


28 November 2016

Committee	Council
Date	Tuesday, 6 December 2016
Time of Meeting	6:00 pm
Venue	Council Chamber

ALL MEMBERS OF THE COUNCIL ARE REQUESTED TO ATTEND



**for Sara J Freckleton
Borough Solicitor**

Agenda

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**

Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.



	Item	Page(s)
3.	MINUTES	1 - 22
	To approve the Minutes of the meeting held on 20 September 2016 and those of the Extraordinary Meetings held on 19 and 25 October 2016.	
4.	ANNOUNCEMENTS	
	1. When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (staff should proceed to their usual assembly point). Please do not re-enter the building unless instructed to do so.	
	In the event of a fire any person with a disability should be assisted in leaving the building.	
	2. To receive any announcements from the Chairman of the Meeting and/or the Chief Executive.	
5.	ITEMS FROM MEMBERS OF THE PUBLIC	
	a) To receive any questions, deputations or petitions submitted under Council Rule of Procedure.12.	
	<i>(The deadline for public participation submissions for this meeting is 30 November 2016).</i>	
	b) To receive any petitions submitted under the Council's Petitions Scheme.	
6.	MEMBER QUESTIONS PROPERLY SUBMITTED IN ACCORDANCE WITH COUNCIL PROCEDURE RULES	
	To receive any questions submitted under Rule of Procedure 13. Any items received will be circulated on 6 December 2016.	
	<i>(Any questions must be submitted in writing to Democratic Services by, not later than, 10.00am on the working day immediately preceding the date of the meeting).</i>	
7.	LEAD MEMBER PRESENTATION	
	To receive a presentation from Councillor Jim Mason – Lead Member for Clean and Green Environment.	
8.	BOUNDARY REVIEW - COUNCIL SIZE SUBMISSION	To Follow
	To agree the 'Council Size' submission to be made to the Local Government Boundary Commission for England.	

9. RECOMMENDATIONS FROM EXECUTIVE COMMITTEE

The Council is asked to consider and determine recommendations of a policy nature arising from the Executive Committee as follows:-

(a) Medium Term Financial Strategy

23 - 48

At its meeting on 23 November 2016 the Executive Committee considered the Medium Term Financial Strategy 2017/18-2021-22 and **RECOMMENDED TO COUNCIL** that the Medium Term Financial Strategy 2017/18-2021/22 be **ADOPTED**, subject to the following amendments which would add flexibility to the Strategy:

- Paragraph 1.1 – amend sentence to read ‘...the level of savings and increased income that are likely to be needed. ~~to keep Council Tax affordable....~~’
- Paragraph 10.3 – amend sentence to read ‘...given the size of the deficit faced by the Council it is recommended that this strategy is continued **for 2017/18 recognising the likely need for further increases in future years**’.
- Table 8 – amend heading to read ‘Impact of ~~proposed~~ charges per Council tax band’.
- Paragraph 10.5 – delete last sentence ‘~~Projections of future increases to council tax will ensure the council remains within the bottom quartile for council tax charges and meet its priority to maintain a low council tax~~’.

10. REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

49 - 92

At its meeting on 16 June 2016 the Licensing Committee considered the Hackney Carriage and Private Hire Policy and **RECOMMENDED TO COUNCIL** that it be **ADOPTED** subject to the following amendments:

- Paragraph 2.8 Security and CCTV

There is no mandatory requirement for CCTV system in the licensed vehicles. Operators and drivers may install such equipment with prior written notification being supplied to the Council. Use of CCTV must be clearly indicated by signs in the vehicle including contact details for the system manager/operator. All such equipment and images must be operated in accordance with the Data Protection Act 1998. It is the responsibility of the driver/operator to ensure compliance. **No audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the Council.**

- Appendix E, Paragraph 9

Major traffic offences

~~Isolated convictions, without disqualification, for a major traffic offence should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence but will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. More than one.~~ Any conviction for a major traffic offence within the

last two years would require the application, or an existing licence holder, to be referred to the Licensing Sub-Committee for a decision. No further application would normally be considered until a period of three years free from convictions has elapsed. Where an application has been refused, or an existing licence holder suspended because of this provision, they may be required to pass the DVSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

11. REVIEW OF PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

93 - 176

At its meeting on 22 November 2016 the Standards Committee considered amendments to the Protocol for Councillors and Officers Involved in the Planning Process and **RECOMMENDED TO COUNCIL** that the revised Protocol be **ADOPTED**, subject to the following amendments:

- Appendix A – Planning Obligations Officer Working Group – Terms of Reference – point 4 - amend to read ‘...on the draft **Heads of Terms** for major applications...’.
- Appendix B – Summary Guide of Do’s and Don’ts – First point under ‘Do’ – amend to read ‘Do always **involve Officers and structure ensure that any** discussions with developers **are structured and involve Officers**’.
- Appendix B - Summary Guide of Do’s and Don’ts – Point 12 under ‘Do’ – remove wording ‘**Do use Meetings to show leadership and vision**’.
- Procedure for Planning Committee Site Visits – Paragraph 1.3 - amend to read ‘...visits subject to ~~the~~ this protocol...’.
- Procedure for Planning Committee Site Visits – Paragraph 3.2 – fifth bullet point – amend to read ‘Local Ward Members (**see 2.1**) will be asked to highlight any local issues relevant to the site visit’.

12. SEPARATE BUSINESS

The Chairman will move the adoption of the following resolution:

That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

13. SEPARATE MINUTES

177 - 189

To approve the Separate Minutes of the meeting held on 20 September 2016 and those of the Extraordinary Meetings held on 19 and 25 October 2016.

14. SEPARATE RECOMMENDATIONS FROM EXECUTIVE COMMITTEE

The Council is asked to consider and determine separate recommendations of a policy nature arising from the Executive Committee as follows:-

(a) Commercial Property Investment Strategy 190 - 202

(Exempt –Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 –Information relating to the financial or business affairs of any particular person (including the authority holding that information))

At its meeting on 23 November 2016 the Executive Committee considered the Commercial Property Investment Strategy and made a recommendation to Council thereon.

(b) Review of Development Management Team Staffing Structure 203 - 213

(Exempt –Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)

At its meeting on 23 November 2016 the Executive Committee considered a review of the Development Management structure and made a recommendation to Council thereon.

(c) Proposed Expansion to the Council's Vehicle Fleet 214 - 224

(Exempt –Paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972 –Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings)

At its meeting on 23 November 2016 the Executive Committee considered a proposal to expand the Council's vehicle fleet and made a recommendation to Council thereon.

Recording of Meetings

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Mayor will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Council held at the Council Offices, Gloucester Road, Tewkesbury on Tuesday, 20 September 2016 commencing at 6:00 pm

Present:

The Worshipful the Mayor
Deputy Mayor

Councillor Mrs G F Blackwell
Councillor H A E Turbyfield

and Councillors:

R E Allen, P W Awford, Mrs K J Berry, R A Bird, R Bishop, G J Bocking, K J Cromwell, D M M Davies, Mrs J E Day, M Dean, R D East, A J Evans, D T Foyle, R E Garnham, Mrs P A Godwin, Mrs M A Gore, Mrs J Greening, Mrs R M Hatton, B C J Hesketh, Mrs S E Hillier-Richardson, Mrs A Hollaway, Mrs E J MacTiernan, J R Mason, Mrs H C McLain, A S Reece, Mrs P E Stokes, M G Sztymiak, R J E Vines, D J Waters and P N Workman

CL.32 APOLOGIES FOR ABSENCE

- 32.1 The Mayor invited Members to join her in a minute's silence in honour of Honorary Alderman Pat Roberts who had sadly passed away on 12 September. The Council offered its best wishes to Pat's family at this difficult time.
- 32.2 Apologies for absence were received from Councillors J H Evetts, R Furolo, V D Smith and T A Spencer.

CL.33 DECLARATIONS OF INTEREST

- 33.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 33.2 The following declarations were made:

Councillor	Application No./Item	Nature of Interest (where disclosed)	Declared Action in respect of Disclosure
D M M Davies	Item 10 – Authorisation for Neighbourhood Plans to go to Community Referendum.	Is a local Member for Highnam, which was one of the Neighbourhood Plans being considered for a referendum, but was not directly involved in the development of the Neighbourhood Plan.	Would speak and vote.

J R Mason	Item 10 – Authorisation for Neighbourhood Plans to go to Community Referendum.	Is Chair of Winchcombe Town Council which was one of the Neighbourhood Plans being considered for a referendum.	Would speak and vote.
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33.3 There were no further declarations made on this occasion.

CL.34 MINUTES

34.1 The Minutes of the meeting held on 28 June 2016, copies of which had been circulated, were approved as a correct record and signed by the Mayor.

CL.35 ANNOUNCEMENTS

35.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

35.2 The Mayor indicated that, in accordance with Council Procedure Rule 25, she had accepted an urgent item of business relating to delegated authority for the purchase of property. The item was considered to be urgent in order that, should purchase be assessed to be the appropriate option, the process could be completed as quickly as possible. The item would be taken in separate business. In accordance with Council Procedure Rule 1.2, the Mayor had agreed to vary the order of business to allow the urgent item to be taken before item 15(a) on the Agenda so that the Lead Officer involved could leave the meeting prior to the discussion on the Management Restructure.

