

SLOUGH BOROUGH COUNCIL**FINAL REPORT****Case Reference: SBC25**

REPORT OF AN INVESTIGATION UNDER SECTION 66
OF THE LOCAL GOVERNMENT ACT 2000 AND
REGULATION 5 OF THE LOCAL AUTHORITIES (CODE
OF CONDUCT) (LOCAL DETERMINATION)
REGULATIONS 2003 (AS AMENDED)

BY KULDIP CHANNA, (KC) (PRINCIPAL LITIGATION
SOLICITOR) (STANDARD INVESTIGATION OFFICER)

APPOINTED AS INVESTIGATION OFFICER, BY KEVIN
GORDON, THE MONITORING OFFICER INTO AN
ALLEGATION CONCERNING

1. COUNCILLORS MOHAMMED RASIB and PERVEZ
CHOUDHRY
2. FORMER COUNCILLORS JOGINDER BAL, and
RAJA ZARAIT

DATE: 2nd April 2012

1. Introduction

- 1.1 A complaint dated 20th December 2010 was made by former Councillor David MacIsaac, the complainant, (referred to as “DM”) against four Councillors of Slough Borough Council (“the Four Subject Members”), alleging a breach of the Council’s Code of Conduct for its Members (Document 1).
- 1.2 The complainant ceased being a Councillor of this Authority in May 2011. It needs to be noted that JB, and RZ ceased to be Councillors of this Authority in May 2011.
- 1.3 In summary, DM alleged that on 15 December 2010, at a Planning Committee, Councillors Joginder Bal (JB), Raja Zarait (RZ), Pervez Choudhry (PC) and Mohammed Rasib (MR), were influenced by lobbying from the applicants and were predetermined in favour of two planning applications which the Planning Officers had recommended for refusal. The two planning applications were:
 - a) the proposed erection of a 2 bedroom detached house on land adjoining 68 Norway Drive Slough (P/14946/000);
 - b) retrospective planning permission for the change of use from b1(a) offices to car park for a temporary period on the Aspire 2 Site, corner of the Church Street and Herschel Street, Slough (P/01508/033).
- 1.4 On 10th January 2011, the Standards (Assessment) Sub-Committee, considered the complaint from DM and decided to refer the complaint for investigation. The Sub-Committee particularised the breaches of the Local Code of Conduct (“the Code”) and as a consequence identified the following paragraphs which may apply to the alleged conduct:-
 - (a) “You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”, contrary to paragraph 5.
- 1.5 The Summary of the Complaint is at Document 2. The Decision Notice issued on 14th January 2011 is at Documents 3.

2. The Process

As part of my investigation I conducted face to face interviews with the following:-

- (a) The Complainant DM Document 4.
- (b) Councillor Robert Plimmer (PL) Document 5.
- (c) Joginder Bal (JB) Document 6.
- (d) Raja Zariat (RZ) Document 7.
- (e) Councillor Mohammed Rasib (MR) Document 8.
- (f) Councillor Paul Sohal (PS) Document 9.
- (g) Councillor James Swindlehurst (JS) Document 10.
- (h) Wesley McCarthy (WM) Team Leader - Planning Officer – Document 11.
- (i) Chris Smyth (CS) Team Leader Special Projects - Planning – Document 12.

As part of my investigation I also contacted the following:-

- (j) Councillor Peter Dale-Gough (DG) - his email response is noted at Document 13.
- (k) Councillor Balwinder Bains (BB) – telephone interview – his response is noted at Document 14.
- (l) Councillor May Dodds (MS) – her response is at Document 15.
- (m) Roger Avevis - the Agent for the Aspire to Site - his response noted at Document 16.
- (n) Shabana Kauser (SK), Senior Democratic Services Officer, provided factual information from her hand written notes Document 17.
- (o) The Agent for 68 Norway Drive - no response was received to my correspondence
- (p) Councillor Azhar Qureshi (AQ) - no response was received to my correspondence
- (q) Legal Officer – I was unable to trace details of the Legal Officer and its possible that due to re-organisational changes this person may have left the employment of the Council.
- (r) Alexander Dean – Head of Highways Engineering, he was unable to recall any details about this matter.
- (s) Councillor Pervez Choudhry (PC).
 - (i) PC was sent two letters on 1 and 22 July 2011. My letter of the 22 July advised him that as I had not heard from him I was assuming that he “*did not wish to co-operate with the investigation*”. Although on 31 August 2011 he contacted Catherine Meek, Head of Democratic Services, however he has not provided a response to me as the Investigating Officer.
 - (ii) On 7 October 2011 Victoria King (who has assisted me in the later stages of this Standards Investigation) emailed PC requesting he contact her to arrange a convenient time for interview.
 - (iii) On 23 March 2012, I arranged for Victoria King, to contact PC and offer a final opportunity for an interview at a convenient time for him. However he declined it saying that he wished to complain and asked that Catherine Meek contact him. PC did not contact me as the Investigating Officer but chose to complain to Catherine Meek about this investigation.
 - (iv) Following receipt of these two telephone conversations with Victoria King and Catherine Meek I sent an email to PC explaining the Investigating Officer’s position on the matter.
 - (v) In order to progress this investigation I have therefore issued the draft report and note that PC will be able to respond with comments and observations to this draft report should he wish to do so.The letters dated 1 and 22 July 2011 and emails 23 March 2012 are at Document 18-18d.

