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Consideration Sub-Committee – 1st February 2010

Agenda item 6 – Appendix 1

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Case reference: 0809014

Report of an investigation under Section 59 of the Local Government Act 2000 by Jonathan Golden, appointed by the Monitoring Officer for Leeds City Council, into allegations concerning Councillor Rachael Procter.

11th December 2009

jonathan golden
SOLICITORS

PO Box 117
Louth
LN11 0WW

Tel 0845 370 3117
Fax 0845 370 3118
info@golden.co.uk
www.golden.co.uk

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CONFIDENTIAL REPORT

Contents	Page
1. Executive summary	4
2. My appointment	5
3. Relevant legislation	6
4. Evidence and facts	7
5. Reasoning	19
6. Comments from Complainant and Respondent	23
7. Conclusion	27
8. Finding	27
9. Schedule of Evidence	28

CONFIDENTIAL REPORT

1. Summary

- 1.1 Councillor Rachael Procter has been a member of Leeds City Council (the Council) since 2004.
- 1.2 In 2007 the Council allocated funding for a review of conservation areas in the Council's area.
- 1.3 In May 2007 Mr. and Mrs. Cockram purchased a property known as Granger House in Rigton Green. The property was in one of the areas which was subject to the review of conservation areas.
- 1.4 Mr. and Mrs. Cockram submitted four planning applications for the demolition of Granger House and construction of a replacement dwelling. Councillor Procter objected to the planning applications in her capacity as the local Ward Member.
- 1.5 Mr. and Mrs. Cockram submitted a complaint to the Council alleging that Councillor Procter had attempted to bring forward the conservation area review to prevent or delay the implementation of their planning permission.
- 1.6 As a result of my investigation, I have concluded that Councillor Procter's objections to the planning applications and her actions regarding the review of the conservation area were consistent with the proper conduct of a Ward Member.
- 1.7 My finding under regulation 14 of the Standards Committee (England) Regulations 2008, is that there has not been a breach of the code of conduct of the authority concerned by Councillor Rachael Procter.

CONFIDENTIAL REPORT

2 My appointment

- 2.1 The Assessment Sub-Committee of the Council's Standards Committee referred part of Mr. and Mrs. Cockram's complaint against Councillor Procter to the Council's Monitoring Officer for investigation.
- 2.2 Under section 82A of the Local Government Act 2000, I was nominated to perform the investigatory functions of the Monitoring Officer in respect of Mr. and Mrs. Cockram's complaint.
- 2.3 I hold an honours Bachelor of Arts in Law degree from the University of Sheffield. I am a solicitor and an accredited mediator. I have been employed by various local authorities as a solicitor for a period of 14 years and have held the position of Monitoring Officer in two authorities for six years. I now practice law as a solicitor on my own account and have acted as a nominated investigator of a number of complaints against members of local authorities across England and Wales.
- 2.4 I was assisted in the conduct of the investigation by Mr. Alan Tasker. Mr. Tasker was a Monitoring Officer and has investigated a number of complaints of breaches of the local government code of conduct.

CONFIDENTIAL REPORT

3 Relevant Legislation

3.1 The Council had adopted the 2007 Model Code of Conduct as its code of conduct at the time of the complaint.

3.2 Paragraph 6(a) of the Code states:

'You –

(a) must 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;'

3.3 Paragraph 5 of the Code states:

'You must not bring your office or authority into disrepute'

4 Evidence and facts

The investigation

- 4.1 During the investigation, Mr. Tasker held face to face meetings with, and obtained signed statements from:-
- Jillian Rann
 - Phil Crabtree
 - Richard Taylor
- 4.2 Mr. Tasker conducted a face to face taped interview with Councillor Procter from which a transcript was prepared. Councillor Procter was accompanied by Clare Hardy of Eversheds Solicitors at the interview. She was given an opportunity to comment on the transcript of the interview and did so through her representative.
- 4.3 Copies of the above, together with other relevant documents are annexed to this report and listed in a schedule of evidence at section 9.
- 4.4 I wish to record my thanks and those of Mr. Tasker for the co-operation and courtesy shown to us by all those we had cause to contact during the investigation.

Background

- 4.5 Mr. and Mrs. Cockram submitted four planning applications and appeals to demolish and replace a dwelling and outbuildings, known as Granger House, Rigton Green between August 2007 and December 2008.
- 4.6 The third and fourth planning appeals were allowed and work to demolish the property began in January 2009.

Mr. and Mrs. Cockram's complaint

- 4.7 Mr. and Mrs. Cockram sent a letter of complaint to Mr. Hodson at Leeds City Council dated 16th February 2009 (enclosed at JTG 1).
- 4.8 Attached to the letter of complaint was a statement from Mr. and Mrs. Cockram. The statement related to this and other complaints which were not referred to me for investigation and / or were in relation to other councillors. A redacted version which relates only to this complaint is enclosed at JTG 2.
- 4.9 Mr. and Mrs. Cockram were not available to meet Mr. Tasker and they indicated subsequently that to me that they did not wish to add to the statement they had provided to the Council.

CONFIDENTIAL REPORT

4.10 In their statement Mr. and Mrs. Cockram said:-

- (a) Para 5.3d - Councillor Procter had attempted to wrongfully cause the Bardsey conservation area review to be accelerated in an endeavour to prevent or delay their implementation of any planning permission they might have been granted to demolish and replace Granger House;
- (b) Para 3.153 - Councillor Procter emailed Richard Taylor, the Conservation Team Leader, on 7th October 2008 expressing concern that the review of the conservation area in Bardsey had not commenced;
- (c) Para 3.153 - the email referred to a *“property which your officers believe should not be demolished”*, and enquired why the review could not be started at that time;
- (d) Para 3.154 - they believed the remark in Councillor Procter’s email concerning the Planning Inspector’s comments from the Decision Notice of their second appeal, gave the impression that the Inspector commented disapprovingly on the lack of a firm proposal to extend the conservation area to include Granger House and the remark was misleading;
- (e) Para 5.18 - they could not say at what point it became Councillor Procter’s object to promote the acceleration of the conservation area study with a view to defeating their proposals, but that it certainly appeared to have been Councillor Procter’s purpose by the date of the email to Mr. Taylor;
- (f) Para 5.18 - it appeared that Councillor Procter’s awareness of the connection between their planning applications and the conservation area review went back much earlier. In an email to Ms. Rann on 25th February 2009 Councillor Procter pre-judged and took ownership of the outcome of the conservation area study by stating that *“we are undertaking a conservation area review so that Rigton Green becomes part of the conservation area of Bardsey”*;
- (g) Para 5.19 - it would be difficult to say when Councillor Procter embarked on a conscious effort to delay their applications with a view to them being overtaken by the designation of Rigton Green as a conservation area;
- (h) Paras 5.24 to 5.26 - with reference to Councillor Procter’s letter to the Council dated 18th April 2008 and Councillor Procter’s letter to the Appeals Inspectorate dated 21st October 2008, they believed Councillor Procter’s mind was already made up and placed on record as to what the outcome of the conservation area review would be;

CONFIDENTIAL REPORT

- (i) Para 5.26 - Councillor Procter had also decided that once the conservation area order was made it would be a matter of course for the LPA to refuse conservation area consent for them to implement any permission to demolish the existing house.

Jillian Rann

4.11 In her statement (enclosed at JTG 3), Ms. Rann said:-

- (a) she was a senior planning officer at Leeds City Council, having been appointed to the post in August 2007. She had previously held the position of planning officer with Wakefield Borough Council;
- (b) she had been a qualified planner since September 2005 and had worked in planning since December 2005. She was also a member of the Royal Town Planning Institute;
- (c) Councillor Procter was one of the Ward Members for the Harewood Ward, a rural Ward within the City boundary;
- (d) she was an area planning officer for the area during the period August 2007 to mid 2008, when the planning applications for redevelopment of Granger House, Rigton Green were being processed;
- (e) when she was the area planning officer for that area, Councillor Procter would contact her weekly or fortnightly regarding planning applications in the Harewood Ward. She did not consider it to be unusual. She recognised that some councillors take a greater interest in planning matters than others. In her opinion, Councillor Procter was a member who took an active interest in planning and development in the Ward;
- (f) she was aware that Councillor Procter would ask for briefings on some applications. These were provided by more senior planning officers than herself;
- (g) her contact with Councillor Procter was usually by email, although on infrequent occasions Councillor Procter would telephone her for information;
- (h) she had only met Councillor Procter on a couple of occasions;
- (i) her contact with Councillor Procter during the processing of the first two Granger House applications was not out of the ordinary. She confirmed that Councillor Procter contacted her during that time for information on the progress of the applications;
- (j) she did not recall any specific contact with Councillor Procter during the processing of the third and fourth applications;

CONFIDENTIAL REPORT

- (k) she did recall an exchange of emails with Donna Lunney from the Conservative Party Group Office, asking for an update on the applications (copies attached as JR 1);
- (l) she was aware that there were discussions about a review of the Bardsey Conservation Area in late 2008. It was referred to in the report on the later applications referred to the Plans Panel;
- (m) she was aware there was email correspondence regarding the conservation area issues, although she did not deal with it;
- (n) she recalled a telephone conversation with Councillor Procter regarding the Granger House development, which followed a site visit she made to the property to inspect the materials required as part of the planning conditions after the application was allowed at appeal. Councillor Procter asked what her opinion was of the materials;
- (o) She recalled that Councillor Procter raised concerns that the roof materials were slate rather than reusing the original stone. The approved plans showed that slate was to be used;
- (p) she did not recall any mention of the conservation area issue during that telephone conversation;
- (q) whilst she was aware of the review of the conservation area she did not have any dealings with the actual assessment or review;
- (r) she did not consider the level of contact from Councillor Procter during the processing of the Granger House applications to be anything other than the normal contact she would expect from a Ward Councillor with an interest in the planning issues in their Ward.

Phil Crabtree

4.12 In his statement (enclosed at JTG 4), Mr. Crabtree said:-

- (a) he was the Chief Planning Officer at Leeds City Council, having been appointed to the post in January 2007. He previously held a similar position with Birmingham City Council, where he was employed for some 25 years;
- (b) Councillor Procter was one of the Ward Members for the Harewood Ward, a rural ward within the City boundary, which was distinctive for its attractive settlements and buildings;
- (c) he was aware that planning, and in particular development control, was high on Councillor Procter's list of concerns;

CONFIDENTIAL REPORT

- (d) he was aware that this is generally common for the representatives of the rural areas as they tended to be less dependent on some of the other services provided by the Council. That often led to what might appear to be a disproportionate interest in planning issues when compared with other parts of the City;
- (e) in his experience, Councillor Procter was diligent in responding to planning issues;
- (f) with regard to the review of conservation areas, there was an expectation that local authorities would carry out an appraisal of their area and keep under review conservation of the built environment. The Council was keen to carry out such appraisals;
- (g) the Council appointed three officers, on temporary contracts, to carry out the appraisals of the area. The posts were funded and commissioned by the Council's Area Committees;
- (h) in early 2008 the Council resolved to proceed with the appraisals although work had not commenced when the first planning application in respect of the redevelopment of Granger House, Rigton Green was processed;
- (i) in June 2008 the North East Outer Area Committee considered a report on the Conservation Area Appraisals;
- (j) he was aware that Councillor Procter raised the matter in October 2008. He had email correspondence between Councillor Procter and the conservation officers, in which Councillor Procter asked why the Bardsey review had not commenced (copies enclosed at PC 1);
- (k) he had only ever had email correspondence with Councillor Procter regarding the matter. Councillor Procter had not contacted him in person or by telephone;
- (l) the planning officer's report to the October 2008 meeting of the Planning Panel contained information which was relevant to how the conservation issues were dealt with during the processing of the application at Granger House, Rigton Green. It referred particularly to the materiality of the conservation area review and how it related to the planning application (copy enclosed at PC 2);
- (m) he produced as PC3 and PC 4 copies of correspondence from and his response to Mr. and Mrs. Cockram. They addressed conservation issues, the planning process and planning policy matters;

CONFIDENTIAL REPORT

- (n) he confirmed that, to his knowledge, Councillor Procter had not acted inappropriately in the dealings with the review of the conservation area. Whilst Councillor Procter had sought to ensure progress was made to the review, Councillor Procter had not lobbied officers or attempted to exert undue pressure. In his opinion Councillor Procter was doing the job of an elected representative in an appropriate manner.

Richard Taylor

4.13 In his statement (enclosed at JTG 5), Mr. Taylor said:-

- (a) he was the Team Leader – Conservation at the Council, having been appointed to the post in 1991;
- (b) the Conservation Team comprised 3 full time permanent staff. In early 2008 three additional officers were appointed on temporary contracts to review the conservation areas within the Council's boundary;
- (c) the background to the review of conservation areas started some three years ago. Government policy was that local authorities should, from time to time, review designated conservation areas and their boundaries and bring forward proposals to enhance the areas;
- (d) at that time the Council had not been as proactive as some of its neighbouring authorities in undertaking such reviews;
- (e) the issue became more prominent in 2006 due to a number of reasons, including the introduction of a key performance indicator for conservation area reviews;
- (f) this resulted in a decision by the Executive to allocate a sum of £50,000 to each of the 10 Area Committees to use for Conservation Area reviews and Residents' Parking Schemes. The Area Committees were to be responsible for identifying priorities for the reviews and monitoring the work programme;
- (g) following the decision he prepared a report which he presented to each of the Area Committees;
- (h) the members of the North East Outer Area Committee, which covered the Bardsey Conservation Area, were enthusiastic about the proposals, but as the area contained 8 or 9 conservation areas there was no possibility that all were going to be included in the first phase of the work. During discussion and consideration it emerged that Bardsey was one of a number of areas that were going to be included in the first phase. He did not recall any priority order being given to which areas were identified for the first phase;

CONFIDENTIAL REPORT

- (i) he recalled that at some stage Councillor Procter made a comment to the effect that she thought Bardsey was going to be looked at first;
- (j) the actual process adopted was that the three temporary posts were created and appointments made. The three Officers were to be responsible for the reviews. The Officers were to consult with local Ward Councillors, Parish Councils and other interested parties. Progress reports were to be presented to the relevant Area Committee. The Officers' proposals were to be presented to the Planning Technical Board, which was an advisory panel. The final decisions were to be taken by the Chief Planning Officer under delegated powers;
- (k) the Area Committees were not to be part of the decision making process;
- (l) Kate Newell was the officer responsible for the review of the Bardsey Conservation Area;
- (m) he had consulted the files relating to the review and noted that progress was being made, although due to a number of reasons, including [REDACTED] there was a slight delay to the initial timetable;
- (n) various emails on the files show that Kate Newell was consulting with the Parish Council and the Ward Members during that period;
- (o) he was aware that during the period of the review there was consultation between his team and the Development Control Team regarding the property at Granger House, Rigton Green. Due to the separation of roles between Development Control and Conservation this did not create any difficulty or pressure for the staff dealing with the review. In addition, the officers dealing with the reviews were new to the Council and the area, therefore they did not have any preconceptions of the outcome or external influences on their judgement;
- (p) in early December 2008 work on the Bardsey review was reaching a point where draft proposals were being drawn up and consulted on. At about that time Councillor Procter was in contact with Kate Newell asking for information on the progress of the review;
- (q) there was an email on the file, dated 16th December 2008, which caused Ms. Newell some concern as Councillor Procter raised issues about Ms. Newell not responding to messages Councillor Procter had left. The email was in block capitals, which people usually associated with shouting. Ms. Newell had responded to the email with an apology as she realised Councillor Procter had

CONFIDENTIAL REPORT

left a number of voice messages on her mobile telephone, which she had not been aware of (copies of the emails are enclosed as RT 1);

- (r) [REDACTED] Mr. Taylor became more directly involved with the Bardsey review at that time. He had meetings with the local ward Councillors, when their views and local knowledge were fed into the process. Their input resulted in additional areas being included in the conservation area. The area of Rigton Green had been identified at the outset as an area for possible inclusion in the extended boundary of the Bardsey Conservation Area;
- (s) following the completion of the review and the statutory process the Conservation Area was extended with effect from 16th March 2009.