35.3 The Mayor welcomed Mr John Morrish to the meeting and indicated that he was in attendance to present the petition at Agenda Item 7.

CL.36 ITEMS FROM MEMBERS OF THE PUBLIC

36.1 There were no items from members of the public on this occasion.

CL.37 MEMBER QUESTIONS PROPERLY SUBMITTED IN ACCORDANCE WITH COUNCIL PROCEDURE RULES

37.1 There had been no Member questions submitted on this occasion.

CL.38 CONSIDERATION OF A PETITION REQUESTING THAT THE COUNCIL REFUSE ANY BUILDING ON GREEN BELT LAND TO THE SOUTH OF TWO HEDGES ROAD, WOODMANCOTE

38.1 Attention was drawn to the report of the Development Services Manager, circulated at Pages No. 23-36, which asked Members to request that Officers consider the issues raised within the petition as part of the Borough Plan process.

38.2 The Mayor invited John Morrish, speaking as the petition organiser, to make his presentation to the Council. Mr Morrish explained that he had raised the petition to refuse building on the Green Belt land to the south of Two Hedges Road in Woodmancote. The petition had had limited exposure and he had really only targeted the people that would be directly affected but, even so, the feeling was strongly against any proposal to build on the land in question. He felt that, if he went further and targeted the whole of Woodmancote and Bishop's Cleeve, he

would have gained an even greater response. The main concerns in the area were about the Green Belt and particularly Cleeve Hill which was a huge tourist attraction for the area. The views from the Hill over Bishop's Cleeve and Woodmancote showed just how vast the building in the area already was; it was his belief that Bishop's Cleeve would soon be larger than Tewkesbury and urban sprawl was a huge concern. In addition, the petitioner was concerned about the infrastructure in Bishop's Cleeve which was not really adequate for the size of the development that was taking place. There was also a worry about flooding which was a result of rain water coming off Cleeve Hill into the area; it was felt that further building at the base of the Hill would only serve to exacerbate the issue. Mr Morrish was of the view that, if development was allowed in that area, it would put a huge strain on Bishop's Cleeve and he therefore felt it appropriate to refuse any prospect of building.

- 38.3 The Mayor thanked Mr Morrish for the information provided and invited the Deputy Chief Executive to introduce the report of the Development Services Group Manager. The Deputy Chief Executive indicated that the area in question was within the Green Belt so it already had a high protection value for that reason. The area was part of the wider site option process for the new Borough Plan and, as the Plan was still emerging, it was looking at lots of sites to see where development may be allowed. The Borough Plan had to wait until the Joint Core Strategy (JCS) had a firm direction of travel and then further consultation would take place.
- 38.4 During the discussion which ensued, a Member questioned whether the area being referred to had been put forward as a potential site in the Borough Plan and whether the Council was legally allowed to protect sites in the Green Belt. In response, the Deputy Chief Executive explained that the site had been put forward with a range of others to meet the need within the community. The Borough Plan would allocate sites following consultation. At this stage the Plan was just identifying all land that may be considered for development. In addition, the Borough Solicitor indicated that Green Belt designation was a very strong protection against development as very special circumstances would have to be shown to justify permitting development.
- 38.5 In response to a query regarding the specific land referred to, Members were advised that the area was shown on a map which was contained within the JCS labelled as 'land to the south of Two Hedges Road' and Cavendish Homes had produced a report on it.
- 38.6 It was proposed and seconded that the issues raised by the petition be considered as part of the Borough Plan process. It was felt that the Green Belt was protecting the land in that area and this should offer the petitioner some reassurance. A Member expressed concern that the JCS Inspector had suggested a Green Belt review could be put into place as part of the Borough Plan process which would mean the Green Belt designation could be removed and she was concerned that the information provided this evening could lead the petitioner to believe the land was safe purely because it was in the Green Belt which seemed to her not to be true. In response, the Chief Executive explained that there was a process for the development of the Borough Plan and this allowed for the consideration of specific sites. Currently the Borough Plan was at an early stage and the recommendation on the report asked Members to put the issues raised within the petition into that process for consideration. Should Members decide to take that route the petitioner would be kept apprised of the process as it moved along. He would also ensure a detailed answer was provided to the petitioner following the meeting in respect of what the Green Belt designation meant and how it could be removed.

38.7 Accordingly, it was

RESOLVED That Officers consider the issues raised by the petition as part of the Borough Plan process.

CL.39 LEAD MEMBER PRESENTATION - BUILT ENVIRONMENT

39.1 The Mayor invited Councillor Davies, the Lead Member for Built Environment, to make his presentation to the Council.

39.2 The presentation covered the following key points:

- Focus – Establishing the Planning Policy context; delivering housing numbers; providing affordable housing; and the challenges faced.
- Joint Core Strategy – Progress to date – The examination had been running from May 2015 to July 2016. In November 2015 the Council had submitted its document for examination and in May 2016 the inspector's Interim Report had been received. Officers had been working on the Main Modifications and approval for the changes would be sought from all three JCS authorities in October. If approval was received, the Main Modifications would be consulted upon and the responses considered by the Inspector in early 2017 with further hearing sessions likely in February/March 2017. The Inspector's final report would be expected in spring/summer 2017.
- Tewkesbury Borough Plan – Consultation on the Borough Plan had been undertaken in February 2015 but further work had been delayed due to the timescales and resources needed for the JCS. Despite that delay, work on the evidence-base had been moving forward in preparation for the next draft – that work included the Strategic Assessment of Land Availability and the Employment Land Review. The Borough Plan also looked at other key areas including the Sports, Social and Open Space Study, the Housing Strategy 2017-22 and the A46/A438/M5 J9 Study – all of that evidence and the background studies were important in developing the sites and policies of the Borough Plan. It was expected that consultation on a further draft of the Plan would begin in Spring 2017.
- Neighbourhood Plans – Tewkesbury Borough had 13 designated Neighbourhood Areas covering 18 Parishes. All of the Plans were at different stages with the most advanced being Highnam and Winchcombe & Sudeley Combined. The newest Plans were The Leigh and Stoke Orchard & Tredington Combined.
- Delivering New Housing – There was a national drive to increase housing supply. The JCS identified nearly 10,000 homes in Tewkesbury Borough, most of which would be delivered through the strategic allocations. However, non-strategic sites would also contribute to that figure. There had been an unprecedented number of unplanned developments across Tewkesbury Borough many of which were complex. This was shown by the income from the planning fees: 2012/13 - £648,582; 2013/14 - £669,291; 2014/15 - £910,618; 2015/16 - £1,266,974; and 2016/7 - £1,030,000 (estimated).

- Total Market and Affordable Completions – Since the economic recovery new homes building in the Borough had been excellent. The Council Plan 2016-20 target was 150 new affordable homes per year and for the financial year 2016/17 the Council was set to achieve 149 new affordable homes in the Borough. New homes had been delivered in the main areas of Bishop's Cleeve, Winchcombe, Brockworth and Longford. In addition there had been 24 new affordable homes on rural exception developments in Apperley, Gretton and Norton and there had been regeneration work by Severn Vale Housing and Rooftop Housing which had provided 46 new affordable homes.
- Providing Affordable Homes – The Challenges – In the fifteen years from 2000-15, average house prices had increased 2.96 times whilst incomes had only grown by 1.45 times. The growth in income levels had not kept pace with the increases in property values which meant that many people were priced out of owner occupation in the Borough and the need for affordable products was likely to continue.
- Starter Homes – This was an initiative being brought in via the Housing and Planning Act 2016 - a vision of discounting new homes by up to 20% had been out for consultation. However, that discount would be given by the developer and would not be in perpetuity on future sales. Home ownership was the government's driver in housing, believing more homes would be built, particularly starter homes, in the near future. If starter homes were to be considered affordable housing in the future, this would affect the Council's current position of what it could provide onsite on new developments. The affects would need to be fully assessed as part of the next strategic housing market assessment alongside other home ownership products.
- The Right Housing for the Right People at the Right Time – The Borough population was roughly 85,800 and, assuming current population trends continued, the population would reach 93,400 by 2025 and 100,400 by 2037. Age profiling showed that future housing solutions would need to meet the needs of an increasingly older population. Population changes would present a bigger challenge for the Borough in relation to additional pressure on health and social care and the need for more specialist accommodation. There was also evidence that a number of homes in both the social-rented and market sectors were currently under-occupied, particularly in rural areas. There continued to be an increase in one person households with the house type projected to overtake all others by 2033; while couples on their own and small families increased at a relatively steady rate and larger family growth remained small.
- Welfare Reform – Affording Rents – A number of welfare reforms had already been introduced which would make rented accommodation harder to afford for many tenants including those in social housing. It was thought that 534 low income households in the Borough may be affected by welfare reform. The main changes included: the benefit cap being reduced to £13,400 for single people without children; those with spare bedrooms in social housing being penalised through the 'bedroom tax'; the local housing allowance limiting the amount of housing benefit that could be received – this would affect some households in 'affordable rent' social housing where rents were higher than the Local Housing Allowance; the withdrawal of entitlement to child tax credit for families having a third child was to be introduced after April 2017; young people under 21 would lose housing benefit if not in work or training; the benefit cap limited the total benefit income most working-age households could receive to £20,000 per annum – this would affect families on benefits with three or more children within the area; and the Local Housing Allowance would also affect those under 35 on low incomes in self-contained accommodation as one bedroom Local Housing Allowance rates were lower than rents for one bed

accommodation in social housing.

