

CHESHIRE EAST COUNCIL

Standards Committee

Date of Meeting: 25th July 2011
Report of: Borough Solicitor and Monitoring Officer
Subject/Title: Dispensation for Twemlow Parish Council Members

1.0 Report Summary

- 1.1 This report outlines a request from 6 of the 7 Members of Twemlow Parish Council who are seeking a Dispensation in order to discuss a forthcoming planning application which concerns the old Ministry of Defence Oil Storage Depot in Twemlow. The 6 Members consider that they have a prejudicial interest which would prevent them from speaking or voting in relation to this issue.

2.0 Recommendation

- 2.1 That Members determine whether or not to grant a Dispensation to one or more of the applicants.

3.0 Reasons for Recommendations

- 3.1 Standards Committees may grant Dispensations for Members which allows them to speak and vote at a meeting where they have a prejudicial interest.

4.0 Wards Affected

- 4.1 Not applicable.

5.0 Local Ward Members

- 5.1 Not applicable.

6.0 Policy Implications including - Climate change - Health

- 6.1 None identified.

7.0 Financial Implications

- 7.1 None identified.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Standards Committee (Further provisions) (England) Regulations 2009 set out the grounds upon which Local Authority Standards Committees may grant Dispensations to Members to allow them to speak and vote at a meeting where they have a prejudicial interest. The Committee may grant a Dispensation to a Member or co-opted Member of an Authority where more than 50% of the Members who would be entitled to vote at a meeting or prohibited from voting or where the number of Members who are unable to vote at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

9.0 Risk Management

- 9.1 Any Member who has declared a personal and prejudicial interest in a matter for which they have not obtained Dispensation but who remains in the meeting and takes part in the debate and votes on the matter will be in breach of the Model Code of Conduct.

10.0 Background and Options

- 10.1 Under the Model Code of Conduct a Member who has a personal interest which is also a prejudicial interest is required to declare the interest and withdraw from the meeting when the matter is being considered. He or she must not exercise executive functions in relation to the matter and must not seek improperly to influence a decision about the matter.
- 10.2 A prejudicial interest is a personal interest which:-
- a) does not fall into one of the exempt categories
 - b) affects the Members financial interests or relates to a licensing or regulatory matter and
 - c) is one which a member of the public, who knows the relevant facts, would reasonably think is so significant that it is likely to affect the Member's judgement of the public interest.
- 10.3 Standards Committees may grant Dispensations to Members allowing them to speak and vote at a meeting where they have a prejudicial interest if more than 50 % of Members have a prejudicial interest in an item of business to be discussed at a meeting or the political balance of a meeting would be upset enough to prejudice the outcome of the vote. Standards for England has issued guidance on the granting of Dispensation under the new 2009 Regulation and a copy is attached for Member's assistance at Appendix A.
- 10.4 6 Members of Twemlow Parish Council have made written applications to the Committee seeking Dispensation, the application and covering letter from the Chairman of the Parish Council is Attached at Annex B. Applications have been received from:-

Patsy Barnett
Graham Holborn
Andy Davies
Craig Brandreth
George Pierpoint
John Basford

- 10.5 The applications have been made to enable the Members to discuss the forthcoming planning application which will concern the old Ministry of Defence Oil Storage Depot in Twemlow. The Chairman of the Parish Council advises the site in question was purchased at the end of last year by Mr R Brown of The Orchards Farm Twemlow with the intention to convert it into an anaerobic digestion plant. This will convert slurry, food waste and compostable waste into methane which will drive a generator making electricity to be fed into the National Grid. It is understood that Mr Brown is currently addressing the relevant planning issues prior to making a formal application.
- 10.6 6 of the 7 Parish Members of Twemlow Parish Council consider that they have a prejudicial interest either because they know well and are personal friends with Mr Brown the applicant and/or live directly opposite the former oil storage depot site.
- 10.7 Twemlow Parish Council is not the Planning Authority but will be a statutory consultee to the planning process. If Dispensation is not granted Twemlow Parish Council will not achieve quorum and will be unable to perform its role as a statutory consultee by discussing the planning applications at its planning committee and responding to the Planning Authority. Normally any representations made by a Parish Council will be considered by the Planning Authority together with any other representations made.
- 10.8 The applications for Dispensation should be solely considered on the grounds for which they are made. If a Dispensation is granted and a Member has another personal and prejudicial interest for which Dispensation has not been obtained and subsequently remains in the meeting taking part in the debate and voting on the matter then he or she will be in breach of the Model Code of Conduct.
- 10.9 When considering the application for Dispensation the Committee should also determine the duration of the Dispensation. The decision of the Committee to grant a Dispensation must be recorded in writing and kept with the Register of Interest.

For further information:

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