

DISPENSATIONS SUB (STANDARDS) COMMITTEE

Monday, 18 November 2019

Minutes of the meeting of the Dispensations Sub (Standards) Committee held at the Guildhall EC2 at 2.30 pm

Present

Members:

Deputy Jamie Ingham Clark (Chairman)	Mary Durcan
Judith Barnes	Barbara Newman

Officers:

Michael Cogher	- Comptroller and City Solicitor
Gemma Stokley	- Town Clerk's Department

Welcomes, Introductions and Meeting Management

The Chairman opened the meeting by welcoming all present, including both elected Members and members of the public in the public gallery. He also took the opportunity to formally introduce the Panel members and those Officers present.

The Chairman went on to refer to the front sheet of the agenda pack which served as a reminder to all that meetings of the City of London Corporation could be the subject of audio or video recording. He reported that he had, indeed, received prior notice of the fact that this afternoon's meeting would be video recorded, both by a public attendee and also by the City Corporation's own Media Team.

The Chairman took the opportunity to highlight that the organisation did have a Filming Protocol in place which was available on the public website and asked that this Protocol was respected by all in terms of not disturbing the conduct of the meeting and focusing cameras only on Members and Officers directly involved in today's proceedings.

The Chairman concluded by referring to the fact that there was a relatively busy public gallery this afternoon and clarified, for meeting management purposes, that comments from the public gallery were not permitted and that, in accordance with Standing Order 35 (1), no elected Member in attendance who was not a member of this Sub-Committee was permitted to speak on any matter under consideration without his permission.

1. APOLOGIES

There were no apologies.

2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations.

3. **DISPENSATION REQUESTS**

The Sub-Committee considered a report of the Town Clerk setting out details of three Members (Mark Bostock, Brian Mooney and Susan Pearson) who have requested dispensations to speak and vote on any matter which affects their constituents and in which they may have a “pecuniary interest”, except for matters which:

- (a) Affect them uniquely or more so than any of their constituents; and
- (b) Insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1885 for as long as that provision remains on the statute book.

The report also provides details of a request from Adrian Bastow to speak and vote on matters relating to the proposed extension of the City of London School for Girls onto the Grade II listed areas of the Barbican Estate.

Adrian Bastow

The Chairman suggested that the Sub Committee look to determine the application from Mr Bastow first which requested a dispensation to speak and vote on a specific matter (the proposed extension of the City of London School for Girls) for a defined period of time (until final decisions on the matter were made by the Planning and Transportation Committee).

At the request of the Chairman, the Comptroller and City Solicitor summarised Mr Bastow’s position by reporting that he was currently a tenant at Defoe House. His property was also of sufficient distance from the proposed development to have less of a potential impact. The Comptroller went on to state that this was clearly a potentially controversial development but highlighted that a dispensation to speak and vote on the matter had already been granted to a Member in similar circumstances recently, where it was not considered that the Member in question had a disclosable pecuniary interest but was nevertheless seeking a dispensation by way of reassurance.

The Comptroller and City Solicitor proceeded to remind Members that, in determining the application, they must have due consideration for both the current Dispensations Policy and take into account all relevant circumstances.

Members discussed the application and were of the view that the applicant would be no more affected than any other Barbican Estate resident in respect of proposals to expand the City of London School for Girls. Furthermore, Members noted that, as a lessee, he had no beneficial interest in land and were also satisfied that he did not have an engaged DPI in the matter. On this basis, they were content to grant the dispensation as requested, by way of reassurance.

The Co-opted Member deferred to the local knowledge of elected Members on the Panel in terms of the location of Defoe House in relation to the proposed expansion works and stated that, if this was as tenuous as suggested, she too would be happy to grant the dispensation as requested.

Mark Bostock, Susan Pearson, Jason Pritchard, Brian Mooney

The Chairman highlighted that the three remaining applications were in identical form.

At the invitation of the Chairman, the Comptroller and City Solicitor outlined the legal position which was that the Sub-Committee must have due regard to and follow the current Dispensations Policy unless they had good reason to depart from it and must only grant a dispensation if considered appropriate having taken into account all relevant matters, including the statutory grounds on which dispensations could be granted.

The Comptroller and City Solicitor went on to report that some matters around the Dispensations Policy would be returning to the grand Committee for further consideration early in the new year – the Committee had sought further views/advice around the granting of general dispensations such as these and one elected Member had since submitted an alternative method of granting such dispensations, all of which would be considered in the round. He also reminded Members that, at the October meeting of the Standards Committee, the current policy was voted on and remained in force, unchanged.

A Member questioned whether a decision could be made to grant these applications today with that decision sent to the grand Committee to ratify or not at its next meeting in January 2020. The Chairman stated that he felt that it would be preferable, in the interests of speed and clarity, to request that these three applications be considered by the January meeting of the Standards Committee immediately after they had reached a decision on the wider policy at that same meeting. The Chairman added that there was no change in the applications before the Sub-Committee today versus what had been applied for by the same applicant previously, and noted that previous meetings of this Sub-Committee had stated that they were unable to find substantial or sufficient grounds on which to grant them. The Chairman suggested that if the applications were to be resubmitted ahead of January 2020, providing some specifics in terms of the kind of matters that Members wished to speak and vote on (e.g. the proposed expansion of the City of London School for Girls or carparking) these could be considered under urgency, if necessary.

