

STANDARDS COMMITTEE

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held in Committee Room No. 2 (Bad Münstereifel Room), Civic Centre, Tannery Lane, Ashford on the **3RD OCTOBER 2007**

- PRESENT:** Mrs C A Vant (Chairman);
Cllr Packham (Vice-Chairman);
- Cllrs. Mrs Laughton, Wood
Mr A P Mobbs – Substitute Parish Council Representative
Mr M V T Sharpe – Independent Member
- APOLOGIES:** Cllrs Mrs Blanford, Honey, Mr J Dowsey, Mr D Lyward.
- ALSO PRESENT:** Monitoring Officer, Deputy Monitoring Officer, Senior Member Services and Scrutiny Support Officer.

262 MINUTES

Resolved:

That the Minutes of the meeting of this Committee held on the 12th July 2007 be approved and confirmed as a correct record.

263 WITTERSHAM PARISH COUNCIL – APPLICATIONS FOR DISPENSATIONS UNDER CODE OF CONDUCT IN RELATION TO PLANNING APPLICATION FOR PROPOSED NEW VILLAGE HALL AT CORONATION FIELD, WITTERSHAM.

The Chairman introduced the item and said that she appreciated this was a controversial issue in the village of Wittersham. She clarified that this meeting was not concerned with the merits of the proposals for a new village hall or where it should be sited. Three Parish Councillors with Personal and Prejudicial Interests had applied for dispensations related to the village hall matter and the Committee would purely consider these applications. She said that she would allow members of the public present to speak for three minutes should they so wish and one person indicated that they would like to speak.

A pack of correspondence received since the publication of the agenda was tabled. The Chairman gave everybody present an opportunity to read the papers and the Monitoring Officer explained that he would go through them with Members if they so wished. It was his view that Members should be aware of all the relevant facts. Members considered it procedurally unfortunate that they had been given the papers at the last moment but agreed to continue with the meeting if the Monitoring Officer explained the nature of each item of correspondence. The Monitoring Officer outlined: - an email from Mr Chesson including a series of attachments; letters from Mrs Bracher; and emails from Mr Carroll, Mr Willcocks and Mrs Deackes. The general tone of the correspondence was concern and opposition to the recommendation of the Monitoring Officer to grant the dispensations and one questioned the accuracy of the letter from Public Law Solicitors on behalf of Mr Lewis. The Monitoring Officer took Members through each item of correspondence, summarising the main points. He expressed the view that insofar as the letters raised issues of bias and predetermination on the part of the three Parish Councillors this was a separate matter and not a factor that should be given weight in the current context.

The Parish Council representative on the Committee asked why the issue of bias was not relevant for this Committee. He did not believe the issue could proceed fairly if dispensations were granted. If the Members in question were allowed to speak or vote at the meeting with such a clear prejudicial interest, as Chairman of the Kent Association of Parish Councils for the Ashford Area Committee, he would report them to the Standards Board for England. The Monitoring Officer clarified that under the new Code of Conduct the Members would in any event be allowed to make representations and answer questions at the meeting regardless of prejudicial interests or the granting of dispensations. The issue of granting the dispensations would be to allow the Members to remain in the meeting, take

a full part in the meeting and vote. The regulations allowed for this in cases such as this where the number of Members of the Authority who would be prohibited from participating in the business of the Authority exceeded 50% of the total number of Members entitled to participate.

Mrs Bracher, a resident of Wittersham and a former Parish Councillor, then spoke. She explained that she did not understand why the Monitoring Officer had recommended the granting of the dispensations and why the question of bias was not an important one for this Committee when there were such clear prejudicial interests such as this one. She also believed that the Monitoring Officer had made light of points raised in her letter of the 25th September which had highlighted some inaccuracies in the correspondence of Public Law Solicitors. They had stated that the Parish Council had initiated the building of a new village hall and had prepared the plans, but this was not true. This had been done by the Village Hall Management Committee and she considered this was an important point that should not be dismissed. She also believed the view that the three Members had been voted on to the Parish Council because the village needed a change was not true. Three existing Members had not stood for re-election so there was a vacuum and there had only been a few votes either way. She concluded by stating that the Monitoring Officer must know that the three Members were both biased and had prejudicial interests and this had to be taken into consideration.

