and Town Council precepts for 2015/16 of £966,052 be noted; and
- (9) That the total District Council Tax requirement for 2015/16 of £10,819,798 be noted.

REASON FOR DECISION: To ensure that all relevant factors are taken into consideration when arriving at the proposed Council Tax precept for 2015/16; and to ensure that the Cabinet recommends a balanced budget to Council on 12 February 2015.

76. ITEM REFERRED FROM CABINET: 27 JANUARY 2015 - CAPITAL PROGRAMME 2015/16 ONWARDS

The Council considered the Minute of the meeting of the Cabinet held on 27 January 2015, in respect of the Cabital Programme — 2015/16 Onwards (Minute 105 refers). A copy of the report considered by the Cabinet was included with the agenda, as were the following appendices:

Appendix A - Capital Programme Summary;

Appendix B - Capital Programme Detail;

Appendix C - Capital Investment Proposals for 2015/16 and onwards.

The Portfolio Holder for Finance and IT (Councillor T.W. Hone) referred to an addition to Recommendation (3), tabled at the meeting, which added the following words:

"...and that Council notes that approval of the 2015/16 capital programme will entail a commitment to initial expenditure of up to £220,000 representing approximately 7% of the total cost of the North Heritordshire Leisure Centre project (listed as proposals C5 to C11 in Appendix C) to engage a professional team to develop a detailed cost estimate and that further development of the project, and hence commitment to the remaining 93% of the cost, will be subject to a further report to Cabinet detailing this and the formal tender bid from Stevenage Leisure Limited. Members should note that if the scheme does not proceed any initial expenditure incurred would be charged to the general fund."

It was moved by Councillor T.W. Hone, seconded by Councillor Mrs L.A. Needham and, following debate and upon being put to the vote, it was

## RESOLVED:

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- (1) That the Capital Investment Proposals, as listed in Appendix C to the report and which total £18.494million overall (£9.331million profiled in 2015/16), be approved for inclusion in the proposed Capital Programme;
- (2) That the changes to the schemes (as detailed in Appendix C to the report) which are an on-going commitment in the Capital Programme be noted:
  - . Cease the commitment to the Tenant Cash Incentive Scheme;
  - Withdraw the £500,000 per annum budget for the Housing Association Grant Scheme and consider bids on an individual basis;
  - Maintain the same level of funding (total budget £745,000 per annum) for the Disabled Facility Grant Scheme;
  - Increase the annual budget for the Home Repair Assistance Grants scheme from £35,000 to £60,000; and
- (3) That the provisional Capital Programme for 2015/16 to 2018/19 of £20.5million, as detailed at Appendices A and B to the report, be adopted, and that Council notes that approval of the 2015/16 capital programme will entail a commitment to initial expenditure of up to £220,000 representing approximately 7% of the total cost of the North Hertfordshire Leisure Centre project (listed as proposals C5 to C11 in Appendix C) to engage a professional team to develop a detailed cost estimate and that further development of the project, and hence commitment to the remaining 93% of the cost, will be subject to a further report to Cabinet detailing this and the formal tender bid from Stevenage Leisure Limited. Members should note that if the scheme does not proceed any initial expenditure incurred would be charged to the general fund.

REASON FOR DECISION: To ensure that the Capital Programme meets the Council's objectives and officers can plan the implementation of the approved schemes.

71. ITEM REFERRED FROM CABINET: 27 JANUARY 2015 - TREASURY MANAGEMENT STRATEGY 2015/16

The Council considered the Minute of the meeting of the Cabinet held on 27 January 2015, in respect of the proposed Treasury Management Strategy for

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2015/16 (Minute 106 refers). A copy of the report considered by the Cabinet was included with the agenda, as were the following appendices:

Appendix A - Treasury Management Policy Statement; Appendix B - Treasury Management Practices; Appendix C - Treasury Strategy Statement.

It was moved by Councillor T.W. Hone, seconded by Councillor Mrs L.A. Needham, and was

# RESOLVED:

- (1) That the Treasury limits for 2015/16 be approved as follows:
  - (i) Interest Rate Exposure (as at Paragraph 3:4, Appendix C);
  - (ii) Maturity Structure of Borrowing (as at Paragraph 3.4, Appendix C); (iii) Investment Strategy to continue to use Building Societies and UK Banks, as detailed in Paragraph 8.5.1 of the report (as at Paragraph 4.2, Appendix C);
  - (iv)Total Principal Sums invested for periods longer than 364 days (as at Paragraph 4.3, Appendix C); and
- (2) That the Treasury Management Strategy for 2015/16, as set out at Appendix C to the report, be approved;

REASON FOR DECISION: To ensure the Council's continued compliance with CIPFA's Code of Practice on Treasury Management and the Local Government Act 2003 and that the Council manages its exposure to interest and capital risk.

72. ITEM REFERRED FROM CABINET: 27 JANUARY 2015 - AMENDMENTS TO THE COUNCIL'S FINANCIAL REGULATIONS

The Council considered the Minute of the meeting of the Cabinet held on 27 January 2016, in respect of the proposed amendments to the Council's Financial Regulations (Minute 107 refers). A copy of the report considered by the Cabinet was included with the agenda, as were the following appendices:

Appendix A - Summary of main changes;

Appendix B - Revised Financial Regulations; and

Appendix C - Revised Financial Regulations, showing track changes.

It was moved by Councillor T.W. Hone, seconded by Councillor Mrs L.A. Needham, and was

**RESOLVED:** That the amendments to the Council's Financial Regulations, as set out within Appendix B to the report, and summarised in Appendix A to the report, be adopted.

REASON FOR DECISION: To ensure that the Council's Financial Regulations remain relevant and fit for purpose, thereby contributing to effective organisational internal control.

- 73. ITEM REFERRED FROM CABINET: 27 JANUARY 2015 NORTH HERTFORDSHIRE MUSEUM AND COMMUNITY FACILITY AT HITCHIN TOWN HALL PROJECT UPDATE
  - [(1) Prior to the consideration of this item; Councillors Bernard Lovewell, Peter Burt and Julian Cumingham declared that they would be withdrawing from the Chamber, as they were Members of the Cabinet Sub-Committee (Council Charities), which was responsible for making decisions on the North Hertfordshire Museum and Community Facility on behalf of the Hitchin Town Hall: Gymnasium and Workmans Hall Trust.

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(2) Prior to the consideration of this item, and following advice from the Monitoring Officer, the Members of the Standards Committee, namely Councillors Judi Billing, Bill Davidson, Steve Hemingway, David Kearns, Alan Millard, M.R.M. Muir and Mike Rice, withdrew from the Chamber for the duration of this item.]

The Monitoring Officer advised that Members would be aware from the recent Overview and Scrutiny Committee meeting on this project, and subsequent press coverage, that Councillor David Leal-Bennett was advised that in the view of the Monitoring Officer, he had a close association with Hitchin Town Hall Limited, as set out in Paragraphs 4.6(a) and/or (b) of the Code of Conduct adopted by Full Council. The requirements of the Code of Conduct are that whilst he could speak as a member of the public and listen to any other public speeches, he must leave the room prior to the item being presented and debated.

The Monitoring Officer stated that his advice had not changed, in that he considered if Councillor Leal-Bennett was present for the debate he was potentially breaching the Code of Conduct. As the decision before Council was a financial one, the Monitoring Officer advised that he would be falling in his duty if he did not raise concerns at a Member taking part in that decision, potentially in breach of the Code of Conduct. This would put any Council decision at risk. He therefore advised that Councillor Leal-Bennett should be asked to leave the Council Chamber for this item.

The Chairman of the Council asked Councillor Leal-Bennett if he was prepared to accede to the advice of the Monitoring Officer and leave the room.

Councillor Leal-Bennett replied that he had obtained his own advice regarding this matter, and stated that he was not prepared to leave the room.

Accordingly, the Chalrman of the Council suspended the meeting at 10.10pm, and withdrew from the Council Chamber.

The Chalman of the Council returned to the Council Chamber at 10.24pm and re-opened the meeting. She announced that, in view of Councillor Leat-Bennett's decision not to withdraw from the meeting, she had withdrawn this item from consideration at the meeting.

# 74. QUESTIONS FROM MEMBERS

There were no questions from Members.

# 75. NOTICE OF MOTIONS

# Potential new settlement - North Hertfordshire Local Plan

Due notice having been given in accordance with Standing Order 4.8.12, it was moved by Councillor S.K. Jarvis, and seconded by Councillor Sal Jarvis,

"That Council notes the emerging local support for a potential new settlement to meet North Herts' longer term housing needs, including the support of the District's MPs.

It therefore instructs officers to prepare a viable proposal for a new settlement so that the Council can consider this as an option when reviewing the results of the current local plan preferred options consultation later this year."

As an amendment, it was moved by Councillor David Levett, and seconded by Councillor lan Mantle,

\*That Council notes the suggestion from the Members of Parliament for North Herifordshire and others that a new Garden City should be considered to meet the long term housing needs of North Herifordshire.

That Council instructs officers to continue to explore the long term housing needs of North Herifordshire with other Local Authorities, the DCLG, and other relevant bodies, and the extent to which there may be reasonable options for new settlements for the future in North Herifordshire together with the required infrastructure and funding.

That Council asks that the Members of Parliament for North Hertfordshire positively endorse and assist North Hertfordshire District Council with any approach it may make to further such alternatives to the Secretary of State, the relevant Ministers and the Department of Communities and Local Government."

Following debate, and upon being put to the vote, the amendment was carried.

Following further debate upon the substantive motion, and upon being out to the vote, it was

RESOLVED: That Council notes the suggestion from the Members of Parliament for North Hertfordshire and others that a new Garden City should be considered to meet the long term housing needs of North Hertfordshire.

That Council Instructs officers to continue to explore the long term housing needs of North Herifordshire with other Local Authorities, the DCLG, and other relevant bodies, and the extent to which there may be reasonable options for new settlements for the future in North Herifordshire logether with the required infrastructure and funding.

That Council asks that the Members of Parliament for North Hertfordshire positively endorse and assist North Hertfordshire District Council with any approach it may make to further such alternatives to the Secretary of State, the relevant Ministers and the Department of Communities and Local Government.

The meeting closed at 10.55pm.	
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	Chairman

# NORTH HERTFORDSHIRE DISTRICT COUNCIL

# CABINET

Meeting held at Council Offices, Gernon Road, Letchworth Garden City on Tuesday, 27 January 2016 at 7,30pm

# MINUTES

PRESENT:

Councillors Mrs L.A. Needham (Chairman), T.W. Hone (Vice-Chairman), P.C.W. Burt, Julian Cunningham, Jane Gray, Tony Hunter, David Levelt

and Bemard Lovewell.

IN ATTENDANCE:

Chief Executive, Strategic Director of Finance, Policy & Governance, Strategic Director of Customer Services, Head of Leisure & Environmental Services, Strategic Planning & Projects Manager, Principal Strategic Planning Officer, Accountancy Manager, Contracts & Projects Manager, Acting Corporate Legal Manager and Committee &

Member Services Officer.

ALSO PRESENT:

Councillors David Keams, David Leal-Bennelt and R.L. Shakespeare-

Smith.

4 Members of the Public.

#### 97. **APOLOGIES FOR ABSENCE**

No apologies for absence were submitted.

#### 98. MINUTES

RESOLVED: That the Minutes of the meeting of Cabinet held on 16 December 2014 be approved as a true record of the proceedings and signed by the Chalman, subject to amendments to the preamble and resolution (3) of Minute 88 – Proposed Improvements to North Heritordshire Leigure Centre (NHLC) so that references to \*2019-2014\* be corrected to \*2019-2024".

In respect of Efficiency proposal E5 (Cease grant funding to the Leichworth Aris Centre) referred to in Minute 90 (Corporate Business Planning — Draft Budget 2015/16), the Accountancy Manager confirmed that the £9,000 funding was originally contained in the Area Committee grant budget. Subsequently, the Area Committee budgets were respondened on the basis of census data. The effect of this was that the £9,000 was spread across all of the Area Committee budgets, and hence the saving would be shared proportionately amongst the Area Committees.

#### NOTIFICATION OF OTHER BUSINESS 99.

The Chalman advised that she had accepted an Item under the Council's urgency provisions in respect of North Herifordshire Museum and Community Facility at Hitchin Town Hall - Project Update (see Minute 108 below),

#### CHAIRMAN'S ANNOUNCEMENTS 100.

- The Chairman reminded Members that, in line with the Code of Conduct, any Declarations of Interest needed to be declared immediately prior to the item in question; and
- The Chalman asked that, for the benefit of any members of the public present at the meeting, Officers announce their name and their designation to the meeting when invited to speak.

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# 101. PUBLIC PARTICIPATION

There was no public participation.

# 102. ITEMS REFERRED FROM OTHER COMMITTEES

There were no items referred from other committees.

# 103. STRATEGIC PLANNING MATTERS

The Portfolio Holder for Planning and Enterprise, assisted by the Principal Strategic Planning Officer, informed Members of the current position regarding strategic planning mallers, with particular reference to Sustainable Drainage Systems; Childrens Area of Outstanding Natural Beauty Management Plan; Central Bedfordshire examination; Luton housing market area memorandum of understanding; Neighbouring Authorities' plans; and North Hertfordshire Local Plan. The following appendix was submitted with the report:

Appendix A - Letter to Central Bedfordshire, including signed memorandum of understanding.

The Portfolio Holder for Planning and Enterprise updated Cabinet on the following matters:

Childens Area of Outstanding Natural Beauty (AONB). The Childens Conservation
Board had adopted the Childens AONB Management Plan 2014-2019 at its meeting
held on 25 March 2014 and was now seeking endorsement of the Plan by the relevant
local authorities. It did not differ significantly from the previous Plan, and so it was
therefore recommended that the Plan be endorsed;

• Central Bedfordshire examination – this was due to commence on 3 February 2015. The Inspector had raised a number of questions he wished to explore at the first sessions, focussing on whether Central Bedfordshire had compiled with the duty to co-operate and on whether the housing and employment evidence property supported the strategy, including the need to accommodate unmet need from Luton. After hearing the evidence on these points, the inspector had indicated that he would come to an interim view before deciding whether or not to proceed to examine other elements of the plan;

• Luton housing market area memorandum of understanding - a decision was handed down from the High Court on 19 December 2014 regarding the Judicial Review brought by Luton against Central Bedfordshire's decision to grant the major development of over 5,000 homes in the green belt north of Houghton Regis. Luton had submitted ten grounds of challenge, primarily focussed on arguments that the development was premature in advance of Central Bedfordshire's Development Strategy, had failed to secure adequate affordable housing, and included too much retail floorspace. Mr Justice Holgate dismissed Luton's claim on all counts, and described four of Luton's ten grounds of challenge as "wholly unarguable". He also said "It is most unfortunate that this project, which will deliver much needed development and nationally important infrastructure, has been delayed by a challenge lacking in legal marit.";

lacking in legal merit.";

Welwyn Hattield Local Plan - Welwyn Hattield had recently published draft Local Plan papers. The main sites it contained were east of Welwyn Garden City and north-west of Hattield. Other sites were included at Welwyn and Woolmer Green, including areas which immediately bordered North Hertfordshire;

 North Hertfordshire Local Plan: Preferred Options — consultation had provoked a good deal of discussion, exemplified by the fact that the Portfolio Holder had attended 9 public/Parish Council meetings, attended by a total of about 1,600 members of the public. Common themes were the desire for affordable housing for local families and a new settlement in North Hertfordshire (not deliverable within the current Plan

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period). Strong feelings about development in the Green Belt had been expressed by two of the District's three Members of Parliament;

 Chiltern Society – it was recommended that a recent letter to the Secretary of State for Communities and Local Government from the Chiltern Society, seeking clarity about various ambiguous statements made by Government Departments regarding housing needs and the Green Belt, should be supported and endorsed.

The Principal Strategic Planning Officer added the following points:

Welwyn Hatfield Local Plan — the dreft papers had been published, with a consultation
period expiring on 18 March 2015. He commented that the two sites bordering North
Hertfordshire referred to by the Portfolio Holder were classified as "ambel" and "red"
respectively, meaning that there was less likelihood of them coming forward than the
"green" sites identified in the draft plan;

 Barnfield Incinerator application — the decision by the Secretary of State for Communities and Local Government to refuse this application had been ruled as unlawful in the High Court, on the basis that the Minister had misapplied Green Belt Policy. The application had been returned to the Secretary of State for reconsideration; and

 North Hertfordshire Local Plan: Preferred Options - over 500 representations had been received and processed, with a similar number awaiting processing.

# RESOLVED:

- (1) That the report be noted;
- (2) That the Chilterns Area of Outstanding Natural Beauty Management Plan 2014 2019; A Framework for Action be endorsed and its use by all relevant organisations be promoted; and
- (3) That the letter to the Secretary of State for Communities and Local Government from the Chiltern Society, seeking clarity about various ambiguous statements made by Government Departments regarding housing needs and the Green Belt, be supported and endorsed.

REASON FOR DECISION: To ensure that the Cabinet is aware of durrent developments; and to support the adoption of an AONB Management Plan.

# 104. CORPORATE BUSINESS PLANNING - BUDGET 2015/16

The Portfolio Holder for Finance and IT presented a report of the Strategic Director of Finance, Policy and Governance in respect of Corporate Business Planning – Budget 2015/16. The following appendices were submitted with the report:

Appendix 1 - High Level General Fund forecasts;

Appendix 2 - General Fund Summary for 2015/16;

Appendix 3 - Expenditure reduction proposals;

Appendix 4 - Income generation proposals;

Appendix 5 - Revenue Investment proposals;

Appendix 6 - Medium Term Financial Strategy extract - budget assumptions;

Appendix 7 - Description of earmarked reserves; and

Appendix 8 - Financial Risks assessment.

The Portfolio Holder for Finance and IT Cabinet's attention to the addendum report tabled at the meeting, which changed Recommendation 2.4 in the Cabinet papers, and clarified that the changes to the 2014/16 General Fund Budget Identified, involving a decrease in net expenditure of £404,000 and a corresponding increase in the 2015/16 budget of £60,000, should refer to Paragraph 9.2.8. Table 5, of the report, instead of Paragraph 8.1, table 1.

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The Portfolio Holder for Finance and IT advised that the major changes since Cabinet had considered the Draft Budget in December 2014 were that the Government financial settlement had been received (which was close to amount estimated); and that the report now contained data up to the end of month 8 (30 November 2014). This data showed a decrease in net expenditure of £404,000 for 2014/15.

The Portfolio Holder for Finance and IT referred to Appendix 3 of the report (Expenditure reduction proposals) and drew attention to the fact that Expenditure Reduction proposals E6 (Replace Area Committees with Informal Area Forums), E7 (Reduce operation hours for Broadway fountain by 50%) and E6 (The removal of dog bins in the District) had been deleted by Cabinet at its December 2014 meeting.

# RECOMMENDED TO COUNCIL:

- (1) That it be noted that the provisional finance settlement for 2015/16 is £4.361million, which is broadly in line with previous estimates, and that it be further noted that the final settlement announcement is expected in late January/early February 2015;
- (2) That the estimated position on the Collection Fund, as referred to in Section 9.1 of the report, be noted, and that:
  - a contribution of £1.2million from the General Fund to the Collection Fund be made in respect of Business Rales to cover the share of the deficit position; and
  - a contribution of £83,000 to the General Fund from the Collection Fund be made in respect of Council Tax for the share of the surplus position;
- (3) That the position relating to the Council's General Fund balance be noted, and that due to the risks identified in Paragraph 9.2.3 of the report, a minimum balance of £1,673million is recommended to be maintained for the known and unknown financial risks, and that it is prudent to maintain reserves at a higher level to ensure continued sustainability over the medium to longer term given the current uncertainties about future funding:
- (4) That the position of the Council's other reserves and provisions, as identified in Section 9.3 of the report, and that the Chief Finance Officer considers the estimates robust and the budgeted level of reserves adequate, be noted:
- (5) That the inclusion of the efficiency and investment proposals in the final General Fund budget estimates for 2015/16, as set out in Appendices 3 to 5 of the report, be approved:
- (6) That the estimated 2015/16 net expenditure of £16,060million, as detailed in Appendix 2 of the report be approved; and
- (7) That Cabinet indicates that it wishes to recommend to Council a 1.9% increase on the Council Tax rate for 2015/2016.

RESOLVED: That the changes to the 2014/15 General Fund Budget identified in Paragraph 9.2.8, Table 5, of the report, involving a decrease in net expenditure of £404,000 and a corresponding increase in the 2015/16 budget of £80,000, be approved

REASON FOR DECISION; To ensure that all relevant factors are taken into consideration when arriving at the proposed Council Tax precept for 2015/16; and to ensure that the Cabinet recommends a balanced budget to Council on 12 February 2015.

# 105. CAPITAL PROGRAMME 2015/16 ONWARDS

The Portfolio Holder for Finance and IT presented a report of the Strategic Director of Finance, Policy and Governance in respect of the Capital Programme for 2015/16 Onwards. The following appendices were submitted with the report:

Appendix A – Capital Programme Summary; Appendix B – Capital Programme Detail;

Appendix C - Capital Investment Proposals for 2015/16 and Onwards,

The Portfolio Holder for Finance and IT advised that the proposed Capital Programme for 2015/16 Onwards had also formed part of the consultation undertaken through the Member Budget Workshops in the Autumn of 2014. He commented that each of the proposals was linked to the Council's three high level priorities for 2015/16 onwards, and that there were 57 new capital investment proposals, which totalled an investment of £20.5million over the period 2015/16 to 2018/19.

The Portfolio Holder for Housing and Environmental Health summarised Capital Investment Proposals C17 to C20:

C17 - Housing Association Grant Scheme - it was proposed to withdraw this funding of £500,000, and instead consider bids on a scheme by scheme basis;

C18 - Tenants Cash Incentive Scheme - it was proposed to discontinue this scheme, which offered a grant of up to £34,000 to social housing tenants to assist them in purchasing a property, as take up had been very limited, allied to the fact that other funding sources, such as the Local Authority Mortgage Scheme (LAMS) were available for this purpose;

C19 - Home Repair Assistance Grants — it was proposed to increase the funding from £35,000 to £60,000, allowing for further potential requests for grants up to £5,000 for small scale improvements to owner/occupiers and private tenants who meet certain criteria; and

C20 - Disabled Facilities Grants - It was proposed to maintain the same level of funding of £745,000, available to owners/occupiers and tenants to apply for a grant towards the cost of providing adaptations and facilities to assist older people and people with disabilities.

Cabinet considered the Capital Investment Proposals set out in Appendix C to the report. A number of Members questioned the financial risks in respect of Capital Investment Proposals C5 and C6 – construction of a new learner pool, relocation of the cafe and offices and provision of a new dance studio at North Herts Leisure Centre. However, following debate, the Capital Investment Proposals were recommended for approval.

### RECOMMENDED TO COUNCIL:

- (1) That the Capital Investment Proposals, as listed in Appendix C to the report and which total £18.494million overall (£9.331million profiled in 2015/16), be approved for inclusion in the proposed Capital Programme;
- (2) That the changes to the schemes (as detailed in Appendix C to the report) which are an on-going commitment in the Capital Programme be noted:
  - . Cease the commitment to the Tenant Cash Incentive Scheme;
  - Withdraw the £500,000 per annum budget for the Housing Association Grant Scheme and consider bids on an individual basis;

CABINET (27.1.15)

 Maintain the same level of funding (total budget £745,000 per annum) for the Disabled Facility Grant Scheme;

 Increase the annual budget for the Home Repair Assistance Grants scheme from £35,000 to £60,000; and

(3) That the provisional Capital Programme for 2015/16 to 2018/19 of £20,5million, as detailed at Appendices A and B to the report, be adopted.

RESOLVED: That the changes to the projected Capital Programme for 2014/15 and onwards as a result of the changes to the schemes detailed in Paragraph 8.1 of the report, involving a decrease in expenditure in 2014/15 of £349,000 to a total of £9.254million, be approved.

REASON FOR DECISION: To ensure that the Capital Programme meets the Council's objectives and officers can plan the implementation of the approved schemes.

# 108. TREASURY MANAGEMENT STRATEGY FOR 2016/16

The Portfolio Holder for Finance and IT presented a report of the Strategic Director of Finance, Policy and Governance in respect of the Treasury Management Strategy for 2015/16. The following appendices were submitted with the report:

Appendix A - Treasury Management Policy Statement; Appendix B - Treasury Management Practices; and Appendix C - Treasury Strategy Statement.

The Portfolio Holder for Finance and IT advised that the Strategy had been considered by the Finance, Audit and Risk Committee, and no changes had been proposed.

The Portfolio Holder for Finance and IT drew attention to the major changes to the 2015/16 Treasury Strategy Statement, as follows:

- Increase the maximum balance allocated to Tradition and in-house Officers to
  £30million each (previously £23million and £22million respectively). This would enable
  the allocation of Sterling's Investments as they matured (following Sterling's
  termination of their role as NHDC's Cash Manager) (see Appendix C 4.2);
- Remove the limit of £20million as a maximum amount that could be invested longer than 364 days and replace this numeric maximum with a percentage value of outstanding investments – maximum of 40%. As the level of investment balance falls £20million becomes a larger percentage of the total investments. This would remove the need to annually revise this limit (see Appendix C 4.2);
- Allow in-house deals to be made for longer than 364 days some Sterling investments would be brought back in-house to fund Capital expenditure during the year. If the Capital programme slipped there may be an opportunity to invest funds longer than 354 days (see Appendix C 4.3);
- Continue to exclude foreign banks from NHDC's lending list, but include UK subsidiaries of foreign banks that were subject to the same stress tests as UK banks. This may increase the investment interest generated in-house from short term deals: (see Appendix C 4.2);
- Retain maximum monetary values with counter parties, but introduce a maximum
  percentage value. No more than 10% of outstanding investments to be placed with
  any one counter party. This would result in a greater spread of investments, but may
  mean a reduced level of interest (see Appendix C 4.2);

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- Exclude the Council's current account with the general banking provider (Lloyds) from restrictive limits. Interest earned on the current account was in some instances more favourable than short term investments. This would remove the need to move funds from the current account and place them with another counter party at a reduced rate of interest when the total balance of cash in Lloyds accounts reached £9million (or 10% of total investments) (see Appendix C 4.2);
- Limit sector exposure:

- No more than 75% of investments to be placed with Banks No more than 75% of investments to be placed with Building Societies No more than 25% of investments to be placed with Money Market Funds This would result in a greater spread of investments, but may mean a reduced level of Interest (see Appendix C 4.2); and
- Add Certificates of Deposit This would offer another outlet for investments if rates were favourable. (Appendix C 4.2).

The Strategic Director of Finance, Policy and Governance answered a number of Members' questions on the proposed Strategy.

# RECOMMENDED TO COUNCIL:

(1) That the Treasury limits for 2015/16 be approved as follows:

(i) Interest Rate Exposure (as at Paragraph 3.4, Appendix C);

(ii) Malurity Structure of Borrowing (as at Paragraph 3.4, Appendix C);

(III) Investment Strategy to continue to use Building Societies and UK Banks, as detailed in Paragraph 8.5.1 of the report (as at Paragraph 4.2, Appendix C);

(iv) Total Principal Sums invested for periods longer than 364 days (as at Paragraph 4.3, Appendix C); and

(2) That the Treasury Management Strategy for 2015/16, as set out at Appendix C to the report, be approved;

REASON FOR DECISION: To ensure the Council's continued compliance with CIPFA's Gode of Practice on Treasury Management and the Local Government Act 2003 and that the Council manages its exposure to interest and capital risk.

#### AMENDMENTS TO THE COUNCIL'S FINANCIAL REGULATIONS 107.

The Portfolio Holder for Finance and IT presented a report of the Strategic Director of Finance, Policy and Governance in respect of proposed amendments to the Council's Financial Regulations. The following appendices were submitted with the report:

Appendix A - Summary of main changes;

Appendix B - Revised Financial Regulations; and

Appendix C - Revised Financial Regulations, showing track changes.

The Portfolio Holder for Finance and IT advised that the amended Financial Regulations had been considered by the Finance, Audit and Risk Committee, and no changes had been recommended.

