
STANDARDS COMMITTEE2 FEBRUARY 2015

Present:- Councillor N R Stock (Chairman), Councillor R A Heaney (Vice-Chairman), Councillor J Hawkins, Councillor I Johnson, Councillor F H Nicholls, Councillor J F White

Also Present:- Councillor G L Mitchell

In Attendance:- Corporate Director (Corporate Services) (Martyn Knappett), Monitoring Officer (Lisa Hastings), Communications and Public Relations Manager (Nigel Brown), Solicitor (Linda Trembath), Senior Democratic Services Officer (Ian Ford) and Democratic Services Officer (Michael Pingram)

Also in Attendance:- Tim Earl (Head of Legal Services and the Deputy Monitoring Officer, Suffolk County Council), Clarissa Gosling and John Wolton (Independent Persons) and Reverend Doctor William Lock (Independent Remuneration Panel Member)

(9.30 a.m. - 11.02 a.m.)

24.. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received on behalf of Councillor P B Honeywood (Committee Member) and Councillor J A Broderick (the Respondent).

25. DECLARATIONS OF INTEREST

There were no declarations of interest recorded at this time.

26. HEARING TO DETERMINE OUTCOME OF EXTERNAL INVESTIGATION – FAILURE TO COMPLY WITH THE MEMBERS’ CODE OF CONDUCT

It was reported that a complaint had been received in September 2014 from a member of the public, Mrs Elizabeth Lubin, regarding the actions of District Councillor Joy Broderick, under the Members’ Code of Conduct and Complaints Procedure, which had been adopted by the Council on 26 November 2013. A copy of the Complaint had been provided to Councillor Broderick. A copy of the Complaint Form was before the Committee as Appendix 2 to the Report of the Monitoring Officer.

The Committee was aware from the Monitoring Officer’s report that the Complaint alleged that the behaviour of Councillor Joy Broderick, in dealing with a noise complaint regarding a cockerel owned by Mrs Lubin, had breached the Tendring District Council Members’ Code of Conduct. The alleged breaches related to three aspects of behaviour:

- i. Bullying and harassment;
- ii. The disclosure of confidential information;
- iii. Conduct that could reasonably be regarded as bringing the office of Councillor or the Authority into disrepute.

The behaviour was alleged to have occurred over the period spanning the 6th to the 9th August 2014, on, or around, the property of the complainant.

The Monitoring Officer reported that, on the 24 September 2014, she had issued a Decision Notice (Appendix 3 to her report) including a summary of the response received from Councillor Broderick, who had confirmed that she did not wish to proceed down the

informal resolution route. The Monitoring Officer had decided therefore: "There is a potential breach of the Code of Conduct and it is reasonable and appropriate that this merits further investigation". The parties had informed of that decision on the same date.

The Committee was aware from the Monitoring Officer's report that she had subsequently instructed Tim Earl, Head of Legal Services and the Deputy Monitoring Officer at Suffolk County Council to undertake the investigation on this Council's behalf. Mr Earl's final report had been received on 16 January 2015, which had concluded that there was evidence that the Members' Code of Conduct had been breached. Mr Earl's final report was before the Committee as Appendix 4 to the Monitoring Officer's Report.

It was reported that, in accordance with paragraph 7.1.2 of the Council's Complaints Procedure, the Monitoring Officer had decided that this matter should be reported to the Standards Committee in order to conduct a hearing and to decide whether Councillor Broderick had failed to comply with the Members' Code of Conduct and, if so, whether to take any action.

The Committee was aware that in March 2014, it had approved the Hearings Procedure to be followed when holding a hearing. Both parties had been provided with a copy of the Mr Earl's report and the Hearings Procedure. The Hearings Procedure was before the Committee as Appendix 5 to the Report of the Monitoring Officer.

It was reported that the Monitoring Officer had consulted with the Council's Independent Person (Mr John Wolton) which had resulted as follows:

"The Independent Person (IP) supports the result of the investigation by the Lawyer at Suffolk County Council. The IP would recommend that Councillor Broderick could have made herself aware of the complaints procedure after receiving neighbour concerns.

The IP would suggest after the first visit to Mrs Lubin, Councillor Broderick did cause unnecessary confrontation with Mrs Lubin, bearing in mind the complaints procedure was already operating. Also it was noted that due to the on-going visits by Councillor Broderick, notes could have been taken to assist in clarifying the date of further events.

The IP felt that it was unnecessary in his view and with hindsight, that had the position been checked by Councillor Broderick, the visits were counterproductive to the complaints procedure and could be regarded as a breach of the Code of Conduct, which was unanimously agreed by Tendring District Council in November 2013.

The letter from Mrs Lubin to Tendring District Council confirmed the cockerel had been removed, and if this had been checked by Councillor Broderick beforehand, the visit on 9th August 2014 would not have been necessary and it is reasonable that this could be construed as harassment by Mrs Lubin."

The Committee was informed that the Monitoring Officer's written recommendation was as follows:

"The Investigator presents a clear summary of his investigation which provides conclusions and observations at paragraph 11 of the report. Members of the Standards Committee are encouraged to ensure that they have read the entire investigation report. The Investigator's conclusions are as follows:

- Paragraph 11.3 – Councillor Broderick should not have disclosed the reason for her visit to the neighbour and if the Standards Committee were to determine that this was a breach of the Code, such disclosure should not attract any significant sanction. This is also reflected in 8.10 and 8.11 of the Investigator's Report.

- Paragraph 11.4 – there was no persistent or intentional course of harassment or bullying by Councillor Broderick, but it was felt that the behaviour was more akin to conduct that could reasonably be regarded as bringing the office of Councillor or the Authority into disrepute.
- Paragraphs 11.5 to 11.10 – there was evidence that Councillor Broderick behaved in what any reasonable person might regard as a confrontational manner, even if this was in response to comments attributed to her by the complainant, Councillors have a Code of Conduct to abide by whereas, in this regard, members of the public do not.

Paragraph 3.4(a) of the Members' Code of Conduct states "you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute".

The Monitoring Officer agrees with the conclusions as presented by the Investigator that District Councillor Joy Broderick has failed to comply with the Members' Code of Conduct with respect to paragraph 3.4(a). The Monitoring Officer also agrees with the view of the Investigator that the disclosure of confidential information related more to the fact of complaints being made about the complainant rather than the existence of the cockerel."

Members were reminded that the burden of proof for civil matters, which included standards investigations was 'on a balance of probabilities' and through the investigation, the Investigator had considered the evidence submitted to him and on the balance of probabilities had found 2 of the 3 elements of the complaint proved.

The Committee was also reminded that it must reach its decision after following the Hearing Procedure and, in accordance with the Localism Act 2011, after considering the comments from the Independent Person and that, if its decision was contrary to the recommendation from both the External Investigator and the Monitoring Officer, the detailed reasons for that decision must be recorded and published within the Decision Notice.

The Committee was further reminded that if it agreed with the recommendations of the External Investigator and the Monitoring Officer it must consider what action to take with regard to the available sanctions which were set out in Paragraph 8 of the Council's Complaints Procedure.

The Monitoring Officer advised the meeting that, since the publication of her report, three further written documents had been received and had been circulated to the Committee and interested parties. They were: (1) A written statement submitted by the Respondent, Councillor Broderick; (2) A letter of apology from Councillor Broderick to Mrs Lubin; and (3) Mrs Lubin's response to that letter of apology.

The Monitoring Officer also informed the meeting that Councillor Broderick, as was her right under the Council's Complaints Procedure, had requested contact with Clarissa Gosling, one of the Council's Independent Persons, and sought an assurance on the procedural process.

