

1. Prior to this meeting I received a written request from Cllr. King-Wilson for dispensation to be permitted to take part in the wider discussions regarding the Plaistow & Ifold Neighbourhood Plan (the Plan) at item 6 of the agenda.
2. Cllr. King-Wilson has a Disclosable Pecuniary Interest (D.P.I) in the Plan by virtue of being the landowner of the Brownfield Site referenced in the draft Plan at policy EE 4. The formal address being Little Springfield Farm, Plaistow Road, Ifold, RH14 0TS. Redevelopment of this site is supported by the Parish Council, as outlined at Policy EE 4.
3. The ground on which Cllr. King-Wilson has asked to be permitted to take part in discussions is "*a dispensation is in the interest of persons living in the council's area*" (Standing Order 7(h)(ii)).
4. As Proper Officer of Plaistow and Ifold Parish Council it is my duty to consider any Councillor's application for dispensation. The rules on applying for dispensation are set out in the Parish Council's Standing Orders at item 7. I previously considered this matter on 14<sup>th</sup> May and refused Cllr. King-Wilson's request for the reasons set out in my rationale document, which I read out at the public meeting and can now be viewed on the Parish Council's website, as part of the minutes of the Annual Meeting.
5. On 14<sup>th</sup> May I said that I would re-evaluate Cllr. King-Wilson's dispensation request on each occasion the Neighbourhood Plan came before the Parish Council for discussion.
6. In some circumstances, Councillors may be granted a dispensation to enable them to take part in Council business, which would otherwise be prohibited due to their D.P.I. In coming to my decision, I have taken advice from SSALC, including their Solicitor, the Parish's Monitoring Officer at Chichester District Council and had regard for all the criteria to be applied in determining dispensation requests.
7. I refer to my previous considerations set out on 14<sup>th</sup> May. I consider the need to maintain public confidence in the Parish Council's decision-making process at paragraphs 11 – 14 below. Regarding granting dispensation as a mechanism to prevent the business of the Parish Council being frustrated by virtue of being inquorate (s.33(2)(a) Localism Act 2011) I am satisfied that tonight's meeting will remain quorate if I refuse Cllr. King-Wilson's request; therefore, I am not persuaded to grant dispensation on this basis alone.
8. In addition, I have had consideration for the following questions:
  - a. Is policy EE 4 fundamental to the Plan?
  - b. Is policy EE 4 being specifically addressed tonight? or any detail within the Plan, which directly, or tangentially, affects policy EE 4?

9. Policy EE 4 is not fundamental to the Plan consequently, it does not cause Cllr. King-Wilson to have a D.P.I. in all matters arising from the Plan; therefore, a total exclusion from all discussions and/or voting in the decision-making process is not necessary.
10. Policy EE 4 is not being specifically addressed at tonight's meeting. However, reaching agreement on the wording of the introduction to the Plan could be reasoned as tangentially affecting Policy EE 4, as ratification of the Plan and moving it forward within the adoption process positively benefits Cllr. King-Wilson's site and his personal interest.
11. Cllr. King-Wilson's participation in tonight's discussion and vote could fall under the rules of predetermination as set out in case law and s.25 of the Localism Act 2011, if it were so judged that his vested interest in the unfettered progress of the Plan called into question the validity of his decision making. This could undermine public confidence in the Parish Council's decision-making process.
12. Section 25 of the Localism Act 2011 applies if the validity of a decision is questioned, due to an allegation of bias or predetermination and it is relevant whether any of the decision-makers had, or appeared to have had, a closed mind (to any extent) when making the decision.
13. In *R (Lewis) v Redcar and Cleveland BC* [2008] EWCA Civ 746; [2009] 1 WLR 83 the Court of Appeal stated that the test for apparent predetermination is very difficult to satisfy. The case concerned the grant of planning permission by a Planning Authority upon its own land<sup>1</sup>. In connection with the planning matters at issue, the Court of Appeal concluded that, among other things, the fact that a planning application was promoted by the council on council-owned land and the council's pecuniary interest in the grant of permission did not provide evidence of predetermination.
14. I am therefore satisfied that Cllr. King-Wilson's D.P.I in Policy EE 4 does not create a de facto predetermination and should not preclude him from participating in tonight's discussion. I therefore permit Cllr. King-Wilson's dispensation request.
15. I will take this opportunity to provide general guidance to all Members on the matter of predetermination. As high as the threshold test maybe, the integrity of Parish Council decision making and public confidence in our processes must not be undermined by the perception of closed minds.
16. The skill and challenge of public office is to divorce personal feelings from matters to be properly considered by the Parish Council. As I previously stated on 14<sup>th</sup> May, the

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<sup>1</sup> The decision of the Court of Appeal was overturned by the Supreme Court in 2010 on a point of law of general public importance relating to s.15 of the Commons Act 2006; namely whether local residents could register the land, which had formerly been used as part of a golf course, as a "town green". However, the legal principals regarding predetermination as set out in *Lewis* still stand.

Neighbourhood Plan is a contentious document, which elicits strong opinions. The various policies within the Plan and its ultimate outcome will personally impact all Councillors, by virtue of living within the Plan area.

17. The law recognises the practical reality that local Councillors are likely to have opinions on matters of local controversy and distinguishes these opinions from genuine predetermination. Likewise, the law does not require decision-makers to undertake their work with empty minds and it recognises the important distinction between a closed mind on an issue (predetermination) and a legitimate predisposition in favour of a particular outcome. Given that decision making by the Parish Council in relation to the Neighbourhood Plan must be evidence based, a legitimate predisposition in favour of a particular outcome is quantifiable.
18. As elected officials, you each serve the collective interest of the whole Parish area. As such, Members may sometimes have to make decisions which are contrary to their own personal views or interests but are in the best interests of the whole community.
19. I am confident that all Councillors understand the gravity of their public duty and approach their decision making with due diligence.