

**COUNCIL
26 APRIL 2000**

**CROWTHORNE PARISH COUNCIL
APPLICATION IN RESPECT OF MEMBERS INTEREST
(Director of Corporate Services – Legal)**

1 INTRODUCTION

- 1.1 The Council has been notified by Crowthorne Parish Council that it proposes to consider the condition of unadopted roads in the Parish at its next meeting on 16 May 2000. At the time the Parish Council meeting takes place, there will be ten Parish Councillors, five of whom will have a direct pecuniary interest in the matter. The Parish Council has requested that a dispensation be granted to permit the five Councillors to speak and vote on the relevant agenda item.

2 RECOMMENDATIONS

- 2.1 **That subject to the Condition in 2.2 below the following named Members of Crowthorne Parish Council be granted dispensation to speak and vote at meetings of the Parish Council held on or before 31 December 2000 on any agenda item concerning the condition and/or adoption of roads within the Parish of Crowthorne which are not maintainable at public expense:-**

**Councillor J G Finnie
Councillor R C Rand
Councillor Mrs M E Pierce-Jones
Councillor Mr M Pierce-Jones
Councilor R H Wade**

- 2.2 **The dispensation referred to in 2.1 above shall not extend to speaking or voting on any motion proposing expenditure upon or works to unadopted roads within Crowthorne by the Parish Council.**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

- 3.1 Borough Solicitor
The advice of the Borough Solicitor has been incorporated into this report.
- 3.2 Borough Finance Officer
No comments.
- 3.3 Access Implications
None arise.

4 SUPPORTING INFORMATION

4.1 The Local Government Act 1972 generally prohibits local authority Members from taking any part in the consideration of any matter in which they have a direct or indirect pecuniary interest. For these purposes "local authority" includes Parish Councils.

4.2 As an exception to the general rule, a dispensation may sometimes be granted to permit a Member to speak or to both speak and vote on a matter in which the Member has a pecuniary interest. For Borough Councillors, the power to grant a dispensation is vested in the Secretary of State. In the case of Parish Councillors the decision as to whether or not a dispensation should be granted rests with the Borough Council.

4.3 The Clerk to Crowthorne Parish Council has advised that the Parish Council proposes to consider the following agenda item at its meeting on 16 May 2000:-

"to discuss the condition of the unadopted roads in Crowthorne".

It is understood that the Parish Council will consider the consequences of some works to unadopted roads which were undertaken on behalf of the Borough Council in 1995 which are alleged to have given rise to problems with dust from the roads concerned.

4.4 The five Members concerned (two of whom are not currently Members of the Parish Council but will be when the Parish Council meets on 16 May) have a pecuniary interest in the subject by virtue of their owning properties which have a frontage to an unadopted road.

4.5 The power for the Borough Council to grant a dispensation may be exercised ".....in any case in which the number of Members of the local authority [who would otherwise have to withdraw] would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Council [to be] in the interest of the inhabitants of the area that the disability should be removed". Conditions may be imposed on the dispensation.

4.6 In considering the application for dispensations, it is relevant to bear in mind the policy guidance formulated by the Secretary of State and used by him in determining similar applications made by District and County Councils. Circular 16/92 contains the following advice:

"the Secretary of State's policy is to give dispensations to speak unless the Members interest in the matter before the Council is so immediate that it would be wrong for the Member to take any part. Dispensation to vote is given only where:-

- (a) at least half of the Council committee concerned are disabled; or
- (b) disabilities would otherwise upset the elected party balance in the Council committee".

- 4.7 In this instance one half of the Parish Councillors would be unable to participate if no dispensation were granted. Accordingly, one of the scenarios under which the Secretary of State would be prepared to grant a dispensation to both speak and vote is applicable to the present request. It is therefore considered that a dispensation to allow each of the five Councillors to speak and vote on a general discussion concerning the condition of unadopted roads in Crowthorne (which may result in requests and/or proposals being made to this Council, which would fall to be considered by the Highways Sub-Committee and/or Planning & Transportation Committee) is appropriate. However, given their direct pecuniary interest it would not be appropriate for the Councillors to participate in considering any proposals which would involve any commitment of Parish Council resources.

Background Papers

Correspondence between the Borough Solicitor's office and Crowthorne Parish Council.

DoE Circular 16/92

Contacts for Further Information

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