Councillor Rachael Procter

4.14 Councillor Procter was interviewed in person, accompanied by her legal representative. The interview was recorded and a transcript prepared. A copy of the transcript was provided to Councillor Procter and she was invited to comment upon it. Councillor Procter provided corrections to the transcript and added comments through her legal representative. The transcript and Councillor Procter's Comments are attached (JTG 6). In the interview Councillor Procter stated:-

- (a) she was elected to represent the newly created Harewood Ward on Leeds City Council in 2004. She was re-elected in 2007 with one of the largest majorities in the country. The other Ward members were Councillor Shelbroke and Councillor Castle. She has served on North East Outer Area Committee the City Services Scrutiny Board, the City Development Scrutiny Board and the Parish Council Forum;
- (b) she dealt with all the planning matters in the Harewood Ward and over the past 5 years she had dealt with hundreds of applications. She worked closely with the nine parish councils in the ward on planning matters. Before the birth of her first child she served as a member of the Plans Panel East;
- (c) before being elected to Leeds City Council she was a member of Thorner Parish Council;
- (d) a report by officers in the City Development Department was given to the Executive Board on the 4th April 2007 outlined proposals to provide funding to area Committees to support the revision of conservation areas City wide;
- (e) a report was presented by Mr. Taylor, to the July 2008 meeting of the North East Outer Area Committee. The report contained

CONFIDENTIAL REPORT

officer recommendations of the conservation areas that were recommended for review. The report clearly showed that the Wetherby Conservation area review would take place in June/July 2008, the Bardsey and Thorner reviews would commence in September 2008 and the Boston Spa / Thorp Arch reviews would commence in November 2008;

- (f) her email to Mr. Taylor on the 7th October 2008 was simply asking when the review into the Bardsey Conservation area was to commence. The funding had been provided and a time scale approved by the Area Committee. It appeared to her that the time scales and ordering of the four reviews had been changed;
- (g) she was not seeking to accelerate the Bardsey Conservation Area Review, she was seeking to understand why the review had been delayed. The review should have commenced in September and by October it had not and she wanted to understand why;
- (h) her interest in planning began in Thorner. The Parish Council had become aware of the UDP proposals and the North East Leeds extension. She stood down as she relocated to Bardsey, and stood for election as a City Councillor. She really understood about planning and some of the key issues having dealt with it in Thorner;
- (i) the Harewood Ward was very rural and people expected the villages and communities they live in to be preserved and protected. Residents expected her to deliver and to represent them at appeals. The residents also expected a fair system and liked to see both sides of a planning argument;
- (j) planning was very high on the residents' agenda. They expected the green belt to be protected. Whilst the people were not opposed to development, they did want sympathetic and appropriate development, such as rebuilds out of reclaimed stone;
- (k) councillors received a weekly list of new applications, looked down the list and then sent out a street letter informing people of anything that would have an impact on the wider community. They worked very closely with the Parish Council, and if the development was on the edge of the village boundary they notified the people in the neighbouring village as it would affect them but they would not be given notification;
- (l) in the street letter they asked people to write in with letters of representation to the planning officers, and that they would be grateful if they would be copied in to the letters. Normally from the letters someone would actually contact the office by telephone and dialogue was established;

CONFIDENTIAL REPORT

- (m) her level of contact with planning officers was dependent on the circumstances of each case;
- (n) once development has been approved she left it to the officers to make sure that conditions were being adhered to. The only time she became involved is when someone contacted her to say something, for example 'they've put too many windows in', then she would raise it with enforcement, but overall she stayed well away;
- (o) with the Bardsey conservation area review there was an initial consultation and then the officers went to speak to the Parish Council about the consultation without speaking to the ward members. Subsequently a meeting took place, she thought it was before Christmas, between the Head of Conservation, Councillor Shelbrooke and herself where they discussed East Rigton. The meeting took place whilst Ms. Newell was on holiday. They looked at Woodacre Crescent and Wayside, which the officer in the review had not visited, so they were bringing their local knowledge to the review;
- (p) their only input was Wayside and Woodacre Crescent. The officer, after the discussions also included a part across the road from Wayside and the school;
- (q) the public and people with planning applications knew that the reviews were starting, and because of protecting the villages and the green belt the public knew how important it was. Whilst the reviews did not stop development, they make you look at the finer details;
- (r) she had views expressed to her from the residents of Wayside and Woodacre Crescent. The residents wanted to know when their area was to be part of the review. They wanted to be part of the review;
- (s) there was a report stating that the Bardsey review was to start in September, so she sent an email in October asking why it had still not started. The review then started;
- (t) at the time of making the comment in the report to the October Plans Panel meeting that Granger House would be included in the conservation area, she knew that Granger House was in the area that was to be looked at, but she knew it would always be in the conservation area and she hoped the conservation officers knew. She knew that Phil Ward had commented that it would be in, but no formal decision had been made;
- (u) the email she sent to Kate Newell that was in block capital letters was sent because Kate had not replied to telephone messages that she had left. Sometimes she automatically used capitals in her emails. There was nothing meant by it;

CONFIDENTIAL REPORT

- (v) she did not know the Cockrams at all before they put the planning applications in for Granger House. They lived in East Keswick, which is reasonably close to where she lived, but she had never come across them;
- (w) there was a resident who she presumed has lived in Bardsey for a very long time who had an issue next door to himself. The house was demolished and two houses put up. The concern was that if that continued to happen the whole street scene changed, there was more traffic and you lost what the village is all about. The resident was particularly interested in getting the conservation area status to protect the Waysides, along with other residents.

Conclusions on facts

- 4.15 Councillor Procter had a keen interest in planning matters having been a Councillor at Parish and City level for some years. At one time she was a member of a Plans Panel on the City Council.
- 4.16 Councillor Procter represented a rural area of the City where planning issues, particularly conservation, were a priority for the elected members and the residents.
- 4.17 In April 2007 the City Council's Executive made an allocation of funding for a review of conservation areas within the council area. The funding was allocated to the Area Committees who were given responsibility to identify priorities for the reviews and to monitor the work. Additional temporary staff were appointed in 2008 to assist with the reviews.
- 4.18 Mr. and Mrs. Cockram purchased the property known as Granger House in Rigton Green in May 2007.
- 4.19 Between August 2007 and May 2008 Mr. and Mrs. Cockram submitted four planning applications in respect of Granger House. All four applications were to demolish the existing property and build a replacement dwelling. The first application was refused and subject to an appeal, the other three were appealed against for non-determination.
- 4.20 The first and second appeals were dismissed, the third and fourth applications were granted in December 2008 when the appeals were dismissed by the Planning Inspector.
- 4.21 During this period Councillor Procter took an interest in the processing of the planning applications for Granger House, as she did in other applications within the ward she represented. Councillor Procter clearly took the view that the existing property was worthy of retention and renovation.

CONFIDENTIAL REPORT

- 4.22 At this stage Granger House was not in an area designated as a conservation area.
- 4.23 Councillor Procter's contact with the relevant planning officers dealing with the planning application was not unusual and did not cause the officers any concern.
- 4.24 Towards the end of 2008 Councillor Procter was in contact with the Conservation Officers who were dealing with the review of the Conservation Areas. Councillor Procter was concerned that the review of the Bardsey-cum-Rigton area had not been progressed in accordance with the timescale agreed.
- 4.25 In December 2008 Councillor Procter exchanged emails with the officer dealing with the conservation area review. In an email dated 16th December Councillor Procter expressed her concerns strongly that consultation with Ward Members and the public had not been undertaken. She stated she was concerned that it had become an officer led initiative without Ward Members consultation.
- 4.26 During 2008 Councillor Procter made reference in communication with officers at the Council of the need to complete the conservation area review as there were proposals for development within the wider area which was vulnerable without the protection of conservation area status.

CONFIDENTIAL REPORT

5 Reasoning

- 5.1 The Assessment Sub-Committee considered the detailed complaint submitted by Mr. and Mrs. Cockram and referred part of the allegations for investigation. The issue under consideration is whether Councillor Procter attempted to accelerate the review of the Bardsey Conservation Area in an endeavor to prevent or delay the implementation of Mr. and Mrs. Cockram's planning permission.
- 5.2 The relevant paragraph of the code of conduct is paragraph 6(a) which relates to improperly conferring an advantage or disadvantage. There is also a need to consider paragraph 5 relating to bringing the members' office or authority into disrepute.
- 5.3 The Cockrams also complained that Councillor Procter had failed to comply with parts of the Council's code of practice for the determination of planning matters. I do not consider these issues to be relevant and so have not included consideration of them here, however they are addressed in section 6 below.

Using your position improperly

- 5.4 Paragraph 6(a) of the code states a member must not use, or attempt to use, their position improperly to the advantage or disadvantage of themselves or anyone else.
- 5.5 The guidance issued by the Standards Board in 2007 provides very little clarification on this part of the code. It merely states *"your behaviour would be improper if you sought to further your own private interest through your position as a member."*
- 5.6 Similarly the Case Review 2007 has scant reference to this area of the code. Question 46 on page 61 sets out where it will be proper for a member to seek an advantage. It also highlights the fact that the term "improperly" is not defined in the code thus ensuring that the scope of the provision is not unnecessarily limited. The most relevant section states:-

"A member's conduct would be improper if they were to use their public position to further private interests of themselves or associates, or to settle old scores with enemies, to the detriment of the public interest. Any conduct that unfairly uses a member's public position to promote private interests over public interest will be improper."

- 5.7 From this I have concluded that if Councillor Procter had a private interest in Mr. and Mrs. Cockram's planning application then it might have been improper to seek to influence the decision on the application.

CONFIDENTIAL REPORT

- 5.8 I have also considered questions 47 and 48 on page 61 of the Case Review. These consider the implications of the code if an attempt to confer an advantage or disadvantage fails and when paragraph 6(a) applies. The code makes it clear that failed attempts are covered by the code.
- 5.9 Paragraph 6(a) applies when a member is acting in an official capacity and at any other time where the conduct constitutes a criminal offence for which they have been convicted. Clearly the second part of this explanation is not relevant. However, if Councillor Procter did attempt to improperly influence the outcome of the planning application, I believe it is reasonable to presume that this was in her capacity as a Council member.
- 5.10 Having regard to the information and guidance set out above, it is necessary to consider whether there is any evidence to support the allegation that Councillor Procter's dealings with the application and her interest in the conservation area review were improper.
- 5.11 There is no evidence to suggest that Councillor Procter had any connection with Mr. and Mrs. Cockram prior to their purchase of Granger House. The complainants do not make any reference to earlier dealings with Councillor Procter nor make any allegation that she may have been motivated 'to settle old scores'. Similarly, there is no allegation or evidence to suggest that Councillor Procter had any interest in the applications by virtue of any friendship or relationship with anyone who lived in proximity to the application site.
- 5.12 I therefore conclude that Councillor Procter's motivation for her interest in Mr. and Mrs. Cockram's planning applications was not improper.
- 5.13 I must now consider whether her actual conduct was improper. That is, was any of her contact with the officers dealing with the planning applications and the conservation area review improper?
- 5.14 Councillor Procter made a number of comments about the planning applications for the demolition of Granger House. These comments were generally consistent with those set out in the report to the Plans Panel (East) on 28 August 2008. The report states that Councillor Rachael Procter objected to the proposed development and summarised her comments. These include reference to the destruction of a beautiful building, the overall mass and volume, concern about the roof pitch and the need for clarification regarding the use of reclaimed stone.
- 5.15 A further report to the Plans Panel (East) on 23rd October 2008 states that Councillor Rachael Procter had written objections on behalf of objectors in the light of the Inspector's report, making the following comments:-

CONFIDENTIAL REPORT

“The Inspector based her findings on a mistaken belief-

‘So far as I am aware, there are no firm proposals to review a nearby conservation area so as to include the site within its boundaries’

This is simply not the case. At its meeting on the 4th April 2007 the Executive Board of Leeds City Council agreed to allocate to Area Committee £50,000 of funding which may be used for specific purpose of reviewing conservation areas. The North East outer Area Committee on the 10th December 2007 agreed, after receiving advice from the council’s Senior Conservation Officer, £29,500 to fund the review of conservation areas in Wetherby, Boston Spa, Thorner, Bardsey and East Rigton, the review of all the areas is underway and will result in the above site being brought into the Conservation Area. Conservation officers will oppose its demolition when that occurs.”

Councillor Procter’s comments continue to point out that the application had yet to be referred to the Secretary of State and that an application had been received by English Heritage to list the property. The officer’s report goes on to set out the correct position regarding the conservation area review and that any revisions to the boundary were due to be approved in January 2009.

- 5.16 Having considered these comments and the context in which they were submitted I have concluded that there was nothing improper in Councillor Procter’s involvement with the planning applications. Whilst her comments set out in the later report were not entirely accurate, in that they state the property would be included in the conservation area when in fact a decision had not been made, the issues were properly considered by the Planning Officer and clarified in the report.
- 5.17 I have also considered Councillor Procter’s conduct in respect of the Conservation Area review and in particular her contact with the Conservation Officers.
- 5.18 There is no doubt Councillor Procter was anxious that the review should be undertaken. It is also evident that part of her motivation for this was to ensure that the existing buildings in the area, including Granger House, were offered the protection afforded by conservation area status. I have concluded there is nothing improper for a Ward Member to hold that opinion and to put that forward to officers.
- 5.19 With regard to Councillor Procter’s actual contact with the officers I have considered the communications referred to. Of particular significance is the email of 16th December 2008 which Mr. Taylor indicated Ms. Newall received with some concern as it was strongly worded and set out in block capitals.

