

## MINUTES OF A MEETING OF THE STANDARDS COMMITTEE

MONDAY, 4TH NOVEMBER, 2013

- Councillors Present:** Councillor Sophie Linden in the Chair  
Cllr Geoff Taylor, Cllr Louisa Thomson and  
Cllr Jessica Webb (Vice-Chair)
- Co-optees Present** Julia Bennett, Elizabeth Coates-Thummel, George Gross and Onagete Louison
- Apologies:** Councillor Simche Steinberger and Councillor Patrick Vernon OBE
- Officers in Attendance:** Gifty Edila (Corporate Director of Legal, HR and Regulatory Services), Stephen Rix (Principal Lawyer - Housing), Robert Walker (Governance Services Officer), Ben Burgerman (Senior Planning Lawyer) and Femi Nwanze (Head of Development Management)
- Also in Attendance:** Councillor Michael Levy, Graham Loveland (former Assistant Director of Planning) and Councillor Vincent Stops

### 1 Apologies for absence

1.1 As listed above.

### 2 Declarations of interest

2.1 There were no declarations of interest.

### 3 Minutes of the previous meeting - 1 July 2013

3.1 **RESOLVED** that the minutes of the previous meeting held on 1<sup>st</sup> July 2013 be approved as a true and accurate record subject to an amendment to list Jonathan Stopes-Roe, Independent Person, as having been present at the meeting.

### 4 Standards Committee Hearing - Complaint against Cllr Michael Levy

#### Preliminaries

4.1 The Chair introduced the item and explained that the Standards Committee's role was to hear the complaint and Councillor Levy's response and then determine the matter on the factual evidence presented, on a balance of probabilities. The Chair advised that the Committee would be responsible for managing the hearing.

- 4.2 The Chair asked Councillor Levy first to indicate whether he disputed any of the facts put forward as evidence by the Investigating Officer. Councillor Levy stated that he disputed all of the facts. George Gross raised a point of order to establish whether all relevant information concerning the complaint (investigator's report and documents for the hearing) had been provided to Councillor Levy in advance of the meeting and whether Councillor Levy had provided responses in accordance with the Standards Committee Hearing Procedure. Gifty Edila, Corporate Director of Legal, HR and Regulatory Services, advised that officers and Councillor Levy had both complied with pre-hearing procedures.
- 4.3 The Chair advised that all witnesses to the investigation were present outside of the meeting room with the exception of the Planning Officer (JM) who had now left the Council. The Chair asked Councillor Levy and Stephen Rix, the Investigating Officer, whether any of the witnesses could be released at this juncture. Following discussion, Councillor Levy, Stephen Rix and the Committee agreed to release the Governance Officer (EP). Later in the meeting, all parties agreed to question Graham Loveland, Femi Nwanze and Ben Bugerman and agreed to release all other witnesses.

#### **Presentation of the Investigator's Report**

- 4.4 Stephen Rix, Investigating Officer, presented the Investigator's Report as attached at Appendix 1 of the report. As detailed within Appendix 1, Stephen Rix gave an overview of the complaint by Councillor Stops who alleged that Councillor Levy had breached the Members' Code of Conduct by failing to declare an interest and remove himself from the meeting during consideration of the application for 16 Leabourne Road at the Planning Sub-Committee meeting on 1<sup>st</sup> February 2012.
- 4.5 Stephen Rix explained that although the complaint was made under the old Members' Code of Conduct, prior to the changes introduced by the Localism Act 2011 coming into effect on 1<sup>st</sup> July 2012, the complaint must be considered under the new arrangements. Stephen Rix highlighted the provisions of the old Code of Conduct and Planning Code of Conduct which were allegedly breached by Councillor Levy and compared them with relevant provisions under the new Code of Conduct and Planning Code of Practice, as detailed in section 3 of the Investigator's Report.
- 4.6 Stephen Rix then provided a detailed overview of the remainder of the report including the evidence gathered, summary of material facts, additional submissions by Councillor Levy, observations of the Independent Person, and reasoning as to whether there were failures to comply with the Codes.
- 4.7 Stephen Rix read out the findings of the report that Councillor Levy's failure to declare an interest in the application for 16 Leabourne Road and remove himself from the meeting on 1<sup>st</sup> February 2012 had breached paragraphs 1.1, 1.2 and 6.1 of the Planning Code of Practice as he did not hear the application with an open mind. The report also found that Councillor Levy's conduct had also breached paragraph 11.3 of the Members' Code of Conduct as he had actively engaged in supporting the application and he should not have participated at the meeting and should have left the meeting whilst the matter was under discussion and voting took place.

