

Response: Cllr Dr Kirsten Ellis

1. Overview

I have compiled a *Timeline of Facts and Events* to assist those making decisions today and to allow for ease of cross referencing between events.

This timeline has been split between contextual events occurring prior to my election as a Haslemere Town Councillor and events after my election.

Many facts and events detailed in the timeline occurred prior to my becoming a councillor and were not known to me at the time they occurred. I came to know about them subsequently, sometimes much later, either as a result of doing due diligence as a councillor or/and because I found myself subject to investigation and wanted to understand the wider context.

Abbreviations:

HTC – Haslemere Town Council
HV – Haslemere Vision
CPRE – Council for the Protection of Rural England
HSRA – Haslemere South Residents’ Association
MO – Monitoring Officer
WBC – Waverley Borough Council
NP – Neighbourhood Plan
LPP – Local Plan Part

FACTS AND EVENTS OCCURING PRIOR TO MY ELECTION

1.1 2016	Haslemere Vision takes up the government’s Localism challenge and conducts an extensive poll of Haslemere residents which show that the majority – 65% - expressed a very clear wish for development to be kept inside the existing settlement area. The data from HV’s survey was collated with respondents asked about Haslemere’s existing settlement area reflected by the boundary map which excluded the AONB/AGLV sites of Red Court and Longdene. See Appendix 1
1.2 27 April 2017	Transfer of housing allocation rights from HTC to WBC by a majority Conservative Council, proposed and seconded by the Chair and the other members of the HTC NP Working Party. The minutes of the HTC meeting state: <i>“They have agreed to continue having meetings with HTC to discuss plans, so hopefully the end result would be having the allocations within the LLP2 that suit both WBC, HTC and the community as a whole.”</i> See Appendix 2

<p>1.3</p> <p>Also 2017</p>	<p>WBC enters into an 'association' with Redwood. This is evidenced by Savills' 2021 'Appellant's Statement of Case' for Redwood's appeal statement that: "Redwood have diligently assisted the Council with the promotion of the site since 2017..."</p> <p>Julia Potts is then Leader of WBC.</p>
<p>1.4</p> <p>7 September 2017</p>	<p>Redwood (South West) Ltd (Redwood) registered at Companies House. Directors include Anthony Nobbs, Jason Leete + 2 others.</p>
<p>1.5</p> <p>December 2017</p>	<p>Staff at WBC ordered to make digital image of Red Court land and its surrounds from paper maps on record.</p>
<p>1.6</p> <p>March 2018</p>	<p>Red Court is purchased by Redwood.</p>
<p>1.7</p> <p>5 February 2018</p>	<p>A member of the public requests sight of the paper maps and is told they have been withdrawn due to an error. The 'withdrawn' maps detail the AONB and AGLV boundary line.</p>
<p>1.8</p> <p>February 2018</p>	<p>LLP1 issued. Red Court and Longdene not included as potential site allocations.</p>
<p>1.9</p> <p>February 2018 - July 2018</p>	<p>Haslemere's settlement boundary is redrawn by WBC Planning for the emerging HTC NP to include AONB/AGLV sites (Red Court and Longdene) that were outside but contiguous to the previous, informally accepted boundary.</p> <p>As per LLP1's RE3 policy, HV argued that no AONB or AGLV sites should be included, a recommendation supported by Natural England, CPRE and Surrey Hills AONB - but against their advice and against the majority community view as expressed in 2016, HTC approve the WBC Planning Department's proposed boundary for the draft NP in April 2018 which has been redrawn to includes AONB/AGLV Longdene and Red Court inside its boundary.</p> <p>The wording of the then-Draft NP states: "<i>Development should not normally be permitted on AONB or AGLV sites</i>"</p>

	<p>however <i>"it may be necessary to allocate one or more sites that include land designated as AGLV inside the settlement boundary."</i></p> <p>Redwood employ Cratus Communications to advise and make LLP2 submissions to WBC.</p> <p>Cratus state on their website that <i>"understanding the context of local government and decision-making"</i> is key to <i>"reducing political risk"</i> and <i>"creating the environment for positive planning applications"</i> and also that they can <i>"help identify the best sites to take forward"</i> and advise on <i>"the political and community context of a potential allocation or application."</i></p>
<p>1.10</p> <p>1 June 2018</p> <p>19 June 2018</p> <p>June</p>	<p>Red Court now proposed by WBC Planning as a site allocation in the draft LPP2.</p> <p>WBC Planning Officer holds 'public consultation' for Redwood's plans to build, 'Scotland Park,' on AONB/AGLV with a proposed 180 houses.</p> <p>This public consultation coincided with Cllr Julia Potts' role as Leader of WBC. Simultaneously, the PR property company Cratus was an advisor to Redwood, making its submissions to WBC Planning. Within the year Ms Potts joins Cratus as Associate.</p> <p>Members of the public attending the consultation report that, in their opinion, the WBC Planning Officer was promoting the development rather than 'consulting' the public.</p> <p>Complaints made to HTC Town Clerk that Redwood has falsely claimed in its promotional statements that it has the support of CPRE, Natural England, the Mayor of Haslemere John Robini and local schools. Redwood's representative Brian Cox is asked to publicly retract those misrepresentations.</p>

<p>1.11 12 July 2018</p>	<p>HTC vote for no objection for Red Court as an allocation site within WBC's LPP2¹. HTC passed a motion proposed by then-Mayor Cllr Round not to allow any landscape, environmental or biodiversity concerns to be put forward factors to consider and allowed only "<i>traffic concerns</i>" to be registered as an item for consideration by WBC Planning.</p>
<p>1.12 2018</p>	<p>HSRA forms because of a perceived failure of councillors to represent the majority wishes of the Haslemere community.</p> <p>Cllr Ellis offers to be a Committee Member.</p> <p>Throughout 2018, Redwood allegedly breached the Wildlife & Countryside Act 1981. Despite community protestations to WBC no action against Redwood was taken.</p>

FACTS AND EVENTS OCCURING AFTER MY ELECTION TO HTC

<p>1.13 31 May 2019</p>	<p>The HTC Town Clerk receives an email from an undisclosed person who asks whether as a former committee member of HSRA, Cllr Ellis would be barred from "any public discussions regarding the proposed development at Red Court."</p> <p>See Appendix 4</p>
<p>1.14 June 2019</p>	<p>New HTC Haslemere NP Working Party formed.</p>
<p>1.15 November 2019</p>	<p>Cllrs Terry Weldon, Nikki Barton and Kirsten Ellis, part of the HTC Working Party on the NP, submit their findings on</p>

¹ 12th July 2018 meeting draws the largest-ever crowd to a HTC meeting during which Cllr Simon Dear faced away from the Council for the Protection of Rural England (CPRE)'s presentation against the Red Court development in a manner widely perceived by those members of the public to be contempt for those he is elected to represent. Cllr David Round, then Mayor, said in open forum that that Red Court was "*worthless scrub*" and that the residents who were concerned were "*NIMBY's*" who had "*better get over it*" and "*accept that development on this land was 99% going to happen.*"

the settlement boundary element, and outline their concern that the previously agreed draft had presented data from 2016 reflecting the community's majority wish for no major developments *outside* the settlement boundary as though respondents had been polled on the 2018 WBC-proposed settlement boundary map which *included* AONB/AGLV sites at Red Court and Longdene. The suggestion was made to Cllr Robini, then Mayor, that the HTC would need to take a decision on the findings.

On November 22, with regard to the upcoming meeting, Town Clerk informs HTC councillors: "Cllr Weldon has submitted 2 amended documents (NP and Summary) for consideration by Full Council. Council to decide whether these amended documents will then be taken forward to the next stage of the NP process, that of public consultation."

See Appendix 5

Prior to the vote on 28th November, the HTC Town Clerk suggests to Cllr Ellis that she might wish to consider whether she had a non-pecuniary interest to declare. It is not known what prompted the Town Clerk to make this suggestion. Whether the Town Clerk also asked councillors with a 'live' pecuniary interest in Longdene to consider the same is not known.

Cllr Ellis sought guidance on this matter both via email and telephone calls from WBC's Democratic Services Borough Solicitor Daniel Bainbridge because the HTC Code of Conduct rules were unclear. Mr Bainbridge's only clarification was that she should consider whether she had an interest which a reasonable member of the public with knowledge of all the relevant facts would think might render her incapable of bringing an open and objective mind to the proceedings.

See Appendix 6

Cllr Ellis refers to the LGA's advice then extant online 'A plain English guide to the Localism Act' which states that *"The Localism Act makes it clear that it is proper for councillors to play an active part in local discussions and that they should not be liable to legal challenge as a result. This will help them better represent their constituents and enrich local democratic debate. People can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on."*

Cllr Ellis carefully considers this passage and other LGA guidance.

