

REPORT INTO COMPLAINT DATED 25.01.2019

MADE BY MS JOSIE NICOLAOU AGAINST COUNCILLOR TERENCE NEVILLE

Confidential Draft

1. EXECUTIVE SUMMARY

This is a report into a complaint dated 25th January 2019 by Ms Josie Nicolaou (The Complainant), (The Complaint is attached at **JN1**). The Complainant alleges breaches by Cllr TN of the Code of Conduct for Members, set out in full and addressed below.

Complaints

- The Complainant, **JN**, asserts that Cllr Terence Neville (**TN**) should have spoken to both ~~XXXXXX~~ (**DB**) and **JN** and not solely **DB**.
- The Complainant also asserts that **TN** had a 'personal relationship/friendship with **DB** and should not be permitted to speak on behalf of **DB**' [at any planning committee].
- The Complainant asserts that there was 'familiarity between he and **DB** and therefore, lack of independence'
- The Complainant asserts that **TN** had a subjective and biased intervention and that **TN** had corresponded with **DB** and was awaiting to hear from **DB** on whether **DB** was 'happy' with the situation before **TN** removed any 'block', contrary to Rule 12(3) of the Code, set out below.
- The Complainant asserts that **TN**'s 'non-transparent intervention in this matter along with the lack of impartiality'
- The Complainant asserts that **TN**'s failure to respond to both **JC** and us.....
'Shows a clear frustration of process and abuse of power'.

Public Duties of Members

7. You have an overriding duty to act in the interests of the London Borough of Enfield's area as a whole, but also have a particular duty to represent the view of the residents of your ward.

The Code of Conduct for Member of London Borough of Enfield ('The Code')

General Principles of Conduct

8. In carrying out your duties, in exercising the functions of the Authority, or otherwise acting as a Councillor, you will be expected to observe the following general principles of conduct. These principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

8.1 Selflessness

You should take decisions solely in terms of the public interest. You should not seek to gain financial or other material benefits for yourself, your family, or friends.

- the Complainant asserts that there was 'familiarity between he and DB and therefore, lack of independence (in breach of selflessness and honesty)'

8.3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefit, you should make choices on merit.

The Complainant asserts that TN did not consult or contact the Complainant or ~~Anthony Dainton~~ her husband on the planning matter. The Complainant had copied in TN to email correspondence and had not received any acknowledgment. The Complainant asserts that TN was selective contrary to this principle and contrary to paragraph 12(1) of the Code, set out below.

8.5 Openness

You should be as open as possible about all the decisions and actions you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

The Complainant asserts that there has been a breach of this principle, based on the above complaint.

8.6 Honesty

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

The Complainant asserts that there has been a breach of this principle, based on the above complaint.

8.8 Respect for Others

You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartial role of the authority's statutory officers, and its other employees.

On *Respect* - See also **Rules of Conduct** that stipulates

12(1) Treat others with respect and courtesy

The Complainant asserts that there has been a breach of this Rule 12(1), based on the above complaint.

12(3) You should not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

The Complainant asserts that there has been a breach of this Rule 12(3), based on the above complaint

8.10 Stewardship

You should do whatever you are able to do to ensure that the Authority uses its resources prudently and in accordance with the law.

The Complainant asserts that there has been a breach of this principle, based on the above complaint.

Rule 11 Expectations of Conduct

You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other member or officers generally, into disrepute.

The Complainant asserts that there has been a breach of this **Rule 11**, based on the above complaint.

I recommend that the Council does not uphold all alleged breaches of the Code of Conduct for Members of the London Borough of Enfield..

The background to the Complaint, the evidence considered and the reasoning for my recommendations are set out in the body of the report.

1. INTRODUCTION

1.1. I am a Solicitor at Enfield Council. I was admitted to the Roll of Solicitors in May 1999.

1.2. On 24th January 2019, complaints were received by the Monitoring Officer Jeremy Chambers. Having consulted with the Independent Person, Jeremy Chambers has agreed that the complaints meet the criteria for investigation and has asked me to investigate. The outcome of my investigation has been reported to Jeremy Chambers who will consider whether he agrees or not with my recommendations.