- 2.1 I reviewed the Planning Reports and Minutes of the Planning meeting of 15 December 2010. The relevant Minutes of the Meeting are at Document 19.
- 2.2 I also reviewed the Planning files for both sites. My notes and the relevant information from the files is produced at Document 20 – 20e.

3 Statutory Framework

3.1 The Relevant Authorities (General Principles) Order 2001 sets out the principles which are to govern the conduct of Members and eight out of the ten appear relevant to the complaint in question. This is:-

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgment

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

3.2 The Council adopted its current Local Code of Conduct for Members (“the Code”) on 21st May 2007.

3.3 All Members who are elected to office must sign a “Declaration of Acceptance of Office” before they can officially act as a Councillor. In that declaration they undertake to observe the Code as to the conduct which is expected of Members of the Council.

3.4 I list below details of the elected terms and training received by each of the Subject Member and Former elected Members:

	MR	PC	RZ	JB
First elected	May 2006	May 2002	June 2001	May 2001
Signed the declaration of acceptance	9 th May 2006		13 th June 2001	11 th June 2001
Re-elected	May 2010	10 th June 2004	June 2004	10 th June 2004
Signed the declaration of acceptance	12 th May 2010	15 th June 2004	14 th June 2004	14 th June 2004
Re-elected		1 st May 2008	May 2007	May 2007
Signed the declaration of acceptance		7 th May 2008	9 th May 2007	9 th May 2007
Re-elected			May 2008	May 2008
Signed the declaration of acceptance			15 th May 2008	15 th May 2008
Training Attended				
Local Code of Conduct/Declarations of Interest	12 th May 2010	12 th May 2010	12 th May 2010	No records

3.5 The Code is split into three parts:-

Part 1 is relevant and entitled, "General Provisions" and "General Obligations" of which paragraph 5 is relevant for the purposes of this investigation. Paragraph 5 states:

paragraph 5

"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

3.6 It is helpful to refer to the Code of Conduct, Guide for Members, May 2007, ("the Guidance"), from the Standards Board for England ("the Standards Board") on bringing the elected office or Council into disrepute.

3.7 The Members' Guide suggests that bringing the office into disrepute relates to "while acting in your official capacity" and that as an elected Member, "your behaviour and actions are subject to greater scrutiny than ordinary members of the public".

3.8 With Planning Applications the scrutiny is even greater. Public confidence needs to be retained in the planning process as the process does impact heavily on the local community and environment. **Part 5.2 of SBC's Constitution**, deals with the Planning Code of Conduct for Members and Officers. Paragraph 7.1 asserts the importance of ensuring Member integrity and "the public perception of the planning process". Further

at paragraph 7.7 it states that Members should “reach their own conclusions rather than be influenced by others”.

3.9 It is against the Guidance and these General Principles and the provisions of the Code that I have investigated the complaint.

3.10 When conducting this investigation, I have had regard to my obligations under the Data Protection Act 1998 and also to the Human Rights Act 1998.

3.11 I have also had regard to the guidance issued by the Standards Board for England on both the interpretation of the Code of Code and on how to conduct an investigation.

3.12 I believe I have considered the complaint in a fair and objective manner. My report sets out the reasoning for the finding I have reached. I have conducted the investigation proportionately.

3.13 Practical approach to the investigation:

3.14 For the sake of convenience, in some parts of this report reference is made to “four Subject Members”, whilst it is noted that RZ and JB are no longer Members they were Members at the time of this complaint. It would be too cumbersome to keep referring separately to elected Members and former elected Members.

3.15 In view of the number of Subject Members being investigated and the two planning applications, for ease of reference I have outlined the evidence from the complainant and then drawn up a table which summarises the pertinent points of evidence from each of the Subject Members. I have then considered the evidence from each of the other witnesses as well as any documentary evidence. This formulates the material findings of my report in respect of all the four Subject Members.

4. Material Findings - “You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”.

4.1 From the written complaint I have noted that the principle allegations are that:

Planning Application for 68 Norway Drive

The Four Subject Members were seen shaking hands and greet the applicant and his representative, Ward Councillor PS

The Four Subject Members were pre-determined and “fairly blatant” in wanting to approve the application regardless of any arguments

Planning Application for Aspire 2 Site

The Four Subject Members were “very vocal in saying they wanted this approved despite any arguments”

The Four Subject Members had “already made their minds up and were responding to lobbying”

4.2 In his statement, DM states that:

a) He saw the Four Subject Members shake hands with the Ward Councillors PS and BB and speak in a language he did not understand. An application for social housing at 70 Norway Drive was refused; this was right next to 68 Norway Drive, which was delegated to Officers to approve if conditions were met. In respect of 68 Norway Drive, new information was circulated and this was unusual for Planning Committee.