	<p>See Appendix 7</p> <p>Thus, left to interpret the HTC Code of Conduct rules on non-pecuniary by herself and acting in good faith, Cllr Ellis decided she had considered the view a reasonable member of the public might take.</p>
<p>1.16</p> <p>8 – 9 November 2019</p>	<p>In request to HTC Town Clerk’s query following up a FOIA request from an undisclosed person for all councillors to disclose if they have any correspondence on Council business with Cratus or Mr or Mrs Cox, Cllr Simon Dear responds by referring to and forwarding the “Obscene card” referenced in 1.28. When queried about it by Cllr Gary Lloyd, Cllr Dear he says he has “<i>no record as to how [he] got it</i>”. Cllr Dear suggests that if councillors are reminded by the FOIA request “<i>to be extremely careful in what they say and to whom they say it about Red Court</i>” that would be no bad thing.</p> <p>See Appendix 8</p>
<p>1.17</p> <p>28 November 2019</p>	<p>HTC vote on HV’s recommendation that the draft NP settlement boundary be approved because “<i>it reflects the boundary used in earlier drafts of the NP, created by the designated areas which surround the town AONB,AGLV, Green Belt</i>” as differentiated from that proposed by WBC and earlier approved by HTC which “<i>includes areas within AONB, AGLV and Green Belt, some of these relate to sites which WBC were proposing to allocate for housing in LPP2. However, WBC have not yet consulted on these sites and with the passage of time, there is uncertainty as to whether they will be allocated or not. To include AONB, AGLV and Green Belt within the settlement boundary would give a green light to developers.</i>”</p> <p>The vote passed almost unanimously. Specifically, the outcome of the vote was not reliant on Cllr Ellis’ vote by some margin.</p> <p>All councillors present at that meeting live within 500m of either the settlement boundary or a green space that was discussed at the meeting. No councillor present declared a pecuniary or non-pecuniary interest.</p> <p>See Appendix 9</p>

	<p>Following the meeting, the Conservative councillor Chair of the NP, who had been involved in the HTC consultation on the WBC redrawing of the settlement boundary to include Red Court and Longdene (and who may be considered to have had a live pecuniary interest in relation to the property developer of Longdene) requested that Cllrs Ellis and Barton leave the NP Working Party. Both refused.</p>
<p>1.18 17 December 2019</p>	<p>Chris Berry, Interim Head of Planning and Economic Development at WBC writes to Savills regarding their pre-application request in respect of the Red Court site.</p> <p><i>“It is Officer’s informal opinion that, planning officers would not be able to support the proposed development. The site is not an allocated development site, is outside the development boundary, within the countryside beyond the green belt, and within AONB and AGLV. The proposed must conserve the countryside and the character of the protected landscape. Whilst community benefits in the form of new open spaces and parklands, public rights of way, Haslemere Scout Group premises, Grayswood Nursery and Forest School, tree planting with up to 16,000 trees and new car parking for local people would be provided this is not considered adequate to address the harm to the Countryside, AONB and AGLV.”</i></p> <p>Evidence available on request</p>
<p>1.19 28 February 2020</p>	<p>Email from Brian Cox, Redwood’s representative addressed to Cllr Robini and copied to Cllr Round requesting that the amended NP and settlement boundary be withdrawn from consultation on the grounds that two independent councillors who live in Scotland Lane voted in favour of the revised NP.</p> <p>It is not clear as to why Cllr Round was included in that email communication other than the fact that he had been a particularly strong advocate of the proposed Redwood development.</p>
<p>1.20 February 2020</p>	<p>The HTC NP Working Party made additions to survey questions for the NP public consultation questionnaire about housing and environment questions that relate to designated and protected AONB/AGLV land. Cllr Ellis had seen earlier versions of these questions and assumed they would remain the same. She was busy and did not look at the survey when it went online for some weeks.</p>

1.21 4 March 2020	The Town Clerk informs Cllr Ellis she has forwarded a formal complaint from a member of the public to the MO.
1.22 12 March 2020	Brian Cox submits a complaint against Cllrs Ellis [REDACTED]. It is noted that Mr. Cox addresses the MO as "Robin" implying a friendly relationship.
1.23 22 March 2020	Cllr Simon Dear writes to WBC Councillors of his support for Redwood's project " <i>as one developer</i> " and of " <i>the value in securing such benefits [income generated] for the town now.</i> " He notes that the " <i>low-hanging fruit</i> " in the town has largely " <i>been harvested.</i> " The email chain includes dialogue with Cllrs and Jason Leete, a Director of Redwood interviewed by the EI Mr Kenyon in his Report. Appendix 10
1.24 23 March 2020	Redacted complaint letter requesting anonymity. The reasons are redacted from the letter. The writer suggests that Cllrs [REDACTED] & Ellis resign from HTC and for 5 years do not seek re-election to HTC or WBC and that they sign a binding agreement that they will not seek to influence HTC or WBC in respect of the NP.
1.25 6 April 2020	Further anonymous email addressed to MO very similar to that at 1.22 above including the words " <i>They should not be allowed to stand for re-election for either HTC or SCC for a minimum of 5 years and that they should be fined £5000 each.</i> "
1.26 12 May 2020	Having received numerous complaints by constituents about the NP public consultation online survey, specifically what they relayed were "fiendish" and "tricky" questions around AONB/AGLV, green spaces and wildlife corridors, Cllr Ellis checked them online herself and could see why people had complained. She referred to the guidelines given by the Locality Neighbourhood Plan Roadmap (" <i>It is important to</i>

	<p><i>ask open questions and to avoid loaded questions.”) She asked a marketing executive of 30 years’ experience to look at the specific reworded questions and he said in his opinion they did not meet Market Research Society (MRS) guidelines or Survey Monkey guidelines.</i></p> <p>Cllr Ellis queried the last-minute rewording of the survey questions and cautioned they could have data gathering implications for the survey results, conveying her concerns both to the NP Working Party and to the Full Council on July 23 2020.</p> <p>Evidence available on request</p>
<p>1.27</p> <p>May 2020</p>	<p>WBC MO informs Cllr Ellis that she is under investigation, accused of having had <i>“undue influence on other Cllrs”</i> and on <i>“the outcome of the Neighbourhood Plan”</i>.</p>
<p>1.28</p> <p>20 May 2020</p>	<p>There is an email from Democratic Services to MO with an attachment labelled <i>“Obscene Card”</i>. It is not clear what this has to do with Cllr Ellis or why it has been included in the documents provided to Cllr Ellis and it has never been explained.</p>
<p>1.29</p> <p>20 May 2020</p>	<p>Email exchange between Brian Cox and Democratic Services.</p> <p>Quote <i>“I am implacable on the matter of Cllr Ellis [REDACTED] [REDACTED] conduct. My view is that they should be summarily dismissed and fined the <u>maximum financial penalty</u> for their malfeasance, as I see it. Both these councillors should be barred from public office”</i>.</p> <p>It should be noted that Mr. Cox addresses Ms. Soane as <i>“Kimberley”</i> implying some familiarity and previous connection.</p>
<p>1.30</p> <p>22 May 2020</p>	<p>Redacted email to Borough solicitor and MO reiterating previous complaints.</p>
<p>1.31</p> <p>26 May 2020</p>	

	Cllr Ellis informed by the MO that an informal investigation is now underway, with three formal complaints being about her vote at the November 2019 HTC meeting.
1.32 29 May 2020	Further anonymised complaint reiterating complaints in March as at 1.22, 1.24 and 1.25 above.

1.33 2 June 2020	<p>Cllr Ellis is informed by the MO that Brian Cox, Redwood's representative, is one of the three members of the public who have submitted formal complaints about her vote in November 2019.</p> <p>Redwood's employed representative Mr. Cox has an obvious pecuniary interest and it is difficult to understand how he can be considered merely as a "<i>member of the public</i>".</p>
1.34 18-19 June 2020	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>See Appendix 11</p>

<p>1.35</p> <p>26 June 2020</p>	<p>Cllr Ellis is subjected to a 2-hour “informal” interview with the WBC MO Robin Taylor, WBC solicitor Daniel Bainbridge and Complaints Officer Sue Petzold. Cllr Ellis is denied information regarding 2 of the complainants and the details of precisely what she is being accused of. The MO justifies his decision to grant anonymity because of the “high degree of emotion” of the complainants. Cllr Ellis tells the MO who she thinks are the 2 complainants and outlines grounds for him to consider whether malicious and vexatious grounds may be attached to their complaints, in addition to the vested interest attached to the one named complainant.</p> <p>Cllr Ellis submits her formal response to the MO.</p> <p>See Appendix 12</p>
<p>1.36</p> <p>8 July 2020</p>	<p>The MO requests that Cllr Ellis provide him with copies of HSRA emails prior and following her becoming a town councillor. <i>“It would be particularly helpful if you could provide any minutes of HSRA meetings where you have declared an interest in discussions about Red Court.”</i></p>
<p>1.37</p> <p>10 July 2020</p>	<p>The MO informs Cllr Ellis that although the complainants charge that she has <i>“unduly manipulated other councillors and groups in the settlement boundary”</i> they <i>“have yet to put forward any specific evidence to support this aspect of their complaints and this is an issue that [he] will need to bear in mind.”</i></p>
<p>1.38</p> <p>29 July 2020</p>	<p>The MO lets Cllr Ellis have copies of 34 pages of redacted correspondence from the three complainants, with the identities of two of the complainants withheld based on his decision to grant them anonymity.</p>
<p>1.39</p> <p>12 August 2020</p>	<p>Almost 4 months after being informed that she is subject to informal investigation, the MO tells Cllr Ellis he has <i>“now concluded his informal investigations into the three complaints”</i> and come to the conclusion that <i>“it is possible [she] may have had a non-pecuniary interest that [she] failed to declare”</i> in</p>