The Chairman made opening remarks and explained to all persons present that:

- (i) The hearing had been convened in accordance with the Council's Complaints Procedure and that an investigation had been conducted, the outcome of which was that it was considered there was evidence of a failure to comply with the Members' Code of Conduct;
- (ii) The Parties had been aware of the content of the Investigator's Report and that this had been circulated to all Members of the Committee;

(iii) The Monitoring Officer had referred the matter for a hearing either because upon conclusion of the investigation, informal resolution had not been successful or it was not appropriate to do so, for the reasons given within her report; and

(iv) The purpose of the Hearing was to consider the Investigators Report, evidence in support and representations from the Parties. If the Committee departed from the recommendation from either the Investigating Officer and/or the Monitoring Officer detailed reasons would be required to be published in the Decision Notice.

The Members of the Committee, the Investigating Officer, the Independent Persons and the Officers present then formally introduced themselves.

Mr Earl then summarised his report and referred to various points made within the section headed "Tim Earl's Findings" within Councillor Broderick's written statement. Firstly, he disagreed that he had had only a "brief telephone conversation" with Councillor Broderick and stated that there had in fact been two telephone conversations of 20 minutes 54 seconds and 1 hour, 2 minutes and 37 seconds respectively, which in his opinion had given Councillor Broderick plenty of time to go through the issues and was not a 'Brief conversation'. Secondly, he stated that it had been Councillor Broderick's decision (which she herself had admitted) to forgo a one-to-one interview and that he had been "interrogative" in the telephone conversations as it was his duty as the Investigating Officer to be probing and he had treated the Complainant, Mrs Lubin in exactly the same way. Thirdly, Mr Earl stated that he had not been pre-determined or one-sided in preparing his report; he had presented the facts as he saw them and that Mrs Lubin had been clear and precise in the evidence that she had submitted whilst Councillor Broderick had been confused and contradictory in her evidence. This had led Mr Earl to make his conclusions in the way he had submitted them. Fourthly, Mr Earl stated that, in his opinion, in view of the nature and seriousness of the complaint, it was very regrettable that the matter had not been resolved at the informal resolution stage.

There were no questions from Members to Mr Earl on his report.

The Chairman informed the meeting that Councillor Broderick had decided not to attend the Hearing and that Councillor Joy Broderick was aware that this Hearing had proceeded without her attendance and that she was satisfied with this. The Chairman then read out, in full, the following written statement dated 15 January 2015 that had been submitted by Councillor Broderick:

"The facts leading to the complaint

Eight months ago at the start of last summer I was contacted by several neighbours of a Mrs Lubin who had ignored their pleas to restrict her rooster from waking them up at 4.30 am. In an attempt to help I obtained a leaflet on the keeping of roosters and actions that can be taken to restrict their early morning crowing and went to see Mrs Lubin. Contrary to Mrs Lubin's accusations, it was Mrs Lubin herself who was confrontational when I introduced myself and refused to accept or discuss the leaflet. In the end, unable to get her to see reason, I left the leaflet at her door.

I later heard that the rooster had been removed and took that to be the end of the matter. However some weeks later I received complaints that another rooster was now in her garden and causing a nuisance again.

I decided to go round to see her and try to find out what was happening. Unable to get an answer at the house, I enquired with the next door neighbour if she knew when Mrs Lubin would be home. The neighbour had known for several months that complaints were ongoing about the cockerel and guessed what the visit was about. There was a discussion between us about the subject and that is what Mrs Lubin objected to.

She claimed that, by discussing the subject of her visit with the next door neighbour, I had disclosed confidential information and considered that by doing so I had breached the Council's code of conduct and brought the authority in to disrepute.

It seems that I inadvertently stepped into what was an existing dispute between Mrs Lubin and Council Officials in the Environment Department of which I was unaware. One of the accusations against me is that I should have contacted the Council before going to see Mrs Lubin; in fact I had contacted the Environment Department which was where I had obtained the leaflet. No-one advised me of the dispute, but apparently the office staff are not allowed to divulge such information, even to the ward councillor.

In my view, if there is a reported problem in a ward someone from the Council should alert the local Councillor if the matter is in hand. Mrs Lubin has made false and hurtful allegations in the press which are an attack on my character. By failing to advise me, Council staff have exposed me to this kind of unfair personal attack.

Tim Earl's findings

I am baffled by Mr Earl's findings. He had a lengthy personal face to face interview with Mrs Lubin, at which she was represented, yet only a brief phone call with me which was interrogative and hard for me to follow; hence why I may have been unclear as to what he was seeking. Based on this he has accepted everything Mrs Lubin has said and nothing that I have said. The findings are completely one-sided and do not bear any resemblance to the facts. I accept that I was offered an interview at the time but decided not to incur the Council the costs of another Solicitor visit, in hindsight this may have been a mistake on my part.

I have apologised to Mrs Lubin for the misunderstanding that occurred between us and accept that I may have erred in discussing the issue with her neighbour. However the neighbour was well aware of the issue and I gave no information which was not already public knowledge between them. Other than that I maintain that I did not breach her right to privacy any more than a postman who is unable to deliver a parcel seeks advice from a neighbour as to the whereabouts of the house occupant.

Summary

I am most unhappy with the findings made by Mr Earl and publicised in the press and council website. It seems my right to privacy and right of reply is non-existent. It has really come to something when the person committing a nuisance to her neighbours is exonerated whilst her victims are ignored and the person who has tried to help is pilloried for trying to help.

At the end of the day, the indisputable facts are:-

1. Mrs Lubin does keep one or more roosters at her premises
2. They do make a noise in the early hours of the morning, disturbing her neighbours sleep and causing them significant stress
3. They have been the subject of numerous complaints by her neighbours
4. She did at one time remove the rooster(s) only to replace it later
5. She continues to be the subject of ongoing council enquiries at the time of writing as the problem is ongoing."

The Chairman then read out, in full, the following letter of apology dated 26 January 2015, that Councillor Broderick had sent to Mrs Lubin:

"Dear Mrs Lubin,

I have been reflecting on the difficult time we had last summer and regretting the way we misunderstood each other.

My only motive in coming to see you was to help resolve a problem that appeared to be causing difficulties for yourself and your neighbours, the last thing I had on my mind was to cause you distress, or to start an 'argument' between us.

I had not realised that after my first visit the council officers had been involved, or I would not have returned. I now understand, having read your statement, that I might have appeared to have been part of a continuous process - so I can see how it was easy for you to have felt that I was pressing you too hard.

I do regret that my actions and words may have appeared in a way I had not intended, and hope we could put this behind us.

I wish you well in the future,

Yours sincerely,

Cllr. Joy Broderick.”

The Chairman then read out, in full, the following response from Mrs Lubin to Councillor Broderick's letter:

“Dear Ms Hastings

Please find below my response to the letter I received from Councillor Broderick on Thursday 29 January at 12.30 pm.

The letter of apology from Councillor Broderick is a welcome development. It is disappointing that it has not come sooner as this would have saved a lot of time, effort and upset over the last 5 months for me, Tendring District Council and no doubt Councillor Broderick. The way she dealt with the initial situation which led to my complaint and the way she has then dealt with that complaint has added to the cost to the public and caused further upset to me. In particular her report to the police of assault, which was completely unfounded, which she stated was in "retaliation" for my complaint has wasted police time and resources and caused further distress to me and my family.

I am grateful to TDC for responding to my complaint so thoroughly and considerately in all the circumstances and look forward to the committee's decision on Monday.

Yours sincerely

Elizabeth Lubin”

In summing up, Mr Earl stated that he had nothing further to add except to say that the points 1 – 5 listed as “indisputable facts” at the end of Councillor Broderick's written statement were not relevant to the complaint or whether the Code of Conduct had been breached or not.

