

**Notice of meeting of
Joint Standards Committee Hearings Sub-Committee**

To: Councillors Cannon, Perrett and Hayes

Date: Tuesday, 11 October 2016

Time: 10.00 am

Venue: The Thornton Room - Ground Floor, West Offices (G039)

AGENDA

1. Declarations of Interest

Members are asked to declare:

- Any personal interests not included on the Register of Interests
- Any prejudicial interests
- Any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. Exclusion of Press and Public

- (i) To consider excluding the public and press from the meeting during consideration of annexes 2, 4, 5, 6, 7, 8, 9, 10 and 11 of agenda item 3 on the grounds that they contain information relating to individuals and which are likely to reveal the identity of individuals. This information is classed as exempt under Paragraphs 1 & 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.
- (ii) To take a decision as to whether the hearing of this case (or any part of it) should be dealt with in public or in private.

3. Complaint against Members of Strensall (Pages 1 - 104) with Towthorpe Parish Council

To consider a complaint made against Members of Strensall with Towthorpe Parish Council, which has been referred to the Hearings Sub-Committee for determination following an investigation.

Details of the procedure to be followed at the hearing can be found at pages 15 to 19 of the agenda papers.

4. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democratic Services Officer responsible for this meeting:

Name: Jayne Carr

Contact details:

- Telephone – (01904) 552030
- E-mail – jayne.carr@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting

- Business of the meeting
- Any special arrangements



Standards Hearing Sub Committee
11 October 2016
Complaint against Members of Strensall with Towthorpe Parish Council

| | |
|--------------------------------|---|
| Complainants | Graham and Mandy Harrison |
| Subject Members | Councillor Keith Marquis |
| | Councillor Chris Chambers |
| | Councillor Ralph Plant |
| | Councillor Tracey Flannery |
| | Councillor John Chapman |
| | Councillor Geoffrey Harvey-Walker |
| | Councillor Dennis Baxter |
| | Councillor Duncan Hill |
| | Councillor Kevin Ogilvy |
| | Councillor Judy Smith |
| | Councillor Tony Fisher |
| | Councillor Lawrence Mattinson |
| | former Councillor Edwards |
| Clerk to Parish Council | Susan Nunn |
| Investigator | Rachel McKeivitt, Solicitor, City of York Council |

1. Background

- 1.1 This complaint is brought by Graham and Mandy Harrison against twelve current and one former member of Strensall with Towthorpe Parish Council. The complaint appears at pages 21 to 41 of the annexed papers. The complaint relates to the behaviour of Parish Councillors when dealing with Mr. and Mrs. Harrison's application for permission to have services cross land which the Parish Council leases from the City Council.

- 1.2 The merits of Mr. and Mrs. Harrison's request and the Parish Council's decision are not something which the Sub Committee can consider. The only issues which the Sub Committee are concerned with are whether one or more Parish Councillors may have breached the code of conduct and if so whether a sanction should be imposed.
- 1.3 As required by the Localism Act 2011 the Parish Council has adopted a code of conduct which sets out the conduct expected of Parish Councillors when acting as such. The code of conduct appears at pages 43 to 50. Particularly relevant to this complaint is the following section:

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. *He/she shall behave in such a way that a reasonable person would regard as respectful.*
 2. *He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.*
 3. *He/she shall not seek to improperly confer an advantage or disadvantage on any person.*
 4. *He/she shall use the resources of the Council in accordance with its requirements.*
 5. *He/she shall not disclose information which is confidential or where disclosure is prohibited by law*
- 1.4 Following consultation with the independent persons (at that time Mr. Laverick and Mr. Hall) the complaint was referred for investigation and Rachel McKevitt, a solicitor employed by the City of York Council, was appointed to investigate.
 - 1.5 Ms. McKevitt has prepared a report in respect of her investigation which appears at pages 51 to 69. As the complaints procedure requires she has reached a conclusion as to whether there has been a breach of the code. She

believes that some but not all aspects of the complaint should be upheld.

- 1.6 Upon receipt of the report the Monitoring Officer shared it with the parties and consulted the independent persons (Mr. Laverick and Ms. Davies). Having done so the Monitoring Officer took the view that this case was not suitable for local settlement and referred it for a hearing.

2. The Hearing Process

- 2.1 The Standards Committee has approved a procedure for hearings which appears at pages 7 to 19. In line with that procedure the complainants and subject members have been asked to complete a pre hearing check list indicating whether they intend to attend the hearing and identifying facts which they say are in dispute and indicating whether any part of the hearing should be in public.
- 2.2 The response from Mr. and Mrs. Harrison is at pages 71 to 73. They intend to attend the hearing and do not dispute any facts. They say that the hearing should not be in private.
- 2.3 Councillor Marquis, the Chair of the Parish Council, has indicated that he will attend and be represented by the Parish Clerk, Susan Nunn. His response is at pages 75 to 77. He says the report is biased and takes little account of the circumstances of this long running saga which, he says, were explained to the Investigating Officer. He wished the hearing to be in private because he says that the Harrisons are pursuing related legal proceedings.
- 2.4 Councillor Chambers has also indicated that he will attend and be represented by the Parish Clerk. He also wishes the hearing to be in private for the same reasons as Councillor Marquis. He makes specific comments as to factual accuracy at pages 81 to 86.
- 2.5 Councillor Plant's response is at pages 87 to 91. He describes Councillor Marquis' response as "jointly agreed" but adds three specific points in relation to the specific complaints against him. These appear at pages 87 and 91.

- 2.6 Councillor Fisher does not intend to attend the hearing. He has submitted two e-mails setting out his position. They appear at pages 93 and 94.
- 2.7 Councillor Mattinson does not intend to attend the hearing. He has submitted an e-mail criticising the investigation. This appears at pages 95 and 96. He has not submitted any new factual information or identified any specific factual inaccuracies.
- 2.8 The remaining councillors and former councillor have not responded individually but the entire Parish Council has signed a collective response which appears at pages 97 to 103.

3. Issues to be determined

- 3.1 **Should all or part of the hearing be in private?** Members have received representations on this from Councillors Marquis and Chambers and may wish to invite oral representations.
- 3.2 **Have one or more councillors breached the Parish Council's code of conduct in respect of the following allegations:**
- a) Use of the words "profit through deception" in a letter from the Chairman of the Parish Council, Councillor Marquis, to Hague and Dixon Solicitors.
 - b) Councillor Ralph Plant not declaring an interest in Mr and Mrs Harrison's matter at a Parish Council monthly meeting on 11th August 2015.
 - c) Bias evidenced by comments made at the Parish Council meeting on 13th October 2015 in relation to a similar request for services made by Transcore in respect of land known as Sevenoaks
 - d) Bias shown in a letter of 9th September 2015 from the Parish Council to Mr and Mrs Harrison.

- 3.3 In the event that the Sub Committee finds that the Code has been breached it will need to determine **whether a sanction should be imposed and if so what sanction.**

Andrew Docherty
Monitoring Officer

Background papers: None

Annexed Documents

| | Document | Pages |
|-----|--|--------------|
| 1. | Hearing Procedure | 7 to 19 |
| 2. | Complaint Form submitted by Mr and Mrs Harrison | 21 to 41 |
| 3. | Code of Conduct of Strensall with Towthorpe Council | 43 to 50 |
| 4. | Report of investigation conducted by Rachel McKeivitt | 51 to 69 |
| 5. | Pre hearing form submitted by Mr and Mrs Harrison | 71 to 73 |
| 6. | Pre hearing form submitted by Cllr. Marquis | 75 to 77 |
| 7a. | Pre hearing form submitted by Cllr. Chambers | 79 to 83 |
| 7b. | Submission from Cllr. Chambers dated 26 September 2016 | 85 to 86 |
| 8a. | E-mail from Cllr. Plant dated 26 July 2016 | 87 |
| 8b. | Email from Cllr. Plant dated 23 September 2016 | 89 to 91 |
| 9. | E-mail from Cllr. Fisher | 93 to 94 |
| 10. | E-mail from Cllr. Mattinson | 95 to 96 |
| 11. | Collective response from Parish Council | 97 to 103 |

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Pre Hearing Procedure

1. Where a decision has been made that a complaint needs to be referred for a hearing then a Sub Committee meeting will be arranged for that purpose. The Sub Committee will sit as a Hearing Panel.
2. A copy of the final investigation report will be sent to the Subject Member, the complainant and to the Independent Persons. If the complaint relates to the Subject Member's conduct as a parish councillor then a copy will also be sent to the Clerk to the Parish Council.
3. The Subject Member and the complainant will be asked to confirm within fifteen working days whether he/she:
 - Disagrees with any of the findings of fact in the report and the reasons for any disagreement
 - Wishes to be represented by a solicitor or barrister, or by any other person (such representation should not normally be necessary)
 - Wishes to attend the hearing
 - Wishes relevant witnesses to be called to give evidence to the Panel
 - Wishes any part of the hearing to be held in privateⁱ
 - Wishes any part of the Investigating Officer's report or other relevant documents to be withheld from the publicⁱⁱ
4. The Subject Member and the complainant will be informed that if, at the meeting of the Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.


5. Upon receipt of the Member's and complainant's responses, the Investigating Officer shall be invited to comment on it within ten working days, and to say whether or not he/she:
 - Considers that the Committee should request other witnesses to give evidence or submit written or other evidence to the Committee
 - Believes any part of the hearing should be held in private
 - Believes any part of the report or other relevant documents should be withheld from the public
6. The Monitoring Officer will consider the responses and set a date for the hearing in consultation with the Chair of the Panel.
7. The Monitoring Officer together with the Chair of the Hearing Panel will consider which witnesses should be invited to attend. Witnesses may not be called if the number requested is unreasonable and it appears that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Panel to reach its decision.
8. The Chair of the Hearing Panel may request the attendance of any additional witnesses whose evidence he/she considers would assist the Panel to reach its decision. The Panel does not though have powers to compel any witness to attend.
9. The Monitoring Officer will:
 - Confirm a date, time and place for the hearing
 - Confirm the main facts of the case that are agreed
 - Confirm the main facts that are not agreed
 - Provide the Panel with a copy of the investigating officer's report
 - Provide copies of any other written evidence to the relevant parties and the Panel

- Confirm which witnesses will be called by the parties
- Provide the parties with copies of the proposed procedure for the hearing.

ⁱ The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Proper Officer of the Council will decide whether papers should be publicly available in advance and the Sub Committee will determine whether all or part of the meeting should be in private.

ⁱⁱ See note i

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|--|--|
| City of York Council Standards Committee |  |
| Pre Hearing checklist | |
| | |
| Complainant | |
| Subject Member | Councillor |
| Investigating Officer | |
| | |
| Do you intend to attend the proposed hearing to give evidence or make representations | |
| Yes/No | |
| Do you wish to be represented at the hearing by a solicitor, barrister or another person.¹ | |
| Yes/No | |
| If so by who? | |
| <i>Name of representative and capacity in which they act: e.g. solicitor, friend, fellow Councillor</i> | |
| Do you wish the whole or any part of the hearing to be in private? | |
| Yes/No | |
| If yes please explain why² | |

¹ Although there has to be a degree of formality to the proceedings of the committee it will be unusual for subject members to be represented. The procedure is not adversarial. The Committee will act in an inquisitorial manner to ensure that the circumstances of the case are fully understood.

² The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

| |
|---|
| |
| Do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public? |
| <i>Yes/No</i> |
| If yes please explain why³ |
| |
| Do you disagree with any of the <u>facts</u> found by the investigating officer as set out in his her report? |
| <i>Yes/No</i> |
| If yes please set out briefly the facts that you dispute and your view as to the true factual position |
| |

³ The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

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|---|
| |
| Do you believe that witnesses should be called to the Hearing |
| <i>Yes/No</i> |
| If yes please identify the witnesses who you wish to be called and briefly identify the issues that they will be able to give evidence about⁴ |
| |

⁴ The Monitoring Officer and Chair will consider whether any witnesses you name are likely to be able to give evidence which will be of value to the Hearing Panel. If they are then those witnesses will be invited to attend. The Panel cannot compel the attendance of any witness.

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City of York Council Standards Committee – Hearing Procedure

General Matters

1. In this procedure the term “interested parties” is used to cover the complainant, the subject member and the investigating officer. The interested parties will all be invited to attend the hearing as potential witnesses.
2. The Independent Persons will also be invited to attend the hearing in an advisory, non-voting capacity. Their views will be sought as to whether the evidence establishes a breach of the code of conduct and, if so, as to what if any penalty should be imposed.
3. The Hearing Panel will be made up of members of the Standards Committee and there will normally be three members. The Panel will be supported by the Monitoring Officer or his representative and a democratic services officer.
4. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed. The Standards Committee considers that in general the public interest in seeing that complaints relating to Councillors are handled properly will outweigh any considerations relating to the privacy of the Councillor concerned but each case will be considered on its own merits including consideration of the privacy of other parties.
5. The hearing will normally follow the procedure set out below but the Chair has the discretion to vary it at any time. Such a variation may be considered where, for example, the Chair believes that doing so will be in the interests of fairness or help in establishing the facts of the case.
6. It will not usually be necessary for the Subject Member to be represented at a hearing but he or she may choose to arrange such representation which may be by a solicitor, barrister or another person.
7. The Panel may take legal advice at any time during the hearing or during its deliberations. The substance of any advice given to the Panel will normally be shared with the parties.

Preliminary procedures

8. Prior to the hearing commencing the Panel may meet privately to review the material presented and to agree the main lines of enquiry.
9. At the start of the hearing, the Chair will arrange introductions of the Panel, its Officers, the Independent Persons and the interested parties. The Chair will briefly explain the procedure which the Panel will follow in the conduct of the hearing. The Chair will confirm that each interested party has seen the final report of the investigating officer and has had the opportunity to engage in the pre hearing procedures.
10. The Monitoring Officer will identify whether the pre hearing procedures have identified any significant disagreements about the facts contained in the Investigating Officer's report. The Panel will record the agreed facts and establish the facts in dispute which they will be required to rule upon.
11. If a party raises an issue which has not been raised previously then that party shall be required to give a full explanation to the Panel as to why it was not raised earlier. The Panel may then:
 - a. Consider whether or not to allow the issue that has been raised to be dealt with at the hearing
 - b. Consider whether the hearing should be adjourned for further investigations to take place.

Determining factual disputes

12. If there are disputed facts which the Panel consider relevant to establishing whether the Code has been breached or as to the seriousness of the breach then, the Panel will adopt an inquisitorial approach in establishing the facts. The Chair will invite members of the Panel to ask questions of the interested parties or any other potential witness present. The Monitoring Officer may also ask questions.
13. Once a witness has answered questions from the Panel then the Chair will ask the interested parties whether there are other issues which ought properly to be raised with the witness. The Chair (or

another Member) may put any such issues to the witness him or herself or may allow the relevant party to ask questions directly.

14. The Panel must reach a decision as to the facts it finds to be proven. The Panel must also make a decision as to whether the proven facts (including those which are agreed) show a breach of the code of conduct. Depending on the complexity of the case the Panel may consider each of those issues separately or deal with them together. In either case the Chair will invite the parties to make representations on each matter before the Panel reaches its decision.