<p>1.40 18 August 2020</p>	<p>relation to the November 2019 meeting. The MO informs Cllr Ellis: <i>"At this point I consider there to be no realistic prospect of reaching an acceptable and appropriate resolution of these complaints informally."</i></p> <p>The MO informs Cllr Ellis he is referring the matter to <i>"one of Waverley's Independent Persons."</i></p> <p>Cllr Ellis asks to see all documentation and information that is being put before the Independent Person commissioned by the MO and a copy of all email correspondence regarding this matter between WBC, HTC and the complainants. (She never receives the latter requested information).</p> <p>Cllr Ellis refers to the 2-hour June meeting as a 'fishing expedition' as no non-pecuniary interest on her part had been established let alone definitively found. She also notes the MO has yet to inform her on what basis he made his decision to uphold the granting of anonymity to 2 of the complainants. She notes that the complainants made numerous accusations that are unfounded, factually inaccurate and defamatory.</p> <p>Cllr Ellis makes Freedom of Information request to WBC Ref 239718659 asking to be informed as to the nature of the non-pecuniary interest that the MO has told her he finds <i>"unable to resolve informally"</i> and has now referred to an Independent Person. She requests to be told the identities of her anonymous complainants and to be given the content of their allegations against her as well as copies of emails between HTC and WBC on this matter. Cllr is told she will receive a response within 20 days.</p>
<p>1.41 19 August 2020</p>	<p>Cllr Steve Williams, WBC Portfolio Holder for Environment & Sustainability, who accompanied Cllr Ellis to the June Zoom meeting subsequently expressed his concern to the MO that procedures <i>"appear not to have been followed correctly in this instance"</i> as per the WBC "Arrangements." He commented that <i>"Notwithstanding the shortcomings in procedure where the evidence against the accused is not presented in advance of the case being heard, I felt that Councillor Ellis's account of her conduct in relation to the debate on the Neighbourhood Plan at Haslemere Town Council demonstrated her exemplary behaviour in all respects. In the light of this, I am surprised that the case has not subsequently been dismissed."</i></p>

Cllr Williams noted that *"neither in advance of the hearing nor during the hearing was there any real clarification of what pecuniary or non-pecuniary interest Cllr Ellis is alleged to have failed to declare although it has emerged that the particular issue that irked the complainants was the exclusion of the Red Court site from the Haslemere settlement boundary (and the proposed inclusion of this site within the settlement boundary was one that clearly evoked strong local concerns. I have noted that the only named complainant represented the potential developer of the site who would certainly be considered to have a very significant pecuniary interest in the location of the settlement boundary."*

Cllr Williams raised concerns about the MO's rationale for granting of anonymity and procedures in the WBC 'Arrangements' not being followed correctly in this instance, noting Section 5.3 (4) "Will your complaint be investigated?") which clearly states that certain types of complaints will not be considered as 'valid complaints' including anonymous, vexatious, malicious and politically motivated complaints.

Cllr Williams notes that: *"in the documentation I have seen I cannot see any clear public interest in singling out Councillor Ellis (or, for that matter Councillor ████████ in relation to their conduct in the debate on the Haslemere Neighbourhood Plan."*

Cllr Williams noted that a complainant who represented the property developer with a significant interest in the location of the Haslemere settlement boundary could not therefore be seen as impartial suggesting possible evidence for the complaint to be seen as vexatious and politically motivated.

"I am incredulous that the complaint of the property developer seeking to develop the Red Court site continues to be accorded credence in relation to complaints against specific Haslemere Town Councillors who voted to exclude the Red Court site from the Settlement Boundary, when there has been significant outrage amongst so many Haslemere residents to the possible development of this site.

As you may know, there have been several concerns expressed about the failure of Waverley Borough Council to release the external landscape architect's report on the Red Court site and the failure of Waverley Borough Council to issue a blanket TPO for the whole site in the light of concerns by Haslemere residents. Indeed, as I have outlined, the proposal to develop this particular site has been the subject of considerable local controversy and the strength of local feeling led to an overwhelming decision by Haslemere Town Council to exclude the Red Court site from within the Settlement Boundary – a decision taken by a group of councillors who are residents of Haslemere concerned about the local environment (and could

	<p><i>be no more deemed to have an interest in the site than Councillors ██████ and Ellis)."</i></p> <p>Appendix 13</p>
<p>1.41 26 August 2020</p>	<p>Head of Planning and Economic Development Zac Ellwood attended an HTC meeting regarding LLP2 and defended the inclusion of Red Court in LLP2 on the grounds of a lack of alternative sites. He omitted to include a viable brown field site. Mr Ellwood told councillors he had already consulted with United Learning about the Royal School site for LPP2 but when asked about this United Learning said that Mr Ellwood had not at that time responded to their offer to submit the site for LPP2 allocation.</p> <p>Mr. Ellwood's response to Cllrs was therefore misleading.</p>
<p>1.42 2 – 3 September 2020</p>	<p>Cllr Ellis informed by the MO she may wish to "discuss issues" with the Independent Person and offers to "make arrangements to do this." Cllr Ellis immediately indicates her willingness to do this and suggests 9 September.</p> <p>She is taken aback at being told the Independent Person intends this to be a telephone call, as opposed to Zoom which the MO office had led her to expect but agrees to the meeting at that time.</p>
<p>1.43 9 September 2020</p>	<p>At the agreed time, Cllr Ellis waits for the call from the Independent Person at 13.00. She lets the MO's office know that she has not heard from the Independent Person at 13.08. She waits, and at 13.43 she emails the MO's office and says she has to leave for a meeting at 14.00.</p>
<p>1.43 10 September 2020</p>	<p>Cllr Ellis is told the Independent Person has apologised for missing the call and asked to re-schedule.</p>
<p>1.45 10 September 2020</p>	<p>HTC vote not to recommend Red Court for planning permission.</p>

<p>1.46</p> <p>11 September 2020</p>	<p>5 months into the investigation, Borough Solicitor Mr Bainbridge informs Cllr Ellis that the MO has concluded that <i>"she may have had had a non-pecuniary interest to declare"</i> and had decided that <i>"this aspect of the complaints requires formal investigation by an external investigator."</i></p> <p>Mr Bainbridge said this conclusion was reached because [her] property adjoins the Red Court site and [she] had played a role in the campaign by local residents to oppose the inclusion of Red Court within the settlement boundary in the new Haslemere Neighbourhood Plan.</p> <p>Mr Bainbridge apologised if Cllr Ellis had found his advice given to her prior to the November 2019 meeting had been "unhelpful" and repeated that <i>"there is no fixed distance within (or without) which a Councillor would automatically attract a non-pecuniary distance"</i> but that <i>"it is not just the views of those in [her] ward which [Cllr Ellis] should take into account, but also the views of members of the public in the wider community – in effect any 'reasonable person.'</i></p>
<p>1.47</p> <p>15 September 2020</p>	<p>Cllr Ellis emails the MO's office saying she is happy to re-schedule the meeting with the Independent Person for the 23 September. However, in light of the Borough Solicitor's comment and as per the WBC Arrangements which state that "if your complaint is to be formally investigated" the identity of anonymous complainants must be revealed, Cllr Ellis requests that this information be given to her <u>prior</u> to her call with the Independent Person so that she may know who is making allegations against her and the detail of those allegations.</p>
<p>1.48</p> <p>21-30 September 2020</p>	<p>The MO confirms to Cllr Ellis that the investigation is still informal, awaiting the view of the Independent Person, and therefore it is still appropriate for him to withhold information if he sees fit.</p> <p>Cllr Ellis responds that she has now received completely contradictory advice relating to procedure as to the status of the investigation.</p> <p>She emails the MO requesting – as is her right under the tenets of natural justice – the identify of her two anonymous complainants and the unredacted correspondence regarding her case in order that she can be informed as to the exact nature, motives and unredacted details of their serious accusations that she has breached S34 of the Localism Act and</p>