1.3. The role of the independent person

Section 28(7) of the Localism Act 2011 requires a relevant authority to appoint at least one independent person whose views must be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

Members who have had an allegation made against them may, if they wish, also seek the views of the independent person.

1.4. I have interviewed the following people on the following dates. The interviews were conducted by telephone and in-person:

Ms Josie Nicolaou – Telephone interview on 19th March 2019 (slightly delayed due to maternity reasons)

Councillor Terence Neville – in person interview on 21st March 2019

1.5. I sent the report to the Council's Monitoring Officer on 23rd July 2019.

2. BACKGROUND TO COMPLAINT

The Complainant is a constituent of the Ward of Councillor Terence Neville (TN). The complaint arose as a result the delay in processing and determining a planning application. The planning application received an objection from a neighbour. Mr (DB). DB raised objections and approached TN for support.

During the course of my investigation, I have received and considered emails from both the Complainant JN, and from TN. The emails have been helpful in considering the context of the complaint about the alleged breaches. I set out a summary of the emails that I have considered, for both parties.

EMAILS AND CORRESPONDENCE FROM COMPLAINANT TO PLANNING DEPARTMENT FROM 20TH AUGUST 2018 TO 22ND JANUARY 2019

August 2018

Letter dated 20.08.2018 from planning team to ~~Mr Terence Neville~~ acknowledging the application registered on 16th August 2018 for the proposed work.

October 2018

Email 31.10.18 ~~Mr Terence Neville~~ to ~~Mr Terence Neville~~ confirming receipt of the plans and JC to either recommend for approval or revert with queries if applicable.

November 2018

Email 05.11.18 GC to JC sending revised drawings

Email 07.11.18 JC to GC informing the dormer is now acceptable and requesting a picture of the existing rear of the property.

Email 09.11.18 ~~Mr Terence Neville~~ to ~~Mr Terence Neville~~ requesting extension of time to 16.11.18 for council to sign off the planning application.

Email 13.11.18 (10.17)JC TO GC -request to alter the dormer windows and send a revised elevation.

Email 13.11.18 (11.54) GC to designer to narrow the dormer windows.

Email 19.11.18 (09.56) GC to JC inquiring about planning sign off on 16th November.

Email JC to GC 19.11.18 (no time on email) relayed that a cllr had raised a concern about scheme/extension. JC said he was corresponding with the cllr to avoid the application going to planning committee where JC said it would be debated and may be refused. JC mentioned that he'd be on leave and so would his mngr so sign off may be delayed.

Email 21.11.18 GC to JC inquiring as to whether there had been a resolution of the cllr's concerns.

December 2018

Email 03.12.18 GC to JC requesting an update on the planning application and cllr's comments.

Email 11.12.18 (16.04) GC to JC re productive meeting with neighbours no 31 The Chine and concern re taking down the fence. Informed JC that neighbours to speak to councillor to remove objections. GC requested update if JC heard from cllr to confirm this.

Email JC to GC 11.12.18 (16.06) to say will let GC know if he hears from the cllr

Email GC to JC 13.12.18 requesting update on cllr Neville's feedback. Reference to forwarding a letter if it would help (Investigator has not seen this letter). Mention by GC that JC had said he would be away for quite some time so GC wanted to progress before JC went away.

Email 19.12.18 GC TO JC request for application to proceed to planning committee as party wall dispute. Reference to cllr objections no planning revisions re elevations. Proposal to be recommended for planning. Request to know what are cllr objections as unaware of the nature of these.

Email 19.12.18 GC to architect? Jose re final revised drawings for formal submission.

January 2019

Email 15.01.19 (20.59) GC to JC requesting an update on the application and cllr objections. Also said that still unaware of the nature of the objections to the revised planning drawings.

Email 15.01.19 (21.17) GC to David Gittens planning department requesting update on the planning application, in JC's absence. Raised that the planning application continues to be blocked by a local cllr. Also raised a close association/relationship between neighbour no 31. Raised that GC would be making a formal complaint against the cllr's behaviour alleging an abuse of power that is continuing. Requested council's procedures for dealing with this type of complaint and what is the formal process.

