

**REPORT OF AN INVESTIGATION INTO ALLEGATIONS MADE TO THE  
STANDARDS COMMITTEE OF CHELTENHAM BOROUGH COUNCIL AGAINST  
COUNCILLOR BARNES**

**6 AUGUST 2009**

**1. INTRODUCTION**

- 1.1 This report is presented following a formal investigation into complaints made to the Standards Committee of Cheltenham Borough Council ("the Council") under section 57A of the Local Government Act 2000 ("the Act"). The Standards (Initial Assessment) Sub Committee met on the 2 June 2009 and decided to refer the matter for investigation by the Monitoring Officer. The details of the complaints, investigation and findings are set out in this report.

**2. COMPLAINTS**

- 2.1 It is alleged that at a meeting of the Council's Planning Committee on the 30 April 2009, Councillor Barnes failed to disclose a personal and prejudicial interest and therefore failed to withdraw from the meeting.

**3. THE RELEVANT PARTS OF THE CODE OF MEMBERS' CONDUCT**

- 3.1 The complaints in this case relate to the following paragraphs of the Code: -
- 3.2 Paragraph 8(1)(a) provides that a member has a personal interest in any business of the Council where "it relates to or is likely to affect (ii) any body (bb) directed to a charitable purpose of which you are a member or in a position or general control or management.
- 3.3 Paragraph 8(1)(b) provides that a member has a personal interest in any decision of the Council where a decision "in relation to that business might reasonably be regarded as affecting the well-being or financial position of a relevant person to a greater extent that the majority of (i) (in the case of authorities with electoral wards) other tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision". A relevant person includes (a) any person with whom you have a close association or (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).
- 3.4 A close association is not defined within the Code. The guidance issued by the Standards Board suggests that "a person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them."<sup>1</sup>
- 3.5 Paragraph 9(1) requires where a member has a personal interest in any business of the Council and they attend a meeting at which business is considered, the existence of the interest and the nature of the interest must be disclosed.

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<sup>1</sup> See page 20 - The Code of Conduct – Guide for members – May 2007

- 3.6 Paragraph 10 (1) states that where a member has a personal interest in the business of the Council, the member will also have a prejudicial interest in the business where a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice a members judgement of the public interest.
- 3.7 Paragraph 12 provides that where a member has a personal and prejudicial interest the member be required to withdraw from the room where the meeting is being held. There a number of exceptions to this rule but they are not relevant to this investigation and report.

#### 4. **INFORMATION**

- 4.1 The starting point of this investigation was the letters of complaint received from the persons listed below. The letters of complaint included a number of issues and not all of these issues relate to matters within the terms of reference of the Standards Committee. These matters were the subject of a separate investigation and report. The following documents (see Appendix 1) were considered as part of this investigation: -
- Letters and emails from Councillor David Prince dated the 3 May, 4 May, 1 June and 14 June 2009;
  - Letters from Councillor Diane Hibbert dated the 6 May and 15 June 2009;
  - Letter from Mr. Douglas Ogle dated the 5 May 2009;
  - Letters and emails from Mr. Derek Marley dated the 5 May, 12 May, 28 May, 29 May and 14 June 2009;
  - Letter from Mr. F.A Warren dated the 5 May 2009; and
  - Letter from Mr. David Horsted dated the 8 May and 18 May 2009.
- 4.2 Councillor Barnes was interviewed on the 2 June 2009. The interview was a joint interview and Councillor Barnes was asked to comment on the various issues, relating to interests and apparent or actual bias, raised by the complainants.
- 4.3 The following officers provided written evidence: -
- Jonathan Noel, Solicitor;
  - Robert Lindsey, Development Control Manager;
- 4.4 A telephone interview was also conducted with Mr. Bonney, Trustee for St Vincent's.
- 4.5 Information concerning the planning application and planning committee were also considered however, it is important to note that the purpose of this investigation was not to look into or to make any findings regarding the planning merits or otherwise of the decision.
- 4.6 Counsel was also instructed to provide an opinion on the issues of bias and predetermination as part of his advice he also provided opinion on the issue of interests.

## 5. INVESTIGATION AND FINDINGS OF FACT

- 5.1 Councillor Barnes is an elected councillor for the College ward. Councillor Barnes was first elected in 1976, has been an elected member since 2002 and has been on the Planning Committee since 2004. Councillor Barnes currently also sits as a member on the Licensing Committee and has sat on the Licensing Committee since 1997. Councillor Barnes last completed a Member's register of interest form on the 26 January 2008. He did not disclose a personal interest relating to St Vincent's on the form although he did declare a personal interest at the meeting on the 30 April 2009.
- 5.2 In May and June 2009, complaints were received in respect of the conduct of a number of members of the Planning Committee that met on the 30 April 2009 to consider application number 08/01342/FUL. Councillor Barnes who sits on the Planning Committee has been the subject of a number of the complaints.
- 5.3 The proposal was for the erection of a residential facility for 12 adults with complex disabilities (use class C2) and non residential therapeutic activities and associated landscaping. The site is at land adjacent to Dunalley Primary School, West Drive, Cheltenham.
- 5.4 This application was one of a number of applications and because of the full agenda the meeting, which commenced at 6.00p.m had to be adjourned to the following day, so that all of the reports could be processed.
- 5.5 Before the application was considered, Councillor Barnes declared a personal interest in the application. The reason given was that Councillor Barnes is a member of the Friends of St Vincent's, gives £10 per year to St Vincent's and he visited the charity during his mayoral year.
- 5.6 A detailed report was provided to the committee and this report outlined the comments of various consultees. Members were also provided with copies of the letters of support and objection that were received. The application was debated at length at the meeting on the 30 April 2009. There were a number of speakers both objecting to the application and supporting the application. Councillor Barnes did not contribute to the debate. The officer recommendation was to refuse the application. At the end of the debate Councillor Morris moved to permit, the application and 7 members (including Councillor Barnes) voted in favour while 6 members voted against the move to permit the application.
- 5.7 After the Planning Committee on the 30 April 2009, a number of letters of complaint were received. The letters detailed a number of concerns some of which are not relevant to this investigation. In summary, the following complaints (which are also relevant to this investigation) regarding Councillor Barnes were received: -
- i. Councillor David Prince complained that Councillor Barnes failed to disclose a prejudicial interest;
  - ii. Councillor Diane Hibbert who alleges that Councillor Barnes failed to disclose his membership of St Vincent's.

- iii. Mr Douglas Ogle complained that Councillor Barnes appeared "to have significant enough ties with the applicant..for them to declare a prejudicial interest and withdraw from the process";
  - iv Mr. Derek Marley complained the prejudicial interest of Councillor Barnes in St Vincent's meant Councillor Barnes was "unable to take a clear and unbiased view on the planning aspects of the case";
  - v. Mr F. A Warren complained that the interest of Councillor Barnes was "strong enough to influence decision";
  - vi. Mr. David Horsted complained that Councillor Barnes is a contributing friend of the applicant and should not have voted where he "could favour one side"; and
- 5.8 Councillor Barnes was interviewed and asked to respond to the complaints listed above. Councillor Barnes was asked about his connection with St Vincent's. Councillor Barnes was also asked about his conduct at the committee and his decision to vote in favour of approving the application.
- 5.9 Councillor Barnes stated in interview that while he was the mayor he was invited to an event at St Vincent's School and that since then he has been to a number of other events. When asked how many times a year, Councillor Barnes stated he thought two or three times maximum.
- 5.10 When asked about the way he made his donation to St Vincent's, Councillor Barnes stated that he and wife give £10 per year donation to St Vincent's and that this is done via a cheque in the post. He stated he receives a newsletter but is not involved with the board of trustees nor does he have a decision making role with St Vincent's and he does not have any personal connection with the board of trustees.
- 5.11 Councillor Barnes stated he supports a number of other both local and national charities and attends events organised by these charities.
- 5.12 When asked whether he had, any links with Mr. Bonney, Councillor Barnes stated he was aware of Mr. Bonney's association with the Liberal Democrats but he did not know what form this support took and that he had never seen him at any events nor discussed the application with Mr. Bonney. Councillor Barnes confirmed he has spoken to Mr. Bonney at St Vincent's events. When the application came up Councillor Barnes stated that he could not discuss the application as he sat on the Planning Committee.
- 5.13 Councillor Barnes explained he had considered the question of interests and that he had sought the advice of officers. He felt that as he had visited St Vincent's he should declare a personal interest. He did not however believe that his links were strong enough to debar him from taking part in the meeting.
- 5.14 When asked about how he dealt with the application, Councillor Barnes stated he considered all of the information contained within the report and attended the planning view. Councillor Barnes stated that he listened to all of the comments made at the meeting and although emotional issues were raised during the course of the debate, he did not feel that the work of the charity was a relevant consideration.
- 5.15 Councillor Barnes confirmed he did not contribute to the debate as he felt there was no need to reiterate points that had already been made. Councillor

Barnes also stated that he tends not to say very much at planning committees.

- 5.16 Mr. Bonney stated in interview that he had invited Councillor Barnes to an open day at St Vincent's, when Councillor Barnes was the mayor. Mr. Bonney stated that St Vincent's always invite the mayor to events. He stated that he thought that Councillor Barnes made a yearly donation to St Vincent's. Mr. Bonney stated that he did not know Councillor Barnes socially.