CONFIDENTIAL REPORT

- 5.20 First, I note that the message was sent following several unanswered messages. Councillor Procter's frustration is evident in the message. I am mindful of Councillor Procter's explanation for the message being in block capitals and that no offence was intended by that. I also note that the 'I' which should have been in capital is in lower case. This seems to indicate to me that there was a lack of attention to the drafting of the message.
- 5.21 I am also mindful that four days prior to this email being sent the Inspector's decision to allow the third and fourth appeals and therefore granting consent for the demolition was allowed. Whilst Councillor Procter may have not been aware of that decision it is evident that the process was well advanced and that any action on the conservation area review would be very unlikely to influence the inspector's decision at that stage.
- 5.22 I have concluded that the message of the 16th December 2008 could have been delivered in a more moderate tone and not in capital letters. However, I do not consider that it is so unreasonable, having regard to the circumstances, to cause any undue concern. I do not believe that this message or any of the other communications Councillor Procter had with the Conservation Officers were improper for a Ward Councillor to engage in.
- 5.23 The complaint makes specific reference to Councillor Procter attempting to bring forward the review of the conservation area in question to prevent or delay the planning permission. The evidence presented shows that the review of the conservation area had been authorised through the approved procedure. The Council Officers have acknowledged that there had been some delay to the initial timetable. It is evident that Councillor Procter was raising concern about this delay rather than attempting to bring forward the review as alleged.
- 5.24 Having considered all the evidence presented and all the information set out in the complainant's letter, I do not consider that Councillor Procter's conduct was an improper use of her position to attempt to confer an advantage or disadvantage for any of the parties involved.

Disrepute

- 5.25 For the reasons I have stated above, I also consider that Councillor Procter has not brought her office or authority into disrepute.

CONFIDENTIAL REPORT

6 Comments by the complainant and respondent

- 6.1 A draft version of this report was provided to the complainants and respondent for comment. Comments received are set out below. References to paragraph numbers in the comments will be to the draft version of the report. These may have changed in the final version.

Comments by Mr. and Mrs. Cockram

- 6.2 The following comments were received from Mr. and Mrs. Cockram:-

“Thank you for your draft report.

Your report does not deal with the complaint in paragraph 5.29 that as a councillor involved in the conservation area process Mrs Procter was under an obligation to comply with the paragraphs of the Planning Code there referred to and that she failed to do so.

Would you please revise your report so as to deal with this particular complaint (which is essentially one of predetermination of the outcome of the conservation area study in advance of the carrying out of the due process of public consultation)?”

Response to Mr. and Mrs. Cockram’s comments

- 6.3 I have included the Council’s code of practice for the determination of planning matters (the Planning Code) as JTG 7 in schedule of documents to this report. The Planning Code forms part of the Council’s Constitution. Paragraph 3.1 of the Planning Code indicates that it must be complied with through the decision making process, however the rules in the Members Code of Conduct must be applied first. The aim of Planning Code is to seek to explain and supplement the Members Code of Conduct for the purposes of planning control.

- 6.4 Paragraph 5.29 of Mr. and Mrs. Cockram’s complaint is as follows:-

“As a person who had been selected to be part of the conservation area steering group, Mrs. Procter was also obliged to comply with and have regard to paragraphs 2.1, 2.2, 2.3, 4.1 and perhaps 4.2 and 5 of the Planning Code. In our view her pronouncements on the matter of the Bardsey review indicate a predisposition as to the result of the review and a partiality connected with her personal situation which put her in breach of these requirements”

- 6.5 The Planning Code indicates at paragraph 1.1 that it is a code of practice for the determination of planning matters. At paragraph 2.4, the Planning Code indicates that it applies:-

“at all times when members are involved in the planning process. This includes taking part in decision making meetings

CONFIDENTIAL REPORT

of the Council in exercising the functions of the Planning Authority and on less formal occasions such as meetings with officers or the public and consultative meetings. It applies equally to planning enforcement matters or site specific issues as it does to planning applications.”

- 6.6 The allegation referred for investigation was whether Councillor Procter attempted to accelerate the review of the Bardsey Conservation Area in an endeavour to prevent or delay the implementation of Mr. and Mrs. Cockram’s planning permission.
- 6.7 The Planning Code appears to me to be directed towards and be intended to apply to the determination of planning applications, rather than wider land use issues such as conservation. I am therefore unconvinced that it is relevant to the complaint in any event. In addition, it does not form part of the Code of Conduct and the focus of this report must be on whether there has been a failure to comply with that Code rather than the Planning Code.
- 6.8 However, if the Planning Code is relevant then the provisions which Mr. and Mrs. Cockram have highlighted should be considered in relation to the matter referred for investigation - the review of the Bardsey Conservation Area. The paragraphs of the Planning Code highlighted to by the Cockrams refer, in essence, to the role of a councillor in making decisions on planning matters. Councillor Procter had no decision making authority in relation to the timing of the Bardsey Conservation Area review. The issue is whether she sought improperly to influence that decision. I have found that she did not and thus do not consider that she failed to comply with the Planning Code even if was relevant.
- 6.9 I have included paragraph 5.29 of Mr. and Mrs. Cockram’s complaint in the redacted version at JTG 2. I have referred briefly to the issues raised in the reasoning but have confined full consideration to the point in this section.

Comments by Councillor Procter

- 6.10 The following comments were received from Ms. Claire Hardy of Eversheds Solicitors on behalf of Councillor Procter:-

1. ***“Evidence and Facts***

1.1 *Paragraph 4.2 says that Councillor Procter was accompanied by legal representatives from Eversheds Solicitors at her interview with Mr Tasker. In fact, she was accompanied by a legal representative.*

1.2 *Paragraph 4.12 summarises the statement of Phil Crabtree. In point (f), “exception” should be “expectation”.*

CONFIDENTIAL REPORT

- 1.3 *We question the need to include paragraph 4.13(q) in the report. This reports on a comment made by one officer, Richard Taylor, about his perception that another officer, Kate Newell was concerned about Councillor Procter sending her an e-mail in block capitals. This was not part of the complaint made against Councillor Procter and there is no evidence that Kate Newell has been asked during the investigation to confirm how she felt about Councillor Procter's e-mail. Councillor Procter is concerned that if a report can comment on matters which did not form part of the allegations and are not backed up by first-hand evidence, the report will not be fair to the member being investigated and she questions where do you stop the investigation?*
- 1.4 *Paragraph 4.13(q) says that the e-mail from Councillor Procter to Kate Newell dated 16 December 2008 and Kate Newell's e-mail in response are enclosed as RT1. However, they were not included.*
- 1.5 *Paragraph 4.14 needs some slight amendments. Councillor Procter was not asked to sign the transcript and did not do so. She sent the investigator an amended version and comments through her legal representative.*
- 1.6 *In point (o) of paragraph 4.14, there is a reference to a meeting taking place whilst Councillor Castle was on holiday. We suggest that the reference should be to Kate Newell being on holiday.*

2. **Reasoning**

- 2.1 *We question the need to include paragraphs 5.13, 5.14 and 5.15. These consider Councillor Procter's objections to the planning applications of the complainants, including her comments relating to her expectations relating to the Bardsey conservation area review. This is not the same as the question of whether or not Councillor Procter used or attempted to use her position improperly to the advantage or disadvantage of anyone by trying to accelerate the Bardsey conservation area review, which was the subject of the complaint.*
- 2.2 *We also question the need to include paragraphs 5.18, 5.19, 5.20 and 5.21. These relate to an e-mail sent by Councillor Procter to Kate Newell, which, as we have indicated in our comments on paragraph 4.13(q), was not included in the complaint made against Councillor Procter. If these paragraphs are to be included, we would suggest that paragraph 5.18 should be amended. Paragraph 5.18 refers to Councillor Procter's communications with officers and includes the comment: "Of particular significance is the email of 16th December 2008 which was received with some concern as it was strongly worded and set out in block capitals." We suggest*

CONFIDENTIAL REPORT

it would be more appropriate to say instead “which, it has been suggested, was received with some concern”, as the report contains no first-hand evidence from Kate Newell to confirm that she received the e-mail with concern.

3. **Conclusion**

- 3.1 *We have pointed out above that the aspect of the complaint that was referred for investigation was the question of whether or not Councillor Procter used or attempted to use her position improperly to the advantage or disadvantage of anyone by trying to accelerate the Bardsey conservation area review. We suggest that the conclusion should reflect this rather than making a general conclusion about Councillor Procter’s objections to the proposed demolition of Granger House.”*

Response to comments made on behalf of Councillor Procter

- 6.11 I have accepted the alterations suggested in paragraphs 1.1, 1.2, 1.4, 1.5 and 1.6 above and made appropriate changes to the report.
- 6.12 In relation to the comments at paragraph 1.3 and 2.2, I consider the e-mail in block capitals from Councillor Procter to Ms. Newell to be relevant to considering whether Councillor Procter’s overall conduct in relation to the conservation area review was appropriate. I have clarified in references to the e-mail that it is Mr. Taylor who said that the e-mail was received with some concern. I acknowledge that there is no direct evidence from Ms. Newell on this point.
- 6.13 In relation to the comments at paragraph 2.1, I note that the core issue is whether or not Councillor Procter used or attempted to use her position improperly in relation to the timing of the Bardsey conservation area review. However, I have left paragraphs 5.13 – 5.15 in my report as I believe it is relevant to consider Councillor Procter’s objections to the planning applications as the Cockrams complained that she sought to influence the conservation area review in order to prejudice the applications.


CONFIDENTIAL REPORT

7 Conclusion

- 7.1 Having considered the facts as set out in section 4 of this report, the considerations set out in the section 5 [and the comments set out at section 6], I have concluded that Councillor Procter's objections to the proposed demolition of Granger House were not improper and that she did not bring her office or authority into disrepute.
- 7.3 I therefore consider that Councillor Rachael Procter has not failed to comply with the Council's code of conduct in respect of the complaint.

8 Finding

- 8.1 Under regulation 14(8)(a) of the Standards Committee (England) Regulations 2008, my finding is that there has not been a failure to comply with the code of conduct of the authority concerned.
- 8.2 Under regulation 14(8)(c) and (d), I am sending a copy of this report to Councillor Procter and referring my report to the Standards Committee of Leeds City Council.



Jonathan Goolden BA(Law), Solicitor
Nominated person

11th December 2009

CONFIDENTIAL REPORT

9 Schedule of evidence

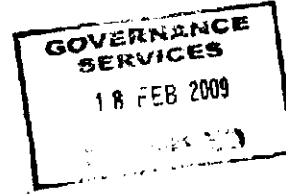
Page	Number	Description
29	JTG 1	Letter of complaint to A. Hodson
31	JTG 2	Redacted statement of Mr. and Mrs. Cockram
34	JTG 3	Statement of Jillian Rann
41	JTG 4	Statement of Phil Crabtree
52	JTG 5	Statement of Richard Taylor
59	JTG 6	Transcript of interview with Councillor Procter with amendments
71	JTG 7	Leeds City Council code of practice for the determination of planning matters

CONFIDENTIAL REPORT

JTG 1



18 February 2009



Mr A Hodson
Leeds City Council
Democratic Services
City Hall
Leeds LS1 1UR

Dear Mr Hodson

Complaints as to the conduct of Councillors [REDACTED] Rachael Procter



We now enclose our complaints arising from those planning applications as to the further conduct of Mrs Procter and as to the conduct of [REDACTED]

We would request that these complaints be referred to the Standards Board for England as being unsuitable for investigation at local level.

The reasons why we consider these complaints to be unsuitable for investigation at local level are:

- (a) the seriousness of the matters complained of, if proven;
- (b) the number of councillors involved. As well as having complaints against the three members referred to above, we are in correspondence with [REDACTED] as to the manner in which the panel dealt with our applications. In the absence of a satisfactory response from [REDACTED] we propose to refer the conduct of the panel to the Ombudsman for investigation for maladministration. Such referral will cite the conduct of the panel in general and that of [REDACTED] and of several other panel members in particular;
- (c) the seniority of several of the members against whom we have complaints, and in particular the seniority within the council and within their political party of [REDACTED]
- (d) the position of [REDACTED] which has oversight of the operational effectiveness of Standards Committee procedures. [REDACTED] as well

10 334844-1

CONFIDENTIAL REPORT

as another councillor who will be named in any complaint we make to the Ombudsman.

Would you please acknowledge receipt.

Yours sincerely,



Richard & Julia Cockram

- 3.153 On 7 October 2008 Mrs Procter e-mailed Richard Taylor, the LPA's Conservation team Leader in the following terms:

Richard

As you are aware the North East Outer Area Committee has funded the review of four conservation areas. I was under the impression Bardsey was to be one of the first. I now understand, Wetherby, Thorne and Boston Spa have commenced but Bardsey has not.

This is very concerning as you may be aware a significant amount of development in Bardsey has been and is proposed, the area is vulnerable without the protection of a conservation area status. I would therefore like an urgent update as to when the conservation area review can get under way.

10-322083-1

27

A Government planning inspector recently commented on the lack of any firm proposal to extend the conservation area to encompass a property which your officers believe should not be demolished.

*Why can it not be started now?**

- 3.154 If, as we think it does, her above remark concerning the Planning Inspector's comments (which were in the Decision Notice in our second appeal) suggests the impression that the Inspector commented disapprovingly on the lack of a firm proposal to extend the conservation area to include Granger House, then Mrs Procter's remark was misleading.
- 3.155 On 8 October the conservation officer replied to Mrs Procter that the Bardsey review was to begin the following week with the aim of taking it to the Planning Board in January 2009.

CONFIDENTIAL REPORT

5.3 Our further complaints against Mrs Procter are that:

- (d) she attempted wrongfully to cause the Bardsey conservation area review to be accelerated in an endeavour to prevent or delay our implementation of any planning permission we might be granted to demolish and replace Granger House.

3-1

33

- 5.18 We cannot say at what point it became Mrs Procter's object to promote the acceleration of the conservation area study with a view to defeating our proposals, but it would appear this had become her purpose certainly by the date of her email to Mr Taylor of 7 October 2008. However Mr and Mrs Procter's consciousness of the connection between these two matters goes back much earlier, to Mr Procter's comment to the plans panel on the subject on 8 May 2008 and Mrs Procter's email to Ms Rann of 25 February 2008 in which she pre-judged and took ownership the outcome of the study by stating that "*...we are undertaking a conservation area review so that Rigton Green becomes part of the conservation area of Bardsey*".
- 5.19 Whether and if so from what date Mrs Procter embarked on a conscious effort to delay our applications with a view to their being overtaken by the designation of Rigton Green as a conservation area would be difficult to say.

