

STANDARDS COMMITTEE

Minutes of the meeting held on Tuesday 22 April 2014 at the Town Hall, Royal Leamington Spa at 5.30 pm.

PRESENT: Councillor Pratt (Chairman); Councillors Mrs Bunker, Ms Dean, Ms De-Lara-Bond, Mrs Falp, Mrs Higgins, Mrs Syson, Wilkinson and Williams.

Parish and Town Council representatives: Councillors Cooke, Mrs Gordon, Owen and Smart.

ALSO PRESENT:

Independent Person Mr R Meacham.

Officers: Mr A Jones (Deputy Chief Executive & Monitoring Officer) and Mr G Leach (Democratic Services Manager & Deputy Monitoring Officer)

24. **Substitutes**

Councillor Ms Dean substituted for Councillor Mrs Knight.

25. **Declarations of Interest**

There were no declarations of interest.

26. **Local Plan Submission Draft - Dispensations**

The Committee considered a report from The Deputy Chief Executive and Monitoring Officer that sought dispensation for Councillors Boad, Caborn, Gifford, Kirton and Shilton in respect of the matter to be considered on the Council agenda of 23 April 2014 entitled the Local Plan Submission Draft.

Consideration of this report would lead to the most important decision that Warwick District Council would make in a long time. It was essential that all members of the Council had the opportunity to express a view and vote on the Draft Local Plan because not having that opportunity would be denying their constituents a voice and would also be inappropriate given the magnitude of the subject matter.

With the introduction of the Localism Act 2011, Councillors were required to declare any Disclosable Pecuniary Interests (DPI). Not to do so was a criminal offence and would also be in breach of Warwick District Council's Code of Conduct for Councillors. With regard to this item the relevant DPI was:

- An interest of yourself or your partner within the following description(s) –

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.

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The consequence of declaring a DPI was that a Member present at a meeting which was discussing a matter which gave rise to a DPI must:

- (a) not participate in any discussion of the matter at the meeting and must leave the room for the duration of this item.
- (b) not participate in any vote taken on the matter at the meeting.
- (c) disclose the interest to the meeting.

As any "office ... carried on for...gain" was a DPI, there was, therefore, an argument that being a County Councillor was "an office carried on for gain" because County Councillors received an allowance and, since they were collectively the embodiment of the County Council, they had a stake whenever the interests of the County Council were affected with the associated implications for attending meetings and voting.

An element of the Draft Local Plan was the allocation of land off Europa Way for development which would then lead in all probability to a capital receipt for the landowner. The "Europa Way land" was held in multiple-ownership but one of the landowners was Warwickshire County Council (WCC). The financial interests of the County Council were certainly affected by any decision on allocation of the site at Europa Way in the Draft Local Plan and thus County Councillors who were also District Councillors were at risk of being caught up in the DPI provisions.

Within the Council's Constitution the Standards Committee was responsible for considering and determining requests for dispensation from requirements relating to the Code of Conduct for Councillors (which includes the matter of DPI). Dispensations could be granted (in certain circumstances) allowing a Councillor to speak and vote when they had a DPI. The application must be made in writing to the Chief Executive. In relation to the Draft Local Plan, requests for a dispensation had been received from Councillors Boad, Caborn, Gifford, Kirton and Shilton. Their respective arguments were consistent and could be paraphrased as failure to allow them to neither speak nor vote was clearly not satisfactory as their constituents would in effect lose their voice on the most important issue to be considered by Warwick District Council in many years. For that reason and given the magnitude of what the Council needed to consider, it was appropriate that all Councillors were afforded that opportunity.

Given the nature of the matter to be considered under the agenda item Local Plan Submission Draft, officers considered it appropriate that all Councillors had the opportunity to speak and vote on the issues. Therefore, it would be reasonable for the Council to grant dispensations for the following reasons:

- Granting the dispensation was in the interests of persons living in the authority's area; and
- It was otherwise appropriate to grant a dispensation.

In reaching this conclusion, it was considered by officers that the DPI requirements that flowed from receipt of an allowance could not conceivably affect any decision on Europa Way and the existence of which could not possibly operate on the minds of the affected Councillors. Nor would a reasonable member of the public, who focused conscientiously on

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the proposition that a Councillor might be swayed by the existence of their allowance, think it at all likely that this would happen.

The Councillors affected would also have a declarable personal interest under the non-statutory part of Warwick District Council's Code of Conduct because the County Council was a body of which they were members and its financial position was likely to be affected. The question, therefore, was whether this interest amounted to a prejudicial interest. If it did, no dispensation would help them and they were disqualified. The test was whether:

... the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

This was a test which looked at all the circumstances, including non-financial considerations. It was officers' view, that the Councillors concerned would be entitled to reach the conclusion that the mere fact that they were County Councillors, and that the County Council was affected by the allocation of Europa Way, did not give rise to a prejudicial interest. The position may be different if one of them had some particular involvement in relation to the future of the Europa Way site as part of their duties at the County Council or if there were some other additional facts pointing towards a prejudicial interest or some form of bias. Officers would need to give advice about this on a case by case basis.

At the meeting the Deputy Chief Executive and Monitoring Officer highlighted that the application, from Councillor Boad, for dispensation was slightly different to the other Councillors. This was because Councillor Boad had a DPI due to his wife being a Warwickshire County Councillor and not himself.

Resolved that dispensations be granted to Councillors Boad (Leamington Crown), Caborn (Lapworth), Gifford (Leamington Milverton), Kirton (Whitnash) and Shilton (Kenilworth Park Hill) from the restrictions in section 31(4) Localism Act 2011 thereby allowing them to speak and vote on the matter on the Council agenda of 23 April 2014 entitled Local Plan Submission Draft on the grounds that:

- Granting the dispensation is in the interests of persons living in the authority's area; and
- It is otherwise appropriate to grant a dispensation.

(The meeting ended at 6.00 pm)