## **6. CONCLUSIONS AND REASONING**

- 6.1 When interviewed, Councillor Barnes confirmed that he and his wife make a yearly donation to St Vincent's and that he had visited St Vincent's on a number of occasions. It is also not disputed that Councillor Barnes, sought advice from the legal officer at the committee; regarding a potential interest and that, he declared a personal interest at the start of the meeting.
- 6.2 A charitable donation, especially a small donation of £10 per year, is not in itself sufficient to create a personal interest in a matter.
- 6.3 Councillor Barnes in interview also stated that he received a newsletter from St Vincent's and had visited St Vincent's at open days/fetes. The charitable donation in this case does not however give rise to 'membership' in the sense of giving Councillor Barnes any management or voting rights. I do not consider that Councillor Barnes has a position of general control or management as set out in paragraph 8(1)(ii) of the Code.
- 6.4 Councillor Barnes stated at interview that he attends a number of events at St Vincent's and that he has spoken to Mr. Bonney.
- 6.5 The Code of Conduct does not define a "close association". As indicated earlier the Guide for Members published by the Standards Board for England provides some guidance on who is a close associate. A "close associate" is someone "with whom a councillor has either regular contact or irregular contact over a period of time and who is more than just an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts."
- 6.6 Councillor Barnes has clearly come into contact with Mr. Bonney and has spoken to Mr. Bonney at a number of events held at St Vincent's. The events that Councillor Barnes has attended are what could be classed as community events where Councillor Barnes has attended with a large number of other attendees. There is no evidence to suggest that Councillor Barnes has met Mr. Bonney outside of the events at St Vincent's.
- 6.7 In my view, a combination of factors must be considered. Factors such as the length of time for they have known each other, the frequency of the contact, the nature of the contact and the extent of knowledge that each has of each other. Whilst Councillor Barnes has come into contact with Mr. Bonney over a number of years, they only come into contact a couple of times a year in the context of large gatherings such as open days and fetes that are open to others as well as Councillor Barnes. There is no evidence to suggest that the

relationship between Councillor Barnes and Mr. Bonney is a close association as defined by paragraph 8(1)(b) of the Code of Conduct.

- 6.8 It is common practice that local councillors support local charities and attend charity events and I do not believe that a reasonable person would think that there is anything unusual about this aspect of a councillor's role. I also do not believe that a reasonable person in possession of all of facts would conclude that in this case the relationship is more than one of acquaintance.
- 6.9 There is also no evidence suggest that a close association exists between Councillor Barnes and Mr. Bonney as a result of the fact that they both belong to the Liberal Democrat party.

## **7. FINDINGS**

- 7.1 I do not believe that Councillor Barnes has a personal interest, as defined by paragraphs 8(1)(ii) and 8(1)(b) of the Code, in respect of the application made by St Vincent's.
- 7.2 It follows that as no personal interest arose under paragraphs 8(1) or 8(1)(b) of the Code then no prejudicial interest existed under paragraph 10.
- 7.3 By virtue of the facts and reasons set out in this report, Councillor Barnes was not in breach of Cheltenham Borough Council's code of conduct.

Sarah Farooqi  
Solicitor  
6 August 2009



Andrew North  
Chief Executive  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

David Prince

3<sup>RD</sup> May 2009

Dear Mr North,

**Re: Planning Committee 30<sup>TH</sup> April 2009**

Following on from the meeting I had with you on Friday 1<sup>st</sup> May 2009, in the presence of Cllr Diane Hibbert and Mrs Jenny Ogle of Wellington Square, I would like to confirm and reiterate a number of the points that were raised at the meeting.

At this point, I would formally ask you to halt the issuing of the permission for the St Vincent's planning application until this investigation has been completed.

As you are now aware, there are a number of concerns about the way the St Vincent's planning application was dealt with which resulted in the loss of the Dunalley School wildlife garden.

There are a number of issues that bring into question the decision of the planning committee and these can be placed under the following headings. 1, declarations of interests and 2, the inaccurate statements by speakers, Cllr Tim Cooper and Les Bonney and Cllr Thornton.

With reference to the matter of 'declaration of interest' Cllr Barnes declared he had a personal interest but not prejudicial. It is my belief that Cllr Barnes is a paid up Friend of St Vincent's, if, as he claimed at the meeting, he donates £10 each year to the centre. On his admission I would suggest that the Members Code of Conduct on the declaration of interests is quite clear and I quote.

**"Would a member of the public – if he or she knew all the facts – reasonably think that the personal interest was so significant that my decision on the matter would be affected by it?"**

If the answer to that question is 'Yes' then the councillor may have a prejudicial interest, according to the Code of Conduct. Along with the other members of the public in the public gallery last Thursday, I believe and they believed that Cllr Barnes had a 'prejudicial interest in the decision of the St Vincent's planning application and should have withdrawn from the meeting. I also refer for your consideration that Cllr Barnes did not contribute to the debate on the application, which could be taken as, a declared donor to St Vincent's, he would be supporting the application.

Cllr Driver on the other hand, did not make any declaration of interest either personal or prejudicial, and spoke emotionally about the work of St Vincent's and the people who use the centre. Both Cllr Hibbert and I have spoken to Cllr Driver on a number of occasions at St Vincent's summer Fete where she works as a volunteer to raise funds for them. Clearly this is in my opinion, a blatant and serious breach of the Members Code of Conduct.

Would you please take a look at chapter 3 of Part 5 of the Members Code of Conduct (Fettering Discretion in the Planning Process)? In the first paragraph it warns about 'discretion' and 'participation' and further warns 'particularly in relation to an external interest or lobby group.

I now refer to 2, Inaccurate statements from Councillor Tim Cooper and Les Bonney. Firstly, Cllr Cooper told the planning committee that the governors of Dunalley school were in favour of this application. I can say without fear of contradiction that this is not true. I say this as it was the chair of Governors who spoke against the application at the planning meeting. The fact that Mr Bonney, also a school governor, had been working with those wishing to see an end of the wildlife garden without the knowledge of the school governing body is an important factor.

The statement regarding the new wildlife garden by the application speakers was also incorrect, there will be no new land given to Dunalley School for this facility, it will not be new land, it will be on existing school land within the confines of the school boundary, with the loss of either school playing field or play ground. Yet another misleading statement from the applicant. We have since found out that contrary to what St Vincent's told us at the planning meeting, they will not be providing a wildlife garden at all, they will in fact be contributing a cash sum for Dunally School to build there own wildlife garden. Yet further evidence of misleading information.

Mr Les Bonney, chairman of trustees for St Vincent's has been instrumental in selling this application to anyone who will listen. I believe there has been serious bias from members of the planning committee on this issue, particularly Liberal Democrat members of the committee. It is my understanding that Les Bonny is or has recently been a paid up member of the Liberal Democrat Party. He regularly delivers their Focus news letter. I believe all the Liberal Democrat councillors on the Planning Committee were aware of Les Bonny's affiliation to their party and the work he does for them. This affiliation was too close to allow members of the Liberal Democrats on the Planning Committee to vote on this issue. It is no different to the request from Cheltenham Town F.C. applying for the loan from Cheltenham Borough Council and a number of Liberal Democrat councillors declaring an interest because the chairman of Cheltenham Town F.C. makes donations to the Liberal Democrat party. What makes this bias even more glaring, is that the report of the planning officers is so damning against the application, that on planning grounds alone it is very very difficult to understand the planning reasons why the Liberal Democrat members of the Planning Committee voted to accept this application. Sympathy for the user or party allegiance is not a planning reason.



Cllr Garnham declared a personal and prejudicial interest and left the meeting, which was the correct thing to do. Cllr Garnham's interests were that St Vincent's, was one of his charities when he was Mayor of Cheltenham approximately 3 years ago and he also carries out a small amount of consultancy work for the applicants architects Hunter Page. If Cllr Garnham, thought that his affiliation to Hunter Page was sufficient to warrant a prejudicial interest then surely Cllr Driver as a fundraiser and Cllr Barnes admitting that he donates money to St Vincent's both should have declared prejudicial interests?

A further inaccurate statement came from Cllr Pat Thornton, whilst addressing the committee, Cllr Thornton stated that the Civic Society were in favour of this development. She knew this not to be true, as she had received the Civic Society report which stated and I quote "we (the Civic Society) are firmly of the view that this is **not** an appropriate site for a substantial development of this kind". Yet another piece of misleading information for the planning committee members to absorb.

The Chairman, Cllr Surgenor also knew this to be untrue, but declined to correct Cllr Thornton.

As the meeting progressed the chairman, Cllr Surgenor said "we have 5 people who have indicated they wish to speak I will take those 5 people and no more". Karen Radford the Heritage & Conservation Officer was the last person called to speak on this application. Karen, was answering the points raised by previous speakers and reinforced her reasons why members should refuse this application. In the council chamber at this time was former Councillor Bill Bullingham, a local developer, who appeared to be taking a keen interest in this application. Whilst Karen Radford was speaking I saw him move from his seat approach Cllr Morris who was sat at the meeting and hand him a piece of paper. Cllr Morris looked at the paper and within a few seconds put his hand up to speak. The chairman who must have seen the actions of Mr Bullingham and who had sternly said there would be no more speakers, then allowed Councillor Morris to speak. Councillor Morris went on to strongly rebuke what Karen Radford, the experienced Borough Council Conservation Officer had said I believe, as part of this investigation that we should know what was on the piece of paper that Mr Bullingham passed to Councillor Morris? Furthermore if the Council is keen to show openness and transparency at the planning meetings, why, after saying no more speakers did the chairman allow Councillor Morris to speak? Why did he allow a local developer to participate in the planning meeting. I must also add at this point that Cllr Morris had already spoke on this application for some considerable time, therefore, after saying no further speakers why did the chairman give Cllr Morris a further opportunity to speak

As we know, the planning meeting had to resume at 10am the following morning. At the close of the meeting the chairman Cllr Surgenor made a statement. It was along the lines of awarding Cllr Driver man of the match. Cllr Surgenor, openly, at a public meeting congratulated Cllr Driver on the way she presented the case to support the planning application of St Vincent's. This was totally out of order. Cllr Drivers presentation had very little argument to support the application on planning grounds, but a large amount of emotion, which the last time I checked does not form part of the Local Plan.

