[redacted]

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Email:
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Date:
26 October 2026
Ref:
[redacted]

ASHWELL PARISH COUNCIL: Objections to the AGAR for the year ended 31 March 2024

Dear [redacted]

Thank you for your email of objection dated 6 August 2024 in connection with Ashwell Parish Council (the Council). You have raised matters in respect of the 2023/24 Annual Governance and Accountability Return (AGAR).

We wrote to you on 24 March 2025 to inform you that three of your eligible objections had been accepted for further consideration. We have written to the Council and received its formal response and all of the additional information that we requested. All documents material to our decisions on the accepted objections are in the public domain or have previously been shared with you.

You have not asked us to consider reporting on these matters in a public interest report; however, we have considered whether each accepted objection should be included in a public interest report.

Our decisions following consideration of the accepted objections under Step 3 of the National Audit Office's Auditor Guidance Note 04 are set out below:

> **Objection 2:** You object to the failure of a member to leave the room during a conflicted agenda item, about which they had already attempted to make a personal statement at the start of the meeting, during the July 2023 parish council meeting.
>
> **Findings:** This objection relates to the response given in Assertions 2 and 3 of the Annual Governance Statement.
>
> We note that the Practitioners' Guide also includes the following mandatory requirements for positive responses to Assertions 2 (1.14) and 3 (1.22 and 1.25):
>
> > *1.14 Standing Orders and Financial Regulations. The authority needs to have in place standing orders and financial regulations governing how it operates. Financial regulations need to incorporate provisions for securing competition and regulating the way tenders are invited. These need to be regularly reviewed, fit for purpose, and adhered to.*

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1.22 Acting within its powers — All authorities' actions are controlled by statute. Therefore, appropriate decision-making processes need to be in place to ensure that all activities undertaken fall within an authority's powers to act. Authorities need to have robust procedures in place to prevent any decisions or payments being made that are ultra vires, i.e. that the authority does not have the lawful power to make. The exercise of legal powers needs always to be carried out reasonably. For that reason, authorities making decisions need always to understand the power(s) they are exercising in the context of their decision making.

1.25 Actions during the year — An authority needs to have satisfied itself that it has not taken any decision during the year, or authorised any action, that exceeds its powers or contravenes any laws, regulations, or proper practices.

We further note that the Council's Standing Orders state the following:

3. *Meetings generally*

u. *A councillor or a non-councillor with voting rights who has a disclosable pecuniary interest or another interest as set out in the Council's code of conduct in a matter being considered at a meeting is subject to statutory limitations or restrictions under the code on his right to participate and vote on that matter.*

13. CODE OF CONDUCT AND DISPENSATIONS

a. All councillors and non-councillors with voting rights shall observe the code of conduct adopted by the Council.

b. Unless he has been granted a dispensation, a councillor or non-councillor with voting rights shall withdraw from a meeting when it is considering a matter in which he has a disclosable pecuniary interest. He may return to the meeting after it has considered the matter in which he had the interest.

c. Unless he has been granted a dispensation, a councillor or non-councillor with voting rights shall withdraw from a meeting when it is considering a matter in which he has another interest if so required by the Council's code of conduct. He may return to the meeting after it has considered the matter in which he had the interest.

The objector comments that the [redacted] failed to act in accordance with his declared interest in respect of a complaint against himself, that was being considered by North Hertfordshire Council (NHC) as the principal authority in accordance with the Localism Act 2011. The objector further comments that although [redacted] withdrew when the item was discussed, he sought to influence that discussion with a 'personal statement'. This is recorded in the transcript of the meeting held on 5 July 2023.

The Council comments that its July 2023 Code of Conduct did not require withdrawal in the event of a non-pecuniary/other interest. The Council further comments that the relevant paragraph in its July 2023 Code of Conduct makes no mention of withdrawal but states:

10. Where a matter arises at a meeting which relates to an interest the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.

The Council further comments that [redacted] did declare an interest in relation to the relevant agenda item and that he did withdraw from the meeting for the relevant agenda item.

The Council also comments that paragraph 12 of its July 2023 Code of Conduct allowed the Chair to speak:

> *Where a matter arises at a meeting which relates to an interest he/she may speak on the matter only if members of the public are also allowed to speak at the meeting.*

The Council further comments that the relevant agenda item was being considered within the 'Public issues and public participation' section of the agenda and so members of the public had the opportunity to speak and did so. The Council also comments that no resolutions were made at the meeting regarding the relevant agenda item.