b) PDG was seen to be “nudged” to vote with the four Subject Members. There were substantial Officer concerns about the Aspire 2 Site, such as that there were sufficient car parking spaces in town; the Applicant already had permission for another car park in town next to this Application Site and, there was an Environmental Health Objection as he had not dealt with land surface drainage, but against this the Four Subject Members were determined to delegate this for approval; Officer advice was that the surface drainage should have been resolved before the Committee stage but no attention was paid to this by the Four Subject Members.

c) He was aware from election time that:

- i) Applicant for 68 Norway Drive had assisted PS with his campaign
- ii) Applicant for Aspire 2 Site had lobbied BB and PS and donated funds to the Labour Party; and further he had witnessed PS and BB visit the Applicant at his business in the Village Centre on the High Street, Slough

4.3 The significant point which I note from DM’s complaint and evidence is that the allegation seems to encompass the view that the Ward Councillors, PS and BB have perhaps lobbied the four Subject Members. His email of 21 February 2011 (Document 4a) seems to suggest that MD, another Member of the Planning Committee was contacted by both PS and BB about the respective Planning Applications.

4.4 Summary of Subject Members’ responses to relevant questions:

	RZ	JB	MR	PC
Training	Attended every year; Chair for on year; Read the guidelines on lobbying;	Attended all training Understands need to have an open mind; Knows to take professional Officer advice but if he has good reasons he can depart from that advice	Attended annual training; understands decision has to be made on merit and not to do “favours” for anyone	unknown
Membership of Planning committee	2010-2011 2009-2010 2007-2008 2006-2007 2005-2006	2010-2011 2004-2005 2003-2004	2011-2012 2010-2011 2009-2010 2008-2009	2010-2011 2009-2010

	2003-2004			
Greet Applicant 68 Norway Drive before meeting	No – came in through the side door and went to meeting	Yes	No	unknown
Greet BB before meeting	No		No	unknown
Greet PS before meeting	No	Yes – said hello and shook hands; “normal procedure” Tradition with Asian Councillors	No	unknown
Any relationship/ Knowledge of Applicant 68 Norway Drive	none	none	Social acquaintance; met him at weddings; this in not necessary to disclose to anyone	unknown
Any relationship/ Knowledge of Applicant Aspire to Site	none	Knew of applicant by name only as he is well know businessman in the area; Has never spoken to him personally	None	unknown
Any contact with/from Ward Councillors	BB – regarding concerns about the Planning Officer’s email and whether BB could speak at committee	None	None	unknown
Any lobbying from any party	Not lobbied	Not lobbied; “I am interested to know who would have lobbied me in the case of 70, as presumably this would have been Slough Borough Council.” I asked all Members to	Not lobbied No contact from applicants or other Members; due to personal differences he has not spoken to AQ for three years;	unknown

		declare an interest when the question of lobbying was raised by DM		
Chair's support for the applications at the meeting	Believes he gave everyone a fair opportunity to speak; did not try to influence the decisions of other Members	Does not recall if RZ supported application at onset; Everyone was allowed to speak; BB was given limited time to speak by Chair	Chair did not mention he supported the application	unknown
Reasons for voting in favour of application 68 Norway Drive	Voted for a smaller property at 68 as one at number 70 was larger	Insufficient housing land in Slough; voted in favour of 70 Norway Drive too	Voted in favour of 68 and number 70; the minutes are wrong as the number 70 vote is not recorded properly	unknown
Reasons for voting in favour of application Aspire to Site	Temporary permission; the multi-storey is on the other side of town; another car park had been recently closed	Temporary permission only Car park would benefit town It would be redeveloped by the Applicant once the credit crunch was over	To encourage people to come to town and benefit businesses in town; the multi-storey car park is often full; numerous conditions were put on it	unknown
Voting against Officer recommendation	A casting vote can be used to support Officers' recommendation but did not chose to do so on this occasion; Officers cannot always be right; Members have voted against Officers recommendations before and Members decisions have been upheld on appeal	"I am aware I have voted against Officer advice, however I am entitled to do so and I had specific reasons for doing so in each circumstance. "	The decision "is up to meif there is a reason for doing so...I must make a decision independently of Officer recommendations "	

4.5 Witness Evidence:

Witness evidence	68 Norway Drive	Aspire 2 Site
	There are no noted amendments or alterations on the document provided to the Committee in respect of this Application.	There was some additional information from the Crime Prevention Design Officer at Thames Valley Police.
RP	<p>AQ attending the meeting although the 68 Norway Drive application was not in his Ward;</p> <p>AQ greeted the Planning Committee Members;</p> <p>68 Norway Drive – it was odd to allow additional information and a five minute adjournment to consider the information;</p> <p>All information should be submitted with the application;</p> <p>It was “bulldozed” through even though there were major reasons such as permitted development and parking issues;</p> <p>Chair seemed very involved whereas the Chair should remain neutral, he seemed predetermined and wanted the approval;</p> <p>It was uncomfortable as other options were not explored.</p>	<p>There were solid and sustainable reasons for recommendation particularly because of ground water issues;</p> <p>There is an SBC policy on car parks and encouragement of greener methods to get into the town centre;</p> <p>There is plenty of parking in town;</p> <p>It seemed like a deal had gone on, major exemptions being made to accommodate the Application;</p> <p>Members wanted Officers to find a way to approve the Applications;</p> <p>This was very strange as Officers were suggesting enforcement action should be taken in relation to the site.</p>
JS	<p>The additional information which was circulated and was too readily accepted by the Chair, without “<i>applying any particular test to it</i>” (p1 par3). This either meant that the Chair had seen it or he had some other reason for allowing it. No advance copy of the information had been circulated before the meeting.</p> <p>The Ward Member</p>	<p>Js states that there was a constructive discussion on this and on the whole Members addressed the planning concerns.</p> <p>JS further indicates that this Application was approved by Members and there was just a difference of opinion between Members and Officers and it needs to be seen against the backdrop of other similar planning</p>