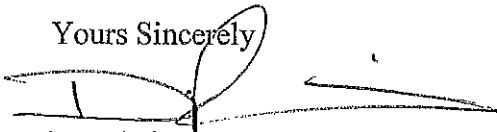
Whilst each individual part may appear insignificant, please consider the sum of the parts, which overwhelmingly in my opinion and the opinion of many of the general public who attended the meeting, gives an indication of bias towards the applicant.

I have spoken to the Standards Board for England based in Manchester. I informed them of the facts as laid out in this letter. It was clearly indicated to me by the Standards Board for England that if what I was telling them was correct then Cllrs Barnes & Driver had a prejudicial interest. Therefore I formally ask you to have this application reheard taking note of the Members Code of Conduct and that members declare the appropriate interest and leave the meeting.

I will also be writing to the Standards Committee of Cheltenham Borough Council asking them to investigate the conduct of certain members of the Planning Committee regarding this application. I will also be sending a copy to the Standards Board for England.

I look forward to receiving your response.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Dave Prince', written over a horizontal line. The signature is stylized and somewhat cursive.

Dave Prince  
County Councillor Oakley, Pittville & Prestbury.



The Chairman  
Standards Committee  
Cheltenham Borough Council  
Municipal Offices  
Cheltenham  
Glos  
GL50 1PP

David Prince  
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4<sup>TH</sup> May 2009

Dear Sir,

**Re; Breach of Members Code of Conduct.**

I wish to formally enter a complaint regarding the conduct of 3 members of Cheltenham Borough Council Planning Committee at the planning committee meeting of the 30<sup>th</sup> April 2009.

The 3 members in question are Councillors Barnes, Driver & Thornton.

My complaints against Councillor Barnes and Driver refer to their failure to declare an interest and in the case of Councillor Thornton, for giving misleading information to members in the knowledge that the information was false.

**Councillor Barnes.**

Councillor Barnes declared he had a personal interest but not a prejudicial one. It is my understanding that Councillor Barnes is a paid up Friend of St Vincent's, if, as he claimed at the meeting, he donates £10 each year to the St Vincent's centre. Therefore on his own admission I would suggest that he breached the Members Code of Conduct on the matter of declarations of interests. The Members Code of Conduct is quite clear and I quote.

**“Would a member of the public – if she or he knew all the facts - reasonably think that the personal interest was so significant that my decision on the matter would be affected by it?”**

If the answer to that question is ‘Yes’ then the councillor may have a prejudicial interest, according to the Code of Conduct. Along with the other members of the public in the public gallery last Thursday, I believe and they believed that Councillor Barnes had a ‘prejudicial interest of the planning application and should have withdrawn from the meeting. I can also report to you for your consideration, that, Councillor Barnes did not contribute to the debate on the application, which could be interpreted, taken as a declared donor of St Vincent's, he would had already made up his mind and would be supporting the application.

**Councillor Driver.**

Councillor Driver, in contrast, did not make any declarations of interest either personal or prejudicial, and spoke emotionally about the work of St Vincent's and the people who use the centre. Both Borough Councillor Diane Hibbert and I have spoken to Councillor Driver on a number of occasions at St Vincent's Summer Fete where she helps run the used book stall to raise money for the St Vincent's Centre. On the basis and bearing in mind the quotation I have made above, the deliberate action of not declaring an interest and thereby remaining in the chamber and speaking in the debate is clearly a blatant and serious breach of the Members Code of Conduct. Cllr Driver also has as she explained to the planning meeting extensive knowledge of the internal workings of the St Vincent's Centre.

In order to substantiate my complaint I would respectfully ask you to look at chapter 3 of Part 5 of the Members Code of Conduct (Fettering Discretion in the Planning Process)? In the first paragraph it warns about 'discretion' and 'participation' and further warns 'particularly in relation to an external interest or lobby group.

**Councillor Thornton.**

It is my opinion that Councillor Thornton deliberately mislead the Planning Committee on Thursday, 30<sup>th</sup> April 2009. My reasons are as follows. .

Borough Councillor Diane Hibbert, as ward Councillor for Pittville, addressed the planning committee at the start of the debate and informed the planning committee members that the Cheltenham Civic Society did not support The St Vincent's planning application and clearly stated the reasons for their decision..

Some 50 minutes later, when Councillor Thornton spoke on the application she informed the committee that Cheltenham Civic Society **did** support the application. It is clear that Cllr Thornton knew this statement was false, as she had been issued with the Civic Society report on this application, along with other members of the committee, which stated and I quote "We (the Civic Society) are firmly of the view that this is **not** an appropriate site for a substantial development of this kind" The chairman Councillor Surgeonor also knew this statement to be untrue but did nothing to correct Councillor Thornton's misleading comments..

Planning committee members, planning officers and the planning inspectorate often put substantial weight behind the views of the Cheltenham Civic Society, and this false statement by Councillor Thornton may have contributed to the eventual decision of the planning committee.

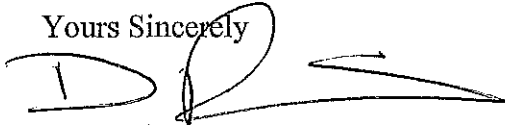
I trust you will fully investigate my allegations as laid out above.

I also enclose a copy of the letter of complaint I have sent to Andrew North the Chief Executive of Cheltenham Borough Council regarding the Planning Committee. It may assist you with your investigation. If you require any further information or wish to interview me then please let me know.

I will also be sending copies of this complaint and all relevant documents to the Standards Board for England in Manchester, as I have already requested clarification from them on a number of points regarding this case.

I look forward to hearing from you.

Yours Sincerely

A handwritten signature in black ink, appearing to be 'D Prince', with a long horizontal flourish extending to the right.

Dave Prince

County Councillor for Oakley, Pittville & Prestbury



Sarah Farooqi  
Solicitor

David Prince

Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
Gloucestershire  
GL50 1PP

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REC'D	PLANNING
REC'D	- 3 JUN 2009
PASSED TO	
FILE REF	

1<sup>st</sup> June 2009

Dear Sarah,

**Planning Committee on 30<sup>th</sup> April 2009 – application by St Vincents for land adjacent to Dunalley Primary School, West Drive, Cheltenham**

I write to you to confirm the points I raised in our telephone conversation today.

Your letter dated 22<sup>nd</sup> May 2009 omitted to mention the complaint I submitted to Andrew North in a letter dated 5<sup>th</sup> May 2009. In that letter I mentioned a conversation between Cllr Hibbert & Cllr Surgenor. I was informed by you today that you were aware of my allegations and that they were being investigated along with other issues that involved Cllr Surgenor.

Your letter dated 22<sup>nd</sup> May 2009 also failed to mention my concerns regarding a note given to Cllr Morris from local developer Mr Bullingham during the St Vincents application hearing. Cllr Morris was allowed to speak after receiving the note from Mr Bullingham, this was after the chairman Cllr Surgenor had clearly said no more speakers. You said in our telephone conversation that after speaking to your colleague that this was not seen as an irregularity. This practice was stopped by Grahame Lewis some years ago, I asked for this to be revisited to which you said you would do so. I would also add that we do not know what was in that note or if Mr Bullingham was involved in any way at all with this application or any spin off developments from this application. A note from a member of the public to a member of the committee is bad enough, but a note from a local developer requires answers. I thank you for agreeing to revisit this.

In our telephone conversation I also expressed my concerns regarding your comments in your letter regarding Cllr Thornton and Cllr Cooper.

Firstly Cllr Cooper, you stated that Cllr Cooper was not a member of the planning committee and therefore had no decision making role.

Cllr Cooper spoke on behalf of the applicant and (by definition was making a case to the planning committee to approve this application) was asking the committee to note his comments whilst trying to persuade them to support his argument.

This argument should have been based on fact and not untruths. Cllr Cooper stated that the governors of Dunalley School were in favour of the St Vincents application. This was not true. Cllr Cooper in conversation some days after the planning meeting with Cllr Hibbert openly admitted that he had not read the governors minutes and therefore did not know what was in it. He confirmed that he had received his information from Les Bonney the applicant and the head mistress of Dunalley School. Again there was no truth to Cllr Coopers statement that Dunalley governors were in favour of the application. He asked the committee to believe what he was saying, which was not true. You have said that you will revisit this complaint

I will take issue with your comments referring to Cllr Thornton. You state in your letter that minutes of the meeting indicate that Cllr Thornton stated that the Civic Society "had been divided" this is clearly incorrect. I am very clear on what I heard Cllr Thornton say and she clearly said that the Civic Society was in favour of the application. The minute taker I am afraid to say has got this wrong.