<p>30 September</p>	<p>Nolan Principles, recommending to the MO that he imposes the highest possible fine and sanctions against her.</p> <p>The MO informs her Cllr Ellis comments are “noted” but that “he has nothing to add”.</p> <p>Cllr Ellis reiterates to the MO that she is being asked to have a conversation with the Independent Person at which she will be asked to address information and allegations still as yet withheld from her.</p> <p>The MO notes an “impasse” has been reached and confirms he does not intend to disclose the identity of the complainants to Cllr Ellis and informs her to indicate whether she still wants to “consult the IP”. Alternatively, the MO informs Cllr Ellis that “it will be acceptable (and not at all unusual) for the IP to reach a view without having spoken with [he] at this informal stage”.</p>
<p>1.49</p> <p>October 2020</p> <p>1 October 2020</p> <p>2 October 2020</p> <p>1.50</p> <p>15 October 2020</p>	<p>6 months into the investigation MO concludes there “may have been” a failure by Cllr Ellis to declare a “non-pecuniary interest” and refers the matter to an Independent Person employed by WBC.</p> <p>Cllr Ellis again indicates her concern at being asked to consult with the IP without being informed of the actual specifics of the misconduct alleged against her. She repeats that all she has been told (by the Borough Solicitor) is that the location of her property was “not necessarily the issue.” As to her membership of HSRA, Mr Bainbridge simply made reference to “what any person might reasonably think about this.” She asks for the MO to provide clarity on these concerns before she speaks with the IP.</p> <p>The MO does not respond.</p> <p>The MO says it is up to Cllr Ellis whether she consults with the IP or not and sets a deadline of 16 October.</p> <p>Cllr Ellis asked to agree dates with the IP and suggests the 15 October.</p> <p>When reminded that it is a telephone call and not a Zoom call, which can be recorded as part of the evidence process Cllr Ellis expresses her concern both to the MO’s office and to the IP directly that there will be no record of the conversation. The IP tells her she does not do Zoom.</p> <p>With hesitation, because there will be no record of the conversation, Cllr Ellis agrees to proceed with the telephone call but is concerned that an IP has been appointed by the MO but who does not have the necessary technical ability to undertake her role appropriately.</p>

	<p>The Independent Person told Cllr Ellis that she had “already” recommended to the MO that the anonymous complainants be identified. The IP told Cllr Ellis in her view his failure to do so “<i>had not been proper procedure.</i>” The IP told Cllr Ellis that “<i>Criminals’ should be able to know who is accusing them, and what they are being accused of</i>”, and when Cllr Ellis said “<i>this is not a criminal matter</i>” the IP said she “<i>made that comment in relation to [her] work, as a simple and important concept of law.</i>”</p> <p>In other words, under the MO’s investigation, Cllr Ellis was not even accorded rights of natural justice due to a common criminal. The Independent Person referred to material evidence of some 370 pages which Cllr Ellis had not seen. The IP told Cllr Ellis that after speaking to her she was of a mind to recommend to the MO that this matter be informally resolved, having already recommended to the MO that he disclose the identity of both anonymous complainants and the substance of their complaints.</p> <p>The MO does not accept the IP’s recommendations but offers no explanation.</p> <p>It later became apparent that this IP changed her view after submitting her response to the MO.</p>
<p>1.51 21 October 2020</p>	<p>Cllr Ellis calls the WBC Information Officer and repeats her FOIA request.</p>
<p>1.52 December 2020</p>	<p>One anonymous complainant withdrew his/her complaint. Cllr Ellis still not given the full material evidence from the investigation so unable to robustly defend herself.</p> <p>Cllr Ellis threatens to go to ICO then 8 months into the investigation unless she is provided with 212 redacted pages of a 372-page dossier compiled against her and [REDACTED].</p>
<p>1.53 December 2020</p>	<p>Members of the public makes complaints to the MO against Cllrs Odell, Round and Dear for Code of Conduct breaches including failing to declare pecuniary interests. All complaints apparently dismissed by MO.</p>

	All Conservative Councillors have given strong public support to both the Redwood plan and the former WBC Planning-proposed settlement boundary for the NP.
1.54 24 December 2020	Borough Solicitor Daniel Bainbridge informs Cllr Ellis that the MO has appointed an External Investigator, Melvin Kenyon, to formally investigate the complaints. Cllr Ellis informed that the complainant Mr. Benson has submitted a further complaint against her, although the MO had <i>"not reached any judgement regarding the complaint and whether or not there has been a breach of the code"</i> .
1.55 21 January 2021	Cllr Ellis submits her response to her concerns about procedural flaws and unfairness under natural justice to the MO, the External Investigator and WBC Chief Executive Tom Horwood, and suggests it may assist Mr. Kenyon.
1.56 29 January 2021	Having made a complaint about Cllr Round, a member of the public is invited to a Zoom meeting with MO, Susan Petzold and one other to discuss her complaint that Cllr Round said at a meeting <i>"rich NIMBY bastards [buggers]"</i> when discussing the numerous objections to the Redwood planning proposals. She is asked if she is acting alone or in concert with others, thereby indicating that he may have received other complaints.
1.57	Public consultation on LPP2 ends. Some 543 Haslemere residents from all over the town, not just confined to Haslemere South, register their strong objection to major developments on AONB/AGLV green spaces, specifically Redwood's development. 4 supporters of Redwood's plans include the two complainants in this investigation and their family.
1.58 1 February 2021	WBC Standards Committee present the new Model Code of Conduct published in December 2020 by the LGA.
1.59 3 March 2021	Cllr Ellis refers to the MO's refusal on 9 November 2020 to give her requested information under the FOIA and requests a copy of the 212 pages to which she is aware has been given to the External Investigator about her but which she has not

	<p>seen. She indicates that she is not prepared to engage with Mr Kenyon until she has been able to see the identities of all her complainants and the material evidence of the allegations against her.</p>
<p>1.60 11 March 2021</p>	<p>Cllr Ellis makes a formal complaint to WBC Chief Executive Tom Horwood against "flawed and unlawful handling of complaints against her by the WBC MO.</p>
<p>1.61 18 March 2021</p>	<p>WBC Chief Executive confirms to Cllr Ellis he has referred her formal complaint to Stuart Caundle and expects his response in 4 weeks. He attached the Terms of Reference.</p> <p>Appendix 15</p>
<p>8 April 2021</p>	<p>Cllr Ellis is sent the 212-page 'Information Pack.'</p> <p>Cllr Ellis learns that Complainant Benson has been allowed anonymity on the grounds of a risk to his "<i>personal safety</i>."</p> <p>Cllr Ellis learns that Complainant Benson refers to HTC independent female councillor as "<i>a cancer on local government</i>" and says he hopes the MO can send such councillors to the "<i>graveyard for politicians</i>."</p> <p>Cllr Ellis learns that in his emails to the MO, Complainant Benson detailed his tracking of Cllr Ellis's ex-husband to his home address where he lives with their child (half the time), submitted a photograph of Cllr Ellis's ex-husband car in his home driveway, and a photograph of the same car in Cllr Ellis's home driveway as part of his "evidence."</p> <p>Cllr Ellis disturbed that while the MO was leading an investigation into her, thus while carrying information and knowledge which would inevitably impact on his decision-making, he was consciously withholding information – unbeknownst to her – that impacted directly on Cllr Ellis and that of her family.</p> <p>See Appendix 14</p>
<p>1.62 13 April 2021</p>	<p>Cllr Ellis comments on WBC's ToR to Mr Caundle, as invited by Mr Horwood. She notes "<i>the very significant omission of her 13-page response which she had submitted in response to the</i></p>

	<p><i>allegations against her</i>" which had not been sent by the MO to Mr Caundle. She is concerned that Mr Caundle be given "the entirely wrong impression that she had not given any answer to the allegations" when she had submitted this as her response ahead of the 26 June 2020 'informal' interview.</p>
<p>1.63</p> <p>April</p> <p>29 April 2021</p>	<p>Cllr Ellis consults her GP at the Haslemere Health Centre about her on-going anxiety and stress caused by the investigation which are seriously affecting her.</p> <p>Cllr Ellis was interviewed by the External Investigator.</p>
<p>1.64</p> <p>4 May 2021</p>	<p>Complainant Benson's letters are provided to Surrey Police who say: "<i>they would seem to provide a clear case for defamation of character</i>" and suggest that the Council "<i>take action against [complainant] Mr Benson.</i>"</p> <p>See Appendix 16</p>
<p>1.65</p> <p>13 May 2021</p>	<p>Complainant Benson writes a letter to the Haslemere Herald accusing Cllr Ellis of making "<i>an outrageous lie</i>" against him by "<i>clearly implying [he] is in Mr Cox's back pocket.</i>"</p> <p>Mr Benson informs Herald readers that "<i>the Waverley legal department have spent ten months investigating Cllrs Ellis and Barton's alleged conflicts of interest.</i>" He does not mention that he and Mr Cox are the two complainants for this investigation.</p> <p>Evidence available at request.</p>
<p>1.66</p> <p>4 June 2021</p>	<p>Transcript of interview received from Mr. Kenyon, 5 weeks after the interview.</p>
<p>1.67</p> <p>10 June 2021</p>	<p>Cllr Ellis attends LGA Councillor Training on Governance & Compliance</p>
<p>1.68</p>	