As the Council has commented the Council's code of conduct contained, what we consider to be, a significant departure from both the Local Government Association (LGA) model code of conduct and the NHC adopted code of conduct regarding what to do in the event of a councillor having an 'other registrable interest'. We will opine on the impact of that deficiency in our consideration of Objection 4.

In terms of this Objection, i.e. speaking to the Council meeting, we note that for both 'other registrable interests' and 'non-registrable interests' there is no difference between the Council's code of conduct and the LGA model/NHC adopted codes of conduct. In all cases they allow a councillor with these types of interests to speak if members of the public are also allowed to speak.

We note the following extracts from the Council's minutes from the meeting held on 5 July 2023:

> *32 Declaration of Interests*[1]
>
> [redacted] *declared an interest in items:*
>
> *35.2 on the basis of an existing outstanding complaint against him.*
>
> [redacted] *declared an interest in item:*
>
> *35.2 on the basis of existing complaints against him. He advised he would leave the room when these items were discussed.*
>
> *34 Public Issues and Public Participation*[2]
>
> *34.2 To discuss governance concerns received by e mail from a parishioner in relation to the following areas:*
>
> *34.2.1 Code of Conduct*
>
> *34.2.2 Declarations of interest*
>
> [redacted] *left the room.*
>
> *It was agreed that* [redacted] *would chair item 34.2.*
>
> *It was suggested and agreed that the time limit of 3 minutes for a parishioner to speak under Standing Orders would be extended as there were a number of items relating to the parishioner to be discussed.*

[1] We note that the Council's number referencing between the agenda and minutes is out of sequence by one, i.e. agenda item 35.2 is numbered as 34.2 in the approved minutes.
[2] We note that Norton Mahy left the room during item 34.1, so that is not noted in the extract of minutes above.

The parishioner who had raised the concerns explained his concerns in relation to governance matters and decision the council had taken to amend the Code of Conduct.

[redacted]*stated that it had been helpful to have the representations from the parishioner and that it had shone a light on issues and that it would enable the council to adopt a position more in line with the spirit of the Code of Conduct.*

[redacted]*agreed with the words of* [redacted].

34.2.3 Complaints

The parishioner outlined his concerns relating to his experience of submitting a complaint to the council.

[redacted]*stated that he understood the concerns the acknowledged that the council would need to improve.*

[redacted]*stated that he felt the council was now in a better standpoint having listened to the parishioner's views.*

Based on the above, we conclude that [redacted] was able to speak on the matter in accordance with the Council's code of conduct, as the item was in the public participation section of the Council meeting. We therefore do not uphold this objection.

Conclusion: We do not uphold this objection.

Objection 3: You object to the Council's failure to consider the outcome of an upheld code of conduct complaint against the Chair of the Council during the year, you assert that Section 28(11) of the Localism Act 2011 has been breached by the Council.

Findings: This objection relates to the response given in Assertion 3 of the Annual Governance Statement.

We note that the Section 28 (11) of the Localism Act 2011 states the following:

If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under arrangements put in place under subsection (6)) it may have regard to the failure in deciding —

(a) whether to take action in relation to the member or co-opted member, and

(b) what action to take.

We also note that the Practitioners' Guide includes the following mandatory requirements for a positive response to Assertion 3:

1.22 Acting within its powers — All authorities' actions are controlled by statute. Therefore, appropriate decision-making processes need to be in place to ensure that all activities undertaken fall within an authority's powers to act. Authorities need to have robust procedures in place to prevent any decisions or payments being made that are ultra vires, i.e. that the authority does not have the lawful power to make. The exercise of legal powers needs always to be carried out reasonably. For that reason, authorities making decisions need always to understand the power(s) they are exercising in the context of their decision making.

1.25 Actions during the year — An authority needs to have satisfied itself that it has not taken any decision during the year, or authorised any action, that exceeds its powers or contravenes any laws, regulations, or proper practices.

We further note that the NALC publication, *Local Council's Explained* (2025 edition) includes the following commentary relating to complaints regarding a local council's code of conduct:

Responsibility for dealing with complaints

A complaint that a councillor has not observed the code of conduct of their local council must be submitted to their Principal Council. The Principal Council will notify the complainant of its procedures for handling the complaint.