The Portfolio Holder for Finance and IT stated that he wished to make one amendment to the third bullet point of Paragraph 6.5.2.1 of Section B - Financial Planning, so that Councillors shall (instead of "may") be appointed to the Project Board depending on the risk and/or profile of the project, as agreed with the Leader of the Council.

The Portfolio Holder for Finance and IT referred to some of the key changes recommended by the review (key text underlined):

- Under or overspends on any separate line entry in the Council's approved budget book which exceed that budget by at least £10,000, or 5% of annual budget, which ever is the smaller, must be recorded by Accountancy Services with explanations for the variance. Arbitrary sub-divisions of budgets in order to minimise individual variances will not be allowed. These under or overspends must be analysed on at least a quarterly basis, in discussion with service managers, and may be addressed by virements within delegated authority limits;
- All virements are subject to a de-minimis of £100. Below this value it is considered sufficient for budget holders to ensure they remain within their overall budget, even though there may be minor variances on individual budget lines;
- Proposals for <u>Improvements and alterations to any asset</u> must be with the prior agreement of the Head of Finance, Performance and Asset Management and Senior Management Team;
- In the case of credit notes raised in order to correct errors, then approval can be given by the relevant budget holder for credit notes up to £500; and
- Purchase cards will be authorised for certain officers, with an individual transaction threshold specific to the card holder. Purchase cards are generally suitable for low value transactions enabling us to shorten the purchase to pay cycle and reduce processing costs, noting also that purchase orders are not required for purchase card transactions. Where Corporate contracts exist, Purchase cards should not be used to access alternative suppliers.

RECOMMENDED TO COUNCIL: That the amendments to the Council's Financial Regulations, as set out within Appendix B to the report, as amended, and summarised in Appendix A to the report, be adopted.

REASON FOR DECISION: To ensure that the Council's Financial Regulations remain relevant and fit for purpose, thereby contributing to effective organisational internal control.

# 108. NORTH HERTFORDSHIRE MUSEUM AND COMMUNITY FACILITY AT HITCHIN TOWN HALL-PROJECT UPDATE

[Prior to the consideration of this Item, Councillors Bernard Lovewell, Peter Burt and Julian Cunningham declared that they would be withdrawing from the Chamber, as they were Members of the Cabinet Sub-Committee (Council Charilles), which was responsible for making decisions on the North Hertfordshire Museum and Community Facility on behalf of the Hilchin Town Hall: Gymnasium and Workmans Hall Trust.]

The Strategic Director of Customer Services and Project Executive presented a report in respect of the North Herifordshire Museum and Community Facility at Hilchin Town Hall — Project Update:

The Strategic Director of Customer Services and Project Executive advised that he wished to amend the recommendations in the report to ensure that any decision was made in accordance with the Council's Constitutional procedures.

The Strategic Director of Customer Services and Project Executive stated that it was anticipated that Cabinet would be considering a report which, in part, detailed emergency action taken by the Chief Executive to authorise the expenditure highlighted in the original Recommendation 2.1 of the report to reflect additional costs resulting from delays in the building programme in securing discharge of conditions for Listed Building Consent. However, following consultation with the Cabinet Chairman and Portfolio Holder for Community Engagement and Rural Affairs, the report was amended to seek approval from Cabinet for this element of expenditure and to recommend the necessary adjustments to the 2014/15 Capital Programme and to note any implications on the Capital budget for 2015/16.

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The Strategic Director of Customer Services and Project Executive explained that, unfortunately, there was some doubt that the requisite notice required under the Constitution's "Special Urgency" provisions had been met (in particular, whether the required notice had been followed) and so, as a result, he instead proposed the following changed recommendations:

- \*2.1 Cabinet note the Chief Executive's Intention to take action under the Special Urgency procedure tomorrow to authorise capital expenditure of £68,539 to reflect the additional capital costs resulting from the delays in the building programme in securing the discharge of conditions for Listed Building Consent (as outlined in paragraph 8.4);
- 2.2 To recommend to Council an increase of the capital programme up to a maximum of £223,392 (paragraph 8.4).
- 2.3 To note that following consideration of the Capital Programme by Full Council on (12th February 2015 any implications on 2015/16 capital budgets as a result of profiling project spend will be reported in the third quarter capital monitoring report.
- 2.4 To note that a further report will be submitted in due course identifying any additional contingency budget necessary to complete the project."

The Strategic Director of Customer Services and Project Executive stressed that the reason for suggesting the above approach was to ensure that Cabinet's decision making was procedurally correct, in order to minimise the risk of any challenge at a critical stage of an already complex and contentious project. He applogised for the need to make these changes at such a late stage.

The Strategic Director of Customer Services and Project Executive advised that, in addition to those ilems the subject of the current report, Officers had identified a number of additional items which may need further trealment either during the course of the current construction period or prior to opening. These included:

- Additional refurbishment of the Town Hall entrance foyer;
- · Additional investigation/remedial action to remove moisture from the basement; and
- Repositioning of the main electrical panel in the Town Hall.

The Strategic Director of Customer Services and Project Executive commented that it was likely that, in order to minimise any further delays to the main contract, this work may need to be undertaken following the completion of the main contract, and a report detailing this and the likely requirement for an additional contingency budget would be brought to Cabinet in due course. Cabinet was also asked to note that, as was normal in a contract of this sort, settlement of final payments and other potential claims between the parties and their appointed contractors would continue for some time after the completion of physical works. These matters would also be reported in due course.

The Portfolio Holder for Community Engagement and Rural Affairs added that this continued to be a complex project. Whilst the delays and additional costs were regretiable, he stressed that it was important for the contract to be completed, with the hope that the finished facility would be a building of which the residents of North Hertfordshire would be proud. Other Cabinet Members supported his comments.

RECOMMENDED TO COUNCIL: That an Increase of the Capital Programme up to a maximum of £223,392 for additional costs in respect of the North Hertfordshire Museum and Community Facility project (as set out in Paragraph 8.4 of the report) be approved.

(1)

# RESOLVED:

- (1) That the Chief Executive's intention to take action under the Special Urgency procedure tomorrow to authorise capital expenditure of £68,539 to reflect the additional capital costs resulting from the delays in the building programme in securing the discharge of conditions for Listed Building Consent (as outlined in Paragraph 8.4 of the report) be noted;
- (2) That it be noted that, following consideration of the Capital Programme by Full Council on 12 February 2015, any Implications on 2015/16 capital budgets as a result of profiling project spend will be reported in the third quarter capital monitoring report; and
- (3) That it be noted that a further report will be submitted in due course identifying any additional contingency budget necessary to complete the project.

REASON FOR DECISION: To comply with the Council's contractual commitments to complete the development to a specified standard and timescale.

The Chalman informed Members that the Cabinet meeting scheduled for 17 February 2015 had been cancelled.

The meeting closed at 9.11pm.	
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	Chairma

# OVERVIEW AND SCRUTINY COMMITTEE

Meeting held at the Council Offices, Gernon Road, Letchworth Garden City on Thursday, 18 December 2014 at 7,30p.m.

## MINUTES

PRESENT:

Councillors Ray Shakespeare-Smith (Chairman), Cathryn Henry (Vice-Chairman), John Bishop (Substitute), Bill Davidson, John Harris, Steve Hemingway, S.K. Jarvis (Substitute), David Keams, David Leat-Bennett, lan Mantle (Substitute), M.R.M. Muir, Frank Radcliffe, Mike Rice and Deborah Segalini.

IN ATTENDANCE: Councillors Clare Billing, Judi Billing, P.C.W. Burt, Paul Clark, Tricia Cowley, Julian Cunningham, Floria Hill, Tony Hunter, David Levett, Mrs L.A. Needham, Mrs C.P.A. Strong and Michael Weeks. David Scholes (Chief Executive), John Robinson (Strategic Director of Customer Services), Vaughan Watson (Head of Leisure and Environmental Services), Anthony Roche (Acting Corporate Legal Manager), Mary Caldwell (Development and Conservation Manager), Sleve Crowley (Contracts and Project Manager), Ros Allwood (Cultural Services Manager), Sharon Nahal (PA to the Strategic Director of Customer Services), Jack Hughes (Project Support Officer), Brendan Sullivan (Scrutiny Officer) and Hilary Dineen (Committee and Member Services Officer).

ALSO PRESENT: At the start of the meeting 7 members of the public.

**APOLOGIES FOR ABSENCE** 62.

Apologies for absence were received from Councillors Jean Green, Sal Jarvis, Sandra Lunn and Gerald Morris,

Having given due notice, Councillor John Bishop advised that he would be acting as a substitute for Councillor Jean Green.

Having given due notice, Councillor S.K. Jarvis advised that he would be acting as a substitute for Councillor Sal Jarvis.

Having given due notice, Councillor lan Mantle advised that he would be acting as a substitute for Councillor Sandra Lunn.

NOTIFICATION OF OTHER BUSINESS 63. No other business was submitted for consideration by the Committee.

CHAIRMAN'S ANNOUNCEMENTS 64.

- (1) The Chairman welcomed everyone to the meeting, particularly those who had come to give a presentation;
- (2) The Chairman reminded the registered speakers that they had a maximum of 5 minutes each;
- (3) Members were reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest which requires they leave the room under Paragraph 7.4 of the Code of Conduct, can speak on the item, but must leave the room before the debate and vote.

65. DECLARATIONS OF INTEREST REGARDING DEVELOPMENT AGREEMENT:
NORTH HERTFORDSHIRE DISTRICT COUNCIL & HITCHIN TOWN HALL LTD
The Chairman asked if there were any Members that wished to make a Declaration of Interest at this point of the meeting. No Declarations of Interest were made.

The Chairman asked the Monitoring Officer to give further advice regarding Declarations of Interest.

In response to a query by a Member who was concerned that impartially would be maintained during any possible complaint procedure. Councillors Judi Billing, Paul Clark, Bill Davidson, Steve Hemmingway, S.K. Jarvis, David Kearns, Michael Mürr and Mike Rice, who were Members or Substitutes of the Standards Committee left the room during this statement and the following discussions.

The Monitoring Officer read out a statement regarding Declarations of Interest as follows:

"Members will be aware that it would not be my normal approach to discuss advice relating to a particular councillor with a committee, but this is not a normal situation given the contract dispute with Hitchin Town Hall Limited (HTHL) and Councillor Leaf-Bennett's links to that organisation.

I can confirm that the end of Clir Leal-Bennett's director role with HTHL means the question of a Disclosable Pecuniary Interest has ceased.

As Members know under the Code of Conduct adopted by Full Council on 18 July 2013 we have a second category of interests. Declarable interests. I have provided advice to Clir Leal-Bennett that due to his long standing relationship with HTHL he would be considered to have a "close association" with the organisation under 4.6 (a) and/or (b) and that additionally 4.6 (c) applies. For the benefit of the Committee I will read those sections out.

Declarable Interests

4.6 You have a Declarable Interest in an ilem of business of the Council where:
(a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or your employer or a person or body with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which you have been elected or otherwise of the Council's administrative area; or

(b) it relates to or is likely to affect any of the interests listed in the Appendix (o this Code in respect of a member of your family (other than covered in the legislation) or your employer or a person or body with whom you have a close association; or

(c) 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; or

and that interest is not a Disclosable Pecuniary Interest.

The effect of having a Declarable Interest is set out at 7.3, 7.4 and 7.5 of the Code of Conduct. Paragraph 7.3 states

If you are present at a meeting of the council and you have a Declarable Interest relating to any business 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 you must not participate in the discussion or vote on the item, although you may speak as a member of the public.

088 (18.12.14)

My advice is that the test in 7.3 would be met, due to Clir Leal-Bennett's long standing role on the project with HTHL and therefore the requirements of the Code of Conduct are that whilst he can speak as a member of the public and listen to any other public speeches, he must leave the room prior to the item being presented and debated.

My role as Monitoring Officer has different aspects to it. One role is to provide advice to Members, it is for that Member to decide whether to follow the advice or risk the consequences of not doing so. Another of my roles is to protect the Council.

What we are discussing tonight is a contract dispute with large sums of money at stake and I have to consider what is the right approach for the Council.

My advice to you Chair is therefore as follows:-

- 1. You should consider whether Councillor Leal-Bennett remains part of the Committee tonight, or whether you ask him to retire to the public gallery, where he could make a presentation as a member of the public. My advice is that, I consider it inappropriate he remain part of the Committee given the nature of the business being discussed and his obvious and clear close association to the party with whom the Council is in dispute.
- 2. If you accept that advice you should then consider whether Councillor Leaf-Bennett is allowed to remain in the public gallery for the Part I debate, if he chooses to in the knowledge of the potential breach of the Council's Code of Conduct, or whether you choose to exclude him from the room. This is a matter for your discretion as Chalman of the Committee.
- 3. Finally, if Councillor Leal-Bennett is allowed to remain as part of the Committee, or in the public gallery, for the Part I item, you should consider whether to exclude him from the Part II debate. My strong advice, given the contract dispute is with the organisation with whom he has an obvious, clear and recent close association, and given the confidential nature of what will be discussed lonight, is that Councillor Leal-Bennett should be excluded from that part of the meeting in the same way as the members of the public present.

You may also wish to seek the views of the Chief Executive and I am happy to assist further if regulred."

The Chairman asked Councillor Leal-Bennett whether he had any response to the advice given by the Monitoring Officer.

Councillor Leal-Bennett stated that he was amazed at the advice given and that it was sad to have got to this position. He advised that he was no longer a Director of Hitchin Town Hall Limited nor was he associated with them.

He stated that the Monitoring Officer had been wrong before.

In response to the remarks made by Clir Leal-Bennett the Monitoring Officer sought clarification on which advice relating to Declarations of Interests he referred to as being the wrong advice and whether he was stating he did not believe he had a Declarable Interest

Councillor Leal-Bennett advised that the previous Monitoring Officer had given incorrect advice prior to the contracts regarding Hilchin Town Hall being signed and stated that he found "singling him out" as offensive.

Councillor Leal-Bennett read from a letter addressed to him from the Conservative Councillors Association as follows:

That there can be no Declarable Interest because you are no longer a Director (We did not accept that even that created an interest).

4.6 (c) 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;

It cannot apply because there is no interest for the public to judge."

He also read from a letter addressed to him from the Rt Hon Peter Lilley MP as follows:

Dear David,

They (NHDC) seem desperate to stop anyone who has relevant knowledge from participating even in discussion on a subject!

By definition you no longer have a close association to HTH itd given that you are no longer a Director.

If their interpretation of the rules — applying the close association rule to past associations even though the rule is written in the present tense — were applied generally it would exclude tots of Councillors with relevant knowledge from lots of debates e.g. former pupils and teachers of a school would not be able to participate in matters affecting that school; former members or officers of sports clubs ditto; former owners of businesses re parking/planning issues affecting local business etc.

I think if I were in your shoes I would state at the beginning of any session that you acknowledge that you previously had a relevant interest but no longer do have a close association so you do not accept the advice of the officials and propose therefore to participate in the debate — (but perhaps not the vote?)\*

Councillor Leal-Bennett stated that he intended to take part in the debate, but didn't propose to get into a discussion about blame.

This was a huge issue, which could cost the Council £1 million, that needed addressing.

He stated that he wanted to go forward positively and confirmed that he did not have a Disclosable Interest.

The Monitoring Officer confirmed that in his view Councillor Leal-Bennett did not have a Disclosable interest, but that he must consider the effect of having a Declarable interest.

The Chairman welcomed the Intention of good will and decided that if Councillor Leal-Bennett wanted to, having considered the advice of the Monitoring Officer, he could remain on the Committee for the Part I section of the meeting.

The Members of the Standards Committee returned to the room and the Chairman informed them of his decision.

66. PUBLIC PARTICIPATION - MRS ROSEMARY READ

Mrs Rosemary Read, Trustee of Hitchin Town Hall Limited, thanked the Chairman for the opportunity to address the Committee and gave a verbal presentation.

Mrs Read drew attention to a number of clauses in the Development Agreement between NHDC and Hitchin Town Hall Limited as follows:

Clause 5.1 and Clause 8 of Schedule 2
Clause 5.1 required the Council to consult with Hitchin Town Hall Limited regarding proposed alterations to the Approved Documents and Clause 8 of Schedule 2 allowed Hitchin Town Hall Limited to enter the site at any time during the development, giving reasonable notice, to inspect the works:

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Mrs Read stated that Hitchin Town Hall Limited had not been consulted regarding changes to the plans, which resulted in the stage being rendered permanently useless and the foyer inappropriately re-shaped, all caused by the insertion of a plant room above the stage. Furthermore, whilst work was being undertaken, Hitchin Town Hall Limited had been refused permission to visit the site, and the full horror of what was being done to the stage was only discovered when an acoustics expert was allowed access. This had been sufficiently serious to provoke headlines in the local press. Requests to cease the work whilst discussions took place were ignored.

Clause 16.1
This Clause stated that the Council would project manage the development to ensure that Hitchin Town Hall Limited had appropriate input.

Mrs Read stated that Hilchin Town Hall Limited never had any opportunity for input, as in the early stages of the building work, Project Board meetings were called at 48 hours notice, if we were lucky. There was no opportunity to raise issues of concern, and If we tried to do so, these concerns were not minuted.

Schedule 6 to the Agreement

Schedule 6 to the agreement detailed the essential requirements for the Town Hall as set out by Hitchin Town Hall Limited and stated that the proposed uses for the building included concerts and stage performances.

Mrs Read advised that, in the first scheme, using 14 Brand Street, the museum storage had to be placed on and behind the slage. The introduction of 15 Brand Street into the scheme, at the expense of Hitchin Town Hall Limited, freed up space elsewhere on the site for this storage and significantly improved the façade of the new build. She stated that Hitchin Town Hall Limited believed the increased size of the development would result in a benefit to them. Council's architect states that the addition of 15 Brand Street would make it possible to find alternative museum storage and save the stage. It subsequently appeared that there had been a deliberate decision by the Council to Ignore the architect's advice and the only conclusion was that the stage had been lost due to managerial choice. It seems that the placing of the plant room had resulted in lees than expected museum storage.

The circumstances previously described constituted a breach of agreement.

The granting of Listed Building Consent ignored the advice of English Heritage to consider a less visually intrusive solution to the pipework and warm air curtain in the foyer, and the process by which it was granted had been described by Eric Pickles, in a letter to the MP, as poor practice.

Mrs Read informed Members that repeated requests had been made for face to face meetings with the Council's Chief Executive and Leader of the Council in the hope that a way forward could be found for this impossible situation. The requests had been consistently refused and communications had been channelled through the Officer concerned despite the Council being informed that Hitchin Town Hall Limited could not work with him.

The result of the on-going bad publicity, caused by the Council's fallure to attempt to keep Hitchin Town Hall Limited informed of their intentions or consult with them, meant that fundraising, due to be started early 2014, had not been attempted.

The Hitchin Town Hall Limited Business Plan, which NHDC had access to early in the process, was reliant on being able to raise sufficient money from large events, both to repays loans and subsidise community use. This required an unadullerated, refurbished Listed Building, which was not what will be provided. It was with huge regret that Hilchin Town Hall Limited and their funders had agreed that the model was no longer viable therefore the funding had been withdrawn.

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Mrs Read concluded by stating that the Development Agreement had been signed and publicised with much trumpeting about NHDC working in partnership with Hitchin Town Hall Limited, and a collaborative approach was vital to the success of the joint project. Collaboration had however been significant by its absence throughout the sorry saga.

The Chairman thanked Mrs Read for her presentation.

# 67. PUBLIC PARTICIPATION - MR BRIAN FOREMAN

Mr Brian Foreman thanked the Chairman for the opportunity to address the Committee and gave a verbal presentation.

Mr Foreman informed Members that, in a classic example of mismanagement by NHDC Officers, the project to provide a community facility with a new District Museum now appeared to be a disaster.

The Directors of Hitchin Town Hall Limited had worked tirelessly to benefit the community, but had been thwarted in their endeavours, with a serious breakdown in the consultation process by NHDC with far too much being done without the knowledge or agreement of Hitchin Town Hall Limited.

At community group meetings with Hitchin Initiative and the Directors of Hitchin Town Hall Limited, aftendees were regularly advised of the difficult problems in working with NHDC Officers. The partnership simply wasn't happening.

Mr Foreman advised that initially Hitchin Town Hall Limited were denied access and once access was achieved became extremely concerned about work being done without their approval. Substantive changes were being made to the Grade II Listed Building. The work undertaken to get the building listed to protect it from being sold and made into a nightclub, like the earlier Town Hall, boarded up or destroyed, now seemed less worthwhile. A building of such architectural merit deserved to be preserved for future generations to continue to admire and enjoy with its main features intact.

When the community groups agreed to purchase 15 Brand Street as well as 14 Brand Street it was hoped this would save the proposed stud wall from being built across the stage. The original stage had been enlarged, as it was found to be too small for the size of the Mountford Hall. NHOC Officers reaped the benefit of a much better museum entrance without accepting that the museum storage could be moved into the new museum. The situation became far worse once a far more permanent concrete wall was built across the stage, without prior knowledge of the Directors of Hillichin Town Hall Limited.

Mr Foreman continued by informing Members that, in March the newspapers broke the story of what was happening in the Town Hall and there was a huge public outcry. Photographs of the wall and other seemingly inappropriate alterations were also published. There was now afteged vandalism by NHDC made public whilst the Leader of the Council attempted to uphold the Council's position.

He stated that, if the Chief Executive had taken charge and become Project Manager, the course of events may have changed. Some may consider that the buck stopped with the Chief Executive and that he should accept responsibility for what had occurred.

It was now virtually impossible for the community groups to raise the funding required for the project. The Business Plan had been seriously compromised and it was possible that, if news reached the bankers, finance might not be available. It was understood that finance was eventually pulled and the process of many hours spent by the community was wasted.

O&S (18.12.14)

Mr Foreman stated that lessons must be learnt and, if North Hertfordshire was to get closer to the applications of the Communities and Local Government Act 2011 he suggested:

Any future project should have an independent Chair.

 The Chief Executive should take a leading role and be prepared to meet with Partners at regular intervals throughout the project;

 Area Committees should be given a greater opportunity to make recommendations to Cabinet, including information Notes;

 Cabinet should, in its makeup, reflect the size of population within its District, one Cabinet Member for Hitchin was insufficient;

 Training should be provided for NHDC Officers in working with the community, including partnerships;

Part II agenda items should be more limited and used as sparingly as possible.

# Mr Foreman concluded by saying that:

NHDC had been brought into disrepute;

 The Development Agreement had allegedly been breached by NHDC, with legal ramifications;

 Councillors had only been allowed access to the Town Hall in August 2014 and prevented from taking photographs of this public building;

It was now possible that NHDC may face a bill in excess of £1 million.

He ask the Overview and Scrutiny Committee to name and shame those considered responsible for creating the unmitigated disaster of a community partnership and recommend action(s) to be taken against them.

The Chairman thanked Mr Foreman for his presentation.

# 68. DEVELOPMENT AGREEMENT: NORTH HERTFORDSHIRE DISTRICT COUNCIL & HITCHIN TOWN HALL LTD

Councillor Tricia Cowley, Portfolio Holder for Community Engagement and Rural Affairs for much of the period during which this project was discussed and developed, informed Members that she first wished to address a number of points made by the public speaker Rosemary Read of Hilchin Town Hall Limited and by Councillor Leal-Bennett.

Members will have noticed the frequent reference to Officers and the derogatory tone in which they were viewed by Hitchin Town Hall Directors. The Insinuation was that Officers had somehow been responsible for impeding the proper implementation of the legally binding agreement between Hitchin Town Hall Limited and North Hertfordshire District Council and had somehow operated in a way that was contrary to the will of Council.

She stated that nothing could have been further from the truth, from her own dealings with the Directors of Hitchin Town Hall Limited, she knew that Officers had attempted to act in a reasonable manner in order to deliver a complex project in an environment where Hitchin Town Hall Limited had chosen to brief the local media and others in a way that was clearly intended to force changes on the agreed scheme and, in particular, to affect fundamental changes to the layout of the stage and museum storage arrangement behind it.

Councillor Cowley reminded Members that the clear intention of the Council was only to agree to such changes if they were delivered without additional cost, delays in the project and if practical arrangements could be found to deal with museum storage elsewhere.

95

Despite receiving an ill- considered proposal from Hitchin Town Hall Limited to do this, it had been perfectly clear that no changes of the sort being promoted were capable of meeting these conditions and, in the circumstances, Officers, in close consultation with the Political Leadership of the Council, had attempted to protect the Council's interests, although this had not prevented Hitchin Town Hall Limited abandoning its responsibilities as our development partner and leaving Council Tax payers to face an additional cost.

She informed Members that the approach adopted by Hitchin Town Hall Limited had been a feature of the project from its inception. The risks identified in the reports being considered this evening clearly highlight the possibility that Hitchin Town Hall Limited could undermine delivery of the project. It now seemed likely that their actions had fundamentally breached/undermined the trust that Councillors placed in them to deliver their sider of the bargain, it was even more galling that the approach taken by Hitchin Town Hall Limited came at a time when this innovative project was nearing completion broadly on time and in budget, despite the obstacles placed in the Council's way.

Councillor Cowley concluded by stating that whilst a one sided and gloomy view of the management of this project had been presented in public, it was, in her personal experience, that Hitchin Town Hall Limited's molives and collective corporate behaviour had been appalling and contrary to the spirit of the partnership.

The Strategic Director of Customer Services gave a PowerPoint presentation regarding the report entitled Development Agreement: North Heritordshire District Council & Hitchin Town Hall Limited as follows:

# Decision Making Background

- The decision making process and evolution of the project had been long and complex;
- The original scheme proposed a mezzanine floor in the Moulford Hall, providing community space in the Gymnasium and Workmans Hall.
- The second scheme reversed the proposed layout, retaining the Mountford Hall for community use, but still retained museum storage using approximately half of the stage. At this point the first Development Agreement was signed;
- The inclusion of 15 Brand Street allowed expansion of the scheme, the museum storage on the stage was still included. It was at this point that the second Development Agreement was signed.

### **Development Agreement**

- The progress against the Development Agreement had been broadly on time;
- Unusually, the Planning Control Committee asked for conditions regarding Listed Building Consent to be referred back to them, causing an approximate 6 week delay;
- The Development Agreement had, by agreement, been signed prior to detailed designs being completed.

### **Timeline**

- . The timeline had been largely driven by the Community Funders;
- The first Development Agreement, including 14 Brand Street in the project, was signed in October 2012. This was due to end in March 2014;
- Drawings were completed to RIBA Stage F in November 2012:
- . The Tender was undertaken in October 2012;
- Hitchin Town Hall Planning Application was submitted in February 2013;
- . The Letter of Intent was issued to the contactor in March 2013;
- Council received a report regarding the inclusion of 15 Brand Street in April 2013;
- The second Development Agreement, including 15 Brand Street in the project, was signed in September 2013. This was still largely based on feasibility studies and is due to end in June 2015;
- The contractor was appointed in September 2013.



(8)

Development Agreement Process

The Development Agreement consisted of a number of documents which set out the legal obligations on the parties, from the beginning to the end of the development;

An overview of the key stages in the Development Agreement appeared in Paragraphs 8.2 and 8.3 of Annexe 1 of the Part I report. It stated that the following sequential events would occur:

NHDC Wold appoint the Architect;

· NHDC would appoint the Building Contractor,

 HTHL would acquire 14 and 15 Brand Street and allow NHDC access to the site for the purpose of the Development;

NHDC Would carry out the Development;

- HTHL would fit out the kitchen for the Café at its own cost;
   The architect would confirm completion of the Development;
- HTHL would pay its contribution to the Building Contractor;

HTHL would transfer 14 and 15 Brand Street to the Trust;

 NHDC would grant HTHL a Lease in the agreed form and would also enter into the Community Use and Management Agreement.

The Development Agreement also dealt with ancillary matters such as dispute
resolution, llaison arrangements, and the ability for the Agreement to be used as
financial security by HTHL along with other standard clauses for a legal agreement
of this nature.