<p>21 June 2021</p>	<p>Cllr Ellis receives Mr Caundle’s report in response to her formal complaint from WBC.</p> <p>The report confirms it is “<i>very regrettable</i>” that the process has been overly protracted and acknowledged even at that stage that “<i>the prolonged period taken to reach the formal stage will have added to “the distress suffered”</i> by Cllr Dr Ellis and notes “<i>the level of stress experienced by Cllr Dr Ellis would have been considerable and not knowing the identity of the complainants contributed to that.</i>”</p> <p>He noted that the delay in providing Cllr Ellis with a copy of the complaints after she had clearly requested it was “<i>too long in my opinion, amounting to about six weeks</i>” and that “<i>this was something for which the Council should accept responsibility.</i>”</p> <p>Mr Caundle acknowledges that “<i>there will be an impact on Cllr Dr Ellis</i>” from “<i>the process taking place</i>” which is inevitably “<i>stressful for people facing complaints, particularly in the public realm.</i>”</p> <p>It should be noted that at this time, 15 months after Cllr Ellis had been informed there had been a complaint, there are 2 external investigators involved, ie Mr. Caundle and Mr. Kenyon.</p> <p>See Appendix 17</p>
<p>1.70</p> <p>20 July 2021</p>	<p>WBC Planning Committee vote to refuse the Red Court planning application. Cllr Ellis speaks at this meeting, representing HTC.</p> <p>An angry outburst at this verdict by the Head of Planning and Economic Development Officer Zac Ellwood is later removed from the published recording of that meeting which now does not represent a true record of the meeting.</p>
<p>1.71</p> <p>28 July 2021</p>	<p>Cllr Ellis attends LGA Councillor Training on Meetings</p>
<p>1.72</p> <p>25 August</p>	<p>Cllr Ellis attends LGA Councillor Training on Effective Chairmanship</p>

<p>1.73</p> <p>September 2021</p>	<p>WBC Councillors vote to remove Red Court from draft LLP2 and replace it with the brownfield site previously omitted from Mr. Ellwood's plans on 26 August 2020.</p> <p>An unknown person entered Cllr's Ellis' property overnight and Cllr Ellis finds the two front tyres of her car let down. Both had been damaged and needed to be replaced.</p>
<p>1.73</p> <p>7 October 2021</p>	<p>Haslemere Referendum on revised NP Plan, which excluded Red Court. The revised plan was supported by the Haslemere community 9 to 1 (87% of those voting).</p>
<p>1.74</p> <p>27/28 October 2021</p>	<p>Surrey Police create an occurrence Criminal Damage (CRN) 45210113650 for Harassment (CRN) 45210113865 following a repeat incident in which Cllr Ellis has all four of her car tyres at her home let down. Both the AA and Chessington Tyres, who attend in both cases, confirm this. More tyre replacements required.</p> <p>Appendix 18</p> <p>This incident takes place in the context of an online campaign of defamatory communications and falsehoods about Cllr Ellis and other HTC / WBC Cllrs on social media posted by those in support of Redwood's proposed development at Red Court. On balance of probability these communications were posted by the complainants as only 4 people had indicated their support for the proposed development.</p>
<p>1.75</p> <p>20 September 2021</p>	<p>Mr Kenyon sends Cllr Ellis his 75-page Draft Report.</p>
<p>1.76</p> <p>24 September 2021</p>	<p>Cllr Ellis asks the MO for the exact Terms of Reference that were issued to Mr Kenyon. The MO responds with a description of the ToR, not the actual ToR issued to Mr Kenyon.</p> <p>At further request, the MO sends Cllr Ellis a redacted and truncated version of the ToR he sent Mr Kenyon missing his final instructions on this matter.</p>
<p>1.77</p>	

10 October 2021	<p>Cllr Ellis provides Mr. Kenyon with a response to his draft report.</p> <p>Appendix 19</p>
<p>1.78</p> <p>11 November 2021</p>	<p>Cllr Ellis attends LGA Councillor Training Programme Event on Planning</p>
<p>1.79</p> <p>24 & 26 November 2021</p>	<p>Cllr Ellis writes to the WBC Information Officer and the MO regarding her updated FOIA request 29 July 2021 FS239718659 and November 21, 2021, WAV1405796. The Information Officer confirms that she sent the request to the MO.</p> <p>Cllr Ellis repeats her request on the 26 November 2021, noting that WAV1405796 was made as a data protection subject access request. All requests ignored/denied by the MO and WBC.</p>
<p>1.80</p> <p>29 November 2021</p>	<p>Mr Kenyon sends Cllr Ellis the final version of his 76-page Report making his recommendations for the complaints against her. Mr Kenyon acknowledges "<i>the deficiency of the Haslemere Town Council Code of Code</i>" as it then was and cites the fact that the "<i>Council itself has failed adequately to translate those principles fully into the Code with sufficient clarity.</i>" Mr Kenyon identifies "<i>a clear gap in the Haslemere Town Council Code of Conduct</i>" and recommends the adoption of the new LGA Model Code of Conduct with "<i>more explicit rules.</i>"</p> <p>The final version of Mr. Kenyon's report is markedly different from the draft. He offered no explanation in regard to the changes and it appears likely that he has responded to feedback from the MO.</p>
<p>1.81</p> <p>22 December 2021</p>	<p>The MO informs Cllr Ellis that he has consulted with the IP as to whether the matter should go to a formal hearing and that the IP said she thought it should. He informs Cllr Ellis she can now start to prepare a statement and call witnesses and to inform him whether she intends to represent herself or not. This is contrary to what Cllr Ellis was told by the IP 14 months previously.</p>

	<p>The MO tells Cllr Ellis with regard to her FOIA and subject access requests that “there is no dependency in terms of your separate FOI request that prevents me from progressing this matter.”</p>
<p>1.82 5 January 2022</p>	<p>Cllr Ellis repeats her FOIA request but receives only the WBC auto-response.</p>
<p>1.83 7 January 2022</p>	<p>At the Planning Inspectorate appeal brought by Redwood, represented by Charles Collins of Savills, Mr Collins referenced complaints against “Haslemere Town Councillors” in his ‘Proof of Evidence’ document. He claimed there were “<i>political processes behind the removal of the [Red Court] Site</i>” as a draft LPP2 allocation.</p> <p>Mr Collins stated that Redwood was “<i>understandably aggrieved</i>” by the outcome of HTC’s Planning and Highways Committee meeting on 10 September 2020 which had voted against recommending approval for their plan, which included “<i>the 2 votes against from councillors who declared their interest as living very close to the Site (having declared their interests they still voted)</i>” and noted that with respect to this vote, a separate complaints process is ongoing and at the time of writing is yet to conclude.”</p> <p>In fact, it was Complainant Mr Benson who made this complaint, not Redwood’s representative Complainant Mr Cox or lawyers Clarke Wilmott LPP. At the 10 September 2020 meeting, Cllr Ellis rightly declared a non-pecuniary interest for this vote on the basis of her living adjacent to Red Court and her membership of HSRA.</p> <p>Appendix 20</p> <p>This complaint was subsequently dismissed by the WBC Borough solicitor and has since been dismissed by the MO.</p> <p>Mr Collins then told the Inspector that Redwood had no knowledge of Mr Benson, and no association with him “<i>whatsoever.</i>” However, the similarities and timing between the Cox and Benson complaints is, on balance of probability, unlikely to be a coincidence; they are close associates.</p> <p>It is relevant that Mr Collins told the Inspector that Professor Oliver was “<i>not qualified</i>” and dismissed his comment on Redwood’s biodiversity net gain proposals which Savills</p>

	<p>presented as a positive attribute of their scheme. Professor Oliver, an expert on biodiversity monitoring data who teaches on the use of biodiversity net gain to MSc students and advises DEFRA, commented that his assessment was that Redwood's proposed plan would inevitably lead to significant biodiversity loss, which he calculated would be -44.</p> <p>Mr Collins, representing Redwood, had no hesitation about casting aspersions on Professor Oliver's professional reputation and expert knowledge in a public forum.</p> <p>Appendix 21</p>
<p>1.84 8 January 2022</p>	<p>Cllr Ellis writes to the MO stating that she regards it as essential that she receive the information about herself she has requested under the FOIA and subject access prior to a public hearing.</p>
<p>1.85 14 January 2022</p>	<p>HTC adopts new LGA Model Code of Conduct which considerably clarifies and makes explicit the rules relating to the declaration of non-pecuniary interests. This provides evidence that the previous iteration was unclear.</p>
<p>1.86 20 January 2022</p>	<p>Cllr Ellis' Haslemere Health Centre GP writes in support of her patient. <i>"Due to the current demands of Ms Ellis's work as a freelance writer required in order to maintain her livelihood, her ongoing work with the council, the requirements placed on her in caring for family members... and the impact of the enormous stress that the process she is enduring is currently having upon her, something that she consulted me about previously in April 2021, we are requesting a deferral for 6-8 weeks."</i></p>
<p>1.87 31 January 2022</p>	<p>Cllr Ellis again writes to the WBC Information Officer and the MO regarding her FOIA requests made 29 July 2021 FS239718659 and as a data protection subject access request on 26 November 2021 WAV 1405796 requested as her statutory right in relation to the upcoming public hearing.</p> <p>Appendix 22</p>
<p>1.88</p>	

