

STANDARDS COMMITTEE

Requests for Dispensations 21st January 2016

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider requests from Councillors Peter and Phillippa Williamson for a dispensation.

This report is public

RECOMMENDATIONS

- (1) That the Committee consider the requests from Councillors Peter and Phillippa Williamson.**

1.0 Introduction

1.1 The Localism Act 2011 makes provision, in certain circumstances, for councillors to be granted a dispensation which enables them to take part in council business where this would otherwise be prohibited because they have a disclosable pecuniary interest. Provided councillors act within the terms of their dispensation there is deemed to be no breach of the code of conduct or the law. The granting of dispensations falls within the terms of reference of this Committee.

1.2 Sections 33 and 31(4) of the Act provide that a dispensation may allow a councillor to participate in any discussion of the matter at a meeting, and/or to participate in any vote taken on the matter at a meeting.

1.3 Section 33(2) of the Act provides that a relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

(a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

(b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

(c) considers that granting the dispensation is in the interests of persons living in the authority's area,

(d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation

It should be noted that only one of the above criteria need apply in order for a dispensation to be granted.

2.0 Proposal Details

- 2.1 A request for a dispensation has been received from Councillors Peter and Phillippa Williamson, and a copy of their written request is appended to this report.
- 2.2 Members will note that the request relates to land owned by the councillors at Arkholme, and in particular a field adjoining their home. Ownership of the land has been registered by both councillors as a disclosable pecuniary interest.
- 2.3 The dispensation is requested in order to enable the councillors to participate in any discussions and votes in respect of the Lancaster District Local Plan.
- 2.4 The property owned by the councillors is not specifically referred to in any existing local plan documentation or in the Strategic Housing Land Availability Assessment, and it is unlikely therefore to be referred to specifically in any discussions on the local plan.
- 2.5 However, the provisions relating to disclosable pecuniary interests are relatively new, and there is little case law on the circumstances in which a member will be deemed to have a disclosable pecuniary interest in an item of business at a meeting. Even if the councillors' land is not specifically the subject of consideration, it is conceivable that a discussion or decision on the local plan or on the allocation or availability of land for housing or other use could be seen to affect either directly or indirectly the use, enjoyment or value of this land.
- 2.6 The fact that the councillors have requested a dispensation does not infer that they would have a disclosable pecuniary interest in all or any discussions and votes on the local plan. However, the grant of a dispensation would enable them to participate in such discussions and votes without the risk of being the subject of complaints of breach of the code of conduct or breach of the law.
- 2.7 In considering the request, members will wish to consider the five separate grounds for granting a dispensation, as set out in Section 33(2) – see paragraph 1.3 above. It seems unlikely that grounds (a), (b) or (d) would apply to this request, but members will note that grounds (c) and (e) are very wide.
- 2.8 If Members are minded to grant a dispensation, they may wish to consider whether to grant it in respect of any discussions and/or votes in respect of the Lancaster District Local Plan and any associated assessments, allocations or policies. Alternatively, members may wish to consider granting a dispensation within these terms, but excluding from the dispensation any

discussions or votes that refer directly and specifically to land in the ownership of the councillors.

- 2.9 If granting a dispensation, Members will also need to consider for how long it should apply. The request has been made for the period to March 2018. It would be open to the Committee to grant a dispensation for any period of time up to the next elections in May 2019.

3.0 Details of Consultation

- 3.1 There has been no consultation, as consideration of the request is a matter for the Committee.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The options open to the Committee are to grant a dispensation in the terms applied for, to grant a dispensation in different terms, or to decline to grant a dispensation.

- 4.2 It is for the Committee to decide whether or not to grant a dispensation, and in what terms. The Monitoring Officer would advise that the statutory dispensation provisions are in place in order to provide a mechanism to enable members to participate in certain circumstances where they have a disclosable pecuniary interest, and to give reassurance to members where it is perhaps unclear whether or not they have a disclosable pecuniary interest. In making a decision, the Committee needs to balance the public interest in elected members being able to participate fully in Council decisions, with the public interest in ensuring that elected members are not perceived as gaining any personal advantage or benefit from their role as such. The Monitoring Officer would advise that in this particular case, the balance would appear to be in favour of allowing the councillors to participate so far as possible in the discussions and decisions on the local plan which will affect the whole of the Council's area.

5.0 Conclusion

- 5.1 The Committee is asked to consider the request.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report.

LEGAL IMPLICATIONS

The Localism Act 2011 makes provision for dispensations to be granted to enable councillors to participate in discussions and/or votes from which they would otherwise be precluded as the result of a disclosable pecuniary interest.

FINANCIAL IMPLICATIONS

None directly arising from this report.

OTHER RESOURCE IMPLICATIONS**Human Resources:**

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer as adviser to the Standards Committee.

BACKGROUND PAPERS

None

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