CONFIDENTIAL REPORT

- 5.24 In her letter to the LPA dated 16 April 2008, opposing our second planning application, Mrs Procter again listed as one of her objections *"Destruction of a beautiful old property in a rural part of our Ward which needs to be preserved and protected which is why we are undertaking a conservation review so that Rigton Green becomes part of the conservation area of Bardsey."*
- 5.25 In her letter to the Appeals Inspectorate dated 21 October 2008 opposing the appeals in our third and fourth applications, Mrs Procter is even more emphatic, saying *"...the review of conservation areas in Wetherby, Boston Spa, Thornor, Bardsey and East Rigton...is under way, and will result in the above site being brought into the Conservation Area. Leeds City Council Conservation Officers will oppose its demolition when that occurs."* (Emphasis added).
- 5.26 Mrs Procter had already made up her mind and placed on record what the outcome of the conservation area review would be. In this she was fully supported by [REDACTED]. She had decided also that once the conservation area order was made it would be a matter of course for the LPA to refuse conservation area consent for us to implement any permission to demolish the existing house.
- 5.27 Mrs Procter should have remained mindful of the report to the NE (Outer) Area Committee (of which she is a member) from the Directors of City Development, dated 17 September 2007, paragraph 3.1, on the subject of conservation area reviews. This informs councillors that before any conclusions are reached as to the extension of any conservation area the principle must be observed of local community involvement to ensure that there is support for the appraisal and that this can be treated as a "material consideration" in the planning system. The conservation area designation process involves a study into the target area by a qualified conservation area specialist, the preparation of a report of the study's findings, publication of the report, a period of public consultation on the report and the forming of a representative steering group to manage the consultation, appraise and evaluate representations received and submit a proposal to a planning board of planning for decision.
- 5.29 As a person who had been selected to be part of the conservation area steering group, Mrs Procter was also obliged to comply with and have regard to paragraphs 2.1, 2.2, 2.3, 2.4, 4.1 and perhaps 4.2 and 5 of the Planning Code. In our view her pronouncements on the matter

of the Bardsey review indicate a predisposition as to the result of the review and a partiality connected with her personal situation which put her in breach of these requirements.

**STATEMENT
FRONT COVER**

Case Ref:	L6.3
Name:	Jillian Rann
Position Held:	Senior Planning Officer Leeds City Council
Contact Address:	The Leonardo Building 2 Rossington Street Leeds LS2 8HD
Contact Tel:	0113 2478187
Email:	jillian.rann@leeds.gov.uk

I Jillian Rann declare that this statement is true and accurate to the best of my knowledge and belief.

Signed.....J. Rann..... Date...27th July 2009....

Signed original held on file Jonathan Goolden Solicitors

Case Ref: L6.3

CONFIDENTIAL REPORT

STATEMENT of: - Jillian Rann

1. I am a Senior Planning Officer at Leeds City Council having been appointed to the post in August 2007. I previously held a position of Planning Officer with Wakefield Borough Council.
2. I have been a qualified Planner since September 2005 and have worked in planning since December 2005. I am also a Member of the Royal Town Planning Institute.
3. I am aware that Jonathan Golden Solicitors have been appointed to investigate an allegation that Councillor Rachael Procter may have used her office as a City Councillor to improperly disadvantage Mr and Mrs Cockram by seeking to influence a review of the Bardsey Conservation Area.
4. Councillor Rachel Procter is one of the ward members for the Harewood Ward, a rural ward within the City boundary.
5. I was an area planning officer for that area during the period August 2007 to mid 2008, when the planning applications for redevelopment of Granger House, Rigton Green were being processed.
6. When I was the area planning officer for that area, Councillor Rachael Procter would contact me weekly or fortnightly regarding planning applications in the Harewood Ward. I do not consider this to be unusual. I recognise that some Councillors take a greater interest in planning matters than others. In my opinion Councillor Rachael Procter is a member who takes an active interest in planning and development in her Ward.
7. I am aware that Councillor Rachael Procter would ask for briefings on some applications. These were provided by more senior planning officers than myself.

CONFIDENTIAL REPORT

8. My contact with Councillor Rachael Procter was usually by email although on infrequent occasions she would telephone me for information.
9. I have only met Councillor Rachael Procter on a couple of occasions.
10. My contact with Councillor Rachael Procter during the processing of the first two Granger House applications was not out of the ordinary. I confirm that she contacted me during that time for information on the progress of the applications.
11. I do not recall any specific contact with Councillor Rachael Procter during the processing of the third and fourth applications. I do recall an exchange of emails with Donna Lunney from the Conservative Party Group Office asking for an update on the applications. I produce a copy of these emails as JR 1.
12. I was aware that there were discussions about a review of the Bardsey Conservation Area in late 2008. This was referred to in the report on the later applications referred to the Plans Panel.
13. I am also aware there was email correspondence regarding the conservation area issues although I did not deal with this.
14. I recall a telephone conversation with Councillor Rachael Procter regarding the Granger House development. This followed a site visit I made to the property to inspect the materials required as part of the planning conditions after the application was allowed at appeal. She asked what my opinion was of the materials and I recall that she raised concerns that the roof materials were slate rather than reusing the original stone. The approved plans showed that slate was to be used. I do not recall any mention of the conservation area issue during that telephone conversation.

CONFIDENTIAL REPORT

15. Whilst I was aware of the review of the conservation area I have not had any dealings with the actual assessment or review.

16. I do not consider the level of contact from Councillor Rachael Procter, during the processing of the Granger House applications to be anything other than the normal contact I would expect from a Ward Councillor with an interest in the planning issues in their Ward.

Signature.....J. Rann..... Date.....27th July 2009.....

CONFIDENTIAL REPORT

JR 1



Jillian Rann/DVD/LCC
11/07/2008 10:25

To Donna Lunney/CED/LCC@Leeds_City_Council
cc Rachael Procter/MEM/LCC@Leeds_City_Council
bcc
Subject RE: Granger House

Dear Donna,

Further to my email to you yesterday, I can advise that both of the Granger House applications (08/03089/FU and 08/03090/FU) will be reported to Plans Panel with a recommendation for approval.

Please let me know if I can be of any further assistance.

Kind regards,

Jill Rann
Senior Planning Officer
Planning Services, North East

Tel: 0113 247 8023

Donna Lunney/CED/LCC

Donna Lunney /CED/LCC
10/07/2008 12:03

To Jillian Rann/DVD/LCC@Leeds_City_Council
cc Rachael Procter/MEM/LCC@Leeds_City_Council
Subject RE: Granger House

Dear jillian

Please could you let me know the position of Granger House.

Many Thanks
Donna Lunney
Conservative Group Office
0113 39 51948

CONFIDENTIAL REPORT



Jillian Rann/DVD/LCC
10/07/2008 12:09

To Donna Lunney/CED/LCC@Leeds_City_Council
cc Rachael Procter/MEM/LCC@Leeds_City_Council
bcc
Subject RE: Granger House

Dear Donna,

Both applications will be reported to Panel on 31st July. It is likely that the scheme without the pediment to rear (08/03090/FU) will be recommended for approval. I need to discuss the scheme which incorporates the pediment to rear (08/03089/FU) with my colleagues before I can advise what the recommendation is likely to be. I will advise you of this in due course, once I have discussed with my colleagues.

Regards,

Jill Rann
Senior Planning Officer
Planning Services, North East

Tel: 0113 247 8023

Donna Lunney/CED/LCC

Donna Lunney /CED/LCC
10/07/2008 12:03

To Jillian Rann/DVD/LCC@Leeds_City_Council
cc Rachael Procter/MEM/LCC@Leeds_City_Council
Subject RE: Granger House

Dear jillian

Please could you let me know the position of Granger House.


Many Thanks
Donna Lunney
Conservative Group Office
0113 39 51948

CONFIDENTIAL REPORT

Donna Lunney /CED/LCC
10/07/2008 12:03

To Jillian Rann/DVD/LCC@Leeds_City_Council
cc Rachael Procter/MEM/LCC@Leeds_City_Council
bcc

Subject RE: Granger House

History:  This message has been replied to.

Dear jillian

Please could you let me know the position of Granger House.

Many Thanks
Donna Lunney
Conservative Group Office
0113 39 51948

**STATEMENT
FRONT COVER**

Case Ref:	L6.3
Name:	Phil Crabtree
Position Held:	Chief Planning Officer Leeds City Council
Contact Address:	The Leonardo Building 2 Rossington Street Leeds LS2 8HD
Contact Tel:	0113 2478187
Email:	phil.crabtree@leeds.gov.uk

I Phil Crabtree declare that this statement is true and accurate to the best of my knowledge and belief.

Signed.....P. Crabtree..... Date...25th June 2009.

Signed original held on file Jonathan Goolden Solicitors

Case Ref: L6.3

CONFIDENTIAL REPORT

STATEMENT of: - Phil Crabtree

1. I am the Chief Planning Officer at Leeds City Council having been appointed to the post in December 2007. I previously held a similar position with Birmingham City Council, where I was employed for some 25 years.
2. I am aware that Jonathan Goolden Solicitors have been appointed to investigate an allegation that Councillor Rachael Procter may have used her office as a City Councillor to improperly disadvantage Mr and Mrs Cockram by seeking to influence a review of the Bardsey Conservation Area.
3. Councillor Rachel Procter is one of the ward members for the Harewood Ward, a rural ward within the City boundary, which is distinctive for its attractive settlements and buildings.
4. I am aware that planning and in particular development control is high on Councillor Procter's list of concerns.
5. I am also aware that this is generally common for the representatives of the rural areas as they tend to be less dependent on some of the other services provided by the City Council. This often leads to what may appear to be a disproportionate interest in planning issues.
6. In my experience Councillor Procter is diligent in her response to planning issues.
7. With regard to the review of conservation areas, there is an expectation that local authorities will carry out an appraisal of their area and keep under review conservation of the built environment. The City Council is keen to carry out such appraisals.
8. About 15 months ago the Council appointed three officers, on temporary contracts, to carry out the appraisals of the area. These

CONFIDENTIAL REPORT

posts were funded and commissioned by the Council's Area Committees.

9. Early in 2008 the Council resolved to proceed with the appraisals although work had not commenced when the first planning application in respect of the redevelopment of Granger House, Rigton Green was processed.
10. In June 2008 the North East Outer Area Committee considered a report on the Conservation Area Appraisals.
11. I am aware that Councillor Rachael Procter raised this matter in October 2008. I produce copies of email correspondence between Councillor Procter and the Conservation Officers in which Councillor Procter asked why the Bardsey review had not commenced as PC 1.
12. My recollection is that I have only ever had email correspondence with Councillor Procter regarding this matter. She has not contacted me in person or by telephone.
13. I produce a copy of the planning officer's report to the October 2008 meeting of the Planning Panel as PC 2. This contains information which is relevant to how the conservation issues were dealt with during the processing of the application at Granger House, Rigton Green. In particular this refers to the materiality of the conservation area review and how this related to the planning application.
14. I also produce correspondence from and my response to Mr and Mrs Cockram as PC 3 and PC 4. These address conservation issues, the planning process and planning policy matters.
15. I can confirm that to my knowledge Councillor Rachael Procter has not acted inappropriately in her dealings with the review of the conservation area, she has not lobbied officers nor attempted to exert

CONFIDENTIAL REPORT

undue pressure. In my opinion she has been doing her job as an elected representative in an appropriate manner.

SignatureP. Crabtree..... Date.....25th June 2009.....

CONFIDENTIAL REPORT

PC 1



Richard Taylor/DVD/LCC
08/10/2008 12:44

To: Rachael Procter/MEM/LCC@Leeds_City_Council
cc: Kate Newell/DVD/LCC@Leeds_City_Council
bcc: Phil Crabtree/DVD/LCC
Subject: Re: CONSERVATION AREAS

History: This message has been forwarded.

Dear Cllr Procter

I am pleased to report that Kate Newell in my team will begin work on the Bardsey CA review next week with the aim of taking it to Planning Board in January. She will be in touch shortly with you and your fellow Ward Members to outline the process and to answer any queries you may have.

Richard

Richard Taylor
Conservation Team Leader
Sustainable Development Unit
Leeds City Council
The Leonardo Building
2 Rossington Street
Leeds
LS2 8HD

Tel: 0113 247 8145
Fax: 0113 247 6484

Rachael Procter/MEM/LCC

Rachael Procter/MEM/LCC
07/10/2008 15:32

To: Richard Taylor/DVD/LCC@Leeds_City_Council
cc:
Subject: CONSERVATION AREAS

Richard

As you are aware the North East Outer Area Committee have funded the review of four conservation areas. I was under the impression Bardsey was to be one of the first. I now understand, Wetherby, Thormer and Boston Spa have commenced but Bardsey has not.

This is very concerning as you may be aware a significant amount of development in Bardsey has been and is being proposed, the area is vulnerable without the protection of a conservation area status. I would therefore like an urgent update as to when the conservation area review can get underway.

An Government planning inspector recently commented on the lack of any firm proposal to extend the conservation area to encompass a property which your officers believe should not be demolished.

Why can it not be started now ?

Regards,

Rachael

COUNCILLOR RACHAEL PROCTER



Originator: Jillian Rann
Tel No: 247 8000

Report of the Chief Planning Officer

PLANS PANEL (EAST)

Date: 23th October 2008

Subject: Planning application 08/03089/FU: Four bedroom detached dwelling with pediment to rear and detached double garage involving demolition of existing dwelling house at Granger House, Rigton Green, Bardsey, and;

Planning application 08/03090/FU: Four bedroom detached dwelling with detached double garage involving demolition of existing dwelling house at Granger House, Rigton Green, Bardsey.

<p>Electoral Wards Affected:</p> <p>HAREWOOD</p> <p><input type="checkbox"/> Ward Members consulted (referred to in report)</p>	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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RECOMMENDATION:
Members are requested to consider the additional relevant information before them, before resolving whether, if they were in a position to determine these applications they would have refused them, and if so to confirm their reasons.

1.0 INTRODUCTION & SUMMARY

- 1.1 These applications were previously considered at Plans Panel East on the 28th August 2008 where Members expressed concern regarding the loss of the existing building and the impact of the proposed developments in terms of its design and its impact on the openness of the Green Belt. It was requested that the applications be reported back to Members with suggested reasons for refusal.
- 1.2 Suggested reasons for refusal were reported back to Plans Panel on 25th September 2008. However, during the period between the August and September Panel meetings, two further relevant events occurred. Firstly, the applicants lodged appeals against the non-determination of the applications, and secondly, the Planning Inspector who had considered two earlier appeals for replacement dwellings on the site had published her decisions. A supplementary report to Panel was therefore produced in order to draw this new information to the Panel's attention. At the meeting on 25th September Members resolved to defer consideration of the matter to allow for greater time to consider the recently received information.

CONFIDENTIAL REPORT

- 1.3 This report provides the most up to date information and therefore supersedes the supplementary report of 25 September. The purpose of this report is to set out suggested reasons for refusal in accordance with the Panel resolution on 28th August 2008 for Members consideration in the light of this new information. This report also provides an update to Members and this primarily relates to:
- Representations received from the applicants and objectors.
 - The current position in respect of the review of the Bardsey Conservation Area
 - The progress of the recently submitted appeals against the non-determination of applications 08/03089/FU and 08/03090/FU.
 - An update in respect of works carried out to Granger House.
- 1.4 Members will also note that a copy of the Panel report of 28th August and the Inspector's decision letter are also attached for ease of reference.
- 1.5 If, after having considered all new relevant information, Members remain of the view that if the Council had been in a position to determine the applications they would have refused them, Members are asked to indicate whether they agree with the reasons for refusal suggested below:
- 1) The Local Planning Authority considers that the proposed development, by virtue of its increase in footprint, relative scale and massing, would have a significantly greater impact on the openness of the Green Belt than the existing dwelling and outbuildings on the site, contrary to Policy GB9 of the Leeds Unitary Development Plan Review (2006) and the guidance contained within PPG2.
 - 2) The Local Planning Authority considers that the existing dwelling makes a positive contribution to the character of the area, and that the proposed development, by reason of its scale and design, would result in an incongruous form of development which fails to take the opportunities to improve the character and quality of the area, contrary to Policies N13 and BD5 of the Leeds Unitary Development Plan Review (2006) and the guidance contained within Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 3: Housing.