	<p>presenting the Item was “given a great deal of latitude” (p2 par4). He was permitted to,”forensically pick the Officer’s report in quite a forceful way” (p2 par4).</p> <p>JS is aware that he Chair knew the Applicant as in the past the Chair had lobbied JS about the Applicants planning matters.</p> <p>JS had been pressed by the Ward Member, PS to express planning concerns on behalf of the tenant at number 70 which in essence would have provided support for the Application at number 68.</p> <p>The social housing application at number 70 was rejected and the private landlord application was supported by both the Chair and PS.</p> <p>JS had sufficient concerns about the approval proposed by Members and therefore suggested a compromise position so that it could be delegated for Officers to resolve further planning issues before the Application was granted.</p> <p>“Some of the deficiencies in this application that were highlighted in the Officer’s report appeared to be entirely ignored by some Members, for example Councillor Bal; glossed over by others, for example Councillor Choudry and being positively dismissed by Councillor Zarait and Councillor Sohal.</p> <p>Moreover, the behaviour of the Chair and Councillor Sohal suggested that there was something particularly amiss about their approach to this Agenda item.” (p2</p>	<p>decisions by Officers.</p> <p>“The marginal difference in view between Officers and Members on this Agenda item has to be seen in the context of Officers having allowed two car park sites temporary permission under delegated authority quite close in time to this application arriving at Committee. I believe that Members simply felt that if these previous sites were acceptable in principle, so was the Aspire 2 Site which the Committee was being asked to determine.” (p4 par14).</p> <p>Further that,</p> <p>“Overall I do not think there was anything untoward about this particular Agenda item beyond a slight disagreement in approach between Members and Officers to resolve the planning issues on this site” (p4, par15).</p> <p>Js states that Members were of the view that enforcement action was weak and the site would have continued use if an appeal was put in by the Applicant and the environmental issues would not be addressed but by granting the application subject to the issues being resolved meant action was managed. And that this was only a temporary permission for two years.</p>
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	par10).	
WM He states that he was not aware of <i>“any underlying issues or conflicts”</i> between Members and Officers. In conclusion he adds that, “It was and remains my professional opinion that due to the negative implications of each of these applications they both should have been refused, as recommended.” WM was sufficiently concerned about the decision making process on these two applications to mention the matter to his immediate line manager.	WM noted that the application for social housing, number 70 attracted very little discussion from Members whereas 68 drew a lot of attention from Members.	The reasons for refusal on policy grounds relating to such issues as sustainability were made clear. There was sufficient parking in the town centre. Similar applications had previously been refused. This would be contradictory decision and would put the <i>“Council in an awkward and somewhat embarrassing position.”</i> (p1 par4) Members were referred to and emphasis placed that previous similar refusals had been upheld at appeal by the Appeal Inspector. WM refers to the quote of the Appeal inspector, which was included in the committee report and stated <i>“the continued use of the site for car parking would tend to promote a continuation of existing travel behaviour in the Slough area and frustrate the achievement of sustainability objectives, contrary to the weight of national and adopted local planning policy.”</i> (p1 par5) WM states he was frustrated by the lack of understanding of the “straightforward” issues and this was either the explanations from Officers was not clear <i>“or if members are motivated by something other than the information presented by officers.”</i>
CS The planning notes used for the presentation of the	CS had wanted to present the 68/70 Norway Drive together as any decision on	There were “solid policy grounds existed for the refusal of the application”