The Principal Council must have arrangements in place to assess and investigate complaints made under the code of conduct for its own councillors and also for local councillors in its area. Therefore, a complaint is always assessed and investigated (if necessary) under the local council's own code of conduct, but in accordance with the Principal Council's arrangements. The responsibility for assessing and arranging for investigations is usually delegated to the monitoring officer. However, if an investigation is necessary, the monitoring officer would usually instruct an independent investigator.

If the Principal Council finds that the councillor has failed to comply with the local council's code of conduct, it will notify the councillor and the local council of its decision. The Principal Council cannot take action against, or impose sanctions on, a local councillor. It can only make recommendations to the local council. The final decision rests with the local council which may, for example, decide to censure the councillor, remove them as its representative on an external body, or request the councillor to attend training or apologise. It is not possible under the 2011 Act for any local council or Principal Council to impose the sanction of suspension or disqualification on a councillor following a finding of a failure to comply with the code of conduct.

The objector comments NHC has considered complaints regarding the conduct of the [redacted] The objector further comments that the NHC's Standards Committee included the following decision at its meeting on 1 November 2023 (Agenda Item 6), confirming the complaint was upheld and sanctions were applied.

Complaint about: Parish/ Town or District Councillor	Basic summary of complaint	Action NB Independent Person/ R Independent Person involved in all stages of these complaints
30/2022 complaint against Parish Councillors, initially sent in by the Parish Council (received by them from a member of the public)	Complaint regarding conflicts of interests, bias and failure to provide information/ documentation. Clarifications provided by complainant regarding complaint during process.	DMO Decision: Informal action: training and both attended training. One to apologise. Failure to provide apology, reviewed by other DMO under section 5.11 Complaints Handling Procedure. as Cllr indicated unaware of what element of the complaint apology related to. Clarification provided to Cllr. Decision on review apology to be issued (and now issued).

The objector also comments that [redacted] reported back on the outcome of the complaint at the December 2023 Council meeting. The objector further comments that [redacted] advised the Council that the decision letters could not be shared. The objector further comments that it has subsequently been confirmed that the decision letters should not be kept confidential to only those who are the subject of the complaint.

The objector also comments that [redacted] refused to say whether he had an interest or not in the item.

The Council's minutes on 6 December 2023 include the following:

> *94.1 Code of Conduct/complaints made by a parishioner to the NHC Monitoring Officer.*
>
> *To note any further correspondence and agree any actions. The information and advice received from the NHC Monitoring Officer had been noted; this had been marked as confidential. It had included 'there was no Standards Committee finding of breach'. It was noted that the detail of the complaints made would have to remain confidential to comply with the rules set by NHC. [redacted] expressed his concern with not being able to provide more details but compliance with the rules was necessary.*

The Council comments that no councillor has been found to be in breach of the Council's Code of Conduct. The Council further comments that there have been four complaints made to the NHC monitoring officer (MO) about its councillors between 2022 and 2024.

We note that the four cases considered by the NHC MO have been published and summarised as follows:

> ***30/2022** complaint against [redacted], initially sent in by the Parish Council (received by them from a member of the public). Complaint regarding conflicts of interests, bias and failure to provide information/ documentation. Clarifications provided by complainant regarding complaint during process.*
>
> *DMO Decision: Informal action: training and both attended training. One to apologise. Failure to provide apology, reviewed by other DMO under section 5.11 Complaints Handling Procedure. as Cllr indicated unaware of what element of the complaint apology related to. Clarification provided to Cllr. Decision on review apology to be issued (and now issued).*
>
> ***4/2023** complaint against Parish Councillors by member of the public. Alleged failure to declare a pecuniary interest at a Parish meeting regarding a community body. Complainant sought review of complaint post Police, and clarified complaint.*
>
> *DMO: Referred to Police under Protocol: Decision by Police not a Disclosable Pecuniary Interest (DPI), no further Police action, suggested guidance to be provided if it became a DPI. MO Review of complaint post that; complaint clarified by complainant. Decision: not upheld complaint against one Cllr, other minor apparent breach – failure to declare Other Disclosable Interest – no further action given training completed following 30/2022 complaint/ guidance already provided re interests, registers of interests updated.*
>
> ***7/2023** complaint against [redacted] by member of the public. Clarification sought on the complaint. Clarifications summary: Amendments to Code of Conduct in meeting by Cllrs, to include 'automatic' dispensation amounted to interest, regarding other complaints (made by the complainant), which they could benefit from.*

MO: Complainant indicated, in the context of the case/ subsequent developments, did not think anything would be served by proceeding with the complaint. Considered with R Independent Person, accepted this as a withdrawal. NB no finding on complaint. Council had (now) adopted North Herts version of Code with minor Parish amendments.