The Committee, then retired to deliberate and reach its decision. The Monitoring Officer also accompanied them to advise on any legal points raised and to record the decision.

Following such deliberations the hearing resumed.

RESOLVED that the unanimous decision of the Committee be as follows:-

“That Councillor Broderick’s behaviour was conduct that could reasonably be regarded as bringing her office as a Councillor or the Council into disrepute and therefore, in breach of paragraph 3.4(a) of the Code of Conduct.

Reasons:

The Committee’s reasons for the decision were expressed as their agreement with the findings of the Investigator and recommendation from the Monitoring Officer, which were referred to on pages 2 and 3 of the Committee report, in that:

- Councillor Broderick should not have disclosed the reason for her visit to the neighbour. The disclosure of confidential information related more to the fact of complaints being made about the Complainant rather than the existence of the cockerel. Although, this was a breach of the Code, such disclosure should not attract any significant sanction.
- There was no persistent or intentional course of harassment or bullying by Councillor Broderick, but it was felt that the behaviour was more akin to conduct that could reasonably be regarded as bringing the office of Councillor or the Authority into disrepute.
- Councillor Broderick behaved in what any reasonable person might regard as a confrontational manner, even if this was in response to comments attributed to her by the Complainant, Councillors have a Code of Conduct to abide by whereas, in this regard, members of the public do not.

The Committee wished to express their thanks to the Investigator and the quality of his report.

In consideration of the sanctions, the Committee did acknowledge the apology which had been provided by Councillor Broderick, and noted from the Complainant’s response, it was a shame that this had not been issued some while ago under informal resolution, as this would have prevented the cost of an investigation and hearing of the Standards Committee.

That the sanctions to be imposed are:

- (1) That the Committee’s findings in respect of District Councillor Joy Broderick’s conduct be published on Tendring District Council’s website; and
- (2) That the Committee’s findings and outcome of the hearing be reported to the March meeting of full Council for its information."

27. HEARING TO DETERMINE OUTCOME OF EXTERNAL INVESTIGATION – FAILURE TO COMPLY WITH THE MEMBERS’ CODE OF CONDUCT

The Chairman of the Committee (Councillor Stock) announced that, in accordance with the Council’s agreed procedures in the light of the fact that the Respondent was a member of the same political group as himself, he would vacate the Chair for the remainder of the meeting.

It was then moved by Councillor Stock, seconded by Councillor Johnson and RESOLVED that Councillor White be elected Chairman for the remainder of the meeting.

The Monitoring Officer reported that a complaint had been received in February 2014 from a member of the public, Ms Tracey White, regarding the actions of District Councillor Stephen Mayzes, under the Members’ Code of Conduct and Complaints Procedure, which had been adopted by the Council on 26 November 2013. The complaint had initially been received by way of a letter and the Complainant had then been requested to transfer the content to the Council’s formal Complaint Form. Both the original letter and the Complaint Form had been provided to Councillor Stephen Mayzes. A copy of the Complaint Form was

before the Committee as part of Appendix 1 to the Report of the Monitoring Officer.

The Committee was aware from the Monitoring Officer's report that the Complaint referred to a residents' community group, which had been formed following the gas explosion in Cloes Lane, Clacton-on-Sea in February 2014. Councillor Stephen Mayzes had met with the administration team of the group on 6 February 2014 when it was decided that Councillor Mayzes was to be referred to as the Communications Officer. Councillor Stephen Mayzes then made some telephone calls to a local Morrisons Store regarding a charitable contribution of diesel for the efforts of the community group.

The complaint had alleged that Councillor Stephen Mayzes had expressly stated: "I have managed to persuade Morrisons to give us a full tank of diesel and also persuaded him [the Store Manager] to still give you your flowers". That statement had been made directly to the complainant but within the meeting of the community group.

The complaint had also alleged that on the basis of this statement, the community group had relied on that information and filled the tank of a van up at a cost of £90. It had later been confirmed by Morrisons that only £20 had been promised as a donation to the appeal.

The complaint had further alleged that Councillor Stephen Mayzes had lied in respect of the donation and that, as a consequence, the community support fund had suffered a loss of £90.

The complaint had also made reference to Councillor Mayzes stating that he had personally received a full tank of petrol from Tescos.

On the basis of those actions, the complaint had alleged that Councillor Stephen Mayzes had disregarded two of the Principles of Public Life, namely Accountability and Honesty.

The Monitoring Officer reported that, when the complaint had been received, and after discussing the matter with Councillor Stephen Mayzes, she had decided, in accordance with the Complaints Procedure, that it merited early informal resolution. Councillor Stephen Mayzes had initially offered an apology in February 2014, however, the Complainant had not found this acceptable. A further apology had then been offered by Councillor Stephen Mayzes in May 2014, however, the Complainant still had not accepted the apology, as it had not, in her view, addressed what she saw as the main allegation, namely honesty.

Due to the fact that the informal resolution route had been attempted and had not proven successful, the Monitoring Officer had issued a Decision Notice on 19 May 2014, confirming the decision to investigate. That Decision Notice and Councillor Stephen Mayzes' second apology were before the Committee as Appendix 2 to the Monitoring Officer's Report.

The Committee was aware from the Monitoring Officer's report that both parties had been informed of the decision to investigate and that the Council had appointed David Holt, Lead Lawyer within Legal Services at Suffolk County Council to undertake the investigation on this Council's behalf. Mr Holt's final report had been received on 5 January 2015, which had concluded that there was evidence that the Members' Code of Conduct had been breached. Mr Holt's final report was before the Committee as Appendix 3 to the Monitoring Officer's Report.

It was reported that, in accordance with paragraph 7.1.2 of the Council's Complaints Procedure, the Monitoring Officer had decided that this matter should be reported to the Standards Committee in order to conduct a hearing and to decide whether Councillor Stephen Mayzes had failed to comply with the Members' Code of Conduct and, if so, whether to take any action.

The Committee was reminded that in March 2014, it had approved the Hearings Procedure to be followed when holding a hearing. Both parties had been provided with a copy of the Mr Holt's report and the Hearings Procedure. The Hearings Procedure was before the Committee as Appendix 4 to the Report of the Monitoring Officer.

It was reported that the Monitoring Officer had consulted with the Council's Independent Person (Mr John Wolton) which had resulted as follows:

"The Independent Person (IP) has queried when the second complaint concerning the tank of fuel from Tesco's directly and personally to Councillor Mayzes is alleged to have taken place, as it was not clear from the Investigator's Report. On this part of the Complaint the IP felt he was unable to comment on whether a breach had occurred or not.

The IP did find that Councillor Stephen Mayzes' refusal to agree to his interview being recorded disappointing, as one of the Seven Principles of the Code of Conduct is Accountability, which states "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".

In respect of the remaining parts of the Complaint, the IP was satisfied that the Investigator had tested the evidence to find a breach of honesty.

As a general comment the IP wished to add, that, as a voice of the general public, he considered that the length of time to resolve this matter was longer than he would have liked. Although it was appreciated that there had been an attempt to resolve the matter informally at the outset which took a couple of months, may be deadlines could be imposed during the investigation process to bring the matter to an earlier conclusion for future cases. Having said that, the IP wished to stress, a delay did not reduce the seriousness of a breach of the Code of Conduct."

The Committee was informed that, upon receipt of the Investigators Report, the Monitoring Officer had sought to clarify that the evidence supported a failure to comply with the Sixth Principle (Honesty) and Paragraph 3.4 of the Council's Code of Conduct for four of the elements of the complaint. The Investigator's Report had concluded in Paragraph 7 that four of the five complaints had been proved, however, only Paragraph 7.2 made specific references to the Sixth Principle and Paragraph 3.4 of the Code of Conduct.