<p>reports are clear about the reasons for refusal.</p> <p>Generally he states that he was not aware of any tensions between Members and Officers relating to Planning decisions or issues.</p>	<p>one would impact on the other.</p> <p>“this was an odd decision, both applications (reference to 70 Norway Drive), as both applications raised similar planning issues” (p1 par4).</p> <p>He does acknowledge that Members do not always follow Officer recommendation.</p> <p>CS did note that there was a named vote and that there was a difference of opinion between Members who supported the Application and those who did not.</p> <p><i>“however I do recall that those who disagreed with officer recommendations and supported the application for number 68 made their views known”.</i></p>	<p>(p2 par7).</p> <p>CS further adds that Officers had previously refused a similar Application which then went to Planning Appeal, however the Planning Inspectorate had upheld the Officers’s decision.</p> <p>There were <i>“no reasons to create additional parking”</i> 9p2 par8). The transport engineers had provided this advice.</p> <p>Further, CS states that, <i>“Other applications for temporary car parking have been refused by officers but were not subject to member call in.”</i> (p2 par8)</p>
<p>SK</p> <p>JB and PC left the meeting after the vote on both these matters.</p>	<p>The Committee was advised by the planning officers that the additional information submitted by Ward Councillor Sohal was not part of the formal application and should not be considered.</p> <p>PS represented the Applicant and stated, 68 was set back from 70 and so the visual gap was retained and the property would not be overbearing.</p> <p>The Parish Councillor spoke against approval and indicated parking problems. Whilst acknowledging the lack of social housing he stated that extension should be reasonable.</p> <p>JB stated that he was familiar with area and that in</p>	<p>BB represented the Applicant and stated that it would provide affordable parking given the loss of the bus station. Further it was a site which was safe and patrolled by security.</p> <p>PC stated the drainage issues need to be sorted out and that he would support temporary permission for 2 years.</p> <p>RP questioned whether revenue would be diverted away from Council owned car parks and whether the impact of the 2012 Olympics had been considered.</p> <p>Alex Deans, Head of Highways, informed the Committee that the Council was encouraging individuals</p>

	<p>his opinion parking was not a problem.</p> <p>Councillor PC informed the Committee that he supported the application, although did state his concern with regard to the property being used as a House of Multiple Occupancy (HMO) and stated that a condition be added to not allow the property to be used as a HMO.</p> <p>MR informed the Committee he was in support of the application, given that no objection had been received from highways. He stated that he had never been lobbied and in his opinion, there was no reason to refuse the application.</p>	<p>to use alternative uses of transport to the town centre.</p> <p>Paul Stimpson, Head of Planning, Policy and Projects stated that a temporary car park already existed opposite the Marks and Spencer store which was not being used. He also informed Members that once temporary permission has been granted, it would be difficult to justify the refusal to extend the use of the car park further.</p> <p>DM stated that if this application was approved, it would be difficult to refuse permission to other similar applications.</p> <p>JS voiced his opinion that the application should be refused. However, if approval is to be given, it should be provided for two years only and drainage problems must be resolved.</p>
<p>PDG States that Members do occasionally vote against Officer recommendation. He does not recall how he voted on the applications. He does further comment that, "yes I do think that on occasions some members have known an applicant and that has been taken into account and their decisions have occasionally been influenced".</p>		
<p>BB</p>	<p>Not applicable to this planning application.</p>	<p>Does not recall any information other than that he did represent the Applicant.</p>

PS	<p>May have seen the Applicant canvassing at election time but cannot clearly recall;</p> <p>Following his election in May 2010 he was approached by the Applicant;</p> <p>The Agent seemed to be suggesting SBC was operating double standards as it has its own application for 70 Norway Drive but this Application for 68 had been ongoing for a number of years;</p> <p>He supported the application as it was corner plot and there were a number of corner plot developments in Slough with “no negative consequences” ;</p> <p>He confirms that he met AQ outside the Council Chamber but not any other Members. He shook hands with AQ. He believes it would be “uncivilised” not to do so;</p> <p>He may have shaken hands with RZ. This was done out of courtesy;</p> <p>He recalls DM saying Members had been lobbied and recalls JB saying something but cannot remember what he said.</p> <p>He remembers that a “full debate too place” .</p>	Not applicable to this planning application.

4.6. Reasoning – “You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”.

4.7 Lobbying –

It is seems very unusual for a Ward Member to contact the Chair of the Planning Committee. BB did this. BB is an experienced Member and should have known that if

he needed information he could obtain this from Democratic Services. The Planning Code of Conduct covers this issue. All Members are provided with this information.

There is reference to an email sent to BB by the Planning Officer. BB was unhappy with this email and it appears from the evidence of RZ that he sent this to RZ. It is unclear why BB would need to send this to RZ.

Overall this gives a perception that there was discussion about the Aspire 2 Site between the Chair of Planning Committee and the Ward Councillor. To an ordinary member of the public this may suggest there may have been some response by the Chair to the lobbying by the Ward Councillor.

MD may have been contacted by PS and BB. However whilst her discussion with DM is recorded in his email to me of 21 February 2011 she however was not able to recall PS and BB contacting her about these Applications.

Applicants or their representatives do not appear to be known to Subject Members (except one Applicant who is a social acquaintance of MR). However the observations of JS need to be noted in that he had been lobbied by RZ on behalf of the Applicant for 68 Norway Drive on previous occasions.

MR has not spoken to AQ for three years so it is unlikely that MR would have been lobbied on behalf of the social acquaintance by AQ who appeared to have been supporting that Applicant.

It is accepted that JB did make a comment that any Members who had been lobbied should declare their interests and none were declared.

It is not unusual that there is no direct oral evidence of lobbying as in my view it is one of those situations where it is unlikely that such evidence would be available.

4.8 Voting against Officers' recommendation

Three Subject Member provided reasons for why they voted in favour of the application and believed they were entitled to exercise their own judgement on the merits of the Application.

