

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

16 December 2013

Dispensation Issues

1.0 PURPOSE OF REPORT

- 1.1 To present to the Committee, for consideration, requests from two County Councillors for a dispensation from the Standards Committee.

2.0 BACKGROUND

- 2.1 County Councillors David Chance and Joe Plant have each made a request for a dispensation from the Standards Committee to enable them to speak, vote and be included within the quorum at meetings of the County Council, Executive, Committees and Sub-Committees when such body/ies is/are considering business relating to the Whitby Park and Ride Scheme and parking zone proposals for the Whitby area.

3.0 POWER TO GRANT DISPENSATIONS

- 3.1 The Monitoring Officer was designated by the County Council as Proper Officer to receive written dispensation requests.
- 3.2 The power to grant dispensations to Members and Co-opted Members under the ethical framework adopted under the Localism Act 2011 was delegated by the Council to this Committee, after consultation with the Independent Person for Standards.
- 3.3 Power was also delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Person) where the timescales are such that a Standards Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation.

4.0 INTERESTS ISSUES

- 4.1 Interests issues in relation to Councillors Chance and Plant arose at the meeting of the Council's Yorkshire Coast and Moors County Area Committee on 19 September 2013 relating to the proposed pay and display and parking zones in Whitby. Both County Councillors had disclosable pecuniary interests and were required to withdraw from the meeting in accordance with the law and the Members' Code of Conduct.
- 4.2 Regarding the Area Committee meeting, Councillors Chance and Plant contacted the Monitoring Officer to seek advice on interests the day before the meeting (Wednesday 18 September 2013). Advice was provided to the Councillors that same day, confirming that they had a disclosable pecuniary interest (via their registered interests in the Register of Members' Interests - disclosable pecuniary interests). The Councillors were also advised that they could make a written statement to the meeting representing their views, and those of their constituents, or alternatively seek to have another Councillor who would be attending at the meeting, represent the

views they wished to put forward. In this case, because the meeting was the next day there would have been little opportunity for the Councillors to have time to pursue the option of seeking a dispensation in relation to their interest.

- 4.3 The overall Park and Ride Scheme will have implications for the wider Whitby community and the proposed pay and display and parking zones will directly affect certain specific areas and residents of Whitby. For those living/working within the parking zones there will be a direct impact as should they wish to continue parking outside their property they will have to pay for a permit. Consequently, their position is different to that of others in the Whitby area but not within the zones and not so directly affected. The proposed Scheme will not affect all residents of Whitby in the same way.

Councillor Chance

- 4.4 Councillor Chance declared a disclosable pecuniary interest in relation to the employment of his partner at a business in Whitby. The disclosable pecuniary interest arises as a result of her employment with a firm in Whitby. There is the potential for her employment to be affected if the business is affected as a result of being included within a parking zone. This point was put very strongly by many of those objecting to the proposals who had real concerns about the viability of businesses in Whitby if the parking proposals were approved. If a Councillor had a real concern about the potential for a partner to lose their job as a result of proposals it could be perceived that this would be something that could, or could be perceived to, taint their objective judgment and affect their ability to put the public interest first.
- 4.5 Under the revised parking zone proposals for Whitby, the business which employs the partner of Councillor Chance will still be within a parking zone, albeit it is now proposed as a disc rather than permit zone. On a personal level there is no direct financial impact upon Councillor Chance, however his partner's employment could still be affected by the measures so the disclosable pecuniary interest remains.
- 4.6 Councillor Chance is requesting a dispensation to enable him to fully represent the views of the people of Whitby and his division who are directly affected by the proposals.