***3/2024** Complaint against a [redacted]. Alleged failure to provide information with an agenda and at the meeting.*

MO: Referred for external assessment by [redacted]. Decision: no further action, as no obvious breach of the Code, or relates to Council service, policy or decision.

We note that the NHC *Complaints Handling Procedure for matters relating to the Councillors' Code of Conduct* document includes the following:

5.3.2 informal resolution

As with a decision at 5.3.1 to take no further action, the Monitoring Officer, following consultation with the Independent Person, decides that an initial assessment has revealed a potential breach of the Code. As part of the assessment (and public interest) concludes that informal resolution would be an appropriate outcome (such as an apology to the complainant, training, or other resolution). See Appendix 2 for further guidance of what this means.

However, if the Councillor subject to the complaint fails to agree to the informal resolution, the Monitoring Officer can deal with the complaint in another way, including an investigation and/ or direct referral to the Standards Committee. Where the Councillor makes a reasonable offer of informal resolution, but the complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits any further action

Where a complaint is dealt with informally, it is important to note that there has been no finding that the Code has been breached.

Appendix 2

INFORMAL RESOLUTION

What is it?

An informal resolution is a more proportionate way of dealing with relatively minor allegations, one-off incidents, or underlying disagreements between individuals.

This could be an apology, training, supervised mediation, or a combination of these things.

It should be borne in mind however that dealing with a matter by informal resolution at the initial assessment stage is making no finding of fact as there has been no formal investigation, or finding by the Standards Sub-Committee and therefore this will be confidential, unless this is post investigation and the matter has been referred to the Standards Sub-Committee.

We note that the NHC procedures are clear that a breach of the code of conduct can only be determined following a formal investigation by a Committee or Sub-Committee of NHC.

We note that for each of the four complaints referred to by the Council they have been dealt with by the NHC MO via informal resolution (where further action has been recommended) rather than being referred for a formal investigation.

We further note that we consider that there was at least an initial case to answer regarding whether the councillor subject to the complaint has failed to follow the Council's code of conduct for three of the four complaints as follows:

> *30/2022: two councillors recommended to attend training and one to issue an apology;*
>
> *4/2023: one councillor failing to disclose an 'other registrable interest; which would have resulted in a recommendation to attend training, had the person not already attended training following the decision in case 30/2022, and the register of interests had been updated; and*
>
> *7/2023: as the Council had adopted the NHC code of conduct, subsequent to the complaint, there was no need to make a finding on the complaint.*

We also note that as per the NALC publication, *Local Council's Explained* (2025 edition), it should be for the Council to make the final decision regarding any sanctions regarding the conduct of councillors, in this case as recommended by the NHC MO. As such all of the Council's councillors would need to have access to the NHC MO's decision letter. It would seem clear that the councillor that is subject to the finding would not take part in the Council's consideration of the NHC MO's recommended actions. Finally, we would note that we would consider it unusual were the Council not to follow the NHC MO's recommendations, indeed there may be a risk that the councillors could be considered to be in beach of the Council's code of conduct, should the NHC MO's recommendations not be followed.

In light of the above considerations we do not consider that the Council has met the mandatory requirements (1.22 and 1.25) needed for a positive response to Assertion 3 in the Council's AGS. We therefore uphold this objection.

Conclusion: We uphold this objection and are minded to raise a reporting matter in our external auditor report on the 2023/24 AGAR in respect of this matter.

Objection 4: You object to the failure of members to declare interests during the year in relation to payments made to the Community Land Trust Network.

Findings: This objection relates to the response given in Assertions 2 and 3 of the Annual Governance Statement.

We have highlighted relevant proper practice and Council Standing Orders above within Objection 2, so have not repeated them here.

The objector comments that [redacted]irectors of an outside body [redacted] and that the [redacted] to that outside body.

The objector also comments that in December 2022, [redacted] brought the following item to the Parish Council:

> *To consider the proposal from the founder [redacted] that the Parish Council continue to fund the costs for the time being to include, (i) administration, (ii) room hire, (iii) annual membership [redacted], (iv) Directors' liability insurance (£200).*

The objector further comments that no declarations were made [redacted] at that meeting, and that t[redacted] had failed to register that interest within 28 days.