Three Subject Member have advised me that they believed that there was an open debate.

In respect of 68 Norway Drive it has to be accepted that it was unusual for additional information to be permitted by the Chair. This step does create the potential for the perception that some degree of bias or favouritism has taken place at the meeting.

In respect of the Aspire 2 Site, the Officers views about the normal procedure which the Applicant should have followed to ensure the surface drainage was resolved prior to the Committee stage appears to have been ignored by the Four Subject Members. Although JS states that there was a difference of opinion between Members and Officers regarding how to resolve this matter however it does nevertheless create the potential for the perception that this Applicant is being treated favourably. It may be difficult for a member of the public to accept that the views of elected Members should take precedence over established local and national policy on car parking in the town centre. I am inclined to accept that an ordinary member of the public will not find their reasons for

voting in favour of this application very convincing. I am inclined to conclude that this is dangerously close to being over the edge where pre-determination could be established. Where two applications are considered against Officer recommendation and supported to such a degree at the same Planning Committee it can raise suspicions about the conduct of the Four Subject Members voting in favour of these applications.

Some Subject Members have queried as to why no complaint was made against PDG as he also voted against Officers' recommendation. It has to be accepted this is a fair comment/observation by them, although not relevant towards the assessment of their conduct in respect of the complaint that has been made. I also note that DM states that he saw PDG being "nudged" to partake in the vote for approval. This in itself has connotations of influencing and its possible DM may have simply considered that as he saw it PDG was not a party to the substantive actions as the four Subject Members.

Both Planning Officers, CS and WM noted the tensions between the Members who supported the Application and those who did not. Those not voting in favour seemed to formulate some impression of bias on the part of the Four Subject Members.

RP notes that it is odd that the business needs of an Applicant took precedence over the local and national policies.

I note JB voted for both number 70 and number 68, however a sceptical member of the public could view this negatively it too and simply see it as a disguised move to protect the actions regarding the vote on number 68.

JB and PC left the meeting following the vote on these two Applications. Whilst I have to accept they may have had other business to conduct elsewhere, in view of that voting, it could appear to an ordinary member of the public that they attended specifically to fulfil a role for the purposes of these two Applications.

The evidence is balanced to a degree however, reviewing it from the perspective of an ordinary member of the public does tip the balance more towards the fact that the actions may have brought the authority into disrepute.

4.9 Greeting the Ward Councillors and Applicants

There is contradictory evidence on this point and therefore no conclusions can be drawn from it. RP recalls PQ and the Applicant coming into the Council Chamber, before and after the meeting and shaking hands with some of the four Subject Members. Whilst DM believes he saw all four Members shake hands and speak to each other in another language, MR and RZ deny that they shook hands with anyone before the meeting. JB accepts he shook hands with various parties. He provides the explanation for this by saying that it is normal practice for Asian Members to greet each other with a handshake. If this is to be accepted then there is nothing untoward about it. However it is difficult to comment on whether this is common practice or not amongst Asian Members without further evidence on the point.

I would make the observation that prior to a Planning Committee this may actually create an impression in the mind of an ordinary member of the public that there may be a potential of bias as the shaking of hands can be seen as "sealing a transaction". It creates an expression of closeness between the parties and that therefore Planning Committee Members ought to refrain from this practice.

5. Comments from both Complainant and Sub Member on the Draft Report:

Comments were received from both DM. No other comments were received. For ease of reference the comments are reproduced in the table below with any additional information/observations on those comments:

5.1

	DM's comments - (Quoted from email dated)	Investigating Officer's information/views on the comments
1	Document 4a I do remember clearly May Dodds telling me in car the Councillors had spoken to her to vote for She is a Councillor with Integrity and I know she would not be doing anything unethical. If she can not recall the conversation I am willing to leave it as I know she is not well at present. I have a lot of respect for her.	The information has been provided as part of the investigation and it is relevant. It is accepted that MS may not recall details about the matter.
2	Document 8 Page 2 number 8 I think on reflection I should have mentioned Peter Dale -Gough as to me he was obviously influenced at meeting. Up to being nudged By Pervez Choudry he seemed to be for officers recommendation until he was whispered to which gave me the impression he was not involved in the pre determination as I suspected others were. The fact they are Asian Councillors I have complained about is irrelevant. I have worked with many other Asian Councillors who are of highest integrity but in my view the Subject Members were doing the wrong thing regardless of Race.	Noted.
3	Document 7 Ex Councillor Zarait states he came through side door to Council which he did as we came in together but I definitely saw him shake hands and speak with applicant in the lobby before I went upstairs and I stand by that.	Noted.
4	Document 10 Although Councillor Choudhry put in a condition that the house 68 Norway Drive would not be used as an HMO this would be difficult to prove and enforce as I stated at meeting On Item 14 of Document 15 I would point out that officers were not given full delegated powers to refuse. It was clearly stated, and should be reflected in the minutes ,that even if officers could not resolve the drainage issues it would still be for officers to bring it back to Committee so pressure to approve. I am concerned that JS is less concerned about this application then	Noted.