Panel deliberations

15. When the Panel is considering its finding of facts and whether those facts amount to a breach of the Code of conduct it will do so in private but in the presence of the Monitoring Officer, the Independent persons and the Democratic Services officer.
16. At the conclusion of the Panel's deliberations, the Chair will publicly announce the Panel's findings as to the facts and as to whether those facts show a breach of the code of conduct. The Panel will give reasons for their findings. It will be normal practice to share the substance of any advice given by the Monitoring Officer and Independent persons at this stage.

Determining Sanctions

17. If the Panel concludes that the Subject Member has failed to comply with the Code of Conduct, the Chair will invite representations from the interested parties as to what action, if any, it should take.
18. The Panel will then consider whether to impose a sanction, and, if so, what sanction to impose and when that sanction should take effect. It will do so in private but in the presence of the Monitoring Officer, the Independent persons and the Democratic Services officer.
19. The sanctions available to the Hearings Panel are to –
 - Censure the Councillor;

- Formally report its findings to the City Council *or* Parish Council for information;
 - Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Panels or Sub-Committees of the Council;
 - Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - Recommend to Council that the Leader be removed from Office (if it is the Leader' conduct that is being considered)
 - Instruct the Monitoring Officer to [*or recommend that the Parish Council*] arrange training for the Councillor;
 - Remove [*or recommend to the Parish Council that the Councillor be removed*] from all outside appointments to which he/she has been appointed or nominated by the authority [*or by the Parish Council*];
 - Withdraw [*or recommend to the Parish Council that it withdraws*] facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access.
20. The Hearings Panel has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances. If the Panel decides to withdraw facilities from the Councillor it must ensure that the Councillor is not thereby prevented from undertaking his/her representative duties.
21. The Chair will publicly announce the decision of the Panel. The substance of any further advice given by the Independent Person and Monitoring Officer will also be shared. Written notice of the findings of the Panel will be given as soon as is reasonably practicable to the Subject Member. They will also be placed on the council's website. If the complaint was against the Subject Member as a parish councillor, written notice of the findings of the Panel will be sent to the clerk to the parish council.

Other action

22. The Panel may also consider making any recommendations to the Council concerned with a view to promoting higher standards of conduct among its members.

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Complaint Form

1. Your details

| | |
|--------------------------|------------------|
| Title | Mr and Mrs |
| First Name | Graham and Mandy |
| Last name | Harrison |
| Address | |
| Daytime telephone number | |
| Evening telephone number | |
| Mobile telephone | |
| E-mail address | |

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

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

- *The Member you are complaining about*
- *The parish or town clerk (if applicable)*
- *The Independent Persons who advise the City Council on handling standards complaints*

We will tell them your name and details of your complaint. If you have serious concerns about your name or details of your complaint being released please discuss those concerns with the Council's Monitoring Officer before submitting your complaint.

2. Making your complaint

You should submit your complaint to the Council's Monitoring Officer by e-mail to monitoringofficer@york.gov.uk or by post to:

Andrew Docherty
 The Monitoring Officer
 City of York Council
 West Offices
 Station Rise
 York
 YO1 6GA

3. Please provide the name and address of the Councillors who you believe have breached the code of conduct and the name of their Council:

| Title | First name | Last name | Name of Council |
|-------|------------|---------------|--|
| Mr | Keith | Marquis | Strensall with Towthorpe Parish Council (STPC) |
| Mr | Dennis | Baxter | " " |
| Mr | Duncan | Hill | " " |
| Mr | Tony | Fisher | " " |
| Mr | Chris | Chambers | " " |
| Mr | John | Chapman | " " |
| Mr | Lawrence | Mattinson | " " |
| Mr | Kevin | Ogilvy | " " |
| Ms | Tracey | Flannery | " " |
| Mr | Geoffrey | Harvey-Walker | " " |
| Ms | Cath | Edwards | " " |
| Ms | Judy | Smith | " " |
| Mr | Ralph | Plant | " " |

4. Please explain in this section (or on separate sheets) what the Councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one Councillor you should clearly explain what each individual has done that you believe breaches the code of conduct.

The background to our complaint concerns our dealings with the Parish Council in connection with their management and control of the strip of land between our boundary and the highway which is owned by York City Council and Leased to STPC. Details are set out in our letter to

STPC and Brian Gray, York City Council dated 10 September 2015 and in our letter to Brian Gray, York City Council dated 21 September 2015. We are aware that your jurisdiction does not extend to revisiting the decision made by STPC to refuse our request for a Deed of Easement to allow services across the leased land hence our focus is on the conduct of the Parish Councillors named above for the reasons set out below. Copies of the correspondence referred to are attached:

1. By letter dated 11 August 2015 from Keith Marquis (chairman, STPC) to Messrs Hague Dixon, Solicitors to the prospective purchaser of the building plot sited on our property at the above-address, Mr Marquis alleged that we would “**profit through deception**” if STPC were to grant a Deed of Easement for services to the building plot for which we have obtained full planning permission. There is no foundation to this libellous comment made to a third party. By letter dated 9 September 2015 from Keith Marquis to us he confirmed that the views expressed in his letter dated 11 August 2015 were “**those of the entire Parish Council**” hence all members of the Parish Council have in our view breached the Code of Conduct in that they defamed us and failed to proffer any apology despite being pressed to withdraw these allegations and exposing their allegations as groundless by our letter dated 10 September 2015.
2. At the Parish Council Meeting on 11 August 2015, Ralph Plant failed to declare an interest in our matter (agenda item 5(b)) despite the fact (1) he lives opposite us and (2) he is a signatory on behalf of the Parish Council on the lease of the strip of land in issue from York City Council .
3. STPC have failed to implement their Complaints Procedure – we have urged them to reconsider the maladministration inherent in their decision making process as set out in our letter dated 10 September 2015 (see also point 4 below) but they regard the matter as “closed” as per Mr Marquis’ letter to us dated 9 September 2015. Our criticisms of the Parish Council’s procedures have therefore not properly been addressed in accordance with their Complaints Procedure – indeed there is no-one on STPC who is not a party to the letter making the libellous comment against us so they have deprived us of any lawful Complaints Procedure.
4. The behaviour of STPC members set out above demonstrates bias as there is no lawful reason to refuse our request for services. This was acknowledged by comments made at the Parish Council meeting on 13 October 2015, (Mandy is a shorthand typist and made a full note of the

proceedings). At item 9 in connection with the request for services to be allowed to a development of 3 properties at Seven Oaks, Strensall, Mr Baxter said access for services "should have been sorted out before – no different to the other case (ie ours) and if we give permission for this one, it's a rod for our back and could be expensive" by reference to our case. The Parish Council granted permission for services across the leased land for this development even after they had been installed!

5. The biased conduct of STPC is exemplified in Keith Marquis' letter to us dated 9 September 2015 where he refers to "the long running dispute over the illegally constructed second access to your property" when in fact, as our letter in reply dated 10 September 2015 to STPC records and reminds the STPC, we had obtained what York City Council considered to be permission for a vehicle crossing from Stuart Partington by letter dated 12 June 2007 and subsequently after years of maladministration by STPC it became the subject of an unconditional Deed of Grant dated 28 August 2013 from STPS and York City Council allowing us "full right and liberty for a right of way" over the strip of leased land "for the purposes of both pedestrian and vehicular access." The second access is not and was not illegal and for Keith Marquis, the chairman of STPC to continue to make such references shows nothing short of maladministration, prejudice and bias. It seems that because of this jaundiced view, there is no possibility of any fair decision making for any application we might now make at the hands of STPC. It is wholly wrong for the Keith Marquis to seek to limit the exercise of the Deed of Grant and Deny the Deed of Easement for Services by stating as he does that "the Deed of Grant should have been adequate for the purposes you had outlined" – it is unconditional and cannot be limited by the STPC in this way. Keith Marquis then goes on to refer in his letter to the distress Mandy exhibited at the loss of her father. It is outrageous that such personal matters be referred to in this context and for which no apology has been forthcoming despite our request in our letter dated 10 September 2015. .

6. For the purposes of its dealings with the public, the Complaints Procedure/Code of Practice for STPC states: "At all times, the rules of natural justice will apply – that is that all parties should be treated fairly and the process should be reasonable, accessible and transparent." In our view the conduct of the Parish Council as described above demonstrates that they have failed to act fairly as is required of a public body demonstrating irrationality at best and bad faith, at worst.

It is important that you provide all the information which you wish to have taken into account by the Monitoring Officer and Independent Persons in considering whether your complaint requires a detailed investigation. For example:

- You should be as specific as possible as to what you are alleging the Councillors did. For example instead of saying that a Councillor insulted you, you should state what they said or did.*
- You should provide dates of the the alleged incidents if possible or a general timeframe if you cannot remember dates.*
- You should confirm whether there were any witnesses.*
- You should ensure that your complaint is about the code of conduct. The Joint Standards Committee cannot deal with general complaints about decisions made by a Council or actions taken by Councillors in a purely private capacity.*

Additional help

2. Complaints must be submitted in writing. This includes by e-mail. We can make reasonable adjustments if you have a disability which prevents you making your complaint in writing or provide assistance if you have any other difficulty which prevents you completing this form.

Sent: 10 September 2015 23:08
To: Susan Nunn <clerk-strensallpc@btconnect.com>
Cc: Brian.Gray@york.gov.uk; Martin Thorpe
<martin.thorpe@harrowells.co.uk>
Subject: The ... York. ...

Dear Mr Marquis

RE: Land To The Rear of ...

We write further to your letter of 9th September 2015.

Although you state that the Parish Council now regards this matter as closed, from our point of view, this is far from the case. You have failed to address significant concerns we raised in our letter dated 26th August 2015 and your "reply" raises further issues which we have set out below.

In our letter of 26th August 2015 we asked, amongst other things for the following:

An explanation and any evidence upon which you rely for the purposes of

the serious allegations made in your letter dated 11th August 2015 to Messrs Hague and Dixon who act for Marsden Homes (York) Ltd, the former buyers of the building plot on our land namely that to agree the Deed of Easement would enable us to "profit through deception":

The reasons underpinning the decision of the Parish Council to deny our

request for a Deed of Easement as reported to us in Mrs Nunn's letter dated 10th June 2015; and

An explanation as to why the Parish Council gave no intimation in its response to our Outline Planning Application of its intention to deny the site access to utilities but chose instead to do so in relation only to the Full Application.

We have received no or no satisfactory reply on any of these issues.

As to the first point, making unsubstantiated allegations defaming our characters in a letter to a third party is not only actionable in tort as libel but also is a prime example of the Parish Council failing to act in an appropriate way as an accountable public body in order to honour its decision making obligations. There is and never has been any deception on our part. You refer to a meeting on 14th November 2011, "when our newly appointed Clerk, as an impartial third party, tried to find a sensible solution to the long running dispute over the illegally constructed second access to your property". You misconstrue and misrepresent the situation in our view. The Clerk to the Parish Council in a dispute involving the Parish Council could never defensibly be regarded as "an impartial third party" and to brand the construction of the bridge as "an illegally constructed second access" does not fairly represent the position in which we found ourselves. As you know, from the Minutes of the Meeting on 14th November 2011 the true situation was this: "Graham confirmed that he had complied fully with the terms required by the City of York Council and had received permission from Network Rail, Foss Internal Drainage Board and was not aware that he had to seek permission from the Parish Council as he had not been advised of any lease." The reality of the situation is recorded in Mrs Nunn's letter to Brian Gray dated 16th November 2011: "Mr Harrison referred to a letter dated 12th June 2007 from Stuart Partington which gives permission for a vehicle crossing over land leased to the Parish Council by City of York Council...

On 13th August 2008 Philip Callow, Head of Asset and Property Management confirmed that the City Council should have consulted the Parish Council regarding the application ..." That letter goes on to say, "If the City of York Council gave permission, as our Landlord, to this vehicle crossing, they should, in the opinion of the Parish Council, provide the land owner with a Deed of Grant over the land as they accepted that no breach of the lease has taken place by giving permission in the first place." What is abundantly clear from all of this is that we took care to obtain all relevant permissions for our second access and the fact that your Landlord, the City Council did not refer the matter to the Parish Council shows how obscure and little known or understood the ownership and title to the strip of leased land has become.

You then go on in your letter dated 9th September 2015 to state that we both assured the Parish Council more than once on that occasion that the only reason for the second access was to make manoeuvring the caravan in and out easier...". We have never owned a caravan, however, we have allowed our son to park his caravan at our property since 2012. We do, however, own a motorhome. You then refer to Mandy's late father and her breaking down at the meeting. It is manifestly inappropriate and insensitive to refer to these matters. The loss of Mandy's father is deeply felt and for this to be brought up in the context of a dispute with the Parish Council is callous, disrespectful and irrelevant to the substance of our complaint and its resolution. We expect a full and unreserved apology. You state that, "Whilst there was irrefutable proof that the second access was constructed without the consent of the Leaseholder and Landowner, the Parish Council did not wish to cause you more distress and, having been assured by both of you, more than once during that meeting that you had no

other reason for wanting

a second access." The reality of the situation is somewhat different - as

the quote from Mrs Nunn's letter to Brian Gray dated 16th November 2011 cited above demonstrates. The Parish Council were concerned not to be found in breach of their lease with York City Council - to dress

up the decision making as designed not to cause "more distress" to us could not be further from the truth. We have had over 7 years of correspondence and turmoil with the Parish Council over the second access and now the request for access for services - our distress has been compounded year on year by the behaviour of the Parish Council rather than alleviated in any way.

This leads us to consider the Deed of Grant dated 28th August 2013. At the time it was signed off, we had no intention of creating a building plot. In its terms, the Deed of Grant states that York City Council and the Parish Council together granted to us as fee simple owners of our property i.e. the house and grounds, "full right and liberty for a right of way" over the strip of leased land "for the purposes of both pedestrian and vehicular access". There is no condition in the Grant that the access is permitted only for the current dwelling. Planning permission has legitimately been obtained for development on the building plot. All that is preventing the planning permission from being a reality is the indefensible decision of the Parish Council to decline our request for services to run through the second and now legitimate vehicular and pedestrian access. There is no lawful reason for the Parish Council to resist our application and this is perhaps why no reason has ever been given save that the Parish Council intended only to allow a second vehicular access to one dwelling on our land and not more, the case for which we have demolished above.

You say that "The Parish Council are intrigued to know why we think it is appropriate for them to mention the need for services across its

land as it felt it was entirely possible an alternative route had been decided." This is unacceptably provocative language for a public body such as the Parish Council which would know from their local knowledge of the siting of our dwelling that there is no alternative access route. Furthermore, as a responsible Leaseholder of adjacent land, issues about access for services could and should have been raised at the Outline stage, if they had assumed the significance that the Parish Council now seeks to attribute to them rather than only in

relation to the Full Application. We suspect that the truth lies in the fact that this was the point in time at which the Parish Council realised they could bring the development to a halt as a Leaseholder of a diminutive strip of abutting land soured because of the innocent lack of consultation over the second vehicular access and that up until that point they had 'forgotten' their potential to stifle this legitimate development.

The situation we find ourselves in now has grim resonance with the saga over the second vehicular access. You will recall that York City Council carried out the bridge works and you as their Leaseholder attempted to have these works removed because no-one at York City Council had told us we needed to consult with you and nor for that matter, did they. Now, we are equipped with Full Planning Permission by York City Council only to find the whole endeavour again being thwarted by the Parish Council. Has not the time now come for York City Council to intervene? There are other developments currently on going in Strensall involving multiple dwellings with access and services over the leased strip of land (eg Seven Oaks, Ox Carr Lane) but we are being singled out for refusal by the Parish Council who apparently consider their role to include making unsubstantiated allegations about deception and policing profit from building plots. This clearly demonstrates maladministration in action and shows just what a nonsense the Parish Council's role as Leaseholder has become.