The Committee was advised that the Investigator had confirmed that the reference to the Sixth Principle and Paragraph 3.4(a) should also apply to the findings of the second, third and fifth complaints, as well as the first (paragraphs 7.2, 7.3, 7.4 and 7.6 of his report).

Members recalled that that the Sixth Principle of Public Life was "Honesty" and was defined, as "Holders of Public Office should be truthful" and that Paragraph 3.4(a) of the Members' Code of Conduct stated: "you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute".

The Monitoring Officer reported that she did agree with the IP that the summary of the evidence referred to in the Investigator's Report in connection with the element of the complaint regarding the tank of fuel from Tesco's was weaker (paragraph 7.4 of the Investigators Report) and as it was one word against another, she would not recommend a finding of a breach of the Code of Conduct for that allegation.

The Monitoring Officer further reported that she had agreed with the remaining conclusions that District Councillor Stephen Mayzes had failed to comply with the Members' Code of Conduct (paragraphs 7.2, 7.3 and 7.6 of the Investigation Report).

Members were reminded that the burden of proof for civil matters, which included standards investigations was 'on a balance of probabilities' and through the investigation, the Investigator had considered the evidence submitted to him and on the balance of probabilities had found 4 of the 5 elements of the complaint proved. The only evidence or information supplied by the District Councillor to the Investigator through the process was the two apologies offered and the Committee, when considering its finding, was advised to give some weight to this.

The Committee was also advised that it must reach its decision after following the Hearing Procedure and, in accordance with the Localism Act 2011, after considering the comments from the Independent Person and that if its decision was contrary to the recommendation from both the External Investigator and the Monitoring Officer, the detailed reasons for that decision must be recorded and published within the Decision Notice.

The Committee was further advised that if it agreed with the recommendations of the External Investigator and the Monitoring Officer it must consider what action to take with regard to the available sanctions which were set out in Paragraph 8 of the Council's Complaints Procedure.

The Chairman made opening remarks and explained to all persons present that:

(i) The hearing had been convened in accordance with the Council's Complaints Procedure and that an investigation had been conducted, the outcome of which was that it was considered there was evidence of a failure to comply with the Members' Code of Conduct; and

(ii) The Parties had been aware of the content of the Investigator's Report and that this had been circulated to all Members of the Committee.

Councillor Hawkins asked what Councillor Danny Mayzes' role was at this meeting. Councillor Stephen Mayzes stated that Councillor Danny Mayzes was present as his representative.

Councillor Danny Mayzes referred to the Complaint Form and the allegation that Councillor Stephen Mayzes had disregarded the "Selflessness" Principle of Public Life, which, he stated had not been referred to in the Monitoring Officer's Decision Notice. The Monitoring Officer confirmed this and stated that the Investigator's Report had only been required to look at the Public Life Principles of "Accountability" and "Honesty".

David Holt (Lead Lawyer – Commercial Practice Group, Suffolk County Council), the Investigating Officer, then highlighted the salient points of his report and read from hand-written notes that he had made during his interview with Councillor Stephen Mayzes. In response to the comments made by the Independent Person he accepted that he should have dealt with the complaint quicker though he felt that the delay had not been of an unreasonable length and that it had not prejudiced the outcome of the case.

Councillor Stephen Mayzes, the Respondent, asked questions of Mr Holt in respect of: (1) the length of the interview that Mr Holt had conducted with him; (2) did Mr Holt show any evidence to him; (3) why did Mr Holt not do so and did this contravene natural justice; (4) did Mr Holt contact Tesco's to check the veracity of this part of the complaint; (5) why did it take Mr Holt so long to contact him; (6) could Mr Holt confirm that he gave him the option not to have the interview recorded; (7) why does Mr Holt's report suggest that by not agreeing to have the interview recorded he was being obstructive and (8) is Mr Holt representing the complainant and her witnesses.

Mr Holt responded to those questions along the following lines: (1) Approximately 5 – 10 minutes; (2) No, he only asked questions though he would have produced the evidence if

Councillor Stephen Mayzes had asked; (3) Councillor Stephen Mayzes had not specifically asked to see the evidence and he would only have shared any new evidence with Councillor Stephen Mayzes as he had already been notified of the complaint and supporting evidence; (4) No, he had not; (5) He had waited until he had finished gathering all the evidence from the Complainant which he had completed in August 2014. He accepted that there had then been a delay until October for which he had apologised earlier; (6) He always looked to record interviews as it was easier to transcribe information and maintain accuracy, though, of course he would not insist on it if consent was not forthcoming; (7) In response to this question, Mr Holt read out the contents of two emails that he had sent to Councillor Stephen Mayzes together with Councillor Stephen Mayzes' replies and (8) No, he was only speaking to the conclusions in his report.

Councillor Stephen Mayzes then asked the Monitoring Officer why the Complainant was not in attendance. The Monitoring Officer replied that, in line with practice nationally, only the outcome of the investigation was reported to the Committee though the Investigator had the option to call the Complainant as a Witness. On this occasion, Mr Holt had confirmed that he did not intend to call the Complainant and Councillor Stephen Mayzes had been notified of this before the hearing.

Councillor Hawkins asked for details of Councillor Stephen Mayzes' first apology to the Complainant as it had not been included in the report. Mr Holt read out the contents of that first apology which he had previously been given a copy of by the Complainant.

Councillor Stephen Mayzes then circulated a paper copy of his written submission which he had previously emailed to the members of the Committee. His submission included:

- (1) An email from Tesco Customer Services;
- (2) An article from the East Anglian Daily Times;
- (3) An article from the Clacton Gazette;
- (4) A screenshot of a Facebook page set up by Councillor Stephen Mayzes to communicate to residents and the wider community; and
- (5) An email from the Council's Chief Executive confirming that the Council had not audited the donations received or their awarding. The email also stated that following an approach from Councillor Danny Mayzes expressing his concern that the Community Group giving out the money did not have a process the Council's Chief Executive had put together a form giving a set of questions and requiring evidence of applicants to assist the Community Group in making its funding decisions.

Councillor Stephen Mayzes then elaborated further on these and details of his Ward casebook and detailed his efforts to assist those who had been affected by the Cloes Lane Gas Explosion. He read out an email that he had received from Tesco Customer Services that confirmed that he would not have received free petrol and which he felt had exonerated him on this part of Ms White's complaint and showed that Ms White was unreliable in his evidence. In further support of this he read out an email that he had received from the Council's Chief Executive and from the 'Admin Group's' Facebook page that Councillor Stephen Mayzes personally felt further discredited Ms White's evidence.

He further stated that he had acted as an "honest broker" in respect of the fuel and that the flowers were a private matter between Ms White and Morrison's following a complaint by Ms White to that store. He offered his apologies for any confusion that had occurred over the fuel issue.

In conclusion, Councillor Stephen Mayzes felt that he had "stepped up to the mark" as Ward Councillor and had acted in all sincerity and fulfilled his duties as a Councillor. He felt that Ms White's complaint had been discredited and should be dismissed.