I have no problem defending anything that I have mentioned in my letters to CBC on this application, I am very sure of my comments and I am very much aware of the implications of false statements. That is why I firmly believe the minutes of the meeting require revisiting on Cllr Thornton's comments. Again Cllr Thornton was asking the committee to believe her comments and she therefore made her decision to support the application on a statement she knowingly knew was false. I say this as she had a copy of the Civic Society report which she must have read prior to the meeting, if she had not read the report what was she doing making statements not knowing if they are true or not. You have said that you will revisit this issue which I think is the correct thing to do.

I trust you agree with the areas I have indicated you will revisit, these are in line with our telephone conversation. If you have any concerns please let me know.

I look forward to hearing from you.

Yours Sincerely

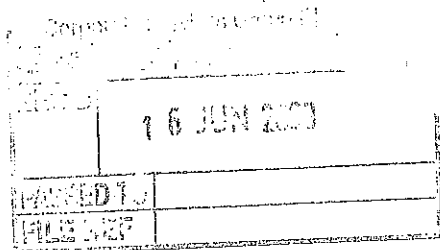
A handwritten signature in black ink, appearing to read 'D Prince', with a long horizontal stroke extending to the right.

Dave Prince  
County Councillor  
Oakley, Pittville & Prestbury Division



Sarah Farooqi  
Solicitor  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

David Prince



14<sup>TH</sup> June 2009

Dear Sarah,

**Re; Notice of Decision, Standards Committee Dated 2<sup>nd</sup> June 2009  
reference Cllr Barnes & Cllr Driver.**

Thank you for your letter dated 12<sup>th</sup> June concerning the Standards  
(Initial Assessment) Sub-Committee 2<sup>nd</sup> June 2009.

I refer to the decision of both Cllr Driver & Cllr Barnes.

Whilst I am pleased with the outcome of the meeting of the 2<sup>nd</sup> June 2009  
I have concerns over text in the decision notices concerning the paragraph  
headed complaint.

Firstly, Cllr Driver, the complaint as laid out in the decision notice is not  
what was stated in my letter of complaint. In my letter of complaint you  
will see that it is alleged that Cllr Driver has been an active fund raiser for  
St Vincent's Centre and failed to declare this. At no time have I stated  
that Cllr Driver failed to disclose a donation or membership of St  
Vincent's centre. Would you please confirm the reason for wording in the  
decision notice.

Secondly, Cllr Barnes, again the complaint as laid out in the decision  
notice is not what was stated in my letter of complaint. I did not allege  
that Cllr Barnes failed to disclose his donation nor did I say that Cllr  
Barnes failed to mention his possible membership to the St Vincent's  
Centre. My letter of complaint is quite clear, it states that Cllr Barnes  
claimed at the Planning Meeting of the 30<sup>th</sup> April that he donates £10 a  
year to the St Vincent's Centre and it is my belief that Cllr Barnes is a  
paid up member of St Vincent's Centre. Cllr Barnes did say at the  
meeting he was a "Friend of St Vincent's hence his £10 donation. The  
question is, is that interest prejudicial?



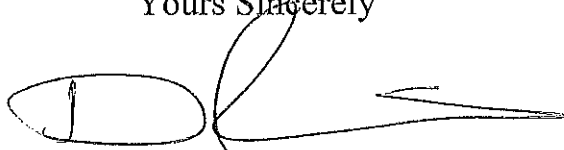
I have enclosed a copy of my original letter of complaint dated 4<sup>th</sup> May 2009 which clearly confirms the above.

You will also note that on the 1<sup>st</sup> June I wrote to you to confirm our telephone conversation of that day, during the conversation I expressing my concern that a number of points raised in my original letter of complaint had not been addressed in you letter dated the 22<sup>nd</sup> May 2009. A number of points were discussed which I confirmed in my letter. To date I have not received a response. Would you please confirm you have received that letter and that you agree with my version of the conversation and that the areas discussed are being investigated, that the areas you said you would revisit are being revisited.

Whilst I accept the decision of the meeting of the 2<sup>nd</sup> June referring to Cllr Thornton, I find it astonishing that a member can have accurate information in a document concerning an outside bodies view on a planning issue and then inform the committee of the exact opposite of its content and get away with it.

I look forward to hearing from you.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'David Prince', with a long horizontal stroke extending to the right.

Cllr David Prince  
Gloucestershire County Council  
Oakley, Pittville & Prestbury Division

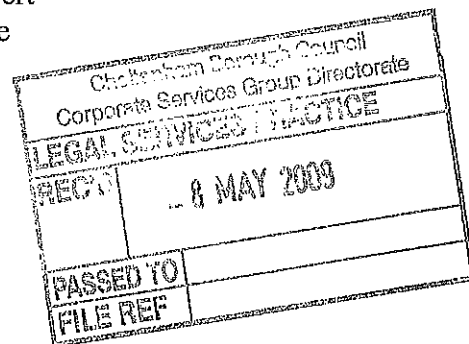
CC; Cllr D. Hall  
Mr. J Leamon, Standards Committee



**CHELTENHAM**  
BOROUGH COUNCIL

Councillor Diane L. Hibbert  
Cllr Diane Hibbert

The Chairman  
Standards Committee  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
Glos  
GL50 1PP



6<sup>th</sup> May 2009

Dear Sir,

**Breach of Members Code of Conduct**

I understand that Cllr Prince has written to you to make a complaint regarding the conduct of three members of the planning committee at the planning committee meeting on 30<sup>th</sup> April 2009, Councillor Barnes, Councillor Driver and Councillor Thornton.

I have read Cllr Prince's letter to you dated 4<sup>th</sup> May 2009 and write to confirm that I concur with the issues raised.

I am also enclosing a copy of my letter to Andrew North, Chief Executive of Cheltenham Borough Council, which sets out the detail of my concerns and I will be sending this information to the Standards Board for England for their consideration.

I look forward to hearing from you.

Yours sincerely,

Cllr Diane Hibbert.



Copy

# CHEL TENHAM

## BOROUGH COUNCIL

Mr Andrew North

Councillor Diane L. Hibbert

Cllr Diane Hibbert

Chief Executive  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

8<sup>th</sup> May 2009.

Dear Mr North,

### Ref Planning Meeting 30<sup>th</sup> April 2009

Following on from the meeting I attended with you, Cllr Dave Prince and Mrs Jenny Ogle, I would like to re-affirm the points that were made at that meeting and provide follow up information.

I am aware that Cllr Prince has written to you and having read his letter of 3<sup>rd</sup> May I am able to confirm that I concur with all of the points.

In light of the issues raised, I believe that the issuing of the permission for the St Vincent's planning application should be halted until an investigation into the complaints have been completed.

With regard to the planning committee members prejudicial interest in the case of Cllr Barnes;

Cllr Barnes, a Liberal Democrat Councillor has declared that he is a paid up member of the 'Friends of St Vincent's'. The applicant, Mr Bonney, has a close relationship with the Liberal Democrat Party delivering Liberal Democrat Focus and other political literature in the neighbourhood of the application site.

**I would suggest that the combination of these two facts would lead a member of the public to think that the personal interest is so significant that any decision taken would be affected.**

I understand from the monitoring officer that Cllr Barnes did discuss his membership of the 'Friends of St Vincents' with him. However, as the monitoring officer was not aware of the applicant, Mr Bonney's, close relationship with the Liberal Democrat Party, any advice given by the monitoring officer would not have been with the benefit of all the relevant facts.

**I believe that Cllr Barnes did have a prejudicial interest in the application of St Vincents and should have withdrawn from the meeting.**

With regard to the planning committee members prejudicial interest in the case of Cllr. Driver;

Cllr Driver works for St Vincents on a voluntary basis at their fund raising events. I know this to be the case since I have chatted with her at St Vincents events.

Furthermore, at the planning meeting on 30<sup>th</sup> April, Cllr Driver described how from her various visits to St Vincents she was very familiar with their work and the type of equipment they used. At the planning meeting Cllr Driver did not declare any interest in this application.

**I believe that Cllr Driver did have a prejudicial interest in the planning application of St Vincents and should have declared it and withdrawn from the meeting.**

**With regard to the conduct of the Chair Person, Cllr Surgenor;**

1. Cllr Thornton, knowingly, made an inaccurate statement to the planning committee regarding the view of the influential Civic Society. She informed the committee that the Civic Society were in favour of the application, whereas, as she was in possession of the papers, she would have known that the stated view of the Civic Society was "that they are firmly of the view that this is not an appropriate site for a substantial development of this kind"

Cllr Surgenor, the Chair Person, did not correct her inaccurate statement.

2. Cllr Hay, whilst addressing the committee was permitted to publicly criticise the work of the County Councillors for the Pittville Division, although he has no knowledge of their work, the persons being criticised were not in a position to respond and what is more, such statements have nothing whatever to do with planning matters. However, rather than correcting Cllr Hay in this matter, Cllr Surgenor, the Chair Person went on to repeat and re-enforce the personal attacks.

3. At the conclusion of the meeting Cllr Surgenor publicly congratulated Cllr Driver for her speech in support of St Vincents, even though the substance of her speech was based on the needs of the users of St Vincents and not grounded on planning matters relative to the Local Plan.

4. I have been alarmed to hear from Cllr Surgenor at a later meeting that he was of the view that someone had been 'got at' and that this involved the Conservation Officer and the Civic Society. This statement was made in the presence of Rob Bell, Beth Broughton and Cllr Massey.

