

Statement

- DR & MRS MICHAEL CLARKE

Statement by Dr Michael Clarke

1. I have been asked by Councillor David Leal Bennett if I would be prepared to write a letter of support concerning the complaints made against him by NHDC. I feel that I can comment on certain matters having been provided by him with the Statements of a number of parties to this complaint. My involvement with the matters under investigation follow from my role as chairman of Hitchin Forum from 2010 – 2015. In this role I attended many meeting of NHDC Cabinet, Full Council and Hitchin Area Committee. I have given presentations in the public participation section of some meetings on the subjects of Churchgate, Bancroft Recreation Ground and 20mph Zones. The comments that I here make are my personal views alone.

2. I have received from Councillor David Leal Bennett copies of the statements of a number of council officers and councillors. I have no comment on the statements of ex Councillor Cowley, Steve Crowley, Sharon Nahal, or Katie White.

3. Statement of Lynda Needham

3.2/3.a. (responding to sections 2&3 of LN's Statement) - Hitchin Area Committee.

From the perspective of an attender at such meetings written reports are important when details are to be discussed at HAC. At the recent November 17th meeting (when Cr DLB was absent), Bancroft Recreation Ground was on the agenda and a verbal report was given. No written report was provided, although it had been on the Cabinet agenda just a week before. County Councillor Derrick Ashley (an ex-officio member of HAC) commented that for such an item to be discussed by councillors it is important for a written report to be provided. I note that his comment is not included in the minutes of that meeting.

3.2/3.b. I note that whilst HAC had 7 meetings in the previous year, as recorded by Nigel Schofield, Letchworth Area Committee had 6. So that indicates that there may not be much difference between the frequency of area committees in the two largest towns of the district.

3.2/3.c. The efforts of Cr DLB to have items discussed fully seems a good thing. Surely this is part of what 'Localism' is about. The context is also important. NHDC has a cabinet system and the composition of this cabinet does not reflect the population distribution of the district, with only one Hitchin councillor on that cabinet. Hitchin does not have a town council, so the Area Committee has become the place where issues affecting the town can be more fully considered. The frequency and quality of the area committee meetings are therefore seen as important in upholding the principle of democracy in this district.

3.2/3.d. At a Council meeting on November 27th 2014 at the Leisure Centre in Letchworth the Local Plan Preferred Options was on the agenda. There were vigorous presentations from Baldock and Letchworth residents about the number and location of new houses, with the fear that they would not be listened to. Councillor Needham, in apparent response to that fear said that the Council had done consultation well in Hitchin over Churchgate and car parking and had listened to the residents. The consultation over parking, which proposed charges for evenings and Sundays, was initially arranged for just 2 weeks in September 2014, prompting an outcry and a hastily arranged petition requesting an extension of the consultation period (and attracted over 2000 signers in one week). That extension was granted and allowed Hitchin Initiative to produce an alternative charging plan with no evening or Sunday charges. The portfolio holder then attended an extra Hitchin Area committee meeting on October 13th 2014 (strangely not listed on the NHDC website). His presence

and account of the issue was extremely well received, as were the changes subsequently agreed by Cabinet on November 24th.

Extra area committee meetings, such as this one arranged by Cr DLB, can be valuable both for local residents, and also for the Council in demonstrating its democratic activity through such local consultations.

3.8. Councillor Needham comments on the negative press coverage and the 80% satisfaction rating for the council. In my opinion the council has apparently managed to live within its reduced budget and done so well without any great impact on the residents. I think that the council is often judged by how well it operates the more mundane but vital services such as rubbish and recycling collections, and does that well. However it does not do everything perfectly, and it seems to me that all councillors have a responsibility to support and voice the concerns of their electorate, and loyalty to that group is as important as the internal loyalties to the council and to the national political party that they are members of. I believe that Councillor Leal Bennett has fulfilled his obligations to the electorate by publicizing his concerns, and that the democratic process is more robust because of that.

4. Statement of John Robinson

4.11.a. Comment re accurate minutes. It seems obvious to state this, and I have no knowledge of the precise minutes that JR is referring to, but the accuracy of minutes and the recording of decisions is very important. It is something that I have heard from various members of HTHLtd that they believed an agreement had been made at a meeting but the minutes did not seem a true record. In a community partnership there must surely be joint agreement on what was said and agreed?