The Council comments that Ashwell CLT is a Community Benefit Society (CBS) set up by virtue of the Co-operative and Community Benefit Societies Act 2014. It may only act for the benefit of the community and not of its members. The Council also comments that a CBS must be established with a social or environmental objective and has a non-profit constitution.

The Council further comments that at the time there was some uncertainty over whether or not the CLT was truly active. The Council comments that the CLT had not then been launched to parishioners nor had it recruited anyone other than the Directors as shareholders and that it had no bank account and no assets. The Council comments that it had been registered with the Financial Conduct Authority on 24 October 2022 with the [redacted] The Council further comments that in September 2023 the NHC MO clarified the position in a decision following a parishioner complaint: the date when directors were appointed was when the interest arose.

The Council comments that in December 2022 there was a degree of uncertainty over whether [redacted] had an interest and should declare it. We note that the Council's code of conduct states the following regarding registering and disclosing interests:

> *If in doubt, you should always seek advice from your Monitoring Officer.*

The Council comments that the objection has been considered by the NHC MO as part of complaint 4/2023 (summarised in Objection 3). The Council further comments that the informal decision did not uphold the complaint against one Councillor while for the other the view was:

> *minor apparent breach – failure to declare Other Disclosable Interest – no further action given training completed following 30/2022 complaint/ guidance already provided re interests, registers of interests updated.*

The Council comments that the councillors involved accepted the decision, took recommendations and worked with the NHC MO to avoid possible confusion and/or misunderstanding in the future.

The Council comments that payments to CLT in 2023/24 amounted to £105.40:

- £85.00 for the renewal of membership of the CLT Network. The agreement for the Council to continue funding the set-up costs of the CLT, including the renewal of the CLT network membership, was made in the 07 December 2022 meeting. The invoice was paid in April 2023. The payment was included in the summary of payments presented to the 17 May 2023 Council Meeting and approved as a true record. No declarations of interests were made, or needed, in relation to the summary presented to this meeting, because no new proposals for payments were made.
- £20.40 for room hire. A proposal for payment for room hire was made to the 06 March 2024 Council Meeting. [redacted], in accordance with the Code adopted since October 2023, left the room. The payment was included in the summary of payments presented to the 03 April 2024 meeting. No declarations of interests were made, or needed, in relation to the Accounts Summary presented to the meeting, because no new proposals for payments were made.

The Council further comments that no payment has ever been made to the CLT for directors' liability insurance to date.

We have noted in our consideration of Objection 2 that the Council's code of conduct contained, what we consider to be, a significant departure from both the Local Government Association (LGA) model code of conduct and the NHC adopted code of conduct regarding what to do in the event of a councillor having an 'other registrable interest'.

We also note that the Council was informed by the NHC MO that there were concerns raised regarding the Council's departure from the expected wording for a council code of conduct. The Council's minutes of 5 July 2023 include the following:

> [redacted] *explained that guidance had been received from the Monitoring Officer at NHC, which had been shared with councillors. The guidance was that the resolution at May 17 council meeting to amend the Code of Conduct (to allow a dispensation for councillors to remain in the room in the event of a declaration of interest) was outside the spirit and purpose of the Code of Conduct and should be revoked.*

We further note that the Council's code of conduct was updated to be aligned to the NHC version at the Council's meeting on 4 October 2023.

We note that the Council's financial support for the CLT was not significant during 2023/24, with the key decision made in 2022/23.

However, in light of the above considerations we do not consider that the Council has met the mandatory requirements (1,14, 1.22 and 1.25) needed for a positive response to Assertions 2 and 3 in the Council's AGS. We therefore uphold this objection.

Conclusion: We uphold this objection and are minded to raise a reporting matter in our external auditor report on the 2023/24 AGAR in respect of this matter.

Having considered whether each accepted objection should be included in a public interest report, we have decided not to take this course of action.

Please note that there is no right of appeal against a decision not to issue a public interest report in respect of any of the objections.

At this stage, we would like to remind both you and the Council of the need to ensure compliance with relevant data protection legislation (including GDPR). This could include, for example, redacting personal information (such as the objector's name, address or other identifying information) from any subsequent publication or sharing of the objections and related correspondence.

Yours sincerely

PKF Littlejohn LLP

PKF Littlejohn LLP

cc Ashwell Parish Council [redacted]