The planning officer report on this application was very thorough and unequivocal and set out very strong policy grounds for recommending refusal.

Whereas, I fully accept that the planning committee can and often does make decisions which are not in line with officer recommendation, this is more often when officers recommend permit and the committee decide to refuse.

It is much more unusual for the committee to permit when the officer has recommended refuse, and furthermore these instances are usually on much smaller applications. It is extremely unusual on larger developments for the committee to permit when the officer has recommended refuse.

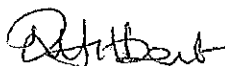
I would like to know the detail of all significant large developments that have been permitted during the past few years when officers have recommended refusal?

The consideration of the combination of all of the factors leads me to question if the planning committee process and procedures, in this instance, can be considered to be fair, even handed and without bias and as a consequence if the decision, in this instance, can be considered to be safe.

Please note that I shall be also be writing to the Standards Board for England and to the Standards Committee of Cheltenham Borough Council.

I look forward to hearing from you.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "D. Hibbert".

Cllr. Diane Hibbert.



**CHEL TENI**  
BOROUGH COU

Sarah Farooqi  
Solicitor  
Cheltenham Borough Council  
Municipal Office  
Promenade  
Cheltenham  
Glos  
GL50 1PP

Councillor Diane L. Hibbert

IC Cheltenham Council Planning Committee 26 JUN 2009
26 JUN 2009
PASSED TO
FILE REF

15<sup>th</sup> June 2009.

Dear Sarah,

**Planning Committee on the 30<sup>th</sup> April 2009-application by St Vincent's re land adjacent to Dunalley Primary School.**

Thank you for your letter of 12 June and the notice of decision of the Standards (initial assessment) Sub-Committee.

Reference Councillor Barbara Driver. The notice of decision refers to 'The allegation that Mrs Driver failed to disclose her donation and possible membership of St Vincent's.' **Please note that my letter of 8<sup>th</sup> May specifically refers to Mrs Driver working as a volunteer for St Vincents at their fundraising events and does not refer to any donation made by Mrs Driver.**

Please confirm that the correct issue is to be investigated by the monitoring officer and that the notice of decision is amended to reflect this.

Reference Councillor Garth Barnes. The notice decision refers to 'The allegation that Councillor Barnes failed to disclose his donation and possible membership of St Vincents. **Please note that my letter of 8<sup>th</sup> May points out that Councillor Barnes did declare a personal interest in respect of his membership and donation to St Vincents but that this fact combined with the fact that the applicant, Mr Bonney, is an active member of the Liberal Democrat Party, and delivers Liberal Democrat 'Focus' and election material, would lead a member of the public to conclude that Councillor Barnes' interest in St Vincent's is of a pecuniary nature and as a consequence he should have withdrawn from the meeting.**

Please confirm that the correct issue is to be investigated by the monitoring officer and that the notice of decision is amended to reflect this.

It is of course important that the correct allegations are investigated.

Yours sincerely,

Councillor Diane Hibbert

Cc Mr Jon Leamon, Councillor David Hall, Parish Councillor Stuart Fowler.

M

The Chairman  
Standards Committee  
Cheltenham Borough Council  
Municipal Offices  
Cheltenham GL50 1PP

5<sup>th</sup> May 2009

Dear Sir,

**Re: Breach of Members' Code of Conduct**

I wish to register a complaint against three members of Cheltenham Borough Council's Planning Committee regarding their conduct whilst considering planning application no. 08/01342/FUL at the planning meeting held on 30<sup>th</sup> April.

As a long standing member of the Cheltenham Civic Society's Planning Forum and Vice Chairman of the Society, I am deeply concerned that the business of the Cheltenham Borough Council's Planning Committee should be seen to be carried out in a professional and unbiased way.

A series of irregularities in the Committee's dealings with the above application would appear to question the conduct of certain committee members and the validity of the decision given.

To summarise:

Two committee members, namely Cllrs. Barnes and Driver, would appear to have significant enough ties with the applicant, St. Vincents, for them to declare a prejudicial interest and withdraw from the process. They failed to do so, took part in the debate and voted.

One of the above gave an emotional address aimed at the compassion of the committee. This should have been censured by the by the chair as not being permissible grounds for considering a planning application.

Cllr. Thornton falsely stated that Cheltenham Civic Society was in favour of the application, knowing full well this was not the case, and stood uncorrected.

Although one member declared an interest and withdrew from the process, Cllr. Barnes declared an interest and remained to vote.

/cont.

The Chairman: Standards Committee of CBC

5<sup>th</sup> May 2009

Despite stating categorically that no further representations could be made, the chair allowed a further member to address the committee for a second time, apparently on the basis of a note he had just been handed by a third party who could be perceived as having an interest in the development and whose presence in the chamber could be questionable.

I consider that all the above factors played a significant roll in the application being passed, albeit by a narrow margin, and that they warrant a full investigation of the involved councillors' motivations and actions.

I am writing to you as a concerned member of the public and not in my capacity as an officer of Cheltenham Civic Society.

I am copying this letter to the Standards Board for England who I feel should be made aware of my complaint.

Yours faithfully,

Douglas S. Ogle B.Arch (Dunelm.)

**Copy to: The Standards Board for England**  
4<sup>th</sup> Floor  
Griffin House  
40 Lever Street.  
Manchester M1 1BB



Derek Marley

5/5/09

The Chairman  
Standards Committee  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Reference: a) CBC Planning Committee Meeting held on 30/4/09  
b) Planning Application No: 08/01342/FUL

**SUBJECT: Breach of Members Code of Conduct, Bias and false statements concerning  
References a & b above.**

Dear Sir,

I am a member of the public and I attended the planning meeting [Ref. a], sitting in the Gallery for the duration of the hearing/vote on the St Vincent's development [Ref. b]. During that meeting I witnessed, Breach of the Members Code of Conduct and blatant bias by members of the planning committee in favour of the applicant of the development [Ref b] I also witnessed knowingly false declarations made by committee members and applicants representatives during the hearing.

I therefore request that you immediately suspend permission for the St Vincent's planning application and carry out a thorough formal investigation into the events which occurred at the planning committee meeting on 30/4/09, as I believe a number of councillors were guilty of a gross conflict of interest which definitely should have been designated "prejudicial" and therefore they should have excused themselves from the hearing and not voted.

My points are as follows;

#### **BREACH OF MEMBERS CODE OF CONDUCT/BIASE**

**Councillor Driver** made no declaration of interest to [Ref. b] but went on to give a passionate speech in support of St Vincent's, a speech which ignored the real planning issues and gross breaches of planning policy which had formed the basis of the Planning Officer/Conservation officers recommendations for refusal. Councillor Driver focused purely on emotional issues. Councillor Driver is a supporter of St. Vincent's and has in the past run stalls at the St Vincent's Centre Summer Fete's to raise money for them. I believe she has a "Prejudicial Interest" in [Ref. b] and should have declared so and excused herself from the meeting. In fact Cllr Driver did declare an interest and excused herself from the same meeting for another application ?. Why not for [Ref b] ?. I believe Councillor Driver to be in Breach of the Members Code of Conduct in not declaring a prejudicial interest in St. Vincent's, which makes her unable to take a clear unbiased view on the planning aspects of the application.

**Councillor Barnes** declared he had an interest but not a prejudicial interest. He stated that that he was a "Friend of St Vincent's", contributing each year to the St. Vincent's centre. I cannot see how this cannot be viewed as prejudicial ?. I believe Councillor Barnes to be in Breach of the Members Code of Conduct in not declaring a prejudicial interest in St. Vincent's, which makes him unable to take a clear unbiased view on the planning aspects of the application.

**Councillor Surgenor** was supposed to be an impartial chairman of the meeting, allowing both sides of the hearing an equal fair opportunity to discuss the issues. In fact he was obviously biased towards the applicants. This was shown by the following points:-

- He continually allowed, without challenge, Cllr Morris to interrupt, bully and barrack councillors Stennett and Godwin while they tried to get their opposing views across, causing them to lose concentration and the thread of the points they were trying to make to the Committee.
- Despite Cllr Morris having had his say and previously been given ample time to make his views known and the Chairman having stated that there would be no more speakers after the Conservation Officer (Mrs Karen Radford) had spoken (as everyone who wanted to speak had already had their say by then), Cllr Morris was allowed to speak yet again after he had been passed a piece of paper by a member of the public. After reading the paper which was in full view of Cllr Surgenor, Councillor Morris launched into a verbal tirade aimed primarily against the Conservation Officer and her findings, the tirade having no relevance to planning issues and being primarily emotional. This quite surprisingly went completely unchallenged by the Chairman.
- Cllr Surgenor allowed statements to be made that he knew to be false, statements such as "that the Civic Society supported the application" which was made by Cllr Thornton – a statement the chairman knew to be false but did nothing to correct.
- Cllr Surgenors final summing up was biased in the extreme towards the applicant.

I believe Councillor Surgenor to be in Breach of the Members Code of Conduct by allowing critical statements he knew to be untrue, to pass without comment and to handle the chairmanship of the meeting in a completely biased and one sided manner, in favour of the applicants.

## FALSE STATEMENTS

**Councillor Thornton:** Knowingly stated the untruth that the Civic Society supported the application when she knew the Civic Society had stated that they were "firmly of the view that the site was not appropriate for such a substantial development".

I believe Councillor Thornton to be in Breach of the Members Code of Conduct by making false statements before the Planning Committee.