- 4.8 Stephen Rix explained that his initial report to the Standards Assessment Sub-Committee had not found that Councillor Levy had breached paragraph 11.3 of the Members' Code of Conduct as he had previously thought that this paragraph was only concerned with membership of outside bodies.

**Question's regarding the Investigator's Report**

- 4.9 George Gross sought advice on whether the issue before the Committee related to a challenge to a decision that is deemed to have been predetermined by Councillor Levy. George Gross believed that, as the validity of the Planning Sub-Committee's decision regarding 16 Leabourne Road was not being questioned, he did not feel it was necessary or appropriate for the Committee to determine whether or not Councillor Levy had an open mind under section 25 of the Localism Act 2011. Instead George Gross believed the Committee should focus on whether or not Councillor Levy had complied with the requirements of paragraph 11.3 of the Members' Code of Conduct and paragraph 6.4 of the Planning Code of Practice. Gifty Edila confirmed that the planning decision was not in question.
- 4.10 Councillor Levy asked for further clarity on why Stephen Rix had not initially found that paragraph 11.3 of the Members' Code of Conduct had been breached. Stephen Rix re-iterated that he had initially thought that the paragraph only referred to membership of outside bodies. However, following discussions with the Monitoring Officer on his draft report, Stephen Rix had been advised that paragraph 11.3 was not solely concerned with membership of outside bodies but also deals with support provided to individuals.

**Submission from Councillor Levy**

- 4.11 Councillor Levy made a number of submissions to the Committee during the questioning of Stephen Rix and when making his formal presentation. These submissions are detailed below.
- 4.12 Councillor Levy stated that he disputed the fact that he had declared an interest in the application for 16 Leabourne Road at the Planning Sub-Committee meeting on 9<sup>th</sup> December 2010. He stated there was a discrepancy in the minutes as it stated that he gave apologies to the meeting but also declared an interest. Councillor Levy believed the minutes were wrong in stating that he had declared an interest and referred to evidence from the Governance Services Officer (EP) stating that he had arrived late at the meeting. Councillor Levy also referred to the fact that the minutes incorrectly stated that the applicant had also been in attendance at this meeting. In response to a question from Councillor Taylor, Councillor Levy confirmed that he was at the meeting on 9<sup>th</sup> December 2010 and made submissions on behalf of the applicant, as reflected in paragraph 7.7 of the minutes of the meeting, but argued that he not been present at the start of the meeting to declare an interest. Following a question from Julia Bennett, Councillor Levy advised that he was not present at the Planning Sub-Committee following the meeting on 9<sup>th</sup> December 2010 so he couldn't raise objection to the accuracy of the minutes.
- 4.13 Councillor Levy disputed the evidence from JT and Femi Nwanze that he had supported the application for 16 Leabourne Road prior to it being considered at the Planning Sub-Committee meeting on 1<sup>st</sup> February 2012. Councillor Levy argued that there was no evidence of him having attended formal meetings or sending emails, letters or making phone calls, with regards to the application

prior to 2012 Planning Sub-Committee with the exception of the email from Graham Loveland's assistant which noted that Councillor Levy had called on behalf of the agent for 16 Leabourne Road asking when a decision would be made.