4.11.b. I am pleased to hear that Cr DLB has wanted the town hall project on every agenda of HAC. It is a very important project, local people often ask after it, and good clear information from officers seem a vital part of the spread of public information.

5. Statement of Anthony Roche

5.10. AR comments on the initial and subsequent advice on councillors attending a meeting about the extension of the Simons contract for development of the Churchgate area and beyond. The idea that attending a meeting that is stated to oppose the extension of that contract would turn the minds of councillors seems curious. Councillors attended meetings where Simons presented their plans, and I doubt that Simons did a balanced presentation, listing both the advantages and risks of such a venture. I doubt that councillors are naive and have a tabula rasa on which anybody can write instructions on how they should decide issues. It seemed then, and still does, that councillors should be trusted to recognize when a partisan line or product is being sold, and exercise their intelligence to make their own decision. The clarification from the House of Westminster seems to have been a useful addition to the debate, and local reputations seem to be a lesser issue than identifying the proper advice for councillors.

6. Statement of Nigel Schofield

6.3. The comment by NS accords with my observation and as such, I believe, enhances public confidence in the Council's operations – *"His main aim appears to be to get more information out into the public domain"*. Similarly the following comment – *"I do not think he behaves maliciously deliberately; it is just his way of getting what he wants for Mitchin. He certainly has made the*

Committee more lively and involved. There is no doubt that he has put HAC more in the public view, and we do get more public attending Committee”.

6.7. The comments by NS emphasise that the issue may be about different perceptions of the role of chairman of HAC, and again it appears that Cr DLB has tried to do what I, as a close observer of HAC, would think of as responsible and praiseworthy attempts to support local democracy.

7. Statement of David Scholes

7.4. The ‘background’ to the Town Hall referred to is more extensive than DS describes. The pot began to boil in 2006. The main story is that NHDC made steps to sell or lease the Town Hall, but their preferred lease bidder had financial problems. Then Hitchin Initiative proposed to manage the Town Hall, but were unable to obtain necessary grants. In 2009 NHDC proposed, following a review of their museum properties, that the Town Hall become a new district museum. There was a local protest concerning the loss of this as a community hall and a petition to retain it for dancing and other community uses was signed by 5,000 people. NHDC then agreed to set up a district museum alongside a refurbished Town Hall and Hitchin Initiative facilitated the establishment of Hitchin Town Hall Limited in 2010 to work alongside NHDC. The mission of HTH Ltd was commonly seen to carry through the wishes of Hitchin people to develop and manage that hall. Meanwhile a request for listing to help conserve the building appropriately was made by a Hitchin resident and approved.

7.8. DS mentions the stage wall – as I understand it the expectation was that it would be reversible. Indeed, the collection of documents available on the NHDC website at

http://www.north-herts.gov.uk/sites/northherts-cms/files/24_da_with_approved_documents-2.pdf contains more than one reference to this. For instance, the Design and Access Statement Incorporating the PPS5 Justification Statement Contains the following statement on page 12 (page 345 of the document collection)

‘The second intervention (in the main hall) is the addition of an acoustic screen to the stage – reducing its capacity and insulating the stage from the dwellings to the rear of the complex. This stud wall would be acoustically isolated, and ultimately reversible to recreate the full stage capacity.’

It seems to be a distortion of the English language to describe the construction as being reversible. It would require a major demolition exercise and much money.

7.19&21. It is baffling that the Council would seek to exclude Cr DLB from meetings where he clearly has no declarable pecuniary interest, and where his presence would be both of potential benefit due to his good knowledge of the Town Hall issues, and would be expected by his electorate – the Hitchin residents.

