

Decision Maker: Urgency Committee

Date: 29th May 2013

Decision Type: Urgent Non-Executive Non-Key

Title: REQUEST FOR A DISPENSATION FROM CLLR ERIC BOSSHARD

Contact Officer: Graham Walton, Democratic Services Manager
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Chief Officer: Mark Bowen, Director of Corporate Services

Ward: Chislehurst

1. Reason for report

- 1.1 The Committee is requested to consider an urgent request for a dispensation from Councillor Eric Bosshard that would allow him to address the Plans Sub-Committee No. 4 meeting on 30th May 2013 on behalf of local residents in his ward.
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2. **RECOMMENDATION**

The Committee is asked to consider the application by Councillor Eric Bosshard for a dispensation and either -

- (a) refuse the application;
- (b) grant it unconditionally; or
- (c) grant it subject to conditions.

If the application is supported it is recommended that Councillor Bosshard should be allowed to address the Sub-Committee meeting (and any subsequent meetings on the same case) on behalf of his residents but should leave the meeting prior to the matter being debated by Members.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
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Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £363,070
 5. Source of funding: 2013/14 revenue budget
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Staff

1. Number of staff (current and additional): 10 (8.55fte)
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement: Localism Act 2011, Chapter 7
 2. Call-in: Not Applicable: This report does not involve an executive decision
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 Chapter 7 of the Localism Act 2011 made fundamental changes to the Standards System and the Code of Conduct for Elected Councillors. Under that Act the system of prejudicial and non-prejudicial interests was replaced with a more streamlined system of Disclosable Pecuniary Interests (DPIs).
- 3.2 The Localism Act and Regulations made thereunder require a Councillor to register DPIs for themselves and their husband/wife/partner. The Regulations include the registration of any beneficial interest in land which is in the area of the relevant local authority – in this case Bromley. This will include a Councillor’s home address within the borough.
- 3.3 Where a Councillor has a DPI, then Section 31 of the Localism Act prevents that Councillor taking part in a meeting of the Council or its Committees. Guidance issued by the Department for Communities and Local Government advises on the restrictions imposed by a DPI. The full text of the Guidance reads as follows:

“What does having a disclosable pecuniary interest stop me doing?”

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- *participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business, or*
- *participate in any vote or further vote taken on the matter at the meeting.*

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.”

- 3.4 A Councillor will have a DPI in a planning application which relates to a neighbouring property and can not either take part in or address the meeting without a dispensation having first been granted.
- 3.5 The previous standards system granted a concession so that a Councillor with a prejudicial interest could address a meeting as long as they withdrew before Members began to debate the issue and take a vote. This relaxation was not maintained in the system set up under the Localism Act. Therefore, if a Councillor wishes to address a Committee they now have to apply for a dispensation to do so.
- 3.6 The Government Guidance on the granting of dispensations under the provisions of Section 33 of the Localism Act 2011 reads as follows:

“When and how can I apply for a dispensation?”

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- *without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,*
- *without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,*
- *the granting of the dispensation is in the interests of people living in the council's or authority's area,*
- *without the dispensation each member of the council's executive would be prohibited from participating in the business, or*
- *it is otherwise appropriate to grant a dispensation.*

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority."

3.7 In this instance, Cllr. Eric Bosshard lives next door to the application site at 51 Marlings Park Avenue, which is being considered by the Plans Sub-Committee No.4 on 30th May. Cllr. Bosshard has submitted the following application to be granted a dispensation –

The Plans 4 Sub-Committee will decide on a planning application by Mr.Kitchen for a Class C2 use of his house at no.51 Marlings Park Avenue, which happens to be next door to mine. Mr.Kitchen received approval for a dwellinghouse-based care establishment in November 2011, restricting the use to Class C3 and 6 residents, but after completing the conversion works last autumn did not establish the approved operation, leaving the house empty for months. He has now applied for a Class C2 extended use, which in due course could lead to a fully-fledged Care Institution.

This is a matter of great concern to many residents in the wider neighbourhood who do not want a commercial enterprise in their quiet, pleasant, residential locality, as it would destroy its character and amenity forever, and over 40 objections have been lodged with the Council's planning department.

As their local Councillor I would like to be allowed to represent their views and concerns in person at the meeting, having been involved with this undesired saga since it began 2 1/2 years ago. I would much appreciate it therefore if the Urgency Committee could grant me dispensation so that I can speak.

3.8 Members of the Urgency Sub-Committee are given authority to deal with dispensation applications and can either:

- a) refuse the application;
- b) grant it unconditionally; or
- c) grant it subject to conditions.

3.9 If Members are minded to grant the application, then given the overall duties of the Council to promote high standards of conduct, it is suggested that the dispensation should be granted on terms similar to the content under the previous standards system, i.e. that Cllr. Bosshard should be allowed to address the Sub-Committee on behalf of his residents but should leave the meeting prior to the matter being debated by Members.

Non-Applicable Sections:	Policy/Financial/Legal/Personnel
Background Documents: (Access via Contact Officer)	None