

To the Conduct Committee
Tendring District Council

8th July 2013

Coastal Defence Work – Clacton-on Sea

This statement is in support of my request to the Council for a DPI dispensation. Following the advice of officers, I requested and was granted a DPI dispensation at the last Council meeting, but only for that meeting. I believe this second part to be a fundamentally flawed decision.

Like most, if not all councillors, I have declared my private residence as a declarable pecuniary interest (DPI) and it is a plain fact that it is within the 100 year 'risk' band highlighted in the Mott McDonald survey. That is not in question – what is in question is whether, under the 2011 Localism Act, Chapter 7, Section 33, it has a valid and sufficient impact to prevent me for carrying out my duties as a councillor, representing all 1700 residents of my ward.

My position, until now, has been that my circumstances (the financial impact or otherwise on my residence) are the same as all the residents in my ward, that I am no more and no less negatively (or indeed positively) affected by the sea defence works than they are. The Government has recently established this principle with regard to the setting of council tax and, whilst some might argue that the principle only applies to the particular issue of council tax, it could equally be argued that it sets a clear precedent of even-handedness and establishes a very necessary protection of local democracy when it comes to such situations as this.

I have taken the latter view and this is why I have not, up to recently, followed the action now recommended by officers. Also, I think it completely unfair to consider only the potential direct financial impact of the project on councillors without taking into account the indirect financial impact as well. In doing so, I have taken into consideration the following points.

- The fact that all residents of Holland-on-Sea are affected by the works (whether negatively or positively, depending on the existence and stage of the project), not just councillors.
- The fact that, by extension, all residents of Clacton-on-Sea, including Clacton-based councillors are affected (whether negatively or positively) by the whole project. I note that the consultants' scheme identified the whole of Clacton sea front (beyond the pier, to the Martello beach) for defence works, even though Holland-on-Sea may be the first stage. Notwithstanding the issue of funding, there is a sequential nature to the project, so all property-owning residents of Clacton will ultimately benefit, unless the Council is already aware that subsequent stages of the project will definitely not go ahead. In other words, the completion of the first stage makes it more likely that the second stage will commence, the completion of the second stage will do likewise for the third stage, and so on.
- An examination of the addresses of Clacton and Holland councillors show at least two members with DPI addresses in as close a proximity to the seashore as mine. A number of

other councillors have properties close to the seashore and/or own more than one property in the town.

- At least three councillors have declared interests in terms of their employment or own businesses. One is employed in a company serving the hotel and restaurant trade which undoubtedly would suffer collectively from serious economic problems if beaches were not recharged and sea defences shored up. The second provides groundwork services to the private and public sector and would undoubtedly be affected by an area-wide economic downturn caused for the same reasons. Alternatively, both would economically benefit, either in job-security or in business continuity if the Clacton sea defence project went ahead. The third owns and runs a post office and stores not far from the seafront – again the potential impacts, positive or negative, are quite apparent.
- Four councillors are in a position of authority and/or influence (or have declared paid or unpaid employment) in a political party that owns a property close to the seafront. This property not only serves as branch headquarters, but also provides rental income to support the local branch.
- With this in mind, it is worth noting that the DPI legislation, quite correctly, does not discriminate in terms of the degree of financial impact on a person's property or economic well-being. There is no 'cut-off' stage laid out where it is deemed that a councillor is or is not affected. They are either affected or they are not. So, if the impact is £1 or £1 million, there is no discretion for the Council (or anyone else for that matter) set down in the legislation.
- Quite logically, those with properties nearest the sea front will probably be most affected if the work is not done and this, say, might have up to 50% impact on the value in extreme circumstances. Equally logically, properties a little further away from the coast may see a 45% impact on their value. Another street away might see a 40% impact and so on.
- Given the rate of erosion seen around England's coastline (and we need look no further than the Naze for a local example), it is not beyond imagination, therefore, to see the value of properties on the periphery of Clacton affected in such extreme circumstances, albeit in a modest way. Once again, it does not matter before the law if it is £1 or £1 million, the change in value of a DPI property is established as a result.
- If the Clacton Coastal Defence work is completed, the reverse will apply, in that the value of all properties will be positively affected, either by a rise in value **or** a reinforcement of their current value.
- Therefore, it is quite clear that seafront properties do not rise in value in isolation as a result of removing of the potential blight of coastal erosion, all properties in a coastal town may do. It is just a case of the extent of that rise.
- However, it does not just require a change in value for a property to be deemed to be financially affected by a major external influence. The existence of an external blight, or its

removal, can have a bearing on the ease, or otherwise, of the sale of that property, even if the asking price remains unchanged.

- Following on from all of that, the situation of Cabinet members who reside in Clacton deserves scrutiny. It was the Cabinet who made the executive decision to apply £3 million of TDC funding to the Clacton Sea Defence project, as well as seek substantial amounts of complementary finance from Essex County Council and from Government agencies.
- All ordinary members of the Council, like myself, are being asked to do is to ratify that executive decision.
- As such, if I am required to seek a DPI dispensation at this late stage of the process, that stricture must surely apply to those that not only used the executive power to direct the funds, but who instigated the project in the first place.
- That seems a much more powerful case for requiring a DPI declaration and dispensation, notwithstanding that their properties may be further away from the sea defences and therefore less affected. Their properties are affected, plain and simple. I suspect, in a court of law, that view would be favourably received.

Finally, one of the options evaluated in the Mott McDonald report was “Do Nothing”. In the event that this was taken up (and in the absence of all the funding actually materialising or the existence of an established timetable, this is still a possibility), this would mean ad-hoc sea defence work being carried out. If, at some time in the future, the circumstances arose where a breach in the sea defences occurred and remedial work was required in front of my property (within a span of, say 100 yards either way), it is quite clear that I would have to make a declaration of pecuniary interest and not participate in any decision.

But when the scale of the works is of such magnitude that it affects all 60,000 or so residents (not to mention all the businesses) in Clacton and Holland-on-Sea, it seems quite wrong that I should be singled out as the only councillor possibly affected by it. Such a decision may leave the Council open to the charge that the decision is a result of a personal vendetta or that it is politically motivated.

One way around that (and to resolve this whole problem brought on by ill thought-out legislation) might be to seek a long-term en-bloc DPI dispensation for **ALL** Clacton-based councillors. My suggestion also has the merit of saving the Council a lot of time and money (in terms of senior officer involvement as well as that of the Conduct Committee) and will clearly establish that the Council is being even-handed and fair in its approach to this particular issue.

In the simplest of terms, all I ask for is to be treated fairly and equally with all my fellow councillors.

Cllr. Joy Broderick
Holland Haven Ward