**Cllr Tim Cooper (Speaker in support of applicants):** Told the Committee that the governors of Dunalley School were in favour of the application. This Statement is untrue. This untruth was particularly damaging as Cllr Cooper was the last public speaker and Cllr Surgenor, as Chairman would allow no more comments from outside the Planning Committee.

**Les Bonney (Speaker in support of Applicants):** Told the Committee that the applicants were committed to re-instate a new replacement Wild Garden within the school grounds. In fact this statement is not true, there is no agreed S106 and a draft S106 was handed to the Planning Officer only on the day of the meeting. I believe this draft S106 refers to providing only a cash sum to the school, with no commitment to take over the building or maintenance of the garden. I believe the statement made by Mr Bonney is a misleading untruth which may have had an impact on some members of the Committee.


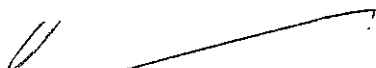
I sincerely hope you will carry out a full and detailed investigation of the points I have raised above. I believe due process was not followed at the Planning Meeting on 30/4/09 and that the people of Cheltenham have been failed by a political lobby on the planning committee who have put prejudicial and biased emotional interests ahead of Planning policy and guidelines, the hearing concerning [Ref b] was a disgraceful sham and I believe in the interests of honesty, integrity and fair play that the hearing needs to be re-held at the earliest opportunity, with the applicable parties declaring a "prejudicial Interest" this time around.

Please note I have also sent a similar letter of complaint to Andrew North, Chief Executive of Cheltenham Borough Council and I will also be making a formal complaint on the matter to the Standards Board for England in Manchester, attaching these letters to that formal complaint.

I look forward to hearing your response to the points raised above.

Yours sincerely

Derek Marley



Derek Marley

12/5/09

Mr. Peter Lewis  
Monitoring Officer  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Cheltenham Borough Council	
Corporate Services Group Directorate	
14 MAY 2009	
PASSED TO	
FILE REF	

Reference: a) CBC Planning Committee Meeting held on 30/4/09  
b) Planning Application No: 08/01342/FUL

**SUBJECT: Breach of Members Code of Conduct, Bias and false statements concerning  
References a & b above.**

Dear Mr Lewis,

I have been advised to write to you by the Standards Board of England, in connection with my complaint concerning breaches of the Members Code of Conduct by members of the Cheltenham Borough Council.

I am a member of the public and I attended the planning meeting [Ref. a], sitting in the Gallery for the duration of the hearing/vote on the St Vincent's development [Ref. b]. During that meeting I witnessed, Breach of the Members Code of Conduct and blatant bias by members of the planning committee in favour of the applicant of the development [Ref b] I also witnessed knowingly false declarations made by committee members and applicants representatives during the hearing.

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My points are as follows;

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**Les Bonney (Speaker in support of Applicants):** Told the Committee that the applicants were committed to re-instate a new replacement Wild Garden within the school grounds. In fact this statement is not true, there is no agreed S106 and a draft S106 was handed to the Planning Officer only on the day of the meeting. I believe this draft S106 refers to providing only a cash sum to the school, with no commitment to take over the building or maintenance of the garden. I believe the statement made by Mr Bonney is a misleading untruth which may have had an impact on some members of the Committee.

I sincerely hope you will carry out a full and detailed investigation of the points I have raised above. I believe due process was not followed at the Planning Meeting on 30/4/09 and that the people of Cheltenham have been failed by a political lobby on the planning committee who have put prejudicial emotional interests ahead of Planning policy and guidelines, the hearing concerning [Ref b] was a disgraceful sham and I believe in the interests of honesty, integrity and fair play that the hearing needs to be re-held at the earliest opportunity, with the applicable parties declaring a "prejudicial Interest" this time around.

Please note I have also sent a similar letter of complaint to the Chairman of the Cheltenham Borough Council Standards Committee and to Mr Andrew North, Chief Executive.

I look forward to hearing your formal response to the points raised above.

Yours sincerely

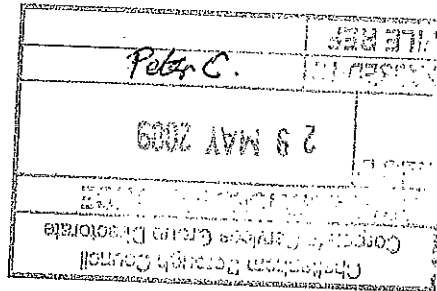
Derek Marley



Derek Marley

28/5/09

Mr. Peter Lewis  
Monitoring Officer  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP



Reference: a) My letter to Andrew North and to Chairman of Standards Committee dated 5/5/09  
b) Letter from Sarah Farooqi, dated 22/5/09, referenced SF/14569  
c) CBC Planning Committee Meeting held on 30/4/09  
d) Planning Application No: 08/01342/FUL  
e) CBC, Code of Members Conduct, PART 5A  
f) Minutes of Planning Committee Meeting of 30<sup>th</sup> April/1<sup>st</sup> May 2009

**SUBJECT: Breach of Members Code of Conduct, Bias and false statements concerning References c & d above.**

Dear Mr Lewis,

I am writing to you in response to the letter I received from Ms. Farooqi [Ref b above].

Frankly I am not convinced that my complaints concerning serious breaches of CBC Code of Conduct, bias and gross misrepresentation by members of Cheltenham Borough Council concerning [Refs c & d] above will be given the due process and consideration they deserve.

I am particularly concerned that Ms. Farooqi has decided not to investigate false statements made by Councillors and applicants at the planning hearing [Ref. c] and confused statements I had made concerning Cllr Driver with Cllr Thornton ?.

Please note the following concerning Ms Farooqi's letter to me [Ref. b] on a point by point basis:-

**[Ref b, page 1]:-**

It states that an "initial assessment sub-committee" will meet but that I will not have an opportunity to attend. I would like to stress that if the subjects of my allegations are allowed to address this sub-committee then I too would like an equal opportunity to address the sub-committee and challenge the subjects if required. If this is not allowed I cannot accept it as a fair hearing.

Concerning my complaints regarding breaches of the CBC Code of Conduct [Ref e], I would like to take this opportunity to highlight applicable sections of [Ref e] where I believe serious breaches have been made w.r.t the applicable Councillors concerned, stating my reasons why I believe the Code has been breached. I believe the CBC Standards Committee should be made aware and consider my allegations.

**[Ref. e, Sections: 8 (1) (a) (ii) (bb) and 10 (1) and 10 (2) (a) and 10 (2) (b) and 12 (1) (a) (i) & (ii) and 12 (1) (c)]** were breached by Cllr Barnes, he is a "Friend of St Vincent's", as such he has a "Prejudicial Interest", is in Breach of 10 (1) and should have excused himself from the meeting as per 12 (1) (a).

**[Ref. e, Sections: 8 (1) (a) (ii) (bb) and 10 (1) and 10 (2) (a) and 10 (2) (b) and 12 (1) (a) (i) & (ii) and 12 (1) (c)]** were breached by Cllr Driver, she made no declaration of interest, prejudicial or otherwise, yet she is a known supporter of St Vincent's and has run stalls at the St Vincent's Centre Summer Fete's to raise money for them. As such I believe she clearly has a "Prejudicial Interest" in [Ref d] and she is in Breach of 10 (1) and should have excused herself from the meeting as per 12 (1) (a). It is interesting to note from [Ref f] that Cllr Driver only declared a "personal Interest" in application 08/00037/FUL and yet she withdrew from the chamber for the debate, why not for [Ref d] ?

Cllr Drivers stood up and made a purely emotional speech in favour of the applicant ignoring the planning issues and the advice/views of both the planning and Conservation officers. She is clearly in breach of [Ref e, Section 7 (1) (b)].

I would like to take this opportunity to request that Cllr Driver be asked the following:-

- a) Is or has she ever been a "Friend of St Vincent's" ?
- b) Has she ever donated her time or money to St Vincent's. ?

If the answer to either of (a) or (b) above is yes then she would clearly be in breach of sections 8 (1) (a) (ii) (bb) and 10 (1) and 10 (2) (a) and 10 (2) (b) and 12 (1) (a) (i) & (ii) and 12 (1) (c)

**[ Ref e, section 3 (2) (b)]:-** Cllr Morris verbally bullied Cllr's Stennett & Godwin causing them to lose concentration and the thread of what they were saying. His outburst during their talk was a complete disgrace, he was in obviously in breach of section 3 (2) (b) of the Code of Conduct.

**[Ref e, section 2, (1), (b)]:-** Cllr Cooper made a statement at [Ref. c] calling himself a "Councillor", as such he falls under section 2, (1), (b) and all of [Ref. e] is therefore applicable to him. I therefore declare that Councillor Cooper misled the Planning Committee by declaring that the Dunalley School Board of Governors supported the developer's application when he knew this to be untrue and that the board of Governors had made no such statement (I have checked the Dunalley School Governors meetings Minutes of meetings and this is so). Cllr Cooper knowingly misled the Committee on this important point and therefore is in Breach of the Code of Conduct for reasons of lack of honesty/integrity.

**[Ref e, section 6 (a)]:-** Cllr Surgenor used his position as Chairman of the meeting [Ref c] to favour the applicants which was demonstrated throughout the meeting by his failure to correct statements he knew to be untrue (i.e. by Cllr Thornton stating "Civic Society were divided" when in fact he knew full well that the Civic Society were "unanimous" in condemning the development as he had been personally made aware of this by Mr Douglas Ogle, a member of the Civic Society). Cllr Surgenor allowed the bullying/barracking tactics of Cllr Morris during the meeting and in an unprecedented manner was the first person to put up his hand for the vote after a very one sided summing up in favour of the applicant, thereby further using his position as Chairman to confer an advantage to the Developer. I believe Cllr Surge nor was in Breach of section 6 (a) of the Code of Conduct.



