

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

21 September 2009

Requests for Dispensations – Yorkshire Coast and Moors County Area Committee

1.0 PURPOSE OF REPORT

- 1.1 To present, for Members' consideration, requests from certain dual-hatted County Councillors on the Yorkshire Coast and Moors County Area Committee for a dispensation, in almost identical terms and in respect of the same issues, 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) thirteen (out of fourteen) County Councillors on the Yorkshire Coast and Moors County Area Committee.

A list of Members affected and invited to consider submitting dispensation requests is set out at Appendix 1. Copies of requests received will be circulated at the Standards Committee's meeting.

- 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 Moors County Area Committee on which they sit, when that Committee is determining:
- a. an application for the registration of a village green at The Sunken Garden, St Nicholas Cliff/Marine Parade, Scarborough; and
- b. an application for the registration of a village green at The Old Pool Site, Mulgrave Road, Whitby.

The applications relate to land in the ownership of Scarborough Borough Council. The County Councillors are also members of Scarborough Borough Council.

- 1.2 Regarding the Sunken Garden site, in July 2004 the Executive of Scarborough Borough Council approved the principle of the disposal of the land in question for value. Further decisions in relation to the approval of the sale were taken by the Executive of Scarborough Borough Council during 2005 to 2008. Scarborough Borough Council is objecting to the village green application.
- 1.3 Regarding the Old Pool Site, Scarborough Borough Council previously objected to the village green application however withdrew its objection in June 2009 in light of the evidence submitted.
- 1.4 The next meeting of the Yorkshire Coast and Moors County Area Committee at which the applications will be considered is 1 October 2009. For the reasons set out in paragraph 3.0 below, members of the Area Committee who are also

members of Scarborough Borough Council are likely to be considered to have a prejudicial interest.

- 1.5 The Monitoring Officer is currently exploring the extent to which such dual-hatted Members may have participated in relevant decision making at Scarborough Borough Council. Should any such dual-hatted Members have participated in such decision-making they may, alongside their prejudicial interests, be subject to other considerations preventing their participation in the applications in question at the Area Committee meeting(s). Given the short timescale to address these issues before the Area Committee meeting on 1 October however, the Standards Committee is requested to consider the granting of a dispensation to all dual-hatted Members: should the Committee be minded to grant a dispensation, then should there be any other issues preventing dual-hatted Members' participation, such Members would be advised not to rely on the dispensation and to withdraw from the Area Committee for the applications in question.
- 1.6 The quorum for the Area Committee meeting is four. Members in this situation may decide to declare a prejudicial interest and take no part in the decision on these applications. This would lead to the Area Committee becoming inquorate, unable to take a decision on these matters, thereby causing a delay in the decision making process. It is important that the County Council, through its Area Committee, is able to discharge its obligations in relation to the village green applications.
- 1.7 It was therefore thought sensible to invite affected Members to consider making a dispensation request and for the Committee to consider the matter.
- 1.8 Dispensation application forms have been circulated to the Members affected. Completed dispensation application forms received will be presented to the Standards Committee at its meeting.
- 1.9 The Committee's Dispensation Request Procedure is attached as Appendix 2 to this report.

3.0 INTERESTS ISSUES

- 2.1 Regarding the Sunken Garden site, Scarborough Borough Council has previously decided that the land should be sold and is objecting to the village green application. 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 Scarborough Borough Council. 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 and the value of the land. It is important however that the application for registration of the village green is properly considered on its merits.
- 2.2 Regarding the Old Pool Site, Scarborough Borough Council previously objected to the village green application however later withdrew its objection. 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 value of the land. Again, it is important however that the application for registration of the village green is properly considered on its merits.
- 2.3 County Councillors on 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

decisions in relation to the village green applications, as the land is owned by the Borough Council.

- 2.4 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 their judgement of the public interest.
- 2.5 In this case, regarding the Sunken Garden site, the registration of the land as a village green would impact upon its development as planned by the Borough Council, and in respect of the Old Swimming Pool Site, registration of the land as a village green would impact upon the value of the land as it would prevent its future development. It is therefore likely that the public might expect that a Member's judgement of the public interest in determining the village green applications would be affected. In the circumstances Members in this position are likely to have a prejudicial interest.

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 Standards Committee (Further Provisions) (England) Regulations 2009, the Standards Committee has power to grant a dispensation to a Member with a prejudicial interest in certain circumstances:
- a) the transaction of business would otherwise be impeded because:
 - (i) more than 50% of the Members entitled to vote would not be able to; or
 - (ii) the number of Members prohibited from voting would upset the political balance of that meeting to such an extent as to prejudice the outcome of voting in that meeting;
 - 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 any other relevant 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 (to be circulated later).

- 4.3 Members must decide, in accordance with c) above, whether it is *appropriate* to grant the dispensations 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. Similar dispensations were granted by the Standards Committee to similarly affected Members of the Yorkshire Coast and Moors

County Area Committee, on 2 February 2009, to enable them to speak, vote and be included within the quorum at Yorkshire Coast and Moors County Area Committee meetings when that Committee was determining an application submitted by Helredale Neighbourhood Council for the registration of a village green at Helredale Playing Field, Whitby. Those dispensations lapsed at the date of the local government elections in June 2009.

- 4.4 If the Standards Committee is minded to grant dispensations, it must consider the duration and scope of them. The applications (to be circulated) request that the dispensations be granted until the applications are determined or the date of the local government elections in 2013, whichever is the earlier.
- 4.5 Any dispensation granted will allow the Members concerned to fully participate in the specified matters, including speaking and voting upon them. The dispensations will be recorded in writing and kept with the relevant entries in the Register of Members' Interests.

5.0 CONCLUSION

- 4.1 Members are requested to consider whether it is appropriate to grant dispensations to the dual-hatted Area Committee Members listed in Appendix 1, who regard themselves as having a prejudicial interest in these matters which are next to be considered by the Area Committee on 1 October 2009.

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 Area Committee listed at Appendix 1 to enable them to speak, vote and be included within the quorum at meetings of that Area Committee, when that Committee is determining applications for the registration of village greens at The Sunken Garden, St Nicholas Cliff/Marine Parade, Scarborough and at The Old Pool Site, Mulgrave Road, Whitby.
- 6.2 That, should Members be minded to grant the dispensations, the dispensations be granted until the applications are determined or the date of the local government elections in 2013, whichever is the earlier.

CAROLE DUNN
Monitoring Officer

Background documents:

Section 81 Local Government Act 2000
The Standards Committee (Further Provisions) (England) Regulations 2009
Public Minutes of Scarborough Borough Council Cabinet meetings

County Hall
NORTHALLERTON

14 September 2009