Councillor Stephen Mayzes then called as a Witness, Councillor Danny Mayzes, who had

been involved as fellow Ward Councillor. Councillor Danny Mayzes put forward that:

- (1) Ms White had possibly been motivated by a personal dislike for Councillor Stephen Mayzes;
- (2) Mr Holt had wrongly suggested that Councillor Stephen Mayzes had been obstructive by exercising his personal choice not to have the interview recorded. It was not automatic that all interviews were recorded and he gave a personal example of this.
- (3) Councillor Stephen Mayzes had offered his apologies for any failure or miscommunication on his part but obviously did not accept that he had lied;
- (4) Councillor Stephen Mayzes had fully engaged with the process;
- (5) Ms White's fifth complaint that Councillor Stephen Mayzes had failed to support the project helping the victims of the Gas explosion was completely wrong and "disgraceful";
- (6) Mr Holt should have personally contacted both Morrison's and Tesco's to get impartial statements on the veracity of the fuel related allegations in the interests of 'natural justice';
- (7) Ms White's submission suggested that it had already been agreed that flowers would be given by Morrison's to her to resolve a personal issue and therefore it was incorrect and she was "delusional" to accuse Councillor Stephen Mayzes on his matter when it appeared that Ms White was trying to "barter" the flowers for fuel and that this discredited Ms White's complaint;
- (8) Ms White's complaint that Councillor Stephen Mayzes had posted minutes of a confidential Council meeting on Facebook was factually inaccurate as it was in fact a meeting of the Council held in public and that this was further evidence that Ms White was "clutching at straws"; and
- (9) In the light of the above all of the elements of Ms White's complaint should be found unproven.

Mr Holt then asked Councillor Stephen Mayzes why he had still not really dealt with the fundamental point of Ms White's complaint that he had been dishonest in dealing with her. Councillor Stephen Mayzes replied that his dealings had been honest, the evidence produced today showed that Ms White's complaint was discredited and that he felt that Mr Holt had not been honest in dealing with the investigation by virtue of the length of time it had taken.

The Monitoring Officer then reminded Members of the stages that had been followed in accordance with the Complaints Investigation Procedure and confirmed that Councillor Stephen Mayzes had raised concerns about the delay in the investigation process. She had forwarded those concerns to Suffolk County Council and a response had been sent to Councillor Stephen Mayzes as he had mentioned himself earlier.

Councillor Stock then asked questions of Councillor Stephen Mayzes in respect of: (1) could he confirm or deny that he had misled the Complainant; and (2) did he lie to Ms White, deliberately mislead Ms White or accidentally mislead Ms White.

Councillor Stephen Mayzes responded to those questions along the following lines: (1) He felt that his first apology had covered any misinterpretations between himself and Ms White, that the complaint had no creditability and that he tried to act in a fair and honest way; and (2) No – he had not lied to her or been dishonest.

Councillor Nicholls then asked questions of Councillor Stephen Mayzes in respect of: (1) Did he say to Ms White that he had managed to get both a full tank of fuel and flowers; (2) Did he promise a full tank of fuel; (3) Did he agree that there could have been confusion in understanding between "a full tank of petrol" and "£20 's worth of petrol" and (4) The Complainant heard him say that he had received a free tank of fuel from Tesco's – had he actually said that?

Councillor Stephen Mayzes responded to those questions along the following lines: (1) Not in those words, flowers and alcohol had been offered to Ms White in response to a

previous complaint that she had with Morrison's. He had spoken to Morrison's in relation to a donation of fuel for a hire van to which the Manager had agreed and had confirmed at the same time that the flowers and alcohol would still be provided to Ms White; (2) A tank yes but the amount of fuel was not specified; (3) Yes – due to the number (about five) of people who had been involved; and (4) This was untrue and he did not know where this had come from.

Councillor Honeywood then stated that, in his opinion, it had not been acceptable if it was the case that Councillor Stephen Mayzes had not been given full details of the complaint by the Investigator because he had not asked for it. In response, the Monitoring Officer reiterated that the Complaint Form with all the details of the complaint were always sent to the Councillor together with any further communications received unless the correspondent specifically requested her not to do so. Mr Holt also stated that no new information had arisen at the time the interview was conducted.

Councillor Johnson then asked questions of Councillor Stephen Mayzes in respect of: (1) Why did he not want the interview to be recorded; (2) Why would the Complainant want to make up her complaints; and (3) Why did he not hand the mobile phone back to the Complainant to talk to the Manager from Morrison's.

Councillor Stephen Mayzes responded to those questions along the following lines: (1) He had no real reason but he had decided not to; (2) He did not know why. He had agreed to broker a deal for fuel but the amount was not specified and he believed that there had been a breakdown in communications due to the number of people involved; and (3) That had been his intention but the Manager had hung up before he could do so.

Councillor Hawkins asked Councillor Stephen Mayzes why he had taken so long, that is, up until Councillor Stock's question, to state that he had not lied and that surely he should have stated that categorically from the start. Councillor Stephen Mayzes responded by stating that he had not done so in his first apology as it was at the informal resolution stage and that he had a positive frame of mind and he did not want to use a strong, negative word such as "lie" in that first apology.

Councillor Nicholls then asked questions of Mr Holt in respect of: (1) Had he contacted the other people referred to in the complaint and Councillor Stephen Mayzes' evidence; and (2) Did he not feel it important to contact them to substantiate and corroborate the complaint.

Mr Holt responded to those questions along the following lines: (1) He had received, as part of the information provided to him by the Complainant, two letters from other individuals (Mrs Mowatt and Mrs Symonds) but he had not conducted any interviews with them; and (2) He had not felt it necessary as he had sufficient information already.

Mr Holt then summed up his evidence by stating that the Complainant was not vindictive or delusional in his opinion; that he had investigated impartially and had dismissed the fourth complaint of publishing confidential Council minutes as it was factually incorrect and that this had been accepted by the Complainant upon receiving his draft report.

Councillor Stephen Mayzes then summed up his evidence by stating that he had been a Councillor for nearly eight years and had not previously received a complaint against him. He stood by his record as a Councillor; he had no reason to act in the way that he had been accused of and that the evidence had shown that all five complaints were unproven.

The Committee then retired to deliberate. The Monitoring Officer also accompanied them to advise on any legal points raised.

Upon returning to the Council Chamber, the Chairman (Councillor White) informed all persons present that Councillor Honeywood had had to leave the meeting. He also stated

that questions had arisen during their retirement that needed clarification. The Chairman then asked the Monitoring Officer to raise the points of clarification. Mr Holt was asked if it was correct that he had not passed the letters received from Mrs Mowatt and Mrs Symonds to Councillor Stephen Mayzes. Mr Holt replied that this was correct.

At the Monitoring Officer's suggestion, Mr Holt then read out the contents of Mrs Mowatt's and Mrs Symonds' letters. The Chairman then adjourned the meeting for a short while to enable Councillor Stephen Mayzes to read those letters and formulate his response.

Councillor Stephen Mayzes then stated that he felt that the letters were inconsistent. In respect of Mrs Mowatt's letter he stated that it confirmed that Ms White was dealing with Morrison's on a private matter and that she asked if the flowers could be exchanged for £20 of fuel. He stated that he had walked away with the mobile phone as the Community Hall was full of people and he needed to be able to hear above the noise of 30+ people sorting through hundreds of bin bags of donated clothes etc. In respect of Mrs Symonds' letter Councillor Stephen Mayzes noted that it stated that he had helped four affected families. He also read out minutes of an 'Admin Group' meeting that, in his opinion, proved there had been confusion and miscommunication within the Group. Overall therefore, he felt that those letters further highlighted that Ms White's complaint was without merit.

The Committee then retired once more to deliberate. The Monitoring Officer again accompanied them to advise on any legal points raised and to record the decision. During this retirement the Independent Person (John Wolton) was requested to join the Committee and be consulted, as required by law, on the action the Committee proposed to take.

Following such deliberations the hearing resumed.

RESOLVED that the unanimous decision of the Committee be as follows:-

"That the Committee having considered the content of the Investigation Report, the evidence and the submissions which were presented to them at the hearing and taking each element of the complaint in turn and referring to page 55 of the agenda:

Complaint 1:

The Committee unanimously found that Councillor Stephen Mayzes did mislead the community group, when making reference to the tank of fuel to be provided by Morrison's and in doing so, contravened the Accountability Principle of Public Life, which is set out as follows:

"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."

