

BABERGH DISTRICT COUNCIL

FROM: The Monitoring Officer

REPORT NUMBER **G235**

TO: STANDARDS COMMITTEE

DATE OF MEETING 26 March 2008

MEMBERS CODE OF CONDUCT CASE REPORTS

1. **SUMMARY**

This report updates members on recent decisions of the Adjudication Panel and the Appeals Tribunal (against decisions of Standards Committees). The report is produced for information and training purposes.

2. **RECOMMENDATION**

That the content of this report be noted.

The Committee is able to resolve this matter.

3. **FINANCIAL IMPLICATIONS**

None.

4. **RISK MANAGEMENT**

Not relevant to this report

5. **KEY INFORMATION**

SELECTED STANDARDS COMMITTEE APPEAL DECISIONS

5.1 **CLLR D (Case no. APE 0394) – Declaration of Personal Interest**

5.1.1 Parish Councillor D appealed the decision of the Standards Committee that he had failed to declare a personal interest in planning matters between June 2005 and November 2006.

5.1.2 The appeal was brought on the grounds that the Committee had made a mistake of fact that the development site was visible from Cllr D's first floor window and through trees, primarily in the winter, from the ground floor. Further, that the Committee failed to give adequate reasons for its decision.

5.1.3 To reach its own independent view on the likely impact of the development proposals, the Tribunal conducted a site inspection and heard representations from the parties. Cllr D maintained that the development was screened from his home by a heavily wooded area in consequence of which no part of the buildings would have been visible.

5.1.4 The Tribunal found that at the first date that the planning application was considered, the appellant was not a parish councillor and had opposed the application in his personal capacity. The provisions of the Code did not therefore apply at this time. On

the subsequent considerations by the Parish Council, when Cllr D was a member of the Council, there was no evidence from the minutes and clear recollection of those present that Cllr D was in fact present. Cllr D himself had no clear recollection. It was not for Cllr D to disprove attendance, but for the Committee to be satisfied on the balance of probabilities that he was.

5.1.5 Even if it were proven that Cllr D was present at the meetings, the Tribunal was not satisfied that the development proposals affected the well-being of Cllr D. There was no evidence that as a consequence of the development there would be a loss of the vegetation obscuring Cllr D's views of the development. The Committee should have considered the position at the time that the Parish Council considered the applications and not the position with vegetation removed as at the time the complaint was considered.

5.1.6 The appeal was upheld.

SELECTED ADJUDICATION PANEL DECISIONS

5.2 CLLR C (Case no. APE 0388) - Disrepute for criminal conviction

5.2.1 Councillor C was a parish, borough and county councillor, but had resigned all positions at the date of the Adjudication Panel hearing. Cllr C had submitted claims for reimbursement of care expenses for his three children which he claimed were incurred as a result of attendance at council meetings. The form was required to be signed by the carer. However, upon checks by the Council's auditor the named carer stated that she had not provided the care nor was it her signature on the forms.

5.2.2 A police investigation was conducted and Cllr C convicted in the Crown Court of four counts of making a false instrument. He received a Community Punishment of 12 months for unpaid work in the community for 200 hours.

5.2.3 Cllr C was found to be acting in his official capacity when making the claims to the Borough Council. By reason of his conviction for the offences to which he had pleaded guilty he brought his office into disrepute in breach of paragraph 4 of the Code. The Case Tribunal held that the conduct amounted to a very serious breach of trust on a number of occasions over several months for personal gain. There were no mitigating factors and Cllr C had in fact previously been found to be in breach of the Code by a Case Tribunal in respect of a different matter. As the conduct went to the very heart of what the electorate justifiably expects of their elected members, Cllr C was disqualified for a period of 4 years from the date of the hearing.

6 APPENDICES

None

7 BACKGROUND PAPERS

None

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