Email 22.01.19 GC to JC. GC raised the delay about the date of the planning committee in Feb 2019 and why was it not held? Wanted next steps as complained about the cllr being unclear about his concerns and being unable to prepare for planning committee if GC did not know fully about the cllr objections. Raised that the process appeared to be unfair as a result of the lack of knowledge about the cllr objections. Notice that a complaint against the cllr's conduct would be raised as there was a perception of an abuse of power. Also want to escalate the matter with LBE as unhappy with the way that the planning application was being handled. Requested the relevant complaints procedures.

EMAILS FROM COUNCILLOR TERENCE NEVILLE TO PLANNING DEPT/09.11.2018 TO 31.01.2019

Email 09.11.2018 (23.50) Cllr TN to Andy Higham(AH) This email is the request to AH to refuse the application on the grounds raised as the objections or if the officers disagreed with his view to refuse the application, then to refer the application to the Planning Committee. Cllr TN relayed that he had been approached by ~~David Gittens~~ (DB) owner of the adjacent detached property about the objections to the planning application on the basis that (1) the proposed development would have serious adverse effects on DB's property by way of reduction in light caused by the proposed height of a solid brick wall close to DB's party wall (2) DB's view from the rear living room would be seriously affected (3) proposed development was out of character with the other houses (4) the proposed development was within a conservation area.

Email 09.11.18 DB to Cllr TN confirming receipt of the email that TN sent to AH

Email 19.11.18 ~~David Gittens~~ (JC) to TN. CC'd to AH and David Gittens confirming receipt of email TN to AH as above, having been passed it from AH. JC attached the revised plans and drawings for TN to review. JC

requested TN to withdraw the objections/refer to planning committee so that the application could be dealt with by delegated powers.

Email 27.11.18 10.54:16 JC to TN following up if the revised plans had been considered.

Email 27.11.18 22.42 TN TO JC informing him that due to a number of other pressures the revised plans not as yet considered, however, TN would attempt to consider them at the weekend.

Email 13.12.18 GC to JC request about whether there had been any feedback from TN. Reference to JC on leave for 'quite some time'.

Email 13.12.18 JC to GC and JN informing that he had not heard from TN but had send a follow up email to TN.

Email 15.12.18 GC to DB CC'd JC and TN re party wall notice requesting DB to action the party wall notice before Christmas and before JC went on extended leave.

Email Sunday **16.12.18** TN to DB requesting confirmation from DB about whether he is ok with the planning application, as TN being pressed for the response and TN abroad from Wednesday 19th December. TN confirmed that 'we need to put to bed before I leave'

Email 17.12.18 ~~10.44:20~~ ~~10.44:20~~ (JA on behalf of DB) to GC CC'd DB/JC and TN re the party wall notice requesting various actions to resolve the matter.

Email 18.12.18 Josie Nicolaou (JN) to TN and JC. CC'd JC/DB/GC contesting the items raised by JA. Also JC raised concerns 'as to the powers which Mr Neville is relying on to hold the planning...'

Email **18.12.18** TN to DB informing DB that TN is inclined to agree with GC that PWN is not relevant to the planning application and as TN due to be away on leave, TN to let GC know. Asked if DB disagreed.

Email 19.12.18 JA to JN and GC. CC'd TN,JC,DB and GC re party wall issues

Email **19.12.18** GC to JA and JC. CC'd DB/TN/JN attaching the **revised drawings**. Party wall issues.

Email **20.12.18** GC to JA et al as above re party wall matters and GC confirms JC's acknowledgment of the **revised drawings** of updated version of the elevation .

Email 15.01.19 GC to JC CC'd DG/JN. JC out of office so email to DG . Planning committee request. Request for next steps to make a complaint for the delays and against the TN under the councillor's code of conduct.

Email 22.01.19 05.26 PM JC to GC no withdrawal of the comments so will go to Planning Committee agenda for March 2019

Email 22.01.19 17.42 GC to JC CC'd DG/JN Query re the planning committee date in Feb. Wanted next steps to complain about the planning and councillor's conduct.

Email 22.01.2019 GC to DB CC'd JN/TN/JA Party wall matters. Request for DB to request TN to remove 'his objection'.

Email 24.01.2019 JC to AH/DG re the previous emails from JC to TN . Notification to AH about the revised plans and renotification and 'good to go'.