7.22. I have some difficulty following DS’s line of reasoning. The council were wrong headed about the town centre development (Churchgate) and it took a lot of effort, including much canvassing, a public meeting and a last minute petition attracting over 3,000 signers in one week to help the council to come to the right decision and abandon a white elephant. The muted public engagement for the Town Hall may be because much less is clear cut and open, the public have trusted the Town Hall directors to get on with the job and represent their interests, and the site is very small compared with the 7 acres that the Council appeared to be signing away to Simons. Also, museums do not usually excite masses of people (and I speak as one of the small group of volunteers who has helped at Hitchin Museum over the past 2 years, so I personally do get excited about museums). I think the public are waiting to look inside and then they will get more excited.

7.23 & 23. I find DS’s comments quite astounding. He seems to argue that the Simons extension of contract should have been allowed to continue, despite Simons being unable to submit a plan in the 3 years allowed in the agreement, but only came up with a sketchy draft plan and artists’

impressions of it. Cr DLB and other councillors saw what had been obvious for a while, and also accepted the widespread common sense view that the Simons' proposals were doomed and inappropriate. What worried people was that councillors received a briefing, or should it be called propaganda, from Simons. Simons held a public consultation on their draft proposals. They asked for comments and handed out forms for people to complete. On the basis of that they said that they had support from over half the people of Hitchin. I visited their exhibition but did not complete their feedback form. I asked many people what they thought of the Simons' proposals. The only ones who supported it thought it was the only way of getting the Churchgate arcade refurbished, but they did not actually support the rest of the 7 acre development. About 90 people completed the forms, and Simons used their imagination to claim that 'over half the people of Hitchin' supported their plans, but it was nearer 46, in a town of 30,000 people. Very few of the 'public' expressed support for the extending the Simons contract.

DS should be thanking Cr DLB and the people of Hitchin for helping NHDC come to the right decision and avoiding a greater waste of time and effort.

I don't know what conversation Cr DLB was having with David Payne over breakfast, but I hope, if they did discuss Churchgate, that he was asking some critical questions about Hammersmatch's intentions, as many of us did over a period of a few years.

7.28. DS comments on Cr DLB's election as chair of Hitchin Area Committee. This was indeed the subject of some public comment by the Leader of the Council, Lynda Needham, in the Hitchin Comet published on July 3rd 2014. Cr DLB was elected with the support of labour councillors, and in opposition to one of the other conservative councillors. LN is quoted as saying *"My thoughts and sympathies were more with conservative councillors in the Hitchin Area Committee. This is not the way it is done and we've not done this before. I have been a councillor for 20-plus years and have not come across anyone making arrangements with the opposition to secure a responsible position like this. In my memory I have never seen this before."* It seemed to me that a cross party election was excellent and that doing this and trying to work together was good for the town. That is the way it should be done!

DS is concerned that Cr DLB "abuses his position" on HAC. The description that he gives of the chairman's activities seems to me to be what the chairman is there for – to have information put before Hitchin councillors and the public and for that to be discussed with the opportunity for reference to all of the information available. Well done Cr DLB!

8. Statement of Ray Shakespeare-Smith

8.9. RS-S says that Cr DLB behaviour is very damaging to the Council. Whilst I cannot comment on what goes on behind closed doors, it seems to me that local residents probably want councillors to stand up and be counted, and councillors toeing the party line is not what the public wants. There are contentious issues. I suspect that neither side in a debate, such as we have seen with the Town Hall, has an exclusive claim to the truth. Cr DLB and his former fellow directors have made public their concerns. Their openness is welcome. The council will surely be judged on how they respond to such reasonable concerns.

Michael Clarke
30.12.15

Comments in Support of Cllr David Leal-Bennett

30.12.15

Dear David,

Thank you for inviting comments and for providing me with the submissions of Officers and Members (current & past) at NHDC. I would like to comment on some of the 'charges' made against you in the papers which you have provided. There are not only very basic differences revealed here, but issues of fundamental importance for democratic local government that I think it would be helpful for you and NHDC to consider.

For convenience, I refer to you as DLB, Hitchin Town Hall as HTH Ltd and Hitchin Committee as HAC.

1. My first observation is how **insubstantial** are most of the claims made against DLB, with much of it being supposition, interpretation and conjecture rather than real 'evidence'. DLB is described as rude, bullying, and lacking in respect, especially towards Officers. It is illuminating that a strong thread through the Legal Officer's submission is the potential damage to his own reputation.

