

# NORTH YORKSHIRE COUNTY COUNCIL

## STANDARDS COMMITTEE

2 February 2009

### Requests for Dispensations

#### **1.0 PURPOSE OF REPORT**

- 1.1 To present, for Members' consideration, requests from certain County Councillors and non-voting co-opted Members of the Yorkshire Coast and Moors County Area Committee for a dispensation, in almost identical terms and in respect of the same issue, from the Standards Committee.

#### **2.0 BACKGROUND**

- 2.1 The following County Councillors have been invited to consider making a request for a dispensation from the Standards Committee:
- a) five (out of fourteen) County Councillors of the Yorkshire Coast and Moors County Area Committee.
  - b) four (out of nine) non-voting co-opted members of the Yorkshire Coast and Moors County Area Committee

A list of Members affected and invited to consider submitting a dispensation request is set out at Appendix 1, along with copies of actual requests received.

- 1.2 The County Councillors who have been invited to submit a dispensation application are also members of Scarborough Borough Council. Those County Councillors who have submitted a request are seeking a dispensation to enable them to speak, vote and be included within the quorum at a meeting (or meetings) of the Yorkshire Coast and Area Committee on which they sit, when that Committee is determining an application for the registration of a village green at Helredale Playing Field Whitby, submitted by the Helredale Neighbourhood Council. The application relates to land in the ownership of Scarborough Borough Council. The County Councillors are also members of Scarborough Borough Council. The Executive of Scarborough Borough Council decided in October 2008 to dispose of the land in question for value for affordable housing purposes.
- 1.3 The non-voting co-opted members who have been invited to submit a dispensation application are members of Scarborough Borough Council. Those members who have submitted a request are seeking a dispensation to enable them to speak and remain present during the consideration of this item.
- 1.4 For the reasons set out in paragraph 3.0 below, members of the Area Committee who are also members of Scarborough Council are likely to be considered to have a prejudicial interest. Five other County Councillor members who are also members of the Executive of Scarborough Council will also have prejudicial interests but have not been invited to submit an application for dispensation. They are subject to other considerations.
- 1.5 The quorum for the meeting is four, and whilst four voting members without prejudicial interests remain, in the event that they are unable to attend the meeting where the matter will be decided, the Area Committee would become

inquire. It is important that the County Council through its Area Committee is able to discharge its obligations in relation to the village green application.

- 1.6 It was therefore thought sensible to invite affected members to consider making a dispensation request and for the Committee to consider the matter.
- 1.7 At the time of writing this report, only three members of the Committee have submitted written requests for a dispensation. Other affected members of the Area Committee may nevertheless wish to make a dispensation request. Any further requests received following publication of this report will be presented to the Committee.

### **3.0 INTERESTS ISSUES**

- 3.1 Scarborough Borough Council has decided that the land which is the subject of the village green application should be sold for the development of affordable housing. It is understood that the sale is intended to be for value, and therefore there are financial implications in the sale of the land for SBC. The registration of the land as a village green would prevent its being used for any purpose inconsistent with that designation, and accordingly this would impact upon the planned use. It is important however that the application for registration of the village green is properly considered on its merits.
- 3.2 County Councillors and co-opted non-voting members of the Area Committee who are members of Scarborough Borough Council have included membership of the Borough Council in their County Council register of interests. Members have a personal interest in any business of the County Council where it relates to or is likely to affect a registered interest. They will therefore have a personal interest in any decision of the County Council relating to or likely to affect the Borough Council which will include the decision in relation to the village green application, as the land is owned by the Borough Council.
- 3.3 It must then be considered whether the members concerned will also have a prejudicial interest. Prejudicial interests arise, amongst other things, when a decision in question will affect a regulatory matter concerning, or the financial position of, a member's interest (in this case the Borough Council), *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 judgement of the public interest.
- 3.4 In this case, the registration of the land as a village green would impact upon its development as planned by the Borough Council, 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 members in this position are likely to have a prejudicial interest. It is important that the application for registration of the village green is properly considered on its merits.
- 3.5 The Monitoring Officer has provided detailed written advice on these issues to the Members affected. A copy of the advice is attached at Appendix 3

#### **4.0 DISPENSATION PROCESS**

- 4.1 In accordance with paragraph 12 of the Code, and subject to his/her right to speak (where appropriate), a Member with a prejudicial interest in a matter must withdraw from the room or chamber where a meeting is being held UNLESS s/he has obtained a dispensation from the Standards Committee.
- 3.2 Under Section 81 of the Local Government Act 2000 and the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002, the Standards Committee has power to grant a dispensation to a Member with a prejudicial interest in certain circumstances only:
- a) the transaction of business would otherwise be impeded because:
    - (i) more than 50% of the Members entitled or required to participate would not be able to; or
    - (ii) the County Council would not be able to comply with "any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989" (ie political balance principles);
  - b) the Member has submitted to the Standards Committee a written request for a dispensation, explaining why it is desirable; and
  - c) the Standards Committee concludes, having regard to the above, the content of the application in (b) and all the other circumstances of the case, that it is appropriate to grant the dispensation.

Given the number of Members affected at the Area Committee (as set out in paragraph 2.1 above), the Committee will see that limb a) (i) above is satisfied, as is limb b) by virtue of the written applications included at Appendix 1.

- 4.3 Members must decide, in accordance with c) above, whether it is *appropriate* to grant the dispensation in these circumstances. It is important that Members in considering the matter should balance the public interest in preventing Members with prejudicial interests from taking part in decisions, against the public interest in decisions being able to be taken by a reasonably representative group of members of the Authority.
- 4.4 If the Standards Committee is minded to grant a dispensation, it must consider the duration and scope of it. The applications in Appendix 1 request that the dispensation be granted until the date on which the village green application is finally determined, subject to the maximum duration of four years.
- 4.5 Any dispensation granted will allow the Member to fully participate in the matter concerned, including speaking and, in the case of Country Council members (but not the non-voting co-opted members) voting upon it. The dispensation will be recorded in writing and kept with the Register of Members' Interests.

#### **5.0 CONCLUSION**

- 5.1 Members are requested to consider whether it is appropriate to grant a dispensation to the Area Committee Members listed in Appendix 1, who regard themselves as having a prejudicial interest in this matter which is to be considered by the Area Committee.

## **6.0 RECOMMENDATIONS**

- 5.1 That the Committee consider and determine the applications for dispensations by the County Council Members of the Yorkshire Coast and Moors County Committee listed at Appendix 1 to enable them to speak, vote and be included within the quorum at meetings of the Area Committee on which they sit, when that Committee is determining an application submitted by the Helredale Neighbourhood Council for the Registration of a village green at Helredale Playing Field Whitby.
- 5.2 That the Committee consider and determine the applications for dispensations by the non-voting co-opted Members of the Yorkshire Coast and Moors County Committee listed at Appendix 1 to enable them to speak at meetings of the Area Committee on which they sit, when that Committee is determining an application submitted by the Helredale Neighbourhood Council for the Registration of a village green at Helredale Playing Field Whitby.
- 5.3 That the dispensations be granted until the matter is determined, subject to the maximum period of four years.

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### Background documents:

Section 81 Local Government Act 2000  
The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002

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23 January 2009