The fact that you now regard this matter as closed allows us to take our concerns elsewhere since you have formally and unilaterally brought to an end the ongoing dispute resolution process. We therefore call upon York City Council to whom this letter is copied to intervene and allow access for services to the approved dwelling on our building plot. We reserve all our rights in connection with the libellous comments you made in your letter of 11th August 2015 to Messrs Hague and Dixon who act for Marsden Homes (York) Ltd and for recompense for the substantial losses these comments have caused as set out in our letter dated 26th August 2015. We understand that if we bring proceedings against you, part of the process will involve

full disclosure of all relevant documentation including any exchanges whether oral or in writing. the Parish Council has had in connection with this matter with Marsden Homes (York) Ltd. their Solicitors, their Architects, our Estate Agent and service providers amongst others. All notes and other documents should therefore be retained. We also put you on notice that it is our intention to put this matter before the Monitoring Officer.

Furthermore, we reserve all our rights to take such action as we think fit to secure what we believe to be the only defensible decision in the public interest, namely to permit access for services to the approved dwelling on our building plot.

Yours sincerely

Graham and Mandy Harrison

Copy to:

Martin Thorpe, Harrowells

Brian Gray, Senior Legal Adviser, City of York Council

Sent from my iPad

From: mandy.harrison@york.gov.uk
Subject: [REDACTED]
Date: 21 September 2015 23:19
To: Brian.Gray@york.gov.uk
Cc: Martin Thorpe martin.thorpe@harrowells.co.uk, philip.callow@york.gov.uk, Susan Nunn clerk-strensallpc@btconnect.com, glen.mccusker@york.gov.uk

Dear Mr Gray

Thank you for your letter of today's date.

We are indeed disappointed to read your response.

The position we have now reached can be summarised as follows:-

- . The Parish Council have declined to grant our request for a Deed of Easement for services to our building plot for which we have the City Council's full planning permission.
- . The only reason they have proferred is libellous: they do not wish us to "profit by deception".
- . Despite the fact that we have robustly demolished their outrageous allegations which have no basis in fact or law, the Parish Council have failed to supply any legitimate reasons for refusal and now regard the matter as closed - see the closing paragraph of Susan Nunn's letter dated 9th September 2015.
- . We have watched new build properties at Seven Oaks, Ox Carr Lane have services (gas) supplied over the leased land which has not attracted any opposition from the Parish Council. Nor should it in our view: as leaseholder and a public body what legitimate interest could there possibly be in the Parish Council declining such a request?
- . You have suggested we take our concerns up with the Parish Council which as you will now be aware, takes us no further forward because they will no longer engage with us.

We would urge you to reconsider the City Council's stance - the decision making of your leaseholder in this instance does indeed have an adverse affect on the City Council's ownership of the land as freeholder. This is because the Parish Council's perverse decision making is thwarting our legitimate expectations of making the planning permission granted by the City Council a reality. How can it be justified or justifiable for the City Council to lead us to

believe that the development can be pursued via the planning process when the Parish Council appear to be entitled without any valid or lawful reasons to deny us access to services. Is this what the City Council intended the Parish Council to be enabled to do pursuant to the lease and what provision of the lease in the City Council's view authorise this determination?

We would welcome the opportunity of meeting with you to discuss this matter and find a satisfactory resolution.

Yours sincerely

Graham and Mandy Harrison

Sent from my iPad

Emails are not secure and cannot be guaranteed to be virus free. No responsibility can be accepted for any damage caused by any virus contained in this email or any attachment



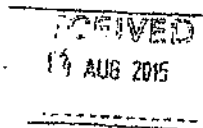
Strensall with Towthorpe Parish Council

The Village Hall, Northfields, Strensall YORK. YO32 5XW
Tel: 01904 491569
Email: clerk-strensallpc@btconnect.com
Chairman: Councillor A K Marquis

11th August 2015

Mr C D Barton
Messrs Hague and Dixon
Solicitors
Cumberland House
Cumberland Street
York YO1 9SR

Your Ref: 15/CD8/M/2



Dear Mr Barton

Re: Land to the Rear of ...

Thank you for your letter of 5th instant which was discussed at the Parish Council meeting this evening.

Whilst the Parish Council has considerable sympathy for your client, it remains adamant that, if this were agreed, the vendors would profit through deception which would be unacceptable.

The Parish Council therefore regrets that it is unable to agree to your client's request.

Yours faithfully

CHAIRMAN

Strensall with Towthorpe Parish Council

The Village Hall, Northfields, Strensall, YORK, YO32 5XW

Tel: 01904 491569

Email: clerk-strensallpc@btconnect.com

Chairman: Mr A K Marquis

9th September 2015

Mr and Mrs G Harrison

By e-mail:

Dear Mr and Mrs Harrison

The Application for a Deed of Easement

I acknowledge receipt of your e-mail of 18th instant, the content of which has been discussed by the Parish Council together with the various letters sent since that date.

The "selective number of points" responded to in the Clerk's letter of 28th August are a matter of public record in that the minutes show that Councillor Plant declared a personal interest and also the information regarding the comments made by the Parish Council on the outline planning applications are on the City of York Council Website; therefore the letter was confirmation of this and not the Clerk's views.

The Parish Council are intrigued to know why you think it is appropriate for them to mention the need for services across its land as it felt it was entirely possible an alternative route had been decided.

I can confirm that the views expressed in the letter of 11th August were those of the entire Parish Council.

The Parish Council would refer you to the meeting in the Rainbow Centre on 14th November 2011 when our newly appointed Clerk, as an impartial third party, tried to find a sensible solution to the long running dispute over the illegally constructed second access to your property. Three members of the Parish Council attended that meeting and the notes the Clerk prepared were sent to you and accepted by you at that time.

You both assured the Parish Council more than once on that occasion that the only reason for the second access was to make manoeuvring the caravan in and out easier and you pointed out the distress it had caused to your late parent and yourselves, with Mrs Harrison breaking down at several points in the discussion. All three members of the Parish Council who attended that meeting have a very clear recollection of that.

Whilst there was irrefutable proof that the second access was constructed without the consent of the leaseholder and the landowner, the Parish Council did not wish to cause

you more distress and, having been assured by both of you, more than once during that meeting, that you had no other reason for wanting a second access.

I also refer you to the letter sent to you on 14th December 2011 in which you were advised that *"to formalise the position the City Council will agree to our request and is prepared to join in a Deed of Grant (to be granted by the Parish Council as freeholder) in order to allow such right of access only."* Subsequently the Parish Council agreed to give you a Deed of Grant for pedestrian and vehicular access only which should have been adequate for the purposes you had outlined.

I would also refer you to the correspondence between the Parish Council and your solicitors in May of this year when your request for a Deed of Easement was refused and the reason given.

The Parish Council, with the support of the City of York Council are not prepared to permit any Deed of Easement to allow you to profit from the erection of a new property, accessed in this way. The Parish Council feel that you misled them in order to achieve your wish to profit from providing a building plot made accessible by the second structure.

This is the stance taken by the Parish Council who now consider this matter is closed.

Yours sincerely

CHAIRMAN

STRENSALL with TOWTHORPE PARISH COUNCIL

The Village Hall, Northfields, Strensall, YO32 5XW
Tel: 491569 E-mail: clerk-strensallpc@btconnect.com

MINUTES OF THE MONTHLY MEETING OF THE PARISH COUNCIL
Held on Tuesday 11th August 2015 at 7.15pm at the Village Hall, Strensall

PRESENT

Cllrs Marquis (Chair) Plant, Baxter, Hill, Fisher, Mattinson, Maher, Ogilvy and Mrs J Smith

Ward Cllr Paul Doughty and 3 members of the public

1. APOLOGIES

Cllrs Chambers, Chapman, Ms T Flannery and Mrs C Edwards

2. DECLARATIONS OF INTEREST

None

3. MINUTES

The minutes of the previous meeting had been circulated, Council approved these, endorsed the planning committee minutes for 14th and 28th July authorising the Chairman to sign them as a correct record. **Resolution 110815/01**

4. PUBLIC PARTICIPATION

Two residents spoke on the issues they were experiencing with the new play equipment and how they felt that the Parish Council had ignored their problems. They said there were still young people there at 10.30pm at night which was, to them, unacceptable. The screening trees were not helping. One resident accused the Parish Council of deliberately omitting correspondence received from the agenda and not making documents available on the website. He felt there were still legitimate safety issues regarding the football area and the Parish Council are doing nothing to address this. He was annoyed that the petition signed by the residents had not been published and stopped short of naming the person he held responsible.

5. ONGOING ISSUES

- (a) **Complaints Procedure** – Cllr Mattinson confirmed he had checked the document and it complied with the current legislation and did not require any amendment. The document was therefore approved for a further 12 months **Resolution 110815/02**
- (b) **The Firs** -The letter from the solicitor representing the proposed purchaser of the building plot was discussed and the Parish Council voted

unanimously to refuse the request. A letter was approved for signature by the Chairman. **Resolution 110815/03**

- (c) **Telephone Kiosk** - The Clerk reported the joiner would plane the wood on the door and fit a yale lock to secure the box whilst its future is decided. This expenditure was approved **Resolution 110815/04**

Cllr Smith confirmed that all Cllrs had now read the information on the defibrillator and whether or not to have one was discussed at length. Other Parish Councils were considering this. Funding was discussed and Cllr Smith would make further enquiries. Cllr Doughty confirmed that Ward funding was available for groups including Parish Councils

- (d) **Playground Issues** - in appendix 1 the recommendations of the Playground Working Group was discussed and approved. *Kirklands* - the cost of the screening trees was agreed. Approval was given for the provision of hedging if required following the erection of the cage. Parents had requested the provision of a roundabout and a slide for small users. Providers were being asked if the tower could be modified in some way *Northfields* - some of the equipment was in need of replacing and costings were being obtained for this for when funds are available. A new self-closing gate was on order and should be fitted before the end of August. **Resolution 110815/05**

- (e) **Footpath Brochure** - Cllr Plant explained that the brochure was now nearing completion and the cost would be around £650 in total. It was agreed that this should be finished and that a charge should be made for the purchase and this price should be included on the front page. This would be placed on the agenda for the next meeting to progress.

- (f) **Neighbourhood Plan** - This was discussed and it was agreed that the parish boundary should be used as the boundary for a Neighbourhood Plan. **Resolution 110815/06**

- (g) **Bus Shelter Seating** - The Clerk had received a request for a seat in the bus shelter on York Road opposite Middlecroft Drive. There was a problem with the location being close to a hedge and enough room is required to permit a wheelchair or buggy to pass. The Clerk was requested to obtain some costings and designs to enable a decision to be made at the next meeting

- (h) **SCYSA** - There is an Extraordinary General Meeting of SCYSA on 11th September 2015 at 7pm in the Village Hall to enable the Strensall Junior Football Club to appoint Trustees to run the group. Any business plan would need to be approved before an underlease would be passed to them

- (i) **Post Office Relocation** - Following receipt of notification of Costcutter no longer wishing to have the Post Office in their shop, it was resolved that the Clerk would write to the Post Office to seek some clarification as to any progress by them in respect of the relocation. **Resolution 110815/07**

6. LOCAL PLAN

9). Mr Chambers speaking:-

Andrew Bolton. - episode 667 - wanted to do his drive in block paving - all broken up - land that is leased to Parish Council - spoken to Keith and John - neither have any problem with it.

Couple of other areas of land that is leased - arbitrary action has taken place

Wants to repair a grotty corner

Keith's and John's opinion - ok

Tatty - a saving grace you have actually asked us - that's basically what he wants to do

Ralph Plant agrees with what has been sent

Mr Bolton produced a photo

Judy - a big improvement - happy with approval

The Firs - Seven Oaks

Seven Oaks

Issues of people digging up path without asking

Yorkshire Water tackled by Chapman - told him to p. off - ignored him

Spoke to Transcore - narrow entrance and exit - would we consider selling a bit to widen the entrance. Would have to apply to CYC to drop kerb - relating to - rectify - would wish to enlarge the existing driveway to 5 m - would mean water meters would be in their driveway - would supply something in the playground - Parish Council leased land - if say yes would have to buy it off CYC - money we wouldn't see it - Baxter thought it was common land - Baxter doesn't seem to think its any different - Sue Nunn, not illegal.

Chambers

Whole thing approached in a reasonably gentlemanly way - satisfy all parties involved

Very good value - roundabout for playground

A way round what could be a challenging problem

A bad corner - if it means getting the cars off quickly

They would have to agree with CYC

Parish Council agree in principal

Quite a few cars

Baxter - should have been sorted out before - no different to other case - if we give permission for one - rod for back - could be expensive

Baxter - not sticking up for man - rod for our own back

Matteson - Wasn't on agenda - not familiar - would like to see a drawing of it

Sue Nunn - Only room for 3m - wants to kerb it - drop kerb wider - it would look so much neater

A written plan

Judy - no dyke - Sue Nunn - grass and footpath

Yorkshire Water ? Cheaper for

Difference being done upfront

Ralph Plant - said he would say go ahead

Matteson - clear idea what's involved - can't make an opinion

Most people are aware of Firs issue, other one involved already

Need to consult further with members of Parish Council

Compromise be Sue Nunn and Matterson to go look at it

Would like to get something back to them - Yorkshire Water waiting to see if have to take it up

Chambers

Hold whip hand this time - need to make a decision - not wait till next meeting - a lot riding on it

Detailed drawing - what is proposed

The Firs

Chambers - nothing more to say

Sue Nunn - Nothing to go forward

STRENSALL with TOWTHORPE PARISH COUNCIL

The Village Hall, Northfields, Strensall, YO32 5XW
Tel: 491569 E-mail: clerk-strensallpc@btconnect.com

MINUTES OF THE MONTHLY MEETING OF THE PARISH COUNCIL

Held on Tuesday 13th October 2015 at 7.15pm at the Village Hall, Strensall

PRESENT

Cllrs Chambers (Chair) Plant, Baxter, Harvey-Walker, Hill, Fisher, Maher, Mattinson, Ogilvy, and Mrs J Smith

PCSO Hannon and 3 members of the public

1. APOLOGIES

Were received from Cllrs Marquis, Chapman and Ms Flannery together with Ward Cllr P Doughty

The Clerk reported that she had received a letter of resignation from Mrs Edwards

2. DECLARATIONS OF INTEREST

Cllr Plant declared a personal interest in item 9(a)

3. MINUTES

The minutes of the previous meeting had been circulated, Council approved these, authorising the Chairman to sign them as a correct record. Council also endorsed the planning committee minutes for 8th and 22nd September **Resolution 131015/01**

4. PUBLIC PARTICIPATION

Nobody wished to speak in this session

5. POLICE REPORT

As PCSO Hannon was in attendance and was needed in another part of the Ward this item was discussed first to allow any questions from Councillors before he had to leave.