- 4.14 Councillor Levy asserted that any discussions he had with officers between the Planning Sub-Committee meeting in December 2010 and the meeting in February 2012 were related to an appeal decision concerning 22 Leabourne Road, and not solely concerned with 16 Leabourne Road. Councillor Levy also argued that the evidence from JT and Femi Nwanze was contradicted by evidence from Graham Loveland, former Assistant Director of Planning, who stated that Councillor Levy had not supported the application and had sought to distance himself from it prior to the Planning Sub-Committee on 1<sup>st</sup> February 2012. Councillor Levy believed that JT and Femi Nwanze failed to differentiate between him acting in his dual roles as a ward councillor and as a Member of the Planning Sub-Committee.
- 4.15 Councillor Levy argued that the application for 16 Leabourne Road did not have to be brought before the Planning Sub-Committee in February 2012 and that Graham Loveland had confirmed that the application could have been taken under delegated powers. However, Councillor Stops had made the decision to have the matter considered by the Sub-Committee. Councillor Levy highlighted that some of the evidence from officers wrongly indicated that he had some involvement in having the application brought before the Sub-Committee. Stephen Rix confirmed that it had been accepted as part of the investigation that Councillor Levy had not sought to have the application referred to the Planning Sub-Committee in 2012.
- 4.16 Councillor Levy believed that there were material differences between the application for 16 Leabourne Road considered by the Planning Sub-Committee on 9<sup>th</sup> December 2010 and the application considered by the Sub-Committee on 1<sup>st</sup> February 2012. He explained that an appeal decision concerning 22 Leabourne Road, made after the Planning Sub-Committee in 2010, meant that the application for 16 Leabourne Road considered in 2012 was materially different from the application made in 2010. The Chair noted that witnesses may need to be questioned on this point given that it was Stephen Rix's contention that the two applications were identical and that the report to the Sub-Committee on 1<sup>st</sup> February 2012 stated that the application was identical to the first application considered in 2010.
- 4.17 Councillor Levy also argued as part of his submissions that the law around predetermination and bias had changed prior to the Planning Sub-Committee meeting on 1<sup>st</sup> February 2012 as a result of section 25 of the Localism Act 2011 coming into effect, and therefore believed he was further entitled to attend and vote on the application for 16 Leabourne Road. He also explained that the legal advice provided to him at the Sub-Committee meeting on 1<sup>st</sup> February 2012 was that it was a matter for him to determine whether or not he had any bias or interest in the application.

**Questions put to Councillor Levy**

- 4.18 In response to questions from George Gross, Councillor Levy advised that he had not sought any legal advice prior to the Planning Sub-Committee meeting on 1<sup>st</sup> February 2012 concerning whether or not he had an interest in the

application for 16 Leabourne Road. Councillor Levy advised that he had not thought it necessary to seek legal advice given changes in the law and because he believed that the applications were materially different. Councillor Levy also responded that he did not have conversations with officers concerning the application for 16 Leabourne Road in isolation following the Planning Sub-Committee on 9<sup>th</sup> December 2010. Councillor Levy accepted that he had had a conversation with Femi Nwanze following a Planning Sub-Committee on 7<sup>th</sup> September 2011 however, this conversation was not solely regarding 16 Leabourne Road and was more specifically focussed on the effects of the appeal decision concerning 22 Leabourne Road.

- 4.19 George Gross sought Councillor Levy's opinion on the view of an objective member of the public with relevant knowledge of the facts. Councillor Levy argued that members of the public would not conclude that there was a risk of him not having an open mind when determining the application as a member of the public would see that the two applications for 16 Leabourne Road were not identical and were separate.
- 4.20 The Chair and George Gross asked questions in relation to Councillor Levy's role in advocating for the applicant of 16 Leabourne Road at the Planning Sub-Committee on 9<sup>th</sup> December 2010. Councillor Levy acknowledged that on this occasion he had actively engaged in supporting the applicant. However, Councillor Levy stated that he did not believe paragraph 11.3 of the Members' Code of Conduct was relevant given the changes in the law around predetermination and given that he had no involvement in the application after 2010.
- 4.21 The Chair and Onagete Louison sought further clarification from Councillor Levy on why he felt the two applications for 16 Leabourne Road were not identical. Councillor Levy argued that the appeal decision against enforcement action against 22 Leabourne Road, made following the Planning Sub-Committee on 9<sup>th</sup> December 2010, changed the nature and material factors that would have needed to be taken into account when the application for 16 Leabourne Road was reconsidered at the Sub-Committee on 1<sup>st</sup> February 2012. Councillor Levy believed therefore, that the application considered in 2012 was not identical.
- 4.22 Councillor Taylor acknowledged that factors surrounding the two applications may have changed between consideration at the two Planning Sub-Committee meetings, but stated that he did not believe the application itself had changed given that the design was the same. Councillor Taylor queried with Councillor Levy how the appeal decision for 22 Leabourne Road changed his interest in the application for 16 Leabourne Road. Councillor Levy responded that when speaking in support of the application in 2010, this did not necessarily mean he was 100% in favour of the application, but that he was advocating on the applicant's behalf as a ward councillor. Councillor Levy believed that his interest in the application had changed by 2012 given the changes in the law under the Localism Act 2011 and given the impact of the appeal decision for 22 Leabourne Road which changed the material factors of the application.
- 4.23 Elizabeth Coates-Thummel noted that Councillor Levy had not attended training on the Members' Code of Conduct but queried whether he had attended training with regards to his role on the Planning Sub-Committee. Gifty Edila