	the other as I believe the applicant makes donations to Labour Party.	
5	<p>3 other general points</p> <p>I do always declare any interests even if vague contact .If I feel compromise like with Castle View Application I withdraw. With any others I declare it is for full transparency and explain why I can still stay and vote.e.g Spoken to by phone but told clearly I can only listen and will make up my mind on day. I was Chair of Planning for 2 years, Mayor of Slough and Part Of Standards Committee. and always acted impartial.</p> <p>I am happy with all comments now but if there is any other feedback from others to this draft report I would like a chance to reply if relevant for me to do so. I am willing to come and speak to Standards Committee.</p>	<p>Points 1 and 2 noted.</p> <p>Re point 3 – the procedure for Standards is that the Investigator presents the Report and may only call witnesses if absolutely necessary. At present I do not believe that witnesses are required, however it may change should I receive additional comments from the Subject Members.</p>
	PC (Quoted from email dated 2/4/12 11:54)	
1	<i>Further to your email of 23/03/12, to date I have left quite a few messages for you that I need to talk to you but no response.</i>	I have not received any messages from PC since I have sent the Draft report.
2	<i>I did receive a call from Victoria King who indicated to me that you wanted to interview me that day.</i>	The opportunity was for an interview at PC's convenience but as soon as possible.
3	<i>I view of the fact that I had not received the papers in relation to this complaint, it would be fruitless to discuss the matter. And it would not be fair or proper to the investigation or the investigating officer, that I would not be able to answer all the questions.</i>	Noted.
4	<i>I was ill and bed bound last year when in August I received my mail from Town hall, one of the letter i received was your reminder letter, I immediately contacted your office to inform and asked for the copy of the original documents to be sent directly to me. And I also contacted Catherine Meek to convey the same.</i>	I have no information about this contact other than that PC has contacted Catherine Meek. Contact was made with PC again in October 2011 for an interview. No response was received to the email dated 7 October 2011 (Document 18c).
5	<i>I did speak to Victoria King on 23rd but I was concerned that the proper procedure was not being adopted i.e. the papers were not being made available before the interview, and I was being forced to give an interview on the Friday 23rd march 2012, when I was not available for the interview.</i>	Noted but papers have been made available sent with letter of 1 July 2011. There was no pressure to do the interview that day but an opportunity was provided to give an interview.
6	<i>I did raised my above concerns with Catherine Meek, including lack of progress</i>	Noted.

7	<p><i>and sudden un-necessary haste.</i></p> <p><i>I would inform you that I am unable to comment on your report as I would require to see first notes Shabana Kauser had been relying upon.</i></p> <p><i>Kindly make those notes available to me so I am able to make proper comments on your report.</i></p>	<p>Noted. Shabana Kauser has provided a statement. The investigation relies upon the statement. PC can make comments on the Final Report.</p>

6. Conclusions and Recommendations

6.1 From the general information available to me I note that it would appear that Members, if they are unhappy with the pending recommendations by the Planning Officers feel obliged to call in the application and anticipate that by calling it in it is more likely to be approved. This may or may not be indicative of lobbying practice. However it should also be noted that calling in of applications is a normal established process at the Council.

6.2 PDG's comment that on occasions Planning Committee Members have known an Applicant and have been influenced is of concern and suggests that perhaps there ought to be greater scrutiny of this Committee in order to ensure continued public confidence in the system and protection of the Council's reputation.

6.3 There is some reference in the statements for example statements of JS and ZR about Members' views about the planning decisions of Officers. And further that the decision on these two Applications should be measured against that background. *"It is important to remember that Officers cannot always be right, and despite their recommendations it doesn't always mean that this should be accepted. This has been proven in circumstances where cases have gone to appeal and investigators have sided with the decision of Members".* (ZR – p2 par3). *"The marginal difference in view between Officers and Members on this Agenda item has to be seen in the context of Officers having allowed two car park sites temporary permission under delegated authority quite close in time to this application arriving at Committee. I believe that Members simply felt that if these previous sites were acceptable in principle, so was the Aspire 2 Site which the Committee was being asked to determine – subject to the environmental issues on this site being addressed"* (JS – p4 par14).

6.4 However in my view despite any differences of opinion between elected Members and Officers each Planning Application needs to be considered on its own merits. The views of the ordinary member of the public looking at the actions of the Members at the Committee are important rather than any degree of difference between the opinions of Officers and Members. During this meeting the perception clearly comes across that some Members were overly supportive of particular Planning Applications.

6.5 **68 Norway Drive – conclusions – breach by RZ, PC, MR, JB in that they did conduct themselves in manner a manner which could reasonably be regarded as bringing their office or authority into disrepute.**

6.6 The manner in which the Four Subject Members supported this Application at the Planning Committee and then made the decision to grant is an area of concern. The Chair permitting the additional information to be circulated and Member support for the Application without much clarity about the real planning issues of this particular site in the case raises questions. It is noted that JB supported Applications at 68 and 70 and his overall culpability may be less as a result but the perception to the public remains the same. On the balance of probabilities, I conclude that there is evidence of a breach of the Code in respect of the approval of this Application.