I would like to take this opportunity to request that Cllr Surgenor be asked the following:-

- c) Is or has he ever been a "Friend of St Vincent's" ?
- d) Has he ever donated his time or money to St Vincent's. ?

If the answer to either of (a) or (b) above is yes then he would also be in breach of sections 8 (1) (a) (ii) (bb) and 10 (1) and 10 (2) (a) and 10 (2) (b) and 12 (1) (a) (i) & (ii) and 12 (1) (c)

**[Ref b, page 2];-** Ms Farooqi states in her letter that the sub-committee can reach one of three decisions (1), (2) & (3). It makes no mention of the Planning Committee Vote which was derived as a result of Breaches in the Code of Conduct by CBC Councillors. I request that the final granting of planning Permission on [Ref d] be put on hold immediately subject to the findings of the Standards Committee.

**[Ref b, page 2, last paragraph]:** Ms Farooqi states that points 2 i, ii, 111, 1v, v, vi, vii, fall outside the remit of the Standards Committee. I do not agree as pointed out above serious breaches of the [Ref e] have occurred which the Standards Committee should investigate.

**[Ref b, page 3, point i] – DO NOT AGREE –** See my comments (above) concerning Councillor Cooper breaching [Ref e].

**[Ref b, page 3, point iii] – DO NOT AGREE –** Cllr Thornton stated an untruth as the Civic Society had voted unanimously against the development. Her statement was an untruth and therefore a breach of the Honesty/integrity part of the Code of Conduct.

**[Ref b, page 3, point iv] – INCORRECT.** If you read my letter of 5/5/09 you will see its Cllr Driver I'm referring to here not Cllr Thornton. Please see my comments above concerning Cllr Driver.


I believe my complaints are real and represent a gross abuse of power and lack of honesty/integrity by the individuals concerned. I request that you treat my complaint with the seriousness which I believe it deserves. The people of Cheltenham deserve more than the disgraceful way in which the St Vincent's Application was handled at the Planning meeting on 30<sup>th</sup> April 2009.

I further re-iterate my request that any planning approval of [Ref d] is put on hold pending immediately subject to the findings of the Standards Committee.

Please note I have also sent a copy of this letter to Sarah Farooqi, Andrew North and to the Chairman of the Standards Committee (CBC).

I look forward to hearing your formal response to the points raised above.

Yours sincerely

  
DORIS HALLIDAY

Copies: Ms Sarah Farooqi  
Mr Andrew North  
The Chairman of Standards Committee – CBC

**Farooqi, Sarah**

---

**From:** Marley, Derek 3  
**Sent:** 29 May 2009 10:32  
**To:** Farooqi, Sarah  
**Subject:** URGENT: Your Letter of 22/5/09

Your Ref: SF/14569

Dear Ms Farooqi,

Please find attached, a letter written to Peter Lewis in his capacity of Monitoring Officer for CBC, in response to your letter of 2/5/09. Please note, in addition to yourself, we have also sent a hard copy to Andrew North and to the Chairman of the Standards Committee.

I believe a very serious breach of the Code of conduct occurred at the planning meeting on 30/4/09 in relation to the St Vincent's Planning Application and I am now concerned that my complaints will not be impartially considered ?.

I believe at least two Councillors (Driver and Barnes) had Prejudicial interests in the application and should have excused themselves from the meeting.

I believe as a result of this serious breach an unsound vote was held which overturned the Planning Officer/Environmental Officers recommendation for refusal.

I formally request that you do not dilute my complaints and present them for consideration of the CBC Standards Committee as I have stated.

I also formally request that you immediately take whatever steps are necessary to put a hold on the St Vincent's planning decision until my complaints have been heard by the Standards Committee.

Could you please tell me by return e-mail that if my complaints concerning Cllr's Barnes and Driver failing to declare a Prejudicial interest in the case are upheld by the Standards Committee, how such a decision would affect the planning decision made as a result of them voting on the issue and thereby causing an unsound vote. i.e. is there a mechanism for the planning hearing on the St. Vincent's application to be re-heard ?.

In a personal note I'm quite disheartened that complaints such as mine cannot now be handled externally by the Standards Board of England rather than internally by Cheltenham Borough Council. This really has been an eye opener for me. Is there any steps I can now take to have my complaint dealt with by a body unconnected with Cheltenham Borough Council ?.

Yours  
Derek Marley

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This email and any attachments are confidential to the intended recipient and may also be privileged. If you are not the intended recipient please delete it from your system and notify the sender. You should not copy it or use it for any purpose nor disclose or distribute its contents to any other person.

ed

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Derek Marlev

14/6/09

Ms. Sarah Farooqi  
Solicitor  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

COMMUNICATIONS SECTION	
16 JUN 2009	
RECEIVED	
FILED	

Reference: a) Letter from Ms. Sarah Farooqi, dated 12/6/09 – SF/SD/14569  
b) Notice of Decision: Standards Sub-Committee, 2/6/09: Ref Cllr Barnes  
c) Notice of Decision: Standards Sub-Committee, 2/6/09: Ref Cllr Driver  
d) CBC, Code of Members Conduct, PART 5A  
e) Minutes of Planning Committee Meeting of 30<sup>th</sup> April/1<sup>st</sup> May 2009  
f) My letter to Peter Lewis, dated 12/5/09 – attached.  
g) My letter to Peter Lewis, dated 28/5/09 – attached.

**SUBJECT: Breach of Members Code of Conduct: References b & c above.**

Dear Ms Farooqi,

I am writing to you in response to the letter I received from you dated 12/6/09 [Ref a].

I have noted the content of the decision notices of the Standards Sub-Committee held on 2/6/09 [Refs b & c] and wish to point out to you that the nature of my complaints against Cllr. Barnes and Cllr Driver, as listed in these notices is incorrect and they do not reflect the text of my complaint as per my letters to Peter Lewis [Ref (f), pages 1 & 2 – attached] and [Ref. (g), page 2 – attached]. In order not to confuse the issues and to focus on my complaint of breach of members code of conduct I request that you/the standards committee to redraft [Refs (b) & (c)] to reflect my actual complaint against these two individuals. Please note the following:

**Cllr. Barnes, [Ref (b)]:-**

As you can clearly see from review of [Refs (f) & (g)] **I did NOT allege** that Cllr Barnes “failed to disclose his donation and possible membership of St Vincent’s”. It is clear from page 1, section 2 of [Ref. (e)] the Minutes of the Planning Meeting, that Cllr Barnes declared a “Personal” Interest in St. Vincent’s and that he was both a “Member of the Friends of St. Vincent’s” and a financial donor. As you can clearly see from [Refs f & g] in relation to Cllr Barnes **my complaint was in relation to him failing to declare a “Prejudicial Interest” and excusing himself from the meeting/vote.**

See page 2 of [Ref (f)] i.e. :-

**“Councillor Barnes declared he had an interest but not a prejudicial interest. He stated that that he was a “Friend of St Vincent’s”, contributing each year to the St. Vincent’s centre. I cannot see how this cannot be viewed as prejudicial ?. I believe Councillor Barnes to be in Breach of the Members Code of Conduct in not declaring a prejudicial interest in St.Vincent’s, which makes him unable to take a clear unbiased view on the planning aspects of the application.”**

See also page 2 of [Ref (g)] i.e. :-

**“[Ref. e, Sections: 8 (1) (a) (ii) (bb) and 10 (1) and 10 (2) (a) and 10 (2) (b) and 12 (1) (a) (i) & (ii) and 12 (1) (c)] were breached by Cllr Barnes, he is a “Friend of St Vincent’s”, as such he has a “Prejudicial Interest”, is in Breach of 10 (1) and should have excused himself from the meeting as per 12 (1) (a).”**

**Cllr. Driver, [Ref (c)]:-**

As you can clearly see from review of [Refs (f) & (g)] **I did NOT allege** that Cllr Driver “failed to disclose her donation and possible membership of St. Vincent’s”. While this may indeed be true, **my complaint was in relation to Cllr. Driver being a known supporter, Volunteer and Fundraiser for St. Vincent’s and as such failing to declare a “Prejudicial Interest” and excusing himself from the meeting and vote.**

See page 1 of [Ref (f)] i.e. :-

***“Councillor Driver made no declaration of interest to.....”.***

*Councillor Driver is a supporter of St. Vincent’s and has in the past run stalls at the St Vincent’s Centre Summer Fete’s to raise money for them. I believe she has a “Prejudicial Interest” in [Ref. b] and should have declared so and excused herself from the meeting.”*

See also page 2 of [Ref (g)] i.e.:-

***“[Ref. e, Sections: 8 (1) (a) (ii) (bb) and 10 (1) and 10 (2) (a) and 10 (2) (b) and 12 (1) (a) (i) & (ii) and 12 (1) (c)] were breached by Cllr Driver, she made no declaration of interest, prejudicial or otherwise, yet she is a known supporter of St Vincent’s and has run stalls at the St Vincent’s Centre Summer Fete’s to raise money for them. As such I believe she clearly has a “Prejudicial Interest” in [Ref d] and she is in Breach of 10 (1) and should have excused herself from the meeting as per 12 (1) (a)”***

As you can see from above my complaints against Cllr’s Barnes and Driver related to sections 8, 10 and 12 of the Code of Conduct [Ref. (d)].