- Being Innovative to Meet the Needs of our Communities – It was recognised that, to meet the needs of its communities, the Council must look to do things differently. The use of alternative construction methods may be able to unlock land to provide new homes and energy efficient properties. In addition, the Council was looking at how to raise finance for new affordable housing through negotiating financial contributions, known as commuted sums, and using the money to meet Council Plan and Housing Strategy targets such as homelessness prevention initiatives and rural exception developments.

39.3 During the discussion which ensued, a Member questioned whether the government would step in and impose a Development Plan on the Council if the JCS was not approved by March 2017. In response, the Deputy Chief Executive explained that the Council was a long way down the road with its Plan so, if it remained on course to be approved by summer 2017, she did not feel the government would step in. In terms of housing design, a Member questioned whether there was any way the Council could influence the process so that new homes were more aesthetically pleasing. He also questioned whether the Council could look at affordability to ensure that it really was affordable. Another Member asked that the presentation be circulated to all Members as it contained a number of interesting data sets; the Deputy Chief Executive indicated that this would be done following the meeting.

39.4 One Member advised that he had undertaken some market research in Bishop's Cleeve and he had been astonished at how quickly houses were selling even at £510,000 for a five bed property in Stoke Orchard and £568,000 for a five bed property in Bishop's Cleeve. In addition, he felt there were some really good schemes in affordable housing out there which Tewkesbury Borough ought to be looking at and he understood that some affordability could be held in perpetuity which was something he felt the Council should be considering. The Deputy Chief Executive advised that affordable housing had increased year on year and alternative models of delivery were being looked at; there was a real intention to keep increasing delivery to meet need.

39.5 Referring to the modifications to the JCS, a Member questioned whether those residents that would be particularly affected by the changes had been forewarned about the possible implications to ensure they had ample opportunity to make their feelings known to the Inspector. Members were advised that the modifications made to the JCS would be decided by the three JCS authorities and, following that, there would be a consultation period during which residents and developers etc. could make their feelings known. In reference to recent Ministerial Statements regarding the threshold for affordable housing, Members were advised that there had been some challenges to government policy recently and the current position was that Councils could not have a policy on affordable housing if the development was 10 or less but this did not affect the Council seeking a contribution for affordable housing. In terms of how that position developed the Council would have to keep an eye on the situation.

39.6 Accordingly, it was

RESOLVED That the presentation provided by the Lead Member for Built Environment be **NOTED**.

CL.40 RECOMMENDATIONS FROM EXECUTIVE COMMITTEE**Street Naming and Numbering**

- 40.1 At its meeting on 31 August 2016 the Executive Committee had considered a report on the Street Naming and Numbering service which had been operated for Tewkesbury Borough by the shared Cheltenham and Tewkesbury Building Control Service since it was formed in November 2009. The Executive Committee had recommended to Council:
- a. that, after giving the requisite notice under Section 180 and Schedule 14 Paragraph 25 of the Local Government Act 1972, the provisions of Sections 17, 18 and 19 of the Public Health Act 1925 shall apply throughout the Borough; and
 - b. that, once Sections 17, 18 and 19 of the Public Health Act 1925 have been adopted, Section 64 of the Towns Improvement Clauses Act 1847 shall cease to have effect so far as it relates to street naming (although it would still apply to matters of house numbering).
- 40.2 The report that had been considered by the Executive Committee had been circulated with the Agenda for the current meeting at Pages No. 37-41.
- 40.3 The recommendation from the Executive Committee was proposed and seconded by the Chair and Vice-Chair of the Committee and Members were advised that the introduction of charges for street naming and numbering would bring the Council in line with the rest of the County which would be helpful.
- 40.4 Accordingly, it was
- RESOLVED**
- a. That, after giving the requisite notice under Section 180 and Schedule 14 Paragraph 25 of the Local Government Act 1972, the provisions of Sections 17, 18 and 19 of the Public Health Act 1925 shall apply throughout the Borough; and
 - b. that, once Sections 17, 18 and 19 of the Public Health Act 1925 have been adopted, Section 64 of the Towns Improvement Clauses Act 1847 shall cease to have effect so far as it relates to street naming (although it would still apply to matters of house numbering).

CL.41 AUTHORISATION FOR NEIGHBOURHOOD PLANS TO GO TO COMMUNITY REFERENDUM

- 41.1 The report of the Planning Policy Officer, circulated at Pages No. 42-235, asked Members to approve the submission of the 'Winchcombe and Sudeley Combined Neighbourhood Plan' and the 'Highnam Neighbourhood Plan', both incorporating modifications proposed through independent examination, to a community referendum; and to delegate authority to the Executive Committee to approve the submission of Neighbourhood Plans to community referendum with the Council retaining the final decision to adopt or make a Neighbourhood Development Plan following a successful referendum.
- 41.2 The Deputy Chief Executive explained that the concept of Neighbourhood Plans had been introduced in 2012 to enable communities to establish a plan to guide their own area. The Neighbourhood Plans sat within the wider Policy Framework of the Joint Core Strategy (JCS) and the Borough Plan. Tewkesbury Borough was quite active for Neighbourhood Plans with 13 Plans currently being prepared across 18 Parishes. Highnam and Winchcombe & Sudeley Combined were the furthest forward in terms of their development; both had already been considered by an

independent examination and the Main Modifications had been agreed by the relevant Parish and Town Councils. Tewkesbury Borough Council now had a duty to support those neighbourhood development areas to put their Plans forward to the public for a local vote. The report explained the tests that the Council was required to follow and both areas had met the criteria which meant that they could go forward to a community referendum. The report also suggested that, in future, the decision to submit a Neighbourhood Plan to a referendum should be delegated to the Executive Committee with the final decision to adopt or make a Neighbourhood Development Plan, following a successful referendum, remaining with the Council.

41.3 Referring to Page No. 95, Paragraph 3.2, a Member questioned whether, given the Borough Solicitor's advice earlier in the meeting, the Plans were allowed to include the policy wording 'where six or more homes were proposed, the development must include provision for affordable housing'. In response, the Borough Solicitor reminded Members that the Plans had been through an independent examination so that question could only really be answered when there was case law to follow in that regard. The policy wording may need to be reviewed when such evidence was available but at the current time its inclusion was acceptable. Another Member questioned whether, once the Neighbourhood Plans were adopted, they would have weight in planning terms even if the JCS was not in place and the Borough Plan could not prove a five year land supply. In response, the Borough Solicitor explained that, once the Plans were adopted they would have the weight that this afforded. A Member indicated his support for the recommendation but asked that the Plans be taken into account by Planning Officers when applications were put before the Planning Committee as it seemed that sometimes the two did not line up.

41.4 A Member expressed his thanks on behalf of the Council to the teams that had worked hard in putting the Neighbourhood Plans together. He advised that they were all volunteers within the Parishes and he felt that this was admirable. Accordingly, it was

- RESOLVED**
1. That the 'Winchcombe and Sudeley Combined Neighbourhood Plan' and the 'Highnam Neighbourhood Plan', both incorporating modifications proposed through independent examination, be submitted to community referendum.
 2. That authority be delegated to the Executive Committee to approve the submission of Neighbourhood Plans to community referendum with the Council retaining the final decision to adopt or make a Neighbourhood Development Plan following a successful referendum.

CL.42 OUTSIDE BODY MEMBERSHIP

Gloucestershire Joint Waste Committee

42.1 It was

- RESOLVED** That the Council's representatives on the Gloucestershire Joint Waste Committee would be the Lead and Support Members for Clean and Green Environment instead of the Lead Member and the Leader of the Council.

A46 Member Partnership

42.2 Upon being proposed and seconded, it was

RESOLVED That Councillor Mrs E J MacTiernan be the Council's representative on the A46 Member Partnership.

CL.43 APPOINTMENT OF DEPUTY CHIEF EXECUTIVE

43.1 The report of the Chief Executive, circulated at Pages No. 236-238, asked Members to delegate authority to the Employee Appointments Committee to appoint to the post of Deputy Chief Executive; and that the Officer Employment Procedure Rules be varied to accommodate that change on this occasion. In addition, attention was drawn to an additional recommendation, circulated separately, which asked Members to resolve that, with immediate effect and for the temporary period pending the commencement in post of the new Deputy Chief Executive, the Council's nominated Director of Ubico Ltd. be the Chief Executive; and the nominated Shareholder role in Ubico Ltd. be fulfilled by the Borough Solicitor.