Councillor Plant

- 4.7 Councillor Plant lives and owns property in, at the time of the Area Committee meeting on 19 September 2013, a proposed parking zone. The inclusion of the Councillor's property within a zone meant he was affected, as if he did want to park on the street he would require a permit to do so. Further, the fact that his property was within a zone meant that there could have been a material effect on the value of his property particularly if it benefitted from off street parking.
- 4.8 Under revised proposals, Councillor Plant's property is now outside the proposed zone, however there is the potential for this to alter again. Councillor Plant has indicated that he would wish to apply for a dispensation from the Committee to ensure that should the position change under the consultation, he is able to fully participate in items of business concerning the Whitby Park and Ride and proposed Whitby parking zones to represent his constituents' views. Councillor Plant is the only elected member for all the potential zones and believes the granting of a dispensation is in the interests of people living in the Council's area.
- 4.9 Complaints were subsequently received from certain Whitby electors about the advice given which led to the local county councillors leaving the Area Committee meeting considering the parking proposals for Whitby, thus preventing them

representing their constituents' views and denying their constituents their right to be represented.

- 4.10 The Act prohibits Members with a disclosable pecuniary interest from participating in any discussion or vote on authority business. The Act does not allow Members with such an interest to speak where a member of the public can (as under the previous Code), before ending their participation. The Council's Code of Conduct also requires Members with such an interest to withdraw from the meeting room.
- 4.11 Dispensations can be granted to enable a member with a disclosable pecuniary interest to participate in the discussion and vote only if, after having had regard to all the relevant circumstances, the authority is satisfied that one or more of the criteria set out in the Act is met.
- 4.12 It is noted that there may well be occasions in the future where items of business refer to the Whitby Park and Ride Scheme and proposed Whitby parking zones, and where, if Councillors Chance and Plant had to leave because of their interests, their absence would mean that those they represent in their divisions would be without representation at the meeting.
- 4.13 After discussing the issues, the Monitoring Officer invited Councillors Chance and Plant to apply to the Standards Committee for a dispensation from non-participation.
- 4.14 Applications for a dispensation must be in writing. Councillor Chance's and Plant's written applications are attached at **Appendices 1** and **2** to this report respectively.

5.0 DISPENSATION PROCESS

- 5.1 Under the Localism Act 2011 and delegated power from the Council, the Standards Committee has power to grant a dispensation to a Member from non-participation in relation to a disclosable pecuniary interest where the Committee concludes that:
 - (a) without the dispensation the number of persons prohibited from participating in particular business would be so great a proportion that the body transacting the business as to impede the transaction of the business;
 - (b) without the dispensation the number of persons prohibited 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;
 - (c) 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;
 - (d) granting the dispensation is in the interests of persons living in the authority's area;
 - (e) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
 - (f) considers that it is otherwise appropriate to grant a dispensation.
- 5.2 It may be argued in the circumstances above that a dispensation in these particular cases would be viewed as being in the interests of persons living in the Authority's area and that it would be otherwise appropriate to grant a dispensation (criteria (d) and (f)), although it is entirely a matter for the Standards Committee to make that

decision. Members must decide whether it is appropriate to grant the dispensation in these circumstances, after balancing the public interest in preventing a Member with a disclosable pecuniary interest from taking part in Council business, against the public interest in the relevant constituents not being disenfranchised and their views being able to be put forward on the business in question.

- 5.3 If the Standards Committee is minded to grant a dispensation, it must consider the duration of it. Dispensations may be granted for a maximum period of 4 years. Members may feel in this case that it would be appropriate to grant a dispensation until the date of the next local government elections which is consistent with end dates for other dispensations granted to other Councillors in the past.
- 5.4 Any dispensations granted will allow Councillors Chance and Plant to fully participate in the relevant business, including speaking and voting upon it. The dispensation will be recorded in writing and kept with their interests forms in the Council's Register of Members' Interests.

6.0 RECOMMENDATIONS

- 6.1 That the Committee consider and determine the applications for a dispensation by Councillors Chance and Plant to enable them to speak, vote and be included within the quorum at meetings of the County Council, Executive, Committees and Sub-Committees when such body/ies is/are considering business relating to the Whitby Park and Ride Scheme and parking zone proposals for Whitby.
- 6.2 That, should the Committee be minded to grant the dispensations requested, the Committee determine the duration of the dispensations.