2.0 APPEAL DECISIONS

- 2.1 The appeals against the refusal of application 07/05430/FU, and the non-determination of application 08/00044/FU following Panel's resolution to refuse the application at the Panel meeting on 8th May 2008, have now been determined and dismissed (Appeals A and B). The purpose of this section of the report is to advise Members of the details of the Inspector's decisions.
- 2.2 Both of the appeal proposals were replacement dwellings virtually identical in height and footprint to those considered by Members at the Plans Panel meeting on 28th August. Appeal A relates to application 07/05430/FU, for a dwelling with gables to front and rear and greater levels of fenestration than those now proposed, which was refused under delegated powers in October 2007. Appeal B relates to application 08/00044/FU, which was considered by Members at Plans Panel on 8th May, and was for a much simpler dwelling, with 6 sash windows to the front, lower levels of fenestration, and with the gables deleted.

CONFIDENTIAL REPORT

Green Belt

- 2.3 At the Panel meeting on 28th August, Members expressed the view that the proposed replacement dwelling would, by virtue of its increase in footprint, relative scale and massing, have a significantly greater impact on the openness of the Green Belt than the existing dwelling and outbuildings on the site, and requested that a reason for refusal on these grounds be drafted.
- 2.4 The Inspector considered that, in both of the appeal proposals (A and B), the replacement dwelling proposed would 'not be materially larger than the buildings they would replace, or inappropriate in the Green Belt', and that the increased width or height of the replacement building would not be such as to 'cause a significant loss of perceived or actual space', with the demolition of outbuildings resulting in an overall reduction in built clutter. The Inspector concludes that the proposals, which are virtually identical in height and footprint to those considered by Members at the Panel meeting on 25th August, 'would not amount to inappropriate development in the Green Belt or cause an unacceptable loss of openness. It is not necessary to consider whether very special circumstances exist in these cases. They would comply with UDP Policies N33 and GB9, and with PPG2.'
- 2.5 Members will need to have regard to the conclusions of the Inspector when considering 'reason for refusal' 1 above (see para. 1.5).

Retention of the existing dwelling

- 2.5 At Plans Panel meetings on 8th May and 28th August, Members expressed a preference for the retention and refurbishment of the existing building over its replacement.
- 2.6 The Inspector expresses some sympathy for the view that the dwelling makes a positive contribution to the character of East Rigton, and notes the suggestion that the existing house should be converted or altered. However, she also notes that the house is in need of repair and degraded by insensitive additions, and that there is evidence that works to convert or alter the existing building would be structurally difficult, require significant demolition, and not achieve goals such as energy efficiency. She goes on to state that, in any event, the building is neither listed nor in a conservation area and therefore has no statutory protection from demolition.

Design

- 2.7 With regard to Appeal A, the Inspector considered that the replacement dwelling would be better aligned with the green to the front but concluded that the gable feature and Venetian windows proposed would give the property an over-dominant appearance in the streetscene and that, without a front entrance, the house would dominate yet fail to engage with the green to the front.
- 2.8 With regard to Appeal B, the Inspector notes that the design of the house would be much simpler than that considered in Appeal A, and would have paneled sash windows, with flat arches or Harewood fans over, reflecting the character of good nearby buildings. Overall, the Inspector considers that the proposed dwelling 'would have a rustic design compatible with nearby houses and the wider area', but expresses concern with regard to the design of the front elevation, and concludes that 'without the interest of a door if not a porch, visible from the pedestrian gate, the proposed house would appear bland and detached from the green, and that 'while it

CONFIDENTIAL REPORT

would not have the overbearing impact of Appeal A...it would undermine the local pattern of development and disregard its setting.'

3.0 REPRESENTATIONS

Comments by the applicant

- 3.1 The applicants have written and in light of the Inspectors report have made the following comments:

" - the proposals do not amount to inappropriate development and do not cause unacceptable loss of openness to Green Belt;
- as such the proposals are compliant with UDP Policies N33, GB9 and PPG3; the existing dwelling has been degraded by insensitive additions, is not listed, is not in a Conservation Area and has no protection from demolition;
- there is evidence that to convert or alter the existing dwelling would be structurally difficult, would require significant demolition and would not achieve goals such as energy efficiency (this finding now being further reinforced by the structural report of the LCC's building Control Officer);
- the plot of the proposed development is better aligned with the Green than the plot of the existing dwelling and in terms of scale would be compatible with nearby properties;
- the extended gap to the scout hall and landscaping would be an improvement, softening the appearance of the proposed house and offsetting its size; the rustic design and detailing of the proposals reflect the character of good nearby dwellings such as Darley Cottage.
- The planning inspector refused the application for one reason only, *that "without the interest of a door, if not a porch, visible from the pedestrian gate, the proposed house would appear bland and detached from the green"* [the applicants emphasis].

- 3.2 The applicants have also raised the question of whether the Council is acting outside its legal powers in basing a decision on the view that the existing dwelling should be retained when there is no statutory protection of the building as noted by the Inspector.

Comments by the objectors

- 3.3 Councillor Rachael Procter has written on behalf of objectors in light of the Inspector's report making the following comments:

*- The inspector based her finding on a mistaken belief:

"So far as I am aware, there are no firm proposals to review a nearby conservation area so as to include the site within its boundaries"

This is simply not the case. At its meeting on the 4th April 2007 the Executive Board of Leeds City Council agreed to allocate to Area Committee £50,000 of funding which may be used for the specific purpose of reviewing conservation areas. The North East outer Area Committee on the 10th December 2007 agreed, after receiving advice from the councils Senior Conservation Officer, £29,500 to fund the review of conservation areas in Wetherby, Boston Spa, Thorner, Bardsey and East Rigton, *the review of all of the areas is underway and will result in the above site being brought into the Conservation Area. Conservation officers will oppose its demolition when that occurs.*

CONFIDENTIAL REPORT

Clearly if the inspector had been aware of the review of the conservation area it is likely her finding would have been even more robust and far reaching.

- The application has yet to be referred to Secretary of State under the relevant Circular 11/2005 Annex 3b for consultation. To approve this application in advance of the above procedure could be unlawful.
- An application has been received by English Heritage to list the property. There are a number of instances where officers did not believe the listing of a structure was achievable, subsequently English Heritage have taken a different view and applied a listing. Members may recall Oaks Lane, Boston Spa, where a walled garden wall was listed adjacent to an arts and craft house. Planning officers stated there was little chance of the wall being listed. It subsequently was.

Members refused this application on 28th August 2008. Members are asked to support the reasons for refusal tabled today."

4.0 REVIEW OF CONSERVATION AREA BOUNDARY

- 4.1 Members will have noted the Inspectors comments in respect of the review of the conservation area. The correct position is set out as follows. The local authority's community conservation team is carrying out various conservation area appraisals and boundary reviews in Leeds 2008/2009, including a review of the Bardsey Conservation Area. This work is undertaken in a number of stages including a review of the conservation area, the formulation of proposed revisions, consultation and finally adoption. Work was due to start on the Bardsey Conservation Area review in September 2008, but in actuality was delayed until week commencing 13th October. The process includes the carrying out of a rapid survey using English Heritage urban survey methodology and an appraisal report written. Once initial research has been carried out, ward Councillors and a small number of key representatives from relevant local interest groups will be invited to join a steering group to help guide the draft appraisal/boundary review through public consultation. In the case of Bardsey it is hoped that the report and any revisions to the conservation area boundary will be approved in January 2009.
- 4.2 Within conservation areas additional planning controls exist. Conservation area consent is required for the demolition of buildings and structures above a certain size. Applications for such consent are considered against the contribution that the building/structure makes to the character or appearance of the conservation area. If and when the conservation area boundary is changed those buildings and structures within the 'new' conservation area will benefit from such protection. In this respect Members will note the comments of the Conservation Officer with regard to Granger House (as set out in the Appraisal section of the Panel report of 28th August) and that if it were within the conservation area he would not support its demolition. Members will also note that the objectors comments in respect of an application to English Heritage to list the property. At the timing of drafting the report we had not heard from English Heritage.

5.0 PROGRESS OF THE RECENTLY SUBMITTED APPEALS

- 5.1 The appeals process is already underway and the appeals are being conducted by way of exchange of written representations. The appeals timetable required the City Council's statement to be submitted prior to this Panel meeting. The statement has

CONFIDENTIAL REPORT

therefore been prepared to reflect the concerns raised by Members and the resolution to refuse planning permission for both applications at the Panel of 28th August. The Planning Inspectorate will be informed of the outcome of the consideration of this report.

6.0 WORKS TO GRANGER HOUSE

- 6.1 Since the applications were last reported to Plans Panel, the stone roof slates have been removed from the main building, which, the applicants advise, has been done for safety reasons following concerns raised regarding the stability of the roof. Stone has also been removed from the porch to provide samples for comparison with stone from other suppliers.
- 6.2 A notice for the works has been served on the Council under the requirements of Section 80 of the Building Act 1984. This gives the opportunity for the Council to serve a 'Counter Notice' containing conditions relating to public safety during demolition. As a Counter Notice would put conditions on the method of demolition it is not generally applied retrospectively.
- 6.3 The applicants have since advised that the porch has been taken down to a height of one metre prior to the service of a Counter Notice or the expiry of the statutory notice period. This is a matter that officers are currently looking into.
- 6.4 The Council has now received a notice of intention to demolish the whole of the building and outbuildings, with a commencement date of 'grant of Planning Permission or the expiry of the Statutory Notice Period' (six weeks – 25/11/08), whichever is the later. The Counter Notice will impose a number of conditions relating to maintaining public safety during the demolition works. This will be monitored by Building Standards on site to ensure the conditions are met.
- 6.5 Under the provisions of the government statute prior approval is required from the Local Planning Authority for the demolition of dwelling/s. Prior approval is required for the method of demolition and any proposed restoration of the site. Prior approval is not required where the demolition is to be carried out in conjunction with the implementation of a planning permission or where the demolition is 'urgently necessary in the interests of safety or health'.

7.0 CONCLUSIONS

- 7.1 The Inspector's decisions constitute a new relevant material planning consideration which Members need to have regard to before forming a final view on the applications. Members are therefore requested to consider the additional relevant information before them, before resolving whether, if they were in a position to determine these applications they would have refused them, and if so to confirm their reasons. Suggested reasons are set out at paragraph 1.5 of this report.

**STATEMENT
FRONT COVER**

Case Ref:	L6.3
Name:	Richard Taylor
Position Held:	Team Leader Conservation Leeds City Council
Contact Address:	The Leonardo Building 2 Rossington Street Leeds LS2 8HD
Contact Tel:	0113 247 8145
Email:	richard.taylor@leeds.gov.uk

I Richard Taylor declare that this statement is true and accurate to the best of my knowledge and belief.

Signed.....R. Taylor..... Date...16th July 2009....

Signed original held on file Jonathan Goolden Solicitors

STATEMENT of: - Richard Taylor

1. I am the Team Leader- Conservation at Leeds City Council having been appointed to the post in 1991.
2. The Conservation Team comprises 3 full time permanent staff. Early in 2008 three additional officers were appointed on temporary contracts to review the conservation areas within the Council's boundary.
3. I am aware that Jonathan Goolden Solicitors have been appointed to investigate an allegation that Councillor Rachael Procter may have used her office as a City Councillor to improperly disadvantage Mr and Mrs Cockram by seeking to influence the review of Bardsey Conservation Area.
4. The background to the review of conservation areas started some three years ago. Government policy is that Local Authorities should from time to time review designated conservation areas and their boundaries and bring forward proposals to enhance the areas.
5. At that time Leeds City Council had not been as proactive as some of its neighbouring authorities in undertaking such reviews.
6. Due to a number of reasons, including the introduction of a Key Performance Indicator for conservation area reviews, the issue became more prominent in 2006.
7. This resulted in a decision by the Executive to allocate a sum of £50,000 to each of the 10 Area Committees to use for Conservation Area reviews and Residents' Parking Schemes. The Area Committees were to be responsible for identify priorities for the reviews and monitoring the work programme.
8. Following this decision I prepared a report which I presented to each of the Area Committees.

CONFIDENTIAL REPORT

9. I recall that the members of the North East Outer Area Committee, which covers the Bardsey Conservation Area, were enthusiastic about the proposals but as the area contained 8 or 9 conservation areas there was no possibility all were going to be included in the first phase of the work. During discussion and consideration it emerged that Bardsey was one of a number of areas that were going to be included in the first phase, although I do not recall any priority order being given to which areas were identified for the first phase.
10. I recall that at some stage Councillor Rachael Procter made a comment to the effect that she thought Bardsey was going to be looked at first.
11. The actual process adopted was that the three temporary posts were created and appointments made. The three Officers were to be responsible for the reviews. They were to consult with local Ward Councillors, Parish Councils and other interested parties. Progress reports were to be presented to the relevant Area Committee. The Officers' proposals were to be presented to the Planning Technical Board, which is an advisory panel. The final decisions were to be taken by the Chief Planning Officer under delegated powers.
12. The Area Committees were not to be part of the decision making process.
13. Kate Newell was the officer responsible for the review of the Bardsey Conservation Area.
14. I have consulted the files relating to the review and note that progress was being made although due to a number of reasons including [REDACTED]
[REDACTED]
[REDACTED] there was a slight delay to the initial timetable.
15. Various emails on the files show that Kate Newell was consulting with the Parish Council and the Ward Members during this period.

CONFIDENTIAL REPORT

16. I am aware that during the period of the review there was consultation between my team and the Development Control Team regarding the property at Granger House, Rigton Green. Due to the separation of roles between Development Control and Conservation this did not create any difficulty or pressure for the staff dealing with the review. In addition the officers dealing with the reviews were new to the Council and the area, therefore they did not have any preconceptions of the outcome or external influences on their judgement.
17. In early December 2008 work on the Bardsey review was reaching a point where draft proposals were being drawn up and consulted on. At about this time Councillor Rachel Procter was in contact with Kate Newell asking for information on the progress of the review.
18. There is an email on the file dated 16 December 2008, which caused Kate some concern as Councillor Procter raised issues about Kate not responding to messages she had left. The email is in block capitals which people usually associate with shouting. Kate responded to the email with an apology as she realised Councillor Procter had left a number of voice messages on her mobile telephone which she had not been aware of. Transcripts of the emails are appended.
19. Kate then went on leave for about three weeks over the Christmas period. I became more directly involved with the Bardsey review at this time. I had meetings with the local ward Councillors when their views and local knowledge were fed into the process. Their input resulted in additional areas being included in the conservation area. The area of Rigton Green had been identified at the outset as an area for possible inclusion in the extended boundary of the Bardsey Conservation Area.
20. Following the completion of the review and the statutory process the Conservation Area was extended with effect from 16 March 2009.

Signature.....R. Taylor..... Date.....16th July 2009.....