And, also found to have breached paragraph 3.4 (a) of the Members' Code of Conduct by "acting in a manner which could reasonably be regarded as bringing his office or the authority into disrepute".

Complaints 2 to 5:

These were not found to be proved.

Reasons:

The reasons why the decision of the Committee contradicts with that of the Investigator's findings and the views of the Independent Person and Monitoring Officer were due to the additional and new evidence presented at the hearing. The last minute presentation of evidence by Councillor Stephen Mayzes led to bringing the Council into disrepute.

Councillors are accountable for their actions which would include putting themselves into a position of such a misunderstanding arising.

Councillor Stephen Mayzes was then asked whether he wished to add anything before the Committee considered the sanctions and no representations were made.

The Committee then retired once more to deliberate and consider the range of sanctions available under Section 8 of the District Council's Complaints Procedure being mindful that any sanctions must be relevant and proportionate and necessary to promote and maintain high standards of conduct.

The Committee RESOLVED:

(1) That the Committee's findings in respect of District Councillor Stephen Mayzes' conduct be published on Tendring District Council's website;

(2) That the Committee's findings and outcome of the hearing be reported to the next meeting of full Council for its information; and

(3) Recommend strongly that Councillor Stephen Mayzes apologises to the Complainant for creating the circumstances under which the breach of the Code of Conduct has occurred. The Committee suggests to Councillor Stephen Mayzes that he consults with the Monitoring Officer on an appropriate form of words.

28. PLANNING MATTERS: LOCAL PROTOCOL FOR COUNCILLORS

Further to a reference from the Planning Committee at their meeting held on 8 March 2011 (minute 123 refers) the Committee considered the revised Planning Matters: Local Protocol for Councillors (the Protocol) set out in report A.2 to the meeting and the comments and proposed amendments of the Protocol from the Planning Committee set out in the Addendum to that report. A presentation and explanation of the various changes was given by the Council's Planning Consultant.

After discussion and debate, it was RESOLVED as follows:

(a) That the Planning Committee's proposed deletion of paragraph 9.3 be not accepted (moved by Councillor Payne, seconded by Mr C Ward).

(b) That paragraph 9.2 be amended by deleting the words from and including "on the day of the Planning Committee" up to and including "later in the day" (moved by Mr D Dixon and seconded by Councillor H A Shearing).

(c) That paragraph 9.2 (amended as set out in (b) above) is not adopted until the Head of Planning Services (or equivalent officer) decides, such decision to be made by no later than 1 July 2011 (moved by Councillor Payne and seconded by Councillor H A Shearing).

(d) That the Protocol is adopted incorporating the amendments of paragraphs 7.3, 7.4, 7.5 and Appendix 1 proposed by the Planning Committee, but subject to the resolutions of the Standards Committee as set out in (a), (b) and (c) above.

(The revised Planning Matters: Local Protocol for Councillors, amended as above, is attached herewith as an Appendix to these Minutes).

29. ORAL UPDATE OF STANDARDS COMPLAINTS RECEIVED IN THE LAST SIX MONTHS AND THE OUTCOME OF THOSE COMPLAINTS

The Principal Solicitor and Deputy Monitoring Officer advised Members of the number of complaints received over the last six months and the outcomes. Specifically, that there had been 8 complaints (7 arising from one complaint letter), about 4 District Councillors and 2 Parish Councillors; with 4 of the complaints referred for "other action" by way of training on the Code of Conduct, and 4 decisions that "no action" in the matter of the complaints was required.

He advised that there were currently no complaints outstanding.

30. ORAL UPDATE TO REPORT TO MEMBERS ON THE STANDARDS SEMINAR FOR TOWN AND PARISH COUNCILS HELD ON 9 DECEMBER 2010 IN ORDER TO FACILITATE DISCUSSION ON THE WORK OF THE STANDARDS COMMITTEE

The Chairman updated the Committee on the Standards Seminar held on 9 December 2010 for Town and Parish Councils and advised that the key points arising from that session were as follows:-

1. That there was general consensus on the principle of mediation.
2. There was a recognition that there needs to be some overseeing body to refer cases to as required.
3. These matters need to be pursued by further discussion.

It was noted that the Monitoring Officer had agreed to make any training literature available to Town and Parish clerks on request, following any Code of Conduct training which takes place after the May 2011 elections.

31. TO REVIEW THE NEW ITEMS RELEVANT TO THE TERMS OF REFERENCE OF THE COMMITTEE CONTAINED IN FORWARD PLAN NO. 109 IN ACCORDANCE WITH OVERVIEW AND SCRUTINY PROCEDURE RULE 12.

The Committee noted the new item relevant to the terms of reference of the Committee contained in Forward Plan No. 109.

32. FORWARD PLAN

The Committee reviewed, and noted, the new items relevant to the terms of reference of the Committee, contained in the Forward Plan 174, in accordance with Overview and Scrutiny Procedure Rule 13.

33. ANY NEW ITEMS TO BE ADDED TO THE WORK PROGRAMME

There were none other than discussed in the item Review of the Year 2015/16 and Work Programme for the year 2016/17.

34. FORWARD WORK PROGRAMME

The Committee noted the items on the forward work programme and discussed the items which were due to be considered at the meeting of the Committee, scheduled for 28 January 2013. It was reported that the full Tourism and Regeneration Strategy was unlikely to be available for the meeting and the Chairman expressed his concern at the

delay in bringing this matter before the Committee.

35. ANY OTHER ITEMS THE CHAIRMAN DECIDES ARE URGENT

There were none.

The meeting was declared closed at 10.03 p.m.

36. (A) PLANNING APPLICATION 11/00042/FUL AND (B) LISTED BUILDING CONSENT 11/00043/LBC

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions. The recently published update sheet was also considered by the Committee and explained by officers at the meeting.

Mr Anthony Edwards, local resident, spoke against the application.

Councillor J Mathews, on behalf of Wix Parish Council, spoke against the application,

Councillor Patten, as Ward Member, spoke against the application.

Mr Russell Forde, the applicant's agent, spoke in support of the application.

It was moved by Councillor McLeod, seconded by Councillor Simons and:-

RESOLVED – (a) That application 11/00042/FUL be approved subject to an informative being attached to the permission regarding retention of the Cockpit and subject to conditions providing:-

Conditions

- Standard three year time limit
- List of approved plans
- Parking to be provided prior to occupation
- Details of boundary treatments
- Landscaping
- New and replacement window and door details
- Method of reinstatement of rear wall following demolition of rear extension
- Samples of construction materials

Reason for approval

The change of use to a single dwelling, including internal and external alterations, is considered to be in accordance with the development plan policies listed. The public house has been adequately marketed and there is another public house within 800 metres of the site. The proposed alterations blend with the scale, form and design of the listed building, and respect its setting. Furthermore, owing to siting, scale and fenestration layouts, the proposed alterations would not reduce the amenities enjoyed by occupants of neighbouring properties, would not result in the loss of any significant trees and are acceptable in terms of highway safety and convenience.

RESOLVED – (b) That application 11/00043/LBC be approved subject to conditions

providing:-

Conditions

- Standard three year time limit
- List of approved plans
- Details of boundary treatments
- Landscaping
- New and replacement window and door details
- Method of reinstatement of rear wall following demolition of rear extension
- Samples of construction materials

Reason for approval

The change of use to a single dwelling, including internal and external alterations, is considered to be in accordance with the development plan policies listed. The proposed alterations blend with and compliment the scale, form and design of the listed building, and respect its setting.