CAROLE DUNN
Monitoring Officer

Background Papers:

- The Localism Act 2011

County Hall
NORTHALLERTON

4 December 2013

-----Original Message-----

From: Cllr.David Chance

Sent: 08 November 2013 09:14

To: Catriona Gatrell

Subject: RE: Interests and revised consultation in respect Whitby Park and Ride

Hi Catriona,

I agree but I would rather say "to enable me to fully represent the views of the people of Whitby and my division who are directly affected by the proposals."

Regards

County Councillor David A Chance
Whitby Mayfield-cum-Mulgrave Division
North Yorkshire County Council
Mobile: 07958 583718

From: Catriona Gatrell

Sent: 07 November 2013 16:41

To: Cllr.David Chance

Cc: Cllr.John Weighell; Cllr.Joe Plant; Carole Dunn; Moira Beighton

Subject: RE: Interests and revised consultation in respect Whitby Park and Ride

Dear Councillor Chance,

Thank you for your email. I have notified Carole of your request for a dispensation and I understand there will be a meeting of the Standards Committee in December. You have indicated that you want a dispensation for you to represent your electorate, but it may be useful to add the basis for your request for example, that it will be in the interests of persons living in the area.

Kind regards,

Catriona

From: Cllr.David Chance

Sent: 07 November 2013 09:04

To: Catriona Gatrell

Cc: Cllr.John Weighell; Cllr.Joe Plant

Subject: RE: Interests and revised consultation in respect Whitby Park and Ride

Importance: High

Dear Catriona,

Thank you for your email the contents of which are noted.

Whether or not I have a pecuniary interest is a matter for continued debate but I would point out that whatever the outcome of deliberations, my partner will not have to pay for parking in Whitby. If she chooses to continue in employment, I say chooses because she is past pension age, then the company she works for will purchase a pass to allow her to park, as they require her to have her car handy to go out on appointments. Ergo no additional cost implications for her or myself, thus I would argue no pecuniary interest.

I think as a safeguard though I would request that you seek a dispensation to allow me to fully represent my electors in the next stage of the "Park and Ride" debate.

Kindest Regards

County Councillor David A Chance
Whitby Mayfield-cum-Mulgrave Division
North Yorkshire County Council
Mobile: 07958 583718

From: Catriona Gatrell
Sent: 01 November 2013 14:54
To: Cllr.Joe Plant; Cllr.David Chance
Cc: Carole Dunn
Subject: Interests and revised consultation in respect Whitby Park and Ride

Dear Councillors,

I have been copied into emails concerning the consultation on the revised parking zones for Whitby. I believe you have also been copied into the proposals.

Councillor Plant – it appears that your property is no longer within a proposed parking zone for the purposes of the consultation. I am currently seeking further information about whether there are any other measures which could affect you, but if not, you may no longer have a discloseable pecuniary interest which is affected.

Councillor Chance – I believe that Flowergate is still within a proposed parking zone, but I am checking the position. I am also conscious that you do not agree with the advice given so again there is the option of seeking a dispensation should you wish to do so.

I will get back to both of you next week with more detailed advice once I have further information.

Kind regards,

Catriona Gatrell

Legal Manager – Corporate Services

For Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

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Line: 01609 532211- F: 01609 780447

Email: catriona.gatrell@northyorks.gov.uk<mailto:catriona.gatrell@northyorks.gov.uk>

Document: 106592/095818

-----Original Message-----

From: Cllr.Joe Plant

Sent: 28 October 2013 10:31

To: Carole Dunn

Cc: Catriona Gatrell; Cllr.Joe Plant

Subject: RE: Whitby Park and Ride - Freedom of Information Requests

Importance: High

Thank you for the email Carole and totally understand the situation.