6.7 **Aspire 2 Site – Conclusions - breach by RZ, PC, MR, JB in that they did conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute**”.

6.8 The manner in which the four Subject Members supported this Application in the face of the contrary professional advice being given and without following local and national Planning Guidelines, preference for the business needs of the Applicant is of deep concern. In view of this on the balance of probabilities I conclude that there is evidence of a breach of the Code in respect of the approval of this Application.

7. Overall conclusions

7.1 The decision making process in the Planning regime is subject to close public scrutiny and therefore how an ordinary member of the public views these actions by the four Subject Members is of paramount significance. It is my conclusion that there are significant actions such as:

- BB's contact with RZ;
- permitting additional material at the last minute;
- preference for the Application of a private landlord over the Application for Social housing when clearly only one Application could be approved due to the close proximity of the sites, (although it needs to be noted that PC did indicate that the property should not be used as a HMO but he did still support the application),
- on the Aspire 2 Site ignoring Planning Officer advice about environmental and drainage issues which ought to have been resolved by the Applicant prior to the Committee stage,
- the significant concern for the business needs of the Aspire 2 Site Applicant
- Ignoring local and national Policy Guidelines,
- at least two of the four Subject Members leaving the meeting after the vote on these two applications,
- all of which do create a perception that gives the appearance of bias.

7.2 There appears to be an atmosphere about the Committee meeting that the process of the decision making was somewhat flawed or suspect. At the meeting there was a real sense of discomfort by both Officers and other Members with perceptions of something not being right and something untoward was being manufactured by the four Subject Members. I have therefore formulated the view that an ordinary member of the public who observed these actions by the four Subject Members, could reasonably have concluded that there was a degree of bias and prejudice in the minds of the four Subject Members when they made the decision about these Applications.

7.3 This being the case then it is inevitable that the local authority's reputation will be brought into disrepute in the minds of the public. I refer back to paragraph 3.7 above in that Paragraph 7.1 of the Planning Code of Conduct for Members and Officers which asserts the importance of ensuring Member integrity and “the public perception of the

planning process” and that Members should “reach their own conclusions rather than be influenced by others”.

7.4 The Standards Sub Committee and the Monitoring Officer may wish to consider additional training for all Members around Planning Committee decisions and the Planning Code as well as the Code itself.

7.5 I would like to record my sincerest apologies to all the parties for the length of time taken to complete this investigation but it has been largely due to difficulties liaising and interviewing witnesses alongside other work commitments and re-organisational changes.

7.6 I would like to record my thanks to all parties for the co-operation I have received during the investigation of this complaint.

7.7 In summary I conclude that:-

There **has** been breach of paragraph 5 of the Code in that the four Subject Members have conducted themselves in a manner which can reasonably be regarded as bringing their office and authority into disrepute

Date: 26th March 2012
Kuldip K Channa,
(Principal Litigation Solicitor)
Standards Investigation Officer,
For and on behalf of the Monitoring Officer

LIST OF DOCUMENTS ANNEXED TO REPORT

1. 20th December 2010 Complaint by David MacIsaac
2. 2010/25 - Summary of the Complaint
3. 4 January 2011 - The Decision Notice
4. February 2011 – interview statement of the Complainant, David MacIsaac (DM)
- 4a. 21 February 2011 – email from David MacIsaac (DM)
5. 23 March 2012 - interview statement of Councillor Robert Plimmer (RP)
6. 13 October 2011 - interview statement of Joginder Bal (JB)
7. 7 October 2011 – interview statement of Raja Zariat (RZ)
8. 14 November 2011 - interview statement of Councillor Mohammed Rasib (MR)
9. 19 December 2011 - interview statement of Councillor Paul Sohal (PS)
10. 16 January 2012 – interview statement of Councillor James Swindlehurst (JS)
11. 26 March 2012 - interview statement of Wesley McCarthy (WM) - Planning Officer
12. 22 March 2012 – statement of Chris Smyth (CM) plus presentation notes for Committee
13. 10 August 2011 - Councillor Peter Dale-Gough (PDG) - his email response
14. 6 October 2011 - Councillor Balwinder Bains (BB) – telephone interview response
15. 10 August 2011 - Councillor May Dodds (MS) – telephone interview response
16. 10 October 2011 - The Agent for the Aspire to Site - telephone interview response
17. 8 December 2011 – statement of Shabana Kauser (SK), Democratic Services Officer
18. to 18d - Councillor Pervez Choudhry (PC) – letters:
 - a. 1 July 2011
 - b. 22 July 2011
 - c. 07 October 2011 - 14:14 – email
 - d. 23 March 2012 – 16:14 - email
19. 15 December 2010 - Planning Minutes
20. Investigator's notes on review of the two Planning files plus information from the files:
 - a. 7 September 2011 – notes on 68 Norway Drive P/14946/000
 - b. 6 October 2010 – note from Councillor Sohal to Planning Officer
 - c. 7 October 2010 – email from Councillor Sohal to Planning Officer
 - d. 7 September 2011 – notes on Aspire 2 Site P/01508/033
 - e. 19 August 2010 – note from Councillor Bains to Planning Officer