The police report was noted and also the issue relating to the Village Hall and car park. People were urged to ring in any concerns so that these are recorded. The Police urged the reporting of any genuine incidents so that a correct picture and appropriate responses could be given

PCSO Hannon was thanked for his attendance and left the meeting

6. ONGOING ISSUES

- (a) **SCYSA** – A letter had been received rescinding the termination of the underlease as new Trustees had been accepted and the management would continue under new Trustees. The Clerk had confirmed that she would give any assistance required to the New Trustees whose names would be confirmed in the minutes
- (b) **Playgrounds** –The Clerk confirmed the completion of the football enclosure and that the children she had spoken to were thrilled with the structure which it is hoped would encourage smaller children to play up to 5 a side and

- (e) Cllr Chambers reported that, so far as this and almost all other York Parish Councils are concerned, with regard to S 106, it was business as before until formally notified differently.

9. CORRESPONDENCE

- (a) A letter from Mr Andrew Bolton of Heathfield, Lords Moor Lane had been received, together with supporting information to request permission to extend the block paving of his driveway onto part of the pathway that is presently in poor repair and under the tenancy of the Parish Council. Mr Bolton was present and answered questions from Councillors who viewed photographs and diagrams. The Parish Council approved the request
Resolution 131015/10
- (b) A letter had been received from Transcore regarding the work done at Sevenoaks in Ox Carr Lane. Yorkshire Water were most apologetic and were willing to move the provision of services onto land not owned by the Parish Council and agreed that ignorance of the ownership was not a valid excuse. The Clerk had met a Director of Transcore on site to discuss matters. She had been asked if it were possible to acquire some of the verge from the Parish Council to increase the access and encourage better visibility and for two cars to be able to pass within the entrance way. An offer had been made from Transcore to obtain this part of the verge and provide a piece of play equipment in return. It was agreed in principle subject to the provision of a detailed plan. The Parish Council viewed each request as a separate item and this would in no way set a precedent for any other property
Resolution 131015/11
- (c) A letter had been received from the Post Office regarding the re-siting of the Strensall Post office to Londis/Strensall Road Service Station and inviting comments. Residents can respond via the website or Sarah at the Library will assist
- (d) Foss Society Newsletters had been received and were distributed.

10 AGENDA ITEMS FOR NOVEMBER

- (a) Report on Ward meeting on 15th October
 (b) Freedom of Information Policy update
 (c) Organise the purchase and erection of Christmas trees
 (d) Cemetery
 (e) Traffic issues

There being no other business the meeting closed at 8.55pm. The next meeting to take place on Tuesday 10th November 2015 at 7.15pm

Signed..... 10th November 2015

STRENSALL WITH TOWTHORPE PARISH COUNCIL

CODE OF CONDUCT FOR COUNCILLORS

Introduction

Pursuant to section 27 of the Localism Act 2011, Strensall with Towthorpe Parish Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

Member obligations

You must declare a Personal interest if:-

1. You have a personal interest in any business of your authority where either—

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

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

- (ii) any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
 - (d) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
 - (xii) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (xiii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (e) a member of your family or any person with whom you have a close association; or

- (f) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (g) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

2. Where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
3. Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
4. Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Prejudicial interest generally

Subject to the above, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

You do not have a prejudicial interest in any business of the authority where that business—

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of—

- (i) this sub-paragraph does not apply to your authority;
- (ii) this sub-paragraph does not apply to your authority;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

Registration of interests

Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register all interests which fall within the categories set out in **the Appendix**.

6. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any interests in Appendix.
7. A member shall register any change to interests or new interests in the Appendix within 28 days of becoming aware of it.
8. A member need only declare on the public register of interests the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

Declaration of interests at meetings

9. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
10. Where a matter arises at a meeting which relates to an interest listed in standing orders or in the Appendix, the member shall withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting.
11. A member only has to declare his/her interest if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter before withdrawing. If he/she holds an interest in the Appendix which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.
12. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate, the member shall disclose the nature of the interest and withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Dispensations

On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest as described in Standing Orders if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

APPENDIX I

Unless they are interests prescribed by regulation for inclusion any interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
- (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which the member of the Council is a member or in a position of general control or management;
- (iii) any employment or business carried on by the member;
- (iv) any person or body who employs or has appointed the member;
- (v) any person or body, other than the Council, who has made a payment to the member in respect of his/her election or any expenses incurred by him/her in carrying out his/her duties;
- (vi) any person or body who has a place of business or land in the Council's area, and in whom the member has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between the member's Council and the member or a firm in which he/she is a partner, a company of which he /she is a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.
- (ix) any land in the Council's area in which the member has a beneficial interest;
- (x) any land where the landlord is the Council and the member is, or a firm in which the member is a partner, a company of which the member is a remunerated director, or a person or body of the description specified in paragraph (vi), is the tenant;
- (xi) any land in the Council's area for which the member has a licence (alone or jointly with others) to occupy for 28 days or longer.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure. You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they

have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.²

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

Complaint

Report to the Monitoring Officer, City of York Council, into complaints against Members of the Strensall with Towthorpe Parish Council (STPC).

From Rachel McKeivitt, appointed as Investigating Officer for this complaint by Andy Docherty, Monitoring Officer, City of York Council.

The Complaint referred for Investigation and Background

The background to this matter goes back several years, Mr and Mrs Harrison report that in 2007 they obtained permission from City of York Council for a vehicular crossing over a strip of land which is owned by City of York Council and is leased to Strensall with Towthorpe Parish Council (STPC). The strip of land provides a second access way to Mr and Mrs Harrison's property and allows for easier access for vehicles getting to and from their property. In August 2013 a Deed of Grant was given which gave a right of way over the strip of land for both pedestrian and vehicular access. Mr and Mrs Harrison have subsequently taken steps to develop some of their land and approached STPC for a Deed of Easement for services over the leased land. This request has been refused. as follows:

Mr and Mrs Harrison's complaint, which can be seen in full at Annex A which is attached to this report, can be broken down into 6 key areas:

1. Use of the words "profit through deception" in a letter from the Chairman of STPC, Councillor Marquis, to Hague and Dixon Solicitors defamed Mr and Mrs Harrison, has not resulted in an apology from STPC and amounted to a breach of the Code of Conduct.
2. Councillor Ralph Plant failed to declare an interest in Mr and Mrs Harrison's matter at a STPC monthly meeting on 11th August 2015.
3. STPC have failed to implement their Complaints Procedure.
4. Comments made at STPC's monthly meeting on 13th October 2015 in relation to a similar request for services made by Transcore in respect of land known as Sevenoaks demonstrated bias as there

was no lawful reason to refuse Mr and Mrs Harrison's request for services.

5. A letter of 9th September 2015 from STPC to Mr and Mrs Harrison exemplified the biased conduct of STPC.
6. There has been a failure to adhere to the Complaints Procedure/Code of Practice, as, in the view of Mr and Mrs Harrison, STPC have failed to act fairly.

I am only able to investigate allegations of breaches of the Code of Conduct. I am unable to investigate whether the Complaints Procedure or Code of Practice have been adhered to, therefore, this report will not contain findings in respect of the elements of Mr and Mrs Harrison's complaint numbered 3 and 6 above.

Relevant Provisions of the Code of Conduct

STPC's Code of Conduct states that it "is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership". The Code, which was adopted on 12th June 2012, and updated on 9th July 2015, which is attached to this report at Annex B states in relation to Councillors that:

- He/she shall behave in such a way that a reasonable person would regard as respectful.
- He/she shall not seek to improperly confer an advantage or disadvantage on any person.

STPC's Code of Conduct also deals with declaration of interests at meetings. It states:

- Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
- Where a matter arises at a meeting which relates to an interest listed in standing orders or in the Appendix, the member shall withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting.

- A member only has to declare his/her interest if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter before withdrawing. If he/she holds an interest in the Appendix which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.

The Investigation

In forming my views I interviewed the following people:

- The Complainants - Mr Graham and Mrs Mandy Harrison
- The Subjects of the Complaint –
 - Councillor Keith Marquis
 - Councillor Dennis Baxter
 - Councillor Duncan Hill
 - Councillor Tony Fisher
 - Councillor Chris Chambers
 - Councillor John Chapman
 - Councillor Lawrence Mattinson
 - Councillor Kevin Ogilvy
 - Councillor Geoffrey Harvey-Walker
 - Ms Cath Edwards
 - Councillor Judy Smith
 - Councillor Ralph Plant
 - Councillor Tracey Flannery did not respond to my letter inviting her for interview, nor did she attend the venue set up to hold the interviews, which took place on 15th March 2016. I have since tried to contact her by telephone and email and have received no reply.
- The Clerk of the Parish Council - Mrs Susan Nunn. Mrs Nunn wrote to the Monitoring Officer on 12th February 2016 acknowledging receipt of the complaint and asked, on instruction by all members who were complained of, to request an initial discussion on the matter between myself, the Monitoring Officer, the Chairman, Keith Marquis and Susan Nunn as the Proper Officer, representing the Parish Council. This meeting took place on 19th February 2016 at West Offices. The Monitoring Officer was not present during this meeting.

Documents which were considered

- a) The complaint submitted by Mr and Mrs Harrison, along with the following supplementary documents, which were enclosed with the complaint:
 - a. Minutes of STPC monthly meeting of 11th August 2015.
 - b. Letter from Chairman of STPC to Hague and Dixon Solicitors dated 11th August 2015.
 - c. Letter from Chairman of STPC to Mr and Mrs Harrison dated 9th September 2015.
 - d. Email from Mr and Mrs Harrison addressed to Mr Marquis dated 10 September 2015.
 - e. Email from Mrs Harrison addressed to Mr Gray (City of York Council) dated 21 September 2015.
 - f. Minutes of STPC monthly meeting of 13th October 2015.
 - g. A copy of a transcript of notes taken, at the STPC monthly meeting on 13th October 2015, by Mrs Harrison.
- b) Lease dated 4th January 1996.
- c) STPC Meeting Notes from a meeting with Mr and Mrs Harrison, former Councillor Peter Jesse, Councillor Marquis, Councillor Chambers and the Parish Clerk dated 14th November 2011.
- d) Email from Mrs Harrison to DWF Solicitors dated 15th November 2011.
- e) Email from Mr and Mrs Harrison to Susan Nunn dated 17th August 2015 and Susan Nunn's reply dated 21 August 2015.
- f) Letter from Mr and Mrs Harrison to Susan Nunn dated 26th August 2015.
- g) Letter from Susan Nunn to Mr and Mrs Harrison dated 28th August 2015.
- h) Email exchanges between Mr and Mrs Harrison and Susan Nunn dated 11th September 2015.
- i) Minutes of STPC Planning Committee dated 23rd February 2016.
- j) Minutes of STPC monthly meetings for 2015 to date.

Interviews with Complainants and those who were the subject of the Complaint

Councillor Marquis and Susan Nunn

I met with Councillor Marquis and Susan Nunn, the Parish Clerk at their request on 19th February 2015. I went through the complaint, my role in the matter and I also asked a series of questions at this meeting to gain an understanding as to the history of the matter. I asked to speak to all of the Councillors who were the subject of the complaint, I was told that the persons concerned would only speak with me in the presence of the Clerk.

Susan Nunn told me that ahead of any monthly meeting she would send out to all Councillors the agenda and also any other relevant documents needed for each meeting, including different “outcome” draft letters for any requests requiring consideration at meetings. I was told that this was to “cut down on time”. In relation to the meeting of 11th August 2015, Susan Nunn confirmed that a draft letter agreeing to the request and one refusing the request (containing the wording “profit through deception”) had been sent out to all of the Parish Councillors before the meeting. I asked about where the words “profit through deception” came from, Susan Nunn said it had been said by someone at a previous Parish Council meeting, she was unable to recall exactly when it had been said, but said that the term “fitted the occasion”. Susan Nunn told me that in 2011 there was a meeting with Mr and Mrs Harrison, she said that at that meeting it was denied the reason for the second entrance was in order to build a house on the land, however, she said that all those present at the meeting suspected that was not the case. Councillor Marquis confirmed that in his view, “profit through deception” was what Mr and Mrs Harrison were seeking to do.

I was told that the Parish Council and Councillor Plant in particular accepted that he should have declared an interest at the meeting of 11th August 2015, but had not. I was told that he had declared an interest at previous meetings concerning The Firs, but it had been an oversight on this occasion.

I asked Councillor Marquis about the letter signed by him in his capacity of Chairman to Mr and Mrs Harrison dated 9th September 2015, in particular use of the words “illegally constructed”. Councillor Marquis said that at the time of the meeting in November 2011 which he was

referring to within the letter of 9th September 2015, there was no deed of grant in place, therefore, in his view, because there was no legal authority for the second access, at that time it was what he would deem an illegal construction.

I have established that this letter was written after a “closed meeting” on 8th September 2015, which took place after the monthly meeting on 8th September 2015 and that as a result of the “closed meeting” the letter of 9th September 2015 was drafted and signed by Councillor Marquis on behalf of STPC. Mr Marquis told me that the closed session had been arranged to discuss, correspondence from Mr and Mrs Harrison, including their letter of 26th August 2015. Councillor Marquis stated that the letter was a 5 page complaint which the Parish Council had received. He stated that the letter threatened “all kinds of actions”, which is why STPC felt is appropriate to discuss The Firs at a closed session. He confirmed that after this meeting, the Parish Council felt that the matter was then closed.

I asked about Sevenoaks, which is a development not far from The Firs in Strensall. The reason I asked about Sevenoaks is because I understand that services had already been installed by Transcore over land owned by the City Council which is leased to STPC without permission from STPC. Mr and Mrs Harrison have referred to the Sevenoaks development as part of their complaint as they believed STPC had granted permission for the services to be installed at Sevenoaks, therefore, there was no lawful reason to refuse their request for services. I was told that the matter was ongoing, no decision had been made and the matter was still “open”. Susan Nunn confirmed that City of York Council as Landlord would also need to be consulted for their comments, this is in accordance with their Lease. I understand that since my meeting with Councillor Marquis and Susan Nunn, City of York Council have confirmed that the services need to be relocated and the land reinstated.

Mr and Mrs Harrison

I met with the complainants, Mr and Mrs Harrison on 8th March 2016. They confirmed that their involvement with STPC started in 2007. They provided me with minutes of a meeting which took place on 14th November 2011 and also an email they sent to their Solicitor after the meeting had taken place. They told me that they had asked STPC on 8th May 2015 for permission for services to be brought across the land concerned. They said that the Clerk wrote back on 13th May 2015 to say

that they had missed the cut off for the May meeting, therefore, the request would be considered at the meeting on 9th June 2015. At the meeting on 9th June 2015, their request was refused. I was told that STPC confirmed this in writing. Mr and Mrs Harrison said that they first heard of the comment “profit through deception” as a result of seeing the letter the Chairman of STPC had sent to Hague and Dixon Solicitors.

Mrs Harrison confirmed that she attended the meeting on 13th October 2015. She confirmed that the notes which were attached to the complaint were her notes which she had typed up from hand written notes made at the meeting. Mrs Harrison explained to me what some of the notes meant and the format she had put the notes into.

