

Cheltenham Borough Council

Standards Committee – 8 April 2014

Applications for Dispensation

Accountable officer	Borough Solicitor, Sara Freckleton
Executive summary	This report seeks determination by the Standards Committee of applications for dispensations which have been made by Members of the Borough Council who are also Gloucestershire County Councillors in order that they may participate in the business to be conducted at the meeting of the Council on the 9 April 2014.
Recommendations	The Committee is asked to determine applications for dispensation which have been made by Members of the Borough Council in order to enable them to participate in the matter of the approval of the pre-submission Joint Core Strategy which will be considered at a meeting of the Council on the 9 April 2014.

1. Background

- 1.1 The arrangements which were adopted by the Council on the 25th June 2012 to comply with the provisions of the Localism Act 2011 included arrangements for decisions to be made on applications by Members of the Council for dispensation to participate in items of business in which they consider that they have either a disclosable pecuniary or an “other” interest.
- 1.2 Responsibility for the determination of applications for dispensation has been delegated to the Monitoring Officer where the application is made on grounds (a) and (b) set out in paragraph 2.1 below and any application on the basis of grounds (c) – (e) are within the remit of the Standards Committee.
- 1.3 On the 9 April 2014, Cheltenham Borough Council will meet to consider a report recommending approval of the Joint Core Strategy (JCS) Pre Submission for publication under regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 as the version of the JCS proposed to be submitted to the Secretary of State for independent examination. The strategy is being prepared jointly between Cheltenham Borough Council, Gloucester City Council and Tewkesbury Borough Council and is the strategic plan being prepared to provide a framework for development of the JCS area for the period up to 2031. The plan includes provision for housing and employment land some of which is land currently owned by Gloucestershire County Council.
- 1.4 A number of Cheltenham Borough Councillors hold the dual role as Gloucestershire County Councillors and have considered their participation at the Council meeting in the context of the provisions of the Cheltenham Borough Council Code of Members’ Conduct. The Code provides as follows:-

Other Interests

Where a matter, in which

either you have an interest as specified in Appendix B (other interests),

or where a decision on the matter might reasonably be regarded as affecting, to a greater

extent that it would affect the majority of other council taxpayers, ratepayers or inhabitants of the ward affected by the decision, your well-being or financial position or the well-being or financial position of a member of your family, or any person with whom you have a close association, or who has a contractual relationship (including employment) with yourself, member of your family or close associate,

arises at a meeting at which you are present, or where you become aware that you have such an interest in any matter to be considered or being considered at the meeting:-

- (1) **Do** ensure that you disclose the interest to the meeting.
- (2) **Do** leave the meeting and **do not** vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted or it is an excepted function), if,
 - (a) it affects your financial position or the financial position of an interest specified in Appendix B (other interests) or the member of your family or person with whom you have a close association described above or who has a contractual relationship as described above,or
 - (b) it relates to the determination of any approval, consent, licence, permission or registration in relation to you or any person or body described aboveand a reasonable member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest.

The rules set out in paragraph 10(4) above do not have the effect of precluding a Member from attending a meeting only for the purpose of making representations, answering questions or giving evidence relating to the business provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member must, after making their submission, withdraw immediately from the meeting.

- 1.5** It is for any individual member to consider whether or not they have an interest in any matter being considered at a Council meeting and whether that interest precludes their participation in that matter.

2. Applications for Dispensation

- 2.1** In accordance with the Code of Conduct, Members are entitled to seek dispensation to participate in a decision on a matter in which they have either a disclosable pecuniary (Part A) or “other” (Part B) interest. The grounds upon which dispensations may be granted are as follows:-
- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
 - (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
 - (c) granting the dispensation is in the interests of persons living in the authority’s area,
 - (d) without the dispensation each member of the authority’s executive would be prohibited from participating in any particular business to be transacted by the authority’s executive, or,
 - (e) it is otherwise appropriate to grant a dispensation.

- 2.2** As at the time of writing this report, 5 applications for dispensation have been made by Borough Councillors and these are attached at Appendix 1. The applications state the grounds upon which they are sought which fall within ground (c) set out in paragraph 2.1 above.

3. Determination of Applications for Dispensation

- 3.1** As can be seen from paragraph 2.1 above, the Committee has a wide discretion to grant dispensations provided that all of the circumstances are taken into account.
- 3.2** The Committee must also determine the period for which a dispensation has effect, and the period specified may not exceed four years.
- 3.3** The applications which have been made set out the grounds upon which the dispensation is sought which is that their participation in the matter at the meeting on the 9 April 2014 is in the interests of the persons living within Cheltenham Borough.. The applications explain that the Joint Core Strategy (JCS) sets out the long term vision and will help shape the future of the area up to 2031 including making provision for housing and employment land. The JCS will also provide the strategic policy framework for the area. The proposals within the plan affect everyone that lives and works in the Borough and Councillors have been elected to represent the interests of both their own ward and the Borough as a whole. The Members concerned consider that It is of vital importance that, as local members, they are able to participate fully in the decision on this document, of which the Gloucestershire County Council land ownership affects only part.

4. Reasons for Recommendations

- 4.1** To discharge the obligation of the Committee to determine applications for dispensation.

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Appendices	1. Applications for Dispensation
Background information	None