APPENDIX: Email correspondence referred to in paragraph 18

[E-mails have been placed in chronological order]

From: Kate Newell/DVD/LCC
To: Ann Castle/MEM/LCC@Leeds_City_Council, Rachael Procter/MEM/LCC@Leeds_City_Council, Alec Shelbrooke/MEM/LCC@Leeds_City_Council
CC: Carole Clark/NHD/LCC@Leeds_City_Council
Date: 15/12/2008 11:07

Subject: Bardsey-cum-Rigton conservation area appraisal update

Councillors

By now you should have received the map I provided of the draft proposed boundary changes to the Bardsey Conservation Area.

Work is progressing with the appraisal document and I aim to get a draft to you soon after the 12th January. A formal four week period of public consultation will run from 26th January to 20th February. This will include a 'drop-in' session and exhibition at the village hall on Saturday 31st January between 10.30am and 12.30pm hosted by the Parish Council. It would be great if you could make it. We ran a similar event for the West Park and Far Headingley appraisals and two of the local councillors were able to meet their constituents and field non-conservation related issues that were raised.

I am on leave and away from the office from December 17th returning on January 12th. In my absence if you require any further details you can contact Richard Taylor, Conservation Team Leader. His details are 0113 2478145 and his email is richard.taylor@leeds.gov.uk
Hope you have a very happy Christmas.

Kate

Kate Newell
Community Conservation Officer
Sustainable Development Unit
Leeds City Council
Leonardo Building
2 Rossington Street
Leeds
LS2 8HD

[mobile no]

CONFIDENTIAL REPORT

From: Rachael Procter/MEM/LCC
To: Kate Newell/DVD/LCC@Leeds_City_Council, Richard Taylor/DVD/LCC@Leeds_City_Council
CC: Alec Shelbrooke/MEM/LCC@Leeds_City_Council, Ann Castle/MEM/LCC@Leeds_City_Council, Carole Clark/NHD/LCC@Leeds_City_Council
Date: 16/12/2008 10:58

Subject: Re: Bardsey-cum-Rigton conservation area appraisal update

Dear Kate,

This is not acceptable.

YOU HAVE NOT SPOKEN TO WARD MEMBERS AND YET HAVE CONSULTED MEMBERS OF THE PUBLIC.

i HAVE BEEN TRYING TO CONTACT YOU YET YOU HAVE NOT RETURNED MY CALLS.

WE WANT A MEETING PRIOR TO PUBLIC CONSULTATION AS WARD MEMBERS VIEWS TAKE IN RESIDENT VIEWS AS WE DEAL WITH THE RESIDENTS OF BARDSEY, WHICH YOU WILL NOT BE AWARE OF.

i AM CONCERNED THAT THIS HAS BECOME AN OFFICER LED INITIATIVE WITHOUT WARD MEMBERS CONSULTATION IN YOUR CASE. WE NEVER HAD THESE PROBLEMS IN THE THORENR REVIEW, WITH MATTHEW.

WHY HAVE YOU NOT RETURNED MY CALLS FOR A MEETING AND GONE AHEAD WITHOUT CONSULTATION.

CLLR PROCTER (MRS)

CONFIDENTIAL REPORT

From: Kate Newell/DVD/LCC
To: Rachael Procter/MEM/LCC@Leeds_City_Council
CC: Alec Shelbrooke/MEM/LCC@Leeds_City_Council, Ann
Castle/MEM/LCC@Leeds_City_Council, Carole Clark/NHD/LCC@Leeds_City_Council,
Richard Taylor/DVD/LCC@Leeds_City_Council
Date: 16/12/2008 15:57

Subject: Re: Bardsey-cum-Rigton conservation area appraisal update

Dear Councillors

I apologise for the breakdown in communications. Unfortunately I have realised that my mobile phone answerphone facility hasn't been set up properly and therefore I had no idea you had left messages on my phone until yesterday afternoon when I was attempting to set up a new incoming message to cover my absence from the office over Christmas. I know how frustrating it must have been not to have your phone messages returned, so sorry for my mistake.

I understand you have set up a meeting on Friday with my colleagues Richard Taylor and Matt Bentley, who you worked with on the Thorner appraisal. They will be able to relay your comments to me in Vancouver where I will be able to incorporate the information as I continue writing the appraisal. Councillor Castle, you said you also have comments - if you can outline them by email to Richard Taylor he can also forward me your comments.

I will make sure you are the first to see the draft version of the appraisal document in the new year so you can agree the content prior to the wider public consultation.

yours sincerely

Kate Newell
Community Conservation Officer
Sustainable Development Unit
Leeds City Council
Leonardo Building
2 Rossington Street
Leeds
LS2 8HD

(07891) 276949

Leeds City Council (L6.3)

Transcript of Interview of Councillor Rachael Procter

AT = Alan Tasker RP = Councillor Rachael Procter
CH = Clare Hardy

AT: Good afternoon. We are in Leeds City Council offices with Councillor Rachael Procter who is accompanied by Clare Hardy from Eversheds. Thank you very much for agreeing to meet me and thank you very much for agreeing for this interview to be taped. If at any time you want me to switch the tape recorder off because you want to refer to Clare or if you want a comfort break please let me know and we will do that and we will reconvene when you are ready. I understand that you have a statement that you would like to make for the recording.

RP: I was elected to represent the newly created Harewood Ward on Leeds City Council in 2004. I was re-elected in 2007 with one of the largest majorities in the country. Since being elected I have served on North East Outer Area Committee the City Services Scrutiny Board, the City Development Scrutiny Board and the Parish Council Forum. I have been a school Governor and sit, in a private capacity on the board of the Middleton Park Equestrian Centre which is one of the largest Riding for the Disabled centres in the country.

I deal with all planning matters in the Harewood Ward and over the last 5 years I have dealt with hundreds of applications. I work closely with the nine Parish Councils in the ward on planning matters. Before the birth of my first child I served as a Member of the Plans Panel East.

Before being elected to Leeds City Council I served as a Thorner Parish Councillor. In my private life I manage the family Facilities Management Company and have two young children aged four and two and a half.

My husband was elected to Leeds City Council in 1992 representing the Wetherby Ward. He is the Chief Whip of the Conservative Group, Executive Board Member for Culture and Leisure, Chairs the Member Management Committee of the Council, the Elections Working Group and Leeds Cultural Partnership.

I confine my comments to the one outstanding matter referred by the Standards Assessment Sub Committee for investigation. I do not seek to address any of the matters in the 46 page complaint against

[REDACTED] or my self. This is the fourth complaint the Cockrams have brought against elected

CONFIDENTIAL REPORT

members relating to the development of their new home at Granger House.

In bold "5.3(d) She attempted wrongfully to cause the Bardsey conservation area review to be accelerated in an endeavour to prevent or delay our implementation of any planning permission we might be granted to demolish and replace Granger House"

A report by officers in the City Development Department to the Executive Board on the 4 April 2007, that copy is there ok, outlined proposals to provide funding to area Committees to support the revision of conservation area City wide.

A report was presented by Richard Taylor Head of Conservation within the City Council to the July 2008 meeting of the North East Outer Area Committee, which is the front one ok, the report contained officer recommendations of the conservation areas that were recommended for review. The report clearly shows that the Wetherby Conservation area review would take place in June/July 08, the Bardsey and Thorner reviews would commence in September 08 and the Boston Spa/Thorp Arch reviews would commence in November 08.

My email to Mr Taylor on the 7th October 2008, which there is a copy of in here, was simply asking when the review into the Bardsey Conservation area was to commence. The funding had been provided and a time scale approved by the Area Committee, it appeared to me that the time scales and ordering of the four reviews had been changed.

Contrary to the Cockrams' claims I was not seeking to accelerate the Bardsey Conservation Area Review I was simply seeking to understand why the review had been delayed. The review should have commenced in September by October it had not, I wanted to understand why.

AT: Thank you very much. Well that's clearly answers some of the questions that I had with regard to your background and when you came onto the Council. One of the things that it doesn't raise is the issue about your manifesto when you came onto the Council and your commitment to Planning in general and development control. Could you just explain a little bit about how you became interested in planning?

RP: Well it started off in Thorner and in Thorner as a Parish Council we became aware of the UDP proposals and the North East Leeds extension and it was there that we became aware and then Scholes became aware, Whinmoor became aware about the huge belt of greenbelt that was going to be taken away for housing developments and from there and 1500 letters of objection were obtained just for Thorner alone and that's how I became interested. I actually stood as, I stood down because we relocated out of Thorner to Bardsey and I, we, I stood for election as a City Councillor by looking at the other people

CONFIDENTIAL REPORT

who were putting themselves forward. I thought well actually I live here and I can do this and I really understand about planning having dealt with it in Thorner and some of the key issues and so I was duly elected with one of the largest majorities and I represent planning in the Ward and you remember we live in the Harewood Ward which is very much green belt...

AT: Rural?

RP: Rural, villages and people expect us to preserve and protect the villages, the communities that we live in and Alec, Ann and I have all stood on that and that is why we keep getting such large majorities. But saying that, it's the residents that expect us to deliver.

AT: So the manifesto is very much directed by the feedback or the communication that you having with the electorate.

RP: Yes, yes. So for example in Linton at the current time we have got a proposed care home to go on the last piece of greenbelt between Wetherby and Linton and my residents expect me to deliver, they are self made people and they want to know why, they want to see and if its not the residents its their consultants or QC's who are saying, what is going on, what has happened with. They also expect me to represent them at appeals, just everything, I've got to go to the absolute nth degree to deliver what they expect. They also, my residents, also expect a fair system as well, ok, so they like to see both sides of a planning argument.

AT: Yes, yeah.

RP: And currently we have another case in Bardsey, I'm very fortunately not dealing with it because I'm on holiday at the current time, or will be, my Ward Councillor is taking care of it, and it is again a garden grab and the residents I think Alec has probably 20 residents who are continually sending him emails he is getting emails everyday asking why hasn't he done this, what is he doing about that, are we having a meeting so they do expect a great deal from you.

AT: So planning is very high on the agenda.

RP: It's very high; they expect the green belt to be protected. Whilst people again, they are not opposed to development, they want sympathetic development.

AT: Appropriate development.

RP: Appropriate development, and that is something that I think we all get across so in Linton for example they are not afraid of a demolish and rebuild it's the norm there, they're used to it. But the demolish and rebuild they would like to see it made out of reclaimed stone, they would like to see the site traffic is to be kept on the site, not onto the road which inconveniences them. They expect all of those things so,

CONFIDENTIAL REPORT

we are not, no-one in our Ward is opposed it's what is appropriate and that is what we have always said, right the way through.

AT: Yeah, just leading on to that and dealing with planning applications in general, could you just explain how the system works, presumably you are notified by the planning officers on a fairly regular basis about what is going on, what is the system then, how do you deal with that?

RP: We receive a weekly list of new applications, we look down the list, usually three pages when it was at the height of the property boom now its only one page with three applications. We go through that and rather then send it out we then send out a street letter informing people...

AT: When you say we can you...

RP: Alec, Ann and myself.

AT: Yeah.

RP: We all send out the street letter and I just send it on behalf of all of us.

AT: Yeah.

RP: And we all agree that we do not send it out for a conservatory because we'd be sending out thousands.

AT: Yeah.

RP: We do not send it out for, you know, roof lights, things like that, we don't we say no, that's just a neighbour issue, you know. Demolish and rebuild we send out, flats we send out, nursing home, wind farm, quad biking...

AT: Anything that's going to have a bigger impact on the wider community.

RP: (overlapping) yes. And that's when we send it out.

AT: Yes. That's fine.

RP: And then we work very closely with our Parish Council. And then also if the development is on the side or the edge of the village boundary we will also notify the people in the neighbouring village because it will affect them because they wouldn't be given notification, its on the people within that parish.

AT: And then do you regularly feed back comments to the planning officers?

RP: Basically we, in this letter, we ask them to write in with letters of representation and that is...

AT: To you or to the planners?

CONFIDENTIAL REPORT

RP: To the planning officers and we would be so grateful if you could copy us in.

AT: Copy yeah.

RP: Of which a copy of the letter comes to the office its filed here and then we acknowledge the letters and we look through the letters and just see what is going on and normally from that letter, someone will actually contact the office here by telephone and would like to speak to us and from there the dialogue...

AT: Is established.

RP: Yeah.

AT: On one of the perhaps more controversial than others. So when you, your individual contact with officers, how would you describe that view. Do you regularly telephone them, do you regularly email them, is there a pattern or is it just dependent on the circumstances on the day?

RP: It depends on the circumstances of the case.

AT: Yeah, yeah that's fine, that's fine. Once development has been approved, do you then keep an eye on what's going on, do you feedback.

RP: No.

AT: You leave it to the officers to make sure that conditions are being adhered to and all the rest of it.

RP: Yes, yes.

AT: That, that's fine.

RP: The only time I get involved is when someone contacts us and will say, they've put too many windows in, and then we will raise it with enforcement but overall we stay quite well away. We don't get involved.

AT: That's fine. Looking at the conservation area reviews now, and you have set out in the statement that you read that you provided a copy of the, a brief outline of how that came about and I have got some information from the officers but could you perhaps just very briefly give me a review of your involvement in the reviews, the process.

RP: Ok I think I'll start it, I'm going to look at the history on this one...

AT: Yeah.

CONFIDENTIAL REPORT

RP: It would have started about, when I was newly elected and an application came in in Thorner for dormer, the ones which come out of the roof.

AT: Yes.

RP: On a terrace called Skippon Terrace. And everyone thought it was in the conservation area and then suddenly, it wasn't and so its not in the conservation area. Ok, and Phil Ward told me about a policy of views in and views out of the conservation area and I had all the residents were jumping up and down over the simple skylight and it faced the conservation area and then Phil and I, in just general conversation and with residents, well we this, we want to be in the conservation area and I said to Phil, can it be in the conservation area, he said oh well it has to be a review and it needs updating for Thorner and he said that yes there's certain areas, you know, Skippon Terrace should be in, Thorner and the conservation area, Sandhills should be in the conservation area and I said, well how does that happen? And he said, well we have to undertake a review and I said, well can we do one? It costs a huge amount of money. Right, and there's no money. Ok, fine. That was it. But we've always subsequently, Phil and I, have always had conversations about areas that should really be in the conservation area, East Rigton was one of those conservation areas....

AT: Areas

RP: Way before this, any of this here started which is something that I will say now that should be in and my remit to do with the conservation area has been, say with Thorner, they undertook the outline and mapped what he'd done for consultation and Ann and I sat there and we said yeah, Skippon Terrace, yeah we agree we agree we agree, yeah we agree with Sandhills, oh but you've not put Sandhills Farm in, and he said, yep, went away, yep Sandhills Farm he agreed and that was it.

AT: Yep.

RP: And then likewise with the Bardsey conservation area review, they did the initial consultation and then they went to speak to the Parish Council about the consultation without speaking to us and then subsequently a meeting took place I think it was before Christmas with Matt, the Head of Conservation, Alec and myself and we discussed, you know, sat down and looked and they said East Rigton and we went yes, ok, that was it.