The Monitoring Officer acknowledged that there were discrepancies between the different accounts of how the planning application had been put together but that this was not important to the decision to be made at this meeting. Additionally whilst possible bias may be a relevant issue at a future meeting of the Parish Council it was not a matter to which weight should be given now at this Committee. The Standards Committee did not need to, indeed it was not in a position to, make any findings as to bias on the part of any Parish Councillor. That may be relevant when the Parish Council came to decide how to proceed with the planning application.

In response to a question about quorum, the Monitoring Officer explained that four of the seven Parish Councillors had a prejudicial interest, but the quorum was three, so even if the dispensations were not granted the three remaining Members could make a decision. There was, therefore, no legal imperative to grant dispensations in the sense that lawful decisions could still be made. In his view proper political and democratic process was at the heart of these applications. For whatever reason these three Members had been elected to the Parish Council in May and Standards Board guidance stated that Standards Committees, when considering dispensations, needed to balance the public interest in avoiding Members with prejudicial interests taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of Members of the Authority. Under paragraph 12.2 of the Code of Conduct the three Members could speak and make representations on this item without dispensations and then leave the meeting without taking part in the debate or the vote. If this Committee believed that this was a satisfactory level of representation for the views of this part of the Parish Council membership, then there was no need to grant the dispensations. However, if the Committee considered that the public interest and opinion in the context of such a key planning proposal was more likely to be better represented by the granting of dispensations they should be granted. The issue of bias would need to be separately considered on all sides in due course.

An Independent Member of the Committee asked if the Committee should grant or deny each application for dispensation individually. The Monitoring Officer explained he would be concerned if the Committee pursued a route of distinguishing between the three applications in this case as they were essentially made from three very similar factual backgrounds (i.e. that their dwelling houses were extremely close to the site of the village hall proposal). Therefore, it would be difficult to justify different decisions for the different cases. He accepted, however, that one of the three Parish Councillors was also a Member of the Village Hall Management Committee.

The Parish Council representative asked if the Monitoring Officer had responded to Public Law Solicitors' letter of the 12th June seeking "advice". The Monitoring Officer explained that he had responded to clarify the procedure for applying for dispensations but it was not his role to provide them with "advice" in the sense of legal advice.

Members of the Committee raised the issue of precedent and referred to applications for dispensations heard by this Committee in January 2005 relating to a planning application in High

Halden. Some Members considered that this case was very different and the two could be distinguished. The planning application in High Halden was made by a third party and was nothing to do with the Parish Council. Four of the Parish Councillors in that instance had just happened to live in the locality and their inability to participate would have left the meeting inquorate.

The Parish Council representative on the Committee said that in his view the individuals were attempting to abuse the political and democratic process for their own gains and dispensations should not be given when there were such clear prejudicial interests. He considered that the Committee had to take into account common sense, honesty and fairness and also consider that none of the Members in question polled more than 20% of the electorate at the recent Parish Elections. He considered the grant of dispensations should be refused. This was also the view of another Member who said that his interpretation of the regulations was that dispensations were appropriate only if the business of a meeting was impeded. However, in this case even without the dispensations the meeting could deal with the business and reach a quorate decision. In response the Monitoring Officer acknowledged that whilst this was a possible interpretation of the regulations, his own view, after having taken advice, was that business would in effect be deemed to be "impeded" if less than 50% of Members could take part and that there was not a separate requirement to establish the absence of a quorum.

Resolved:

That (i) each of the Wittersham Parish Councillors referred to below be granted a dispensation to enable them to speak and vote at meetings of the Parish Council and/or its Committees in relation to whether the Parish Council should pursue, withdraw or amend its current planning application 06/00924/AS, notwithstanding that they each have prejudicial interests therein by virtue of proximity of their private dwellings (and membership of the Village Hall Management Committee in the case of Mr Pennyfather), such dispensations to expire when the said planning application is determined, withdrawn or otherwise finally disposed of:

**Mr David Charles Lewis
Mr Paul Lyon
Mr David Leonard Pennyfather.**

- (ii) the dispensations be noted in the Register of Interests in accordance with the Dispensation Regulations.**
- (iii) the Monitoring Officer, when writing to the Parish Councillors about the dispensations, advise that the Standards Committee's expectation would be that the relevant Parish Councillors would express views based on the wider public interest and also advise each of them to carefully consider their individual positions in relation to the rule on bias (and if necessary take independent advice on the matter) prior to taking part in any future meeting of the Parish Council which considers the matter of the village hall planning application.**