

**Committee: STANDARDS**

**Agenda Item**

**Date: 18 July 2011**

**9**

**Title: APPLICATION FOR DISPENSATIONS**

(With the chairman's consent)

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Item for decision

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## Summary

1. This report is to inform members of requests for dispensations received from five members of Broxted Parish Council all relating from their membership of Stop Stansted Expansion and to seek members' views as to whether dispensations should be granted.

## Recommendations

2. That members determine whether or not dispensations should be granted, if so whether the dispensations should be full dispensations or limited to taking part in debates without voting. Members further determine that if dispensations are to be granted how long they should be granted for.

## Financial Implications

3. None. There are no costs associated with the recommendations.

## Background Papers

4. Letters of request for dispensation from Cllrs Bull, Clark, Cousins, Kesterton and S Perry copies of which are available from the Monitoring Officer.

## Impact

- 5.

Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	Whilst the requirements of the Code of Conduct do impose a fetter on the freedom of speech enshrined by article 10 of the European Convention on Human Rights

	the Courts have held that such a fetter is proportionate and justifiable. Unless dispensations are granted members with prejudicial interests may only speak with regard to such matters if the public are allowed to speak and must withdraw from the room immediately having spoken (or immediately the item comes under consideration in the event that the member does not wish to speak). Broxted Parish Council has 7 parish councillors. The requirement for more than one half of the parish council to have such prejudicial interests before dispensations can be granted would therefore appear to be satisfied. Further, unless dispensations were granted the parish council would not be quorate when it came to a vote on any issues which may be affected by the interests.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

6. In 2007 the Standards Committee granted dispensations to members of Broxted Parish Council who were members of Stop Stansted Expansion to enable them to speak and vote on issues relating to Stansted Airport. The dispensations were expressed to expire at the date of the next ordinary elections of the parish council which took place on the 5 May 2011. There are therefore no current dispensations for members of Broxted Parish Council.
7. The application for dispensations arises from the membership of the councillors concerned of Stop Stansted Expansion. Stop Stansted Expansion is a body designed to influence public opinion and as such membership of it is a registerable interest. By definition therefore such membership is a personal interest.
8. Potentially any plans for development at Stansted Airport could impact upon property values within Broxted. The financial position of the councillors concerned could therefore be affected and the interests are therefore capable of being prejudicial.
9. Whether or not the interest is prejudicial depends upon whether a member of the public with knowledge of the relevant facts would consider the interest to be so significant that the member's judgement of the public interest would be

prejudiced. Whether or not that is the case is a matter of judgement and the councillors applying are seeking to protect their position in the event that in future the interests were to be judged to be prejudicial.

10. Whilst it is possible to limit the extent of the dispensation to speaking on issues only, members of the committee are reminded that they have not imposed such a restriction in the past and although the Code of Conduct is more lenient than at the time the last dispensations were granted (in terms of there being provisions for members with prejudicial interests to speak), members should note that the council would not be quorate because of the Code of Conduct to permit voting without full dispensations.
11. The provisions of the Code of Conduct are likely to be abolished by the Localism Bill when this becomes law. Under the proposed legislation matters relating to interests will fall to be dealt with under subordinate legislation rather than the Code of Conduct. However, it is not known when (or indeed if) the Bill will become law, nor when it will take effect nor whether any subsidiary legislation will provide for dispensations already granted to continue. In the circumstances, if members are minded to grant dispensations it may be appropriate to consider granting the same to run until the date of the next ordinary election of the council.

## Risk Analysis

12.

Risk	Likelihood	Impact	Mitigating actions
Members to not grant dispensations in accordance with the requests.	1, in the interest of allowing local debate members have always granted dispensations in the past.	3, the only rationale for refusing dispensations would be that members take a view that the interest could not be prejudicial. Such a determination prior to an investigation of the circumstances of any complaint would make it difficult for members to consider any	If members do decline to grant dispensations they give clear reasons for so doing.

		allegations of a breach of the Code of Conduct.	
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- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.