advised that Councillor Levy had attended planning training, which was a requirement of Members on the Sub-Committee, and that the session he had attended had included training on the Planning Code of Practice.

- 4.24 The Chair asked Councillor Levy to expand on his statement that he would have preferred for the application for 16 Leabourne Road to be dealt with under delegated authority in 2012 rather than it having to face the uncertain outcome of being determined by a Sub-Committee, as stated in an email that he sent to Stephen Rix dated 12 April 2013. Councillor Levy explained that the appeal decision regarding 22 Leabourne Road had resulted in officers recommending that 16 Leabourne Road be granted. However, Councillor Levy stated that even with officers recommending that an application be approved, it could not be guaranteed that Members would follow their recommendations. The Chair explained to Councillor Levy that this statement made by him appear to suggest that he wished the application to be approved under delegated powers to ensure that the application was granted.

**Questions put to Councillor Stops, Chair of the Planning Sub-Committee**

- 4.25 The Chair asked Councillor Stops to explain why he had asked Councillor Levy whether or not he had an interest to declare in the application for 16 Leabourne Road at the Planning Sub-Committee meeting on 1<sup>st</sup> February 2012. Councillor Stops explained that he recalled, at the Planning Sub-Committee meeting on 9<sup>th</sup> December 2010, Councillor Levy giving his apologies for the meeting as he wished to speak in support of the application for 16 Leabourne Road.
- 4.26 Councillor Stops confirmed that he, in his role as Chair of the Planning Sub-Committee, had asked for the application for 16 Leabourne Road to be submitted to the Planning Sub-Committee on 1<sup>st</sup> February 2012. This was based on the fact that the application had previously been considered by the Sub-Committee.
- 4.27 Councillor Stops stated that the resubmission of the application for 16 Leabourne in 2012 was the same as that submitted in 2010. Councillor Stops explained that, as the applications were identical in his opinion, he was surprised when Councillor Levy did not declare an interest given that he had previously spoken in support of the application. Councillor Stops stated that he asked Councillor Levy twice to consider if he had an interest given his previous involvement with the application. Councillor Stops recalled that the legal advice provided to Councillor Levy was that it was up to Councillor Levy to decide whether or not he an interest to declare.

**Questions put to Graham Loveland, for AD of Planning and Regeneration**

- 4.28 Graham Loveland was thanked by the Chair for attending the meeting. The Chair explained to Graham Loveland that the Committee was trying to establish whether or not the two applications for 16 Leabourne Road were the same and whether there were any differences in the applications which altered Councillor Levy's interest.
- 4.29 Graham Loveland stated that the application for 16 Leabourne Road considered by the Planning Sub-Committee on 1<sup>st</sup> February 2012 was the same as the application considered on 9<sup>th</sup> December 2010. Graham Loveland explained the circumstances of the appeal concerning 22 Leabourne Road and

how the appeal decision resulted in the second application for 16 Leabourne Road being recommended for approval.