Taking into account what you have said in regard to my circumstances and not knowing what the future zones will look like, I wish to apply for dispensation for the meeting (date not known) which the decision will be made. Please note I do not know where or what the zones are, or indeed if the area where I live will be in one. I am asking for dispensation in case the area will be in a zone.

The reason being is, I have a disloable pecuniary interests, I own a property in a potential zone. I am the only elected member for all the potential zones and as stated in the guide, the granting of dispensation is in the interests of people living in the council's or authority's area.

Kind Regards. Joe

Cllr Joe Plant

Streonshalh Division

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White Point Avenue

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From: Carole Dunn

Sent: 23 October 2013 12:41

To: Cllr.Joe Plant

Cc: Catriona Gatrell

Subject: RE: Whitby Park and Ride - Freedom of Information Requests

Dear Joe

The matter of dispensations seems to have come very much in to focus. We have had some informal discussions about this and you have also spoken to Catriona, but I do think we need to be clear about the position. As you know, the issue of interests arose at the last minute. We did not have an application for a dispensation from any member affected before the 19 September meeting and if we had it would have been properly considered on its merits (if there had been time) and in accordance with the Council's procedures. Any Member can ask for a dispensation on various grounds as set out in the legislation. Realistically however, even if we had received an application at that stage, it could not have been dealt with in the time available. There is a process to go through. It requires a written application from the member applying and then proper consideration of the issues either by the Standards Committee or in consultation with them and the Independent Persons, and all being in agreement.

It is important to bear in mind that the fact that an application is made does not necessarily mean that a dispensation will be granted - it involves a proper evaluation of the circumstances. Dispensations are not lightly granted and are very carefully considered against the legal criteria. In my experience of the Standards Committee in this Council, (one instance apart) the dispensations that have been granted have related to interests arising from dual hatted members having an interest affecting both the district and the County and where so many members were affected that the decision making process would have been impossible because of the quorum etc. The interests in those cases arose solely from their public office, and not from any more personal interests or implications. The only exception relates to a member whose wife is in public office herself, and he has a dispensation to participate where items of business affect her office, but it is also notable that the Standards Committee specifically excluded from the dispensation in that case any Council business that would bring a personal benefit or dis-benefit to the member or his wife.

I have advised you that if you wish to apply for a dispensation for the next stage of this matter it is open to you to do so and as I have said it will be considered on its merits. We will be pleased to offer whatever assistance we can if you want to pursue that route. You did ask me whether it is possible to 'sound out' with the Standards Committee whether they would be likely to grant a dispensation, but really I think they would need to see the application to consider the matter properly.

I hope this sets the position out clearly.

Kind regards

Carole

From: Cllr.Joe Plant
Sent: 14 November 2013 22:06
To: Catriona Gatrell
Cc: Carole Dunn; Barrie Mason; Nick West; Helen Watson; Cllr.David Chance
Subject: RE: Whitby Park and Ride

Thanks Catriona.

I agree with going along with the dispensation. You just never know.
Cheers. Joe

Regards. Joe

Cllr Joe Plant

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From: Catriona Gatrell
Sent: 14 November 2013 18:01
To: Cllr.Joe Plant
Cc: Carole Dunn; Barrie Mason; Nick West; Helen Watson; Cllr.David Chance
Subject: Whitby Park and Ride

Dear Councillor Plant,

Apologies for taking a little while to get back to you.

I understand that your property is no longer within a proposed parking zone in the revised consultation. This being the case you no longer have a discloseable pecuniary interest in the context of the parking proposals. This means that you can be involved in the normal way as a local councillor, which is hopefully good news.

The only potential risk to your position is the outcome of the consultation. If the outcome of the consultation lead to your property falling within a zone again or some other parking measures

outside your property, then you would again have a discloseable pecuniary interest in the matter of the parking proposals. I understand that there is little likelihood that your property would be affected by the current proposals, but I think it may be prudent to proceed with your dispensation application in any event.

I hope this advice is helpful, but if you have any queries please let me know.

Catriona

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