

COUNCILLOR CONDUCT COMMITTEE

16 DECEMBER 2020

REQUEST FOR DISPENSATION

Report from: Perry Holmes, Monitoring Officer

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Summary

This report informs the Committee of three dispensation requests for three Parish Councillors who live within the vicinity of a planning application. Three out of the four Parish Councillors are impacted.

1. Budget and policy framework

- 1.1. Upholding high standards of conduct are a matter for the Councillor Conduct Committee.
- 1.2. The Councillor Conduct Committee's terms of reference allow for the granting of dispensations to Councillors to allow participation in debate and/or voting on any item in which they have a disclosable pecuniary interest or other significant interest.
- 1.3. This item was not available at the time of despatch with the main agenda. The Chairman of the Committee is of the opinion that it should be considered at this meeting as a matter of urgency as permitted under section 100B of the Local Government Act 1972 to enable the Committee to consider this item and determine whether to grant the dispensation requests. The Parish Council have sought an extension to comment on the planning application, and should the dispensations be granted, they have a meeting scheduled for Thursday 17 December 2020, to discuss.

2. Background

- 2.1. The Council's Code of Conduct includes provisions for the granting of dispensations. The decision whether to grant them on request is a matter for this Committee.

2.2. The relevant sections read:

8. Disclosable Pecuniary Interests (“DPIs”)

8.1 “DPI” means those disclosable pecuniary interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Schedule One¹ to this Code.

8.2 You will have a DPI in a matter being considered at a Council meeting where your DPI is closely aligned to the business of the Council agenda item and where the interest is:

- (a) your interest, or
- (b) an interest of your spouse or civil partner, or a person with whom you are living as if you were a married couple or civil partners and provided you are aware that the other person has the interest.

11. Participation in Meetings or Decision Making when you have a DPI

11.1 Unless a dispensation has been granted, if you are present at a meeting and you have a DPI in a matter to be considered you must:

- a) not take part in any discussions of the matter.
- b) not take part in any vote on the matter.
- c) leave the meeting room (including the public gallery).

11.2 Where you are discharging a function of the authority (acting alone) and you have a DPI in any matter to be dealt with or being dealt with by you in the course of discharging that function you must not take any steps or further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with by someone else).

14. Dispensations

14.1 Where you have a Disclosable Pecuniary Interest or other significant interest you may still be able to participate and/or vote at a meeting if you have obtained a dispensation from the Councillor Conduct Committee. A dispensation request form is attached to the Code (Appendix 1).

14.2 There are 5 circumstances in respect of which a dispensation may be granted, namely:

- (a) that so many members of the decision-making body have disclosable pecuniary interests or OSIs in a matter that it would impede the transaction of the business;
- (b) that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- (c) that the dispensation is in the interests of persons living in Medway;
- (d) that without a dispensation, no member of the Cabinet would be

¹ Schedule One includes: Land - Any beneficial interest in land within the area of Council.

able to participate in this matter, or (e) that it is otherwise appropriate to grant a dispensation.

3. Advice and analysis

- 3.1 The Parish Council is made up of five Councillors, although one has recently resigned. Three of the four remaining Parish Councillors live within close proximity to the site relating to a planning application for four 4-bedroom houses on the land behind Fenn House Farm, Fenn Street in St Mary Hoo. In addition, one of the three Parish Councillors is also the landowner of the site. Without dispensations being granted, St Mary Hoo Parish Council cannot meet to formalise a Parish Council response to the consultation of the planning application.
- 3.2 The Parish Council has sought an extension to the planning application consultation in order to seek dispensations to be able to formally meet, discuss the application and submit a response on behalf of the Parish Council.
- 3.3 The Committee needs to consider the grounds on which dispensations can be granted, as set out above in section 2.2 (section 14 of the Code of Conduct) of the report and consider to what extent the application will impact on each of the three Parish Councillors individually in their personal capacity.

4. Risk management

Risk	Description	Action to avoid or mitigate risk
The Parish Council cannot respond to the planning application	Without the dispensation, three out of the four Parish Councillors will not be able to take part in the discussion on the application and therefore would only be able to submit responses individually in their personal capacities, should they wish.	Consider granting the dispensation requests

5. Financial implications

- 5.1. This report contains no specific financial implications.

6. Legal implications

- 6.1. The legal implications are contained within the body of the report.

7. Recommendations

- 7.1. That the Committee consider granting dispensations for:
- (a) Parish Cllr Malcolm (Bill) Budd
 - (b) Parish Cllr Carol Heyburn
 - (c) Parish Cllr Paul Hassell
- to speak and/or vote in relation to the planning application regarding the land at the rear of Fenn House Farm, in which they each have an interest.
- 7.2 Should the Committee grant dispensations, it is asked to consider and agree the time period for such dispensations, which cannot exceed four years.

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Appendices

Appendix 1a – Parish Cllr Budd’s request for dispensation

Appendix 1b – Parish Cllr Heyburn’s request for dispensation

Appendix 1c – Parish Cllr Hassell’s request for dispensation

Background papers

None.