Email 30.01.19 AH to TN. CC'd Helen Otter(HO). AH request for TN to confirm whether TN is happy for the planning application to be determined by officers or whether the concerns/objections remain.

Email 31.01.19 TN TO AH CC'D HO. TN confirmed that he was happy for the planning application to proceed.

3. RELEVANT LEGISLATION AND PROTOCOLS AND THE CODE OF CONDUCT

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council/Authority is one) must promote and maintain high standards of conduct by members and co-opted members of the Authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is "expected of members and co-opted members of the Authority when they are acting in that capacity."

3.2 Section 28 of the Act provides that the Authority must secure that its Code of Conduct is, when viewed as a whole, consistent with the following principles:-

- (a) Selflessness;
- (b) Integrity;
- (c) Objectivity;
- (d) Accountability;
- (e) Openness;
- (f) Honesty;
- (g) Leadership.

3.3 The Council, most recently, adopted a Code of Conduct on 17 July 2013 under the provisions of the Localism Act 2011, the Code is found on the Council's website at <http://governance.enfield.gov.uk/documents/s67628/PART%205.pdf> :.

3.4 Paragraph 3 of the Code states:-

"The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives."

3.5 Due to paragraph 3 of the Code, and to the statutory provisions of s27(2) of the Localism Act 2011, as a preliminary issue, it is important to consider whether, or not the Code applied at the time of the issues complained of. The Code does not apply when an elected member is acting in his or her private capacity. Before I can be satisfied that the conduct complained of is a breach of the Code, I have to be satisfied that the Councillor was "acting as a Member". In this case, Councillor TN was supporting a resident who had approached him about the planning application made by the Complainant, JN, on grounds where the resident had presented what appeared to be valid grounds of concern about the planning application. All correspondence between the Authority's planning officers and TN were in his capacity as a Councillor, so it seems clear that TN was acting as a member, not in any private capacity. Therefore, the Code was applicable at the time relating to the issues of complaint, as set out above.

4. THE COUNCIL'S CODE OF CONDUCT FOR MEMBERS

The relevant sections of the Code of Conduct in relation to this Complaint are set out above, and can be found in the link above, therefore I will not repeat them.

5. EVIDENCE CONSIDERED

19.03.19 INTERVIEW IN PERSON WITH COUNCILLOR TERENCE NEVILLE IN RESPONSE TO THE COMPLAINT BY JOSIE NICOLAOU

Councillor TN was approached by his constituent DB, as DB was concerned about the possibility that the result of granting the planning application in its initial request, would be that DB would not have a clear view out of his room. In addition, the area is a conservation area. TN agreed to make representations on behalf of DB about the planning application and DB's concerns. TN said that he could raise an objection on DB's behalf whereby the matter could be referred to planning committee for a decision.

The matter could have gone to planning committee in December 2018 as November was too close for TN to raise the objection and have it dealt with by planning committee in November.

TN was abroad on holiday from 18th December to 9th January 2019. TN did not see the email from ~~George Christou~~, the Complainant's husband, about the party wall agreement while he was on holiday. The planning objection continue until 19th December. From the email dated 19.12.18, the revised drawings from ~~George Christou~~ were submitted to all parties including the planning officer.

TN had sent an email to DB asking DB if his objection had been resolved see email dated 16.12.18.

With reference to having a personal/friendship/relationship with DB, TN said that he only knows DB as a result of the Grange Park Residents Association.

With reference to the 'further objection'. TN informed that he was totally unaware of any further objection/s.

Re responding to emails/correspondence in a timely manner, TN's email to Andy Higham – mitigation of objections

Email 16^h December – TN's email to DB requested DB to confirm DB's agreement on whether there was mitigation to the objection.

DB was still not in agreement about the mitigation.

See email 31.01.19 from TN to JC confirming that TN was happy and the 'matter can proceed'.

When DB was eventually in agreement about the mitigation, TN had some health issues so was unable to respond to the planning officer, JC, to confirm that DB was happy with the revised application.

Re TN not consulting with the complainant, JN – TN had been CC'd in correspondence and not written to directly therefore TN did not communicate with JN as a CC'd recipient of the emails. If TN had communicated with JN, the complainant, having been CC'd in emails, it could have

caused a potential conflict of interest. Also, on what would TN have consulted the complainant, JN?