43.2 The Chief Executive explained that the Employee Appointments Committee had the authority to shortlist and interview the candidates for the post of Deputy Chief Executive but not to appoint. Since the next scheduled Council meeting was not until 6 December it was considered that a delegation to the Committee to appoint the successful candidate would be the most expedient way of making the new appointment. The Leader, Deputy Leader and Lead Member would all also be fully engaged in the process along with the Members of the Employee Appointments Committee. In addition, Members were advised that the Council had previously appointed the Deputy Chief Executive as the Council's nominated Director to the Board of Ubico and the Chief Executive as the Shareholder representative. It was therefore necessary, for a temporary period, to reconsider those nominations to ensure the interests of the Council were protected. It was felt that the Council's Borough Solicitor would be best placed to undertake the shareholder representative role and that the Chief Executive, on a temporary basis, should join Ubico Ltd. as a Director. It was proposed that, once the new Deputy Chief Executive was appointed, the roles would revert back to the current arrangement.

43.3 Members felt these suggestions were eminently sensible and, accordingly, it was

RESOLVED

1. That authority be delegated to the Employee Appointments Committee to appoint to the post of Deputy Chief Executive and that the Officer Employment Procedure Rules be varied to accommodate this change on this occasion.
2. That, with immediate effect and only for the temporary period pending the commencement in post of the new Deputy Chief Executive:
 - the Council's nominated Director of Ubico Ltd. be the Chief Executive; and
 - the Council's nominated Shareholder role in Ubico Ltd. be fulfilled by the Borough Solicitor.

CL.44 SEPARATE BUSINESS

44.1 The Mayor proposed, and it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

CL.45 SEPARATE MINUTES

45.1 The separate Minutes of the meeting held on 28 June 2016, copies of which had been circulated, were approved as a correct record and signed by the Mayor.

CL.46 PROPERTY PURCHASE

(Exempt –Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 –Information relating to the financial or business affairs of any particular person (including the authority holding that information))

46.1 The Council considered a report which detailed a possible property purchase and agreed that a detailed business case be prepared for further consideration by the Council which would include independent valuation and the undertaking of due diligence with external professional advice being commissioned as necessary to inform that business case.

CL.47 SEPARATE RECOMMENDATIONS FROM EXECUTIVE COMMITTEE**Management Restructure**

(Exempt –Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)

47.1 The Council considered a recommendation from the Executive Committee on proposals in respect of a management restructure. Members resolved, in line with the recommendation from the Executive Committee, that the proposals be agreed as set out within the report.

The meeting closed at 8:30 pm

TEWKESBURY BOROUGH COUNCIL

**Minutes of an Extraordinary Meeting of the Council held at the Council Offices,
Gloucester Road, Tewkesbury on Wednesday, 19 October 2016 commencing at
6:00 pm**

Present:

The Worshipful the Mayor
Deputy Mayor

Councillor Mrs G F Blackwell
Councillor H A E Turbyfield

and Councillors:

R E Allen, P W Awford, Mrs K J Berry, R A Bird, R Bishop, K J Cromwell, D M M Davies, M Dean, R D East, A J Evans, D T Foyle, R Furolo, R E Garnham, Mrs P A Godwin, Mrs M A Gore, Mrs J Greening, Mrs R M Hatton, Mrs S E Hillier-Richardson, Mrs A Hollaway, Mrs E J MacTiernan, J R Mason, Mrs H C McLain, A S Reece, V D Smith, T A Spencer, Mrs P E Stokes, P D Surman, M G Sztymiak, R J E Vines, D J Waters and M J Williams

CL.48 APOLOGIES FOR ABSENCE

48.1 Apologies for absence were received from Councillors G J Bocking, J H Evetts, B C J Hesketh and P N Workman.

CL.49 DECLARATIONS OF INTEREST

49.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

49.2 There were no declarations of interest made on this occasion.

CL.50 ANNOUNCEMENTS

50.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

CL.51 SEPARATE BUSINESS

51.1 The Mayor proposed, and it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

CL.52 PROPERTY PURCHASE

(Exempt –Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 –Information relating to the financial or business affairs of any particular person (including the authority holding that information))

- 52.1 The Council considered the business case for the purchase of a property and agreed that it would commit to that property investment.

The meeting closed at 6:40 pm

TEWKESBURY BOROUGH COUNCIL

**Minutes of an Extraordinary Meeting of the Council held at the Council Offices,
Gloucester Road, Tewkesbury on Tuesday, 25 October 2016 commencing at
6:00 pm**

Present:

The Worshipful the Mayor
Deputy Mayor

Councillor Mrs G F Blackwell
Councillor H A E Turbyfield

and Councillors:

R E Allen, P W Awford, Mrs K J Berry, G J Bocking, K J Cromwell, D M M Davies, Mrs J E Day, M Dean, R D East, A J Evans, J H Evetts, D T Foyle, R Furolo, Mrs P A Godwin, Mrs M A Gore, Mrs J Greening, Mrs R M Hatton, B C J Hesketh, Mrs S E Hillier-Richardson, Mrs A Hollaway, Mrs E J MacTiernan, J R Mason, Mrs H C McLain, A S Reece, V D Smith, T A Spencer, Mrs P E Stokes, P D Surman, M G Sztymiak, R J E Vines, D J Waters, M J Williams and P N Workman

CL.53 APOLOGIES FOR ABSENCE

53.1 Apologies for absence were received from Councillors R A Bird, R Bishop and R E Garnham. Members were advised that Councillors R Bishop and R E Garnham were unable to attend due to pecuniary interests in the item of business which was being considered – Joint Core Strategy: Main Modifications.

CL.54 DECLARATIONS OF INTEREST

54.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

54.2 The following declarations were made:

Councillor	Application No./Item	Nature of Interest (where disclosed)	Declared Action in respect of Disclosure
P W Awford	Item 4 – Joint Core Strategy – Main Modifications.	Is a Gloucestershire County Councillor. Tewkesbury Borough Council representative on the Lower Severn Internal Drainage Board. Member of Severn Wye Regional Flood Defence Committee.	Had received a dispensation to speak and vote on this item.

			Member of Wessex Regional Flood Defence Committee. Life Member of the National Flood Forum.
V D Smith	Item 4 – Joint Core Strategy – Main Modifications.	Is a Gloucestershire County Councillor.	Had received a dispensation to speak and vote on this item.
P D Surman	Item 4 – Joint Core Strategy – Main Modifications.	A Member of the Councillor’s family owned land which had been identified as a potential strategic housing and employment land allocation within the main modifications document.	Had received a dispensation to speak and vote on this item.
M G Sztymiak	Item 4 – Joint Core Strategy – Main Modifications.	Is a Gloucestershire County Councillor. Councillor worked for Capita Insurance in the benefits section so had nothing to do with the flood work which had been undertaken by Capita.	Had received a dispensation to speak and vote on this item.
R J E Vines	Item 4 – Joint Core Strategy – Main Modifications.	Is a Gloucestershire County Councillor.	Had received a dispensation to speak and vote on this item.

54.3 There were no further declarations made on this occasion.

CL.55 ANNOUNCEMENTS

55.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

55.2 The Leader of the Council indicated that this would be the last Council meeting for the current Deputy Chief Executive, Rachel North. On behalf of the Council, he offered his best wishes for her new job and thanked her for her professionalism, input and expertise throughout her time with the Council.

CL.56 JOINT CORE STRATEGY - MAIN MODIFICATIONS

- 56.1 Attention was drawn to the report of the Head of Development Services, circulated at Pages No. 1-270, which sought to update Members regarding progress on the Joint Core Strategy (JCS) after the Council meetings in June 2016, the hearings in July and the Inspector's Note of Recommendations made at the hearing session on 21 July 2016; to advise Members about the work undertaken to address the conclusions and recommendations of the Inspector regarding the June 2014 Pre-Submission JCS; to seek approval of the proposed main modifications to the June 2014 Pre-Submission JCS for the purposes of undertaking formal public consultation; to advise of the next steps in the JCS process, including arrangements for consultation about the proposed main modifications; and to identify the key evidence and supporting documents which were related to the recommended proposed main modifications. Members were asked to consider the information provided and approve, for public consultation, the main modifications to the June 2014 Pre-Submission Gloucester, Cheltenham and Tewkesbury JCS, as set out in Appendix 1 to the report (including the proposed modifications to the proposals map and key diagram), as those which it endorsed and considered necessary to make the JCS sound and to delegate authority to the Chief Executive of Tewkesbury Borough Council to progress and sign a joint planning statement with Wychavon District Council in respect of development at land at Mitton. Attention was drawn to an additional sheet which set out a revision to Policy SD3 Retail and City/Town Centres – Primary Frontages and a revision to the recommendations contained within the report to support that policy change.
- 56.2 The Mayor explained that the Planning Policy Manager would present the report and Members would be given the opportunity to ask questions. A proposer and seconder would then be sought and the item opened up for debate.
- 56.3 The Planning Policy Manager explained that the JCS was being developed jointly by Tewkesbury Borough, Cheltenham Borough and Gloucester City Councils. Since submission of the JCS, the Planning Inspector had undertaken a detailed examination which had comprehensively scrutinised the objectively assessed need etc. The Inspector's Interim Report had been published in May 2016 and, following the receipt of that report, all three JCS authorities had considered it and made their comments to it; particularly in response to her proposals that there should be a 5% uplift to the objectively assessed need and that allocations at Fiddington, Mitton and Twigworth should be included in the JCS. The proposed main modifications were attached to the report at Appendix 1 with the significant modifications summarised at section two of the report. In respect of capacity at the Ministry of Defence (MoD) site at Ashchurch, the Planning Policy Manager advised that a verbal update had been received that some phases would no longer be released within the plan period as previously envisaged. At this stage the Council had no further information but this matter would be considered in detail when further information was received and it was anticipated at this stage that any shortfall would be dealt with through the Plan review. In terms of a possible allocation on land at Mitton, a joint statement was being prepared with Wychavon District Council (the district within which the land fell) on how that could be taken forward. Members were advised that Cheltenham Borough and Gloucester City Councils had already approved the main modifications, as set out at Appendix 1 to the report, and, subject to approval from Tewkesbury Borough Council, consultation would take place on the main modifications which would be followed, sometime in the New Year, by further examination hearings with the Inspector. Ultimately the three JCS authorities would then need to approve the final document before it was implemented as planning policy.