Hitchin Town Hall Limited Outstanding Loan

 At a meeting held on 19 September 2012 HTHL requested Council consider granting a loan to cover a number of legal expenses for which it did not the resources to cover until its planned fundraising solivity commenced following commencement of construction estimated to be April 2013;

The terms of the loan granted were;

The loan will be up to a maximum of £20,000;

 Amounts will be paid to HTHL-on presentation to the Council of copy invoices addressed to HTHL, up to the value of those invoices and £20,000 as a maximum;

The loan will be subject to an interest charge of 3.2% per annum, calculated on.

a dally basis from the day amounts are paid;

 The Directors of HTHL will undertake to repay this sum as soon as practicable, with final repayment no later than the day when HTHL received the final loan and grant from ACF;

To this end HTHL will make staged repayments at an amount that is affordable, but at a minimum of £1,000 per repayment, on a quarterly basis from June

2013

The payments detailed in the final bullet point above had not been made;

 Fundraising by HTHL should have started prior to June 2012 in order to allow repayments to start.

The Strategic Director of Customer Services informed Members that further Issues and answers to some of their questions may be considered during the confidential (Part 2) part of the meeting.

Members asked questions and commented on the report and presentation as follows:

Purpose of the Overview and Scrutiny Meetings

A Member queried the purpose of this meeting and suggested that the Committee may like to see Minutes of the Project Board meetings in order to assess what actions had been taken.

The Chairman clarified that the meeting was to impart information to Members and listen to testimony and, although the Recommendation was to note the report, the Overview and Scrutiny Committee could add resolutions to this, if they so wished.

)H;

Meetings of the Project Board

Members noted Hitchin Town Hall Limited's claims that they had found it difficult to talk to Officers and to attend meetings often called at short notice and asked whether these complaints had merit. They asked how many meetings had taken place and how many had been of an urgent nature.

The Strategic Director of Customer Services advised that some meetings of Project Board had been called at short notice, but these were only when urgent items had to be discussed. Most of the 26 meetings had been arranged in advance around key stages, with the dates and minutes published on the NHDC website. He confirmed he would provide Members with an information Note detailing these and other meetings.

The Chief Executive advised that NHDC had been mindful of the requirements of the Development Agreement, particularly in respect of the confidentiality requirements. In responding to a point about HTHLs requests for meetings with the Leader and Chief Executive he stated that he had been at many meetings with Hilchin Town Hall Limited and had only refused to attend one meeting where unacceptable preconditions had been made by HTHL.

Finance

A member asked whether, in addition to the agreement between NHDC and HTHL, there was an agreement with SIB and asked for confirmation regarding the NHDC loan.

The Strategic Director of Customer Services advised that a charge was contained in the Development Agreement, which the Council had agreed to and that the provisions of the loan were such that the repayments were affordable.

The Put Option, demanded as a 'non negotiable' by Hitchin Town Hall Ltd at the request of ACF, was described in Paragraph 8.4 of the report and set out trigger events and the circumstances when NHDC would repay any expense of HTHL.

Museum Storage

Members asked at what stage of the development had some of the museum storage area changed into a plant room.

The Strategic Director of Customer Services advised that the provision of storage had always been a feature of the project and still remained so, it was identified at an early stage in the development that plant equipment would be required and the design construction group had been consulted. Works were on-going.

The Stage

Members noted that relationships between the parties were at a crucial point and that the main issue appeared to be regarding the wall built across the stage to provide storage. They queried whether Hitchin Town Hall had been consulted regarding the layout of the stage,

The Strategic Director of Customer Services advised that there had been no substantive change to the layout of the agreed design set out in the Development Agreement.

The Monitoring Officer informed Members that the Development Agreement had taken a substantial amount of time to negotiate and agree. The process for dealing with specific design issues were contained within the terms of the agreement.

Fulure of the Project

Members noted that it seemed that the project, as originally conceived, would not happen and that it was now necessary to focus on the future in order to get and end result; rather than blame. It was suggested that some consideration of the history of the development may inform the way forward.

RESOLVED: That the contents of the report entitled "Development Agreement: North Herifordshire District Council & Hitchin Town Hall Ltd" be noted.

**REASON FOR DECISION:** To provide Members with the opportunity to consider the history and context of this project prior to Council determining the way forward at a future meeting.

# 69. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That under Section 100A(4) of the Local Government Act 1972; the public and press be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paregraphs 3 and 5 of Part 1 of Schedule 12A of the said Act (as amended).

Councillors Bishop, Davidson and Weeks left the meeting.

70. DECLARATIONS OF INTEREST REGARDING DEVELOPMENT AGREEMENT:
NORTH HERTFORDSHIRE DISTRICT COUNCIL & HITCHIN TOWN HALL LTD
The Chairman asked the Monitoring Officer to give further advice regarding Declarations of Interest.

In response to a query by a Member who was concerned that Impartiality would be maintained during any possible complaint procedure, Councillors Judi Billing, Paul Clark, Bill Dayldson, Steve Hemmingway, S.K. Jarvis, David Keams, Michael Mulr and Mike Rice, who were Members or Substitutes of the Standards Committee left the room during this statement and the following discussions.

The Monitoring Officer re-literated point 3 of the advice given earlier (Minute 65 refers). that:

"If Councillor Leal-Bennett is allowed to remain as part of the Committee, or in the public gallery, for the Part I item, you should consider whether to exclude him from the Part II debate. My strong advice, given the contract dispute is with the organisation with whom he has an obvious, clear and recent close association, and given the confidential nature of what will be discussed tonight, is that Councillor Leal-Bennett should be excluded from that part of the meeting in the same way as the members of the public present."

He also stated that some of the examples given in Councillor Leal-Bennett's previous remarks about what could be deemed to be a close association were wholly different to this situation.

The Chairman asked the Chief Executive to comment.

The Chief Executive thanked the Chairman and made the following statement:

"The Monitoring Officer has given a full explanation of the position in relation to the Constitution and Declaration of Interests. I agree with the advice of the Monitoring Officer. I would remind Members that this is advice and it is for the individual Member to consider that advice and take the action that they deem to be appropriate. In terms of the meeting tonight it is for you Chairman to consider the conduct of business. It is appropriate for me to remind Members of the provisions of our indemnity arrangements, as agreed at Full Council, whereby if a Member acts contrary to the advice of the Monitoring Officer they will not be covered by the Council's Indemnity cover, Given the circumstances of the situation and Councillor Leal Bennett's former role as Director of HTHL, to remain in the room for Part 2 of the meeting would increase the Councils risks in relation to the project."

)

The Monitoring Officer reiterated that this was a major contract dispute in terms of the amount of money at stake and, that as Councillor Steve Jarvis had stated in the Part I debate, there was the potential that it could end in court and, if that were the case, Councillor Leal-Bennett would be a witness for Hitchin Town Hall Limited. It was therefore necessary to protect the Council's position as it would not be appropriate for a witness for the other side to be party to the confidential Part 2 discussions.

The Chairman asked Councillor Leal-Bennett if he Intended to remain in the room for the Part 2 discussions.

Councillor Leal-Bennett stated that he did not agree with the interpretation regarding Declarations of interest and that he was concerned about the comments made that there was an increased risk if he stayed in the meeting. He believed that to be a slur on his character.

He informed Members that his reason for leaving Hitchin Town Hall Limited was that he believed he could help the Council. He thought that things said should remain in the past and that problems needed to be solved by discussing a way forward. He stated that his knowledge of the project would help move things forward.

Councillor Leal-Bennett said that he would like to stay, but Officers seemed desperate to stop anyone with relevant knowledge from taking part.

He stated that he would leave and requested that he be sent a written copy of the legal advice given by the Monitoring Officer and the statement made by the Chief Executive.

The Chairman thanked Councillor Leal-Bennett for his agreement to jeave the meeting.

Councillor Leal-Bennett left the room for the remainder of the meeting. The Members of the Standards Committee returned to the room.

# 71. DEVELOPMENT AGREEMENT: NORTH HERTFORDSHIRE DISTRICT COUNCIL & HITCHIN TOWN HALL LTD

Councillor Lynda Needham, Leader of the Council, made a brief statement about the current and on-going risks regarding the development of Hitchin Town Hall as a District Museum and Community Facility.

Councillor Tony Hunter, Portfolio Holder for Community Engagement and Rural Affairs and Project Board Member, made a statement about the work undertaken by the Council to enable the project to be completed.

The Strategic Director of Customer Services gave a PowerPoint presentation regarding the report entitled Development Agreement: North Hertfordshire District Council & Hillohin Town Hall Limited.

There was some debate by Members and it was:

### RESOLVED:

- (1) That the contents of the report entitled "Development Agreement: North Hertfordshire District Council & Hitchin Town Hall Ltd" be noted;
- (2) That, once matters regarding the Development Agreement between North Hertfordshire District Council and Hitchin Town Hall Limited had progressed, a further report be prepared for consideration by the Overview and Scrutiny Committee;
- (3) The Overview and Scruliny Committee supported completion of the Hitchin Town Hall as a District Museum and Community Facility:
- (4) That, at a later date, the Overview and Scruliny Committee to consider the approach of NHDC to larger projects.

O&S (18.12.14)

REASON FOR DECISION: To provide Members with the opportunity to consider the history and context of this project prior to Council determining the way forward at a future meeting.

The meeting ended at 10.45 p.m.

Chalman

12

# Jill Welshman

From:

Katie White

Sent: To; 27 September 2013 07:53 Clir Leal-Bennett (external)

Cc:

David Scholes

Sublect:

Disclosable Pecuniary Interests

# Clir Leal-Bennell,

I am writing further to our small exchange last week. I mentioned that I would need to come back to you with a considered response to your amended Notice of Disclosable Pecuniary Interests Form (DPI) and am new writing to do that.

In submitting the form as revised you are declaring that you no longer have a DPI in respect of Hitchin Town Hall Limited. Taking the form at face value, I have assumed that you have therefore ceased to be a Director of HTHL. Could you please confirm whether my assumption based on your submitted DPI form is correct, as the "Current Appointments Report" from Companies House relating to HTHL dated 17/9/13, states you were still a close of HTHL as at that date. In addition I believe you are referred to as a Director in the Cornet this sek. I understand that you are a Trustee of HTHL as a registered charity, however the records at Companies House clearly show you to be a Director of HTHL as well. These are two distinct issues which need to be considered separately. Could you please clarify the current position?

Malters that form a DPI are set out in legislation, namely The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The Council's Code of Conduct attaches the DCLG description of DPI's to the Code as Appendix A, that reflects the content of the Regulations. In my view you currently have a DPI based on two of the seven categories that are set out in Appendix A. I have extracted these below and set them out with explanatory notes as to why they are relevant:

1. Employment, office, trade, profession or vocation

This includes any employment, office, trade, profession or vocation carried on for profit or gain, which you undertake. Your directorship for HTHL falls squarely within this category. Whilst the objectives of HTHL are clearly community focused, it is still a company, for which you appear to be a Director. Your role as a Director means that you have a DPI under this category.

2. Contracts

This category applies where a Member has a beneficial interest in a company that has an outstanding contract with the ulhority. You have a beneficial interest in HTHL as a body corporate of which you are a Director (defined in the juilations). There is a contract that exists between NHDO and HTHL that falls within the parameters, namely works to be executed and the contract has not been fully discharged. This means that you also have a DPI under this category.

Based on these categories set out in the Regulations, my advice to you is that contrary to your current DPI form, if you are a Director of HTHL, you have a DPI that you must re-register. It is a criminal offence not to declare a DPI if you have one. It is important that we are able to have an appropriate dialogue on these matters, including where we have differing views and interpretation. However we do need to ensure that matters of governance are dealt with in accordance with the legislation and the mandate given by full Council in terms of the Members Code of Conduct. This is important to support the effective and lawful operation of the Council.

For future reference, if you have a DPI, you can not obviate the need to declare it by getting the consent of the Chair whether in writing or otherwise. The legislation and the Code do not provide for that. Your response below confirms that you did not declare a DPI at Hitchin Committee in June or July 2013 in relation to the Update Reports. However I am aware from the draft Minutes of Hitchin Committee on 10 September, that you declared an Interest, but then remained in the room and may have commented at the end of the agenda item to confirm the draw down of funds from ACF. This is contrary to the legislation.

Matters relating to your role as a Trustee of HTH are relevant as Declarable Interests rather than a DPI, and also need to be considered in detail. However for the purposes of this email I have focused on the issue of DPI's.

I am aware that you contacted The Rt Hon Peter Lilley MP, however that was in relation to matters of predetermination and bias. Whilst relevant to the general principles of good governance, the topic we are focusing on relates to the Members Code of Conduct and relevant legislative provisions which is a separate issue.

I appreciate that this is a very different position to your own view. I was therefore pleased to read that you are prepared to fisten to my interpretation. I think it would be helpful for us to meet and discuss the points reised in this email, relating to DPI's and Declarable Interests. Could we therefore please arrange a time to meet, and I will ask David to join us as well. He is therefore copied into this email.

A few matters for completeness, I mentioned in my email that there would remain some in Hitchin who will be keeping a watchful eye on malters as they proceed. You asked for clarification. My reference is to members of the District (in Hitchin or elsewhere) who are less supportive of the Project for whatever reason, and may seek cause to challenge or criticise it. This does not help the legal position of the Council, the Council's reputation, or the smooth running of the Project. Separately I need to understand your relationship with Mountford Ltd to assess if similar issues are relevant. Finally, I note your enquiry about Clir Needham, however I am not in a position to discuss another Member's situation with you. However please be assured that I will consider the points that you have raised.

Regards,

Kelië White Corporate Legal Manager and Monitoring Officer

Direct Dial: 01462 474315 Mobile Number:

North Hertlandshire District Council Council Offices German Road Letchworth Garden Cily SCG 3JF DX 31317 Letchworth katto.white@north-horts.gov.uk www.north-horts.gov.uk

From: David Leal-Bennett [mailto:david@hitchinconservatives.co.uk]

Sent: 17 September 2013 14:08

To: Katle White

Cc: Clir R Shakespeare-Smith (external); 'Richard Thake'

Subject: RE: Hitchin Committee tonight

Kalle

My response is in RED However please note that I do not consider I have a pecuniary interest in either Hitchin Town Hall Ltd or Mountford Ltd and will be letting you have a revised Register of Members' Interest Form. Q1 It is a charily and is not "for profit or gain" Q7 I do not have a "beneficial interest in securities of that body".

Cllr Leal-Bennett,

Thank you for your email below. The issue of your interests in relation to HTHL is a matter that you (possibly) and I will, I expect, continue to need to touch base on (not necessarily but I am prepared to listen to your interpretation which may differ from my own). The fact that there is now a formal contractual partnership, by way of the DA having being signed last week, does not of itself negate you having to declare an interest. (At Hilchin Committee I declared that I was a Trustee of HTH and gave precise wording to the Chairman) Equally, the relevant tests in the legislation and the Council's Code of Conduct do not mean that just because it was an information report that went to Hilchin Committee, you are able to remain in the room. (see comment below) That is not the test that the legislation or the Council's Code lays down.

I understand that you are perhaps wanting to take a pragmatic commercial approach to the Issue of declaration of interests, however the legislation and the Council's Code does not enable this flexibility (See intro comment above). Your position in relation to HTHL is significant, and that will continue to create a potential conflict that needs to be managed in relation to your role as an elected Member of NHDC (See intro comment above, I am a trustee of a registered charity). You have recorded your role as a Director of HTHL as a Disclosable Pecuniary Interest (DPI), and from that certain actions then need to follow (See intro comment above, document now amended). Under the Council's Code of Conduct you need to withdraw from the room. There is no discretion in relation to this. In addition you must not participate on the item in any way at any time, (in particular you must not speak to the item before

withdrawing). To do so would be a potentially criminal offence under s31 and s34 of the Localism Act. (If you feel that I have committed a criminal offence at any time I suggest you refer the matter to the Police)

I have checked back on the minutes of the Hitchin Committee. It appears that on 11 September 2012, you declared a DPI and left the room in response to an Update report on Hitchin Museum and Community Facility (This was before the DA had been signed in October and as I recall before the company became a charity, I may be incorrect on this latter point). However I can see from the minutes for the meetings of 4 June and 16 July 2013 where Update reports were also provided, that you do not appear to have declared your DPI (Correct I did not consider it to be necessary but on each occasion obtained agreement via a non-verbal communication with the Chairman). At the very least this inconsistent approach (it was not inconsistent see explanation above) could be confusing to members of the public. However I would also suggest to you that you are potentially in breach of the Council's Code of Conduct by not declaring your interest and withdrawing (noted). ((at any point you then speak to the item, you are potentially committing a criminal offence. ( I did not speak, but I note "potentially")

The Council has given a clear mendate in relation to its support for the project (it is a joint project as evidenced in the signed DA). However there will remain some in Hilchin who will be keeping a watchful eye on matters as they proceed (I do not know to what you are referring, please be more specific). That means that care needs to be taken not only in relation to your individual role as a Councillor, and your duly to abide by the Code of Conduct, but also in relation to protecting the project as a whole from any unnecessary challenge or unhelpful criticism. (I have and always will be cognisant of any potential issues involved, you will recall that I did contact The Rt Hon Peter Lilley MP who raised this specific issue in Parliament and you have the Minister's comment on file)

Prelation to tomorrow night and the Overview and Scruliny Committee meeting, I am mindful of the update of the ortfolio Holder and also the Report in relation to the Community Halls strategy where HTH is mentioned, and the interplay with your DPI (See intro comment above, however I will mention that I no longer have a DPI but that I am a Trustee of HTH). I would hope that you would declare your DPI and leave in relation to both flems ( See above. Given that the Portfolio Holder will likely have other flems to report on, as well as Hitchin Museum and Community Facility, we could consult with the Portfolio Holder and Chair of the Committee to ask if the Portfolio Holder's update could be provided in two parts, so that you are able to be present for updates that are not related to the Hitchin Museum and Community Facility. (See above I propose to remain, it is after all just a report on his portfolio)

I am not seeking to be awkward with you, or prevent you discharging your role as an elected Member (see above comment and the response from the Minister). What I am seeking to do is support you and protect the Council's position. The fact that you have such a significant role with an organisation that the Council has entered into a contractual partnership with (this is the real point, it is a joint DA that has been signed for the benefit of both parties i.e the people of Hilchin and surrounding area as well as the residents on the whole of North Herifordshire, and your approach is out of killer with true interpretation of the Localism Act and its modus operand), means that your role as an elected Member is impacted. You and I need to work together to address that in terms of protecting your position and the Council's position.

ase do let me know if anything is unclear, or you have any queries. (I think I have covered it all)

whilst we are on the subject can you please advise my why, when the DCO was discussed in Part 2 of Full Council, did Lynda Needham not declare her interest with the Heritage Foundation who own the freehold, is this listed on her DPI form? This decision was most important since in voting for the purchase, NHDC will then have a direct contractual relationship with the freeholder i.e. The Heritage Foundation.



ા ફાઇનું દેવ કે કે ફાઇન છે. માણે ત્રણ દ્વારા માણે જેવા દ્વારા હોત્

ા ( ) કેર (ઇ)) નહિંદુ એક્સમાર (ઇ)) મુજબન ક્લાઉટન જોઈએ અંદેલન



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From: Katle White (mailto:Katle:White@north-herts.gov.uk)
Sent: 16 September 2013 14:02
To: Clir Leal-Bennett (external)
Subject: RE: Hitchin Committee tonight

Clir Leal-Bennett,

Thank you for your email below. The issue of your interests in relation to HTHL is a matter that you and I will, I expect, continue to need to touch base on. The fact that there is now a formal contractual partnership, by way of the DA having being signed last week, does not of itself negate you having to declare an interest. Equally, the relevant tests in the legislation and the Council's Code of Conduct do not mean that just because it was an information report that went to Hilchin Committee, you are able to remain in the room. That is not the test that the legislation or the Council's Code lays down.

I understand that you are perhaps wanting to take a pragmatic commercial approach to the issue of declaration of interests, however the legislation and the Council's Code does not enable this flexibility. Your position in relation to HTHL is significant, and that will continue to create a potential conflict that needs to be managed in relation to your role as an elected Member of NHDC. You have recorded your role as a Director of HTHL as a Disclosable Pecuniary Interest (DPI), and from that certain actions then need to Jollow. Under the Council's Code of Conduct you need to withdraw from the room. There is no discretion in relation to this. In addition you must not participate on the item in any way at any time, (in particular you must not speak to the item before withdrawing). To do so would be a potentially criminal offence under \$31 and \$34 of the Localism Act.

I have checked back on the minutes of the Hilchin Committee. It appears that on 11 September 2012, you declared a DPI and left the room in response to an Update report on Hilchin Museum and Community Facility. However I can see from the minutes for the meetings of 4 June and 16 July 2013 where Update reports were also provided, that you do not appear to have declared your DPI. At the very least this inconsistent approach could be confusing to members of the public. However I would also suggest to you that you are potentially in breach of the Council's Code of Conduct by not declaring your interest and withdrawing. If at any point you then speak to the item, you are potentially committing a criminal offence.

The Council has given a clear mandate in relation to its support for the project. However there will remain some in Hilchin who will be keeping a watchful eye on malters as they proceed. That means that care needs to be taken not only in relation to your individual role as a Councillor, and your duty to abide by the Code of Conduct, but also in relation to protecting the project as a whole from any unnecessary challenge or unhelpful criticism.

In relation to tomorrow night and the Overview and Scrutiny Committee meeting. I am mindful of the update of the Portfolio Holder and also the Report in relation to the Community Halls strategy where HTH is mentioned, and the interplay with your DPI. I would hope that you would declare your DPI and leave in relation to both items. Given that the Portfolio Holder will likely have other items to report on, as well as Hitchin Museum and Community Facility, we could consult with the Portfolio Holder and Chair of the Committee to ask if the Portfolio Holder's update could be provided in two parts, so that you are able to be present for updates that are not related to the Hitchin Museum and Community Facility.

I am not seeking to be awkward with you, or prevent you discharging your role as an elected Member. What I am seeking to do is support you and protect the Council's position. The fact that you have such a significant role with an organisation that the Council has entered into a contractual partnership with, means that your role as an elected Member is impacted. You and I need to work together to address that in terms of protecting your position and the Council's position.

Please do let me know if anything is unclear, or you have any queries.

Regards,

Katle White Corporate Legal Manager and Monitoring Officer

).;

Direct Dial: 01462 474316

North Heritordshire District Council Council Offices German Road Leichworth Garden City SG6 3JF DX 31317 Leichworth kallewiller Dronth-herts gov.uk www.north-herts gov.uk

From: David Leal-Bennett [mailto:david@hitchinconservatives.co.uk]

Sent: 10 September 2013 18:11

To: Katte White

Subject: RE: Hitchin Committee tonight

As on previous occasions and as this is just an update report without discussion or debate I, with the agreement of the chairman, will remain in the room as I have done so o similar occasions.

dentally now that this is a formal partnership I assume that there is only a requirement to leave the room if there a debate on specific issues.



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\*\*\* 11 (0) PIGA 4505(C) http://www.conservatives.com



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From: Katle White [mailto:Katle.White@north-herts.gov.uk]
Sent: 10 September 2013 16:07
To: Clir Leal-Bennett (external)
Subject: FW: Hitchin Committee tonight

Clir Leal-Bennett,

Following on from the good news about the signing of the Development Agreement yesterday, I am aware that Hitchin Committee are meeting lonight with an agenda item on North Harts Museum and Community Facility and that Overview and Scrutiny Committee are meeting next week with a presentation from the Portfolio Holder of Community Engagement and Rural Affairs.

I have forwarded as an aide memoire the email from Anthony to you last year regarding the declaration of interests. This advice remains the case following council's approval of the updates to the Code of Conduct on 18 July 2013.

Please let me know if you have any queries or if anything is unclear.

Regards,

Katle While Corporate Legal Manager and Monitoring Officer

Direct Dial: 01462 474315

North Herfordshire District Council Council Offices
Gemon Road
Leichworth Gerden Cily
SG6 3JF
DX 31317 Leichworth
Laid-white Daorth-herts gov.uk

From: Anthony Roche
Sent: 11 September 2012 15:07
To: Cir Leal Bennett (external)
Cc: John Robinson
Subject: Hikolin Committee Lonight

Cilr Leal-Bennett

I am aware that you are meeting with FBE this afternoon with John Robinson and others. I have therefore copied John into this email in case you are unable to pick it up prior to tonight's Hitchin Committee meeting.

I am emailing in respect of the agenda item on the North Herts Museum and Community Facility at Hitchin Town Hall to confirm the steps you need to take in respect of declaring an interest on the item.

You will recall that you have declared your directorship of HTHL on your Register of Disclosable Pecuniary Interests, accordingly in respect of an agenda Item on HTH:-

- 1. You must declare your interest ("I have a Disclosable Pecuniary Interest as a Director of HTHL") and withdraw from the room under the Council's Code of Conduct. Please note there is no discretion on this, it is an absolute requirement.
- 2. You must not participate on the Item in any way (ie you must not speak to the Item before withdrawing). To do so would potentially be a criminal offence under s.31(4) and s.34 of the Localism Act

The requirements in respect of Disclosable Pecuniary Interests are more stringent than those under the previous Standards regime, which is a consequence of how the Localism Act changed the landscape. The requirements on other types of Interest are potentially less stringent and you will recall that there are some items you no longer have to include on your Register of interests as this Council decided that only the minimum legislative requirements would be adopted in respect of registering interests.

I hope your meeting with FBE goes well.

Kind regards

Anthony Roche
Acting Corporate Legal Manager and Monitoring Officer - Legal Services

Direct Dial: 01462 474588

North Herifordshire District Council Council Offices Germon Road Letotworth Garden City Herifordshire SGB 3JF



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authour rochestanorth-harts gov.uk

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# Jill Welshman

From: Sent:

Sharon Nahal on behalf of John Robinson 11 September 2013 09:56

To:

Katle White; Norma Atlay; David Scholes Hitchin Area Committee

Subject:

Sensitivity:

Confidential

Dear All,

A brief note to outline events at Hitchin Area Committee last night in respect of the information item on Hitchin Town Hall.

Councillor Leal-Bennett declared his interest but asserted he did not consider the matters that would be reported on would create a conflict and as a result did not leave the meeting. He did however offer to leave the meeting if any member of the public objected. .

Councillor Thake was at pains to point to out the advice he had received from the Monitoring Officer and the fact that Councillor Leal-Bennett's action in remaining in the meeting was contrary to this.

puncillor Leal-Bennett did not pose any question on my verbal report and nor did any questions arise which could be a given rise to any actual or perceived conflict. However, following the conclusion of the item, Councillor Leal-Bennett spoke to advise that (words to the effect of)... we have today secured the draw down of funds from ACF. The Chairman was clearly uncomfortable with the fact that Councillor Leal-Bennett spoke (apparently on behalf of Hitchin Town Hall Ltd) but did not intervene to halt the very brief statement.

Please note that Scrutiny Committee meeting next week has an agenda item with a discussion on Councillor Hunter's Portfolio which of course includes Hitchin Town Hall and Councillor Leal-Bennett is also a Member of that Committee. I am not sure if Councillor Shakespeare-Smith is back from leave to chair that meeting but it may be prudent for someone to brief whoever is chairing in advance.

Regards

John



# 3.7 – Compliance with Rules & Procedures

### Jill Welshman

From:

Katie White

Sent: To:

N.F

16 January 2014 15:14 Cilr Leai-Bennett (external)

Cc:

**David Scholes** 

Subject:

RE: Disclosable Pecuniary Interests

Sensitivity:

Confidential

Attachments:

Counsel's Opinion.pdf; Counsel's follow up email 13,11,13.pdf; Brief to Counsel 22,10





Counsel's Opinion.pdf (54 K8 up email 13.1...

Counsel's follow Brief to Counsel 22 10 13.pdf...

Dear Clir Leal-Bennett,

You indicated to me that you would be interested to see the Briefing sent to Counsel and their opinion. Please find the Ariat to Counsel (Tim Straker QC) and Counsel's opinion attached by way of PDF documents. Counsel's opinion is aby way of the additional email dated 13.11.13.

Please note that my Brief to Counsel and Opinion from Counsel is provided to you in confidence on the understanding that you will not disclose it. The advice has been provided to me in my statutory role as Monitoring Officer to assist me in considering this issue on a confidential basis. I appreciate that you may wish to discuss this with a lawyer, however please note had to confidential on the diseminated more widely without my prior agreement. To that end this email is marked as confidential.