- 4.30 The Chair referred to an email sent on 6<sup>th</sup> October 2011 in which Graham Loveland stated to Councillor Levy that “by way of comfort” the application for 16 Leabourne Road would be recommended for approval at the Planning Sub-Committee. Graham Loveland was asked to explain why he used the words “by way of comfort”. Graham Loveland stated that Councillor Levy had been interested in the application and had had a number of conversations with officers regarding the application. Following a further question from Elizabeth Coates-Thummel regarding this matter, Graham Loveland stated that he believed Councillor Levy would have taken comfort from the fact that the application was being recommended for approval.
- 4.31 In response to a question from Councillor Levy, Graham Loveland stated that he believed that Councillor Levy had been trying to distance himself from the application for 16 Leabourne Road prior to the Sub-Committee on 1<sup>st</sup> February 2012 and that any discussions had by Councillor Levy with officers prior to the meeting were focussed on trying to understand the planning argument and implications of the appeal for 22 Leabourne Road. Following a further question from Councillor Levy, Graham Loveland stated he believed that the appeal decision concerning 22 Leabourne Road changed the material facts that the Planning Sub-Committee had to take account of when determining the application for 16 Leabourne Road for a second time.
- 4.32 Councillor Thomson referred to an email sent by Graham Loveland on 8<sup>th</sup> September 2011 in which he stated that Councillor Levy had “buttonholed” him the previous evening concerning 16 Leabourne Road, and Councillor Thomson asked what specifically Councillor Levy had asked. Graham Loveland explained that Councillor Levy had been interested to establish how the appeal for 22 Leabourne Road impacted on the application for 16 Leabourne Road and whether or not it would change the officer recommendation.
- 4.33 In response to a question from Councillor Taylor, Graham Loveland stated that he perceived that Councillor Levy had been interested in when planning officers would come to a decision concerning the second application for 16 Leabourne Road, and had not been urging a decision in favour of the application.

**Questions put to Femi Nwanze, Head of Development Management**

- 4.34 Femi Nwanze was thanked by the Chair for attending the meeting. The Chair asked Femi Nwanze to explain why she felt Councillor Levy was in support of the second application for 16 Leabourne Road. Femi Nwanze confirmed that she perceived that Councillor Levy had been in full support of the application being granted based on the conversations that Councillor Levy had with Graham Loveland and based on the conversation that she had with Councillor Levy following a Planning Sub-Committee on 7<sup>th</sup> September 2011. Femi Nwanze stated that she had a conversation with Councillor Levy where he expressed a view that planning officers should change their recommendation on the second application for 16 Leabourne Road and grant the application based on the appeal decision for 22 Leabourne Road. Following a question from George Gross, Femi Nwanze confirmed that the conversation that she had with Councillor Levy was the one referred to in her email dated 8<sup>th</sup> September

2011 and that it was her recollection that the conversation lasted approximately 30 minutes.

- 4.35 Following questions from Councillor Taylor, Femi Nwanze confirmed that the application for 16 Leabourne Road had caused disagreement amongst planning officers prior to submission to the Planning Sub-Committee on 9<sup>th</sup> December 2010. Femi Nwanze explained the circumstances of the disagreement and stated that disagreement amongst officers was unusual.
- 4.36 In response to a question from Councillor Levy, Femi Nwanze stated that the application for 16 Leabourne Road had been referred to the Planning Sub-Committee in 2010 because Graham Loveland disagreed with the officer recommendation that the application should be refused. Femi Nwanze also confirmed that she had not received any telephone calls, emails or other correspondence from Councillor Levy regarding the application for 16 Leabourne Road, following the Sub-Committee meeting in 2010.