Councillor Interviews

I have had difficulties in conducting the Councillor interviews. I was initially told that the Councillors would meet with me, but with the Clerk present, which I was happy to do. I was then told that the Councillors would not speak with me. When I was informed that the Councillors would not speak with me, I wrote to all involved on 11th March 2016 advising that I was available to meet at a time to suit them on 15th March 2016. I advised that if I did not hear from the individuals concerned by 18th March 2016 then I would presume that individuals did not wish to discuss the matter with me and I would then conclude my investigation. After I had sent the letter, the Clerk contacted me to say that the Councillors would speak with me and she arranged appointments for me to speak with each person concerned who wanted to speak with me. Councillor Tracey Flannery did not attend the meeting, nor has she been in contact with me. I have recently been given her mobile and landline telephone number and also her email address. I have tried to contact her through all of these means, but to no avail.

I met each Councillor at what I would describe as “back to back” meetings on 15th March 2016. Each Councillor requested that their interview took place in the presence of either the Clerk or Councillor Marquis. My questions centred around the key events within the complaint, including the meeting on 11th August 2015, the letter sent on 11th August 2015, the meeting on 13th October 2015 and the letter of 9th September 2015. I ensured at the outset that each person was aware of the complaint, that they had seen a copy, that they could ask questions at the end of the interview and I also provided a copy of all of the key documents which formed part of the complaint, so that all those interviewed had the chance to read through the document being

discussed to refresh their memory and assist them. I explained to each person what each document was. I asked every person I interviewed whether they had seen and were aware of the Code of Conduct. All those interviewed confirmed they had seen the Code and were aware of it. I made notes of responses given to each of the questions I asked. I have set out below an overview of each interview, they have been written in the order that I carried out each interview.

My difficulty in this particular investigation has been in relation to the Councillors' recollection of meetings, letters and events. I did receive a lot of responses to my questions of "cannot recall", but have set out below a brief overview of the relevant responses to questions asked.

Councillor Chambers

Councillor Chambers confirmed that he was not present at the meeting on 11th August 2015 and told me that he did not recall seeing a copy of the draft letter of 11th August 2015, although he could have seen it and not noted it. I asked him about the words "profit through deception", Councillor Chambers said that he thought those words had been used at a previous meeting, which had taken place possibly a month or so before the 11th August 2015 meeting. When I asked him who had drafted the letter, he said he would have thought that it would have been the Clerk, perhaps with others.

I asked Councillor Chambers about the letter of 9th September 2015. Councillor Chambers said that he probably could have had an input into the letter, it could have been circulated and he could have been asked to comment, but could not remember exactly, although he did recall that he'd seen it before.

Councillor Chambers confirmed that he was the Chair at the meeting of 13th October 2015. In relation to the point regarding setting a precedent for any other property, Councillor Chambers said that it was probably fair to say that it could have been reference to "The Firs", although he could not recall the words "The Firs" specifically being used during the meeting. He confirmed that the Parish Council would deal with each request as an individual case. He said that he was aware that someone was making notes at the meeting on 13th October 2015.

Councillor Fisher

Councillor Fisher confirmed that he was at the meeting on 11th August 2015. He said that he had seen a copy of the letter of 11th August 2015 as it was sent to him by way of email. Councillor Fisher was clear that the content of the letter of 11th August 2015 was, to quote his words “my view”. When asked about the phrase “profit through deception” Councillor Fisher said that the phrase may have been used before, he did not recall the entire phrase being used, and added that “the Harrison’s were”.

I asked Councillor Fisher about his reasons for refusing the request in relation to The Firs, he said that the Parish Council as Tenants had the right to refuse the request, he said that he had discussed the case with other Councillors who had been Councillors prior to him becoming a Councillor and that it was clear that the reasons given by Mr and Mrs Harrison were not “genuine, truthful reasons”.

I asked Councillor Fisher about the letter of 9th September 2015. He said that he had seen the letter but had had no involvement with its preparation, but was of the view that there was nothing in that letter that he would disagree with.

I asked Councillor Fisher about the request made by Transcore at the meeting on 13th October 2015 and how this differed from the request made in relation to The Firs. He said that he would deal with each request as a separate situation. He couldn't recall whether The Firs was specifically mentioned at that meeting.

Cath Edwards

Cath Edwards told me that she resigned from the Parish Council in October 2015. She said that she was not at the meeting of 11th August 2015 and that she did not use email to receive her correspondence from the Parish Council, that she received all documentation by post. Cath Edwards confirmed that she did not attend the meeting of 13th October 2015. She had nothing further to add in relation to this matter.

Councillor Mattinson

Councillor Mattinson confirmed that he was present at the meeting on 11th August 2015. He said that he did not see a copy of the letter signed by the Chair, but that it was read out in the meeting. In relation to the

letter, Councillor Mattinson said that at the time of the meeting he was in agreement with the letter. He then made reference to a previous meeting on 14th July 2015 and section 5(d) of that meeting which read “The Clerk reported that she had written to the Solicitors acting for Mr and Mrs Harrison to convey the refusal for the Deed of Easement. A letter from City Council confirming their support of that decision had also been received”. Councillor Mattinson told me about a meeting which took place on 28th August 2015 where he says it became apparent that Mr Marsden (the developer) and Mr Harrison worked together. He said that he did not know why the Solicitors did not identify this issue at the time, there was negligence on the part of the Solicitors. He said that City of York Council also objected and when Mr and Mrs Harrison got approval for a second access they now had decided that they wanted to sell the land. He referred to it as a “strange series of events”.

I asked about Councillor Mattinson’s reasoning for refusing the request for services, he said that the Chairman gave him a history of the background to the case, that Mrs Harrison had previously attended a meeting and was in tears and that a caravan was mentioned. He said that he understood that someone was in ill health and that the matter had a “long history”.

I asked Councillor Mattinson about the correspondence dated 9th and 10th September 2015 between STPC and Mr and Mrs Harrison. He said that the email looked in his view to have been put together by a solicitor due to its legal wording. He said that it was “inappropriate” and “unprofessional”. In relation to STPC’s letter of 9th September 2015, he said it looked to him like they had acted in good faith but couldn’t recall seeing the letter or any input or involvement in it.

With regards the meeting on 13th October 2015, Councillor Mattinson said that he recalled a discussion about the Transcore request, he said that the Firs was not discussed at the meeting. He could not say if Mrs Harrison’s notes were accurate or not. I asked him about the note which Mrs Harrison had made with regards to “Matteson wasn’t on agenda – not familiar – would like to see a drawing of it”. He said that he was not familiar with the site, there was no drawing, he said that he had not looked at the area discussed and still does not know what it is or involves.

When I concluded the interview, I asked Councillor Mattinson if he had anything he wanted to add, he said that the owners and the employer got so far, either they did not have solicitors, or their solicitors did not

bring things to their attention. In his view, the Parish Council had acted responsibly in all issues.

Councillor Plant

Within their complaint, Mr and Mrs Harrison state that Councillor Plant failed to declare an interest, namely that he is a neighbour of theirs and also that he was a signatory to the lease which includes the land which was the subject of the request for the deed of easement.

Councillor Plant told me that he had been a Parish Councillor for 26 years and had no interest in what his neighbours did. He accepted that he had failed to declare an interest at the meeting on 11th August 2015, he said that it was the first time he had failed to declare an interest when he felt he should have at a meeting. I asked him about the decision relating to The Firs, he said that it was a unanimous decision, therefore, his vote would have made no difference to the decision. He confirmed that he had voted at the meeting, but he was clear that he recalled that it was a unanimous decision. Councillor Plant said that he accepted his error, but said that it was a “technical error”.

I asked Councillor Plant about the letter of 9th September 2015. He said that he had not seen it and wouldn't expect to have, as there is a Chairman and a paid Clerk, as a member he said he did not expect to be involved in the drafting of a letter, the purpose of the letter had been accepted by the Parish Council.

Councillor Plant confirmed that he attended the meeting on 13th October 2015. He said that he declared an interest at this meeting because he lives on the same Lane, he again said that on 11th August 2015 he had made an error. He said that he had never been involved in any changes to the houses in Lord Moors Lane for 20 years as he had never wanted to upset his neighbours. He said that he didn't know his neighbours and did not want to get involved in legal processes. I asked Councillor Plant about the hand written notes of Mrs Harrison from the meeting on 13th October. He said that the notes where reference is made to him saying “go ahead” were “not true”.

Councillor Smith

Councillor Smith couldn't recall the 11th August 2015 meeting in particular, she said that she had only started in the May so things were “new to me”. She said it was a “learning curve for me”. She confirmed

that the letter which was approved at that meeting was read out at the meeting. In relation to the wording of the letter, Councillor Smith said as far as she knew the wording had come up at the meeting, but she couldn't remember who suggested the specific words. She said that everyone agreed with it. I asked Councillor Smith about her reasons to refuse the request for services made at that meeting, she said that she had been on the Parish Council 6 years ago, she knew some of the background, she said she was surprised that the matter was still being discussed.

In relation to the letter of 9th September 2015, Councillor Smith said that she had not seen the letter of 9th September 2015, nor could she recall any input or involvement in it.

Councillor Smith confirmed that she was present at the meeting on 13th October 2015. I asked her about Mrs Harrison's notes. She recalled the discussions regarding Mr Bolton's pathway, she confirmed that she has said that she was happy to approve this, she said that he brought a laptop along to show the improvements made to the drive. She said that in relation to Seven Oaks, she did not say "no dyke". I asked Councillor Smith if the words "The Firs" were used at all during that meeting. She said she couldn't recall.

Councillor Hill

Councillor Hill informed me at the outset of the interview that he was going to record the interview on his mobile phone. I said I did not object to this. I took him through the documents and he raised the fact that the copy of the documents he had received did not have a 2nd page in relation to the minutes of the meeting of 11th August 2015. I showed him the document in full and allowed him the time to read through it.

I asked him about the meeting on 11th August 2015 and the letter of the same date, he said he couldn't recall seeing the letter which was approved for signature by the Chairman. He said that if his memory serves him correct it was a long dispute, he couldn't remember a lot about the meeting. I asked if he knew who drafted the letter. He said he was not sure, Sue Nunn or Keith Marquis and that it could have been a joint thing. He explained that words were banded about and put into a letter.

I asked Councillor Hill about his reasons to refuse the request. He said that he was aware that it was the 2nd or 3rd meeting about the matter, he

had a brief discussion with Councillors about The Firs, he obtained a quick history about what had happened and was aware it had been going on since 2011.

I asked Councillor Hill whether he was involved or had any input into the letter of 9th September 2015. He confirmed he did not recall any involvement.

Councillor Hill confirmed that he was present at the meeting on 13th October 2015. I asked him about how the decisions made in that meeting differed from The Firs decision. He said that Sevenoaks was a bad corner and he was concerned about road safety. He said that they had been “straight up” about it, but The Firs had not been. He said that the requests were totally different. I asked about what Councillor Hill thought was meant about viewing each request as a separate item and not setting a precedent for any other property. He said it meant to assess each case as it comes in and being upfront with the Parish Council. He said that The Firs wasn’t upfront.

I showed Councillor Hill Mrs Harrison’s notes. I asked him if he had any comments to make about them. He said that she was putting her own slant on things, he said he didn’t feel it was a good way of putting a complaint in. I asked if The Firs, so far as he could recall, was specifically mentioned at the meeting, he said he thought between two Councillors, but not in public.

I asked Councillor Hill if he had anything further he wanted to say. He said that it was a long standing dispute and it was the 2nd or 3rd meeting. He said that he would like closure on the matter, he felt that it was clutching at straws on behalf of the Harrisons. He said that the letter was correct and had his “full backing”.

Councillor Ogilvy

Councillor Ogilvy confirmed that he was present at the meeting on 11th August 2015. He said he could recall the comment “profit through deception” being said and thought it wasn’t right. Councillor Ogilvy wouldn’t name the Councillor he claimed said the comment, but said that he saw that Councillor Marquis had a word with that Councillor after the meeting. I asked whether Councillor Ogilvy had seen the letter of 11th August 2015. He said that he had not seen the letter, although he later said that the letter could have been put on the screen as there is a facility during these meetings to do this. He said he was half asleep, as

he had been at work. I asked Councillor Ogilvy about the views within the letter of 11th August 2015 being those of the entire Parish Council. He said that they were not the views of the full Parish Council. He said that he could remember the comment being made and someone saying don't get into trouble it is The Firs.

I asked Councillor Ogilvy about his reasoning for refusing the request, he said there was a history of the situation which he knew about.

I asked about the letter of 9th September 2015, Councillor Ogilvy said that he could have seen the letter had it been on a screen, he didn't really seem to be able to recall it with certainty.

Councillor Ogilvy said that he was at the meeting on 13th October 2015. He said that he judges every case individually. He had no comments to make regarding Mrs Harrison's notes and did not recall whether the words "The Firs" were used at all during that meeting.

Councillor Chapman

Councillor Chapman confirmed that he was not at the meeting on 11th August 2015. He said that he may have seen the letter of 11th August 2015, but was not 100% sure of this. Councillor Chapman said that the phrase "profit through deception" had been a recent statement of someone from a meeting.

With regards the letter of 9th September 2015, Councillor Chapman said he had no input or comments were made in relation to this letter.

Councillor Chapman said that he did not attend the meeting on 13th October 2015. He had no input into any of the decisions made at the meeting. I mentioned Mrs Harrison's notes and Councillor Chapman said that it was not Yorkshire Water but Morrisons workmen whom he had seen. He said that the men were not aggressive at all. He said that they were sitting in the van sorting things out so the comment with regards aggression was not a true account as to his encounter with them.

Councillor Harvey-Walker

Councillor Harvey-Walker told me that he had been away in Europe for July and August so had not attended the 11th August 2015 meeting. He was not involved in any way in the 11th August 2015 letter due to him

being out of the country. He couldn't recall the 9th September 2015 correspondence.

He confirmed that he was at the meeting on 13th October 2015. Councillor Harvey-Walker vaguely remembered the discussions, but couldn't remember what exactly was said at the meeting, he also couldn't recall seeing Mrs Harrison's notes before. He did say that The Firs was not specifically mentioned at the meeting.

Councillor Baxter

Councillor Baxter confirmed he was at the meeting on 11th August 2015. He said that letters are put onto a screen and then the Parish Councillors can look at the letters and make comments on them. He said that the comment "profit through deception" originated from the letter of 11th August. I asked Councillor Baxter about his reasons for refusing the request. He said that he had been on the Parish Council a long time and knew that the land was common land.

I asked Councillor Baxter about the letter of 9th September 2015. He said that he usually gets all copies of letters. He said he was not involved in any input or recalled any involvement in the letter of 9th September 2015.

Councillor Baxter confirmed that he was present at the meeting on 13th October 2015, he did not know what was meant by setting a precedent for any other property and he said that he did remember during that meeting using the words "The Firs".

I asked Councillor Baxter about Mrs Harrison's notes, in particular the comments she has noted that were made by him. He admitted saying "should have been sorted out before – no different to other case – if we give permission for one – rod for back – could be expensive" and "not sticking up for man – rod for own back". He said that in his view if Sevenoaks had been allowed it would be "double standards". He said that he was not sticking up for Mr Harrison, and alleged that a man he believed to be Mr Harrison had verbally abused him in the street previously.

Finding and conclusion

As previously stated, I am not concerned with investigating the allegation of failure to implement the complaints procedure or the code of practice

that is not within the remit of my role in this investigation, I am concerned with allegations of breaches of the Code of Conduct only.