37. PLANNING APPLICATION 11/00984/FUL

The Committee had before it the published officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of refusal with reasons.

Councillors Candy and G V Guglielmi declared a personal interest in the application as Ward Members and remained in the meeting.

Councillor G V Guglielmi, as Ward Member, spoke in support of the application.

The applicant, Mr Neil Ellis, spoke in support of the application.

It was moved by Councillor Johnson, seconded by Councillor Turner and:-

RESOLVED – That application 11/00984/FUL be approved contrary to the officers' recommendation subject to such conditions as the Temporary Head of Planning considers appropriate in consultation with the Chair or Vice-Chairman and the Planning Portfolio Holder.

Conditions: (decided subsequent to the meeting in accordance with the above resolution)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted drawings numbered NE/002/02 Revised, NE/002/04 Revised and NE/003/05 Revised.

Reason - For the avoidance of doubt and in the interests of proper planning.

3. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not

commence until conditions (1) to (4) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

(1) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(2) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(3) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(4) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition (1), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition (2), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition (3).

(5) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 2 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy COM10 of the adopted Tendring District Local Plan (2007).

4. Notwithstanding the submitted details, no development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction of the dwellings and garages have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The site is publicly visible and therefore quality materials are an essential requirement. Insufficient information has been submitted within the application for full consideration of these details.

5. No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2005 - Trees in Relation to Construction."

Reason - To ensure that the development compensates visually for the loss of open area and soft landscaping and to ensure that the site has a satisfactory appearance in the interest of visual amenity, in accordance with Policies QL9 and QL11 of the Tendring District Local Plan.

6. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the development compensates visually for the loss of open area and soft landscaping and to ensure that the site has a satisfactory appearance in the interest of visual amenity, in accordance with Policies QL9 and QL11 of the Tendring District Local Plan.

7. No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the hereby approved dwelling being occupied and thereafter be retained in the approved form.

Reason - The site is publicly visible and therefore quality materials are an essential requirement. Insufficient information has been submitted within the application for full consideration of these details.

8. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A and B of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring properties.

9. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no provision of buildings, enclosures, swimming or other pool shall be erected except in accordance with drawings showing the design and siting of such building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring properties.

10. Prior to the occupation of the proposed development, the access to the existing and proposed dwelling shall be provided in strict accordance with the details shown in drawing number NE/002/02/REVISED and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

11. Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum, as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access

and shall be maintained in perpetuity free from obstruction clear to ground.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

12. The development shall not be occupied until such time as the car parking area, indicated on the approved plans has been hard surfaced. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

13. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m. of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

14. Prior to commencement of the proposed development, a vehicular turning facility, of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

15. All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

Reason for approval:

This site lies outside of any defined settlement limits in the Tendring District Local Plan (2007) where planning permission for new residential development would not normally be permitted being contrary to the guidance in PPS1 (Delivering sustainable Development), PPS3 (Housing), PPS4 (Planning for sustainable economic growth), PPS7 (Sustainable Development in Rural Areas) and Local Plan policies that seek to secure sustainable development and protect the amenities and character of the countryside. Policy QL9 requires that all new development relates satisfactorily to its surroundings in terms of siting, appearance in the locality and relationship with neighbouring properties.

However, the site lies within a line of loosely spaced residential development along the Clacton Road that forms the hamlet of Horsley Cross Street. The proposed development, would, therefore, not be isolated from existing residential development. The application site comprises the car park of the adjacent public house that has planning permission for conversion to residential use. The proposals would, therefore, bring about material improvements to the street scene and to the environment within the local area. Having regard to this pattern of existing development and the improvements the development would bring about the local planning authority considers that, on balance and subject to

compliance with the conditions attached to this permission the development is acceptable. Furthermore, the proposal would not reduce the amenities enjoyed by occupants of neighbouring properties and would not have a materially adverse impact upon the character of the surrounding area or be detrimental to highway safety.

38. PLANNING APPLICATION 11/00628/FUL

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions.

Councillor Nicholls declared a personal interest in the application as one of the Ward Members and remained in the meeting.

It was moved by Councillor Candy, seconded by Councillor Simons and:-

RESOLVED – That application 11/00628/FUL be approved subject to conditions regarding:-

- Time Limit
- Materials
- Soft Landscaping Scheme Implementation
- Hard Landscaping Submission
- Porous Driveway
- Access Layout
- Pedestrian Visibility Splays
- Unbound Materials
- Siting of Gates
- Front Hedgerow Siting
- Contaminated Land Survey
- Trees Protection Measures
- Protected Species Mitigation Measures
- Approved Plans

Reason for Approval

In approving this application the local planning authority has taken account of the development plan policies and/or proposals listed above. The quality of the design, the enhancement to the setting to the adjacent listed building and the significantly reduced intensive use of the site outweighs the fact the site is located outside of the defined development boundary. Residential development on this plot would not seriously undermine the council's housing settlement policies and would not set a harmful precedent for the surrounding area. Furthermore, neighbouring amenity is not adversely affected and the impact on highway safety is acceptable.

39. PLANNING APPLICATION 11/00823/FUL

The Committee had before it the published officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of refusal with reasons.

Councillors Candy and G V Guglielmi declared a personal interest in the application as Ward Members and remained in the meeting.

Mr Tim Snow, the applicant's agent, spoke in support of the application.

It was moved by Councillor McLeod, seconded by Councillor Bragg and:-

RESOLVED – That application 11/00823/FUL be approved contrary to the officers' recommendation subject to such conditions as the Temporary Head of Planning considers appropriate in consultation with the Chair or Vice-Chairman and the Planning Portfolio Holder.

Conditions: (decided subsequent to the meeting in accordance with the above resolution)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on drawing no. 652/04A and 652/03A.

Reason - For the avoidance of doubt and in the interests of proper planning.

3. The site shall only be open for deliveries or for the movement of goods into and out of storage between the hours of 8:00am and 17:30pm Monday to Saturday and no working on Sundays or Public Holidays. The hereby permitted sales use shall only operate between the hours of 09:00am and 17:30pm Monday to Saturday and 11:00am to 16:00pm on Sundays and Public Holidays.

Reason - In the interests of neighbouring residential amenity.

4. This permission shall only authorise the use of the premises in the manner described in the application and no sub-division of the premises to form additional units shall be carried out without the express consent of the Local Planning Authority first having been obtained on an application made in that behalf.

Reason - To ensure the development is satisfactory in relation to the premises and its surroundings and neighbouring residential amenity.

5. No floodlighting or external illumination shall be installed unless details of the illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of amenity to reduce the impact of night-time illumination on the character of the area and upon residents living close to the site.

6. No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The application site is publicly visible and therefore suitable materials are required in order to maintain the character and appearance of the countryside location of the site.

7. Notwithstanding the submitted details, no development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of

hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2005 - Trees in Relation to Construction."

Reason - The site lies in the countryside and it is considered an essential part of the development to retain and reinforce landscaping of the site to safeguard the countryside character.

8. All changes in hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the approved landscaping scheme is provided and maintained for an appropriate period in the interests of the visual amenity and character and appearance of the countryside.

9. Prior to the commencement of the proposed development, details of an on site parking facility for construction workers and vehicles, a loading and unloading area for demolition and construction materials and a turning facility suitable for the largest vehicle attracted to or generated by the sites activities during the demolition and construction phases being provided entirely clear of the limits of the highway, shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

10. Prior to the commencement of the proposed development, details of a wheel and underbody cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority and that facility shall be maintained during the periods of demolition / construction.

Reason - To ensure that loose materials and spoil are not brought out onto the highway, in the interests of highway safety.