**Questions put to Ben Burgerman, Senior Planning Lawyer and legal adviser to the Planning Sub-Committee on 1<sup>st</sup> February 2012**

- 4.37 Ben Burgerman was thanked by the Chair for attending the meeting. Councillor Levy asked Ben Burgerman to explain the implications of section 25 of the Localism Act 2011. Ben Burgerman explained that section 25 shifted the burden of proof so that if a judicial review was brought on the grounds of pre-determination, it would have to be proved that a councillor did not have an open-mind. Ben Burgerman explained though that councillors would still have to ensure that they considered applications with an open mind.
- 4.38 Councillor Levy asked whether any discussions he had with officers in 2010 concerning 16 Leabourne Road would have precluded him from considering the application at the Planning Sub-Committee on 1<sup>st</sup> February 2012. Ben Burgerman explained that it would depend on the facts of the matter. Ben Burgerman explained that the test was whether or not an objective observer, aware of the facts, would determine whether or not Councillor Levy had a closed mind on the balance of probabilities.
- 4.39 In response to a question from Councillor Taylor, Ben Bugerman confirmed that he was not aware, when he gave legal advice to Councillor Levy at the Planning Sub-Committee on 1<sup>st</sup> February 2012, of what discussions Councillor Levy had had regarding the application for 16 Leabourne Road prior to the application being considered by the Planning Sub-Committee in December 2010, nor was he aware of what Councillor Levy had said at the meeting.
- 4.40 At Councillor Taylor's request, Ben Burgerman was given a copy of the agenda and was asked to read page 120 which contained the minute of Councillor Levy speaking in support of the application for 16 Leabourne Road at the Planning Sub-Committee on 9<sup>th</sup> December 2010. After reading the minute, Councillor Taylor asked Ben Burgerman whether, if he had read this minute prior to the Planning Sub-Committee on 1<sup>st</sup> February 2012, this may have changed the advice he provided to Councillor Levy. Ben Burgerman explained that if he had been aware of these facts he would have been more inclined to advise Councillor Levy that he would be perceived as having pre-determined the application and that it would therefore have been wise for him to declare his interest and not participate in consideration of the application.



- 4.41 Following a further question from Councillor Taylor, Ben Burgerman explained that all Members, if they think they may have an interest in an application, should seek legal advice in advance of a meeting so that considered legal advice can be provided.
- 4.42 Councillor Levy asserted that the legal advice given to him at the Planning Sub-Committee on 1<sup>st</sup> February 2012 was that it was for him to determine whether or not he had an interest in the application. He asked Ben Burgerman to confirm that this was the advice provided. Ben Burgerman advised that he could not remember what legal advice he provided at the meeting.

#### **Closing submissions**

- 4.43 The Chair asked Stephen Rix and Councillor Levy whether they had any closing submissions. Stephen Rix asked the Committee to have particular regard to the evidence from Femi Nwanze and John Tsang when deliberating on whether or not there had been a breach of the Members' Code of Conduct and Planning Code of Practice. Councillor Levy asked the Committee to have regard to the following:-
- i) the evidence from Graham Loveland that Councillor Levy had not been involved and had sought to distance himself from the application for 16 Leabourne Road after it had been considered by the Planning Sub-Committee in December 2010;
  - ii) that there was no evidence of Councillor Levy having attended formal meetings, or having sent emails, letters or making phone calls, with regard to the application for 16 Leabourne Road prior to 2012 Planning Sub-Committee with the exception of the email from Graham Loveland's assistant which noted that Councillor Levy had called on behalf of the agent for 16 Leabourne Road asking when a decision would be made;
  - iii) the determination for 16 Leabourne Road could have been taken under delegated authority rather than being referred to the Planning Sub-Committee on 1<sup>st</sup> February 2012;
  - iv) the application for 16 Leabourne Road considered at the Planning Sub-Committee on 1<sup>st</sup> February 2012 was different to the application considered for the same property at the meeting on 9<sup>th</sup> December 2010 as there had been a material change as a result of the appeal decision for 22 Leabourne Road.

#### **Deliberations**

- 4.44 The Committee then considered its decision in private and asked Councillor Levy, Stephen Rix, all members of the public and officers, with the exception of Gifty Edila and Robert Walker, to leave the meeting room. During the deliberations, the Chair invited all co-opted Members and elected Members to present their views on the allegation of the complaint against Councillor Levy.

#### **Decision**

- 4.45 Councillor Levy, Stephen Rix, all members of the public and officers were then invited back into the meeting for the decision. Members of the Committee were

asked to vote on whether Councillor Levy had breached the Planning Code of Practice and Members' Code of Conduct.

