
Humber, Ford & Stoke Prior Group Parish Council

Council Meeting, September 2019

Policy on granting dispensations to councillors under Standing Order 25(d)

1. Standing Order 25(d) allows the Council to grant dispensations to councillors declaring an interest from the rules on participation in council meetings. These rules derive from the revised Herefordshire Code of Conduct, adopted from May 2019, which (for pecuniary interests) are in turn based on the requirements of the Localism Act 2011. Under Section 33 of the Localism Act such dispensations can be granted for several reasons, including that “granting the dispensation is in the interests of persons living in the authority’s area”.
2. Standing Order 25(c), based on the Code of Conduct, requires that where a councillor has a ‘Schedule 1’ (or pecuniary) interest, such as a planning application, he shall withdraw from the meeting room during consideration of the matter (including periods for members of the public to address the meeting on the matter) and may not speak to, or participate in discussion, or vote on the matter. The normal practice of the Council (or its Planning Committee) is to invite a planning applicant to the meeting, to make any further statement and answer questions from councillors (and also from other members of the public, through the Chair). Where an applicant is not present, this may impede the meeting’s ability to understand any issues of concern and reach a fully-informed and reasoned view on the application.
3. Therefore, the practice of the Council has been (where an application for this is made) to grant a limited dispensation from this rule to a councillor with a planning application, so that the councillor, having declared the interest, may remain in the room in the period for public discussion and questions concerning the planning application in order to speak and answer questions from the public gallery only during that period, but then to withdraw from the room for the remainder of the public participation on that item and for the Council’s discussion and vote on the application. The reason for this has been that it is in the public interest that the Council can have the fullest information available to it about the application, including the opportunity to ask questions of the applicant, but that once the councillor has answered questions, he shall withdraw and not be present to influence in any way any further public participation or the Council’s discussion and voting.
4. Several such limited dispensations have been granted by the Council and its Planning Committee over recent years, and these have been notified to the county Monitoring Officer as required. On the first of these occasions, the Monitoring Officer’s views on the dispensation was sought prior it being granted, and she was content with it. This view was repeated by the Monitoring Officer when raised by the Clerk at seminars about the Code of Conduct in September 2017 and June 2019.
5. However, at the training session given to councillors in July 2019, the Chief Executive of HALC gave her opinion that such a dispensation was not proper. The reasons for the policy (and the legal basis under Section 33 of the Localism Act) were explained to her,

but she remained of the view that a councillor with a Schedule 1 interest should not be present throughout, “to appear whiter than white”. Instead, she advised that if councillors had questions of the applicant, they could raise these with the applicant privately beforehand, and report this to the meeting. The Clerk would, however, remind councillors that such private discussions could be construed as being contrary to Standing Order 32(e) which covers site meetings and contact with the applicant, and that in any case councillors should consider carefully how such private discussions between themselves and a fellow councillor, might be viewed by the public.

6. Given the opinion of HALC given to all councillors at the training session, and the conflict with the Council’s current policy and the advice of the Monitoring Officer, Council is asked to review this policy, and either confirm or amend it.

Philip Brown

Clerk to the Council

11 September 2019