AT: This meeting took place while Kate was on holiday?

RP: Yes.

AT: Yes.

CONFIDENTIAL REPORT

RP: We agreed with that, nothing else was discussed about East Rigton and then we looked at Woodacre Crescent and it was umm yeah maybe and they had the Head of Conservation and he said yes he thought it should be in and so yep that was going to go in and then I raised about the Wayside and looking at the architectural style of Bardsey it's made up of lots of this stuff that I call art deco 1920's, 1950's.

AT: Right, yes.

RP: Very very unique. And Woodacre Crescent is one area, the Wayside is another area and what became apparent was that the conservation officer in the review had not visited the Wayside and we were bringing it to their attention.

AT: You were bringing in the local knowledge.

RP: Yes, even though they had already been to the Parish Council.

AT: Yes.

RP: Then we came along and said, you know Waysides and so Richard Taylor I do know went to the Wayside and he agreed it should be in and they included a part across the road as well.

AT: Which you hadn't...

RP: Which we hadn't included so really that has been our role and subsequent to that they then put the school in, and we had no input on that, and I'm trying to think where else... that was it really. Our input was Wayside, Woodacre Crescent they were our two...

AT: Yeah, yeah, but was there much general knowledge of the review within the Parishes, did the general public know much about and was there much interest, that's where I'm going to.

RP: They knew, people knew and people with planning applications knew that reviews were starting and because of protecting the villages and the green belt they know how important it is, whilst it doesn't stop development it controls development and makes it more, you look at the finer details with things.

AT: Where I'm going to, were you getting much word from the people in the communities that they had a view, were they expressing a view to you?

RP: Yes I had the residents of Waysides, they were continuously, you know are we going in, when are we going in, we want to be in.

AT: And they wanted to be in?

RP: Yes. We want this to start we want this, we want this. You know, we were under tremendous pressure from developers so that's one area, I

CONFIDENTIAL REPORT

also had the residents from the Woodacre Crescents as well 'we want to be in, we want to be in, when's it starting' but likewise Thorner as well, the Skippon Terrace people, you know, we are going to be in, yes you are going to be in there is no question.

AT: Very good. We have sort of talked about the communication that you've had with officers, is there anything significant that sticks in your mind about any of the communication during that period, I know that at one stage there seemed to be a delay with the Bardsey area being started, did you get involved asking questions about why, what the delay was about.

RP: I just wanted to know why, when you've got a report saying its going to start in September and I'd sent an email in October and its still not started.

AT: And in that email you were just asking a question.

RP: That was it.

AT: What's the delay sort of thing.

RP: Yeah.

AT: Yeah. Did you get a satisfactory answer?

RP: I think so yes. It started anyway.

AT: Yes, yes. And its now concluded.

RP: It has yes.

AT: Yes, yes.

RP: And we are now doing other conservation areas as well, we are just about to start Collingham.

AT: Oh very good.

RP: In fact it's a brand new conservation area.

AT: Very good. Just a couple of things to pick up on in that area, in the report to the October Plans Panel meeting there is a comment that is attributed to you that the review has been started and the area that Granger House is in will be included in the conservation area. At that time, did you know whether it would or it wouldn't or was that just a general statement that it was the areas that were being looked at?

RP: It was the areas that were being looked at but it would always be in the conservation area and it was something that I knew and I hope the conservation officers they knew, I know Phil Ward commented that would be in, it was one of the unique places where 'why isn't it in'?

CONFIDENTIAL REPORT

- AT: Yeah but at that stage no formal decision had been made?
- RP: No formal decision had been made.
- AT: No, no. that's fine yeah.
- RP: It'd be like saying well Sandhills is going to be in. Sandhills was always going to be in in Thorner.
- AT: There's one particular email that has been brought to my attention where you contacted Kate Newell.
- RP: Yes.
- AT: Because she had not replied to telephone messages that you'd left and I understand that she was a little bit upset about the email when she received it because it was in block capitals. Can you perhaps explain your recollection of the incident that led to that.
- RP: Could I actually see a copy?
- AT: I've not got one, I looked at the file that's on the, the conservation area file this morning but I wasn't given a copy, we can get one for you to have a look at.
- CH: Are you likely to be able to find it?
- RP: Well I didn't find it yesterday when I looked through my information.
- AT: Really the question I'm asking is do you regularly send emails in capital letters, you know, that's really all I'm asking.
- RP: Yes, yes. Yes. But I do sometimes automatically go in capitals.
- AT: But there is nothing untoward about that, it was not...
- RP: No, no, no, No.
- AT: Meant as anything specific.
- RP: No, no.
- AT: That's fine, that's fine.
- RP: No not at all.
- AT: Right the last area that I would like to explore a little bit...
- RP: Can I just come back to that point, I think Kate will probably find I'm quite an approachable person.

CONFIDENTIAL REPORT

AT: I don't think there has been any suggestion otherwise. Just the final issue that I really wanted to cover with regards to this is the complainant, when did, did you know the complainants at all before they put the planning application in for Granger House.

RP: No.

AT: You'd not had any contact with them, any dealings with them?

RP: No.

AT: No. I think they live reasonably close to you don't they?

RP: East Keswick.

AT: Yeah, how far away is that?

RP: 3 or 4 miles.

AT: Oh right, but you've never come across them?

RP: Is it 3 miles, 2 miles? About 2 and a half.

AT: Right, that's it.

RP: But no I've never come across them at all.

AT: And they are not involved in politics so as far as you're aware there is no political axe to grind?

RP: No, if I knew them I would say, I knew them or knew of them but I've never come across them before.

AT: Right ok. And then just one final point, you mentioned earlier about some residents of Bardsey that had been particularly interested and involved in this and you suggested that he might be able to help us with our investigation, could you just sort of explain what his role has been and who he is please.

RP: Ok, the gentleman concerned is [REDACTED] he lives in Bardsey, has done I presume for a very long time and there was an issue next door to himself which I will get a copy of the planning history for you before you leave, and it was demolished and put two houses there. And it wasn't, it was the whole street it was the Waysides area and they were all concerned that if you allow this one to happen, they put two there, that means that other persons can put two there, and these are houses in large garden plots, if you put two houses there, and two houses there and two houses there, suddenly you start changing the whole street scene of that area and that was the concern. If the applicant and had come in and just wanted to extend the house, they'd've been fine. But its because they wanted to put more houses and then of course it, the other issues there's more traffic, is it losing what a village is all about,

CONFIDENTIAL REPORT

large plots, small plots and this is a very beautiful 1920's 1950's area all white render. Some large houses some small but still all individual but all built in the same period.

AT: And this individual has been particularly interested in getting the conservation area status to protect...

RP: Yes. Yes the Waysides.

AT: That area.

RP: Along with all the other residents within...

AT: Yeah, he's one of them.

RP: Yeah.

AT: Lovely thank you very much. Is there anything else that you would like to mention before we conclude the interview.

CH: I think, would we be able to have the opportunity to come back if you can provide us with that email to Kate.

AT: Absolutely.

CH: I think while its reasonable to ask questions and you've made it clear that you accept this is a normal way of dealing with it, I wouldn't want it to be taken that you're saying it could cause upset that Councillor Procter was using capitals in an email and her general approach was not really caring about how emails would be received (inaudible)

AT: Received, yeah.

CH: On that (overlapping) so if we can look at that one and say no, there's nothing special about it.

AT: I'll get in touch with Richard Taylor and ask him for a copy of it and I'm sure you can do the same but, he'll know which one I'm referring to so we can arrange that yeah.

RP: I mean I will say for the record when Kate did come after Christmas she was offered, you know, to come and sometimes to do meetings at the house if I've got my children and she came and you know came into the house and had Christmas cake, everything like that so to me there was nothing untoward...

AT: There's, there's no, no.

RP: There's nothing and nothing was ever meant by it.

AT: No, no.

CONFIDENTIAL REPORT

RP: Just wanted to know why.

AT: Ok as I understand it it was just an isolated incident and she apologised for the delay...

RP: She did.

AT: In getting back to you, I think that concluded the, if there was any problem, yeah.

RP: Yeah. Yes. But you know...

AT: Ok.

CH: Just to say as well, I don't know you've probably picked up the references to Alec and Ann are to Alec Shelbroke and Ann Castle, who are the other Ward Councillors.

AT: Yes, yes we've got their names on the record yes. Ok. Thank you very much, I'll conclude the tape at 2.35.

END OF TAPE

CODE OF PRACTICE FOR THE DETERMINATION OF PLANNING MATTERS

1.0 BACKGROUND

- 1.1 This Code of Practice for the determination of planning matters ('the Planning Code') substantially follows the Model Code produced by the Association of Council Solicitors and Secretaries following consultation with the Audit Commission, the Local Government Ombudsman and the Standards Board for England. It has been updated to reflect changes brought about by the Members Code of Conduct 2007.

2.0 INTRODUCTION

- 2.1. **The aim of this code of good practice is** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 2.2 **The key purpose of Planning** is to control development in the public interest.
- 2.3 **Your role as a Member of the Planning Authority** is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.4 **The Planning Code applies** at all times when Members are involved in the planning process. This includes taking part in decision making meetings of the Council in exercising the functions of the Planning Authority and on less formal occasions such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific issues as it does to planning applications.
- 2.5 **If you have any doubts** about the application of this Planning Code, you should seek early advice, preferably well before any meeting takes place from the Chief Planning Officer and/or the Assistant Chief Executive (Corporate Governance).

3.0 RELATIONSHIP WITH THE MEMBERS' CODE OF CONDUCT

- 3.1 Leeds City Council's Members' Code of Conduct was adopted by the Council on 24 May 2007 and must be complied with throughout the decision making process.

- **Do** apply the rules in the Members' Code of Conduct first and at all times.

CONFIDENTIAL REPORT

- **Do** then apply the rules of this Planning Code which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Planning Code you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Members Code of Conduct, a complaint being made to the Standards Committee – Assessment Sub-Committee.

4.0 DEVELOPMENT PROPOSALS AND INTERESTS UNDER THE MEMBERS CODE OF CONDUCT

4.1 It is your responsibility to declare any personal or prejudicial interest you may have, or be perceived as having, in a matter at any relevant meeting, including informal meetings or discussions with officers and other Members preferably at the beginning of the meeting.

4.2. Do then act accordingly. Where your interest is **prejudicial**:-

- **Do not** participate or give the appearance of trying to participate in the making of any decision on the matter by the planning authority. You must withdraw from the meeting room when the matter is discussed however please see paragraph 16.0 for your right to attend and make representations.
- **Do not** try to represent ward or Area Committee views but get another Member to do so instead.
- **Do not** get involved in the processing of the application.
- **Do not** seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a councillor.
- **Do** be aware that, whilst you are not prevented from seeking to explain or justify a proposal in which you have a personal or prejudicial interest to an appropriate officer, the Code places greater limitations on you than would apply to an ordinary member of the public and sensible steps must be taken to ensure openness and fairness in the decision making process. In particular you should
 - Notify the Monitoring Officer in writing of your own application (or that of a relative or employer where known) or where you are employed as an agent

CONFIDENTIAL REPORT

- Note that the proposal will always be reported to Panel for decision and not dealt with by officers under the scheme of delegation
- Consider whether it is advisable to employ an agent to act on your behalf in dealing with officers and any public speaking at Panel
- Note that you have a right to make written representations to officers about the proposal and may address the Panel pursuant to the Public Speaking Protocol subject to certain additional restrictions (see para 16 below for more detailed advice on this point).

5.0 FETTERING DISCRETION IN THE PLANNING PROCESS

5.1 Given the requirement that Members of the Plans Panel should exercise an independent mind and decide proposals in accordance with the relevant planning considerations, Members must not favour any person, company, group or locality or commit themselves to a particular point of view on a planning application prior to its full consideration at the Council's Plans Panel.

- **Do not** make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the decision making meeting and of your hearing the officer's presentation and the evidence and arguments on both sides.
- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant if you have been or are perceived as being, a chief advocate for the proposal. This will not necessarily arise from being a member of the proposing board or the Executive but through a significant personal involvement in preparing or advocating the proposal by which you may be perceived as being unable to act impartially or determine the proposal purely on its planning merits and in the public interest
- **Do remember** that you are, of course, free to listen to a point of view about a planning proposal, give procedural advice and agree to forward any comments, but should then refer the person to the appropriate planning officer.
- **Do not** use any political group meetings prior to the Panel meeting to determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but decisions can only be taken after full consideration of the Chief Planning Officer's report and information and consideration at the Plans Panel.

CONFIDENTIAL REPORT

6.0 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

6.1. This section concerns the position of Members of Leeds City Council who are also parish councillors or members of an outside body.

- **Do not** take part in the decision making process of the Plans Panel and withdraw from the meeting if the matter directly relates to the affairs of the Parish Council or the outside body. However please note your right to make representations pursuant to paragraph 16.0.
- **Do** consider yourself able to take part in debate and vote on a proposal at a meeting of the Parish Council or outside body where the Parish Council or outside body is a consultee provided:
 - The proposal does not substantially affect the well being or financial standing of the consultee body
 - You make it clear that that you are keeping an open mind and may vote differently at the Plans Panel when full details are available,
 - You do not commit yourself so far to a particular point of view that you cannot be considered as open to persuasion at Plans Panel when the proposal is decided.
 - You disclose a personal interest regarding your membership or role when the proposal comes before Plans Panel
- **If** you cannot comply with the above criteria, or may be perceived as not complying, you should declare a personal and prejudicial interest at Plans Panel and leave the meeting.

7.0 AREA COMMITTEES

7.1 The introduction of Area Committees within Leeds City Council also requires recognition of the “Dual Hatted” roles which members of the Plans Panel and of Area Committees must consider. There is a possibility that you may be considered as pre determining a matter if you have spoken in support or against it or are closely associated with such a decision taken at the Area Committee. If you are unsure, you should take advice from the Chief Officer (Legal Licensing and Registration) or the Chief Planning Officer.

- **Do** consider whether it is appropriate for you to speak at the Area Committee if you wish to speak also on the application at Plans Panel.
- **Do** consider, whatever your own views, whether as Chair of the Area Committee or a member of any Plans Group, you would be so closely associated with that decision that it would be unreasonable to expect you to disregard it.

CONFIDENTIAL REPORT

- **Do** remember that you can speak and vote on an application which is before the Area Committee for consultation so long as you make it clear that you have only formed a provisional view and will still approach the issue with an open mind and be open to persuasion when the matter is discussed at Plans Panel.
- **Do** remember that it is not always sufficient to make such a statement if it is not demonstrably genuine. The more controversial the application and or the more vehemently you have supported or opposed it, the more difficult it will be to show that you have not predetermined the matter and therefore render the decision susceptible to challenge. In those circumstances you should not attend the Plans Panel for that application.

8.0 SPOUSE/PARTNER COUNCILLORS

8.1 There are occasions when the spouse or partner of a member, usually a member for the same Ward or planning area, is also a Member of the Plans Panel. That Member might quite properly refer constituents who wish to make representations to his or her spouse or partner rather than be directly lobbied. Generally the fact that the spouse or partner Councillor has been approached will not affect your ability to speak and vote at Plans Panel.