- 4.46 **RESOLVED** that Councillor Levy had breached paragraph 6.4 of the Planning Code of Practice and paragraph 11.3 of the Members' Code of Conduct by failing to declare an interest and not participate at the Planning Sub-Committee on 1<sup>st</sup> February 2012 in the application for 16 Leabourne Road and by participating during consideration of this application.

For: 4 elected Members

Abstentions: 0

Against: 0

*Note – co-opted Members did not vote on the decision as they do not have voting rights.*

- 4.47 The Committee did not find that Councillor Levy had breached paragraphs 1.1, 1.2 and 6.1 of the Planning Code of Practice, as per the Investigating Officer's recommendations. The Committee did not believe that it was necessary for it to determine whether or not Councillor Levy had maintained an open mind in the application and instead believed that its considerations should be focussed on whether the requirements of paragraph 6.4 of the Planning Code of Practice and paragraph 11.3 of the Members' Code of Conduct had been complied with.

**Further action**

- 4.48 **RESOLVED** on finding that Councillor Levy had breached the Planning Code of Practice and Members' Code of Conduct, the Committee censured Councillor Levy and further agreed that:

- i) A report be submitted to Council informing Members of the decision of the Standards Committee;
- ii) A copy of the decision notice be sent to the Chief Whip of the Conservative Group; and
- iii) Councillor Levy undertakes further training on the Members' Code of Conduct.

For: 4 elected Members

Abstentions: 0

Against: 0

*Note – co-opted Members did not vote on the decision as they do not have voting rights.*

**Reasons for the decision**

- 4.49 The Standards (Hearing) Committee found that:-

1. At the Planning Sub-Committee on 9<sup>th</sup> December 2010, Councillor Levy had declared a personal and prejudicial interest in the application for 16 Leabourne Road and spoke in support of the application at the meeting and then removed himself from the room during consideration of the application.

2. The application for 16 Leabourne Road submitted to the Planning Sub-Committee on 1<sup>st</sup> February 2012 was identical to the application submitted to Planning Sub-Committee on 9<sup>th</sup> December 2010. The sole reason for the application being submitted again was because of a favourable appeal decision concerning 22 Leabourne Road.
  3. Councillor Levy had maintained an interest in the identical application for 16 Leabourne Road prior to it being considered at the Planning Sub-Committee meeting for the second time on 1<sup>st</sup> February 2012. This was evidenced by discussions he had with planning officers, in particular the conversation with the Head of Development Management following a Planning Sub-Committee meeting on 7<sup>th</sup> September 2011, concerning reconsideration of the application for 16 Leabourne Road in light of an appeal decision concerning enforcement action against 22 Leabourne Road. There were also email exchanges with the former AD for the Service concerning Cllr Levy's interest in the application.
  4. At the Planning Sub-Committee meeting on 1<sup>st</sup> February 2012, Councillor Levy did not declare any interest in the 16 Leabourne Road application despite being prompted by the Chair of the Sub-Committee, Councillor Stops, to consider whether he had any interest in the application. Councillor Levy remained in the room and participated in consideration of the application.
- 4.50 In consideration of the above findings, the Standards (Hearing) Committee believed that there was evidence that Councillor Levy had been closely involved in the application for 16 Leabourne Road and had actively engaged in supporting the applicant.
- 4.51 Given Councillor Levy's prior involvement with the application, the Standards (Hearing) Committee believed that Councillor Levy, at the Planning Sub-Committee meeting on 1<sup>st</sup> February 2012, should have declared an interest in the application for 16 Leabourne Road and removed himself during consideration of the application as required by paragraph 6.4 of the Planning Code of Practice and paragraph 11.3 of the Members' Code of Conduct. Councillor Levy's failure to declare an interest and participation during the consideration of the application was therefore in breach of the Planning Code of Practice and Members' Code of Conduct.

**Duration of the meeting:** 6.35 - 9.30 pm

**Signed**

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**Chair of Committee**

**Contact:**

Robert Walker, Governance Services

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