

## APPENDIX 1

### **Councillor first to be convicted of Localism Act pecuniary interest offence**

A former leader of Dorset County Council is thought to have become the first councillor to be found guilty of an offence under the pecuniary interest provisions of the Localism Act 2011. The charge against Spencer Flower, who is also a councillor at East Dorset District Council, was that on 25 February 2013 at Dorset, he was present at a meeting about the East Dorset Core Strategy and had a disclosable pecuniary interest in a matter considered at that meeting and without reasonable excuse, participated in the vote taken at that meeting.

At the time Flower was a non-executive director of Synergy Housing, a charity that exists to provide homes for those in need. He held that role from 2004 until 24 September 2013. Although not paid a salary, he received remuneration payments of £29,920 for the years 2010 to 2013. Flower listed this interest in pecuniary interests forms submitted to East Dorset and the county council in July 2012.

The defendant pleaded not guilty to one requisition under sections 31 (1) and (4) and 34 (1) (b) and (3) of the 2011 Act. Two other charges against him had been dropped.

At Bournemouth Magistrates' Court District Judge Nicholls noted that the defendant was a man of good character and the court had received a number of character references from people speaking highly of his abilities, his conscientiousness and his years of public service. Flower's view was that the matters at the relevant meeting in relation to the Core Strategy were of a broader nature and did not concern detailed issues of planning and ownership. The judge nevertheless concluded that the defendant should – prior to the meeting – have taken time to consider his position.

The 2011 Act made it clear that having declared his interest in Synergy Housing, the defendant could not take part in that meeting, the judge said.

Flower could have obtained a dispensation, he added, and had previously made use of such a dispensation in relation to council tax. District Judge Nicholls suggested that it would not have been unreasonable for the defendant to have consulted the monitoring officer. The onus remained on the member to deal with matters.

The judge found that Flower was prevented by the Localism Act from taking part in the meeting on 25 February 2013. Without a dispensation, he could not take part.

The meeting, District Judge Nicholls noted, was to consider the Core Strategy. Synergy had responded to the consultation, owned land (Cuthbury Close in Wimborne\*) that was being considered and was a part of the details contained in the Core Strategy. Flower had previously attended a meeting of Synergy where the long-term use of the land at Cuthbury Close had been discussed. It was not a reasonable excuse to effectively fail to consider those matters in the defendant's knowledge, the judge said.

It was incorrect to assert, as the defendant had done, that the Core Strategy had no relevance to the pecuniary matters considered at a meeting as set out in paragraph 31 of the 2011 Act.

The defendant was under a positive duty under s. 31 (4) not to participate and not to vote, the judge said.

District Judge Nicholls said that whilst Flower's participation in the 25 February 2013 meeting could not on the evidence before the court lead to any direct benefit to him, the 2011 Act made it clear he should not take part or vote at that meeting. The defendant had failed to satisfy the court that what he did amounted to a reasonable excuse.

Flower was given a six-month conditional discharge and ordered to pay £930 in costs.

After the hearing, he told the BBC : "I am surprised and disappointed that the court has found for the prosecution this morning on a technicality.

"The decision was a conditional discharge for six months - the lowest possible penalty. The court emphasised the total lack of any personal gain or intent on my part."

Detective Inspector Neil Devoto of Dorset Police said: "This was a meticulous and impartial investigation into allegations under section 31 and 34 of the Localism Act 2011 following a referral from the East Dorset District Council (EDDC) Monitoring Officer. The Localism Act 2011 is relatively new and I believe that this is one of the first offences brought to trial under this legislation.

"Dorset Police is duty bound to consider evidence and investigate all allegations of criminality. In conjunction with the CPS a decision was made to bring charges. It was decided that charging Mr Flower was in the public interest. It is important that the public have confidence in local representatives and local politics and can trust that due process takes place."

A Dorset County Council spokesman said: "The county council requires the highest standards of probity and compliance from its members, and takes such matters extremely seriously. The Localism Act 2011 protects communities and individuals. It ensures that the work we do is transparent and is in the best interest of Dorset residents. The court has allowed Cllr Flower to remain an elected member and he can continue as a valued member of the county council."

\* The prosecution asserted that the terms of a deal between Synergy and a local building firm meant the charity's flats in Cuthbury Close would be demolished and open up better development opportunities for the firm at the Cuthbury site. The building firm would then provide Synergy with replacement modern housing units at Cuthbury Allotments.