

Email request for dispensation from Councillor Pope dated 16 September 2019

From: Nick Pope (Cllr)
Sent: 16 September 2019 11:19
To: Patricia Narebor
Cc: William Benson; Alan McDermott (Cllr); Dianne Hill (Cllr); Ben Chapelard (Cllr)
Subject: Calverley Square - Dispensation

To: Patricia Narebor (Monitoring Officer)
CC: William Benson (Chief Executive), Cllr Alan McDermott (Leader TWBC), Cllr Dianne Hill (Labour Group Leader), Cllr Ben Chapelard (Liberal Democrat Group Leader)

Date: 16/09/2019

Patricia,

I am applying for a dispensation to vote on the Calverley Square scheme at Full Council next week.

The council's constitution says the following:

A dispensation may only be granted by the monitoring officer from the above restrictions on limited grounds. These include:

- (a) where the quorum for the meeting would be adversely impacted;
- (b) the political balance would be affected so as to alter the likely outcome of any vote;
- (c) granting the dispensation would be in the interests of persons living in the Borough; or
- (d) it would otherwise be appropriate to grant a dispensation.

I am requesting a dispensation on the following grounds:

(b) Political balance - as there will be at least one Tunbridge Wells Alliance member (xxx) unable to attend the meeting on 25th September due to work commitments, which they are unable to change due to the nature and timing of the work assignment they are working on, and the vote is very likely to be close.

(c) Interests of persons living in the Borough - the mandate on which I was elected was on the Calverley Square project along with the other Tunbridge Wells Alliance councillors who represent wards across the Borough. By preventing me from being able to vote, I am being prevented from acting in the interests of residents.

I would like to clarify one thing that has been raised about my views on the project. They have not changed since my wife bought a flat in Grove Hill House in early 2017 and I have not taken a position on Calverley Square for reasons of personal interest. My original views about the project were as chairman of and spokesperson for the Friends of Calverley Grounds, a community group with an interest in the public park in the centre of Tunbridge Wells. The initial views of the Friends of Calverley Grounds committee were submitted to the Town Forum in March 2016. This document attempted to balance being positive about the idea of a development next to Calverley Grounds whilst, at the same time, listing a number of concerns. On 17th June 2019, at the Extraordinary Full Council Meeting, the Leader of TWBC quoted a two and a half line paragraph that set out the reasons the council gave for wanting to build a theatre on the Great Hall car park site. This short paragraph did not set out my personal views or the views of the committee of the Friends of Calverley Grounds. I have attached the whole document for reference. I should also clarify that there have been many changes to the Calverley Square development since March 2016.

I look forward to receiving a dispensation.

Regards

Nick

Councillor Nicholas Pope, Park ward, Borough of Tunbridge Wells
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Request for a dispensation to debate and vote on proposed developments on the site of the Calverley Square scheme (Revised summary of request from Councillor Pope November 2019)

This document sets out my argument for the request of a dispensation to be able to debate and vote on proposed developments on the site of the Calverley Square scheme. The site includes the following: the Great Hall car park, the Mount Pleasant Avenue car park, the Lodge and public toilets in the entrance of Calverley Grounds, and parts of Calverley Grounds adjacent to these.

Over the last 5 months, I have been required to withdraw from debates and votes on Calverley Square because of a DPI, my wife owns a one bedroom flat in Grove Hill House, a building that is adjacent to the Great Hall car park and affected by the Calverley Square CPO.

The constitution says:

A dispensation may be granted only if, after having had regard to all relevant circumstances, the Audit and Governance Committee, its sub-committee, or the Monitoring Officer (where authorised) considers that:

- i. without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or*
- ii. without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or*
- iii. granting the dispensation is in the interests of persons living in the Authority's area; or*
- iv. without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or*
- v. it is otherwise appropriate to grant a dispensation.*

I believe I should be allowed a dispensation based on items (iii) and (v) above. It is also possible that the outcome of a vote could be upset, and so item (ii) above should also be included.

The test as to whether I should be allowed a dispensation is whether a fair-minded informed observer, knowing all the relevant circumstances, would consider there to be a real possibility for bias. The test is not whether there is a 'potential for bias'.

If a person were to conclude that there is 'a real possibility of bias', they must be able to show some reasonable connection between the impact the development would have on me and the way I might vote to serve my own, rather than the public interest, taking into account 'all the relevant circumstances'. The only circumstance to consider is that there is a DPI. That is demonstrably an insufficient test.

In the Localism Act 2011 S25, the explanatory notes make it clear that merely having expressed a view or campaigned on an issue is not sufficient to show predetermination. However, the fact that a view has been expressed and an issue has been a central part of a Party's manifesto is a material factor in determining the circumstances relevant to a fair-minded person's assessment of the likelihood of real bias where there is a DPI. If the Member has consistently taken a public position on a particular matter, as is the case here with regard to my position on Calverley Square, it is hard to see how a fair-minded person would consider that maintaining that position in debate and on voting in the Chamber, was evidence of bias, particularly where it is clear that that position is at best neutral to the Member's interests. The argument for bias could only reasonably apply were I to take a position contrary to my declared public stance.