I would like to take this opportunity to quote from section 10. (1) of the Code of Conduct [Ref. (d)], which states:-

***“.....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 a knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest. ”.***

I point out that I am a member of the public, with knowledge of the relevant facts and I consider that both Cllr’s Barnes and Driver had a prejudicial interest in this business.

I note from a parallel letter to me from Peter Cruden (dated 12/6/09 that you will be producing a detailed report and that you will be seeking the advice of external counsel on your findings. In view of this and to ensure that my complaint is legally investigated, I hereby request that [Refs (b) and (c) be immediately corrected to show the true nature of my complaint.

Please note I have also sent a copy of this letter to Peter Cruden, Jon Leaman, Cllr. David Hall and Parish Councillor Stuart Fowler.

I look forward to hearing your formal response to the points raised above.

Yours sincerely

Derek Marley

Copies: Mr. Peter Cruden  
Mr. Jon Leaman  
Cllr. David Hall  
Parish Cllr Stuart Fowler

Cheltenham Borough Council POSTAL SERVICES			
PASSED TO			
REC'D	-7 MAY 2009		
Date of Response		Type of Response	
Initials of Responder		File Ref.	

5<sup>h</sup> May 2009

The Chairman  
Standards Committee  
CBC  
Municipal Offices  
Cheltenham  
Glos  
GL50 1PP

**PLANNING COMMITTEE MEETING 30<sup>th</sup> APRIL 2009**  
**APPLICATION No 08/01342/FUL**

Dear Sir,

I attended the above meeting as a member of the public and am now writing to you to complain that correct procedures were not followed, my complaints can be categorised as follows:-

**1. Declaration of an interest.**

- Cllr Barnes declared that he is a member of "Friends of St Vincent's" and he donates a monetary amount each year to the cause. I believe that such an interest is and was strong enough to influence his decisions, in my view he should not have taken part in the meeting.
- Cllr Driver did not declare an interest but it is my understanding that she helps to raise money for St Vincent's and in all probability is also a "Friend of St Vincent's". I cannot see how she would not have a bias and prejudicial interest in the success of the application.

**2. Inaccurate and misleading statements**

- Cllr Cooper spoke for the application, however, his statement that Dunalley School Governors are in favour of the application is not true. In fact the Chairman of the Board of Governors of Dunalley spoke strongly against the application at the meeting and I am aware of other governors who are not in favour, sweeping statements like this are misleading at the very least.
- Cllr Cooper also stated that "Only 30% of the wildlife gardens would be built upon" this statement is so far from the truth, one look at the master plan is enough for anybody to see that about 70% of the wildlife garden will be demolished to accommodate the buildings, roads, car park and other services necessary to run such a large project. The Chairman knew this, he should have corrected the councillor.
- Mr Bonney, Chairman of the board of Trustees for St Vincent's spoke to support the application. He also stated that "Only 30% of the wildlife garden would be affected". Understating the amount of damage which will occur on this land has been a constant feature of Mr Bonney's 2 ½ year public campaign to develop the

- land, it is totally misleading and should not have been allowed at the meeting.
- Cllr Thornton spoke passionately in favour of the application basing her argument solely on sentiment not planning issues. She stated that laid down planning policies (local or national) need not be followed, an incredible admission which is tantamount to saying planning policies are worthless.
  - Cllr Thornton also stated that the Civic Society supported the application. This was not the case, the Civic Society had stated quiet clearly that they did **not** support the application, the Chairman should have stepped in at this point to correct Cllr Thornton but he didn't.
  - Cllr Driver said that the proposed new buildings would be an extension of the present St Vincent's premises. This is not correct, St Vincent's Trustees have said on many occasions that the present premises would in all probability be sold off to pay for the new project.
- 3. Incorrect Procedures**
- Cllr Surgenor, Chairman of the Planning Committee, said at the beginning of the meeting that 5 people wished to speak he added that he wanted the meeting to progress as quickly as possible and would take no more than 5. After the fifth person Karen Radford, Heritage & Conservation Officer had spoken against the application Cllr Morris put his hand up to speak again to refute Karen Radford's remarks, the Chairman should not have allowed Cllr Morris a second chance to put forward his points. The Chairman had previously cut off David Horstead, Chairman of Dunalley's Board of Governors before he reached the end of his statement in favour of the gardens, to me in the public gallery this seemed very much like an unfair bias by the Chairman in favour of the applicants.

As I mentioned earlier in my letter a public campaign has been followed by the Trustees of St Vincent's, led by their Chairman Mr Bonney, to persuade residents and many others including members of the Planning Committee to support their cause to build upon the wildlife gardens in West Drive. Whilst there is nothing wrong with that I have to say that many misleading statements have been made in the course of the campaign. For example "Residents are in favour", "The Head Teacher and school are in favour", "Governors are in favour", "Only 30% of the wildlife garden will be used" All of these statements are untrue and a number of them were used again during the Planning Committee meeting. In view of this I would be grateful if you could investigate my complaints which I believe constitute breaches of the Members Code of Conduct.

I have written a similar letter to the Chief Executive of CBC and I also intend to write to The Standards' Board in Manchester.

Yours sincerely,

F.A. Warren ,

13 MAY 2009

Chair, Standards Committee

CBC Municipal Offices

Cheltenham GL50 1PP

David Horstead

8/5/9

I have written a letter addressed to Mr North, leader of CBC, drawing his attention to the Planning Committee meeting of the 30<sup>th</sup> April 2009 (08/1342/FUL) where I believe there to have been very significant and flagrant breaches of conduct, damaging bias and a very questionable planning decision.

As a nominated speaker against the proposed St Vincent's application, I attended this meeting and was appalled by the way the meeting was conducted, by the Chair and Members.

Mr Surgenor showed bias by severely limiting speaking time, generally and specifically, but then allowed Cllr Morris to deviate well outside of planning factors into something more like a fervent rant than a considered opinion, to attack planning officers because they had delivered an opinion contrary to his own and then to be given a 2<sup>nd</sup> opportunity where he made further inaccurate statements. On one occasion, Cllr Thornton made an inaccurate statement that the Civic Society was in favour of the application and while Thornton and the Chair knew this to be inaccurate, because the decision was part of the paperwork, Mr Surgenor did not contradict it.

I am also extremely upset to learn the degree to which members had a prejudicial interest in ensuring the application was passed. Cllr's Barnes and Driver are both contributing 'Friends' of the applicant! Surely this has to mean they must not vote in any application where they could favour one side? The fact that Les Bonney, who is the principal for the application, is an active Lib Dem supporter and that so many LibDems voted to pass the application is also questionable.

In addition to the inaccurate statement about the Civic Society, Cllr Thornton also made a sweeping statement that the Committee only took Planning Policies and Principles as guidance and could, in fact, do what they wished! While I accept that 'Principles' can be followed or not depending on circumstances I certainly do not agree that the many clear Policies stated by the Planning Officer could be ignored. The PO's report was very clear in recommending a refusal and it's is bizarre in the least that he should be overturned on little more than an emotive argument! Several of the speakers in favour did all they could to stir up the 'good cause' element and brushed aside planning logic. It was Cllr Fisher I think who made the assertion that if this application was for a rich person's house or anything other than St Vincent's, there would be no-one on the Committee who would vote for it.

Cllr's Driver, Morris & Thornton at least, made sweeping and inaccurate statements echoing the misinformation propagated by the applicant. This included a figure of a 30% build on the site, intimating that this was a minimal impact. In fact, the remaining 70% of the site will be destroyed by paths,



roadways and car parking space. They dismissed the impact from increased traffic, stating that these 'poor people' can't drive! This completely ignores the huge staff and residential turnover attending to the 'non drivers' on a 24hr basis. They continued to assert that Dunalley School is in favour which is untrue. As Chair of Governors I can tell you we voted not to object based on the fact that this was GCC land and we, as a Governing Body had no claim on the land, we were just beneficiaries. However, when it came to the wider school community, there was an absolute wish to maintain the wild gardens and object to the application. The fact that we have over 800 signatures is testament to this sentiment.

There was another instance where Mr Surgenor should have intervened. Cllr Morris was approached by someone outside of the committee and given a piece of paper and they spoke briefly. I don't know why this happened but I sure it is wrong and should have been challenged since Morris then went on to make ridiculous statements that there were already adjoining developments around the park as it this was in some way a justification! Bad previous decisions justifying this one?

I will copy this letter to the Standards authorities and trust you will suspend this decision pending a review.

David Horstead

Chair of Governors Dunalley School

Peter Lewis

Monitoring Officer PO Box 12

CBC Municipal Offices

Cheltenham GL50 1PP

Cheltenham Council	
Council Administration Directorate	
LEGAL	PLANNING
21 MAY 2009	
PASSED TO	
FILE REF	

David Horstead

18/5/9

I have written a letter addressed to Mr North, leader of CBC, drawing his attention to the Planning Committee meeting of the 30<sup>th</sup> April 2009 (08/1342/FUL) where I believe there to have been very significant and flagrant breaches of conduct, damaging bias and a very questionable planning decision.

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I will copy this letter to the Standards authorities and trust you will suspend this decision pending a review.

David Horstead

Chair of Governors Dunalley School