You asked for further clarification regarding which specific part of Section 34(1). My view is that Section 34(1)(a) and (b) are relevant.

As your small below copied David Scholes in, my response has done likewise. I would also relievate my previous suggestion that you meet with David Scholes and I to discuss this.

ours sincerely, table White orporate Legal Manager and Monitoring Officer

Irect Diat: 01462 474315

lenfordshire District Council ouncil Offices ernon Road (chworth Garden City 38 3JF (31317 Leichworth lle white@north-herts.gov.uk www.north-herts.gov.uk

om: Dayld Leal-Bennett [mailto:dayld@hitchinconservatives.co.uk]

ht: 09 January 2014 17:54

: Katle White

: David Scholes

bject: RE: Disclosable Pecuniary Interests

Dear Ms White

Which specific part of Section 34(1) a, b, c or all? and which specific subsections?

# David Leal-Bennett

Highbury Ward Councillor

(+44 (0)1462 459583

http://www.conservatives.com

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From: Katie White [mailto:Katie:White@north-herts.gov.uk]

Sent: 09 January 2014 17:24 To: Clir Leal-Bennett (external)

Cc: David Scholes

Subject: RE: Disclosable Pecuniary Interests

Dear Cilr Leal-Bennett,

Thank you for your email. I applogise for the clerical error that meant the letter to you was incorrectly addressed to house number 28, when it should have read 26 The Avenue.

I am referring specifically to Section 34(1) of the Localism Act.

I note the remainder of your email.

Yours sincerely,

Kalle White Corporate Legal Manager and Monitoring Officer

Direct Dial: 01462 474315

North Hertfordshire District Council Council Offices Gemon Road Letchworth Garden City SG6 3JF DX 31317 Letchworth katte.white@north-herts.gov.uk www.north-herts.gov.uk



From: David Leal-Bennett [mailto:david@hitchinconservatives.co.uk]

Sent: 09 January 2014 13:16

To: Katle White

Cc: David Scholes: David Miley

Subject: RE: Disclosable Pecuniary Interests

Dear Ms White

I acknowledge receipt of your letter dated 8th January 2014, sent recorded to the wrong address and received at midday today.



I would refer you to my formal response, sent to you on 12th November 2013; I consider your continual harassment over this issue extremely serious and will be writing to the Law Society to make a formal complaint.

see little point in rehearsing my argument but would be interested to see the briefing you sent to Dounsel as well as their response.

would also request that you clarify which part of section 34 of the Localism Act 2011 that you are eferencing as an 'alleged offence'.

# David Leal-Bennett

Highbury Ward Councillor

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From: David Leal-Bennett [mailto:david@hitchinconservatives.co.uk]

Sent: 12 November 2013 11:27

To: 'Katie White' Co: 'David Scholes'

Subject: RE: Disclosable Pecuniary Interests

Dear Ms White

I note your comments and interpretation below and have now researched this matter more fully.

Prior to this evening's meeting I would advise you that I shall declare my interest as a trustee/director of Hitchin Town Hall Ltd but shall not leave the room since I do not have a "disclosable pecuniary" interest.

I do not accept your interpretation of the DCLG description of DPIs in Appendix 'A', especially when reading the complete document which is about honesty, integrity and not benefitting from an 'interest'; none of these apply to myself. I am a trustee of a not for profit charity.

In fact I would suggest that in your enthusiasm for following the rules you have lost sight of the bigger picture and indeed have misrepresented the Localism Act. Whilst, in the past, I have questioned but complied with your interpretation, your continual correspondence and insistence has caused me considerable embarrassment, in effect, you have been questioning my integrity.

Furthermore you have set up a system at NHDC which only permits the declaration of a 'discolsable pecuniary' interest as the sole method if declaring an interest whereas there should also be a register of just 'Interests'. This latter register should cover all other aspects where councillors a representative of NHDC, a members of an organisation or indeed a trustees such as the Workmans' Hall Trust.

As stated on previous occasions, should I attend any meeting where I consider there to be any conflict of interest then I will remove myself from the meeting.

I have now received your comment "In my view you currently have a DPI based on two of the seven categories that are set out in Appendix A." and advice, for that is what it is, and have chosen my own interpretation which differs.



Thank you for all your work; I consider the matter closed although I would suggest that you seriously think about setting up a register of "Interests".

# David Leal-Bennett

Highbury Ward Councillor

(+44 (0)1462 459583

# ht //www.conservatives.com

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From: Katie White [mailto:Katie:White@north-herts.gov.uk]

Sent: 27 September 2013 07:53 To: Clir Leal-Bennett (external)

Cc; David Scholes

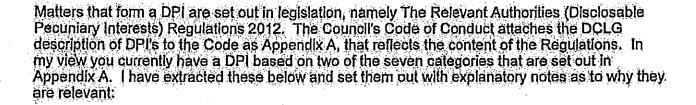
Subject: Disclosable Pecuniary Interests



Clir Leal-Bennett,

I am writing further to our email exchange last week. I mentioned that I would need to come back to you with a considered response to your amended Notice of Disclosable Pecuniary Interests Form (DPI) and am now writing to do that.

In submitting the form as revised you are declaring that you no longer have a DPI in respect of Hitchin Town Hall Limited. Taking the form at face value, I have assumed that you have therefore ceased to be a Director of HTHL. Could you please confirm whether my assumption based on your submitted DPI form is correct, as the "Current Appointments Report" from Companies House relating to HTHL dated 17/9/13, states you were still a Director of HTHL as at that date. In addition I believe you are referred to as a Director in the Comet this week. I understand that you are a Trustee of HTHL as a registered charity, however the records at Companies House clearly show you to be a Director of HTHL as well. These are two distinct issues which need to be considered separately. Could you please clarify the current position?



# 1. Employment, office, trade, profession or vocation

This includes any employment, office, trade, profession or vocation carried on for profit or gain, which you undertake. Your directorship for HTHL falls squarely within this category. Whilst the objectives of HTHL are clearly community focused, it is still a company, for which you appear to be a Director. Your role as a Director means that you have a DPI under this category.



### 2. Contracts

This category applies where a Member has a beneficial interest in a company that has an outstanding contract with the Authority. You have a beneficial interest in HTHL as a body corporate of which you are a Director (defined in the Regulations). There is a contract that exists between NHDC and HTHL that falls within the parameters, namely works are to be executed and the contract has not been fully discharged. This means that you also have a DPI under this category.

Based on these categories set out in the Regulations, my advice to you is that contrary to your current DPI form, if you are a Director of HTHL, you have a DPI that you must re-register. It is a

criminal offence not to declare a DPI if you have one. It is important that we are able to have an appropriate dialogue on these matters, including where we have differing views and interpretation. However we do need to ensure that matters of governance are dealt with in accordance with the legislation and the mandate given by full Council in terms of the Members Code of Conduct. This is important to support the effective and lawful operation of the Council.

For future reference, if you have a DPI, you can not obviate the need to declare it by getting the consent of the Chair whether in writing or otherwise. The legislation and the Code do not provide for that. Your response below confirms that you did not declare a DPI at Hitchin Committee in June or July 2013 in relation to the Update Reports. However I am aware from the draft Minutes of Hitchin Committee on 10 September, that you declared an Interest, but then remained in the room and may have commented at the end of the agenda item to confirm the draw down of funds from ACF. This is contrary to the legislation.

Matters relating to your role as a Trustee of HTH are relevant as Declarable Interests rather than PI, and also need to be considered in detail. However for the purposes of this email I have sused on the Issue of DPI's.

I am aware that you contacted The Rt Hon Peter Lilley MP, however that was in relation to matters of predetermination and bias. Whilst relevant to the general principles of good governance, the topic we are focusing on relates to the Members Code of Conduct and relevant legislative provisions which is a separate issue.

I appreciate that this is a very different position to your own view. I was therefore pleased to read that you are prepared to listen to my interpretation. I think it would be helpful for us to meet and discuss the points raised in this email, relating to DPI's and Declarable Interests. Could we therefore please arrange a time to meet, and I will ask David to join us as well. He is therefore copied into this email.



A few matters for completeness, I mentioned in my small that there would remain some in Hitchin who will be keeping a watchful eye on matters as they proceed. You asked for clarification. My eference is to members of the District (in Hitchin or elsewhere) who are less supportive of the Project for whatever reason, and may seek cause to challenge or criticise it. This does not help he legal position of the Council, the Council's reputation, or the smooth running of the Project. Separately I need to understand your relationship with Mountford Ltd to assess if similar issues are relevant. Finally, I note your enquiry about Clir Needham, however I am not in a position to liscuss another Member's situation with you. However please be assured that I will consider the oints that you have raised.

egards,

atle White orporate Legal Manager and Monitoring Officer

Direct Dial: 01462 474315 Mobile Number:

North Hertfordshire District Council Council Offices
Gernon Road
Letchworth Garden City
SG6 3JF
DX 31317 Letchworth
katie.white@north-herts.gov.uk
www.north-herts.gov.uk

From: David Leal-Bennett [mailto:david@hltchinconservatives.co.uk]

Sent: 17 September 2013 14:08

To: Katie White

Cc: Clir R Shakespeare-Smith (external); 'Richard Thake'

Subject: RE: Hitchin Committee tonight

Katie

My response is in RED However please note that I do not consider I have a pecuniary interest in either Hitchin Town Hall Ltd or Mountford Ltd and will be letting you have a revised Register of Members' Interest Form. Q1 It is a charity and is not "for profit or gain" Q7 I do not have a "beneficial interest in securities of that body".

Cllr Leal-Bennett.

Thank you for your email below. The issue of your interests in relation to HTHL is a matter that you (possibly) and I will, I expect, continue to need to touch base on (not necessarily but I am prepared to listen to your interpretation which may differ from my own). The fact that there is now a formal contractual partnership, by way of the DA having being signed last week, does not of itself negate you having to declare an interest. (At Hitchin Committee I declared that I was a Trustee of HTH and gave precise wording to the Chairman) Equally, the relevant tests in the legislation and the Council's Code of Conduct do not mean that just because it was an information report that went to Hitchin Committee, you are able to remain in the room. (see comment below) That is not the test that the legislation or the Council's Code lays down.



I understand that you are perhaps wanting to take a pragmatic commercial approach to the issue of declaration of interests, however the legislation and the Council's Code does not enable this flexibility (See intro comment above). Your position in relation to HTHL is significant, and that will continue to create a potential conflict that needs to be managed in relation to your role as an elected Member of NHDC (See intro comment above, I am a trustee of a registered charity). You have recorded your role as a Director of HTHL as a Disclosable Pecuniary Interest (DPI), and from that certain actions then need to follow (See intro comment above, document now amended). Under the Council's Code of Conduct you need to withdraw from the room. There is no discretion in relation to this. In addition you must not participate on the Item in any way at any

time, (In particular you must not speak to the item before withdrawing). To do so would be a potentially criminal offence under \$31 and \$34 of the Localism Act. (If you feel that I have committed a criminal offence at any time I suggest you refer the matter to the Police)

I have checked back on the minutes of the Hitchin Committee. It appears that on 11 September 2012, you declared a DPI and left the room in response to an Update report on Hitchin Museum and Community Facility (This was before the DA had been signed in October and as I recall before the company became a charity, I may be incorrect on this latter point). However I can see from the minutes for the meetings of 4 June and 16 July 2013 where Update reports were also provided, that you do not appear to have declared your DPI (Correct I did not consider if to be necessary but on each occasion obtained agreement via a non-verbal communication with the Chairman). At the very least this inconsistent approach (it was not inconsistent see explanation above) could be confusing to members of the public. However I would also suggest to you that you are potentially in breach of the Gouncil's Code of Conduct by not declaring your interest and withdrawing (noted). If at any point you then speak to the item, you are potentially committing a criminal offence. (I did not speak, but I note "potentially")



The Council has given a clear mandate in relation to its support for the project (It is a joint project as evidenced in the signed DA). However there will remain some in Hitchin who will be keeping a watchful eye on matters as they proceed (I do not know to what you are referring, please be more specific). That means that care needs to be taken not only in relation to your individual role as a Councillor, and your duty to abide by the Code of Conduct, but also in relation to protecting the project as a whole from any unnecessary challenge or unhelpful criticism. (I have and always will be cognisant of any potential issues involved, you will recall that I did contact The Rt Hon Peter Lilley MP who raised this specific issue in Parliament and you have the Minister's comment on file)

In relation to tomorrow night and the Overview and Scrutiny Committee meeting, I am mindful of the update of the Portfolio Holder and also the Report in relation to the Community Halls strategy where HTH is mentioned, and the interplay with your DPI (See intro comment above, however I mention that I no longer have a DPI but that I am a Trustee of HTH). I would hope that you all declare your DPI and leave in relation to both Items (See above. Given that the Portfolio Holder will likely have other items to report on, as well as Hitchin Museum and Community Facility, we could consult with the Portfolio Holder and Chair of the Committee to ask if the Portfolio Holder's update could be provided in two parts, so that you are able to be present for updates that are not related to the Hitchin Museum and Community Facility. (See above I propose o remain, it is after all just a report on his portfolio)

am not seeking to be awkward with you, or prevent you discharging your role as an elected Member (see above comment and the response from the Minister). What I am seeking to lo is support you and protect the Council's position. The fact that you have such a significant role with an organisation that the Council has entered into a contractual partnership with (this is the sal point, it is a joint DA that has been signed for the benefit of both parties i.e the people of litchin and surrounding area as well as the residents on the whole of North Hertfordshire, and our approach is out of kilter with true interpretation of the Localism Act and its modus operand!), reans that your role as an elected Member is impacted. You and I need to work together to didress that in terms of protecting your position and the Council's position.

Please do let me know if anything is unclear, or you have any queries. (I think I have covered it all)

Whilst we are on the subject can you please advise my why, when the DCO was discussed in Part 2 of Full Council, did Lynda Needham not declare her interest with the Heritage Foundation who own the freehold. Is this listed on her DPI form? This decision was most important since in voting for the purchase, NHDC will then have a direct contractual relationship with the freeholder i.e. The Heritage Foundation.

# David Leal-Bennett

Highbury Ward Councillor

(+44 (0)1462 459583

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From: Katle White [mailto:Katle.White@north-herts.gov.uk]

Sent: 16 September 2013 14:02 To: Cllr Leal-Bennett (external)

Subject: RE: Hitchin Committee tonight

Cllr Leal-Bennett,

Thank you for your email below. The issue of your interests in relation to HTHL is a matter that you and I will, I expect, continue to need to touch base on. The fact that there is now a formal contractual partnership, by way of the DA having being signed last week, does not of itself negate you having to declare an interest. Equally, the relevant tests in the legislation and the Council's Code of Conduct do not mean that just because it was an information report that went

to Hitchin Committee, you are able to remain in the room. That is not the test that the legislation of the Council's Code lays down.

I understand that you are perhaps wanting to take a pragmatic commercial approach to the issue of declaration of interests, however the legislation and the Council's Code does not enable this flexibility. Your position in relation to HTHL is significant, and that will continue to create a potential conflict that needs to be managed in relation to your role as an elected Member of NHDC. You have recorded your role as a Director of HTHL as a Disclosable Pecuniary Interest (DPI), and from that certain actions then need to follow. Under the Council's Code of Conduct you need to withdraw from the room. There is no discretion in relation to this. In addition you must not participate on the Item in any way at any time, (in particular you must not speak to the Item before withdrawing). To do so would be a potentially criminal offence under s31 and s34 of the Localism Act.

I have checked back on the minutes of the Hitchin Committee. It appears that on 11 September 12, you declared a DPI and left the room in response to an Update report on Hitchin Museum Id Community Facility. However I can see from the minutes for the meetings of 4 June and 16 July 2013 where Update reports were also provided, that you do not appear to have declared your DPI. At the very least this inconsistent approach could be confusing to members of the public. However I would also suggest to you that you are potentially in breach of the Council's Code of Conduct by not declaring your interest and withdrawing. If at any point you then speak to the Item, you are potentially committing a criminal offence.

The Council has given a clear mandate in relation to its support for the project. However there will remain some in Hitchin who will be keeping a watchful eye on matters as they proceed. That means that care needs to be taken not only in relation to your individual role as a Councillor, and your duty to ablde by the Code of Conduct, but also in relation to protecting the project as a whole from any unnecessary challenge or unhelpful criticism.

alation to tomorrow night and the Overview and Scrutiny Committee meeting, I am mindful of the update of the Portfolio Holder and also the Report in relation to the Community Halls strategy where HTH is mentioned, and the interplay with your DPI. I would hope that you would declare your DPI and leave in relation to both items. Given that the Portfolio Holder will likely have other items to report on, as well as Hitchin Museum and Community Facility, we could consult with the Portfolio Holder and Chair of the Committee to ask if the Portfolio Holder's update could be provided in two parts, so that you are able to be present for updates that are not related to the Hitchin Museum and Community Facility.

I am not seeking to be awkward with you, or prevent you discharging your role as an elected Member. What I am seeking to do is support you and protect the Council's position. The fact that you have such a significant role with an organisation that the Council has entered into a sontractual partnership with, means that your role as an elected Member is impacted. You and I need to work together to address that in terms of protecting your position and the Council's position.

Please do let me know if anything is unclear, or you have any queries.

Regards,

Katle White Corporate Legal Manager and Monitoring Officer

Direct Dial; 01462 474315 Mobile Number:

North Hertfordshire District Council Council Offices Gernon Road Leichworth Garden City SG6 3JF DX 31317 Letchworth katie.white@north-herts.gov.uk www.north-herts.gov.uk



From: David Leal-Bennett [mailto:david@hitchinconservatives.co.uk]

Sent: 10 September 2013 18:11

To: Katle White

Subject: RE: Hitchin Committee tonight

As on previous occasions and as this is just an update report without discussion or debate I, with the agreement of the chairman, will remain in the room as I have done so o similar occasions.

Incidentally now that this is a formal partnership I assume that there is only a requirement to leave the room if there is a debate on specific issues.



David Leal-Bennett

Highbury Ward Councillor

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From: Katle White [mailto:Katle,White@north-herts.gov.uk]

Sent: 10 September 2013 16:07 To: Cllr Leal-Bennett (external)

Subject: FW: Hitchin Committee tonight



Clir Leal-Bennett,

Following on from the good news about the signing of the Development Agreement yesterday, I am aware that Hitchin Committee are meeting tonight with an agenda item on North Herts Museum and Community Facility and that Overview and Scrutiny Committee are meeting next week with a presentation from the Portfolio Holder of Community Engagement and Rural Affairs.

I have forwarded as an aide memoire the email from Anthony to you last year regarding the declaration of interests. This advice remains the case following council's approval of the updates to the Code of Conduct on 18 July 2013.

Please let me know if you have any queries or if anything is unclear.

Regards,

White porate Legal Manager and Monitoring Officer

Direct Dial: 01462 474315

North Hertfordshire District Council Council Offices Gernon Road Letchworth Garden City SG6 3JF DX 31317 Letchworth katle,white@north-herts.gov.uk www.north-herts.gov.uk

From: Anthony Roche

Sent: 11 September 2012 15:07 Fo: Clir Leal-Bennett (external)

Cc: John Robinson

Subject: Hitchin Committee tonight

Clir Leal-Bennett

I am aware that you are meeting with FBE this afternoon with John Robinson and others. I have therefore copied John Into this email in case you are unable to pick it up prior to tonight's Hitchin Committee meeting.

I am emailing in respect of the agenda item on the North Herts Museum and Community Facility at Hitchin Town Hall to confirm the steps you need to take in respect of declaring an interest on the item.

You will recall that you have declared your directorship of HTHL on your Register of Disclosable Pecuniary Interests, accordingly in respect of an agenda item on HTH:-

- 1. You must declare your interest ("I have a Disclosable Pecuniary Interest as a Director of HTHL") and withdraw from the room under the Council's Code of Conduct. Please note there is no discretion on this, it is an absolute requirement.
- 2. You must not participate on the item in any way (le you must not speak to the item before withdrawing). To do so would potentially be a criminal offence under s.31(4) and s.34 of the Localism Act

The requirements in respect of Disclosable Pecuniary Interests are more stringent than those under the previous Standards regime, which is a consequence of how the Localism Act changed the landscape. The requirements on other types of Interest are potentially less stringent and you will recall that there are some items you no longer have to include on your Register of Interests as this Council decided that only the minimum legislative requirements would be adopted in respect of registering interests.

I hope your meeting with FBE goes well.

Kind regards

Anthony Röche
Acting Corporate Legal Manager and Monitoring Officer - Legal Services

Direct Dial: 01462 474588

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DX 31317 Letchworth

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# Jill Welshman

From: Sent: David Leal-Bennett [david@hltchinconservatives.co.uk]

17 January 2014 12:02

To: Cc: Kalle While David Scholes

Subject:

RE: Disclosable Pecuniary Interests

Dear Ms White

Thank you for your response and enclosures, which I will consider in due course. For the moment and until the end of the month I am extremely busy with personal and business issues and will read the documentation once I return from holiday; the week of 16th February 2014. I will then address the issue and advise you where I am in the process.

yr your information I have been in discussion with the CCA who agree with my interpretation.

I do not recall that you suggested we meet with David Scholes but any such meeting with the three of us would necessitate me being accompanied by legal representation.

You have provided some clarification by reference to the specific Clause 34(1) a & b . However there are within these two references other subsets as follows:

a) references 30 (1), 31(2), (3) or (7) and

b references 31(4) which itself references two sections.

I think if you are considering criminality I need to be absolutely precise.

Please could you be more specific, if all then I will inform my advisers accordingly.

# David Leal-Bennett

Highbury Ward Councillor

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From: Katie White [mailto:Katie.White@north-herts.gov.uk]

Sent: 16 January 2014 15:14 To: Clir Leal-Bennett (external)

email is marked as confidential.

Cc: David Scholes

Subject: RE: Disclosable Pecuniary Interests

Dear Clir Leal-Bennett,

You Indicated to me that you would be interested to see the Briefing sent to Counsel and their opinion. Please find the Brief to Counsel (Tim Straker QC) and Counsel's opinion attached by way of PDF documents. Counsel's opinion is clarified by way of the additional email dated 13:11.13.

Please note that my Brief to Counsel and Opinion from Counsel is provided to you in confidence on the understanding that you will not disclose it. The advice has been provided to me in my statutory role as Monitoring Officer to assist me in considering this issue on a confidential basis. I appreciate that you may wish to discuss this with a lawyer, however please note this information should not be diseminated more widely without my prior agreement. To that end this

You asked for further clarification regarding which specific part of Section 34(1). My view is that Section 34(1)(a) and (b) are relevant.

As your email below copied David Scholes in, my response has done likewise. I would also relterate my previous suggestion that you meet with David Scholes and I to discuss this.

Yours sincerely,

Katie White

# Corporate Legal Manager and Monitoring Officer

Direct Dial: 01462 474315

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Letchworth Garden City
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katte.white@north-herts.gov.uk
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From: David Leal-Bennett [mailto:david@hitchinconservatives.co.uk]

nt: 09 January 2014 17:54

້ວ: Katle White ວ່ວ: David Scholes

Subject: RE: Disclosable Pecuniary Interests

Dear Ms White

Which specific part of Section 34(1) a, b, c or all? and which specific subsections?

# David Leal-Bennett

**Shibury Ward Councillor** 

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From: Katle White [mailto:Katle.White@north-herts.gov.uk]

Sent: 09 January 2014 17:24 To: Clir Leal-Bennett (external)

Cc: David Scholes

Subject: RE: Disclosable Pecuniary Interests

Dear Clir Leal-Bennett,

Thank you for your email, I apologise for the clerical error that meant the letter to you was incorrectly addressed to house number 28, when it should have read 26 The Avenue.

I am referring specifically to Section 34(1) of the Localism Act.

I note the remainder of your email.

Yours sincerely,

Katie White Corporate Legal Manager and Monitoring Officer

Direct Dial: 01462 474315

North Hertfordshire District Council Council Offices Gernon Road Letchworth Garden City SG6 3JF DX 31317 Letchworth katie.white@north-herts.gov.uk www.north-herts.gov.uk

From: David Leal-Bennett [mailto:david@hitchinconservatives.co.uk]

Sent: 09 January 2014 13:16

To: Katie White

Cc: David Scholes; David Miley

Subject: RE: Disclosable Pecuniary Interests

Dear Ms White

I acknowledge receipt of your letter dated 8th January 2014, sent recorded to the wrong address

and received at midday today.

I would refer you to my formal response, sent to you on 12th November 2013; I consider your continual harassment over this issue extremely serious and will be writing to the Law Society to make a formal complaint.

I see little point in rehearsing my argument but would be interested to see the briefing you sent to Counsel as well as their response.

I would also request that you clarify which part of section 34 of the Localism Act 2011 that you are referencing as an 'alleged offence'.



# David Leal-Bennett

Highbury Ward Councillor

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From: David Leal-Bennett [mailto:david@hltchinconservatives.co.uk]

3ent: 12 November 2013 11:27

o: 'Katie White'

lubject: RE: Disclosable Pecuniary Interests

gar Ms White

I note your comments and interpretation below and have now researched this matter more fully.

Prior to this evening's meeting I would advise you that I shall declare my interest as a trustee/director of Hitchin Town Hall Ltd but shall not leave the room since I do not have a "disclosable pecuniary" interest.

I do not accept your interpretation of the DCLG description of DPIs in Appendix 'A', especially when reading the complete document which is about honesty, integrity and not benefitting from an 'interest'; none of these apply to myself, I am a trustee of a not for profit charity.

In fact I would suggest that in your enthusiasm for following the rules you have lost sight of the bigger picture and indeed have misrepresented the Localism Act. Whilst, in the past, I have questioned but complied with your interpretation, your continual correspondence and insistence has caused me considerable embarrassment, in effect, you have been questioning my integrity.



Furthermore you have set up a system at NHDC which only permits the declaration of a 'discolsable pecuniary' interest as the sole method if declaring an interest whereas there should also be a register of just 'interests'. This latter register should cover all other aspects where councillors a representative of NHDC, a members of an organisation or indeed a trustees such as the Workmans' Hall Trust.

As stated on previous occasions, should I attend any meeting where I consider there to be any conflict of interest then I will remove myself from the meeting.

I have now received your comment "In my view you currently have a DPI based on two of the seven categories that are set out in Appendix A." and advice, for that is what it is, and have chosen my own interpretation which differs.



Thank you for all your work; I consider the matter closed although I would suggest that you seriously think about setting up a register of "Interests".

# David Leal-Bennett

Highbury Ward Councillor

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From: Katle White [mailto:Katle.White@north-herts.gov.uk]

Sent: 27 September 2013 07:53 Clir Leal-Bennett (external)

c: David Scholes

Subject: Disclosable Pecuniary Interests

Cllr Leal-Bennett,

I am writing further to our email exchange last week. I mentioned that I would need to come back to you with a considered response to your amended Notice of Disclosable Pecuniary Interests Form (DPI) and am now writing to do that.

In submitting the form as revised you are declaring that you no longer have a DPI in respect of "In Town Hall Limited. Taking the form at face value, I have assumed that you have therefore cased to be a Director of HTHL. Could you please confirm whether my assumption based on your submitted DPI form is correct, as the "Current Appointments Report" from Companies House relating to HTHL dated 17/9/13, states you were still a Director of HTHL as at that date. In addition I believe you are referred to as a Director in the Comet this week. I understand that you are a Trustee of HTHL as a registered charity, however the records at Companies House clearly show you to be a Director of HTHL as well. These are two distinct issues which need to be considered separately. Could you please clarify the current position?

Valters that form a DPI are set out in legislation, namely The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The Council's Code of Conduct attaches the DCLG rescription of DPI's to the Code as Appendix A, that reflects the content of the Regulations. In my view you currently have a DPI based on two of the seven categories that are set out in Appendix A. I have extracted these below and set them out with explanatory notes as to why they are relevant:

# 1. Employment, office, trade, profession or vocation

This includes any employment, office, trade, profession or vocation carried on for profit or gain, which you undertake. Your directorship for HTHL falls squarely within this category. Whilst the objectives of HTHL are clearly community focused, it is still a company, for which you appear to be a Director. Your role as a Director means that you have a DPI under this category.