Letter of 11th August 2015 – “Profit through Deception”

The letter of 11th August 2015 was distributed to the Parish Council as a draft decision letter prior to the meeting which took place on 11th August 2015. However, the final decision as to whether the letter was to go out and its final version was decided at the monthly meeting on 11th August 2015. It is clear that Councillors Chambers, Chapman, Flannery and Edwards were not in attendance at this meeting, therefore, I find no breach of the Code of Conduct in regard this letter against them. In addition, Councillor Harvey –Walker also was not present, although his apologies were not recorded. I find also in respect of him that there was no breach of the Code of Conduct in respect of this letter.

The minutes of the monthly meeting state that the Parish Council “voted unanimously” to refuse the request. The letter, containing the words “profit through deception” was then approved by those in attendance at the monthly meeting and signed by the Chairman. It appears during the course of my investigation that there is a belief amongst the Parish Council that Mr and Mrs Harrison intended at the time the Deed of Grant was granted to then sell the land for development purposes, however, I have found no evidence of this.

I find that a reasonable person would find such a comment disrespectful. I also find that without any evidence of deception on the part of Mr and Mrs Harrison, that this comment could and has improperly conferred a disadvantage to them. In relation to this strand of the complaint, I find that Councillors Marquis, Plant, Baxter, Hill, Fisher, Mattinson, Ogilvy and Smith are all in breach of the Code of Conduct.

Failing to declare an interest at the meeting on 11th August 2015

Mr and Mrs Harrison have raised within their complaint that Councillor Plant is one of the Parish Councillors who signed the Lease on 4 January 1996. Councillor Plant’s failure to declare that he was a signatory to the Lease does not, in my view, amount to a personal interest which would require declaration. I am required to look at whether a personal interest had to be declared under any circumstances at that meeting and note that Councillor Plant accepted that he had failed to declare an interest at the meeting on 11th August 2015. He said that he had no interest in his neighbours but felt that he did not want to be involved in changes to houses on the street where he lives. He said

that he did not know Mr and Mrs Harrison, therefore, it cannot be said that they fall within the definition of “friend, relative or close associate”. However, this could be a decision which might reasonably be regarded as affecting Councillor Plant’s well-being, which would give rise to a declaration of a personal interest. A decision such as granting access for services on a development on land on the street where Councillor Plant lives could, in my view, affect Councillor Plant’s well-being and as such I find that Councillor Plant’s failure to declare an interest is a breach of the Code of Conduct. Councillor Plant did vote on the request concerning The Firs, his view was that as the vote was unanimous, whether he had voted or not, it would not have affected the decision.

Bias and no lawful reason to refuse request

As part of this investigation, I have considered minutes of various STPC meetings. As part of this strand of Mr and Mrs Harrison’s complaint, the request made by Transcore in relation to Sevenoaks (which was considered on 13th October 2015) has been given as an example of bias and to demonstrate that there is no lawful reason to refuse the request made for The Firs. I cannot change the decision made in relation to the request made relating to The Firs, nor any other similar request, including Sevenoaks. The minutes of the meeting on 13th October 2015 indicate that the Sevenoaks request was “agreed in principle subject to the provision of a detailed plan”. The minutes go on to say “the parish council viewed each request as a separate item and this would in no way set a precedent for any other property”.

Since this meeting, City of York Council, as landowners, have considered the Sevenoaks request and have informed Transcore that the services at Sevenoaks must be relocated and the land reinstated. The minutes of STPC’s Planning Committee Meeting on 23rd February 2016 confirm this. Despite the subsequent decision of City of York Council, which effectively renders Sevenoaks in the same position as The Firs, I have to consider whether Councillors acted improperly when The Firs request for services was considered. It could be said that Transcore were in a more difficult position in relation to their request, they had already installed the services without approval, whereas it could be said that Mr and Mrs Harrison had worked with STPC and sought approval before any works started. Despite this, it appears that STPC were willing to approve the request made by Transcore, despite rejecting Mr and Mrs Harrison’s request. Councillor Baxter expressed his concerns to me during our interview as to this decision and

confirmed some of the notes made by Mrs Harrison which she took at the meeting on 13th October 2015.

Regardless of the position of City of York Council which has changed the decision made in respect of Sevenoaks, it does appear to me that The Firs was rejected because of a belief, even though I have found no evidence to support this belief, that there was some sort of deception taking place.

I have also looked to the minutes of the monthly meeting which took place on 9th June 2015 which deals with Mr and Mrs Harrison's request for services across the leased land, the reason within the minutes given by STPC to refuse this request was "the original Deed of Grant was given for a specific purpose". In my view, I cannot see the relevance in considering this request of the purpose of the Deed of Grant, this request which was made in June 2015 was a new request for services to be brought across the land. The minutes of this meeting, as with the meeting the following month state that this was a unanimous decision. I have also considered the further request for services over the leased land relating to The Firs was again made the following month by solicitors acting for the developer. Again, the minutes state that STPC unanimously rejected the request.

I find that these decisions and the reasons for making the decision has led to a disadvantage being conferred upon Mr and Mrs Harrison, which has been to their disadvantage. As I have previously stated, I can find no evidence to support the belief of STPC of an intention on the part of Mr and Mrs Harrison to "profit through deception". I also find that the decisions made were not made in the spirit of some of the principles which form the basis for the Code of Conduct, namely in relation to selflessness, integrity, objectivity, accountability and openness. On that basis I find that those Councillors involved in the decisions made on 9th June 2015 and 11th August 2015 are in breach of the Code of Conduct in respect of this strand of Mr and Mrs Harrison's complaint. Councillors Marquis, Plant, Chapman, Chambers, Harvey-Walker, Baxter, Ogilvy, Smith, Flannery and former Councillor Edwards in respect of the decision made on 9th June 2015 and Councillors Marquis, Plant, Baxter, Hill, Fisher, Mattinson, Ogilvy and Smith in respect of the decision made on 11th August 2015.

Maladministration, prejudice and bias of Councillor Marquis, in particular in relation to the letter of 9th September 2015

The letter of 9th September 2015 appears to have been sent after a “closed meeting” regarding The Firs which took place after the monthly meeting on 8th September 2015. Mr and Mrs Harrison make reference to Councillor Marquis’ maladministration, prejudice and bias within this letter, although I was told during my interviews that those Councillors at the closed meeting approved the letter which was sent out, Councillor Marquis merely signed it in his capacity of Chair of the meeting, therefore, I have to consider all of those Councillors present at the closed meeting when considering whether a breach of the Code of Conduct has occurred.


This strand of Mr and Mrs Harrison’s complaint centres around the wording of the letter. I have read the letter and what I do note is that STPC appear to be referring to matters which are not of relevance to the recent request, such as matters in 2011 and also the death of Mrs Harrison’s father. I would also suggest that perhaps in future letters of this kind, STPC should refer the member of the public to the Code of Practice or Complaints Procedure as good practice, but these 2 factors alone do not amount to, in my view, a breach of the Code of Conduct. What I have considered however, is the penultimate paragraph of the letter which reads “The Parish Council, with the support of the City of York Council are not prepared to permit any Deed of Easement to allow you to profit from the erection of a new property, accessed in this way. The Parish Council feel that you misled them in order to achieve your wish to profit from providing a building plot made accessible by the second structure.” I find that this paragraph of the letter does not accord with the principles of the Code of Conduct in respect of objectivity, openness or honesty. I also find that such a comment could be deemed disrespectful to a reasonable person and also improperly confers a disadvantage upon Mr and Mrs Harrison. On that basis, I find that those who attended this meeting, and approved this letter, namely Councillors Marquis, Plant, Baxter, Hill, Fisher, Chambers, Chapman, Mattinson, Ogilvy and Flannery in breach of the Code of Conduct in respect of this strand of Mr and Mrs Harrison’s complaint.

Rachel McKevitt
8th June 2016

Annexes

Annex A – Complaint made by Mr and Mrs Harrison (pages 21 to 41)
Annex B – STPC Code of Conduct for Councillors – Adopted 12th June 2012, updated 9th July 2015 (pages 43 to 50)

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| City of York Council Standards Committee |  |
| Pre Hearing checklist | |
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| Complainant | |
| Subject Member | Councillor |
| Investigating Officer | |
| | |
| Do you intend to attend the proposed hearing to give evidence or make representations | |
| Yes | |
| Do you wish to be represented at the hearing by a solicitor, barrister or another person.¹ | |
| No | |
| If so by who? | |
| <i>Name of representative and capacity in which they act: e.g. solicitor, friend, fellow Councillor</i> | |
| Do you wish the whole or any part of the hearing to be in private? | |
| No | |
| If yes please explain why² | |

¹ Although there has to be a degree of formality to the proceedings of the committee it will be unusual for subject members to be represented. The procedure is not adversarial. The Committee will act in an inquisitorial manner to ensure that the circumstances of the case are fully understood.

² The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.


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| Do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public? |
| <i>No</i> |
| If yes please explain why³ |
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| Do you disagree with any of the <u>facts</u> found by the investigating officer as set out in his her report? |
| <i>No</i> |
| If yes please set out briefly the facts that you dispute and your view as to the true factual position |
| |

³ The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

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| Do you believe that witnesses should be called to the Hearing |
| Yes |
| If yes please identify the witnesses who you wish to be called and briefly identify the issues that they will be able to give evidence about⁴ |
| <p>Councillors Marquis, Plant, Flannery, Chapman, Chambers, Harvey-Walker, Baxter, Hill, Fisher, Mattinson, Ogilvy and Smith as well as former Councillor Edwards who have in Rachel McKeivitt's judgment been found in breach of the STPC Code of Conduct in respect of all of the specific issues set out in Rachel's report.</p> <p>The degree of 'corporate amnesia' on crucial issues such as the use of the words 'profit by deception' in a letter from the Chairman of STPC, Councillor Marquis, to Hague and Dixon Solicitors which we believe defamed us, and has not resulted in an apology from STPC needs further enquiry on oath. Our recollection of events could not be clearer and nor could the crippling consequences of STPC's use of defamatory words and their decision making generally: not only have we lost the sale of our building plot, the letter containing defamatory remarks was sent to solicitors for Graham's employer, we have had to apply for fresh planning permission for an eco-property and incur significant attendant expense including survey reports into ground source heat and borehole water etc. The stress has been overwhelming at times. STPC need to realise that their decision making has real consequences for real people and Rachel's evidence confirms our view that there is a degree of incompetence that should be held to account.</p> |

⁴ The Monitoring Officer and Chair will consider whether any witnesses you name are likely to be able to give evidence which will be of value to the Hearing Panel. If they are then those witnesses will be invited to attend. The Panel cannot compel the attendance of any witness.

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| City of York Council Standards Committee |  |
| Pre Hearing checklist | |
| | |
| Complainant | Mr & Mrs Harrison |
| Subject Member | Councillor |
| Investigating Officer | Rachel McKeivitt |
| | |
| Do you intend to attend the proposed hearing to give evidence or make representations | |
| Yes | |
| Do you wish to be represented at the hearing by a solicitor, barrister or another person.¹ | |
| Yes | |
| If so by who? Mrs Susan Nunn | |
| <i>Name of representative and capacity in which they act: e.g. solicitor, friend, fellow Councillor</i> Parish Clerk Mrs Susan Nunn | |
| Do you wish the whole or any part of the hearing to be in private? | |
| Yes | |
| If yes please explain why² As the complainants have indicated that they intend to progress this issue through the courts it is believed that comments made in open proceedings could be misconstrued and used as evidence against both the Parish Council and City of York Council. | |

¹ Although there has to be a degree of formality to the proceedings of the committee it will be unusual for subject members to be represented. The procedure is not adversarial. The Committee will act in an inquisitorial manner to ensure that the circumstances of the case are fully understood.

² The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.


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| Do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public? |
| Yes |
| If yes please explain why³ |
| As the complainants have indicated that they intend to progress this issue through the courts it is believed that comments made in open proceedings could be misconstrued and used as evidence against both the Parish Council and City of York Council. |
| Do you disagree with any of the <u>facts</u> found by the investigating officer as set out in his her report? |
| Yes |
| If yes please set out briefly the facts that you dispute and your view as to the true factual position |
| <p>The report by the Investigating Officer appears to be biased towards information provided by the complainants and takes little account of the circumstances of this long running saga which were explained to the Investigating Officer.</p> <p>The process taken by the Investigating Officer did not include investigation as to why the actions were taken by the Parish Council over the period since unauthorised construction of an access road from Lords Moor Lane to The Firs in December 2007.</p> <p>A time line of events associated with this issue has been kept and extracts will be provided to the Monitoring Officer.</p> <p>Parish Councillor A. K. Marquis (Chairman)</p> |

³ The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

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| Do you believe that witnesses should be called to the Hearing |
| Yes |
| If yes please identify the witnesses who you wish to be called and briefly identify the issues that they will be able to give evidence about⁴ |
| Mr K D Marsden |

⁴ The Monitoring Officer and Chair will consider whether any witnesses you name are likely to be able to give evidence which will be of value to the Hearing Panel. If they are then those witnesses will be invited to attend. The Panel cannot compel the attendance of any witness.

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| City of York Council Standards Committee |  |
| Pre Hearing checklist | |
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| Complainant | Mr and Mrs Harrison |
| Subject Member | Councillor |
| Investigating Officer | R McEvitt |
| | |
| Do you intend to attend the proposed hearing to give evidence or make representations | |
| Yes | |
| Do you wish to be represented at the hearing by a solicitor, barrister or another person. | |
| Yes | |
| If so by who? | |
| <i>Name of representative and capacity in which they act: e.g. solicitor, friend, fellow Councillor</i> <i>Mrs S Nunn, Clerk to Strensall with Towthorpe Parish Council</i> | |
| Do you wish the whole or any part of the hearing to be in private? | |
| Yes | |
| If yes please explain why | |

As the complainants have indicated that they intend to progress this issue through the courts it is believed that comments made in open proceedings could be misconstrued and used as evidence against both the Parish Council and City of York Council.

Do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public?

No

If yes please explain why

Do you disagree with any of the facts found by the investigating officer as set out in his her report?

