



Committee: STANDARDS COMMITTEE
Date: THURSDAY, 21 JANUARY 2016
Venue: LANCASTER TOWN HALL
Time: 6.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of meeting held on 11th June 2015 (previously circulated).

3. **Items of Urgent Business authorised by the Chairman**

4. **Declarations of Interest**

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, Members should declare any disclosable pecuniary interests which they have already declared in the Register, at this point in the meeting.

In accordance with Part B Section 2 of the Code Of Conduct, Members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

5. **Requests for Dispensations** (Pages 1 - 6)

Report of the Monitoring Officer

6. **Exclusion of the Press and Public**

The Committee is recommended to pass the following recommendations in relation to the following items:-

"That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item(s) of business, on the grounds that it could involve the possible disclosure of exempt information, as defined in paragraph 1 of Schedule 12A of that Act."

Members are reminded that, whilst the following item(s) have been marked as exempt, it is for Committee itself to decide whether or not to consider each of them in private or in public. In making the decision, Members should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and also whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In considering their discretion Members should also be mindful of the advice of Council Officers.

7. **Appointment of Independent Person** (Pages 7 - 20)

Report of the Monitoring Officer

8. **Summary of Complaints** (Pages 21 - 23)

Report of the Monitoring Officer

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors

Councillors Colin Hartley (Chairman), Roger Mace (Vice-Chairman), Jon Barry, Elizabeth Scott, Roger Sherlock, David Whitaker and Peter Yates

(ii) Substitute Membership

Councillors

Councillors Tracy Brown (Substitute), Charlie Edwards (Substitute), Nigel Goodrich (Substitute), Tim Hamilton-Cox (Substitute) and Richard Newman-Thompson (Substitute)

(iii) Queries regarding this Agenda

Please contact Liz Bateson, Democratic Services - telephone 01524 582047, or email ebateson@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Democratic Support, telephone 582170, or alternatively email democraticsupport@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Tuesday 12th January, 2016.

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.

<p>CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p> <p>None directly arising from this report.</p>
<p>LEGAL IMPLICATIONS</p> <p>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.</p>
<p>FINANCIAL IMPLICATIONS</p> <p>None directly arising from this report.</p>

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

Contact Officer: Mrs S Taylor

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E-mail: STaylor@lancaster.gov.uk

Ref:

LANCASTER CITY COUNCIL

REQUEST FOR DISPENSATION UNDER SECTION 33 OF THE LOCALISM ACT 2011

Details of the Disclosable Pecuniary Interest in respect of which the dispensation is requested

Approximately 1.2 hectare site compromised of two components, a house with garden curtilage of around 0.2 hectares and an adjacent field of around 1.0 hectare situated at Denny Bank, Arkholme. LA6 1AX.

Details of the council business for which a dispensation is sought

Dispensation is sought in respect of any discussion and vote by Council; Committee of the Council or other meeting of the Lancaster District Local Plan for the period to 2011 – 2031 (S33 of the Localism Act 2011).

Date of meeting or time period (up to 4 years) for which dispensation is sought

31 March 2018. (The Local Plan is currently being developed with an estimated date of completion of 2017. However, it is possible that this ambitious timetable may not be met and therefore the date of 31 March 2018 is suggested to accommodate any potential delay).

Is a dispensation requested to participate in any discussion of that business?

Yes

Is a dispensation requested to participate in any vote taken on that business?

Yes

REASON(S) FOR REQUEST FOR DISPENSATION

The above property and land is the home of Councillors Peter and Phillippa Williamson and has been for the last 10 years. The land and property is already noted in the Register of Members Interests as a registered disclosable pecuniary interest.

The land and property is not specifically referred to in any local plan documentation or in the Strategic Housing Land Availability Assessment at the present time.

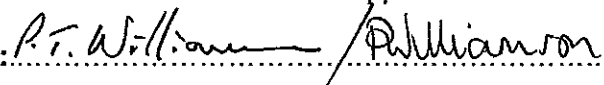
However, in any discussions of the Local Plan (which will continue for some considerable time through to 2017 at the least), it is possible that others could perceive that interest in the land and the possible effect on its value as a result of any wider decisions made on the local plan, may impact on any decisions made. Although it is difficult to quantify the risk of possible complaint in these circumstances, we would like to apply for a dispensation to enable us to participate any future debates and votes on the Local Plan notwithstanding the ownership of the land which is already registered as a disclosable pecuniary interest.

The development of the Local Plan is one of the key issues facing this Council and in view of the current representation of the Council, it is important that all Councillors are able to participate in the debate and votes and represent the views of the residents in their respective Wards and the wider District. To preclude two Councillors from one political group could upset the likely outcome of any vote relating to the Local Plan.

In addition, as Councillors for Upper Lune Valley and Torrisholme wards, we represent areas of the district which are impacted by the proposals currently being consulted upon as part of the development of the Local Plan. It is important that we are able to represent the residents of those areas views fully.

On this basis we would request a dispensation in accordance with S33 (b) and (c) of the Localism Act 2011.

Print Name: Councillors Peter and Phillippa Williamson

Signatures: 

Date: 23 December 2015

Request for a Dispensation - Guidance Notes

In certain circumstances Councillors may 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.

Dispensations are granted to City Councillors by the Standards Committee.

Terms of a Dispensation

Section 31(4) of the Localism Act 2011 ("the Act") provides that a dispensation may allow a Councillor:

- (a) to participate, or participate further, in any discussion of the matter at a meeting; and/or
- (b) to participate in any vote, or further vote, taken on the matter at a meeting.

Grounds for Granting a Dispensation

Under Section 33 of the Act a council may grant a dispensation only if, after having had regard to all relevant circumstances, it —

- (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.

Relevant Considerations

In reaching a decision on a request for a dispensation, the Standards Committee may wish to consider the nature of the Councillor's Disclosable Pecuniary Interest, the need to maintain public confidence in the conduct of the Council's business, the need for efficient and effective conduct of the Council's business, and any other relevant circumstances.

Duration of a Dispensation

Dispensations may be granted for one meeting or for a period not exceeding 4 years.

Requesting a Dispensation

A request for a dispensation must be made in writing, and the form overleaf is provided to enable you to make a request. In completing the form, it is important to provide full details of the business for which the dispensation is requested, and full details of the reasons why you consider that the Council should grant the dispensation. In this respect you should be mindful of the matters set out above.

Please submit your request in good time, to allow arrangements to be made for your request to be considered by the Standards Committee.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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