- **Be** aware that the Members Code of Conduct defines a Personal Interest as one where a decision based upon it might reasonably be regarded as affecting the well being or financial position of that spouse or partner to a greater extent than other council tax payers, ratepayers or inhabitants of the ward affected by the decision.
- **Acknowledge** that in certain circumstances, such as a particularly controversial application in the run up to an election, there is the possibility that a Personal and Prejudicial interest could exist.
- **Consider** if your spouse or partner is so closely involved with the support for, or opposition to, an application that a member of the public might reasonably think that the involvement is such that you must be biased or have predetermined the application.

9.0 EXECUTIVE BOARD MEMBERS

9.1 There is no Constitutional or legal reason why an Executive Board member should not also be a member of the Plans Panel and take part in the decision making processes which are not part of the executive function.

- **Be** aware that you should not speak or vote on any matter which you have discussed at Executive Board unless you have demonstrated there and can do so at Plans Panel that you have not predetermined the application.

CONFIDENTIAL REPORT

- **Do not** take part in any meeting of the Plans Panel on a matter in which you may have been seen as advocating a proposal as an Executive or Deputy Executive Member.

10.0 PANEL MEMBERS CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

10.1 It is recognised that pre-application discussions can be of great benefit to the planning process provided that they take place within clear parameters and governance arrangements. Further guidance will be developed in respect of this in due course and protocols put in place within which pre-application discussions can be taken forward in appropriate cases. In the meantime, the following guidance is given:

- **Do not** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be helpful in clarifying the issues, you should not arrange it yourself, but request the Chief Planning Officer to do so. The officer will then ensure that those present are aware that any discussion will not bind the Council and maintain a written file record of the meeting.
- **Do** refer those who approach you for planning, technical or procedural advice to officers.
- **Do** follow the rules on lobbying.
- **Do** report any significant contact with the applicant or other parties to the Chief Planning Officer explaining the nature and purpose of the contacts and your involvement and ensure that this is recorded on the planning file.
- **Do not** attend a planning presentation by an applicant or developer unless an officer is present and/or it has been arranged by an officer.
- **Do** ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other members might vote.
- **Do** make it clear that the presentation is not part of the formal decision making process and any view is both personal and provisional since not all relevant information will be to hand and the views of interested parties will not have been obtained.

11.0 MEMBERSHIP OF A LOBBY GROUP

11.1 Lobbying by Councillors is a legitimate activity but in the case of members of the Plans Panel significant care needs to be taken to avoid any challenge of bias or predetermination or an allegation of bringing the Council into disrepute.

- **Do** register your membership of any lobby group.
- **Do** declare the existence and nature of your interest in any lobby group at Panel meetings so that members of the public are informed about interests that may relate to your decisions. Often this will be a personal interest and you can continue to participate but note that it can sometimes be a prejudicial interest or lead to allegations of bias or predetermination and in those circumstances you must withdraw from the meeting.
- **Do** not take part in any matter which relates directly to the lobby group of which you are a member rather than the views it holds. If the Panel is discussing a planning application submitted by the group you should consider that you have a prejudicial interest and should act accordingly.
- **Do** weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors are:
 - the nature of the matter to be discussed
 - the nature of your involvement with the lobby group
 - the publicly expressed views of the lobby group
 - what you have said or done in relation to the particular issue
- **Do not** lead, be part of the management of, or represent an organisation whose primary purpose is to promote or oppose planning proposals. If you do, you may have fettered your discretion and have a personal and prejudicial interest and have to withdraw.
- **Do not** become a member of an organisation whose primary purpose is to promote or oppose specific planning proposals or those within a limited geographical area as you may be perceived as having fettered your discretion.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals such as the Victorian Society, the CPRE or a local Civic Trust but declare a personal interest where that organisation has made representations on a particular proposal and make it clear to both the organisation and the Panel that you have not made up your mind on each separate proposal.

CONFIDENTIAL REPORT

- **Do** remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as its Chairperson or a member of the Board or Committee, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.
- **Do not** excessively lobby fellow members regarding your concerns or views or attempt to persuade them that they should decide how to vote in advance of the Panel meeting at which the decision is to be made. It is difficult to define “excessively” but you need to consider whether a member of the public, knowing the facts, would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.
- **Do not** publicly support a particular outcome on a proposal within your Ward or actively campaign for it if you wish to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the Application in accordance with the law.

12.0 ATTENDANCE AT PLANS PANEL AND SITE VISITS

- 12.1 Planning applications may in some cases come before Plans Panels on more than one occasion. For example where members decide to defer an application for a site visit, or further information or, particularly with larger schemes where a position statement or issues paper are presented to the Plans Panel in order to inform the Panel and engage with members at key stages in the process.

It is important to ensure that members taking planning decisions are in possession of all the facts, including matters that may have been pointed out or come to light during a site visit by Plans Panel, matters that may have been raised during public speaking and matters that may have been discussed and considered by Plans Panel on earlier occasions. Attendance of members on all occasions during the application phase i.e. once the application has been submitted, will not only demonstrate that members are fully informed but will also ensure that high quality consistent and sound decisions are made, and that the risks of legal challenge are minimised.

CONFIDENTIAL REPORT

- **DO** attend all Plans Panel meetings and formal site visits of the Plans Panel during the application phase¹ if you wish to take part in the decision making process.

The expectation is that all Plans Panel Members will attend all formal site visits and a record of attendance will be maintained and monitored.

If you have not attended on each occasion during the application phase and want to vote and take part in the decision on an application, you must carefully consider whether or not you are fully apprised of all the facts and relevant information necessary to properly reach a decision. This may include factors such as matters which have been pointed out or come to light during a site visit by the Plans Panel, matters that have been raised during public speaking and matters that may have been discussed and considered by Plans Panel on earlier occasions. You should only take part in the decision making process if you are satisfied that you can reasonably and properly do so in all the circumstances. If you are unsure, you should take advice from the Chief Planning Officer and Chief Officer (Legal Licensing and Registration).

13.0 SITE VISITS

13.1 Site Visits can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to the meeting of the Plans Panel. It should be noted that this Section applies to Members requests for a Site Visit and that the Chief Planning Officer may arrange Site Visits without prior discussion at the Plans Panel where, in his professional opinion, there is a real benefit from viewing the site.

- **Do not** request a site visit unless there is a real benefit from viewing the site. This might arise where:-
 - Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - There are significant policy or precedent implications and specific site factors need to be carefully addressed or
 - Details of the proposed development cannot be ascertained from plans and any supporting information to members satisfaction at the Plans Panel or

¹ For these purposes, the application phase does not include the pre-application stages or workshops, but following the submission of a planning application will include each of the occasions when an application comes before Panel not just for a decision but also to include presentations, position statements, issues papers and formal site visits. For the avoidance of doubt outline applications and detailed or reserved matters applications, or a new application for an amended scheme are distinct and separate applications and attendance is not required across both or all of these.

CONFIDENTIAL REPORT

- Where design considerations are of the highest importance particularly in relation to the surrounding locality.
- **Do** raise the need for a site visit at Plans Panel if the Agenda has been published and be prepared to give reasons why it is of real benefit. The name of the member requesting it and the reasons that it is agreed will be recorded in the Minutes.
- In considering whether a site visit is appropriate the Panel will take into account whether a site visit has been made to the property within the last 12 months.
- **Do** try to attend all site visits organised by the Council.
- **Do** ensure that any information which you gained from the site visit is reported back to the Panel.
- **Do** ensure that you treat the site visit as an opportunity to seek information and to observe the site. It is not to be used to determine a matter prior to the meeting of the Plans Panel.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Do** be prepared to listen to and ask questions of fact from the Applicant or other parties but do not be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind . The decision can only be made at the Plans Panel and you should make this clear to any applicant or other party and suggest that they make written representations or use of the Public Speaking arrangements and direct them to, or inform, the officer present.
- **Do** note comments of Ward members or the Chair of the Area Committee which are made solely for the purpose of making members aware of any specific local circumstances and issues relevant to the proposal.
- **Do not** express opinions or views to anyone which can suggest bias or pre-determination. As indicated above, you should make it clear that formal consideration of the proposal will take place in public at the next meeting of the Plans Panel.
- **Do not** enter a site which is subject to a proposal otherwise than on a formal site visit although this does not prevent you from viewing the site from the highway or other publicly accessible area.

14.0 OFFICERS

14.1 Councilors and officers have different but complementary roles. Both serve the public but Councilors are responsible to the electorate whilst officers are responsible to the Council as a whole. Instructions to officers can only be given through a decision of the Council, the Executive, Panel or under delegated powers and not by individual members acting outside those powers.

- **Do not** put pressure on officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the Chief Planning Officer which may be incorporated in any Panel report.
- **Do** recognise that officers are part of a management structure and only discuss a proposal, in accordance with any guidance provided by the Chief Planning Officer and with those officers who are authorised to deal with the proposals at Member level.
- **Do** be aware of the Protocols on Member/Officer Relations and the Roles of Members and Officers in Decision Making as set out in Part 5 of the Constitution.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the RAPT Code of Professional Conduct. As a result, planning officers views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence which may, on occasions, be at odds with the views, opinions or decisions of the Panel or its Members.

15.0 MEETINGS OF THE PLANS PANEL

15.1 A clear distinction has to be drawn between a Member and an Officer attending a Public Meeting and their roles when they attend meetings of the Plans Panel.

15.2 When a planning application has been deferred following a resolution not to accept officer's recommendation to refuse the application, the Chair shall put to the meeting a proposed statement of why the Chief Planning Officer's recommendation for refusal is not considered acceptable to the Panel, which, when agreed by the Panel, will be formally recorded in the Minutes.

15.3 When a planning application has been deferred following a resolution referred to in Paragraph 15.2 above, then at the subsequent meeting, the Chief Planning Officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the

CONFIDENTIAL REPORT

Panel for granting permission. If the Plans Panel is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the Minutes of the meeting.

- 15.4 When a planning application has been deferred following a resolution not to accept the Chief Planning Officer's recommendation to grant the application, the Chair shall put to the meeting the proposed statement of the reasons for proposing refusal which, when agreed by the Panel, will be formally recorded in the minutes.
- 15.5 When a planning application has been deferred following a resolution referred to in Paragraph 15.4 above, then at the subsequent meeting the Chief Planning Officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Panel for refusing permission. If the Plans Panel is still of the same view, then it shall again consider its reasons for refusing permission, and a summary of the planning reasons shall then be formally recorded in the minutes of the meeting.
- 15.6 If the Plans Panel makes a decision contrary to the Chief Planning Officer's recommendation, the officer should be given an opportunity to explain the implications of the contrary decision. The Courts have expressed the view that reasons for the contrary decision should be clear and convincing.
- 15.7 A senior legal officer should always attend meetings of the Plans Panel to ensure the probity and propriety of the planning and decision-making processes.
- **Do** ensure that if you request a proposal to go before the Panel rather than be dealt with under officer delegation, your reasons are recorded and repeated in the Panel report.
 - **Do** come to the meeting with an open mind and demonstrate that you are open-minded. A recent Ombudsman case concerning Macclesfield Borough Council found maladministration where the Ombudsman was persuaded that a Councillor, because of his publicly stated opposition to a proposal had entered the planning meeting with his mind already made up even though she accepted that he had put forward sound planning reasons for the rejection of the application.
 - **Do** comply with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the development plan unless material circumstances determine otherwise.
 - **Do** come to your decision only after due consideration of all the information reasonably required upon which to base a decision. If you feel that there is insufficient time to digest new information or

CONFIDENTIAL REPORT

that there is insufficient information before you, request that further information and, if necessary, seek a deferral.

- **Do not** vote or take part in the discussion and voting on a proposal unless you have been present to hear the entire debate, including the officers presentation.
- **Do not** allow members of the public to communicate with you during the Panel proceedings other than through the public speaking protocol, as this may give the appearance of bias.
- **Do** have recorded the reasons for the Panel's decision to defer any proposal.
- **Do** make sure that if you are proposing or supporting a decision contrary to officer recommendations that you clearly identify and understand the planning reasons leading to this conclusion. These reasons must be given before the vote and be recorded. Remember that you may have to justify these by giving evidence in the event of a challenge.

16.0 PUBLIC SPEAKING PROTOCOL

- 16.1 All members are entitled to speak at a Panel meeting in accordance with the Public Speaking Protocol either as an individual, representative or ward member. However, where you might be regarded as having a personal and prejudicial interest in the application then you may attend and speak in accordance with the protocol but only for the purpose of making representations, answering questions or giving evidence relating to the matter in the same manner as would apply to a normal member of the public. Immediately after doing so you must leave the meeting room whilst the meeting considers the proposal even though members of the public may remain.

17.0 TRAINING

- 17.1 Members serving on Plans Panel must attend two training sessions each and every year: a Planning Update session, to receive guidance in relation to regulations and procedures and a Governance and Conduct session for training on declaration of personal and prejudicial interests. Failure to undertake either or both sessions will result in the Elected Member being unable to sit on Plans Panel.
- **Do not** participate in decision making at the Plans Panel if you have not undertaken mandatory planning training.
 - **Do** try to attend any other specialised training session provided, since these will be designed to extend your knowledge of planning law, regulations, procedures and the Development Plan beyond the

CONFIDENTIAL REPORT

minimum required and assist you in carrying out your role properly and effectively.

- **Do** revisit a sample of implemented planning permissions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public confidence in the planning system, and can help with reviews of planning policies.

18.0 MONITORING AND REVIEW

18.1 The Chief Planning Officer will report annually to the Standards Committee regarding whether the arrangements set out in this Code have been complied with and will include any proposals for amendment in the light of any issues that have arisen during the year.

18.2 In particular, the Chief Planning Officer shall monitor the following:-

- (a) the number of complaints made about breaches of the Code and the outcome of those complaints;
- (b) the number of appeals upheld;
- (c) any external inspection reports in respect of relevant issues;
- (d) the level of awareness of the Code among Members and Officers to be established by means of an ethical audit; and
- (e) the number of Ombudsman reports finding maladministration by Members in the conduct of planning issues.

19.0 BREACHES OF THE CODE OF PRACTICE

19.1 Maintaining high ethical standards enhances the general reputation of the Council, its Members and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. This Planning Code, along with Leeds Council's Members Code of Conduct are intended to promote these standards.

- **Do** be aware of your responsibilities under this Code and the Members Code of Conduct.
- **Do** report any apparent breaches of either Code to the Monitoring Officer.
- **Do** seek advice if you are in doubt.

CONFIDENTIAL REPORT

- 19.2 Failure to comply with the Members Code of Conduct may lead to a complaint to the Standards Committee – Assessment Sub-Committee who can, in certain circumstances disqualify a Councillor. Failure to comply with this Planning Code may lead to a finding of Maladministration by the Ombudsman or could lead to a decision being challenged in the courts.
- 19.3 Allegations on any breach of this Protocol by Members may be referred to the Assistant Chief Executive (Corporate Governance) for referral to the Standards Committee, the relevant Leader and/or Chief Whip of the political group.

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