### 2. Contracts

This category applies where a Member has a beneficial interest in a company that has an outstanding contract with the Authority. You have a beneficial interest in HTHL as a body corporate of which you are a Director (defined in the Regulations). There is a contract that exists between NHDC and HTHL that falls within the parameters, namely works are to be executed and the contract has not been fully discharged. This means that you also have a DPI under this category.

Based on these categories set out in the Regulations, my advice to you is that contrary to your current DPI form, if you are a Director of HTHL, you have a DPI that you must re-register. It is a criminal offence not to declare a DPI if you have one. It is important that we are able to have an appropriate dialogue on these matters, including where we have differing views and interpretation. However we do need to ensure that matters of governance are dealt with in accordance with the legislation and the mandate given by full Council in terms of the Members Code of Conduct. This is important to support the effective and lawful operation of the Council.

For future reference, if you have a DPI, you can not obviate the need to declare it by getting the consent of the Chair whether in writing or otherwise. The legislation and the Code do not provide for that. Your response below confirms that you did not declare a DPI at Hitchin Committee in June or July 2013 in relation to the Update Reports. However I am aware from the draft Minutes of Hitchin Committee on 10 September, that you declared an Interest, but then remained in the room and may have commented at the end of the agenda item to confirm the draw down of funds from ACF. This is contrary to the legislation.

Matters relating to your role as a Trustee of HTH are relevant as Declarable Interests rather than a DPI, and also need to be considered in detail. However for the purposes of this email I have focused on the issue of DPI's.

I am aware that you contacted The Rt Hon Peter Lilley MP, however that was in relation to matters of predetermination and bias. Whilst relevant to the general principles of good governance, the topic we are focusing on relates to the Members Code of Conduct and relevant legislative provisions which is a separate issue.

I appreciate that this is a very different position to your own view. I was therefore pleased to read that you are prepared to listen to my interpretation. I think it would be helpful for us to meet and discuss the points raised in this email, relating to DPI's and Declarable Interests. Could we

therefore please arrange a time to meet, and I will ask David to join us as well. He is therefore copied into this email.

A few matters for completeness, I mentioned in my email that there would remain some in Hitchin who will be keeping a watchful eye on matters as they proceed. You asked for clarification. My reference is to members of the District (in Hitchin or elsewhere) who are less supportive of the Project for whatever reason, and may seek cause to challenge or criticise it. This does not help the legal position of the Council, the Council's reputation, or the smooth running of the Project. Separately I need to understand your relationship with Mountford Ltd to assess if similar issues are relevant. Finally, I note your enquiry about Clir Needham, however I am not in a position to discuss another Member's situation with you. However please be assured that I will consider the points that you have raised.

Regards,

'(e) White Corporate Legal Manager and Monitoring Officer

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Fon: David Leal-Bennett [mailto:david@hitchinconservatives.co.uk]

nt: 17 September 2013 14:08

To: Katie White

Cc: Clir R Shakespeare-Smith (external); 'Richard Thake'

Subject: RE: Hitchin Committee tonight

Katie

My response is in RED However please note that I do not consider I have a pecuniary interest in aither Hitchin Town Hall Ltd or Mountford Ltd and will be letting you have a revised Register of Vembers' Interest Form. Q1 It is a charity and is not "for profit or gain" Q7 I do not have a beneficial interest in securities of that body".

Illr Leal-Bennett,

Thank you for your email below. The issue of your interests in relation to HTHL is a matter that you (possibly) and I will, I expect, continue to need to touch base on (not necessarily but I am prepared to listen to your interpretation which may differ from my own). The fact that there is now a formal contractual partnership, by way of the DA having being signed last week, does not of itself negate you having to declare an interest. (At Hitchin Committee I declared that I was a Trustee of HTH and gave precise wording to the Chairman) Equally, the relevant tests in the legislation and the Council's Code of Conduct do not mean that just because it was an information report that went to Hitchin Committee, you are able to remain in the room. (see comment below) That is not the test that the legislation or the Council's Code lays down.

I understand that you are perhaps wanting to take a pragmatic commercial approach to the issue of declaration of interests, however the legislation and the Council's Code does not enable this flexibility (See intro comment above). Your position in relation to HTHL is significant, and that will continue to create a potential conflict that needs to be managed in relation to your role as an elected Member of NHDC (See intro comment above, I am a trustee of a registered charity). You have recorded your role as a Director of HTHL as a Disclosable Pecuniary Interest (DPI), and from that certain actions then need to follow (See intro comment above, document now amended). Under the Council's Code of Conduct you need to withdraw from the room. There is to discretion in relation to this. In addition you must not participate on the item in any way at any time, (in particular you must not speak to the item before withdrawing). To do so would be a potentially criminal offence under s31 and s34 of the Localism Act. (If you feel that I have committed a criminal offence at any time I suggest you refer the matter to the Police)

I have checked back on the minutes of the Hitchin Committee. It appears that on 11 September 2012, you declared a DPI and left the room in response to an Update report on Hitchin Museum and Community Facility (This was before the DA had been signed in October and as I recall before the company became a charity, I may be incorrect on this latter point). However I can see from the minutes for the meetings of 4 June and 16 July 2013 where Update reports were also provided, that you do not appear to have declared your DPI (Correct I did not consider it to be necessary but on each occasion obtained agreement via a non-verbal communication with the Chairman). At the very least this inconsistent approach (it was not inconsistent see explanation above) could be confusing to members of the public. However I would also suggest to you that you are potentially in breach of the Council's Code of Conduct by not declaring your interest and withdrawing (noted). If at any point you then speak to the item, you are potentially committing a criminal offence. (I did not speak, but I note "potentially")

The Council has given a clear mandate in relation to its support for the project (it is a joint project as evidenced in the signed DA). However there will remain some in Hitchin who will be keeping a watchful eye on matters as they proceed (it do not know to what you are referring, please be more specific). That means that care needs to be taken not only in relation to your individual role as a Councillor, and your duty to abide by the Code of Conduct, but also in relation to protecting the project as a whole from any unnecessary challenge or unhelpful criticism. (I have and always will be cognisant of any potential issues involved, you will recall that I did contact The Rt Hon Peter Lilley MP who raised this specific issue in Parliament and you have the Minister's comment on file)

In relation to tomorrow night and the Overview and Scrutiny Committee meeting, I am mindful of

the update of the Portfolio Holder and also the Report in relation to the Community Halls strategy where HTH is mentioned, and the interplay with your DPI (See intro comment above, however I will mention that I no longer have a DPI but that I am a Trustee of HTH). I would hope that you would declare your DPI and leave in relation to both items ( See above. Given that the Portfolio Holder will likely have other items to report on, as well as Hitchin Museum and Community Facility, we could consult with the Portfolio Holder and Chair of the Committee to ask if the Portfolio Holder's update could be provided in two parts; so that you are able to be present for updates that are not related to the Hitchin Museum and Community Facility. (See above I propose to remain, it is after all just a report on his portfolio)

I am not seeking to be awkward with you, or prevent you discharging your role as an elected Member (see above comment and the response from the Minister). What I am seeking to do is support you and protect the Council's position. The fact that you have such a significant role with an organisation that the Council has entered into a contractual partnership with (this is the real point, it is a joint DA that has been signed for the benefit of both parties i.e the people of Hitchin and surrounding area as well as the residents on the whole of North Hertfordshire, and your approach is out of kilter with true interpretation of the Localism Act and its modus operandly, and that your role as an elected Member is impacted. You and I need to work together to address that in terms of protecting your position and the Council's position.

Please do let me know if anything is unclear, or you have any queries. (I think I have covered it all)

Whilst we are on the subject can you please advise my why, when the DCO was discussed in Part 2 of Full Council, did Lynda Needham not declare her interest with the Heritage Foundation who own the freehold. Is this listed on her DPI form? This decision was most important since in voting for the purchase, NHDC will then have a direct contractual relationship with the freeholder i.e. The Heritage Foundation.



### **David Leal-Bennett**

Highbury Ward Councillor

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From: Katje White [mailto:Katje:White@north-herts.gov.uk]

Sent: 16 September 2013 14:02 To: Cilr Leal-Bennett (external)

Subject: RE: Hitchin Committee tonight

Clir Leal-Bennett,

Thank you for your email below. The issue of your interests in relation to HTHL is a matter that you and I will, I expect, continue to need to touch base on. The fact that there is now a formal contractual partnership, by way of the DA having being signed last week, does not of itself, negate you having to declare an interest. Equally, the relevant tests in the legislation and the Council's Code of Conduct do not mean that just because it was an information report that went to Hitchin Committee, you are able to remain in the room. That is not the test that the legislation or the Council's Code lays down.

I understand that you are perhaps wanting to take a pragmatic commercial approach to the issue of declaration of interests, however the legislation and the Council's Gode does not enable this flexibility. Your position in relation to HTHL is significant, and that will continue to create a potential conflict that needs to be managed in relation to your role as an elected Member of NHDC. You have recorded your role as a Director of HTHL as a Disclosable Pecuniary Interest (DPI), and from that certain actions then need to follow. Under the Council's Code of Conduct you need to withdraw from the room. There is no discretion in relation to this. In addition you must not participate on the item in any way at any time, (in particular you must not speak to the item before withdrawing). To do so would be a potentially criminal offence under \$31 and \$34 of the Localism Act.

I have checked back on the minutes of the Hitchin Committee. It appears that on 11 September 2012, you declared a DPI and left the room in response to an Update report on Hitchin Museum and Community Facility. However I can see from the minutes for the meetings of 4 June and 16 July 2013 where Update reports were also provided, that you do not appear to have declared your DPI. At the very least this inconsistent approach could be confusing to members of the public. However I would also suggest to you that you are potentially in breach of the Council's Code of Conduct by not declaring your interest and withdrawing. If at any point you then speak to the item, you are potentially committing a criminal offence.

The Council has given a clear mandate in relation to its support for the project. However there will remain some in Hitchin who will be keeping a watchful eye on matters as they proceed. That means that care needs to be taken not only in relation to your individual role as a Councillor, and your duty to abide by the Code of Conduct, but also in relation to protecting the project as a whole from any unnecessary challenge or unhelpful criticism.

In relation to tomorrow night and the Overview and Scrutiny Committee meeting, I am mindful of the update of the Portfolio Holder and also the Report in relation to the Community Halls strategy where HTH is mentioned, and the interplay with your DPI. I would hope that you would declare your DPI and leave in relation to both items. Given that the Portfolio Holder will likely have other items to report on, as well as Hitchin Museum and Community Facility, we could consult with the Portfolio Holder and Chair of the Committee to ask if the Portfolio Holder's update could be provided in two parts, so that you are able to be present for updates that are not related to the Hitchin Museum and Community Facility.

I am not seeking to be awkward with you, or prevent you discharging your role as an elected Member. What I am seeking to do is support you and protect the Council's position. The fact that you have such a significant role with an organisation that the Council has entered into a contractual partnership with, means that your role as an elected Member is impacted. You and I need to work together to address that in terms of protecting your position and the Council's region.

Please do let me know if anything is unclear, or you have any queries.

Regards,

Katie White Corporate Legal Manager and Monitoring Officer

Direct Dial: 01462 474315 Mobile Number:

North Hertfordshire District Council
Commell Offices
Inton Road
Letchworth Garden City
SG6 3JF
DX 31317 Letchworth
katie.white@north-herts.gov.uk
www.north-herts.gov.uk

rom: David Leal-Bennett [mailto:david@hitchinconservatives.co.uk]

lent: 10 September 2013 18:11

o: Katie White

subject: RE: Hitchin Committee tonight

s on previous occasions and as this is just an update report without discussion or debate I, with

the agreement of the chairman, will remain in the room as I have done so o similar occasions.

Incidentally now that this is a formal partnership I assume that there is only a requirement to leave the room if there is a debate on specific issues.

# David Leal-Bennett

Highbury Ward Councillor

(+44 (0)1462 459583

http://www.conservatives.com

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From: Katle White [mailto:Katle.White@north-herts.gov.uk]

Sent: 10 September 2013 16:07 To: Clir Leal-Bennett (external)

Subject: FW: Hitchin Committee tonight

Clir Leal-Bennett,

Following on from the good news about the signing of the Development Agreement yesterday, I am aware that Hitchin Committee are meeting tonight with an agenda item on North Herts Museum and Community Facility and that Overview and Scrutiny Committee are meeting next week with a presentation from the Portfolio Holder of Community Engagement and Rural Affairs.

I have forwarded as an aide memoire the email from Anthony to you last year regarding the declaration of interests. This advice remains the case following council's approval of the updates to the Code of Conduct on 18 July 2013.

Please let me know if you have any queries or if anything is unclear.

Regards,

Katie White Corporate Legal Manager and Monitoring Officer

Direct Dial: 01462 474315

North Herifordshire District Council Council Offices
Gernon Road
Letchworth Garden City
SG6 3JF
DX 31317 Letchworth
katie.white@north-herts.gov.uk
www.north-herts.gov.uk

m: Anthony Roche

Sent: 11 September 2012 15:07 To: Clir Leal-Bennett (external)

Cc: John Robinson

Subject: Hitchin Committee tonight

Cllr Leal-Bennett

I am aware that you are meeting with FBE this afternoon with John Robinson and others. I have therefore copied John into this email in case you are unable to pick it up prior to tonight's Hitchin Committee meeting.

I am emailing in respect of the agenda item on the North Herts Museum and Community Facility at Hitchin Town Hall to confirm the steps you need to take in respect of declaring an interest on the item.

You will recall that you have declared your directorship of HTHL on your Register of Disclosable Quinlary Interests, accordingly in respect of an agenda item on HTH:-

- 1. You must declare your interest ("I have a Disclosable Pecuniary Interest as a Director of HTHL") and withdraw from the room under the Council's Code of Conduct. Please note there is no discretion on this, it is an absolute requirement.
- 2, You must not participate on the Item in any way (le you must not speak to the Item before withdrawing). To do so would potentially be a criminal offence under s.31(4) and s.34 of the Localism Act

The requirements in respect of Disclosable Pecuniary Interests are more stringent than those under the previous Standards regime, which is a consequence of how the Localism Act changed the landscape. The requirements on other types of Interest are potentially less stringent and you will recall that there are some items you no longer have to include on your Register of Interests as this Council decided that only the minimum legislative requirements would be adopted in respect of registering interests.

I hope your meeting with FBE goes well.

Kind regards

Anthony Roche
Acting Corporate Legal Manager and Monitoring Officer - Legal Services

Direct Dial: 01462 474588

North Hertfordshire District Council Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

DX 31317 Letchworth

anthony.roche@north-herts.gov.uk www.north-herts.gov.uk

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Strictly Private & Confidential Stephen Pike Director Hitchin Town Hall Ltd 13 Bancroft Hitchin Hertfordshire SG4 9RJ

Our Ref:

DS/sn

Contact Officer: Direct Line: Email Date: David Scholes 01462 474300

david scholes @north-herts.gov.uk 14<sup>th</sup> February 2013

Dear Mr Pike

Hitchin Town Hall Ltd & North Hertfordshire District Council

We are writing to you following the Council's receipt of emails during the course of yesterday concerning the ongoing negotiations under the terms of the Development Agreement to consider the incorporation of 15 Brand Street in to the project.

We are approaching you (rather than the lead Director or other Directors) on the basis that the emails contain matters of significant concern to us in which those Directors have displayed what we consider to be a fundamental breach of trust with the Council. We are concerned that the Council's obligations under the Development Agreement are being undermined by what appears to be an entirely unacceptable and unprofessional approach to the conduct of the negotiations. This is creating circumstances in which Council Officers are being subject to a level of personal criticism and there is apparent collusion with community organisations to unduly influence those negotiations.

The derogatory comments about, and threat against, Mr Robinson in particular is wholly unacceptable and clearly makes David Leal-Bennett's continuing involvement in this project untenable from the Council's perspective.

Mr Robinson has conducted himself in a professional manner throughout these negotiations and is acting not as an individual but as an Officer of the Council responsible for implementing its agreed policy. The email exchange suggests to us that many of your Directors fundamentally misunderstand his role but as an employer, the Council cannot and will not ignore the defamatory and threatening comments made in the email exchange. We urgently want to meet with you as the only Director who has not apparently involved himself in this debacle about how the project can moved forward from this point.

Whilst we appreciate Morag Norgan is not a Director of Hitchin Town Hall Ltd., you may wish to share this letter with her and invite her to the meeting as the person who initially made the proposal for the project on behalf of community organisations in Hitchin and also as one of those involved in the email exchange who did not implicate herself in what appears to be a considered attempt to mislead the Council as your development 'partner'. We stress that we take this matter extremely seriously and we think an urgent resolution is needed — not least because the Council has significant obligations under the existing Development Agreement which still require Hitchin Town Hall Ltd's co-operation in securing ACF agreement to

extend the deadline for the project. We expect that Hitchin Town Hall Ltd will use its reasonable endeavours to do this. Indeed we expect Hitchin Town Hall Ltd to act in a professional and reasonable way in conducting themselves in the delivery of the project more generally, something that we have a very low degree of confidence the organisation will do, given the evidence of this email trail.

We therefore request a meeting with you tomorrow, Friday 15 February, if this is at all possible. We will leave it to you to determine whether you extend this invitation to Morag Norgan which we would strongly urge that you do. If you are able to agree to this request please let us know as soon as possible and Jill Welshman, PA to Chief Executive will make the necessary arrangements.

In the meantime, we have instructed Mr Robinson and Council Officers not to enter in to any further dialogue with representatives of Hitchin Town Hall Ltd until we can agree a way forward.

Yours sincerely

Councillor Lynda Needham Leader of the Council

David Scholes Chief Executive



# HITCHIN TOWN HALL LTD

t: ±44 (0) 1462 442979 e: brent@walden7.eu w: www.hikchlobwnhall.co.uk

Clir L Needham & David Scholes North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF 23<sup>rd</sup> February 2013

### Dear Lynda and David

**,我们们的事情**。"

Hitchin Town Hall Ltd convened an emergency board meeting on Wednesday to discuss what should be done following the letter which you have sent to Stephen Pike, but rather bizarrely its contents could not be disclosed to us. Stephen tried to give us the gist of it without showing it to us or reading from it. I fail to see why you could not have Written a letter that we could have considered in detail. However, we do understand the problem that has blown up. David Leal-Bennett was not present.

I am replying to you with the view of our board. We deeply regret the content of the e-mail that was inadvertently copied to John Robinson, but hope that you and he will accept that the comments were in jest but reflecting the stress which his latest requirements had put us under.

None of us, and this includes Davig Leal Berinett, think that he is an idjot. On the contrary, he has been a powerful and resourceful adversary throughout this process. But therein lies the problem, we are a vellunteer community group trying to save and run a community group trying to save and run a community group trying in expertise, community and funding. We are your partners not your opponents. We bring in expertise, commitment and funding. He has put up obstacles at every turn. Finalising the Development Agreement has been as costly inightinate for us.

Welfound it dulle difficult at the meeting held in Foreman Laws offices having him tell us that you had had no intention of pursuing what had been agreed regarding the possible him being aware of how important this is to us and the fortuous negotiations required to include if in the DA. Lynda may, recall that I did suggest that he desisted in this by saying something like "you are in a hole - stop digging", but he continued regardless.

I can tell you that David Leal-Bennett has offered us his resignation and that we have declined to accept it. We feel that he is an indispensible member of our team (as his recent work in getting an extension to the date for our finance to cover the further delays has shown).

Rosemany Read recognises that it was her questions about how to deal with the community groups following the change in NHDC regulrements, and her fallure to notice

### HITCHIN TOWN HALL LTD

that John Robinson was on the list of recipients, that elicited David Leal-Bennett's response. She has also tendered her resignation, which has also been declined.

You are probably aware that the correct etiquette when one receives a string of e-mails that they know is not for you is to notify the other parties. John Robinson has asked us to accept that at least half a dozen of his e-mails actually sent to us be withdrawn and we have agreed to this. All we have here is a clumsy indiscretion (complete with a "smiley face"). I suggest that he allows this e-mail to be withdrawn and forgotten about so that we can all get on with this important project.

I hope that this sorry episode can be put behind us and that we can get on with delivering the project. In John Robinson feels that he can no longer work with us, we would strongly reconfined that the role of Project Executive be taken by another senior offices preferably you, David:

We were delighted by the support and kind comments of your Planning Committee on Thursday nights

Yours sincerely

Brent Smith Chairman and Trustee for and oh bahair of Hitchin Town Hall Ltd

Registered Office: 13 Bancroft, Hitchin, Herts SG4 9RJ Registered in England No: 07535550 Strictly Private & Confidential

**Brent Smith** Chairman & Trustee Hitchin Town Hall Ltd 13 Bancroft , Hitchin Hertfordshire SG4 9RJ

Our Ref:

DS/

Contact Officer: Direct Line:

**David Scholes** 01462 474300

Email:

david.scholes@north-

herts.gov.uk

Date:

28th February 2013

Dear Brent

Hitchin Town Hall Ltd and North Hertfordshire District Council

Before I respond to the substantive points you raise in your letter of 23<sup>rd</sup> February, it is important I clear up any misconception you and your fellow Directors may have had about my original letter of 17th February 2013. As the letter stated, the reason for approaching Stephen Pike was on the basis that the emails in question contained matters of significant concern in which other Directors displayed, or were implicated in, what we considered to be a fundamental breach of trust with the Council. For the avoidance of doubt, I am agreeable for this letter and my earlier letter to be shared with the Board and I enclose a copy.

Turning to the contents of your letter I have a number of observations, which I set out below, starting with where the parties have reached on the project.

The Council has requested on a number of occasions within the last few weeks that HTH Ltd secure ACF's approval to an extension of time under the terms of the existing agreed scheme. Although you mention in passing that David Leal-Bennett appears to have secured '....an extension to the date for our finance to cover the further delays....! It is not clear whether there is any conditionality on that agreement, nor have we received written confirmation of

With regard to the requests, these include:-

- raised informally on 28th January 2013
- confirmed in writing on 29th January 2013 requested again on the 1st February 2013.
- raised at a meeting with your Board on 6th February 2013
- in writing and as an item at Project Board on 11th February 2013.

I note your response of 16th February 2013 indicated that 'ACF are awaiting our report confirming the detail of, renegotiations of HTH Ltd and NHDC regarding the inclusion of 15 Brand Street.' I understand that HTH Ltd have all the necessary information. We look forward to receiving written confirmation of ACF's agreement to the additional time by return, as the current lack of confirmation causes the Council difficulties for reasons I shall explain.

Whilst I understand your Board's desire to incorporate 16 Brand Street in to the development, the Council maintains that this needs to be within the context of the obligations on both parties in delivering the agreed scheme. For the sake of clarity until we have ACFs confirmation regarding additional time, we are under a legal obligation to appoint a contractor by 31st March, which as you are aware is a very tight timescale. The Council therefore has to protect its position under the DA by continuing with the process to appoint a contractor until we obtain acceptable written confirmation from ACF.

"I note that John Rebinson wrote to Morag Norgan on 11th February 2013 setting this out very clearly and the relevant paragraphs of that email appear below in Italics as background for your Directors:

'As I have explained on a number of occasions and most recently at our meeting last week, the Gouncil is obliged under the terms of the Development Agreement to meet the immediate end of March deadline to appoint construction contractors although contingency arrangements have been put in place to delay this by up to three months to allow retendering in the event that the conditions referred to in ACF's email are acceptable once these are known.

I requested clarification on the question of conditions in my letter of 8th February 2013 and an urgent response on this specific point would be appreciated.

The information requested in my letter of last week was requested to enable me to provide a comprehensive report to Council on HTH Ltd's proposal for 15 Brand Street. It is not, in my view, necessary for this to be the subject of debate at Project Board at this stage as HTH Ltd have yet to provide a settled position and the nature of decisions I need to make at this juncture are primarily about scheduling decision making - and this really is at the heart of the matter.

I am aware that in correspondence dated 8<sup>th</sup> February 2013 David Leal-Bennett stated that NHDC were in breach of the Development Agreement.

Please can you confirm whether this represents Hitchin Town Hall Ltd's formal position and why it is considered to be the case? This suggestion is troubling and unhelpful to the working relationship. The Council does not believe that it is in breach of the agreement and Indeed not proceeding with the tendering process would mean that no contractor would be appointed by the 31<sup>st</sup> March.

which would itself breach the agreement. This is why the Council needs clear confirmation of the additional time from ACF as a matter of urgency, so it can then hold off proceeding with the current tendering process.

With regard to the unfortunate email chain in question, I have been actively seeking resolution of this matter rather than resorting to a more formal mechanism that would undoubtedly delay, if not jeopardise the project, an outcome that I am sure none of us want. I note your explanation of the contents of the email chain, which I find to be less than convincing. The Leader and I had hoped that the opportunity for a discussion on these matters would have been more productive than reverting to correspondence and that still remains our view. I would reiterate the request for that meeting, however I wish to make the Council's position clear.

I have reviewed extensive correspondence between the Council and HTH Ltd. In my view Mr Robinson has consistently sought to move the project forward within very tight timescales, the parameters set out by Full Council and the terms of the Development Agreement. I would ask that you understand that, as Project Executive, Mr Robinson has a duty to protect the Council's interests. I can see no evidence to suggest that Mr Robinson has acted other than in accordance with the Project Executive role. Indeed, the varying requirements and changing negotiating position of HTH's representative has made this particularly onerous.

Councillor Needham and I wrote to Stephen Pike following receipt of the emalls to alert him to the fact that we were in receipt of this emall which I presume we were not intended to receive. More particularly however, We wrote to Stephen Pike to raise my concern with the contents of the emails which I do not believe can simply be brushed aside as a '....clumsy indiscretion'. It seems to me that we view the seriousness of such matters very differently and that is something that I would wish to explore further at the meeting I have suggested.

Your letter concludes by implying that Mr Robinson can no longer work with Hitchin Town Hall Ltd as the Council's lead on this project. It is not the case the Mr Robinson feels he can no longer work with your Directors. It is the case that the Council, who he represents, feels that the breach of trust by some of your Directors makes their involvement in dealing with the Council something we could not be expected to continue with. This is a fundamental position from my perspective in order that we can move forward positively to implement what we would all wish for as a wonderful scheme for North Hertfordshire residents.

I do hope that you will reflect on the contents of this letter so that the two parties can have a meaningful discussion about the future working arrangements for this project at the earliest opportunity given the fast approaching ACF deadline.

Yours sincerely

David Scholes Chief Executive

C.C Councillor Lynda Needham, Leader of the Council

David Scholes

From:

David Scholes

Sent: Wed 23/01/2013 13:22

To:

Clir Leal-Bennett (external)

Cct

Cir Levett D. (external); 'Claire Munby'; Ciir Lynda Needham; Ciir Lawrence Oliver; Ciir Judi Billing

Subject:

RE: Legal Advice - Local Government Standards Regime

Attachments:

David - the revised advice note sent on Monday confirms that these were suggestions that were made to the meeting organiser which recognised concerns expressed by officers and other members of the public.

The advice issued by the Monitoring Officer (in this case in consultation with the Deputy Monitoring Officer and other Statutory Officers) is advice to members and does not (and should not) involve the endorsement (or otherwise) of any member including the Leader of the Council.

I do hope that clarifles that point and am happy to discuss more generally the role(s) of Statutory Officers.

Regards



David

From: David (Hitchin Conservatives) [mailto:david@hitchinconservatives.co.uk] Sent: Tuesday, January 22, 2013 5:00 PM

To: David Scholes

Cc: Clir Levett D. (external); 'Claire Munby'; Clir Lynda Needham; Clir Lawrence Oliver; Clir Judi Billing Subject: RE: Legal Advice - Local Government Standards Regime

David

This is what was actually stated:

"I confirm on the basis of the revised invitation and revised objectives of the public meeting that Members are free to attend if they wish. The usual rules of not committing yourself to a particular course of action apply of course (le avoid the over my dead body type comments)."

The revised invitation was because your officer advised/dictated thus.

Perhaps they could also give advice on the title and agenda of other public meetings in North Herts so that members are able to attend; frankly it is outrageous.

I shall make your views known when I attend later this evening, the views of which, presumably have the endorsement of the Leader.