14 March 2022	Cllr Ellis' GP writes " <i>in support of Dr Ellis's request for a further deferral of the deadline [for 6-8 weeks] to submit her in-house hearing.</i> " It is noted: " <i>She is currently suffering with a lot of stress as she is supporting family members who are going through extremely difficult times and is working as a freelance writer. She is suffering with a loss of concentration.</i> "
1.89 10 May 2022	Cllr Ellis attends a training session via Zoom on the new LGA Code of Conduct (Haslemere, Farnham and Godalming).
1.90 19 May 2022	<p>At an HTC event, Cllr Round expressed the view to Cllr Ellis that she had already been found guilty of the offence of failure to declare a <i>pecuniary</i> interest. He said: "<i>the Report has found you guilty</i>".</p> <p>This appears to represent a breach of confidentiality. Cllr Round should not have had access to Mr. Kenyon's Report and/or someone else should not have been discussing the matter with him. The Report is clearly marked "Confidential".</p> <p>Cllr Round further told Cllr Ellis that "<i>she should not have become a councillor on the basis of a campaign</i>" and that "<i>those [HSRA] people are horrible, dreadful.</i>"</p>
1.91 6 th June 2022	Despite a hearing date having been set and a deadline for providing a statement to the Panel, Cllr Ellis has STILL not been formally told what allegations are to be put to her and thus she is not able to properly defend herself. She is also informed that the hearing will take place at on the 22 July 2022 despite informing the MO and the MO's secretary that she will be travelling and working that week. She is further informed that she will have only 5 days ahead of the hearing to respond to the statements submitted by other parties.

2. Abuse of Process

2.1 This protracted investigation has had a profound effect on my health, and I reserve the right to make a claim against WBC for personal injury caused by the flawed process undertaken and potentially for loss of income as I am self-employed and my ill health, caused by the protracted process, has affected my ability to work.

2.2 In May 2020 the WBC MO informed me that three separate complaints had been made against me. I was only provided with a brief gist of those complaints which were largely identical. Two of the then-three complainants were granted anonymity and I have never been provided with a copy of the risk assessments made in support of that granting of anonymity and have therefore never had the opportunity to properly challenge the decision.

2.3 An investigation into my formal complaint commissioned by the WBC Chief Executive and undertaken by an extra judicial advisor Stuart Caundle, which I received on 21 June 2021, confirmed that the process has been overly protracted and acknowledged even at that stage that "will have added to *"the distress suffered"* by me, the subject. A further year has passed since Mr. Caundle's findings. This investigation has lasted almost the entire time I have been a town councillor. It has affected my health requiring me to seek help for stress and anxiety from my GP.

2.4 In September 2020 an Independent Person recommended that anonymity be reversed and that I be informed who had made the complaints, and what exactly I was being accused of by the MO. This recommendation was not implemented. It was then 5 months since I was informed of the complaints, and I was still not in a position to properly challenge the granting of anonymity. The recommendation was also made that the matter be resolved informally. I was not asked if I was prepared to enter any informal process until May 2022.

2.5. Prior to my meeting with the Independent Person in October 2020, I had asked to be informed of the identity of the anonymous complainants and the material evidence of their complaints. I also requested that my conversation with the IP could be recorded via Zoom (as the Monitoring Office had indicated) and I was concerned when this conversation actually happened on a telephone call, and therefore was not recorded as part of the due process of this investigation. I was not sent a copy of the IP's Report to the MO, but instead informed by the MO what views the IP conveyed to him. I had expressed my wish for an informal resolution to the IP and she indicated to me that after talking to me she was minded to recommend this matter be informally resolved.

Whilst I do not question the competence of Ms Cameron, it is most unfortunate that the MO chose to appoint an individual who was unable to follow the normal investigative process of providing the subject with a written (or recorded) record

of the interview in the order that the subject could ensure she had not been misunderstood or misrepresented.

2.6 In December 2020 I was told the names of the second complainant, the third anonymous complainant having withdrawn his/her complaint rather than have his/her identity revealed. I was told that the complainant, Mr. Benson, had been granted anonymity on the grounds of his personal safety. I was never told on what grounds he believed his personal safety was at risk; I have no convictions for, or allegations of, harassment, assault or any other offence that might be considered to be pertinent to his safety. I therefore contend that the granting of anonymity to Mr. Benson was baseless and used as a means of putting me at a disadvantage. No risk assessment has ever been forthcoming.

2.7 Mr. Benson sent defamatory letters to the MO which I provided to Surrey Police who confirmed that they represented defamation of character and advised that WBC address the matter.

This evidence of the vindictive nature of Mr. Benson does not appear to have been taken into account by either WBC MO or the EI Melvin Kenyon.

I refer you to point 1.52 above as further evidence of Mr. Benson's nature and suggest that the MO should, at this time, have considered Mr. Benson's complaint to have been not only anonymous but also "*vexatious, malicious and politically motivated*".

2.8 It is also notable that the complaints are so similarly worded as to suggest that they have been written in collusion, perhaps on the basis that one complaint from an individual with a pecuniary interest would not initiate an investigation but adding further complaints might have the desired effect. There is no evidence that the MO has considered this matter nor that the complaints may indicate that they are "*vexatious, malicious and politically motivated*". It is further notable in point 1.83 above that Mr Collins, representing Redwood, claimed there were "political processes" behind the removal of his client's site from LPP2, indicating his and his client knowledge that their project had been exclusively supported by Conservative HTC and WBC Councillors but not by the WBC majority, non-Conservative Councillors.

2.9 The EI Mr Kenyon was appointed in December 2020. 8 months after I had been informed that complaints had been made against me, I was informed that the investigation had proceeded to formal. This not only an unconscionable delay, but the stress also this created had significant impact on my health.

2.10 I was interviewed by Mr. Kenyon on 29th April 2021 and received a written transcript on 4th June 2021, that is more than 5 weeks between the interview and receipt of the transcript.

2.11 I note from the EI's report that Mr. Cox was interviewed with Mr. Leete, described in the report as Mr. Cox's advisor. It should be noted that Mr. Leete is

a Director of Redwood (South West) Ltd and therefore has a pecuniary interest in the outcome of Mr. Kenyon's investigation.

I consider that Mr Leete's views and input to the investigation (quoted and relied on in both versions of the EI's report) was completely inappropriate on the grounds that he was not a material witness nor a legal advisor; it seems likely that his role was to 'coach' Mr. Cox in his complaint. It can be noted that Mr Leete, as a Director of Redwood, was in active correspondence with HTC and WBC councillors including those who expressed strong support for Redwood's proposed development ahead of both town and council planning committee meetings.

Mr Kenyon's conclusions on his 'investigations' and 'evidence-gathering' when scrutinised closely are based entirely on his interviews with those, but for the Town Clerk, who have vested interests in this matter: the complainants themselves, a former Redwood director consulted as a local property expert (Mr Leete) and the WBC Planning Department, which had recommended WBC approve Redwood's planning application.

2.12 On 29th October 2021 I received a copy of Mr. Kenyon's report marked "Draft", that is 5 months after I was interviewed.

I received a copy of his Final Report on 29 November 2021, 6 months post interview. The final version is markedly different to the draft indicating that he had reconsidered his conclusions, probably as a result of feedback from the MO and/or complainants.

2.13 On 29th July 2021 I made a Freedom of Information request and again on the 26 November 2021 and 5 January 2022 I made a subject access as is my right under data protection legislation and WBC refused entirely to comply with their statutory requirement thereby potentially harming my ability to make a robust defence.

I consider this represents the basis for a complaint to the ICO. Mr. Taylor stated that I did not need to see the data retained by WBC about me. Mr. Taylor had no right to pontificate on why I requested the information nor on whether it provided any information in my defence. I consider that Mr. Taylor, by refusing my statutory right to access data held about me, erected a barrier to my defence.

2.14 Mr Kenyon based his conclusion that I breached the HTC Code of Conduct rules operative at the time 6 (4) and 6 (5) on what might constitute a non-pecuniary interest because he decided that he did not like my interpretation of the rules. This is grossly unfair given he conceded they were not sufficiently clear at the time of vote; indeed so unclear that they have since been revised with greater clarification. Indeed, I draw your attention to paragraph 1.45

above in which the Borough Solicitor apologises for the lack of clarity in his response to my request for clarification.

I cannot be held responsible that the Code of Conduct rules, as they were at the time, were so open to misinterpretation and that when I asked the WBC BS Mr Bainbridge explicitly to tell me what would be appropriate, he said he could not do that, and I must make my own interpretation.

2.15 Mr Kenyon based his conclusion in his second and final draft to which he added two new breaches (5 (1) and 5 (5) for which he found against me on the subjective basis that he did not like my wording on my Declarations form.

2.16 I contend that this investigation has been needlessly protracted. The complainants' anonymity prevented me from making a proper defence, a clear breach of my human rights. Throughout this process, I have been denied access to data retained by WBC to which access is my statutory right and which may have supported my defence.