The reference to 21 day from details of the planning application, there is a discretion for the Chair to override the 21 day rule.

Re email 19.12.18 the date of the planning committee in February 2019 may be an incorrect date as TN checked his calendar and there were two planning committees in January 2019.

On 19th December 2018 DB's planning agent email raised that the planning issues had still not been resolved as there had been reference to elevations on the drawings etc. The complainant and her husband amended the drawings after the email exchange from DB's agent so clearly were not ready to go to planning committee. The email to Andy Higham dated 24.01.2019 relayed that the drawings had been revised.

31.01.19 Email to Andy Higham from TN to say he was happy.

At the in-person interview with Councillor TN, a series of emails were sent to the investigator, marked as **TN1**.

21.03.19 INTERVIEW BY TELEPHONE OF COMPLAINANT JN

COMPLETELY UNDERSTAND THAT CONSTITUENTS GO TO LOBBY CLLR. FELT LIKE CLLR TN HAD OVERSTEP REMIT. JAMES CLARK WAS FAB FELT LIKE NO REAL PROCESS. SUBJ ACCESS REQUEST – LET IT GO TO COMMITTEE. CLLR TN BLOCKED THE APPLICATION. FELT FED UP MADE ALL THE AMENDMENTS BUT FELT LIKE DISPROPORTIONATE PLACE.

IN EMAIL IT SAID REMOVE REVISION OR LET IT GO TO COMMITTEE. UNDERSTAND NEIGHBOURS

MR DB SOLD LAND TO JN. PLOT OF LAND. CLLR TN SAID TO PLANNERS TO SAY TO REJECT. BOG STANDARD PLANNING APPLICATION. FELT MARGINALISED.

RE OBJECTIONS – DID NOT KNOW WHAT THEY WERE.

PLANNING SAID TOO BIG EXTENSION SO CHANGED THE PLANS ETC. GOT TO POINT WHERE DESPITE CHANGES STILL NOT HAPPY. TRIED TO FIND OUT WHAT WERE OBJECTIONS BUT COULD NOT SEE WHAT THESE WERE.

RE SUBJECT ACCESS REQUEST – FELT LIKE

NO OBJECTIVE DECISION MAKING.

JN SAID 'FRIEND SAID DID NOT LIKE IT' – JN HAD NOT AWARE OF ANY RELATIONSHIP BETWEEN DB AND CLLR TN . DB TOLD JN THAT CLLR TN AND DB WORKED ON COMMITTEES TOGETHER AND CLLR TN HAD VISITED AND SHARED THE SAME VIEW. DID NOT FEEL LIKE JUST A CONSTITUENT GOING TO A CLLR.

I INFORMED JN THAT I HAD DISCUSSED THE RELATIONSHIP IF ANY WITH CLLR TN WHEN INTERVIEWED, AND HE HAD SAID THAT DB AND HE ONLY MET AT RESIDENT ASSOCIATION MEETINGS – GRANGE PARK.

[STOPPED CALL WHILE MS JN HAD TO TEND TO HER NEWBORN BABY] 14.46

Q – OTHER THAN MR DB SAYING THAT CLLR TN AND DB KNEW EACH OTHER – WAS THERE ANY OTHER REASON TO BELIEVE THAT THEY WERE FRIENDS?

JN DOES NOT KNOW

Q – WOULD JN LIKE THE EMAIL FROM CLLR TN TO HEAD OF PLANNING TO SHOW THAT THE PROCESS IS IF THERE IS AN OBJECTION AND THE OFFICERS DO NOT AGREE WITH THE OBJECTION THEN IT CAN BE REFERRED TO THE PLANNING COMMITTEE?

JN NOT CLEAR AS TO HOW IT WAS GOING TO PROGRESS. IF PLANNING DOES NOT DEAL WITH IT UNDER DELEGATED POWERS THEN GOES TO PLANNING COMMITTEE. DINA TO CHECK

RECALL IN 16.04

UNCLEAR ABOUT THE OBJECTION. WHEN JAMES CLARK LOOKED THROUGH THE REPORT ALL THE REVISED

JN ALSO COPIED IN CLLR TN TO EMAILS FOR

PLANNING PERMISSION GRANTED SHORTLY AFTER COMPLAINT LETTER

DINA ASKED IF THERE IS ANYTHING ELSE? JN SAID ALL IN LETTER.