Regards

David



David Leal-Bennett

Highbury Ward Councilor

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From: David Scholes [mailto:David.Scholes@north-herts.gov.uk]

Sent: 22 January 2013 16:38 To: Clir Leal-Bennett (external)

Cc; Clir Levett D. (external); Claire Munby; Clir Lynda Needham; Clir Lawrence Oliver; Clir Judi Billing

Subject: RE: Legal Advice - Local Government Standards Regime

David

I refer to your re-mail from Friday and I have been away from the office until today.

The revised advice issued at 4.40pm on Monday 14<sup>th</sup> January deals with a number of the points you have raised regarding the issuing of the original advice and the reasons that the original advice concluded as it did based on the facts at that time (copy altached). On the basis that the advice was updated following the revised invitation and that Members are free to attend should they wish and therefore I do not believe that there is any basis for issuing an apology.

You refer to the recent Westminster debate – I had seen this in Hansard too and it was regrettable that no reference was made to the final advice that was issued by the Monitoring officer which was prior to that debate taking place. I have written to Peter Lilley MP myself seeking a meeting. I am also aware that there has been a recent report to the Government on Standards Matters (Cm8519) which comments on the current arrangements and releas doubts as to whether they are fit for purpose.

Turning to the other matters that you have raised the timing of the publication of the Council agenda meets with the necessary requirements and there are dispensations that we have used in other instances which have facilitated reports being Issued within the 5 working days (in fact in some instances reports have been issued closer to the meeting than is planned in this case). The Project Board has agreed that the reports will be finalised following the member briefings this week. I am afraid that the reports will not therefore be

http://srvmail01.north-herts.gov.uk/exchange/DavidS@north-herts.gov.uk/-FlatUrlSp... 13/01/2015





available for collection when you come in for Overview & Scrutiny Committee.

With regard to Simons' presentation to Council this approach follows a similar approach to that taken previously in other projects. Whilst I appreciate the points that you make about presentations elsewhere this will be the only formal Council committee meeting that they will be presenting to.

Regards

David

From: David (Hitchin Conservatives) [mailto:david@hitchinconservatives.co.uk] Sent: Monday, January 21, 2013 2:53 PM

To: David Scholes

Cci Clir Levelt D. (external); 'Claire Munby'; Clir Lynda Needham; Clir Lawrence Oliver; Clir Judi Billing Subject: Legal Advice - Local Government Standards Regime

Dear David

I would appreciate a reply to my email on Friday and in particular my requests which I repeat below:

- 1. "As you know I am extremely concerned about the Interpretation of the Localism Act within NHDC and am now expecting you to take some action and rectify the specific advice already given concerning the meeting."
- Z, "I also wish to know who authorised the issuance of this advice to elected members and who was in the decision making chain from NHDC.

The meeting referenced is in fact tomorrow evening (6:30 Hitchin, Sun Hotel) and at the very least I would expect a representative of NHDC to attend and make a comment and even an apology.

However of more import is the decision making process in agreeing to issue the original flawed advice which, in view of the processes that have to be undertaken, should be easy to provide.

I also note item 7 of Full Council for 31st January whereby. Simons are making a presentation, I fall to understand why we have to be exposed to yet another presentation, we have had two already as well as the CLF. If h is just to provide "independently verified" (seedpack from their public presentations then surely that can be dealt with under item 8.

I believe that Simons to making another presentation is undemocratic since we are being over exposed to one side of the argument. This impacts the democratic process since other may well want to make their representation.

I am advised that all reports and information should be provided 7 working days prior to the meeting and as such I assume will be available tomorrow, I will be attending OSS tomorrow so please may these be ready for collection. If this is not the case please let me know why?

Thank you

Regards

David

David Leal-Bennett

Highbury Ward Councillor

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## APPENDIX B

# **PROTOCOL**

3.2 - Officers Can Expect From Members



\_\_\_\_\_;)

#### **David Scholes**

From:

Thomas Burn

Sent:

Friday, January 18, 2013 1:26 PM

To:

Anthony Roche; David Scholes

Subject:

LGC article referencing NHDC and Anthony

As below. Anthony - had an email a little while ago asking to confirm your name (as per website search result) which has been used.

## Monitoring officers 'gold plating' standards advice

.8 January, 2013 By Mark Smulian

Monitoring officers are wrongly 'gold plating' the new local government standards regime, making it too getive, a former minister has said.

Veill, architect of the replacement system for the old Standards Board for England while he was local overnment minister in 2010-12, told parliament that monitoring officers were trying to reintroduce the old ystem by giving risk-averse advice.

'e said the Government had been "crystal clear" that councils could be flexible about their codes of conduct ith councillors "no longer being subject to the degree of inhibition that had grown up under the old regime".

Ir Neill continued: "Sadly, we have seen the growth of a risk-averse culture in monitoring standards."

All too offen...there has been an exponential growth in the monitoring officer role, which sometimes leads to lyice that is not accurate or focused and to an attitude that can be intrusive."

s later told LGC that the problem affected "not a majority of councils but a large minority and I have had ters from dozens of places".

r Neill told MPs planning was a particular concern as the Localism Act had freed councillors to campaign on lications but still vote if they kept an open mind.

"Monitoring officers were giving [advice that], 'You really cannot say anything about this planning slication, otherwise you will be taken to have predetermined it.' That is wrong."

sponding to the debate, local government minister Brandon Lewis said: "Whether because of excessive than, bureaucrats' love of bureaucracy for its own sake, or a misplaced belief that they and not members add be in the driving seat on standards, officers often advise that something more or less akin to the old ndards Board regime should be continued."

Lewis attacked Public Law Partnership, the shared legal service for Essex, Hertfordshire and Suffolk, which said had produced "one of the most worrying examples" of a model code which seemed "essentially to be a n of the old Standards Board regime.

ee no need for a heavy, bureaucratic, gold-plated approach that has no place in the new localist standards ngements, which should be driven by and for members."

ir Lilley, Conservative MP for Hitchin and Harpenden, intervened to complain that North Hertfordshire DC told councillors that if they attended a protest meeting against the redevelopment of central Hitchin, "they be deemed to have fettered their discretion, even if they announce when attending that meeting that they

1

will not allow it to do so".

Mr Neill said: "With respect to whoever gave the advice, it is frankly nonsense to interpret the legislation in that manner."

A North Hertfordshire spokesman said its monitoring officer Anthony Roche had given advice, "in an effort to highlight a risk - including one of legal challenge - to those who wished to attend the meeting ahead of an important vote at full council".

The meeting organiser had changed the way it was promoted and the advice was rescinded, he said.

The Association of Council Secretaries and Solicitors' communications officer Nicholas Dobson said: "ACSeS always recommends a sensible and proportionate approach in line with the present state of the law. However, every situation is clearly context sensitive and (in line with the local flexibility of localism) different monitoring officers will of course respond differently to different sets of circumstances.

Mr Dobson said the role of monitoring officers was to "speak truth unto power",

Public Law Partnership said councillors in the three counties had "a general wish" for a single code because many of them served on more than one authority.

PLP said in a statement: "The codes of local authorities in PLP are not 'gold plated' and the processes surrounding them do not seek to apply the old system.

"Each authority's code was approved by its members and any implication that members simply follow the advice of their monitoring officer is incorrect,"

Thom Burn Communications Officer t 01462 474210

North Hertfordshire District Council Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

Web, north-herts, gov.uk Twitter: @NorthHertsDC



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Mr Peter Lilley (Hitchin and Harpenden) (Con): I congratulate my hon. Friend on securing the debate on an issue that deserves far more attention. He is bringing his great expertise to hear, so may I ask for his view on one of the many instances of heavy-handed interpretation of the rules that have arisen in my constituency? Councillors have been advised that if they attend a meeting held to protest about plans for redevelopment of the city centre in Hitchin, they may be deemed to have fettered their discretion, even if they announce when attending that

#### 16 Jan 2013 : Column 290WH

meeting that they will not allow it to do so. Could be confirm that is absolutely not the intention of the legislation?

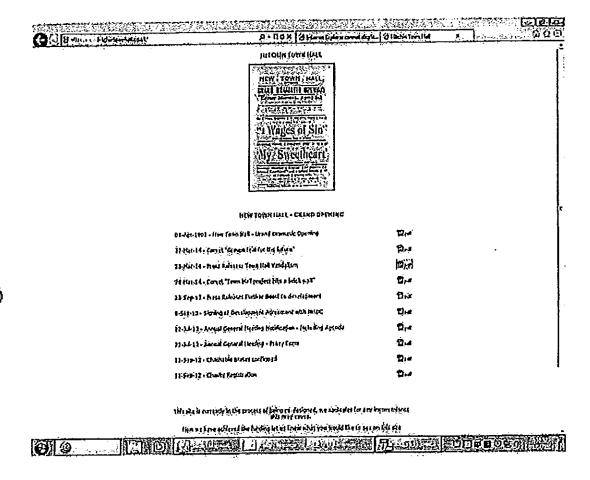
Robert Neill: I am grateful to my right hon. Friend for raising that case, which I have also come across. When I was the Minister responsible for signing off the regulations and the code, it was absolutely not the Government's intention that the code should be construed in that way. With respect to whoever gave the advice, it is frankly nonsense to interpret the legislation in that manner.

My right hon. Friend highlights one of my principal concerns, of which the House needs to be ware: the varying quality of interpretation of the code from one authority to another. He gives an example of a situation that most people with common sense would regard as nonsense. Rather than supporting local democracy, such cases undermine it. I am grateful to him for raising it, and I hope that my hon. Friend the Minister can restate the Government's clear view that they do not intend the code to lead to that form of inhibition.

My right hon. Friend's case parallels an instance I came across involving a councillor who was coming up for election. The big issue in their ward was whether a golf course in that ward might be subject to development. All the candidates were effectively advised that should they be elected, if they had turned up to a residents' meeting to consider that concern, they would be regarded as having predetermined any application that subsequently came before the council. It was the green lungs of that community—it was the big issue. People wanted to know where those standing for election from all parties stood on it, but the monitoring officer was giving advice inhibiting them from doing so. That was never the intention of a proper standards regime.

Exactly the same advice seems to have been given in my right hon. Friend's example, and it is worth dwelling on it, because I see that the councillor went back to say, robustly, "I've got my worth dwelling on it, because I see that the councillor went back to say, robustly, "I've got my win legal advice, and it comes nowhere near that construction." We seem to be getting into a very usingerous state of affairs, where monitoring officers, perhaps through an abundance of caution—I put that charitably—come up with an interpretation of the law that clearly inhibits councillors from expressing a view. My right hon. Friend is right that the councillor was making it clear that they would go along, perhaps as an observer, and say, "I have come with an open mind." The monitoring officer came back and said, "Even if going as an observer, you will be taken to have predetermined the issue," because the title of the meeting started "Hitchin against" or "Save Hitchin from". Such stretching of the rules and the interpretation of the common law concept of bias brings the regime into disrepute.

I hope that this debate gives an opportunity for the Government to restate what has always been our contention; proportionate standards do not require that degree of micro-management. It does no service to councillors of any political persuasion in any community. That is one of a number of examples we have found in this field, and I was going to take the opportunity to deal with some of them today. Equally, there have been examples of real success under the new regime, and it is right and proper to recognise that.



Screen print taken 9th April at 11.00 hrs. from www.hitchin townhall.co.uk

Content of press release 25th March attached and signed.



**Dayld Scholes** 

Chief Executive



## HITCHIN TOWN HALL LTD

### PRESS RELEASE

25 March 2014

TOWN HALL VANDALISM
FORMAL NOTICE OF BREACH OF CONTRACT RE STAGE CONCRETE WALL

Community Groups and two Councillors were briefed last Wednesday by HTH about why we had to give formal notice of breach of contract regarding the concrete wall across the stage. Without exception all were absolutely horrified at the vandalism and the manner in which NHDC officers have behaved.

Prior to the meeting the NHDC Strategic Director responsible sent an email to all Hitchin Councillors stating:

" I would therefore like to advise Councillors that:

o In coming to a view on this or associated matters, account should be taken of advice/information from Officers—Hitchin Town Hall Ltd are a party of an agreement With NHDC and may not provide a balanced or comprehensive picture of the concerns they are expressing."

Brent Smith, Chairman of Hitchin Town Hall Ltd said: "This statement implies that HTH are incapable of telling the truth and that councillors should only listen to officers. Do the public really think that Mr Robinson is the only person who is capable of understanding the issues and he should be the sole arbiter on any dispute?"

"He is the officer who reported to councillors at Hitchin Committee that all was well with the project despite us having already served notice of breach of contract and while they were continuing to construct the concrete wall".

"We have never had a copy of the original tender documents, in spite of numerous requests, HTH have also been refused detailed drawings which were deliberately withheld and only delivered just before Christmas last year. In fact over 100 drawings were dated November 2012!

Brent Smith added. "These are the facts, which I doubt were reported to councillors. I cannot begin to imagine why Mr Robinson has withheld such important information and for so long. This makes a farce of "Partnership working".

"I am afraid that neither I nor the directors/trustees of Hitchin Town Hall Ltd wish to continue discussions with Mr Robinson, all trust has been lost and we will be requesting that the Chief Executive appoints someone who is able to conduct business in a manner with which we are more familiar."

Contact details: email: info@hitchintownhall.co.uk Phone: Hitchin Initiative press office on: 01462 441170

Web: www.hitchintownhall.co.uk

HITHAUHILLA PARTI DESCRIPTION DO SEPCIA CONTRA PROCE



## HITCHIN TOWN HALL LTD

### PRESS RELEASE

-ENDS-

#### Note to Editors:

Hitchin Town Hall, built 1900-1, is a Grade 2 listed building designed by notable architects Edward Mountford and T Geoffry Lucas and located in the centre of Hitchin, Hertfordshire.

Hitchin Town Hall Limited (HTH) is a registered charity, not for profit organisation, whose objective is to deliver public benefit through the management of dedicated space within the Town Hall.

The Town Hall site is currently undergoing redevelopment and will re-open in 2015 as The Town Hall and District Museum facility. HTH signed a development agreement with North Herts. District Council to manage the non-museum community services available in Hitchin Town Hall



HTH is responsible for:
The large Mountford Hall - capacity 220 seated, dance floor & stage
Lucas Rooms - capacity 70
Smaller meeting rooms
Cafe & Bar

HTH clients will have access where appropriate to District Museum facilities that include: Galleries in the Old Gymnasium
Roof Terrace
Learning Resource Centre

The Town Hall facility will provide Hitchin's largest multi-use performance, exhibition, meeting and event space. It will be available for private, corporate and community hire. It will be licensed for weddings.

As a result of the Adventure Capital Fund Ltd (ACF) grant/loan, generous Donors and our Benefactor John Ray, Hitchin Town Hall Ltd is providing £1,040,000 towards the cost and NHDC is investing £3,5million.

NHDC has received initial support from Heritage Lottery Fund of £123,400 for the development phase (stage one) of the exhibition, the aim of which is to ensure that the new museum will meet the needs and wishes of the community it will serve. Subject to stage one being a success, NHDC may also later receive a further grant of £830,500 for the design and fit out for the work itself.

For further information please call the Hitchin Town Hall press office on: 01462 441170 or visit the website www.hitchintownhall.co.uk

HITHHITIAN PLESCUISCE OF ESPONDED CO.

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#### **Sharon Nahal**

From: David Scholes

Sent: 15 February 2013 12:39

To: 'David Leal-Bennett'

Cc: John Robinson

Subject: HTH proposals

David,

This is a brief note to place on record my significant concerns regarding the nature of a number of e mails that have recently been brought to my attention with content from HTH Directors making comments about NHDC staff. I am writing separately on this matter and in the meantime staff have been instructed not to respond directly to e mails and calls.

I am aware that we are still awaiting a response to our John Robinson's letter dated 8th February and we would welcome a response to which should be sent to myself and John.

Regards

David

PRIVATE & CONFIDENTIAL Councillor David Leal-Bennett

Our Ref: Your Ref: DS/jw

Contact Officer: Direct Line: David Scholes 01462 474278

Date:

151 May 2014

Dear Clir Leal-Bennett,

The Head of Paid Service and Monitoring Officer are writing to you in our capacity as Statutory Officers.

There are a few issues that have arisen in relation to your role as an elected Member that we need to bring to your attention.

### Distinction between Member role and private role

We have become aware that we need to remind you that there is an important distinction that must be maintained at all times, between your role as an elected Member and any private role that you undertake; including as a Director of HTHL. We are aware that you have utilised certain member privileges when attending the Council offices in a private capacity relating to HTHL business. This has included parking in the private access car park and using your member access badge to gain access to restricted areas of the building for yourself and others when not undertaking business that relates to your elected role.

This is not acceptable and does not comply with the Members Code of Conduct which sets out restrictions on the use of resources of the authority by elected Members. We would therefore formally request that in future you only utilise your member privileges when discharging your role as an elected Member.

### Protocol for Member / Officer Working Arrangements

You will find enclosed a copy of the Member Officer Protocol. This Protocol was last considered by Full Council on 18 July 2013 and sets out the standards of conduct that Members and Officers can expect from each other. We would like to remind you that you are required to engage with all Officers in a respectful and courteous manner.

As Chief Executive I continue to receive complaints about the manner in which you choose to engage with and communicate with Officers. The complaints I have received outline that you are often rude and inclined towards behaviour which can be intimidatory and bullying in nature. This is not in compliance with the Members Code of Conduct and is unacceptable. My Officers are entitled to expect that when they engage with Members they will be treated courteously and with respect.

We would formally request that moving forward you moderate your behaviour and communications with all Council Officers to ensure that you are treating all Officers in a manner that is respectful and in full compliance with the Member Officer Protocol and Code of Conduct.

#### Declaration of Interests

For completeness, the issue of your declaration of interests regarding your directorship of HTHL remains outstanding. As previously advised, the Monitoring Officer has reported this to the Police who are considering the issue.

Yours sincerely

David Scholes
Chief Executive

Katle White Corporate Legal Manager & Monitoring Officer

# 3.3 - Limitation on Behaviours

#### Jill Welshman

From:

LILLEY, Peter [peter.lilley.mp@parliament.uk]

Sent: To:

11 January 2013 21:26

C¢:

Clir Leal-Bennett (external)
Sally Everett; Clir Andrew Young; Clir Ashley A. (external); Clir Bardett A. (external); Clir Bernard Lovewell; Clir Bill Davidson; Clir Brindley T. (external); Clir Cathryn Henry; Clir Clare Billing; Clir Dave Chambers; Clir David Bernard; Clir David Billing; Clir David Clare Billing; Clir David Chambers; Clir David Barnard; Clir David Billing; Clir David Kearns; Clir Deborah Segalini; Clir Faye Barnard; Clir Flona Hill; Clir Gary Grindal; Clir Gerald Morris; Clir Gibbs T. (external); Clir Gray J. (external); Clir Hunter T. (external); Clir Ian Knighton; Clir Ian Mantle; Clir Jarvis S. (External); Clir Jean Green; Clir John Bishop; Clir John Booth; Clir John Harris; Clir Judi Billing; Clir Julian Gunningham; Clir Lawrence Oliver; Clir Levett D. (external); Clir Lisa Courts; Clir Lorna Kercher; Clir Lynda Needham; Clir Michael Weeks; Clir Mike Rice; Clir Millard A. (External); Clir Mulr M. (External); Clir Paul Clark; Clir Peter Burt; Clir R Shakespeare-Smith (external); Clir Rice M. (external); Clir Richard Thake; Clir Robert Inwood; Clir Sangha D. (external); Clir Steve Jarvis; Clir Terry Hone; David Scholes; Norma Atlay; John Robinson; Anthony Roche Re: IMPORTANT - MEMBERS' INFORMATION NOTE - CHURCHGATE

Subject

Attachments:

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idviser!

/mage001.jpg (20

I have rarely seen such ludicrous advice purporting to come from a legal

I am sure it can be safely ignored.

'eter

lent from my iPad

in 11 Jan 2013, at 16:59, "David (Hitchin Conservatives)" 'david@hitchinconservatives.co.uk> wrote:

Thank you for the legal advice which seems to suggest that anything that is resented as a counter argument (i.e. against what officers are recommending) could be onceived as prejudicial !

Can you confirm that by attending the Simons presentation last week, otherwise ab ed "To AGREE TO an extension to the Simons contract to redevelop the Centre of in" that such attendance can be construed as pre judging and hence open to legal hallenge?

It is ludicrous to suggest that if the organisers change the title it would be sceptable; to even suggest this is bordering on interference with the democratic rocess, Animal Farm comes to mind!

This approach and advice concerns me greatly since this is absolutely not what the scalism Act is all about. I repeat my earlier message.

"I agree that the title is unfortunate, and perhaps this could have been amended, wever as councillors we are obliged to hear all sides of the argument, if we wish.

I do not accept that attending and listening would fetter ones position legally or herwise, in fact to circulate a statement suggesting that nobody attends could in ct fetter the other way and it could be stated/challenged that there is edetermination in favour of an extension. Attendance does not suggest support either y, it is merely obtaining feedback.

We have all had the opportunity of private briefings from Simons and to hear the unter argument/objection seems very sensible, there are of course still many answered questions which need to be addressed before making any decision.

We live in a democracy and people are entitled to their opinion, listening does not

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mean compliance."
  > Over the years I have taken a considerable amount of legal advice from most of the
  large City firms and it is just that advice. Decisions are made by those receiving the advice not those giving it. To the best of my knowledge lawyers do not run the
   country!
  > So let's be clear about what has occurred.
> We were all invited to a public meeting titled "To oppose an extension to the Simons contract to redevelop the Centre of Hitchin". One Conservative councillor expressed concern and another stated the following "I totally agree we should take no part in this meeting", and that email was copied to the press and many others. This did not look good. No doubt concerns were expressed and reference made to the legal department to see if there was a way to cover the situation. If you ask a lawyer for advice they will give it - hence the attached.
  > What on earth is going on?
        [cid:image001.jpg001CDF015.01CD65B0]
        David Leal-Bennett
  > Highbury Ward Councillor
  > +44 (0)1462 459583
> http://www.conservatives.com
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 > http://www.conservatives.com
 the sender.
 > From: Sally Everett [mailto:sally.everett@north-herts.gov.uk]
      Sent: 11 January 2013 15:51
To: Cllr Andrew Young; Cilr Ashley A. (external); Cllr Bardett A. (external); Cllr Bernard Lovewell; Cllr Bill Davidson; Cllr Brindley T. (external); Cllr Cathryn Henry; Cllr Clare Billing; Cllr David Chambers; Cllr David Barnard; Cllr David Billing; Cllr David Kearns; Cllr Deborah Segalini; Cllr Faye Barnard; Cllr Fiona Hill; Cllr Gary J.
       Grindal; Clir Gerald Morris; Clir Gibbs T. (external); Clir Gray J. (external); Clir Hunter T. (external); Clir Ian Knighton; Clir Ian
     (excernal); Clir Hunter T. (external); Clir Ian Knighton; Clir Ian Mantle; Clir Jarvis S. (External); Clir Jean Green; Clir John Bishop; Clir John Booth; Clir John Harris; Clir Judi Billing; Clir Julian Cunningham; Clir Lawrence Oliver; Clir Leal-Bennett (external); Clir Levett D. (external); Clir Lisa Courts; Clir Lorna Kercher; Clir Lynda Needham; Clir Michael Weeks; Clir Mike Rice; Clir Millard A. (External); Clir Muir M. (External); Clir Paul Clark; Clir Peter Burt; Clir R Shakespeare-Smith (external); Clir Rice M. (external); Clir Richard Thake; Clir Robert Inwood; Clir Sangha D. (external); Clir Steve Jarvis; Clir Terry Hone
      Steve Jarvis; Clir Terry Hone
Cc: David Scholes; Norma Atlay, John Robinson; Anthony Roche
Subject: IMPORTANT, - MEMBERS' INFORMATION NOTE - CHURCHGATE
 > Good afternoon Councillors
      Please find attached a document in regard to - GUIDANCE ON PRE-DETERMINATION REGARDING PUBLIC MEETING "To oppose an extension to the Simons contract to redevelop the Centre of Hitchin" TO BE HELD 22 JANUARY 2013
       Hard copy of this document has been put into the Members post this afternoon.
       Regards
      Sally
                                                                                                                                              2
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<< CHURCHGATE AND PREDETERMINATION FINAL, doc as sent to Clirs 11.01.13.doc>>

sally Everett For and on behalf of Anthony Roche Acting Corporate Legal Manager and Monitoring Officer

Direct Dial: 01462 474576

> North Hertfordshire District Council
> Council Offices
> Gernon Road
> Letchworth Garden City
> SG6 3JF
> DX 31317 Letchworth
> sally everett@north-herts.gov.uk<mailto:sally.everett@north-herts.gov.uk<muolito:sally.everett@north-herts.gov.uk</p>

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#### David Scholes

David (Hitchin Conservatives) [david@hitchinconservatives.co.uk] From:

Friday, January 18, 2013 3:57 PM Sent

**David Scholes** To:

Clir Levelt D. (external); 'Claire Munby'; Clir Lynda Needham; Clir Lawrence Oliver, Clir Judi Billing Cc:

Subject: Legal Advice - Local Government Standards Regime

Dear David

It would appear that, in the debate on Wednesday at The House of Westminster, a few things were said about Monitoring Officers' advice and in particular NHDC, see

http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm130116/halitext/130116l

Extracts: "Exactly the same advice seems to have been given in my right hon. Friend's example, and it is worth dwelling on it, because I see that the councillor went back to say, robustly, "I've got my own legal advice, and it comes nowhere near that construction." We seem to be getting into a my dangerous state of affairs, where monitoring officers, perhaps through an abundance of caution—I put that charitably—come up with an interpretation of the law that clearly inhibits councillors from expressing a view. My right hon. Friend is right that the councillor was making it clear that they would go along, perhaps as an observer, and say, "I have come with an open mind." The monitoring officer came back and said, "Even if going as an observer, you will be taken to have predetermined the issue," because the title of the meeting started "Hitchin against" or "Save Hilchin from". Such stretching of the rules and the interpretation of the common lay concept of bias brings the regime into disrepute,"

"We are not obliged to rewrite all the old rules on predetermination and bring that into our code," but how many members would have been in a position to challenge the officer's advice, just as the constituent of my right hon. Friend the Member for Hitchin and Harpenden (Mr Lilley) did?

That is a serious issue."

My right hon. Friend the Member for Hitchin and Harpenden quoted from the example of his councillor constituent, and I will read out the detail of the advice, because it also touches on the point made by my hon. Friend the Member for South Dorset (Richard Drax). It is worth reading it out to give you the whole flavour. It was headed "Mombers' information note", and it provides Quidance on pre-determination regarding public meeting 'to oppose an extension to the Simons ontract to redevelop the centre of Hitchin".

That is all well and good, and it is an understandable matter of public concern. Under the heading "Summary of advice," the document states:

"Attendance at a public neeting that has a clear purpose of opposing a particular course of action or proposal, and which includes at item 3 on the agenda a "vote", is very likely to be regarded as evidence of pre-determination of the matter. Bither attending the meeting as an 'observer or listener' and/or declaring at the start of the meeting that one is approaching the matter with an 'open-mind', could still lead to perceptions and allegations of bias and pre-determination, due to the current stated purpose the meeting."

The member went back on that advice and, as I say, rightly went along to the meeting. (note meeting still to take place)

Frankly, that advice was nonsense. If that sort of advice is being given, the sooner that it stops being given the better, because it is not legally sound and does not accurately reflect section 25 of the Act, which says:

"A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because...the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or...might take, in relation to a matter".

Simply turning up as an observer is certainly doing something, but it could hardly be regarded on any sensible interpretation of the statute as being an act that would tend to predetermine a councillor in relation to a decision.

Basically, bad legal advice is being given to members, and it undermines the proper purpose of the standards, which is to ensure probity, decency and honesty in the conduct of our affairs. When there is nonsense advice of that kind—if I may put it that strongly—it makes it harder to enforce the system in the important cases where a proper red line has to be drawn in relation to members' conduct. I am afraid that the example that I have just given is one of a number that seem to exist.

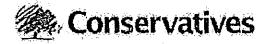
As you know I am extremely concerned about the interpretation of the Localism Act within NHDC and am now expecting you to take some action and rectify the specific advice already given concerning the meeting.

The fact that the title of the meeting has been changed on the advice from NHDC could now be seen as a way around predetermination, a fact I mentioned in my original note (of which I have not had a response). To advise the public to change their title or process sets a very dangerous precedent.