- 56.4 The Mayor invited Members to ask questions of the Officers. Referring to Paragraph 2.2.7, Policy SD4, a Member indicated that he had been pleased about the Council's approach to the use of solar panels on roofs to date but this Policy seemed to be moving away from that requirement and he questioned why this was and whether anything could be done about it within the JCS. In response, the Planning Policy Manager explained that, during the time the examination had been ongoing, changes had been made in national legislation which removed the requirement to provide standards in this regard and the amended Policy was in line with that legislation. Another Member questioned whether, if the main modifications were accepted, there would be a chance to consider other modifications in the future either after the Inspector made her decision or in five to ten years' time. In response, the Legal Advisor explained that, only those things that did not materially affect the policies set out within the JCS could be changed subsequently to the document being found sound. Any changes in five to ten years' time would be a question of plan review. In response to a query regarding the consultation on the main modifications, and the resultant final report, Members were advised that this would ultimately come back to the Council for adoption.
- 56.5 The Mayor thanked Members for their questions and sought a motion from the floor. It was proposed and seconded that the proposed main modifications to the June 2014 Pre-Submission Gloucester, Cheltenham and Tewkesbury Joint Core Strategy be approved for public consultation, as set out in Appendix 1 to the report (including proposed modifications to the proposals map and key diagram), as those it endorsed and considered necessary to make the JCS sound; that authority be delegated to the Chief Executive of Tewkesbury Borough Council, the Corporate Director of Services and Neighbourhoods of Gloucester City Council and the Director of Planning of Cheltenham Borough Council, in consultation with the relevant Leaders of each of those Councils, to make minor changes to the proposed main modifications (and proposed modifications to the Proposals Map and key diagram) in terms of formatting, presentation and accuracy, including any minor changes arising from the consideration of the proposed modifications by each of the Joint Core Strategy Councils, prior to publication for consultation purposes; that Appendix Ai "Indicative Site Layout – Twigworth Urban Extension", Appendix Aii "the City of Gloucester Proposed Primary Shopping Area, Primary Frontage and Secondary Frontage", Appendix B "Superseded Development Plan Policies on Adoption of the JCS" and the "Addendum for Council – Primary Frontages" be incorporated into the proposed main modifications to the June 2014 Pre-Submission Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, as set out at Appendix 1 to the report (including proposed modifications to the proposals map and key diagram), as those it endorsed and considered necessary to make the JCS sound; and that authority be delegated to the Chief Executive of Tewkesbury Borough Council, in consultation with the Leader of Tewkesbury Borough Council, to progress and sign the joint planning statement with Wychavon District Council and thereafter any formal memorandum of agreement in respect of the delivery of development on land at Mitton making a contribution towards Tewkesbury Borough's housing requirements. The proposer felt that it was extremely important that the Council had a plan in place and, even though it was not perfect, the plan set out within the main modifications was the best the JCS authorities could do within the constraints forced upon them by the Planning Inspectorate and the government.

- 56.6 Another Member proposed, and it was seconded, that amendments to the existing proposal be made: that the proposed main modifications to the June 2014 Pre-Submission Gloucester, Cheltenham and Tewkesbury Joint Core Strategy be approved for public consultation, ~~as set out in Appendix 1 to the report (including proposed modifications to the proposals map and key diagram)~~ as those it endorses and considers necessary to make the JCS sound; that authority be delegated to the Chief Executive of Tewkesbury Borough Council, the Corporate Director of Services and Neighbourhoods of Gloucester City Council and the Director of Planning of Cheltenham Borough Council, in consultation with the relevant Leaders of each of those Councils, to make minor changes to the proposed main modifications (and proposed modifications to the Proposals Map and key diagram) in terms of formatting, presentation and accuracy, ~~including any minor changes arising from the consideration of the proposed modifications by each of the Joint Core Strategy Councils, prior to publication for consultation purposes~~; that ~~Appendix Ai “Indicative Site Layout – Twigworth Urban Extension”, Appendix Aii “the City of Gloucester Proposed Primary Shopping Area, Primary Frontage and Secondary Frontage”, Appendix B “Superseded Development Plan Policies on Adoption of the JCS” and the “Addendum for Council – Primary Frontages”~~ be incorporated into the proposed main modifications to the June 2014 Pre-Submission Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, ~~as set out at Appendix 1 to the report (including proposed modifications to the proposals map and key diagram)~~, as those it endorses and considers necessary to make the JCS sound; and that authority be delegated to the Chief Executive of Tewkesbury Borough Council, in consultation with the Leader of Tewkesbury Borough Council, to progress and sign the joint planning statement with Wychavon District Council and thereafter any formal memorandum of agreement in respect of the delivery of development on land at Mitton making a contribution towards Tewkesbury Borough’s housing requirements.
- 56.7 The Legal Advisor expressed concern that the amendments were confusing as they appeared to entirely remove reference to the proposed main modifications at Appendix 1 which meant there would be nothing to agree or to consult upon. In addition, Members were reminded that Cheltenham Borough and Gloucester City Councils had already approved Appendix 1 so, if changes were made, they would have to reconsider the matter. In offering clarification she explained that the minor changes referred to in recommendation 2 would be presentation, grammar etc. and if that was removed from the resolution every single change that was made would have to come back to the Council including such minor things as formatting and presentation. In response, the proposer explained that the JCS was 95% of the way to being a plan that he could approve but he was of the strong view that Twigworth should not be included in the JCS as a strategic allocation; this was the main change which his proposal was designed to achieve. With regard to the sentence referring to minor changes, Members felt that, as long as some clarification of the definition of a minor change was provided, they would consider leaving that sentence in and, in response, the Borough Solicitor advised that a minor change could be an inconsistency, typographical error or something written in the double negative etc. As a further example, the Legal Advisor explained that, at the meeting of Gloucester City Council, Members had noted the omission of a word which in itself did not change the policy but the sentence did not make sense without it. The proposer of the amendment expressed the view that many Members were not happy with the inclusion of Twigworth as a strategic allocation. He indicated that the area had been removed from the original JCS document and there was no way that it should be included at this stage. He was of the view that Gloucester City could find its own solutions through brownfield sites within its own urban area that would make up for the shortfall following the removal of Twigworth. He noted sites such as Myers Road, Gloucester, which was a controversial brownfield site that had capacity for around 400 dwellings and had not been highlighted to either Members or the Inspector; both large and small sites at

Winnycroft to the east of the city; land to the south of Grange Road; and Blackfriars – all of those sites added up to 1,580 dwellings which made him wonder why Tewkesbury should be using its precious Green Belt and flood plain to meet Gloucester's needs. He was firmly of the view that, if Twigworth was included in the main modifications document for consultation purposes, there would be a perception that the Council supported it which it did not. There was some concern expressed that the wish to exclude Twigworth as a strategic allocation was not clear within the amendments proposed and it was further proposed that the first recommendation be amended to read: that the proposed main modifications to the June 2014 Pre-Submission Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, *excluding Twigworth*, be approved for public consultation, as set out in Appendix 1 to the report (including proposed modifications to the proposals map and key diagram), as those it endorsed and considered necessary to make the JCS sound.