I do not know DLB socially in any particular way and most of my contact has been with him in his Councillor/Chairman role. In my experience, DLB is often blunt, very open and he does not suffer fools gladly, but his goals and intentions have always been to serve the town and its people. On the other hand, these submissions paint a picture of NHDC as an institution fighting change and desperate not to have its boat rocked, rather than welcoming challenge and debate or willing to examine the way it is working and taking decisions.

I am astonished that the situation has been allowed to escalate to such a degree. To take this action against a Councillor, at considerable expense to the taxpayer, indicates a lack of wisdom on the part of the most senior management at NHDC.

2. There is clearly a **difference of perception** between the accusers and DLB on a variety of issues. I would suggest this difference is not unique to this situation, but reflects differing perceptions between how the public sees the role of the Council and how the Council sees its own role in the community.

On the matter of DPI's and DI's, I cannot get into the technicalities of what "Interests" are 'disclosable' and/or 'pecuniary', but the differences seem to turn on whether the policy set by central Government in the Localism Act has been correctly translated into NHDC's code of conduct. I do, however, find it surprising that, given this was raised at such a high level (by our local Member of Parliament in a debate at the Hall of Westminster), that NHDC did not set about examining itself to see if its own house was in order. It is astonishing that the Council is critical of the efforts of an elected Member to get clarity from without (logically, from his MP as it was Parliament who set the policy in the first place) when left repeatedly unsatisfied by internal advice. To coil in the police is incredible: the fact that the police took no action, even after meeting the CEO, highlights the degree of ambiguity in this and suggests DLB's concerns were valid ones.

The Leader of the Council has touched on this, saying whether DLB personally gets remunerated for the post (as Director of HTH Ltd) is not the issue. From my own vantage point as a member of the public who, after some 25 years of campaigning engagement with NHDC and HCC, is probably a little more informed than most people of the machinations of local government, it does seem nonsensical and illogical that a Councillor, with a so-called 'declarable interest' is not allowed to attend a Part 1 debate when any member of the public can.

Much is also made in some submissions of an email inadvertently sent to NHDC by HTH Ltd. This was unfortunate, but from the text it is obvious that the comments in it were made light heartedly. What is not mentioned is the 'emoticon' in the email, indicating it was a light hearted comment; it would only have raised a chuckle amongst the intended recipients and would then have been forgotten. As someone who has campaigned on many different issues with many different people, this is familiar as the kind of comment made to bring humour into a 'dark' situation. That this has been so completely misconstrued in these papers says more about NHDC than HTH Ltd.

Protecting the Council's reputation is an issue in several of the papers, to such an extent that it gives the impression of an authority totally self-absorbed. There are repeated comments about the adverse press publicity generated by DLB and HTH Ltd and the impact of this on the Council's reputation. This is a nonsense - the majority of the public take little notice of such matters. This gives the impression of a self-important Council, unwilling to countenance any criticism and having lost sight of what it is there for. I note that the HAC Officer, arguably closest to the action, does "*not think that many people in Hitchin give the articles a second thought . . . I do not think they take much notice of it . . .*"

3. Much of what is described in the papers is the result of the **Council's intentions for HTH being at odds with the wishes of the people.** The Council was, early on, frustrated in its intentions, firstly to offload HTH by putting it out to tender (unsuccessful) and secondly, to convert HTH into a museum (frustrated this time by a successful Listing application). This was before HTH Ltd's involvement. Both these intentions were opposed by community groups as inappropriate and unwise and ultimately had to be abandoned, yet tellingly but perhaps morely mistakenly, both David Scholes and John Robinson refer to these plans as still current:

*"In approximately 2008 the Council decided to have a new single museum for the District and to put this into Hitchin Town Hall, a listed building in Hitchin . . . **This is being done in partnership with Hitchin Town Hall Limited . . .**" (emphasis mine) [D.S. para 4].*

*"**The project is to develop the former Hitchin Town Hall which is a listed building, into a museum for the district together with a community facility and cafe.**" (emphasis mine) [J.R. para 2].*

Given this background, it is unsurprising that there was - and still is to some degree - little public confidence in the Council's intentions.