I also wish to know who authorised the Issuance of this advice to elected members and who was in the decision making chain from NHDC.

I look forward to your early response.

Regards David



David Leal-Bennett Highbury Ward Councilor

2 +44 (0)1462 459583 http://www.conservatives.com

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#### Jill Welshman

Fróm:

**David Scholes** 

Sent:

22 January 2013 16:38 Clir Leal-Bennett (external)

To: Cc:

Clir Levett D. (external); 'Claire Munby'; Clir Lynda Needham; Clir Lawrence Oliver,

Cllr Judi Billing

Subject: Attachments: RE: Legal Advice - Local Government Standards Regime RE: Churchgate - Public meeting - Amended agenda

David

I refer to your re-mail from Friday and I have been away from the office until today.

The revised advice issued at 4,40pm on Monday 14<sup>th</sup> January deals with a number of the points you have raised regarding the issuing of the original advice and the reasons that the original advice concluded as it did based on the facts at that time (copy attached). On the basis that the advice was updated following the revised invitation and that Members are free to attend should they wish and therefore I do not believe that there is any basis for issuing an

You refer to the recent Westminster debate - I had seen this in Hansard too and it was regrettable that no reference was made to the final advice that was issued by the Monitoring officer which was prior to that debate taking place. I have written to Peter Lilley MP myself seeking a meeting. I am also aware that there has been a recent report to the Government on Standards Matters (Cm8519) which comments on the current arrangements and raises doubts as to whether they are fit for purpose.

Turning to the other matters that you have raised the timing of the publication of the Council agenda meets with the necessary requirements and there are dispensations that we have used in other instances which have facilitated reports being issued within the 5 working days (in fact in some instances reports have been issued closer to the meeting than is planned in this case). The Project Board has agreed that the reports will be finalised following the member briefings this week. I am afraid that the reports will not therefore be available for collection when you come in for Overview & Scrutiny Committee.

With regard to Simons' presentation to Council this approach follows a similar approach to that taken previously in other projects. Whilst I appreciate the points that you make about presentations elsewhere this will be the only formal Council committee meeting that they will be presenting to.



David

From: David (Hirchin Conservatives) [mallto:david@hltchinconservatives.co.uk]

Sent: Monday, January 21, 2013 2:53 PM

To: David Scholes

Cc: Clir Levett D. (external); 'Claire Munby'; Clir Lynda Needham; Clir Lawrence Oliver; Clir Judi Billing

Subject: Legal Advice - Local Government Standards Regime

Dear David

I would appreciate a reply to my email on Friday and in particular my requests which I repeat below:

1. "As you know I am extremely concerned about the interpretation of the Localism Act within NHDC and am now expecting you to take some action and rectify the specific advice already given concerning the meeting."

2. "I also wish to know who authorised the issuance of this advice to elected members and who was in the decision making chain from NHDC."

The meeting referenced is in fact tomorrow evening (6:30 Hitchin, Sun Hotel) and at the very least I would expect a representative of NHDC to attend and make a comment and even an apology.

However of more import is the decision making process in agreeing to issue the original flawed advice which, in view of the processes that have to be undertaken, should be easy to provide.

I also note item 7 of Full Council for 31st January whereby Simons are making a presentation. I fall to understand why we have to be exposed to yet another presentation, we have had two already as well as the CLF. If it is just to provide "Independently verified" feedback from their public presentations then surely that can be dealt with under item 8.

I believe that Simons to making another presentation is undemocratic since we are being over exposed to one side of the argument. This impacts the democratic process since other may well want to make their representation.

I am advised that all reports and information should be provided 7 working days prior to the meeting and as such I assume will be available tomorrow, I will be attending O&S tomorrow so please may these be ready for collection. If this is not the case please let me know why?

Thank you

Regards

David

David Lept-Bonnett Highbury Ward Councillor

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### David Scholes

From:

David (Hitchin Conservatives) (david@hilchinconservatives.co.uk)

Sent:

Thursday, January 17, 2013 12:22 PM

To:

Norma Allay

Cc:

Clir Levelt D. (external); Andrew Cavanagh; David Scholes

Subject:

RE: DCO - Lease v Purchase

Attachments: NHDC re DCO 12.docx

Dear Norma

I must say I find this response to be totally unacceptable.

I requested specific information concerning the decision made some while ago and do not want to be passed information, confidential or otherwise, that is irrelevant to my original question. This is repeated below for the third time.

The decision made by Cabinet and endorsed by Scrutiny (as per the introduction by Terry Hone last aft) seems to ensure that the purchase or lease of Gernon Road is a fait accompli. However I was not party to that debate nor have I seen any of the pertinent papers. What I will say is that, if the decision was made on figures produced on the same basis as those presented last night then, in all probability, a decision may well have been made without the full facts and as a consequence could be flawed.

As such please supply me with all the documentation leading up to that decisions along with any supporting documentation and spreadsheet analysis<sup>a</sup>

I require the original reports and the numbers and methodology however calculated. I can only then make an informed judgement, these must be available:

You also stated the following:

"Andy confirmed that there were no discounted cash flow spreadsheets and that the purchase was being looked at from a revenue invest to save point of view in much the same way that the Council decided to put Capital funds into the Museum/Town Hall project in order to save circa £160k per annum on revenue costs. Given that a new report will be prepared, I suggest that we await that report rather than enter into place the debate on the old information:

Frankly I'm not that bothered about your basis of calculation but I am bothered about the maths behind your process so please let me have the numbers. You will note from my response to Andy, now attached, that I have challenged the methodology.

You also mentioned The Town Hall which of course occurred before I was elected and I was not privy to the basis of how you made those calculations so I see this reference as irrelevant. I do however recall expressing concern at the time regarding the projected three year cash flow but again this is irrelevant.

look forward to your early response.

Javid



avid Leal-Bennett Ighbury Ward Coundlor 144 (0)1462 459583 http://www.conservalives.com

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From: Norma Atlay [mailtoiNorma.Atlay@north-herts.gov,uk]
Sent: 16 January 2013 16:44
To: Clir Leal-Bennett (external)
Gc: Clir Levett D. (external); Andrew Cavanagh
Subject: RE: DCO ~ Lease v Purchase

#### CONFIDENTIAL

Dear David,

As mentioned in my previous response, I will be speaking with Andy Cavanagh on his return from leave following the birth of his second daughter. He is due back next week and I can confirm that it is our intention to bring back a new report to Cabinet and Council in due course which will address the matters rejsed at Full Council and will be based on estimated whole life costs for the lease y purchase option. Our in-house valuer will be completing a full current valuation report as part of that report and the liabilities under the current lease will be explained. The report will also provide details of the condition survey work carried out by David Bedwell & Partners ( see confidential attachments) and is likely to be around March time due to the current officer time commitments around budget-setting, Churchgate and Hitchin and BaldockTown Hall projects.

My understanding is that you responded to Andy's email of 12th December as per the attached email. In that email, Andy confirmed that there were no discounted cash flow spreadsheets and that the purchase was being looked at from a revenue invest to save point of view in much the same way that the Council decided to put Capital funds into the Museum/Town Hall project in order to save circa £160k per annum on revenue costs. Given that a new report will be prepared, I suggest that we await that report rather than enter into further debate on the old information.

Regards,

Norma

Norma Allay Strategic Director of Finance, Policy and Governance

Direct Dial 01452 474297

North Herifordshire Disinici Council Council Diffices, Germon Road, Leichworth Garden City SGS 2UF

Norma.atlay@north-herts.gov.uk www.north-herts.gov.uk

From: David (Hitchin Conservatives) [mailto:david@hltchinconservatives.co.uk]

Sent: 15 January 2013 17:52

To: Norma Atlay

1/17/2013

Cc: Clir Levett D. (external) Subject: FW: DCO - Lease v Purchase

Dear Norma

Please would you supply the information requested in my small of 14th December 2012 where I stated the following:

"The decision made by Cabinet and endorsed by Scrutiny (as per the introduction by Terry Hone lost night) seems to ensure that the purchase or lease of Gernon Road is a fait accompli. However I was not party to that debate nor have I seen any of the pertinent papers. What I will say is that, if the decision was made on figures produced on the same basis as those presented last night then, in all probability, a decision may well have been made without the full facts and as a consequence could be flowed.

As such please supply me with all the documentation leading up to that decisions along with any supporting documentation and spreadsheet analysis"

Thank you



David Leal-Bennett Highbury Ward Councilor

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From: David (Hitchin Conservatives) [mailto:david@hitchinconservatives.co.uk] Sent: 18 December 2012 14:16

o: 'Norma Atlay'

oubject: RE: DCO - Lease V Purchase

Dear Norma

Thank you and noted.

However please supply the information requested in the penultimate paragraph of my email.

Regards

David

David Leal-Bennett Highbury Ward Councilor

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From: Norma Atlay [mailto:Norma.Atlay@north-herts.gov.uk]

Sent: 17 December 2012 18:17

To: Clir Leal-Bennett (external); Andrew Cavanagh

Subject: RE: DCO - Lease v Purchase

Dear David,

Apologies for the delay in response. Unfortunately my father was admitted by ambulance to hospital in N. Ireland on Friday so I was not able to deal with all emails received that day. I'm pleased to say he has now been released.

I will be discussing the requirements for the next report on office accommodation with Andy on his return from paternity leave in January. A more detailed report will be produced for a future meeting to cover the various concerns raised by Members at Cabinet and I will be feeding back to Andy on his return. David Chariton, the authority's valuer will be producing a full valuer's report for the Office Accommodation Project Board and I expect that to be included in any report back to Cabinet and Council in due course. The report will also cover the options previously considered by Project board updated to reflect the more current position. On that basis, it may be more appropriate to await the new report which will address the concerns expressed, rather than look at the previous one.



I can confirm that Terry Hone sits on that Project Board as the relevant portfolio holder.

Regards,

Norma

Norma Allay Strategic Director of Finance, Policy and Governance

Direct Dist 01462 474297

North Hartlendshive District Council Council Offices, Genor Road, Leichworth Garden City SGB 3JP

Norma.atlay@north-herts.gov.uk www.north-herts.gov.uk

From: David (Hitchin Conservatives) [mailto:david@hitchinconservatives.co.uk]
Sent: 14 December 2012 15;13
To: Norma Atlay; Andrew Cavanagh
Subject: RE: DCO - Lease v Purchase

Dear Norma

in spite of last night, I would still like a response to my email and all the points raised.

As you may gather I am very concerned at the quality and lack of detail in the report for what is a very large investment; I am even more concerned that it was presented to Full Council, in this regard I do not put the blame with Andy since I believe he has done the best he can in difficult circumstances.

1/17/2013

The decision made by Cabinet and endorsed by Scrutiny (as per the introduction by Terry Hone last night) seems to ensure that the purchase or lease of Gernon Road is a falt accompli. However I was not party to that debate nor have I seen any of the pertinent papers. What I will say is that, if the decision was made on figures produced on the same basis as those presented last night then, in all probability, a decision may well have been made without the full facts and as a consequence could be flawed.

As such please supply me with all the documentation leading up to that decisions along with any supporting documentation and spreadsheet analysis.

Would you also please let me know the members who sit on this Project Board.

Kind regards

David

David Leal-Bennett

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From: Norma Atlay [mailto:Norma.Atlay@north-herts.gov.uk]

Sent: 13 December 2012 18:43

To: Cilr Leal-Bennett (external); Andrew Cavanagh

Subject: RE: DCO - Lease v Purchase

Dear David,

You may know that Andy's wife is expecting their second child any day now and he has had a call to return ome earlier today to take her to hospital so has not been able to respond to your email. I have been in other settings until now and have just picked up your response and Andy's outline comments as far as he had got.

I will try to have more of a look between now and Council but as Andy has been dealing with the detail on this project, may need a little more time than the next half hour to get to the bottom of your queries.

The summary of your points seems to be seeking to re-open a decision already made by Cabinet and supported by Scrutiny in March I.e. that the officers should explore the options for purchase or continued lease of the DCO only. The option of new build on another site, which I have read your point 3 to mean since there is reference to returning the DCO to the landlord in 2016, was discounted in March 2012 for the reasons of accessibility to the public etc to which Councillor Hone referred on Tuesday evening.

Regards,

Norma

Norma Allay Strategic Director of Finance, Policy and Governance

Direct Dial 01482 474297

North Herifordshire District Council Council Offices, Gernon Road, Letchworth Gerden City 5GB 3.F

Norma atlay@north-herts.gov.uk www.north-herts.gov.uk

From: David (Hitchin Conservatives) [mailto:david@hitchinconservatives.co.uk]

Sent: 13 December 2012 15:32

To: Andrew Cavanagh Cc: Norma Atlay

Subject: RE: DCO - Lease v Purchase

Dear Andy

Thank you for your email which I have read in detail. It is probably best to respond with your notes and my comments and as such I attach a MSWord document for ease of reference.

I look forward to your response.

Regards

David

David Leal-Bennett Highbury Ward Councillor

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From: Andrew Cavanagh [mallo:andy.cavanagh@north-herts.gov.uk]

Sent: 12 December 2012 16:20 To: Clir Leal-Bennett (external)

Cc: Norma Atlay

Subject: DCO - Lease v Purchase

Dear Olli Leal-Bennett

Following our conversation yesterday, here is a response as requested:

A key aspect was whether we had undertaken a net present value calculation.

I explained that we hadn't as we're not seeking to purchase the DCO as an investment (and consequently there would not be cash outflows/inflows to compare), rather it was to remove a revenue liability and the longer the period it was considered over, the more in favour of purchase a calculation would become, interest rate movements dependent of course, which would be one element of a sensitivity analysis (see also below 90 yr purchase compared to 90 year property lease). Also by purchasing we would not then be required to seek landlord's consent to returb plans (there's a comparator here to the Baldock Town Hall report last night where NHDC would be the landlord in a leasehold scenario) or for sub-letting.

Therefore there are not discounted cash flow spreadsheets with a range of sensitivity analysis to share

1/17/2013

with you

However I would expect that the landlord did do such a calculation before purchasing as they're getting a return for the Council, Their return is 9% or thereabouts (purchase for £2.23m, along with annual ground rent payment of £11k, compared against annual rental income of £219k).

NPV calculations would also suffer from a similar weakness as the estimate of lost investment income, i.e. it would depend on the robustness of the discount rate used (Govt standard for public sector projects is 3%; although this is acknowledged to be an arbitary figure), whereas the figures in the part 2 report depend on the robustness of the 2.2% investment interest estimate.

Also of course, in terms of NPV, there would also need to be an estimate of the terminal asset value at the end of whatever period it was analysed over. This would represent another estimate with a potential wide variation range.

Also, as you know, we don't undertake NPV assessments as a malter of course on any other aspects of the capital programme..

The assessment of which capital schemes to invest in isn't just based on financial aspects as the Council doesn't operate in the way that an investment fund would. Factors such as environmental; social and accommic well being also come into play and have been made more prominent by Localism powers.

As an accounting exercise only,

A real comparator would be 90 year head lease. V 90 yr lease (although a 90 property lease is not on offer from the landlord)
although variations in interest rates etc etc over this period of time make it a very academic exercise

On a cash basis:

90yr lease @ 219k = £19.710m + SDLT = 197.1k

So total leased cost (90 years) = 19.907m

whereas;
Purchase cost incl SDLT = £3.64m
Lost interest = £7.20m at 2.2%, (rate could more than double (to almost 4.7%) before leasing becomes less costly)

Fround rent £0.99m

So Total purchase cost (90yrs) = £11.83m

so on this basis as well, purchase would represent the preferred option

In terms of the specific queries below:

- Ground rent at £275k is 25 years @ £11k
  This is just for the land on which the DCO stands (paid by landlord at present, but would become a cost to us
  If DCO bought)
- Lease at £219k/SDLT (stamp duty land tex) is 25 years @ 219k = £6,475k and SDLT @ 1% of this = £55k, totalling £5,530k

8.3 of the part 2 report gives the Interest rate as 2,2%, also given in table 1 as £22k per £1m

It may also be worth noting that the calculation of lost interest assumes the principal sum remains the same, i.e. the interest that would have been received is not added in to the total each year - I've taken that approach on the assumption this interest would have contributed to funding the annual budget ).

).1

Given the current rate of feturn on capital investments, this is a good time to consider spending some capital funds provided they lead to a saving in future revenue costs. We utilise investment interest to support General Fund expenditure and following the significant falls in interest rates a few years ago, we have a policy intention of seeking not be overly reliant on interest as a source of funding in future. I.e. we have said that if interest rates were to rise again, we may consider setting the additional income, over the current level, aside in a reserve, possibly for capital expenditure or invest to save initiatives. Use now, to generate net revenue savings in the region of £100k in the future is of more direct benefit to the Council tex payer as we seek to keep strict control of revenue expenditure in order to keep the Council lax down.

In terms of your queries today, i.e.

- Are you able to confirm that you have used an external property specialist to provide input to your figures?

A firm of Quantity Surveyors were engaged to report on refurbishment options and their report was utilised in compiling the budget bld.

In terms of initial purchase/lease negotiations (bearing in mind full council approval is required for purchase) these have been carried out by NHDC's RICS qualified Estates Surveyor in accordance with contract procurement rules (Part I )

- Have you confirmed the existing rental is a market rent, especially in view of the current climate The current rental was subject to negotiation between the NHDC Estates Surveyor and the Landlord, the previous rent being £207k, Please also note comments made last night regarding NHDC being a special purchaser/already in occupation. The existing rent is a market rent and was assessed against rental values for other office properties in Letchworth. The rent per square metre compared favourably to such other

- When is the next rent review and is it only an increase (Terry stated last night that it could possibly be a reduction?)

the current lease is for five years - December 2011 to Dec 2016, therefore there is no rent review within this period (as they are normally set at five year intervals).

This lease was intentionally taken out for a shorter period whilst longer term accommodation options were

being considered. This was approved by Cabinet in December 2009.

I hope this helps

Manythanks Andy

Andy Cavanagh Head of Finance, Performance & Asset Management

Direct Dial 01462 474243

North Herifordshire District Council District Council Offices, Gernon Road Leichworth Garden Cily SG63JF

Andrew.Cavanagh@north-herts.gov.ul www.north-herts.gov.uk

From: David (Hitchin Conservatives) [mailto:david@hitchinconservatives.co.uk]

Sent: 11 December 2012 10:14

To: Norma Atlay

Subject: DCO - Lease v Purchase

1/17/2013

#### Dear Norma

I have received the P2 papers on this topic and would appreciate receiving a copy of the spreadsheet showing the comparatives and the basis of that comparison. Could you also clarify the difference between Ground rent of £275k and "Lease @ £219 k pa/SDLT".

I would also appreciate the interest rate scenario used over the 25 year period as well as the sensitivities undertaken in this regard.

Many thanks

Kind regards

David



David Leal-Bennett Highbury Ward Councillor

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#### David Scholes

From:

Anthony Roche

Sent: Tue 29/01/2013 17:21

To:

Cilr Leal-Bennett (external); Cilr Levett D. (external); 'Cilr Claire Strong'; cmunby Norma Atlay: David Scholes; Louise Symes

Cc:

Subjects

RE: Churchgate - Eversheds report

Attachments: [] Hitchin - Procurement Analysis.htm(11K8)

#### Clir Leal-Bennett

You will have now received the email sent to all Councillors alteching the final Eversheds advice. That includes within it the points that they were asked to consider.

Attached is an email from Eversheds confirming what they had previously told me over the telephone. namely that their draft report is not to be circulated or relied upon.

### Regards



Anthony Roche Acting Corporate Legal Manager and Monitoring Officer - Legal Services

Direct Dial: 01462 474588

North Hertfordshire District Council Council Offices Gemon Road Letchworth Garden City Hertfordshire SGB 3JF

DX 31317 Letchworth

anthony, roche@north-herts.gov.uk www.north-herts.gov.uk



From: David (Hitchin Conservatives) [mailto:david@hitchinconservatives.co.uk] Sent: 29 January 2013 10:21

To: Anthony Roche; Clir Levett D. (external); 'Clir Claire Strong'; cmunby

Cc: Norma Atlay; David Scholes; Louise Symes Subject: RE: Churchgate - Eversheds report

Déar Anthony

I find this unacceptable since you have stated " that the relevant points of the working draft of this advice would be summarised in the part 2 report'. As I mentioned when we met, if you have summarised the relevant points then I wish to see the draft report.

Please also supply the written request (briefing) that was made to Eversheds as well as that which was sent to DTZ. I need to understand what was actually requested and I will make my own decision If I consider it sufficiently broad or too narrow.

You also state "as their advice was not in a format which Eversheds were content could be released," Please therefore supply a copy of the letter Eversheds sent stating this,

Since you have this information on file I expect it to be provided by the close of business today.

When we were briefed by Simons I requested a copy of their Financial Model which they said could be provided. I have made repeated requests for this but have not received anything.

Thank you.

David Leaf-Bennett

Highbury Ward Councillor

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From: Anthony Roche [mailto:Anthony.Roche@north-herts.gov.uk]
Sent: 28 January 2013 16:45

To: Clir Levett D. (external); Clir Claire Strong; Clir Leal-Bennett (external); cmunby

Cc: Norma Atlay; David Scholes; Louise Symes

Subject: Churchgate - Eversheds report

Dear Councillors Strong, Levelt and Leal-Bennett

Officers have received a request from each of you for the report from Eversheds providing legal advice on Churchigale.

http://srymail01.north-herts.gov.uk/exchange/DavidS@north-herts.gov.uk/-FlatUrlSp... 13/01/2015

Advice was sought from Eversheds, as explained in the part 2 report. Due to the timing of Simons changing the anticipated basis of their request and the despatch of papers on Friday 25 January 2013, it was not possible for Eversheds to produce their advice to accompany the report. In order to assist members it was agreed with Eversheds that the relevant points of the working draft of this advice would be summarised in the part 2 report as their advice was not in a format which Eversheds were content could be released.

We are working with Eversheds to ensure the final advice will be available for circulation to all members, as a further appendix to the Part 2 report. This will be circulated tomorrow, 29 January 2013, once it is available.

Regards

Anthony Roche
Acting Corporate Legal Manager and Monitoring Officer - Legal Services

Direct Dial; 01462 474588

North Heritordshire District Council Council Offices German Roed Letchworth Genden City Heritordshire SG8 3JF

DX 31317 Leichworth

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#### David Scholes

From:

David Scholes

Sent: Wed 30/01/2013 09:38

To:

Clir Levett D. (external); Clir Lynda Needham

Cc

Subject:

RE: Churchgate · Eversheds report

Attachments

Thank you both - 1.30 would be great. We have a Chairman's briefing with Cilr Kirby for tomorrow at 5.00pm as there are many procedural matters to go through and this may take a little while.

Many thanks

David

From: David Levett [mailto:david@dlevett.co.uk]
Sent: Wednesday, January 30, 2013 12:16 AM
To: David Scholes; Clir Lynda Needham
Subject: RE: Churchgate - Eversheds report

David/Lynda

I saw the small and as a result had a meeting with DLB immediately after Cabinet, after reflection on our conversation had just sent an email to him with a suggestion — and picked up yours.

I'm at work tomorrow but will make sure I can come at either time, 1:30 would be easier, alternatively Lynda and I will both be in NHDC at 17:00 but guess something needs sorting before then.

It is of course up to DLB whether or not he acts on my suggestion and not sure it will help anyway.

Regards

David

**Clir David Levett** 

North Hertfordshire District Council

172 Rushby Mead

Letchworth Garden City

**SG6 1SQ** 

**6** 

Mobile Market

Home 01462 678870

email david@dlevett.co.uk

From: David Scholes [mailto:David.Scholes@north-herts.gov.uk]

Sent: 29 January 2013 22:41

To: Clir Levett D. (external); Clir Lynda Needham Subject: Re: Churchgate - Eversheds report

Lynda/David,

I had not seen this e mall when we met earlier for Cabinet however having now seen this I am very concerned about its tone and the potential implications. I would like to meet with yourselves tomorrow if at all possible to discuss this matter. I wondered if we could meet either before or after the Business Ratepayers meeting (either 11.00 or 1.30)?

I had to have a long conversation with Anthony after Cabinet and have suggested that I will be responding to Clir Leal Bennett.

Thanks and sorry to suggest yet another meeting.

David

---- Original Message ------ Prom: David (Hitchin Conservatives) < david@hitchinconservatives.co.uk

To: Anthony Roche; Clir Levett D. (external); 'Clir Claire Strong' < strong

>; cmunby

<<u>cmunby</u>
Cc; Norma Atlay; David Scholes; Louise Symes
Sent: Tue Jan 29 19:15:37 2013

Subject: RE: Churchgate - Eversheds report

Mr Roche

Convenient and interesting that only today do you receive written confirmation. I have never known lawyers give only telephone advice on something so fundamental without an immediate written follow up - extremely lax and not something I would expect from Eversheds. I see absolutely no reason why members are unable to see the original draft especially as it has been commissioned by NHDC with taxpayers' money.

If this is the case then WHY did you include reference, please now update the report and inform members what needs to be changed.

In my opinion you are deliberately withholding information and as such the public need to be made aware.

http://srvmail01.north-herts.gov.uk/exchange/DavidS@north-herts.gov.uk/-FlatUrlSp... 13/01/2015

David Leal-Bennett

Highbury Ward Councillor

(+44 (0)1462 459583

http://www.conservatives.com

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From: Anthony Roche [mailto:Anthony.Roche@north-herts.gov.uk]

Sent: 29 January 2013 17:22

To: Clir Leal-Benneit (external); Clir Levelt D. (external); Clir Claire Strong; cmunby

Cc: Norma Atlay; David Scholes; Louise Symes Subject: RE: Churchgate - Eversheds report

Clir Leal-Bennett

**(4)** 

You will have now received the email sent to all Councillors attaching the final Eversheds advice. That includes within it the points that they were asked to consider.

Attached is an email from Eversheds confirming what they had previously told me over the telephone, namely that their draft report is not to be circulated or relied upon.

Regards

Anthony Roche Acting Corporate Legal Manager and Monitoring Officer - Legal Services Direct Dial: 01462 474588

North Hertfordshire District Council **Council Offices** Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

DX 31317 Letchworth

anthony.roche@north-herts.gov.uk www.north-herts.gov.uk

From: David (Hitchin Conservatives) [mailto:david@hitchinconservatives.co.uk]

Sent: 29 January 2013 10:21

To: Anthony Roche; Cllr Levett D. (external); 'Cllr Claire Strong'; cmunby

Cc: Norma Atlay; David Scholes; Louise Symes Subject: RE: Churchgate - Eversheds report

Dear Anthony

I find this unacceptable since you have stated " that the relevant points of the working draft of this advice would be summarised in the part 2 report. As I mentioned when we met, if you have summarised the relevant points then I wish to see the draft report.

Please also supply the written request (briefing) that was made to Eversheds as well as that which was sent to DTZ. I need to understand what was actually requested and I will make my own decision if I consider it sufficiently broad or too narrow.

You also state "as their advice was not in a format which Eversheds were content could be released." Please therefore supply a copy of the letter Eversheds sent stating this.

Since you have this information on file I expect it to be provided by the close of business today.

When we were briefed by Simons I requested a copy of their Financial Model which they said could be provided. I have made repeated requests for this but have not received anything.

Thank you.

13/01/2015 http://srvmail01.north-herts.gov.uk/exchange/DavidS@north-herts.gov.uk/-FlatUrlSp...

David Leal-Bennett

Highbury Ward Councillor

(+44 (0)1462 459583

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From: Anthony Roche [mailto:Anthony.Roche@north-herts.gov.uk]

Sent: 28 January 2013 16:45

To: Clir Levett D. (external); Clir Claire Strong; Clir Leal-Bennett (external); cmumby

Cc: Norma Atlay; David Scholes; Louise Symes

Subject: Churchgate - Eversheds report

Dear Councillors Strong, Levett and Leal-Bennett

Officers have received a request from each of you for the report from Eversheds providing legal advice on Churchgate.

Advice was sought from Eversheds, as explained in the part 2 report. Due to the timing of Simons changing the anticipated basis of their request and the despatch of papers on Friday 25 January 2013, it was not possible for Eversheds to produce their advice to accompany the report. In order to assist members it was agreed with Eversheds that the relevant points of the working draft of this advice would be summarised in the part 2 report as their advice was not in a format which Eversheds were content could be released.