11. Prior to commencement of the proposed development, loading, off-loading and manoeuvring facilities for service and delivery vehicles, the details of which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason - To ensure that the adjoining highway is not obstructed by servicing activity, in the interests of highway safety.

12. Prior to commencement of the proposed development, car parking facilities for employees and visitors, in accordance with a scheme to be approved in writing by the Local Planning Authority, shall be provided and maintained for that sole purpose.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

13. Unless otherwise agreed by the Local Planning Authority, development other than

that required to be carried out as part of an approved scheme of remediation must not commence until conditions (1) to (4) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (4) has been complied with in relation to that contamination.

(1) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(2) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(3) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the

remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(4) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition (1), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition (2), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition (3).

(5) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 2 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy COM10 of the adopted Tendring District Local Plan (2007).

Reason for approval:

This proposal is for a new building to replace existing buildings that have lawful use for business purposes, including retail sales. The main policy considerations are QL9, QL11, ER7 and EN1 of the Tendring District Local Plan (2007) and the guidance in PPS4. The proposed building would have some impact on the locality, but having taken into account the poor condition and appearance of the existing buildings and the lawful use of the site for car breaking and repairs, and the quality and design of the proposed building the Local Planning Authority considers, on balance, that the proposal is acceptable subject to compliance with the conditions attached to this permission. The proposal will protect existing employment and create further employment opportunities in this rural location and would accord with the principles for economic development set out in PPS4. The development would also extinguish an un-neighbourly use that has significantly greater adverse impact on the countryside and is not subject to planning controls over its operation.

40. URGENT ITEM

PLANNING APPLICATION 11/00037/FUL – LAND ADJ. 142 HARWICH ROAD, MISTLEY – CONSTRUCTION OF 15 AFFORDABLE RURAL DWELLINGS WITH ASSOCIATED PARKING, CARPORTS, CYCLE STORES AND NEW VEHICULAR ACCESS

The Committee was informed that a further extension of time for completion of a legal agreement was required until 18 November 2011 (minute 22, 28/6/11 and minute 51, 23/8/11 referred).

It was moved by Councillor Johnson, seconded by Councillor McLeod and:-

RESOLVED – That the time be extended accordingly.

41. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

There were none.

42. SUB-COMMITTEES OF THE LICENSING AND REGULATORY COMMITTEES AND THEIR CHAIRMEN AND VICE-CHAIRMEN

To avoid the need for formal meetings of the Licensing and Regulatory Committees to be held to appoint their Sub-Committees and the Chairmen and Vice-Chairmen of those Sub-Committees:-

It was moved by Councillor Stock, duly seconded and:-

RESOLVED – (a) That the Appeals Sub-Committee be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor Aldis
Councillor Bragg
Councillor S A Honeywood
Councillor Nicholls
Councillor Platt
Councillor Simons

(b) That Councillor S A Honeywood be elected Chairman of the Appeals Sub-Committee for the 2011/2012 Municipal Year.

(c) That Councillor Platt be appointed Vice-Chairman of the Appeals Sub-Committee for the 2011/2012 Municipal Year.

(d) That the Licensing (General Purposes) Sub-Committee be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor Casey
Councillor De-Vaux Balbirnie
Councillor Downing
Councillor Fawcett
Councillor V E Guglielmi
Councillor Powell

Councillor Pugh
Councillor Skeels

(e) That Councillor Downing be elected Chairman of the Licensing (General Purposes) Sub-Committee for the 2011/2012 Municipal Year.

(f) That Councillor Fawcett be appointed Vice-Chairman of the Licensing (General Purposes) Sub-Committee for the 2011/2012 Municipal Year.

(g) That Premises/Personal Licences Sub-Committee 'A' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows, with the appointment of a third member from the Labour Group, which appointment to be dealt with by the Chief Executive in accordance with the authority delegated to him to appoint a member at the request of the Group Leader:-

Councillor Downing
Councillor Powell

(h) That Councillor Downing be elected Chairman of the Premises/Personal Licences Sub-Committee 'A' for the 2011/2012 Municipal Year.

(i) That Premises/Personal Licences Sub-Committee 'B' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor V E Guglielmi
Councillor G L Mitchell
Councillor Shearing

(j) That Councillor V E Guglielmi be elected Chairman of the Premises/Personal Licences Sub-Committee 'B' for the 2011/2012 Municipal Year.

(k) That Premises/Personal Licences Sub-Committee 'C' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor De Vaux-Balbirnie
Councillor Fawcett
Councillor Platt

(l) That Councillor Platt be elected Chairman of the Premises/Personal Licences Sub-Committee 'C' for the 2011/2012 Municipal Year.

43. TENDRING DISTRICT LOCAL PLAN PREFERRED OPTIONS CONSULTATION

Council's approval was sought in respect of the Tendring District Local Plan Preferred Options Consultation.

The Local Plan Committee had considered the consultation document at its meeting held on 9 June 2016 and Council had before it the Committee's recommendations.

Council also had before it a report of the Head of Planning Services which informed Members of major as well as minor changes to the consultation documents in order to make the Plan up-to-date prior to public consultation and to be consistent in not allocating sites for housing which had been refused permission. Some of those changes were a result of decisions made by the Planning Committee at its meeting held on 14 June 2016. The changes had been made to the Plan attached as Appendix A to the report of the Head of Planning Services and a schedule of those changes was provided in Appendix C thereto.

Members had had circulated to them prior to the commencement of the meeting amended maps in relation to Great Bentley and Frinton, Walton, Kirby-le-Soken, Kirby Cross and Great Holland. Those maps had been altered as a result of the recent refusal of related planning applications.

Councillor Stock, Chairman of the Local Plan Committee, thanked the Members of that Committee and the Officers, particularly the Head of Planning Services (Cath Bicknell) and the Planning & Regulation Manager (Simon Meecham), for their hard work and dedicated effort in getting the Local Plan to its current position. He also thanked the members of the public and representatives of parish councils who had participated in the public speaking scheme at meetings of the Local Plan Committee.

Councillors Stock, Turner, Scott, Winfield, Parsons, Stephenson, Calver, Bray, V E Guglielmi, Howard, G V Guglielmi, Coley, Broderick and M Brown participated in the debate.

It was moved by Councillor Stock, seconded by Councillor Turner and RESOLVED that Council:

(a) approves the content of the Tendring District Local Plan Preferred Options consultation document, attached as Appendix A to the Report of the Head of Planning Services, which incorporates the changes set out in Appendix C thereto and including the amended maps for Great Bentley and Frinton, Walton, Kirby-le-Soken, Kirby Cross and Great Holland, as circulated, for public consultation for a period of eight weeks;

(b) delegates authority to the Head of Planning Services, in consultation with the Chairman of the Local Plan Committee, to make minor amendments to the text of the Local Plan consultation documents up to the point of publication for consultation purposes. Such amendments are to be circulated to all Members of the Council prior to the commencement of the public consultation; and

(c) delegates authority to the Head of Planning Services, in consultation with the Chairman of the Local Plan Committee, to agree the content of the Sustainability Appraisals for the Local Plan Consultation Documents for public consultation for a period of six weeks. The content of the Sustainability Appraisals are to be circulated to all Members of the Council prior to the commencement of the public consultation.

NOTES: (1) in accordance with the provisions of Council Procedure Rule 18.5, Councillors Bray, Broderick, Parsons and Whitmore each requested that they be recorded in the minutes as having voted against the above decisions; and

(2) in addition, Councillor G V Guglielmi requested that he be recorded in the minutes as having abstained from voting on the above decisions.

44. URGENT MATTERS FOR DEBATE

There were none on this occasion.

45. URGENT MATTERS FOR DEBATE

There were none on this occasion.

Chairman