END CALL 16.16

6. THE ALLEGATIONS OF THE BREACH OF THE CODE AND FINDINGS

Public Duties of Members

7. You have an overriding duty to act in the interests of the London Borough of Enfield's area as a whole, but also have a particular duty to represent the view of the residents of your ward.

The Code of Conduct for Member of London Borough of Enfield ('The Code')

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8. In carrying out your duties, in exercising the functions of the Authority, or otherwise acting as a Councillor, you will be expected to observe the following general principles of conduct. These principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

8.1 Selflessness

You should take decisions solely in terms of the public interest. You should not seek to gain financial or other material benefits for yourself, your family, or friends. (Alleged breach)

- the Complainant asserts that there was 'familiarity between he and DB and therefore, lack of independence (in breach of selflessness and honesty)'.

Investigator's Findings: From the email correspondence from both parties and from my interview with Councillor TN (Cllr TN), Cllr TN was acting in his capacity as a Member/Councillor. Cllr TN was approached by DB, who, in common with JN, the complainant, is a constituent of the Grange Ward. During my interview with Cllr TN, it was confirmed that he knew DB as a constituent and had also met DB at the Grange Park Residents' association meetings. This information has been relayed to the complainant during my interview with her on the phone on 21.03.19. In my view, this type of 'usual' contact by a councillor with a constituent, in no way evidences a lack of independence, and only substantiates that Cllr TN was acting solely for DB's interests – the public interest. The email correspondence, set out above, shows that Cllr TN only contacted the Council, by email dated 09.11.18, following the approach by DB on DB's concerns about the planning application. There is no evidence whatsoever to show or suggest that Cllr TN was acting in a personal capacity for a personal interest nor that Cllr TN made or sought any gain, be it any financial or any other material gain. Cllr TN was acting in a selfless and honest manner in accordance with Principle 8.1.

I do not find that Cllr TN breached this Principle 8.1

8.3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefit, you should make choices on merit. (Alleged breach)

The Complainant asserts that TN did not consult or contact the Complainant or George Christou, her husband on the planning matter. The Complainant had copied in TN to email correspondence and had not received any acknowledgment. The Complainant asserts that TN was selective contrary to this principle and contrary to paragraph 12(1) of the Code, **Treat others with respect and courtesy**, set out below.

Investigator's Findings: During my interview with Cllr TN on 19.03.19, Cllr TN confirmed that he was copied in on emails from the complainant, the representatives etc. This was also confirmed with my consideration of copies of the email correspondence from all parties. During my interview with Cllr TN, he raised that, as a copied in recipient, it was not imperative or even custom for a copied in recipient to reply/acknowledge or confirm any matters raised in the body of the email. Cllr TN helpfully pointed out that this could give rise to a 'conflict of interest' if he had responded to emails on which he had been copied in. This is a relevant and valid point. I have not seen any evidence to substantiate, support or suggest that Cllr TN was disrespectful in his correspondence or in any other manner, either actively or by omission.

I do not find that Cllr TN breached this Principle 8.3

8.5 Openness

You should be as open as possible about all the decisions and actions you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands. (Alleged breach)

The Complainant asserts that there has been a breach of this principle, based on the above complaints :

'Mr Neville's non-transparent intervention in this matter along with the lack of impartiality (in breach of openness)' and

'the obscurity of his objection' and

'his failure to respond to both JC and us (again in breach of openness)'.

Investigator's Findings : The email from Cllr TN, on 09.11.18 is to Andy Higham the Head of Planning sent as a result of DB's approach to Cllr TN about his concern about the planning application. The email sets out reasons as to why the concerns have been raised by DB. In my view, Cllr's TN 'intervention' is transparent based on clear, valid reasons about the objections to the planning application. In fact, there is clear correspondence between DB's planning

representative, the complainant's husband, ~~George Winston~~ and the planning officer, James Clark, about the revised drawings until 20th December 2018. It is only from this date, that there is consensus between the complainant's husband, DB's planning representative and the planning officer that the revised drawings are agreed and acceptable.