- 56.8 During the discussion which ensued, a Member expressed concern that there were many references to Twigworth throughout the JCS main modifications so it would not be as simple as just removing it as a strategic allocation. In response, the Legal Advisor explained that taking Twigworth out would have a huge impact on the numbers in the JCS and, it was her understanding that many, if not all, of the sites in Gloucester which had been mentioned by the speaker were already contained within the Gloucester City Plan or the JCS, a straight swap of numbers would therefore not be possible. With this in mind the JCS authorities would be unable to present replacements to the Inspector so would instead need to persuade her that what was put forward was sound. If this was what Members were minded to do she felt an adjournment would be sensible to give Officers the time to work up the amendments and bring them back to all three JCS authorities. In addition, the Planning Policy Manager advised that Gloucester City Council had identified urban capacity of around 8,000 dwellings following a comprehensive review of its area but this was not enough to match the overall need which was the reason for Tewkesbury helping Gloucester through the JCS process.
- 56.9 Referring to the fourth recommendation within the report which related to land at Mitton, a Member requested whether the proposer of the amendment would accept a further amendment, which was duly seconded, to remove that recommendation in its entirety ~~to delegate authority to the Chief Executive of Tewkesbury Borough Council, in consultation with the Leader of Tewkesbury Borough Council, to progress and sign the joint planning statement with Wychavon District Council and thereafter any formal memorandum of agreement in respect of the delivery of development on land at Mitton making a contribution towards Tewkesbury Borough's housing requirements.~~ He expressed the view that the JCS had been developed in partnership and all three authorities had been happy with it until the Inspector had changed it and now it did not work. He felt the arbitrary way that the Inspector had proposed a 5% uplift to the objectively assessed need was completely unreasonable and the sites that she had recommended as additional strategic allocations were not supported by evidence which, in his mind, made them unsound. He was particularly unhappy with land at Mitton being included in the JCS due to flooding concerns in the area which he did not feel had been properly addressed.
- 56.10 At 6:50pm, the Mayor proposed an adjournment so that Officers may consider the best way forward in respect of the amendments that had been proposed. Following the adjournment the meeting reconvened at 7:15pm with the same Membership present.

- 56.11 The Chief Executive indicated that the amendment as proposed was very significant and Officers had not had an opportunity to work on it in detail. It was clear that the amendment was designed to remove Twigworth as a strategic allocation from the JCS main modifications and he felt Members needed to be aware of the implications of this as well as the issues with the site. He explained that the site had originally been included in the JCS and approved by the Council but in a later iteration it had been removed following a change in the objectively assessed need which meant it was not required. Through the Inspector's work during the examination the objectively assessed need for housing had increased and the Inspector had made her own recommendations which included the proposal to add Twigworth as a strategic allocation. Following that, Officers went back to her to request that the JCS went forward without the inclusion of Twigworth but her letter of 6 October had made it clear that this may result in soundness issues in the plan if there were no good land use planning reasons put forward in the submission. It was obvious that a number of Members felt there were good planning reasons but the Inspector needed to be able to make that judgement. In addition, the Legal Advisor advised that the substance of the amendment as proposed would have a huge 'knock on' effect for the drafting of the plan. It had to be considered where this may ultimately lead. All three Councils could agree to remove Twigworth but the Inspector may still say this approach was unsound and unable to make main modification recommendations. This would mean the JCS authorities had no plan in place but did have needs numbers and the evidence on the sustainability of sites from the examination which, no doubt in respect of all sites, would be open to developers to refer to. Alternatively, the other two Councils may not agree and that would also ultimately get to the same place of no plan, but numbers and the evidence from the examination. The Planning Policy Manager explained that, as part of the work in developing the main modifications, the JCS team had carried out further evidence-based work but this had yielded no land use reason to present as a sound case to the Inspector with regards to Twigworth. He understood that flood risk was a key concern on the site; however, some areas were in flood zone one and as such were acceptable for development purposes. However, if development came forward, it needed to do so in a sustainable way i.e. development being wholly located in flood zone one; flood risk management being a critical part of the masterplan; and the general flood risk policy itself being that development must avoid areas of flood risk and must not increase flooding. It was borne in mind that, whilst the JCS set out the principle of development on sites, the planning application had to be submitted to the Council's satisfaction in line with the policies within the plan. The Chief Executive felt that Members needed to listen to the advice of Officers to ensure a way forward was achieved which was properly constructed and supported and which allowed full consideration by all of the JCS partners.
- 56.12 During the debate which ensued, a Member indicated that she had thought long and hard about the amendment that had been proposed but the issues in relation to flooding, transportation, roads etc. were just too great to ignore. She was also concerned that the information provided in terms of flooding seemed to ignore climate change, and the recommendations of the Environment Agency in that regard, and she felt this was a huge problem. She hoped the Council would be able to debate the issues raised and take the vote on the amendment as proposed so that it could make up its own mind. Another Member expressed the view that the Council needed to make a decision on whether to send the plan onto the next stage. She felt the Inspector's amendments had de-railed the plan as she had made major alterations to it but there seemed little point in making any further amendments as the Inspector just did not listen to anything the Council said. Another Member agreed that the original plan had been fine as it had omitted certain sites in recognition of flooding issues. He felt the Inspector's views were such that the Council needed to write to the government to set out its case. He was of the view that it was unacceptable that the local representatives for the Borough

were effectively not being allowed to decide on their own plan for the area. Another Member indicated that he could not vote for building in the flood plain and was of the view that there was no need to include a strategic allocation at Twigworth as without it the plan offered 95% of the housing needed and the last 5% could be found later from available land. A number of Members agreed that Twigworth should not be part of the consultation document as this would result in there being a presumption that Members were supportive of it as a strategic allocation when they were not. In response to a query as to when the Council had provided a mandate for Twigworth to be put to the Inspector, the Planning Policy Manager explained that, in drafting the main modifications, Officers had gone to the Inspector citing reasons that Twigworth should not be included; recognising the shortfall and suggesting that it could be dealt with through a plan review. However, she had maintained her position and so her recommendation of the site for residential development of at least 750 dwellings; this was the reason it was now with Members for determination. In terms of the proposal to remove Twigworth from the plan, Members were advised that it was not as simple as it might sound as Twigworth was contained within the policy wording, the mapping, the background wording, trajectories and numbers etc. In addition, the Planning Policy Manager explained that the spatial strategy had to be taken into account which stated that development should take place in and around the urban areas of Cheltenham and Gloucester so any alternative sites would need to meet that strategy. There were a lot of sites available but none that would compensate for the loss of Twigworth. In terms of evidence, the JCS team was happy that there was a vast amount of evidence that supported the JCS which was robust. In terms of the sites that it had been suggested could replace Twigworth in and around Gloucester City; the Legal Advisor reiterated that some, if not all, of those were already included within the figure for the JCS as they were part of the City's urban capacity or sites already to be allocated in the JCS.

- 56.13 A Member explained that he fully understood what the amendment was trying to achieve but he felt it would result in taking away the opportunity for residents to speak to the Inspector and have their say on whether or not Twigworth should be a strategic allocation. He understood that residents had evidence in respect of flooding and highways issues and they needed to ensure the Inspector had sight of that through the examination process. Another Member disagreed with this view and felt the only way to ensure Twigworth was safe was not to include it as a strategic allocation in the main modifications. He indicated that everyone remembered the 2007 floods and the issues caused by previous building in the flood plain and he felt lessons should be learnt. The evidence from residents was good and there was some really interesting information for Officers to look at in respect of Twigworth. He felt the best way forward would be for Members to defer consideration of the main modifications to allow time for Officers to digest that additional information and look at how Twigworth could be removed from the plan. He understood that the Borough needed a plan but he wanted one which protected the flood plain and, as such, the one currently before the Council was not acceptable. He felt confident that, if Officers were given time, they would be able to recommend a suitable way forward. A Member expressed the view that, if the JCS was not put forward in line with what the Inspector had suggested, it was likely that, instead of the Council deciding where development was located, this would be down to the developers; they would choose the sites and those sites would be agreed on appeal – he questioned whether the Council really wanted to risk that scenario.
- 56.14 In offering some clarification in respect of evidence and documents that had been referred to that evening, the Legal Advisor indicated that there appeared to be some evidence which had not been provided to Officers so, in response to questions about its robustness, Officers were unable to comment.