We are working with Eversheds to ensure the final advice will be available for circulation to all members, as a further appendix to the Part 2 report. This will be circulated tomorrow, 29 January 2013, once it is avallable.

Regards

Anthony Roche Acting Corporate Legal Manager and Monitoring Officer - Legal Services

Direct Dial: 01462 474588

North Hertfordshire District Council Council Offices Gernon Road Letchworth Garden City

Hertfordshire SG6 37F

DX 31317 Letchworth

anthony.roche@north-herts.gov.uk www.north-herts.gov.uk < ille:///\/www.north-herts.gov.uk>

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No virus found in this message. Checked by AVG - <u>vww.avg.com</u> Version: 2013.0.2890 / Virus Database: 2639/6066 - Release Date: 01/29/13

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#### **David Scholes**

From:

John Robinson

Sent:

Thursday, February 14, 2013 12:10 AM

To:

**David Scholes** 

Subject:

Fw: Stakeholder endorsement

David

CONFIDENTIAL

Could we speak first thing please? Clearly a number of issues here which need addressing.

Thanks

John

---- Original Message ----

Prom: Dayid Leal-Bennett <dlb.

" Rosemary Read

John Robinson: Morag Norgan <MoragBnorgans.co.uk>; David Morgan

ivid.morgan@foremanlaws.co.uk>; Brent Smith Stephen Pike

Sent: Wed Feb 13 23:07:49 2013 Subject: Re: Stakeholder endorsement

Suggest we all calm down and forget this email trail some of which was said in the heat of the moment when we are all incredibly frustrated having worked long and hard.

Seriously we have got to be clear on what is the structure, which is pretty simple and does comply with our objects

It has the approval of the Charity Commission and ACF.

It will be set out so that John is able to report clearly to the council.

On the meantime I did explain in simple terms to the Community Groups who got the picture so I am sure they now understand.

As far as precise documentation is concerned this is again simple and has been done

this helps and puts an end to this. Eil

D1b

#### David Leal-Bennett

Sent from my iPhone

on 13 Feb 2013, at 22:53, Rosemary Read

wrote:

Good, but what do I tell the groups to do? Hold fire? Make wax models and buy pins? I'm out all day tomorrow but will have phone.

Ŕ

Sent from my iPad

On 13 Feb 2013, at 21:44, David Leal-Bennett <dlb@syssol.net> wrote:

Rosemary

Don't worry he is being an idiot and does not understand so that means he is dangerous. Have spoken to DM and this will be covered in our response.

A non issue

Brent do you have that guys name who can fix Robinson for good!! : Dlb

David Leal-Bennett

Sent from my iPhone

On 13 Feb 2013, at 17:34, "rosemary read"

wrote:

Dear all

I think he's moved the goalposts again. Even I can understand the debenture holder and membership category issue, and I think everyone in the community groups did as well. Shall I draft something for your approval incorporating his first 2 paragraphs for the groups to get signed, and tell him that if he expects us to run an advertising campaign while we're bogged down by his rules and boxes he can go take a running jump (or words to that effect?) I could ask when the copy deadline is for the next issue of his magazine which everybody reads but I can't remember the name of.

Guidance, please, as our Monday evening pals must be sitting with their pens poised!

Regards

Rosemary

From: dlb [mailto: Sent: 13 February 2013 13:06
To: 'John Robinson'; 'Rosemary Read'
Co: 'Morag Norgan'; 'David Morgan'; 'Brent Smith'; 'Stephen Pike'
Subject: RE: Stakeholder endorsement

Dear All

Lets us be clear about this, and there will be confirmation shortly, but TH DO NOT have to amend their Objects there is provision already to do what is being roposed. It is NOT a new category of shareholder but member category as defined:

There is clearly a lack of understanding and I explained to the Community Groups with simple examples that people could understand. This is NOT rocket science.

NTH will also advertise well in advance of the proposed AGM which we have to have to comply with our objects

Regards

David

David Leal-Bennett

(+44 (0) 1462

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attachments

From: John Robinson [mailto:John.Robinson@north-herts.goy.uk]
Sent: 13 February 2013 12:05
To: Rosemary Read
Cc: Moray Norgan; David Morgan; Brent Smith; dlb; Stephen Pike Subject: FW: Stakeholder endorsement

Rosemary,

back to you.

Thanks for this update and apologies for the slight delay in getting

It is very encouraging that the community groups were supportive of the proposal for incorporating 15 Brand Street and for the changes necessary in your jovernance arrangements through the creation of an additional category of thareholder/debenture holder.

I do not think it is necessary to provide any further verification that you have secured the requisite support other than to receive your assurance that this has seen on the basis that the proposal was outlined in its current form as clarified in our secting last week - particularly that the proposal is not prescriptive about the internal ayout of the building and that, at this stage, whilst NHDC and HTB Ltd remain committed to exploring the possibility of incorporating 15 Brand Street no formal decisions have yet seen made on this.

When we met last week I did request that more formal reference to the beneficiaries was arranged by advertising the opportunity for them to become members of HTH Ltd prior to any such change and thereby providing the opportunity to them to endorse or oppose it. It is clearly not the Council's fole to be directly involved in this but I do think we will want this assurance given the fairly significant change in financial arrangements being envisaged. I set this point out in my letter of 8th February 2013 and have replicated the appropriate extract below for convenience.

You also indicated that it would be necessary to create a new category of shareholder or similar to accommodate those providing this funding and that you understood NHDC's request that, in order to maintain engagement with stakeholders/beneficiaries, this should be proceeded by an advertisement to invite beneficiaries to join Mitchin Town Hall Ltd to ensure transparency and accountability in respect of the proposed issue of long term loan notes prior to this happening. At the meeting you indicated that this should not be problematic and I would be grateful to receive your confirmation of this!,

I hope this helps but do let me know if you require any further clarification at this point.

Regards

John

From: rosemary read (1)
Sent: 11 February 2013 20:04
To: John Robinson
Co: Morae Nero Co: Morag Norgan; David Morgan; Brent Smith; David Leal-Bennett; Stephen

Subject: Stakeholder endorsement

ike

John

We had a very positive meeting with the Ritchin community groups this /ening, and they have confirmed their support for the inclusion of 15 Brand Street in the roject. David Leal-Bennett also explained the need for an additional category of areholder/debenture holder to assist with the additional financing required to purchase is and this was moderated. i, and this was understood.

In order to save time and obtain the confirmation you require from the mmunity groups, we would be grateful if you could let us have your preferred draft rding to forward to those concerned.

Kind regards

Rosemary Read

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# Jill Welshman

From: Sent:

Sharon Nahal 06 March 2014 10:58 David Scholes

To:

David,

As briefly discussed this morning for your information,

Regards

John

note of phone onversation ...

Confidential .

Note of telephone conversation with David Leal-Bennett at 4,35 pm

5 March 2014

David Leal-Bennett called me on mobile at approximately 4.35 pm.

He explained he had been out circulation for a while and was catching up on a number of amails received during the course of that day.

He asked me to outline the decision making process and the relationship between the Development Agreement and Project Board and I outlined arrangements and progress to date (See summary flowchart).

I advised that arrangements had been made for a Project Board meeting on Monday 10<sup>th</sup> .March at 1,30 pm subject to receipt of the Planning Authority's written advice and that I aimed to circulate the project report for Hitchin Town Hall Ltd's consideration on Thursday or Friday this week.

He indicated he was concerned that having visited Hitchin Town Hall that the contractors continued to build the block work wall at the rear of the stage and asked why I thought NHDC felt this risk was acceptable. I told him that we had considered the issues and had carried on with the intervention on the basis that we believe it to be consistent with both the aims of the Dévelopment Agreement and planning permissions. I also explained that we were in dialogue with Planning Authority via BFAW and would not have confirmed unless the risk was acceptable. I also indicated that, should the intervention be deemed to be unacceptable; then NHDC would have to bear the cost of dismantling it. DLB argued that it would have been straight forward to halt building the wall and that 'any competent architect' could have achieved it.

DLB then indicated that he thought, a number of other matters should be considered by Project Board and that a Design meeting should be immediately established on a regular basis. In the case of the latter, he suggested that the Design meeting was necessary to find way around the current impasse in respect of the stage partition but I explained that as the breach registered by Hitchin Town Hall Lid was fundamentally about this design, a Design meeting was unlikely to resolve matters.

He reminded me that the Development Agreement set out a clear process for resolving disputes of this sort involving, ultimately, arbitration and that Hitchin Town Hall Ltd's external advice had indicated that there was a strongest possible case and that determination against the Council would be very costly indeed.

I indicated it would be for Hitchin Town Hall Ltd or NHDC to consider their next steps following receipt of the Council's decision or decision in principal at or following Project Board.

DLB also referred the reference in my email to Brent Smith earlier that day in which I expressed my concern about the intervention of a Councillor at Hitchin Area Committee the evening before which is detail on attached Annex A. He suggested that the implication was that Hitchin Town Half Ltd had spoken with the Councillor and he was concerned that, from his point of view, he had become increasingly concerned over recent weeks that 'leaks' were coming from NHDC. I explained that I was not in a position to respond to a claim of

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that sort but could confirm that, from my part, my conversations at communications had been limited to those who had a legitimate interest in the project.

DLB then suggested that ACF may want to attend Project Board and I indicated that, as per existing agreements, this was fine.

DLB then went on to criticise my management of the project and the 'god like' way in which I operated. He expressed outrage and astonishment that the decision to proceed with building the stage wall and referred to an email he had just received from Morag Norgan which he couldn't read out but which expressed the same opinions. He continued to criticise my approach as being the antithesis of partnership working and said that it did not bode well for the future.

I interjected at this point and confirmed that, having dealt with his queries, the conversation had reached an end.

(this note was dictated at 4.50 pm)

John Robinson Strategic Director Customer Services

6th March 2014

File Note: Telephone Discussion With DLB

# 30th April 2013

David Leal-Bennett called at approximately 10.35 am on 11<sup>th</sup> July quastioning who gave me authority to send an email to Denise Marsh who, was attending the Operational Team meeting on Monday 14<sup>th</sup> July 2014.

I advised David that Denise contacted me and asked that I forward the document to her (this follows a telephone conversation between John and Denise during which his had promised to forward the agenda to her). DLB stated that protocol would be for me to contact DLB to check this was ok. I advised that Denise had advised that she had contacted NHDC following on from discussion with DLB and SP. In addition, I took what Denise said at face value and didn't feet the need to check this with DLB.

DLB then stated that he didn't even know that the meeting was 'on', "Iconfifted that I had sent DLB an email to which he responded that.... 'the date was in the diary....'. He then said that didn't mean anything. He then went on to say that there was no need for me to 'get . lippy'.

I replied by saying that I wasn't getting lippy:simply trying to say that I had assumed that the meeting was confirmed as per DLB's email. I further responded that I had received no confirmation from DLB as to who was to attend. DLB stated that SP would also attend and that we shouldn't focus on issues like this. I responded by saying that I was only trying to make arrangements for the Operational Team. meeting.

This telephone call was witnessed by lan Gourlay, Committee Services Manager who would be happy to confirm what he observed:

Sharon Nahal PA to Strategic Director Gustomer Services

# DS/NA/KW/LN - 12,30 - 4th July 2014

## Private & Confidential Note

- LN said that she felt that there was no other option than to adjourn the project board given the position that DLB took.
- LN applogised to officers for the action that she had taken NA said this was not a difficulty.
- 3. KW advised that in a desire to get through the door DLB had pushed her aside.
- 4. LN asked for "chapter and verse" on how members are allocated to project boards and DS/NA said that this would be provided. It is within Project Management and forum regs and this gives absolute authority to the Leader.

# DS/KW - 16th July

- DS spoke to KW after the meeting with DM following conversation earlier in the day with DLB.
- Verified that KW as content that the reference to pushing was factually correct. This happened in the doorway to the Council Chamber where DLB pushed past (Norma was also in the corridor).
- 3. On this basis DS letter stands.

DS/DLB - 12.30 - 16th July

- DLB came to see DS without an appointment. DLB said that the letter dated 14<sup>th</sup> July was libellous and that DS should retract it.
- DS said that to his belief the contents of the letter were factually correct - queried which aspect. DLB said that it was the reference to pushing a member of staff. DS said that he would speak again to the member of staff who had raised this and if necessary make any amendments to the letter.

**(2)** 

## Jill Welshman

From:

Jill Welshman

Sent:

15 October 2014 15:40

To:

dib

Subject:

correspondence from David Scholes

# Dear Councillor Leal-Bennett

Please find letter attached as per your conversation with David earlier on in the week. Thank you. Jill:



04 ltr to David 04 ltr to David Leal-Bennett 1... Leal-Bennett 1...



Jill Welshman PA to Chief Executive

Direct Dial; 01462 474278

North Heritordshire District Council Council Offices Germon Road Letchworth Gerden City Heritordshire SG6 3JF

illi.weishman@north-heria.gov.uk www.north.heria.gov.uk



Council Offices, Germon Road, Letchworth Garden City, Hertfordshire, SG6 3JT Telephone: (01462) 474000 Text Phone: (01462) 474800



Councillor David-Leal Bennett

Our Ref:

DS/jw

Your Ref:

Contact David Scholes

Officer:

Direct Line:

01462 474278

E-mall:

Date:

14th July 2014

# Dear Councillor Leal-Bennett

I am writing in response to your e-mails dated 2<sup>nd</sup> July and 4<sup>th</sup> July relating to the Churchgate Project Board and your view that:-

- As the current chairman of Hitchin Area Committee you should have a seat on that project board by virtue of the original composition of the project board as reported at full Council on 25<sup>th</sup> February 2010 and;
- b) That Councillor Needham exceeded her authority in the management of the project board on 4th July in declining to have you present at the meeting or reading out a statement that you had prepared.

In preparing my response to you I have consulted a number of officers involved in the meeting and the operation of the project board more generally. The project board was originally established to manage the Development Agreement and the delivery of the Churchgate project generally and full details of that were referenced in the report to Council. In 2012 the chalmanship of Hitchin Area Committee changed and it was considered to be to the advantage of the management of the project to maintain the current individuals on the project board notwithstanding the change in role of Councillor Judi Billing. It is clear from the Project Management Framework and Financial Regulations, section 10.5.10 that the Leader of the Council decides which members are appointed to project boards and I have copied below the relevant extract:

"10.5.10 The Chief Executive will appoint, or recommend to Cablinet as appropriate, the Project Board and Project Executive at the start up of any new project. Councillors may be appointed to the Project Board depending upon the risk and/or profile of the project, as agreed by the Leader of the Council. The Project Executive then has responsibility for appointing any

David Scholes Chief Executive

www.north-betts.gov.uk



additional members of the Project Board. The requirement for a Project Board and the level of seniority of the Project Manager will depend upon the project categorisation. Any project should follow the guidelines in the NHDC Project Management Framework on the Council's intranet."

It seems to me that, in accordance with the Project Management Framework and Financial Regulations the Leader of the Council has the absolute ability to determine at any point in time the composition of Councillors on any project board. I am advised that you made your representations to the Leader of the Council very recently and you were advised at the time that your request would be considered. Notwithstanding this you then proceeded to assert the proposition that you were entitled to sit on the project board to Mrs Allay and myself, and you sought to instruct Ms Symes to provide you with papers.

In my e-mail dated 2<sup>nd</sup> July I advised you of the situation regarding membership of the project board yet you sought to attend the project board meeting. The chairman of the project board considered that, in light of the views already expressed to you, it would be inappropriate for you to attend. The chairman of such a meeting conducts the business of the meeting and in view of the circumstances Councillor Needham concluded that it would be appropriate to cease the meeting. This was particularly so given the demeanour that you exhibited at the meeting which I understand included uninvited physical contact (pushing) with one member of staff in your desire to gain access. I advised you previously about inappropriate conduct in relation to staff in my letter of 2<sup>nd</sup> May 2014 and I regard this as a further example of inappropriate conduct.

In summary — you do not have membership of the Churchgate Project Board (as chairman of Hitchin Committee) and it is for the chairman of the project board to conduct the meeting in an appropriate manner as she sees fit with regard to all the dircumstances.

Yours sincerely

David Scholes
Chief Executive

#### **David Scholes**

From:

**David Scholes** 

Sent:

25 February 2014 16:50

To:

'David Leal-Bennett'

Cc:

Clir Hunter T. (external); 'DavidLevett'

Subject:

RE: Hitchin Town Hall

#### David,

As you know from my out of office response and your telephone call on Friday, I was away from the office on Friday on annual leave. I am assuming that you have sent this e-mail as a Director and Trustee of Hitchin Town Hall Ltd rather than in your role as an elected Member of North Hertfordshite District Council.

I have liaised with John Robinson as the Council's appointed Project Executive regarding your comments about the storage area in the rear portion of the stage within Hitchin Town Hall, and you will have received two responses from John. Thank you for the electronic copy of the letter that you have today delivered in the Council Offices in relation to what you regard as breaches in the Development Agreement.

Whilst you have made various assertions about partnership working the Council has consistently sought to work in partnership with Hitchin Town Hall Ltd and we will continue to do so. It is almost inevitable that there will be some matters where the two organisations have differing views however the formal relationship between the two organisations is governed, as you know, by the Development Agreement. It is most important that both organisations follow the mutually agreed processes set out the Development Agreement. With this in mind and having regard to your hand delivered letter today it would be inappropriate for me to comment further.

## Regards

David

From: David Leal-Bennett [mallto:

(a)t: 25 February 2014 15:41

o: David Scholes

Cc: Clir Hunter T. (external); 'DavidLevett'

Subject: Hitchin Town Hall

#### Dear David

I refer to the email that was sent to you all on Friday 21st February at 14:14 to which I have not received a response.

Out of courtesy the trustees thought you should have a copy of the letter that was delivered to NHDC about an hour ago.

We also attach a photograph associated with the letter.

The trustees of HTH Ltd together with their professional advisers would like to meet on Friday.

Regards

David

PS We will leave you to copy others as you think appropriate.

David Leaf-Dennett

图+44 (0)1462

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#### **David Scholes**

From:

**David Scholes** 

Sent:

11 December 2014 15:40

To: Cc: David Leal-Bennett ( ( Clir Michael Weeks

Clir Levett D. (external); Clir Lynda Needham; Clir Millard A. (External); Clir Mike Rice (external); Clir Muir M. (External); Clir Peter Burt, Clir Richard Thake; Clir Simon Hanwood; Clir Steve Hemingway; Clir Terry Hone; Clir Andrew Young; Clir Ashley A. (external); Clir Ben Lewis; Clir Bernard Lovewell; Clir Bill Davidson; Clir Cathryn Henry; cmunby Millard Clir David Barnard; Clir Faye Frost; Clir Fiona Hill; Clir Gerald Morris; Clir Gibbs T. (external); Clir Gray J. (external); Clir Hunter T. (external); Clir Jean Green; Clir Jim Mchally; Clir John Bishop; Clir John Booth; Clir John Harris; Clir Julian Cunningham; Clir Bardett A. (external); Clir R Shakespeare-Smith (external)

Subject: Attachments:

FW: Minutes of meeting 03.11.14 2nd Ort Monitoring 300914.xisx

# Dear Councillor Léal Bennett,

efer to your e-mail to Councillor Weeks (copied to other Members of the Conservative Group) which Councillor Hone, Portfolio Holder for Finance and IT, has passed to me to respond to in my capacity as Head of Paid Service given the concerns about mutual trust and respect that such a communication raises.

I can confirm that there will be a correction issued in respect of the "Total" column you refer to in the report on the Treasury Strategy for the meetings of the Finance Audit and Risk Committee and Cabinet.

The income from interest quoted in the report is indeed correct as it encompasses the various interest rates we have investments in, the varied period of such investments and the fluctuations in amounts invested. We would be agreeable to providing a detailed explanation of how this is calculated should you wish.

I would remind you of the provisions within the Member Code of Conduct and the Protocol for Member/Officer Working Arrangements. I note that this matter had not been raised with officers who would have provided you with a response and dealt with these points as part of the normal business process. I will be responding separately to you in relation to the views you have expressed in the final sentence of your e-mail.

Ve copied this e-mail to those Councillors to whom your e-mail was sent.

Regards.

David Scholes
Chief Executive

Direct Dial; 01462 474300 North Hertfordshire District Council Council Offices, Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

Follow us on Twitter Like us on Facebook www.north-herts.cov.uk From: David Leal-Bennett/SMTP:DAVID@HITCHINCONSERVATIVES.CO.UKI

Sent: Tuesday, December 09, 2014 12:45:41 PM

To: 'Michael Weeks'

Cc: Clir Levett D. (external); Clir Bardett A. (external);

Clir Millard A. (External); Clir Ashley A. (external); 'Andrew Young'; 'Ben Lewis'; 'Bernard Lovewell'; 'Bill Davidson'; 'Cathryn Henry';

'Claire Strong'; 'David Barnard'; 'Faye Frost'; 'Flona Hill';

'Gerald Morris'; Clir Gray J. (external); 'Jean Green'; 'Jim Monally'; 'John Bishop'; 'John Booth'; 'John Harris'; 'Julian Cunningham';

'Lynda Needham'; 'Michael Muir'; Clir Mike Rice (external); 'Peter Burt'; Clir R Shakespeare-Smith (external); 'Richard Thake'; 'Simon Harwood'; 'Steve Hemingway'; Clir Terry Hone; 'Tony Hunter';

Clir Gibbs T. (external)

Subject: RE: Minutes of meeting 03.11.14

Auto forwarded by a Rule

#### Dear Michael

As promised and following on from last night I attach a spreadsheet regarding the Treasury Report to Cabinet, which shows my workings. Unless I am mistaken there is a difference of £3.3m in the actual casting, as well as the interest rates being incorrect.

Happy to discuss in more detail, but my comment within the spreadsheet is apposite:

"It is clear that this report has been compiled using an older version and has not been checked by either the originator or NHDC officers. What is of equal concern is that NHDC are paying for this report and it is the second time errors have been discovered. This does not reflect well on NHDC,"

I do have serious concerns about officers' accounting and arithmetic capability.

Kind regards

David

# Conservatives

David Leaf-Bernett Highbury Ward Councillor

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# NORTH HERTFORDSHIRE DISTRICT COUNCIL

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Councillor David-Leal Bennett

Our Ref:

DS/jw

Your Ref:

Contact Officer:

Direct Line:

**David Scholes** 

01462 474278

E-mail:

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Date:

14<sup>th</sup> July 2014



I am writing in response to your e-mails dated 2<sup>nd</sup> July and 4<sup>th</sup> July relating to the Churchgate Project Board and your view that:-

- As the current chalman of Hitchin Area Committee you should have a seat on that project board by virtue of the original composition of the project board as reported at full Council on 25<sup>th</sup> February 2010 and;
- b) That Councillor Needham exceeded her authority in the management of the project board on 4th July in declining to have you present at the meeting or reading out a statement that you had prepared.

In preparing my response to you I have consulted a number of officers involved in the meeting and the operation of the project board more generally. The project board was originally established to manage the Development Agreement and the delivery of the Churchgate project generally and full details of that were referenced in the report to Council. In 2012 the chalmanship of Hitchin Area Committee changed and it was considered to be to the advantage of the management of the project to maintain the current individuals on the project board notwithstanding the change in role of Councillor Judi Billing. It is clear from the Project Management Framework and Financial Regulations, section 10.5.10 that the Leader of the Council decides which members are appointed to project boards and I have copied below the relevant extract;

"10.5.10 The Chief Executive will appoint, or recommend to Cabinet as appropriate, the Project Board and Project Executive at the start up of any new project. Councillors may be appointed to the Project Board depending upon the risk and/or profile of the project, as agreed by the Leader of the Council. The Project Executive then has responsibility for appointing any

David Scholes Chief Executive

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additional members of the Project Board. The requirement for a Project Board and the level of seniority of the Project Manager will depend upon the project categorisation. Any project should follow the guidelines in the NHDC Project Management Framework on the Council's intranet."

It seems to me that, in accordance with the Project Management Framework and Financial Regulations the Leader of the Council has the absolute ability to determine at any point in time the composition of Councillors on any project board. I am advised that you made your representations to the Leader of the Council very recently and you were advised at the time that your request would be considered. Notwithstanding this you then proceeded to assert the proposition that you were entitled to sit on the project board to Mrs Atlay and myself, and you sought to instruct Ms Symes to provide you with papers.

In my e-mail dated 2<sup>nd</sup> July I advised you of the situation regarding membership of the project board yet you sought to attend the project board meeting. The chalman of the project board considered that, in light of the views already expressed to you, it would be inappropriate for you to attend. The chalman of such a meeting conducts the business of the meeting and in view of the circumstances Councillor Needham concluded that it would be appropriate to cease the meeting. This was particularly so given the demeanour that you exhibited at the meeting which I understand included uninvited physical contact (pushing) with one member of staff in your desire to gain access. I advised you previously about inappropriate conduct in relation to staff in my letter of 2<sup>nd</sup> May 2014 and I regard this as a further example of inappropriate conduct.

In summary — you do not have membership of the Churchgate Project Board (as chairman of Hitchin Committee) and it is for the chairman of the project board to conduct the meeting in an appropriate manner as she sees fit with regard to all the circumstances.

Yours sincerely

David Scholes Chief Executive

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Confidential

File Note: Hitchin Area Committee Pre Meeting

13 January 2015

The Chairman, Councillor Leal-Bennett repeatedly asked David Charlton whether the Part 2 reports covering Thomas Bellamy House would be made available. David Charlton responded that he had asked for advice from his Director and, in turn, the Finance Portfolio Holder as a request of this nature had not been received before,

Nevertheless, Councillor Leal-Bennett continued to ask whether the paper would be made available, who made the decision, the issues the decision maker was considering etc. I interjected at several points to support David Charlton's responses indicating that he was awalling advice and suggesting to Councillor Leal-Bennett that he took this matter up with the departmental Director.

David Chariton made a point of speaking with me afterwards to thank me for supporting him in the meeting where he felt he was clearly being unreasonably interrogated.

In respect of the North Hertfordshire Museum/Hitchin Town Hall Information report, the Chairman asked what the reasons for the delay in the Museum/Town Hall project. I advised that, as he had a declarable interest, I was not prepared to discuss that matter with him. Councillor Leal-Bennett stated that he had received a letter for the Chief Executive confirming he did not have a declarable personal interest and I reiterated that I was referring to a declarable interest where the Chief Executive/Monitoring Officer's advice was unequivocally that he had a recent and close association with Hitchin Town Hall Ltd and may be called as a witness against the Council. At no point did Councillor Leal-Bennett declare in advance or retrospectively, that he had a disclosable Interest although he did appear to accept this was the case and desisted from asking further questions on the subject.

John Robinson Strategic Director Customer Services

20th January 2015

# CONFIDENTIAL

# DS/Clir David Leal-Bennett

# 16th Feb 2015, 12.15.

- 1. DLB came to see DS without an appointment.
- 2. DLB said that he was furious at the sequence of events on Thursday. He said that it was a vendetta by officers and DS against him. DS said that it was not a vendetta but us seeking to implement the Code of Conduct and protect the Council's interests.
- 3. DLB said that he would not 'lie down' over this and if DS thought that this was DLB being angry then he hadn't seen anything yet.
- 4. DLB said that he had taken advice and that the Council was acting contrary to the Localism Act. DS pointed out that the Council has adopted a Code of Conduct which sits alongside the Act and it needs to uphold that too. The Code was agreed at Full Council in July 2012 and DLB had been there. DLB said that he had but did not know what he was voting for as it was early on in his term.
- 5. DLB said that he disagrees with the interpretation of his circumstances but then went on to say that if that is the case the Gode needs to be altered. DS said that Julian Cunningham is the lead Member for the Constitution.
- 6. DLB said that he was going to get District Audit in to look at this project. DLB referred to the spreadsheet that he had brought in last week. DS said that it had been passed to NA as \$151 officer and that the figures would be checked.
- 7. DLB said that whoever was in charge (DS/AR/JR) should be dismissed or, at the very least, put on gardening leave. DS said that we would be pleased to co-operate with any audit investigation.

Meeting finished at 12.40.