A Member highlighted that it was difficult to predict all matters that a Member might wish to speak and vote on and that she therefore had sympathy with this approach of seeking general dispensations to cover all eventualities. The Chairman commented that the normal procedure was for Members to be provided with at least five clear working days' notice of specific agenda items and that this was sufficient for urgency procedures to be engaged. He did, however, see that this was not possible where late items were permitted. He went on to refer to specific processes, such as for Planning and Transportation Committee, that alerted relevant elected Members to applications received, way in advance of these hitting Committees for formal consideration and thereby providing Members with adequate time to consider their personal positions and seek dispensations/further advice where necessary.

The Chairman continued to refer to the need for specifics within the applications under the current policy. The Co-opted Member agreed that, as the applications currently stood, she could not see any grounds on which they could be granted as they would seemingly allow Members to speak and vote on matters in which they had an engaged disclosable pecuniary interest and affected them, their partners and just a handful of others. This, in her view, would seriously undermine democracy and the integrity of the City of London Corporation as a whole.

Another Member disagreed with this interpretation and questioned whether, in determining these applications, the law or the City Corporation's own policy should take precedence. She also questioned whether the fact that these applications had time limits on them (until March 2021) made them more specific and less general. The Comptroller and City Solicitor reported that, despite the differing views on the current policy, it was undoubtedly a lawful one, made within the constraints of the law. He also reminded the Sub-Committee that current policy was not to allow dispensations to vote where a Member had an engaged disclosable pecuniary interest, except in exceptional circumstances – he added that the fact that the applications were time limited could not be considered as an exceptional circumstance.

The Chairman went on to state that the current policy was the organisation's interpretation of the law as it applied to us but recognised that the law was not designed for the specifics of the City of London Corporation. He added that the current policy did clearly allow the voices of resident Members to be heard and cited the application from Mr Bastow that had just been granted as a working example of this. The Chairman summarised that there was no reason for this Sub-Committee to depart from policy on the three remaining applications before them.

The Co-opted Member highlighted that there were existing dispensations in place allowing for resident Members to speak on issues affecting their estates as a whole and that that, to her mind, was an appropriate and democratic approach. If, however, Members were seeking general dispensations to speak and vote on behalf of what could easily be, in certain circumstances, the few versus the many, this was clearly unacceptable.

Another Member concurred that the generality of these three outstanding applications was the key issue at present.

The Chairman went on to reiterate that the Standards Committee would be considering the Dispensations Policy further in January 2020 and reminded the Sub Committee that he had spoken at the last meeting of the Committee, in October 2019, to suggest that there may be a way forward in terms of granting such applications, but that he had not yet heard enough on this. At present, these applications did not provide enough detail to allow them to be granted under current policy. The Comptroller and City Solicitor reported that the grand Committee set policy around this and that it was for this Sub-Committee to implement that policy. It would therefore be legitimate to send these

applications back to the grand Committee for consideration alongside future policy.

A Member disagreed with deferring these applications further and stated that it would be her preference for the Sub Committee to reach a decision on them today and to have that decision ratified by the grand Committee should it depart from current policy. She added that this matter came up frequently with the residents she represented who were increasingly dissatisfied with the lack of progress being made on this matter. She questioned why elected Members should not be left to decide for themselves on what matters it was appropriate for them to speak or vote on, particularly as the law states that the onus is on Members here. The Comptroller and City Solicitor stated that if any decision reached today was conditional and relied on the ratification of the grand Committee, this would have the same effect as deferring the decision until the next meeting of the grand Committee.

A Member questioned whether it would be enough to state that it was considered that granting these dispensations was in the interests of persons living in the authority's area. The Comptroller and City Solicitor reiterated that the Sub Committee would also need to explain why they were departing from current policy in terms of granting dispensations to vote. When pressed by the Chairman, none of the Panel could articulate on which statutory grounds these three applications could be granted, when (as the Comptroller reminded the Sub-Committee) considered in the light of current policy. The Chairman added that, as well as being satisfied that the applications could be granted on statutory grounds, those taking the decision were also bound to have regard to all relevant circumstances, something that was not possible in the absence of any specifics. He added that the scenario articulated by the Co-opted Member earlier in the meeting was one of many that could feasibly arise.

The Chairman concluded by stating that, until such time as the Standards Committee reviewed and amended the Dispensations Policy, these applications failed for the same reasons that they had done previously. He agreed that it would be in the best interests of all to resolve these issues as quickly as possible and, with regret, reported that these three applications would now be deferred to the grand Committee for consideration at their next meeting on 24 January 2020.

RESOLVED – That:

- 1) A dispensation to speak and vote on the extension of the proposed extension of the City of London School for Girls on to the Grade II listed areas of the Barbican Estate be granted to Adrian Bastow for the period up to the final decisions being made by the Planning and Transportation Committee;
- 2) Applications from Mark Bostock, Brian Mooney and Susan Pearson to speak and vote on any matter which affects their constituents and in which they may have a “pecuniary interest”, except for matters which:

- a) Affect them uniquely or more so than any of their constituents; and
- b) Insofar as regards a dispensation to vote only, falls within the restriction imposed by section 618 of the Housing Act 1885 for as long as that provision remains on the statute book be referred back to the Standards Committee for decision immediately after they have reached a decision on the Dispensations Policy at their meeting on 24 January 2020.

4. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE SUB-COMMITTEE**

There were no questions.

5. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There were no additional, urgent items of business for consideration.

The meeting closed at 2.59 pm

Chairman

Contact Officer: Gemma Stokley
gemma.stokley@cityoflondon.gov.uk