- 56.15 In reference to comments made that the JCS authorities could have a plan forced upon them, a Member indicated that the local Member of Parliament had been advised that this was unlikely to happen. In addition, the Member questioned the standard of the evidence that had been put to the Inspector with the inclusion of comments such as 'there were no known traffic and transport issues' - he refuted this given the huge impact any development at Twigworth would have on the operation of the strategic road network, e.g. Longford roundabout, which was already operating over capacity; that 'the allocation could provide the opportunity to reduce crime as it would provide good quality housing which people wanted to look after'; that there would be 'long term positive effects on health'; and that 'no significant negative environmental effects had been identified'. Capita had produced a report on flooding but so had Robert Hitchins and one of the things included in that report was that the new flood levels, once escalated based on the updated climate change guidance, had concluded that the proposed location of the primary school at Twigworth may be vulnerable and was therefore at risk.
- 56.16 A Member expressed the view that he wanted a sound plan and wondered if a deferral would be a sensible way forward. Following advice from the Borough Solicitor he proposed, and it was seconded, that the evidence be provided to Officers for them to work on and that consideration of the main modifications be deferred to come back to Members for a decision with all of the evidence provided. In offering clarification as to the correct way to deal with the proposals made, the Borough Solicitor advised that there were two proposals, one of which had been amended, and in this situation it was at the discretion of the Mayor which proposal was taken first. In line with the advice received, and using her discretion the Mayor, confirmed that the first proposal (the amendment) would be taken first and she asked for the Borough Solicitor to clarify the wording. Members were advised that a means of achieving the intent of the amendment would be that the Officers bring to the Council for approval proposed main modifications to the June 2014 Pre-Submission Gloucester, Cheltenham and Tewkesbury Joint Core Strategy which did not include Twigworth as part of the Innsworth/Twigworth strategic allocation but otherwise was as set out in Appendix 1 to the Council report. The proposer of the amendment thanked the Borough Solicitor for her clarification and, in summing up, he advised that his amendment had not been intended to 'wreck' the process but more to be a constructive amendment to enable the plan to move forward. He knew there were alternative brownfield sites within Gloucester City that needed to be explored and he felt work needed to be done on that before the plan came back to the Council. He was aware of the need for a plan but felt that there were certain areas that needed to be protected. In offering further clarification, the Borough Solicitor explained that the removal of Twigworth was a significant amendment and she felt that everyone needed to know what the plan would look like without its inclusion. There was some confusion expressed over whether the Council was voting for the amendment or a deferral. In offering clarification, the Borough Solicitor explained that the Mayor had decided to put the amendment to the vote. However, the Officer advice was that there was a need for Members to see exactly how the plan would change, if Twigworth were not allocated, which was the reason for suggesting that it come back for further consideration. If, upon being put to the vote, that amendment was lost then the deferral would be considered. The proposer and seconder of the amendment accepted the suggested wording changes and, accordingly, it was

RESOLVED That Officers bring to the Council for approval, proposed main modifications to the June 2014 Pre-Submission Gloucester, Cheltenham and Tewkesbury Joint Core Strategy which do not include Twigworth as part of the Innsworth/Twigworth strategic allocation but otherwise was as set out in Appendix 1 to the Council report.

CL.57 SEPARATE BUSINESS

57.1 The Mayor proposed, and it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

CL.58 LEGAL PROCEEDINGS

(Exempt –Paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972 –Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings)

58.1 The Council received a report from the Borough Solicitor to enable it to determine a response to legal proceedings. Members resolved that, having considered the merits of the case, they wished to continue to defend the proceedings in the High Court.

The meeting closed at 8:55 pm

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	23 November 2016
Subject:	Medium Term Financial Strategy 2017/18 – 2021/22
Report of:	Head of Finance and Asset Management, Simon Dix
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Finance and Asset Management
Number of Appendices:	One

<p>Executive Summary:</p> <p>The Medium Term Financial Strategy (MTFS), attached at Appendix A, provides the financial plan for the Council for the period 2017/18 – 2021/22. It sets out the Council’s estimates of its commitment expenditure and identifies the spending pressures it faces and the budget savings needed to achieve the recommended Council Tax levels for each of the five years of the plan.</p>
<p>Recommendation:</p> <p>To RECOMMEND TO COUNCIL that the Medium Term Financial Strategy 2017/18 – 2021/22 be ADOPTED.</p>
<p>Reasons for Recommendation:</p> <p>The agreement of a five year financial plan is crucial to the Council in ensuring sufficient resources are allocated to priority areas and that the Council remains financially sustainable.</p>

<p>Resource Implications:</p> <p>The council faces a deficit in its base budget of over £3.34m in the next 5 years. The MTFS sets out some of the strategies that will need to be considered to deal with the deficit.</p>
<p>Legal Implications:</p> <p>None.</p>
<p>Risk Management Implications:</p> <p>Set out in in MTFS.</p>
<p>Performance Management Follow-up:</p> <p>The MTFS will be kept under continual review and amended in line with significant policy changes, and performance will be monitored against the plan by Members through the quarterly performance monitoring reports.</p>

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 Financial planning is fundamental to good financial management and the five year Medium Term Financial Strategy sets out resource availability within recommended Council Tax levels.

2.0 MEDIUM TERM FINANCIAL STRATEGY

2.1 The Medium Term Financial Strategy (MTFS) is a key element within the Council's overall strategic planning framework. The Strategy takes a five year perspective and is reviewed, updated and rolled forward annually to set a framework for how budget pressures and priorities will be managed within the best estimates of available capital and revenue resources.

2.2 The MTFS outlines the budget that will be delivered over the medium to long-term. A further report, specifically on the 2017/18 detailed budget, will be presented to both Executive Committee and Council in February 2017 for Member approval.

2.3 The position of Local Government finance has been uncertain for long period of time and successive MTFS's have tried to outline a medium term plan against this uncertain backdrop. In producing this year's Strategy, there is even more uncertainty. Some of the issues contributing towards this include:

- The 'new' government's approach to public spending.
- Economic impacts resulting from the country's decision to leave the European Union.
- The continued reduction in public spending.
- Uncertainty over the future of the New Homes Bonus Scheme.
- Local authorities retaining 100% growth in business rates by the end of the current Parliament in return for reduced Government grant funding and increased responsibilities.
- Government's commitment to devolution.

2.4 In addition to the national uncertainty the Council faces with regards to its financial plans, both corporate and service related financial pressures continue to have a significant impact on the Council's forward projections of its financial position. These include:

- Further reduction in core government grant of £723,000.
- Salary growth of 1% in the next three years but an acknowledgement of increasing pressure from inflation forecasts.
- Further financial contributions required for the local government pension scheme.
- Change in waste collection and recycling methodology to meet the growing need of the Borough.
- Increasing cost of processing recycling material extracted from the waste stream.
- Increasing demand for additional resources to meet needs including both homelessness and development management.

2.5 The MTFS also contains important strategic planning in a number of areas including the increase of Council Tax and the use of New Homes Bonus (NHB). The headline recommendations of the Strategy are as follows:

- Council tax to be increased by £5 for 2017/18 and with £5 increases thereafter.
- NHB support to the base budget should increase by £200,000 per annum subject to available funding through the Scheme.
- Tewkesbury Borough Council to operate outside of the Gloucestershire Business Rates Pool in 2017/18 and until such a time as the risk from Virgin Media is mitigated.
- The £261,000 target for retained business rates income be removed from the Council's base budget and only reinstated once positive and sustained growth is achieved.

2.6 Best estimates have been made of the future financial position of the Council within the attached MTFS based on current assumptions of both government and local policy. Clearly the projections within the MTFS are subject to potentially significant change as a result of government policy on local government finance and therefore strategic financial management of this authority will need to be flexible to be able to respond to the rapidly moving agenda.

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 Statutory consultation will be carried out with businesses and a public consultation is carried out through the Autumn.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 MTFS sets out the level of resource availability to meet the Council priorities and pledges which form the Council Plan.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 Council tax levels must be set within Government limits to avoid the need to hold a referendum on 'excessive' increases.

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 Some of the savings streams identified may have implications on staffing levels and the asset portfolio. These will be set out specifically within the detailed reports surrounding proposed saving actions.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 These will be set out specifically within the detailed reports surrounding proposed saving actions.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 These will be set out specifically within the detailed reports surrounding proposed saving actions.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 None.

Background Papers: None.

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Appendices: A - Medium Term Financial Strategy 2017/18 – 2021/22.

Medium Term Financial Strategy 2017/18 to 2021/22



“Tewkesbury Borough, a place where a good quality of life is open to all.”

Tewkesbury Borough Council
November 2016

Foreword to Medium Term Financial Strategy 2017 - 2022

The Medium Term Financial Strategy is a forecast supported by assumptions and what impact those may have on the finances in the future. It is a tool we use to assist in the preparation of the detailed budgets for 2017-18 and frames the considerations, particularly the savings and additional incomes, required over the forecast period.

Financial planning has always been and continues to be important for the future. Over the past few years under the Government's Austerity measures this has been increasingly difficult but essential.

As a Council we try to plan ahead for five years but recognise that a plan is subject to change, particularly given the uncertainty around New Homes Bonus and Business Rates. We know we have challenges with welfare reform and the reduction and eventual removal of the Revenue Support Grant. We are working hard to bring commerciality to the Council to generate income streams but these take time to develop and bring on stream.

This strategy is a tool that can and will be modified to help us adapt to an uncertain future to ensure our finances are robust and support the services our residents and businesses expect us to deliver.

As I said last year and it continues to be true, that our Medium Term Financial Strategy will change and will change more rapidly than at anytime in the past.