On 27.11.18 in response to an email from James Clark, Cllr TN responds and apologises for the delays in replying to James Clark ' *Dear James, I'm sorry to say that I haven't due to a number of other pressures. That said I will attempt to so at the weekend*'

On 18.12.18, Cllr TN had emailed DB to inform DB that the party wall issues were irrelevant to, and should not impact on the planning approval. In fact, Cllr TN's email states ' *I'm duty bound to tell James Clark accordingly, particularly as I'm due away*'.

Cllr TN's actions do not support that his actions or omissions evidence any lack of impartiality, that the objections to the planning application were obscure or that he breached the principle of openness by not reverting to the planning officer.

I do not find that Cllr TN breached Principle 8.5

8.6 Honesty

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. (Alleged breach)

The Complainant asserts that there has been a breach of this principle, based on the above complaint.

Investigator's Findings : I have addressed this complaint, above.

I do not find that Cllr TN as breached this Principle 8.6

8.8 Respect for Others

You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartial role of the authority's statutory officers, and its other employees. (Alleged breach).

Rules of Conduct stipulates:

Rule 12(1) Treat others with respect and courtesy. (Alleged breach)

The Complainant asserts that there has been a breach of this Rule 12(1) and of principle 8.8 Respect for Others, based on the above complaint.

Investigator's Findings : Principle **8.8** and is linked to Rule **12(1)** Treat others with respect and courtesy. I have addressed this complaint, above.

I do not find that Cllr TN has breached Principle 8.8 or Rule 12(1).

Rules of Conduct stipulates:

12(3) You should not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage. (Alleged breach)

The Complainant asserts that there has been a breach of this Rule 12(3), based on the above complaint.

Investigator's Findings : Principle **8.1** is linked to Rule **12(3)**. I have addressed this complaint above.

I do not find that Cllr TN has breached Principle 8.1 or Rule 12(3).

8.10 Stewardship

You should do whatever you are able to do to ensure that the Authority uses its resources prudently and in accordance with the law. (Alleged breach)

The Complainant asserts that there has been a breach of this Principle, based on the above complaint. *'I would also add that Mr Neville's behaviour is a breach of stewardship, as taking this planning application to a committee is clearly disproportionate and will contradict his obligation to ensure that Enfield Council uses its resources prudently. Being subjected to this abuse of power does not strengthen my trust and confidence in its integrity of Enfield Council, and I am of the view that, contrary to paragraph 11 of the Code, these actions bring both Mr Neville and Enfield council into disrepute'.*

Rule 11 Expectations of Conduct

You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other member or officers generally, into disrepute. (Alleged breach)

The Complainant asserts that there has been a breach of this **Rule 11**, based on the above complaint.

Investigator's Findings : The emails about the planning application and the revised drawings, between the parties continue up until 20.12.18. This appears to be when all parties are in consensus about the planning application – not the party wall issues. Within email correspondence, between Cllr TN and DB, Cllr TN raises to DB, that he would like to resolve the planning matter before going on holiday from 18.12.18 to 09.01.19. It is not until 31.01.19, by way of email, that Cllr TN confirmed to Andy Higham, Head of Planning that *'I confirm that I'm now happy and the matter can proceed'*.

During my interview with Cllr TN, he confirmed that DB had confirmed to him on 29.01.19 that DB 'he could live with the planning application'.

I do not see any supporting evidence that Cllr TN's conduct demonstrated actions/omissions that would undermine the public's trust and confidence in the Council/Authority nor that anything that Cllr TN did or omitted to do, could or would bring the Council/Authority and/or Cllr TN into disrepute.

I do not find that Cllr TN breached Principle 8.10.

I do not find that Cllr TN breached Rule 11.

Conclusion

For the reasons set out above, I recommend that the Council finds that Councillor Neville has not been in breach of the Code of conduct for Members of the London Borough of Enfield - Principles 8.1, 8.3, 8.5, 8.6, 8.8 and 8.10. and has not breached Rules of Conduct 11, 12(1) and 12(3).

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Dated : 17TH July 2019