

Our ref: CAD 6102/8080

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15 January 2009

Dear Councillor

**HELREDALE PLAYING FIELDS WHITBY
APPLICATION FOR REGISTRATION AS A VILLAGE GREEN
STANDARDS COMMITTEE DISPENSATION**

The applicants for the registration of a village green at Helredale Playingfield, Whitby, have raised an issue in relation to decision making on the village green application. It is now due to be considered in April 2009 at the Yorkshire Coast and Moors Area Committee.

The issue relates to whether members of the Area Committee, who are also members of Scarborough Borough Council (SBC), the land owners, will have a prejudicial interest in the village green decision. I am accordingly writing to advise all members who are in a dual hatted position.

The SBC Executive decided in October 2008 that this land should be sold for the building of flats and affordable housing. I am advised that the sale is intended to be for value, and if that is so, there are financial implications in the sale of the land for SBC.

As a member of SBC, that authority is included in your NYCC register of interests. You will have a personal interest in any decision of the County Council relating to or likely to affect SBC, which will include the decision in relation to the village green application, as the land is owned by SBC.

It must then be considered whether you will also have a prejudicial interest. Prejudicial interests arise when the decision in question

- is in relation to a regulatory matter (in this case we do *not* think it will fall into that category), or
- will affect the financial position of the Borough Council (this is likely to apply here as the designation of land as village green would effectively protect it from development)

TO:

County Councillors Billing, Broadbent, Broadley, Marsburg, Simpson

and where a member of the public knowing all the circumstances would reasonably regard the interest to be such as to be likely to prejudice your judgement of the public interest. In this case, the registration of the land as a village green would effectively prevent its development as planned by SBC, and therefore it is likely that the public might expect that a members' judgement of the public interest in determining the village green application would be affected. In the circumstances you are likely to have a prejudicial interest.

Members with a prejudicial interest are not be able to participate in decision making on the application, although they could exercise any speaking rights in the same way as members of the public on the matter.

In this instance however, given the number of Area Committee members who are also SBC members, over 50% of members of the Committee would not be able to participate. In these circumstances, application may be made in writing to the Standards Committee (by each debarred member) for a dispensation to enable them to participate, and the Standards Committee may grant a dispensation if they consider that the transaction of business of the Committee would otherwise be impeded, and it is appropriate in all the circumstances. In this case, if all members affected are unable to participate that would leave a bare quorum, and potentially, if any of the remaining members are unable to attend for whatever reason, it may not be possible for the village green application to be determined. The Standards Committee must, in considering dispensation, apply a public interest test, and whether a dispensation is granted is at their discretion.

The Standards Committee is meeting on 2 February, and I propose to included an item on the agenda in anticipation of members of the Area Committee wishing to seek a dispensation. I attach the appropriate forms, and if you wish to apply I should be grateful if you would return them to me no later than 22 January 2009 so that they can be included in the Standards Committee Agenda.

If you need any further clarification on this perhaps you could let me know.

Yours sincerely

Assistant Chief Executive (Legal and Democratic Services)