

 Standards Committee - 21st January 2015		Agenda Item No. 6
Title	Local Plan Submission Draft – Dispensations	
For further information about this report please contact	Andrew Jones Andrew.jones@warwickdc.gov.uk (01926) 456830	
Wards of the District directly affected	Leamington Crown; Lapworth; Leamington Milverton; Whitnash; Kenilworth Park Hill	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Not applicable.	
Background Papers	Localism Act 2011	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	Not required

Officer/Councillor Approval	Date	Name
Chief Executive	6 th January 2015	Chris Elliott
CMT	6 th January 2015	Chris Elliott, Bill Hunt, Author
Section 151 Officer	6 th January 2015	Mike Snow
Monitoring Officer	6 th January 2015	Author
Legal Services	10 th April 2014	Ian Marriott
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. **SUMMARY**

- 1.1 This report asks Standards Committee to agree dispensations to Councillors Boad, Caborn, Gifford, Kirton and Shilton in respect of the matter to be considered on the Council agenda of 28th January 2015 entitled Local Plan Submission Draft.

2. **RECOMMENDATION**

- 2.1 That Standards Committee grants dispensations 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 28th January 2015 entitled Local Plan Submission Draft and that Standards Committee makes this decision 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.

3. **REASONS FOR THE RECOMMENDATION**

- 3.1 The Council agenda of 28th January 2015 includes an item entitled Local Plan Submission Draft. Consideration of this report will lead to perhaps the most important decision that Warwick District Council will make in a long time. It is essential that all members of the Council have the opportunity to express a view and vote on the Local Plan as not having that opportunity would be denying their constituents a voice and would also be inappropriate given the magnitude of the subject matter.
- 3.2 With the introduction of the Localism Act 2011, Councillors are required to declare any Disclosable Pecuniary Interests (DPI). To not do so is a criminal offence and would also be in breach of Warwick District Council's Code of Conduct for Councillors. With regard to the purpose of this report the relevant DPI is:

- 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.

- 3.3 A consequence of declaring a DPI is that a Member present at a meeting which is discussing a matter which gives rise to the DPI shall:
- (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.
- 3.4 As any "office ... carried on for...gain" is a DPI, there is therefore an argument that being a County Councillor is "an office carried on for gain" because County Councillors receive an allowance and, since they are collectively the embodiment of the County Council, they therefore have a stake whenever the interests of the County Council are affected with the associated implications for attending meetings and voting.

- 3.5 An element of the Local Plan is 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" is held in multiple-ownership but one of the landowners is Warwickshire County Council (WCC). The financial interests of the County Council are certainly affected by any decision on allocation of the site at Europa Way in the Local Plan and thus County Councillors who are also District Councillors are at risk of being caught up in the DPI provisions.
- 3.6 Within the Council's Constitution the Standards Committee is 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 can be granted (in certain circumstances) allowing a Councillor to speak and vote where they have a DPI. The application must be made in writing to the Chief Executive. In relation to the Local Plan requests for a dispensation have been received by Councillors Boad, Caborn, Gifford, Kirton and Shilton. Their respective arguments are consistent and can be paraphrased as failure to allow them to neither speak or vote is clearly not satisfactory as their constituents will in effect have lost their voice on the most important issue to be considered by Warwick District Council in many years. So for that reason and given the magnitude of what the Council needs to consider it is wholly appropriate that all Councillors are afforded that opportunity.
- 3.7 Given the nature of the matter to be considered under the agenda item Local Plan Submission Draft, officers do consider it appropriate that all Councillors have 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 is in the interests of persons living in the authority's area; and
 - It is otherwise appropriate to grant a dispensation.
- 3.8 In reaching this conclusion, it is considered by officers that the DPI requirements that flow 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 the proposition that a Councillor might be swayed by the existence of their allowance, think it at all likely that this would happen.
- 3.9 By virtue of section 33(4) of the 2012 Act, the affected Councillors can vote on their own dispensation but they may think it wise to refrain.
- 3.10 The Councillors affected will also have a declarable personal interest under the non-statutory part of Warwick District Council's Code of Conduct because the County Council is a body of which they are members and its financial position is likely to be affected. The question, therefore, is whether this interest amounts to a prejudicial interest. If it does, no dispensation will help them and they are disqualified. The test is 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.*
- 3.11 This is a test which looks at all the circumstances, including non-financial considerations. It is officers' view, that the councillors concerned would be entitled to reach the conclusion that the mere facts that they are county councillors, and that

the County Council is affected by the allocation of Europa Way, do not give rise to a prejudicial interest. The position may be different if one of them has 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 are some other additional facts pointing towards a prejudicial interest or some form of bias. Officers will need to give advice by this on a case by case basis.

4. POLICY FRAMEWORK

- 4.1 The Code of Conduct for Councillors forms part of the Constitution of Warwick District Council which allows for dispensations from the DPI provisions to be granted in appropriate circumstances.

5. BUDGETARY FRAMEWORK

- 5.1 There are no budgetary implications as a consequence of this report.

6. RISKS

- 6.1 There is a risk that in granting the dispensations, members of the public may be concerned by a perceived conflict of interest. However, for the reasons set out in this report and having taken legal advice, officers are of the view that any reasonable person would understand that the matter under consideration is much more significant than whether the County Council receives a capital receipt for land that it currently owns.

7. ALTERNATIVE OPTION(S) CONSIDERED

- 7.1 Standards Committee has the option not to grant the dispensations, however, it is considered by officers that this would be contrary to the democratic principle of allowing all residents of the District to have representation on the Council whilst a highly significant issue is being considered.