Yes

If yes please set out briefly the facts that you dispute and your view as to the true factual position

1. Page 5. Third Paragraph. Missing Facts. The report states that the Harrison's involvement with STPC started in 2007. The first piece of documentary evidence provided by the complainants is from 2011. There is no attempt in the report to enquire as to what happened in the intervening four years, or any evidence that the Investigating Officer sought out what STPC might have been doing during that period or to see whether there was any correspondence during that period between STPC and the complainants.
2. Page 13. First Paragraph. The report states "It appears during the course of my investigation that there is a belief amongst the Parish Council that Mr and Mrs Harrison intended at the time the Deed of Grant was granted to then sell the land for development purposes, however, I have found no evidence of this. " The Investigating Officer did not ask for any evidence. The allegation of no evidence is then repeated in the second paragraph.
3. Page 14 First Paragraph. The report states " it appears that STPC were willing to approve the request made by Transcore, despite rejecting Mr and Mrs Harrison's request." This is not true. STPC were not willing to approve the use of their leased land for utilities, which is the root of the complaint. Subsequent actions and a wealth of documentary evidence prove this.
4. Page 14. Second Paragraph. The Report states "Regardless of the position of City of York Council which has changed the decision made in respect of Sevenoaks, it does appear to me that The Firs was rejected because of a belief, even though I have found no evidence to support this belief, that there was some sort of deception taking place. Firstly, the position of STPC has not changed over Sevenoaks and secondly, STPC has taken a consistent line with all cases of alleged trespass over its leased land. There is a wealth of documentation to support this.
5. Page 14. Third Paragraph. The report states: I have also looked to the minutes of the monthly meeting which took place on 9th June 2015 which deals with Mr and Mrs Harrison's request for services across the leased land, the reason within the minutes given by STPC to refuse this request was "the original Deed of Grant was given for a specific purpose". In my view, I cannot see the relevance in considering this request of the purpose of the Deed of Grant, this request which was made in June 2015 was a new request for services to be brought across the land. The statement in the minutes concerning the purpose for the original Deed of Grant is true and therefore any change would confer legitimacy on a situation which had been disputed by SPTC and over which hung the threat from the Harrison's of legal action. None of these facts are mentioned in the Report.
6. Page 14. Fourth Paragraph. The Report finds a breach of the STPC Code of Conduct in respect of selflessness, integrity, objectivity, accountability and openness. Had the decision of SPTC at that meeting been to grant the request, exactly the same criticism could be levelled, particularly in terms of objectivity, accountability and integrity. By granting the request SPTC could be seen to have been capitulating to the threat of legal action and of being subjective in its approach to alleged acts of trespass on its leased land, the latter position being fully supported by City of York Council.
7. Page 15. Second Paragraph. The Report discusses a letter from STPC to the Harrison's in September 2015 and states: " What I have considered however, is the penultimate paragraph of the letter which reads: "The Parish Council, with the support of the City of York Council are not prepared to permit any Deed of Easement to allow you to profit from the erection of a new property, accessed in this way. The Parish Council feel that you misled them in order to achieve your wish to profit from providing a building plot made accessible by the second structure." I find that this paragraph of the letter does not accord with the principles of the Code of Conduct in respect of objectivity, openness or honesty." The fact disputed here is that it is impossible to see how the Investigating Officer can second guess the views of the Parish Council at the time when the letter was written and there are no facts given to support her assertion. It may make uncomfortable reading for the recipients, but that does not make it anything less than objective, open and above all, honest.
8. A Lack of Facts. The report by the Investigating Officer concentrates almost entirely on

the information provided by the complainants and contains hardly any factual detail about the history or the origins of the circumstances of this issue. The report does not include any investigation into the factual circumstances that led to the actions taken by STPC subsequent to the unauthorised construction of an access road from Lords Moor Lane to The Firs in December 2007.

Parish Councillor CR Chambers

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| Do you believe that witnesses should be called to the Hearing |
| <i>Yes/No</i> |
| If yes please identify the witnesses who you wish to be called and briefly identify the issues that they will be able to give evidence about |
| |

Councillor Chris Chambers

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Complaint About The Investigation and Subsequent Report Concerning Strensall With Towthorpe Parish Council and The Harrison's

This complaint concerns the investigation and subsequent report, dated 8 June 2016, into a complaint submitted to City of York Council (CYC) by the residents of The Firs, Lords Moor Lane, Strensall. The investigation was conducted by Rachel McKeivitt, who was appointed by Andrew Doherty, the CYC Monitoring Officer. Copies of the report were sent, amongst other recipients, to certain councillors on Strensall With Towthorpe Parish Council (STPC).

In outline, this complaint is about the lack of depth of the investigation into the Harrison's complaint, the quality of the report submitted to The Monitoring Officer, the correctness of some of the statements made in the report and the overall impression that the report would give to its readers and in particular, the CYC Hearings Sub-Committee of the Standards Committee.

In detail, the complaints are as follows and refer to specific parts of the report.

Page 5. Third Paragraph. Missing Facts. The report states that the Harrison's involvement with STPC started in 2007, though the first piece of documentary evidence provided by the complainants dates from 2011. There is no attempt recorded in the report to enquire what happened between 2007 and 2011, or any evidence that the Investigating Officer sought out what STPC might have been doing during that period or to see whether there was any correspondence during that period between STPC and the complainants. Had this happened, and had that evidence being viewed, a different perspective might have ensued.

Page 13. First Paragraph. Factual Error. The report states "it appears during the course of my investigation that there is a belief amongst the Parish Council that Mr and Mrs Harrison intended at the time the Deed of Grant was granted to then sell the land for development purposes, however, I have found no evidence of this. " The Investigating Officer did not ask for any evidence. The allegation of no evidence is then repeated in the second paragraph.

Page 14. First Paragraph. Lack of Investigation and Factual Error. The report states " it appears that STPC were willing to approve the request made by Transcore, despite rejecting Mr and Mrs Harrison's request." This is not true. STPC were not willing to approve the use of their leased land for utilities, which is the root of the complaint. Subsequent actions by STPC and a wealth of documentary evidence can prove this.

Page 14. Second Paragraph. Factual Error. The Report states "Regardless of the position of City of York Council which has changed the decision made in respect of Sevenoaks, it does appear to me that The Firs was rejected because of a belief, even though I have found no evidence to support this belief, that there was some sort of deception taking place". This statement is incorrect because the position of STPC has not changed over Sevenoaks and secondly, STPC has taken a consistent line with all cases of alleged trespass over its leased land. Again, there is a wealth of documentation to support this.

Page 14. Third Paragraph. Missing Facts. The report states: *I have also looked to the minutes of the monthly meeting which took place on 9th June 2015 which deals with Mr and Mrs Harrison's request for services across the leased land, the reason within the minutes given by STPC to refuse this request was "the original Deed of Grant was given*

for a specific purpose". In my view, I cannot see the relevance in considering this request of the purpose of the Deed of Grant, this request which was made in June 2015 was a new request for services to be brought across the land. The statement in the minutes concerning the purpose for the original Deed of Grant is true and it was the STPC view that any change would confer legitimacy on a situation which had been disputed by SPTC and over which hung the threat from the Harrison's of legal action. None of these facts are mentioned in the Report.

Page 14. Fourth Paragraph. Subjectivity. The Report finds a breach of the STPC Code of Conduct in respect of selflessness, integrity, objectivity, accountability and openness. Had the decision of SPTC at that meeting been to grant the request for a Deed of Grant, exactly the same criticism could be levelled, particularly in terms of objectivity, accountability and integrity. By granting the request for a Deed of Grant SPTC could have been seen to have been capitulating to a threat of legal action and of being subjective and inconsistent in its approach to alleged acts of trespass on its leased land, the latter position being fully supported by City of York Council.

Page 15. Second Paragraph. Subjectivity. The Report discusses a letter from STPC to the Harrison's in September 2015 and states: " What I have considered however, is the penultimate paragraph of the letter which reads: "The Parish Council, with the support of the City of York Council are not prepared to permit any Deed of Easement to allow you to profit from the erection of a new property, accessed in this way. The Parish Council feel that you misled them in order to achieve your wish to profit from providing a building plot made accessible by the second structure." I find that this paragraph of the letter does not accord with the principles of the Code of Conduct in respect of objectivity, openness or honesty." The complaint here is that it is impossible to see how the Investigating Officer could second guess the views of the Parish Council at the time when the letter was written. Additionally, there are no facts given to support the assertion. The letter from STPC may make uncomfortable reading for the recipients, but that does not make it anything less than objective, open and above all, honest.

A Lack of Facts. The report by the Investigating Officer concentrates almost entirely on the information provided by the complainants and contains hardly any factual detail about the history or the origins of the circumstances surrounding the complaint. The first four years of the period under investigation in the report are almost completely ignored. The report does not include any investigation into the factual circumstances that led to the actions taken by STPC subsequent to the unauthorised construction of an access road from Lords Moor Lane onto the property known as The Firs in December 2007.

The Report will form the evidence to be considered by the CYC Hearings Sub-Committee of the Standards Committee at a hearing on 11 October 2016. In its present form, the lack of facts, subjectivity and errors contained within it will inevitably give the Sub-Committee a skewed and shallow version of the events.

Chris Chambers

26 September 2016

From: Ralph Plant

Sent: 26 July 2016

Dear Mr Docherty,

I am the Councillor Plant included in the above complaint as a member of Strensall with Towthorpe Parish Council.

I am also the same Councillor Plant singled out for personal complaint. You have seen the jointly agreed statement from our Chairman, Councillor Keith Marquis, in reply to the complaint. As I have been singled out, I believe that there are three points that I must add:

a. I gave my defence to Rachel McKevitt, in which I accepted some guilt for the meeting on

11th August 2015 but pointed out that, as I had not said a single word at the meeting, I had not added to the Council's corporate blame.

b. I re-iterate that is not true that I said the words attributed to me by Mrs Harrison on 13th October where I had declared an interest.

c. Mention is made of a Lease I signed, 20 years ago, in 1996. That fact is irrelevant to this complaint.

At that time there was no dispute with anyone about any aspect of the lease. Problems only occurred with the Deed of Grant in August 2013. I had nothing to do with this.

I would like an acknowledgement of this please.

Yours Faithfully,

Ralph Plant

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From: Ralph Plant
Sent: 23 September 2016 16:21
To: Carr, Jayne
Subject: Re: Hearings Sub-Committee Meeting

Dear Jayne,

First I present my apologies because I cannot be at the meeting on 11th October.

[REDACTED]

However my answer to the charge which is the subject of your email is being answered on behalf of all of we Councillors by Councillors Marquis and Chambers. either or both will be at your meeting.

The specific and personal charge levelled at me, because I failed to declare an interest at the meeting on 11th August 2015 has been answered by me on three occasions:

- a. In the Minutes of the meeting of councillors dated 9th February 2016.
- b. In my statement to Rachel McKeivitt on 8th June at Strensall Village Hall.
- c. In the email, copy attached.

I have never had acknowledgements of these three assertions but have nothing to add.

I would like them noted on the 11th October meeting.

Yours Sincerely
Ralph Plant

[REDACTED]

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Ralph Plant

From: "Ralph Plant"
Date: 26 July 2016 12:37
To: <andrew.docherty@york.gov.uk>
Cc: "keith marquis" < > : "Sue Nunn" <clerk-strensallpc@btconnect.com>
Subject: Complaint from Mr and Mrs Harrison against Strensall with Towthorpe Parish Council

Dear Mr Docherty,

I am the Councillor Plant included in the above complaint as a member of Strensall with Towthorpe Parish Council.

I am also the same Councillor Plant singled out for personal complaint.

You have seen the jointly agreed statement from our Chairman, Councillor Keith Marquis, in reply to the complaint. As I have been singled out, I believe that there are three points that I must add:

- a. I gave my defence to Rachel McKeivitt, in which I accepted some guilt for the meeting on 11th August 2015 but pointed out that, as I had not said a single word at the meeting, I had not added to the Council's corporate blame.
- b. I re-iterate that is not true that I said the words attributed to me by Mrs Harrison on 13th October where I had declared an interest.
- c. Mention is made of a Lease I signed, 20 years ago, in 1996. That fact is irrelevant to this complaint. At that time there was no dispute with anyone about any aspect of the lease. Problems only occurred with the Deed of Grant in August 2013. I had nothing to do with this.

I would like an acknowledgement of this please.

Yours Faithfully,

Ralph Plant

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From: Tony Fisher

Sent 21/07/2016

Dear Mr Docherty,

Having read Ms KcKevett's report, which I consider to be one of the most prejudiced and utterly inaccurate documents I have ever read, I have decided that I will no longer participate in this farce. I disagree with some of the statements she makes (especially concerning the Parish Council's attitude to the services at Sevenoaks, where she has completely misunderstood the stance of the Parish Council), every conclusion she makes and have absolutely no wish to waste my time on debating a matter of opinion.

I am absolutely satisfied that all my comments were honest and based on clear evidence. I do not intend to submit any documents or attend the hearing. I also absolutely will not comply with any sanctions imposed on me and certainly will not apologise in any way. The Localism Act 2011 lays out the sanctions available and none of them worry me in the slightest.

Please tell the Standards Committee to do whatever they wish. I have better things to spend my time on, like serving the residents of Strensall.

Yours

Cllr Tony Fisher
Strensall PC

From: Tony Fisher

Sent 22/7/2016

Dear Mr Docherty,

Further to my e-mail of yesterday, I wish to add further points.

My e-mail should not under any circumstances be interpreted as an admission of guilt on my behalf, nor should it be inferred that I believe that other members of Strensall with Towthorpe Parish Council have contravened the code of conduct in any way.

Furthermore, my personal vote in favour of the refusal by the Parish Council for the deed of grant for services to cross the new access was not influenced by my firm belief that Mr and Mrs Harrison's request for a second access was always intended to facilitate their unstated aim of

building a second dwelling. Their suggestion that it was to facilitate the manoeuvring of a motor home is absurd in my opinion. I voted this way because the Parish Council has taken a firm and consistent position of opposing any new crossing of the leased land for any purpose. Minute 5d of the PC meeting of July 14th confirms that City of York Council itself wrote a letter supporting the PC's decision. At Sevenoaks, the offer was made to BUY some of the land and we left this to City of York Council as owners to decide. When this offer was declined, The PC enforced the removal of the installed services.

I would also point out that Ms McKevitt's report makes no mention of the meeting the PC had with Mr Marsden (the potential developer and Mr Harrison's employer) at which he stated that he felt that he had been deceived by the Harrisons. To omit this is tantamount to incompetence on Ms McKevitt's behalf as I made her aware of it in my interview with her, a point she conveniently omits to mention.

I would also point out that we are in this position due to the incompetence of City of York Council, who granted the new access at The Firs without consulting Strensall with Towthorpe Parish Council as lessees of the land. As the new access had already been constructed, the then members of the Parish Council felt unable to demand its removal, preferring to condition its use. Had the PC been consulted before construction, I believe that it would have been strongly opposed.

The complainants can solve any problem they have by taking the services for the new property over their original access. I do not believe that any decision by the PC confers any disadvantage on them whatsoever.

As far as I am concerned this matter is now closed. Please do not send any further correspondence to me over it.

Yours

Cllr Tony Fisher
Strensall PC

From: Lawrence Mattinson

Sent: 24/7/2016

Mr Docherty,

Further to the e-mail and associated attachments that you sent to Strensall with Towthopre Parish Council in relation to the above mentioned complaint, I would comment to you as follows.

As a relatively new member of STPC I have found all of the Councillors to be responsible mature adults who act as 'Reasonable Persons' at every meeting that I have attended. All decisions are made without bias or favour and with the best interests of the the residents they represent at the forefront.

I am very disappointed that CYC are pursuing this issue further, based upon a very biased report that favours 2 individuals who have a significant interest in an outcome in their favour, versus 13 individuals who represent the community and have nothing to gain by reaching what I believe to be a reasonable decision that any responsible person would have reached given the circumstances surrounding this case.

In my experience of 40 years investigating serious and fatal incidents and auditing world wide businesses, the essence of a professional report should be to capture all of the facts from all parties concerned and present them in a factual and unbiased chronological order, without forming a personal opinion as Ms McKevitt has done. Such a report as she has prepared, immediately apportion blame upon potentially innocent parties, without giving adequate opportunity to those reading the report to form their own opinion. If the chronology had been recorded accurately then I am sure that you would not be wasting public money by pursuing this issue further.

As for myself, I will not be attending any further meetings or hearings on this issue with CYC. If however CYC as the owners of the land in question wish to overrule STPC and give easement rights to the Harrison's (in contradiction to your earlier views), then so be it. However such a decision would have serious implications for the workings of the PC.