2.17 I contend that this protracted process represents a breach of natural justice and that the failure of WBC to provide the data requested represents a breach of both statutory requirements and human rights in that it has impacted my ability to defend myself.

I further contend that the process undertaken represents an injudicious use of public funds. The opinions of the following were commissioned and funded from taxpayer monies.

- an Independent Person ('IP') Vivienne Cameron, and
- an Extra-Judicial Advisor Stuart Caundle, and
- an External Investigator ('E.I') Melvin Kenyon who despite lacking a legal background or training in the law of evidence prepared two considerably different versions of a 76-page report he described as "evidence based."

Further, I contend that throughout this process there have been breaches of confidentiality. See 1.90 and above.

3. My defence in Respect of the Allegations.

3.1 I am an independent councillor not allied to any political party or to central government policy. At all times I represent my Haslemere South constituents' views, as set out in the manifesto on which I was elected. The 505 people who voted for me did so because they expected me to represent their views amongst them being the wish to preserve and protect South Haslemere and Haslemere's natural environment. I am a resident of Scotland Lane, a Mother and a writer/biographer. I have also been a witness to – and, as councillor, a participant in – our community's active and positive engagement with the local democratic process.

As is the norm with independent councillors, I belong to residents' associations as a means through which to understand the views of my constituents. I was an early member of HSRA and that was made clear in my candidate statement published in the Haslemere Herald.

Some members of WBC represent residents' associations. I contend that it is perfectly reasonable for me to be an active member of my constituents' residents' associations and for them to anticipate me reflecting their views at Town Council meetings. Since my election to HTC, I have merely been one of 260+ other members of the HSRA.

From time to time the views of my constituents accord with those constituents of my Liberal Democrat and Green councillor colleagues. On those occasions it is inevitable that we agree; this does not indicate that we are working in concert.

More than 80% of Haslemere residents voting in the referendum voted in favour of the revised Neighbourhood Plan, it is therefore reasonable that councillors truly representing their constituents will be in accord.

3.2. It is fanciful to suggest that I am sufficiently influential that I could generate more than 500 objections to the Red Court planning application and that I am sufficiently influential as to encourage more than 80% of Haslemere voters to vote for the Neighbourhood Plan. Such a suggestion also maligns Haslemere residents most of whom are able to reach their own conclusions.

3.3 The complainants focus on a meeting held on 28th November 2019 to discuss the emerging Neighbourhood Plan specifically. The agenda was not to agree or otherwise any planning application by Redwood. Every councillor attending that meeting would arguably have had a non-pecuniary interest in the Neighbourhood Plan – all live within 500m of the settlement boundary or within 500m of a greenfield site, yet I have been singled out for complaint and investigation.

As an incoming councillor, I did my best to interpret the HTC Code of Conduct on non-pecuniary interests and indeed, sought and considered advice from Mr. Bainbridge, the WBC Borough Solicitor, advice for which he later apologises when he recognised that it was insufficient and/or unclear. After deliberating I decided that as this was a Haslemere-wide plan and not specific to a single planning application, I had the same non-pecuniary interest as other councillors none of whom declared an interest.

At that same meeting some councillors who had a known 'live' pecuniary interest in relation to one of the potential AONB sites affected by the settlement boundary had clearly reached the same determination as I had done and failed to declare their pecuniary interests. If I am found to have been in error in making my judgement re having and not declaring a non-pecuniary interest,

then these councillors by the same logic should be held to the same account on failure to declare their pecuniary interests.

That the HTC Code of Conduct in place at the time was unclear is evidenced by the upgrading of the Code which has taken place since the meeting in question.

3.4 The complainant, Mr. Benson, was himself an early member of HSRA.

3.5 Whilst my property is adjacent to Red Court, the proposed development will not be visible from my property neither will there be any auditory changes as my property is triple glazed.

Many of my constituents will face the proposed development which will be within their sight lines and will represent noise and loss of dark skies. Most are upset by the landscape beauty loss for future generations, loss of habitat and wildlife species at a time of acknowledged biodiversity loss and climate change.

I have diligently represented the views and wishes of those constituents, as per my election pledge.

Had I secluded myself from the 28th November 2019 meeting and/or the 10th September Planning & Committees 2020 meeting at which I declared a non-pecuniary interest which is not under scrutiny here, my constituents' views would have been unrepresented, a breach of the democratic process. It has been pointed out that some Conservative councillors demonstrated an unwillingness to listen to their own constituents in their support for Redwood's development. Had the two independent Cllrs recused themselves, the views of Haslemere South residents would have been unrepresented and therefore the overall process would have been undemocratic.

3.6 In his report, the EI, Mr. Kenyon comments that my careful use of language is attributable to a conscious negative motive when I initially filled out my Declarations form when I first became a Councillor, well before the vote in question. This is subjective and takes no account of my profession which requires me to use language appropriately.

Given that I had attended an inaugural session about ethics for Councillors, I was mindful of being precise in identifying the extent of my declarable interests. In my view to say I was an observer and advisor to HSRA simply underscored that I represented a community which consisted at that time of more than 250 households within Haslemere South. My representation of this community was implicit, and explicit as part of my Declarations form. When it was later suggested to me by the Deputy Town Clerk that I should just write "member of" I did so at once.

HSRA members are primarily retired, well-educated professionals and families with young children, predominantly Conservative voters, and the association was formed in response to the failure of local Conservative councillors to represent

the community's interest in protecting Haslemere South's landscape AONB/AGLV landscape setting and habitat for red list endangered and protected species, in keeping with government NPPF policy and WBC's own policies on landscape beauty and biodiversity.

The negative assumption that I must have had a deliberately evasive intention in making this wording appears to have been pivotal for Mr Kenyon and in his second and final report, he chose, entirely unjustifiably in my view, to find for two further breaches of the Code by me, 5 (1) and 5 (5).

Mr. Kenyon's own artful use of language should be called into question. His report is riddled with examples of a negative or sinister slant or interpretation on matters affecting me where a reasonable and objective person, knowing the circumstances would have found those matters inconclusive or neutral. In his non-neutral and subjective comments Mr. Kenyon has tipped the balance of probability in favour of his preferred outcome, or perhaps his employer the WBC MO's preferred outcome.

Mr Kenyon, a former marketing executive, based his suppositions and musings on his interviews with the complainants and those with a pecuniary interest in his findings. He appears not to have considered Cllr Williams comments, nor the view of the Surrey Police in relation to finding that the complainant's Mr Benson's communications to the MO would seem to present a clear case for defamation, nor the online social media campaign against Cllr Ellis followed by criminal damage to her property at her home address for which Surrey Police create an occurrence Criminal Damage (CRN) 45210113650 for Harassment (CRN) 45210113865.

On 7th January, at the Planning Inspectorate appeal brought by Redwood, Mr. Charles Collins of Savills said that Redwood was "*understandably aggrieved*" by the outcome of HTC's Planning and Highways Committee meeting, and which had included "*the 2 votes against from councillors who declared their interest as living very close to the Site*".

I suggest that it is not a coincidence that, as Redwood was "*understandably aggrieved*" (evidenced by Savills), they have sought to ensure – and possibly co-ordinate - vindictive complaints that were submitted to the WBC MO and that their representatives have sought to impose draconian measures. Mr. Kenyon does not appear to have taken into consideration the possibility that the complaints may have been submitted with malice aforethought.

3.7 Prior to my recorded interview with Mr Kenyon, to which I consented in good faith, he told me that while I would be quite within my rights to have someone present with me, such as a lawyer or observer, he would think it excessive and a bit suspicious if I insisted someone attend with me. I regard this as unethical on Mr Kenyon's behalf and in particular as he allowed Mr. Cox to be

accompanied by a Director of Redwood who clearly had a pecuniary interest in the outcome of the investigation.

3.8 The Surrey Association of Local Councils (SALC) have informed me that a failure to declare a non-pecuniary interest can be regarded as relatively trivial and is “not usually” subject to a public hearing.

That WBC has chosen to pursue this matter at significant financial expense to Waverley taxpayers and mental expense to myself is extraordinary and indicative of the malignant mindset of the complainants who have nothing to gain from this hearing – it is simply vindictive.

3.8 The single matter of whether I breached the HTC Code of Conduct as it then stood by not declaring a non-pecuniary interest on 28th November 2019 has been allowed to become a major and expensive investigation in which the investigator has accused me of unethical behaviour based on his own subjectivity.

3.9 I draw your attention to the timeline I have provided and suggest that officials of WBC Planning entered into a relationship with Redwood and gave Redwood an understanding that they would indeed get planning permission on application.

Ms. Potts being offered and taking a position within the company representing Redwood and later Mr. Ellwood’s outburst at the WBC Planning Committee meeting which rejected his Planning Department’s recommendation to approve permission are two examples of behaviours that on balance of probability indicate an inappropriate level of assurance in the presumed outcome for Redwood (see 1.3 above). It is my understanding that Council Officers carry out the wishes of Councillors, provided they are legal, and as such should not have a vested interest such that they show anger in a public arena when their advice is not heeded by Councillors. It is open to question as to why Mr. Ellwood had such a vested interest.