Despite this, and with the best of intentions, HTH Ltd was formed to represent the community sector and enter into a partnership with NHDC. HTH Ltd was instrumental in negotiating the acquisition of Nos 14/15, next to the new museum, to substantially improve the museum's appearance and entrance facilities.

It was accepted by HTH Ltd (and reluctantly by the community groups they represented) that a wall would be built across the back of the stage to create museum storage. Fundamental to this was agreement that the wall would be a stud wall and reversible to enable its removal in future so that large scale dramatic productions (fundamental to the business plan of HTH Ltd) could be held eventually. However, when this wall was constructed, it was not the stud wall anticipated, but of blockwork construction which could only ever be reversed at great cost. Not long after this, changes to the HTH foyer were seen to ruin or cover its decorative features. Further alterations to the Mountford Hall for the building's services and ventilation were felt to be too intrusive and public concern was heightened by the fact that these changes took place prior to any application for listed building consent.

Public confidence in the Council's plans for HTH fell away and it was entirely appropriate that both the changes to HTH and the lack of public support were made public for the purposes of information and democratic debate. The Officer and Councillor submissions make clear that NHDC saw this as unhelpful and against the Development Agreement. On the contrary - this is public money being used to unacceptably alter a public facility and HTH Ltd were representing community groups in this project. What was happening was contrary to the public's wishes and, it was believed, the intentions of the Development Agreement. It would have been inappropriate and undemocratic not to inform the public as to what was happening. There is now a profound lack of public trust in the actions of NHDC at HTH; this is not due to HTH Ltd or any individual, but entirely due to these actions taken by NHDC.

4. What is most at issue here, it seems to me, is **how democracy works and to whom a Councillor is accountable**.

The Council Leader seems to think a democracy should work in a way decided by her. She criticises DLB for insisting on full and extensive reports every meeting as this *"takes up a considerable amount of capacity"*. The CEO also says *"he insists on prebriefings and papers to an extent which is unusual . . ."* Surely it is a Chairman's right to take his responsibilities seriously! One of the purposes of the HAC (and indeed, NHDC as a whole) is to serve the community and part of that service is providing information for informed public discussion and decision-making. The Council makes much of 'partnership working' with the community, but seems blind as to how to facilitate that.

The Leader is also critical of the cross-party collaboration in choosing the Chair of the HAC in May 2014 when in fact, a Tory Chair and Labour Vice Chair better reflected the political composition of the committee. Her comments are echoed by the CEO who says DLB's election as chair of HAC with support of the Labour Party and against the Tory candidate was *"a very unusual event and one which I would doubt went down well with his Group"*. One is tempted to say - *"this is democracy in action, so get over it"*.

Indeed, for many people, the political 'colour' of local Councillors is irrelevant. What is more important to the electorate is whether Councillors adopt and reflect the wishes of the people and how effective they are.

It is telling that the HAC Officer - who is arguably 'closest to the action' - is least critical of DLB. *"His main aim appears to be to get more information out into the public domain"*. *"I do not think he behaves maliciously deliberately; it is just his way of getting what he wants for Hitchin. He certainly*

has made the Committee more lively and involved. There is no doubt that he has put HAC more in the public view, and we do get more public attending Committee."

The CEO states DLB has "*accused Officers of deliberately withholding information from Members and of acting in a 'god-like way'.*" The HAC Officer says "*I think he is aware that Officers are suppressed by Heads of Service and Strategic Directors sometimes from giving the full story.*" "*I can often see why he gets frustrated.*" So can I.

5. In conclusion, this paints a picture of a Council having lost its way: Officers instructing rather than advising, a bureaucracy defending itself and its procedures rather than being an effective democratic organisation serving its residents, a lack of maturity at the most senior level so that new ideas or different ways of working are denigrated or not welcomed.

DLB is a Councillor taking seriously his accountability to the people who elected him. He is utterly committed as a Councillor: he approaches issues in an intelligent fashion, he goes to great lengths to engage with those most involved by issues, he seeks out the views of community groups and is willing to consider fresh approaches to matters of concern. He is very serious about his responsibilities as an elected representative. NHDC could do with more like him.