If you do have public funds to waste on this case then could I suggest you channel these into improving road safety in Strensall which CYC have so far failed miserably to act upon.

Regards

Cllr Lawrence Mattinson



Strensall with Towthorpe Parish Council

The Village Hall, Northfields, York YO32 5XW
Tel: 01904 491569
Email: clerk-strensallpc@btconnect.com
Chairman: Councillor A K Marquis

10th August 2016

Mr A Docherty
Monitoring Officer
City of York Council
West Offices,
York YO1 6GA

Dear Mr Docherty

We the undersigned who are current and former councillors elected to serve the Parish of Strensall with Towthorpe find the report by Rachel McKeivitt both incomplete and biased against the Parish Council. We believe that if it is submitted to the Sub Committee of the Joint Standards Committee in its present form it represents evidence biased against councillors as some of the statements given by members of the Parish Council to Ms McKeivitt are included in her evidence document.

Limited account appears to have been taken of the situation that the owners of The Firs created in 2007/2008 by refusing to obtain permission to build a structure across land owned by City of York Council and is the subject of a lease dated 4th January 1996 to Strensall with Towthorpe Parish Council for 99 years. The Parish Council were advised City of York Council consider that due to the length of the lease that the leaseholder has the rights of the owner in managing the land.

It must be born in mind that the leased land in question creates a barrier between the adopted highway of Lords Moor Lane, Flaxton Road and Ox Carr Lane and the green belt land bounded on the other two sides by the York to Scarborough railway and existing built areas. The Parish Council has had a mandate from the residents of the Parish for more than 25 years to protect the green belt in and around Strensall village and Towthorpe hamlet from development.

In order to make you aware of our concerns that the report by Rachel McKeivitt is an incomplete document please find attached a summary of the many actions that the Parish Council has taken to resolve the dispute.

It is considered that representation of the Parish Council should be the Chairman and one other councillor and I trust this is acceptable.

Councillor Keith Marquis

Councillor Dennis Baxter.....

Councillor Duncan Hill.....

Councillor Tony Fisher

Councillor Chris Chambers.....

Councillor John Chapman.....

Councillor Lawrence Mattinson.....

Councillor Kevin Ogilvy.....

Councillor Geoffrey Harvey-Walker..

Councillor Judy Smith.....

Councillor Ralph Plant.....

Ms Cath Edwards

Ms Tracey Flannery

Key Area 1 Brief History of the issue with the residents of The Firs, Strensall.

The building of the structure to provide a second access to The Firs, Lords Moor Lane, Strensall was reported by a resident to the Parish Council in December 2007 and the then chairman of the Parish Council (Mr Peter Jesse) visited Mr and Mrs Harrison and was advised that they had received permission from City of York Council to construct the second access to their property. This structure crosses land owned by City of York Council and was leased to Strensall and Towthorpe Parish Council at the time of boundary changes in January 1996. Land Registry document NYK 174360.

After referring the issue to City of York Council, as landowners, there was a period when there was no activity to resolve the impasse. An enforcement officer from City of York Council viewed the site and on 3rd March 2008 considered that the structure was "permitted development and therefore did not require planning permission". However, he must have had some concerns as the case was passed to Brian Gray in City of York Council's Legal Services Department.

The stance taken by Strensall with Towthorpe Parish Council is supported by a mandate from residents to protect areas of green belt. The leased land in question provides a barrier between the highway and green belt land and the Parish Council were concerned that allowing construction of the new structure to be unchallenged would create a precedent for crossing this leased land.

City of York Council's Highways Department had been contracted by Mr and Mrs Harrison to provide a dropped kerb on Lords Moor Lane in line with the new access. This work commenced on 28th February 2008 and following a request for the work to be halted by the Parish Council a telephone call was received from Stuart Partington in which he stated "the work so far had been authorised by his department" but with a caveat that "other permissions were required for any construction beyond the footpath".

A second visit by the Parish Council Chairman to Mr and Mrs Harrison was met by an aggressive response and a request that any further contact required by the Parish Council should be in writing.

It was evident that Mr and Mrs Harrison refused to accept that they needed further permissions but at that time were advised by Mr Jesse that the Parish Council were in contact with City of York Council as landowners to give guidance to resolve the situation.

Due to the lack of any response from Officers at City of York Council a letter was sent to the CEO on 18th March 2008. It took until 17th May 2008 before a written response was received from the Highways Department but no clarification was received from the Legal Department.

At the 8th July 2008 meeting of the Parish Council it was agreed that advice be obtained from a solicitor and following a meeting on 7th August 2008 it was arranged for a solicitor's letter to be sent to both the residents at The Firs and to City of York Council as the landowner. Previous letters from the Parish Council to the Harrisons had not received any replies. On 13th August 2008 a response from the Property Services Department at City of York Council was received requesting sight of documents as they now agreed that consultation with the Parish Council, as leaseholders, should have taken place.

In late 2008 due to further inaction by City of York Council Departments and lack of response from the Harrisons a further letter from the solicitor acting for the Parish Council was sent to the Harrisons requesting sight of the evidence they say proved that City of York Council had given permission for the erection of the structure and included a deadline of 8th January 2009. Documents received on 8th January and included the letter from Stuart Partington referred to above which clearly stated that "other permissions may be required."

At this time the actions of the Parish Council were supported by Ward Councillor S. Wiseman who facilitated a meeting between the various departments of City of York Council, the Parish Council and their legal advisor. This meeting took place on 5th February 2009 and when representatives were shown the letters from Property Services and Highways supporting the stance taken by the Parish Council it was agreed that a solution would be provided by mid-March and the Parish Council's legal advisor was instructed to write to City of York Council as agreed at the meeting. Mid-March passed without any resolution. In August 2009 a change of personnel at the solicitor's dealing with the case suggested that a barrister be engaged which was agreed by the Parish Council as all other efforts so far had failed. The Barrister concluded that the actions of the Harrison's were trespass and that the structure should be removed but he could not guarantee any judgement made in the High Court.

In late 2009 further attempt was made to hold a joint meeting between the Harrisons, their legal representatives and the Parish Council and their legal representatives but although agreement was reached for a meeting to take place no dates were suitable to Mr and Mrs Harrison. No progress was made for any date which was acceptable to the Harrisons throughout 2009 or 2010. In August 2011 the solicitors acting for the Harrisons communicated with the Parish Council's solicitor stating that *"our clients have instructed us that they will make themselves available to accommodate your client's availability date."* A meeting was agreed to take place on 31st October 2011 but cancelled by the Harrisons on 28th October. A second date of 11th November 2011 was suggested by the Parish Council but not accepted as a neutral venue was not available. Finally, a meeting between Parish Councillors and Mrs and Mrs Harrison was agreed to take place on 14th November 2011. At this meeting Mr and Mrs Harrison were present together with Parish Councillors Jesse (Chairman), Chambers and Marquis. Notes were taken by Mrs Susan Nunn, Parish Council Clerk, and were later circulated and agreed as a true record.

On 8th December 2011 an email was sent by City of York Council's Legal Department to the Parish Council confirming that no permission had been given to the Harrisons to cross the leased land.

In view of the statement made by Mr and Mrs Harrison at the 14th November meeting, that there was no intention to use the new access to develop the land behind the dwelling and the only reason for the building of the structure was to make maneuvering of their caravan easier. The notes were agreed by both parties apart from the reference to caravan should have been motorhome. The Parish Council agreed on 13th December 2011 that a Deed of Grant be drawn up to legalise the structure. City of York Council's Legal Department agreed to draw up the Deed of Grant.

First draft of Deed of Grant received from City of York Council by the Parish Council on 12th July 2012 but an accurate document was not produced until 28th August 2013 and was signed by all parties. This Deed of Grant was for pedestrian and vehicular access only.

The land behind the entrance gates was laid to lawn which appeared to make the reason for building the structure void.

In December 2013 an outline planning application was lodged with City of York Council to erect a dwelling on land behind The Firs. The application was approved on 8th April 2014.

A further full application was submitted by Marsden Homes to a different design in March 2015.

On 8th May 2015 a request was received from Hague and Dixon to allow a Deed of Easement for utilities to cross the leased land to the proposed new dwelling.

The Parish Council concluded at the meeting held on 9th June 2015 that of the statements made at the 14th November 2011 meeting by the Harrisons appeared to be a ploy to regularise the access to

allow a separate access to the land to the rear of The Firs and declined to give consent. On 26th June 2015 City of York Council's Legal Department confirmed their support for this decision.

On 28th July 2015 at a Planning Sub Committee meeting of the Parish Council the developer, K D Marsden attended and stated that he had also been deceived by the owners of The Firs and that it had cost him a lot of money.

The decision reached by the Parish Council at the monthly meeting of the Parish Council held on 11th August 2015 and the content of a letter to the solicitor representing the developer was agreed by Councillors present.

On 29th October 2015 a telephone call from Duncan Beckwith to the Parish Clerk requested information concerning the supply of electricity to the proposed new dwelling. He indicated that he had been made aware of a problem with access and wondered if the issue could be resolved by routing an upgraded supply to both properties through the existing supply. He asked if this solution would be acceptable to the Parish Council. He was advised that this would be a matter for the Parish Council to decide. Mr Beckwith decided that he would approach his superiors about the issue.

The Parish Council indicated that upgrading an existing supply would be acceptable if such a request was received.

On Wednesday 6th July 2016 a call received from Robert Hebcott of Northern Powergrid who stated that Duncan Beckwith had retired and he was sorting out unfinished items. He was made aware of the conversation between Duncan Beckwith and the Parish Clerk and indicated that he would probably make a site visit on Wednesday 8th July and would follow up with a request to the Parish Council to upgrade the existing supply.

Strensall with Towthorpe Parish Council disagree with the comments made by the Investigating Officer as they are incomplete and appear to be biased to the allegations made by the complainants without any investigation into the roles of both City of York Council and Strensall with Towthorpe Parish Council to deal with this long running issue.

Key Area 2 Failure to declare interest

Strensall with Towthorpe Parish Council disagree with the Investigating Officer's conclusions in respect of Councillor Plant's failure to declare an interest in the item under discussion on 11th August 2015. As Chairman of Strensall and Towthorpe Parish Council at the time of the boundary changes Councillor Plant was a joint signatory to several leases drawn up by Ryedale District Council which included the lease in question – how does this signing action not allow him to carry out his duties as a Parish Councillor.

Councillor Plant is a long standing member of the Parish Council and his knowledge and opinions are a valuable asset. When the dispute with Mr and Mrs Harrison began in 2007 Councillor Plant declared an interest purely on the grounds that he lived close to them. On the occasion of 11th August 2015 when Councillor Plant failed to declare an interest he took no part in the proceedings and although the minute registers a unanimous vote this should have indicated that he was not involved in the debate.

Key Area 3 Failure to implement the complaints procedure.

Strensall with Towthorpe Parish Council disagree with this aspect of the complaint.

In this long process each communication from Mr and Mrs Harrison has been discussed by the Parish Council and a suitable response made.

Key Area 4 Provision of utilities at Sevenoaks.

Strensall with Towthorpe Parish Council disagree with the findings of the Investigating Officer who states that "City of York Council, as landowners, have considered the Sevenoaks request and have informed Transcore that the services at Sevenoaks must be relocated and the land reinstated." Communications, both written and verbal, between the Parish Council and the developer at Sevenoaks clearly show that there was no request from any source to apply for a Deed of Easement to vary the existing supplies to the original property at Sevenoaks. The gas supply was upgraded and at the insistence of the Parish Council, following discussions with City of York Council's Property Services, the new water supply to two of the properties was relocated to avoid crossing the leased land.

In respect of the claim that a similar situation at Sevenoaks on Ox Carr Lane, Strensall was dealt with in a different manner this is disputed by the Parish Council.

No applications were received by the Parish Council for any alteration to provide additional services to the three new properties built on the site of the single property known as Sevenoaks. The Parish Council were aware that an upgraded gas supply to the three properties under construction had replaced the existing which had been confirmed on a visit to the development site. On 25th September 2015 a site visit by members of the Parish Council found that Morrisons (Contractor to Yorkshire Water) were providing a new water supply to two of the three new properties. The contractors were requested to stop work and a conversation with the site foreman suggested an alternate route which avoided crossing the leased land. After the Councillors left, the work was completed as they believed that permission had been granted by City of York Council to provide this new supply across the highway and footpath. This meant crossing the same leased land as involved with The Firs. Several conversations and communications took place between the Parish Council, City of York Council, The Developer (Transcore) and Yorkshire Water which resulted in the diversion of the supply to avoid crossing the leased land.

Transcore also requested permission to purchase a small amount of the leased land to widen the access to the development site. This was agreed in principle but was referred to City of York Council as landowner for their approval or otherwise. A retrospective planning application was submitted to City of York Council which included the access in March 2016 and was eventually approved by them.

Key Area 5 Alleged biased conduct of Strensall with Towthorpe Parish Council

Strensall with Towthorpe disagree with the alleged maladministration, prejudice and bias of Councillor Marquis, in particular in relation to the letter of 9th September 2015. The decisions taken by Parish Councillors are always based on the standards itemised in the Code of Conduct – objectivity, openness and honesty.

The letter of 9th September 2015 to Mr and Mrs Harrison in response to several communications explains the Parish Council's actions and is based on facts.

Key Area 6 Alleged failure to adhere to Complaints Procedure/Code of Practice

The Investigating Officer states her "report will not contain any findings in respect of the elements of Mr and Mrs Harrison's complaint numbered 3 and 6 above." yet her report quotes "Relevant Provisions of the Code of Conduct" to highlight these elements.

Each communication received from Mr and Mrs Harrison was discussed by members of the Parish Council and responses were provided.

Addendum

In addition to the items identified above other allegations of misconduct included:

Access to Heathfield, Lords Moor Lane, Strensall

A request received from the new owner of Heathfield, a property close to The Firs, to maintain the access to his property with blocks rather than the existing asphalt which was in need of repair. The property deeds show that the owner of Heathfield has a responsibility to maintain the access in good condition and the Parish Council decided at the 13th October 2015 meeting to approve the request.

Erection of structure at the entrance to Dennington Barton on Lords Moor Lane.

The Parish Council were accused that they had allowed the building of a structure at the entrance to the property known as Dennington Barton. It was pointed out to Mr and Mrs Harrison that City of York Council had identified an error with the Land Registry document for the leased land and supplied documents showing that Dennington Barton was no longer included in the area of land covered by the lease. The work carried out had been the subject of a planning application which had been approved by City of York Council.

On 28th July 2016 the Parish Council were made aware by City of York Council's Legal Department that correspondence had been received from Mr and Mrs Harrison by City of York Council's Property Services complaining about the actions of the Parish Council at the properties of Heathfield, Lords Moor Lane, Strensall and Sevenoaks, Ox Carr Lane, Strensall. The proposed reply confirmed that the actions taken by the Parish Council were correct and in accord with the lease.

City of York Council's Emerging Local Plan

In the 2014 Publication Draft of the City of York Local Plan the land between Flaxton Road and the York/Scarborough railway was included as "Land safeguarded for development". This area of land can only be accessed over the leased land in question.

Whilst the current version of the Local Plan is under a period of consultation until 12th September 2016 and within the plan is the removal of Safeguarded Land the Parish Council believe that until such time that the Local Plan is agreed by the Planning Inspectorate that this area of land is still under threat.

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