

Appendix One

Dacorum Borough Council

Standards Committee

Complaint in respect of Councillor Hardy

Monitoring Officer's Pre-Hearing Summary

1. The Complaint

On 1st August 2015 Senior Planning Officer, Susan Clarke wrote to the Monitoring Officer (MO) with a formal complaint (attached as Appendix Two) alleging that Councillor Hardy's conduct at the meeting of the Development Control Committee (DCC) on 28 July 2015 constituted a breach of the Council's Code of Conduct in that he failed to treat her and other officers of the Council's Planning Department with respect and bullied them.

2. The Investigating Officer's Report

The MO reviewed the complaint and after consulting the Independent Person (IP), Rachel Keil, decided that this complaint should be investigated and referred it to the Deputy Monitoring Officer, Mark Brookes, to carry out the investigation. Following his investigation, Mr Brookes concluded that there was evidence that Councillor Hardy had failed to comply with the Council's Code of Conduct and had failed to treat Mrs Clarke with respect. He did not find evidence of a failure to treat other officers of the Planning Department with respect and he did not find evidence of bullying. A copy of Mr Brookes' report is attached as Appendix Three.

The MO reviewed the investigation report and its conclusions and, after consulting again with the IP, referred the matter to the Standards Committee for a hearing.

3. Pre Hearing

In preparation for this hearing, Councillor Hardy has been provided with a copy of Mr Brookes' report. In order to attempt to simplify the hearing process and identify those matters which are agreed, Councillor Hardy has been requested to identify any points at which he disagrees with any finding of fact in the report.

4. The Key Issue

The core of the allegation relates to the manner in which Councillor Hardy addressed the DCC on 28 July in its consideration of a planning application by Homes 'R' Us for residential development at the former Civic Centre site in

Hemel Hempstead and whether his words, and his departure from the Committee Room, constituted a failure to treat the complainant with respect and/or amounted to bullying.

(a) The key events

Mr Brookes has set out in his report his conclusions as to the key events and as to what Councillor Hardy actually said. Councillor Hardy confirms much of this but disagrees with Mr Brookes on the following material points:

Mr Brookes found as a matter of fact that, following Mrs Clarke's introduction of this agenda item and her presentation of the Head of Planning's report and recommendation of refusal of the application, primarily as being contrary to the approved design brief for the former Civic Centre site, Councillor Hardy responded in the following terms:

"This is the Planning Department which very nearly cost Hemel Hempstead its football team, has cost the borough thousands of jobs over the years, which will ensure that the heart of Hemel Hempstead in the form of the old Civic Centre site remains empty waste land for years to come and stopping people from getting the homes they deserve.

You are just a waste of space unless you can tell me where you propose to locate the 1,000 new homes which we have got to find in the town, when you spend your time trying to block any sensible redevelopment of the old Civic Centre site, making sure that no developer can afford to build it by insisting on grandiose designs and materials which don't make commercial sense when a bog standard design brief would be more than sufficient."

At this point it is alleged by Mrs Clarke that Councillor Hardy left the Committee Room, saying:

"I have much more important things to do than to listen to any more excuses from a load of planning plebs who cannot appreciate a decent modern design."

Councillor Hardy confirms that this is what he said, with the exception of the final paragraph, where he says that his actual words were as follows:

"I have another important meeting which I must go to now. I do not want to listen to any more excuses from our planning people who don't seem to appreciate a decent modern design."

In particular, Councillor Hardy denies using the word 'plebs' and insists he said the word 'people'.

On this point, Councillor Hardy has asked that a witness be invited to attend to give evidence at the hearing that Councillor Hardy had an external meeting at 11.30 am and that his departure was required at this point in order to attend this meeting. This point is accepted by Mr Brookes, so it is not proposed to arrange for a witness to attend.

Other witnesses who might be able to assist in respect of the actual wording used would include the Chairman of DCC, Councillor Whitman, and the Committee Clerk, Ms Kayley Johnston (whose contemporaneous notes broadly confirm Mrs Clarke's version of events). Mrs Clarke, Councillor Hardy, Councillor Whitman, Ms Johnston and Mr Brookes will be present at the hearing. I have made no arrangements for members of the DCC to be present.

You will see from Mr Brookes' report that when he questioned all the other Members of DCC they all said that they could not quite hear what Councillor Hardy was saying at the point he was actually walking out of the room. This was because the Members of the DCC are seated on the side of the room farthest from the door (except the Chairman who is seated on the same side as the officers and therefore nearer to the door) and Councillor Hardy had his back to them when he said his final words.

(b) Disrespect:

Paragraph 4(1) of the Council's code of Conduct states that "you must treat others with respect."

Mrs Clarke states in her complaint that Councillor Hardy's words carried the clear implication that the officers in the Planning Department, including herself, were failing to apply professional standards in their work, and pursuing personal aesthetic preferences.

Councillor Hardy states, and this is accepted by Mr Brookes, that he had no intention to cause offence to Mrs Clarke or to any officer in the Planning Department, but wished to draw the Committee's attention to his view that the policies pursued by the Council had consistently failed to produce the new investment which the Hemel Hempstead town centre required.

Mr Brookes concludes that the issue is not the subjective test of Councillor Hardy's intentions when he addressed the Committee, but rather the objective test of whether the language that he used and the manner of his address fell below the standard which might reasonably be expected of a Councillor in such circumstances.

This is essentially a matter of interpretation of the Code of Conduct. The relevant witnesses on this matter would be Councillor Hardy and Mr Brookes, who has requested the opportunity to address the Standards Committee on this point.

(c) Bullying

Paragraph 4(2)(b) says that “you must not bully any person”.

Before its abolition, the Standards Board for England’s guidance provided a description of bullying as follows:

“Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour; such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.”

Mr Brookes concluded that there was no evidence of an intention to undermine Mrs Clarke and so concluded that Councillor Hardy’s conduct did not amount to bullying.

(d) Other Issues:

- (i) Councillor Hardy has asked that Mrs Clarke be asked to give evidence at the hearing that she made a personal attack upon Councillor Hardy at the public inquiry held into the appeal in respect of the refusal of DCC to grant Hemel Hempstead Football Club planning permission for a new football ground. Mrs Clarke will be attending the hearing and will be available to be questioned if required.

I attended the public inquiry referred to by Councillor Hardy and I recall that there were a number of intemperate remarks made on both sides during the course of that hearing. However, such past events would, at the most, be marginally relevant to the seriousness of any failure to treat Mrs Clarke with respect in this particular case. They would not be relevant as to whether there had been a failure to comply with the Code of Conduct.

- (ii) Councillor Hardy has asked that the Head of Planning and the Chief Executive of Homes ‘R’ Us be requested to give evidence as to the additional costs which Homes ‘R’ Us would have been required to incur had they complied with the former Civic Centre Design Brief, and the consequent increase in rent or purchase price for the residential properties. The Head of Planning will be available if required but I have made no arrangements for the Chief Executive of Homes ‘R’ Us to be present.

I would advise that, whilst such matters might have been material to the DCC’s consideration of the planning application,

they are not material to the Standards Committee's consideration of this matter.

5. The Procedure for the Hearing

I attach as Appendix Four a copy of the Complaints Procedure which the Standards Committee has adopted and which sets out the process for dealing with complaints that a Member has failed to comply with the Code of Conduct and how hearings will be conducted (see Appendix 3 of the Complaints Procedure). In this instance, Mr Brookes, the Investigating Officer, will be attending the hearing to present his report.

Councillor Hardy has indicated that he will be attending and will present his own case.