I suggest that WBC Planning and former leadership position as evidenced by Ms. Potts and Mr. Ellwood has impacted Mr. Kenyon’s investigation.

My constituents may yet request a public interest disclosure relating to the cost incurred by taxpayers of this investigation which could and probably should have been settled by alternative means.

3.10 I take this opportunity to remind the Panel that the rules in place at the time of these complaints have now been changed.

3.11 I have always been willing to resolve this matter informally. This matter comes down to the way I interpreted imprecise HTC Code of Conduct rules, which have since been revised and updated, an indication in itself that the rules in place in the Autumn of 2020 were unfit for purpose.

Furthermore, I requested clarification from the Borough Solicitor prior to making my decision as to whether or not I should indicate a non-pecuniary interest. Had I been intent on acting inappropriately it seems unlikely that I would have sought assistance from the Borough Solicitor.

I acted in good faith and in a manner seeking to responsibly carry out my duties as an elected representative for my community.

3.12 Parallel to this investigation, two councillors had a "live" pecuniary interest which they chose not to declare at the November 2019 meeting. The vote on the NP and settlement boundary directly affected the financial interests of these councillors' "customer", the property developer of Longdene, and they had declared this pecuniary interest at earlier HTC meetings.

As noted in the Timeline 1.90 Cllr Round expressed to me the assumption that I had already been found "guilty" of failure to declare a *pecuniary* interest. He said: "*the Report has found you guilty*". Not only should the EI's Report not have been available to him, but he had also clearly not read it carefully. I gather this "guilty-in-advance" verdict has been widely spread about as gossip ahead of the hearing.

It is highly significant that at the HTC meeting in November 2019, Cllr Round and his spouse, also a HTC Cllr, chose not to declare and re-affirm their 'live' *pecuniary* interest in the Longdene site prior to the meeting. Should the panel accept the logic that the EI Mr Kenyon applied to my situation to find a breach of non-pecuniary interest, it would be not only perverse and irrational but most unfair to not apply the very same logic to the non-declarations by Cllr Round and Odell who participated and voted at the same meeting.

But clearly these long-time Cllrs and former Mayors considered the matter and they also decided this was a Haslemere-wide vote and therefore it did not require them to make a pecuniary declaration. The MO has shown zero interest in considering that there was any irregularity on that front. In both cases, as it happens, these Conservative councillors supported the Redwood development project.

Finally, I wish to register that I have copyright concerns about the publication of Mr Kenyon's report, with respect to the text of my discussion with Mr Kenyon which I do not give my permission to be published.

4. Summary

This long, protracted investigation under the direction of the MO has already incurred as yet undisclosed and no doubt significant cost to Waverley taxpayers. But it does not in any way justify its culmination in a finding of breach on my part of the HTC Code of Conduct Rules as they were before the HTC meeting in November 2019.

I therefore invite the Panel not to find against me for *any* breach of the HTC Code. Not only have its rules now been subsequently clarified and replaced but the complaints against me were vindictive and brought by persons who were not disinterested in the outcome of the meeting. Both complainants when they allowed themselves to be identified proved to have a particularly strong interest in the Red Court development. The complaints were supported by an investigation by the External Investigator. That his report is deeply flawed and is far from being "evidence based" and as neutral as claimed would quickly be laid bare should this matter proceed to judicial review.

The EI who does not live in Haslemere expressly asserts in his report not once but several times that he is running his conclusions against the test: What would the reasonable person in the Haslemere High Street think? His report, however, is completely devoid of any opinions or perspectives obtained from random interviews with local residents. The EI has simply substituted his own presumptions and conclusions which on close scrutiny turn out to be largely based on information gleaned from a few highly selective interviews of the complainants and or/persons with a pecuniary interest relating in one way or another to Redwood.

My concerns about this investigation

- The Panel is tasked with considering whether I was in breach of Rules 6 (4) and 6 (5). Before the meeting I actively sought, followed and applied the advice I was given as to their interpretation by the WBC Borough Solicitor. The obscurity of those rules has now been retrospectively acknowledged and belatedly clarified. At the time that I sought to apply them, they were vague and imprecise. Nevertheless, the EI faulted my interpretation and application of them. However, in doing so his consideration of my interpretation and decision against a need to declare was quite inappropriately (and illogically) made within a context he constructed which drew heavily on the substitute rules now in place.
- The EI decided that I chose to not declare a non-pecuniary interest and take part in the November 2019 meeting and vote because he concluded I was motivated to campaign against Redwood's development. If I had such a fixed motive and mindset, why would I call and email the Borough

Solicitor seeking guidance and clarification on whether I had any declarable interests – not once but twice. The EI’s presumption is not supported by any evidence.

- In his Draft Report, the EI did not find that I had breached 5 (1) and 5 (5) in respect of my Declarations form. However, in his Final Report, he has added – unfairly - these additional breaches. He came to the conclusion that I had been deliberately evasive regarding the wording I used to describe my association with HSRA and in my request not to have my home address available for public view. These findings are also not supported by the evidence.
- The majority of HTC and WBC Councillors made the decision to reject Redwood’s project to develop the AONB/AGLV green space and habitat at Red Court at Planning Committee, and to exclude it from both the NP and the LPP2. In their actions, WBC Councillors therefore respected the Localism Act, the integrity of HTC’s Neighbourhood Plan and government and its own policies on AONB/AGLV green space nature and biodiversity protection. However, the background to this investigation has been the association between Redwood and WBC Planning and the former leadership of WBC as well as some WBC Councillors more resembles a business partnership, given that all parties seek financial gain and Councils will receive CIL monies.
- The MO (1.27) took 5 months to conclude and inform me that “it is possible that that you may have had a non-pecuniary interest to declare.” He informed me that pivotal to his decision to upholding the Redwood-backed complaints against me was their accusation that I was accused of having “*undue influence on the outcome of the NP.*” Taking this as his lead, the EI went on to base his suppositions and findings on his conclusion that I should not, as elected councillor, have represented the majority of my community’s wish to hold HTC and WBC decision-makers accountable to government NPPF and borough policies. At the ‘informal’ Zoom meeting of June 2020, Sue Petzold put that question to me. My response then was as incredulous as it would be now: I am being asked to justify the fact that I was able to express my views representing my constituents in such a way that other councillors agreed with me?’ Ms Petzold made no further comment.

- In parallel with this investigation, the MO has dismissed or resolved informally complaints made against other HTC councillors regarding non-declarations of Disclosable interests. It has not been my wish to make accusations against fellow councillors but the discrepancy in the way that the MO has handled complaints against councillors who support Redwood's development compared to his treatment of Redwood-inspired complaints against me is more than striking.

As the points above and my timeline demonstrate, impartiality has been noticeably absent during the process of this markedly punitive and disproportionate investigation. My character and good name have been attacked and I invite any member of the Panel to consider how they themselves would respond to attacks of this nature.

I ask that the Panel find the allegations against me to be unsubstantiated.

I further ask that the Panel find the manner in which this matter has been conducted over more than 2 years, to be abusive.

Signed _____

Cllr Dr. Kirsten Ellis

Dated _____

Appendix

1. Question B1 from HV's 2016 public consultation results
2. HTC Planning & Highways Committee Minutes 27 April 2017
3. Cllr Ellis Declarations of Interest form
4. HTC Town Clerk forwarded request to Cllr Ellis from a member of the public.
5. Statement on Review of the HTC NP Nov 2019 by Cllrs Weldon, Barton and Ellis
6. Emails between Cllr Ellis and WBC Borough Solicitor Daniel Bainbridge
7. Guidance from LGA referred to by Cllr Ellis
8. Email correspondence re FOIA request from HTC councillors November 2019
9. HTC Minutes for Meeting 28 November 2019
10. Cllr Simon Dear's and other WBC Councillors' emails re 'Scotland Park'
11. [REDACTED]
12. Cllr Ellis Formal Response to the MO, 26 June 2020
13. Email to the MO from WBC Cllr Steve Williams, Portfolio Holder for the Environment and Sustainability
14. Email correspondence from complainants sent to Cllr Ellis in December 2020
15. WBC Chief Executive Tom Horwood's Terms of Reference to extra judicial advisor Stuart Caundle
16. Surrey Police email regarding Mr Benson
17. Mr Caundle's findings
18. Surrey Police create occurrence for Criminal Damage and Harassment for Cllr Ellis
19. Response by Cllr Ellis to the Draft Investigation Report prepared by Melvin Kenyon for the MO.
20. Cllr Ellis's declaration of non-pecuniary interest for the HTC Planning & Highways Committee meeting made on 10 September 2020
21. Professor Tom Oliver's response to appellants WA/2020/1213, December 2021
22. Cllr Ellis requests to WBC for information held by WBC about herself under the Freedom of Information Act and as a subject access request