Councillor Dave Waters
Deputy Leader of the Council
Lead Member for Finance and Asset Management

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1.0 BACKGROUND

- 1.1 The Medium Term Financial Strategy (MTFS) provides a financial framework for the council's strategic planning and decision making. The MTFS 2017/22 incorporates key factors such as the changes in Government funding, our spending plans, the level of savings and increased income that are likely to be needed to keep council tax affordable. By anticipating financial pressures now, we can plan ahead early to meet the significant challenges in a way that ensures financial resources are targeted to the council's highest priorities and have the minimum impact on services.
- 1.2 These are unprecedented times for budget setting, with significant cuts in public spending. The new Chancellor's Autumn Statement is to be delivered on 23rd November and the local government finance settlement in December, both of which will shape our financial profile over the medium term and give us a better understanding of the challenges facing the Council. In addition, the government has previously indicated it wishes to amend the New Homes Bonus scheme and as such issued a consultation at the beginning of 2016. Consultation has also been issued on retaining 100% business rates and fairer funding. Until these outcomes are known, there is considerable uncertainty about the extent and profile of financial deficits. Once again, financial planning has to be made without a stable footing and core assumptions are made on the basis of what is actually known at the current time and best estimates of the future direction of financing the council.
- 1.3 It is therefore essential that we continue to set our annual budget within the context of a rolling five year resource strategy. A longer term strategic view must be taken when decisions are made that have a financial impact beyond the annual budget as it enables us to assess the sustainability of such decisions. The financial strategy is linked to our key strategic objectives and incorporates both national and local improvement priorities which have been included in our individual service plans and strategies.
- 1.4 The 2016/2017 approved budget provides the base position for the financial strategy from which projections can be made to give an overall forecast of expenditure and income levels for the coming years. It is also necessary to maintain a minimum level of reserves to provide working capital and act as a contingency to meet any unforeseen needs.
- 1.5 In order to progress towards our aims and objectives, as contained within The Council Plan 2016 – 2020, we need to prioritise our spending plans. This involves not only considering the financial pressures identified, but also undertaking a strategic review of existing services; identifying new ways of working and areas where reduced levels of activity or discontinuation should be pursued.
- 1.6 Whilst effectively managing spending will help to reduce the deficit over the medium term, it will not address the financial challenge in its totality. The council will need to consider how it can increase income, both within its core services and from its financing streams, and therefore grow its way towards financial sustainability and perhaps in the medium to long term be able to be self-sufficient and insulated from economic shock and central government funding decisions.
- 1.7 To meet this challenge, the Council will need to think differently, have a strong risk appetite and be prepared to venture into new and innovative ways of tackling the funding gap.

2.0 THE COUNCIL PLAN 2016-2020

2.1 In April 2016, the new Council Plan for 2016 – 2020 was approved. The document is a statement of intent to drive forward our vision:

“Tewkesbury Borough, a place where a good quality of life is open to all.”

2.2 To deliver this vision and provide focus we have established four priorities and a number of objectives within each priority. We will:

Finance & Resources:

- Maintain a low council tax.
- Start on the path to being financially independent of the government’s core grants.
- Investigate and take appropriate commercial opportunities.
- Use our assets to provide maximum financial return.

Economic development:

- Be the primary growth engine of Gloucestershire’s economy.
- Identify and deliver employment land within the borough, in accordance with the Joint Core Strategy (JCS) and Tewkesbury Borough Plan.
- Maximise the growth potential of the M5 junctions within the borough.
- Deliver regeneration for Tewkesbury town.

Housing:

- Increase the supply of suitable housing across the borough to support growth and meet the needs of our communities.
- Achieve a five year supply of land.
- Deliver the homes and necessary infrastructure to create new sustainable communities in key locations.
- Deliver affordable homes to meet local need.

Customer focused services:

- Maintain and improve our culture of continuous service improvement.
- Develop our customer service ethos to ensure that we deliver to the needs of residents.
- Further expansion of the Public Services Centre (bring in other partners).
- Improve and expand our partnerships both public and private sector and explore opportunities to do this.
- To improve customer access to our services and service delivery through digital methods.

2.3 In addition to the priorities and objectives, which are aimed at delivering our vision, the council has adopted a set of values which we apply across all of our services and activities. We are a council that:

- **Puts customers first:** We will put the needs of our customers at the heart of what we do and listen to what they say, treating people fairly and without bias.
- **Is positive about working with others:** We recognise we cannot achieve our vision by working alone. We will continue to develop productive working relationships with other organisations and our communities, including the voluntary sector, town and parish councils and neighbourhood groups to achieve common goals.
- **Values our employees:** We will support, praise and invest in our workforce to develop our organisation.

3.0 NATIONAL CONTEXT

3.1 Prior to the referendum on remaining in Europe, the then government were continuing to follow the austerity path within public services with the aim of producing a national budget surplus by 2019/20. The reductions in public spending have been acutely felt within local government and are set to continue through this parliament. Allied to this has been a move to reduce the benefit of new homes bonus and a shift towards funding local government from retained business rates.

3.2 In the immediate aftermath of the decision to leave the European Union, there has been much political turmoil with leadership elections in both of the main parties. The change in leadership within the Conservative Party has resulted in a new Prime Minister, new Chancellor and new Secretary of State for Communities and Local Government. The sector has watched with interest to see if the change in personnel will signal a change in direction with regards to local government. As yet, the position is unclear with very little comment on local government coming forward in recent months. It is hoped that the Autumn Statement will give an indication of the direction of travel and the governments plans for the public sector.

3.3 The economic trajectory for the UK has been immeasurably altered following the vote to leave the EU. The long-term position of the UK economy will be largely dependent on the agreements the government is able to secure with the EU and other countries.

3.4 The short to medium-term outlook is somewhat more downbeat due to the uncertainty generated by the result and the forthcoming negotiations. The rapid installation of a new Prime Minister and cabinet lessened the political uncertainty, and the government/Bank of England have been proactive in tackling the economic uncertainty. PMI data, and consumer and business confidence surveys presented a more positive picture for August following the shock-influenced data for July, in line with expectations for an initial overreaction. However, many indicators remain at lower levels than pre-Referendum.

- 3.5 Globally, the outlook is uncertain and risks remain weighted to the downside. The UK domestic outlook is uncertain, but likely to be weaker in the short term than previously expected. The likely path for Bank Rate is weighted to the downside. The Arlingclose central case is for Bank Rate to remain at 0.25%, but there is a 40% possibility of a drop to close to zero, with a small chance of a reduction below zero. Table 1 details the ‘flat’ forecast of the Bank of England base rate.

Table 1 – Base rate forecast

Official Bank Rate	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19
Upside risk	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.25	0.25	0.50
Arlingclose central forecast	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25
Downside risk	-0.25	-0.25	-0.25	-0.25	-0.25	-0.50	-0.50	-0.50	-0.50	-0.50

4.0 LOCAL GOVERNMENT FINANCE SETTLEMENT

- 4.1 On 8th February 2016, the Secretary of State for Communities and Local Government announced the final local government settlement for 2016/17. The announcement included the following significant proposals to be delivered over the life of the Spending Review Period:

- Movement to 100% business rate retention;
- Permission to spend 100% of capital receipts from asset sales, to fund cost-saving reforms;
- Introduction of a social care Council Tax precept of 2% a year for those authorities with social care responsibilities;
- Flexibility for district councils to increase council tax by £5 a year;
- Increased support through the Rural Services Delivery Grant for the most sparsely populated rural areas;
- Retention of New Homes Bonus **but** with proposed changes, savings from the changes to be re-invested in authorities with social care responsibilities;
- The offer of a guaranteed 4 year budget to every council, which desires one, and which can demonstrate efficiency savings.

- 4.2 The actual financial settlement confirmed another steep reduction in core government funding for the council for the current financial year. In cash terms, the council lost a further £451,000 or 14.9% of core government funding. As a result, the total loss of core government grant during the ‘austerity’ period of the last six years amounted to £2,733,000 or 51.5% in cash terms with the real loss being significantly higher.

- 4.3 The settlement also included ‘illustrative’ core government grant settlements for each financial year up to 2019/20. As expected, they confirmed the phasing out of Revenue Support Grant (RSG) within the next three years but fortunately for this Council did not include a tariff on RSG in later years as is the case with many council’s. In this scenario, local authorities are paying over an amount of funding to the government rather than receiving funding from the government. Nevertheless, the illustrative figures project a further reduction in government funding of £723,000 over the next three years before small increases at the latter end.
- 4.4 Table 2 below outlines the levels of core government funding assumed in the MTFP based on the illustrative figures provided by the DCLG.

Table 2 – Core Government support 2016 – 2022

	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
	£'000	£'000	£'000	£'000	£'000	£'000
Revenue Support Grant	887	515	283	23	0	0
Business Rates baseline	1,690	1,723	1,774	1,830	1,876	1,923
Total	2,577	2,238	2,057	1,853	1,876	1,923
Change		-339	-182	-204	23	47
Change %		-13.2%	-8.1%	-9.9%	1.2%	2.5%

- 4.5 The council has responded to the government’s offer of a four year funding settlement by compiling and submitting an Efficiency Plan to the DCLG. This was submitted on the 14th October and the Council would expect to have drafted four year settlement shortly before Christmas.

5.0 NEW HOMES BONUS

- 5.1 New Homes Bonus (NHB) was introduced in 2011 and provides funding of a sum equivalent to 80% of the average annual council tax for every new home built, once occupied. This sum is payable for six years with an additional bonus of £350 for every affordable home occupied. The final scheme design included the principles of the funding being both permanent and flexible. There was no ring-fencing of the funding and no specific requirements for its use.
- 5.2 Tewkesbury is in a very fortunate position in that it has been able to benefit from relatively large amounts of NHB accumulating in the first six years of operation of the scheme. In the current financial year, the amount of NHB received was £3.4m and was split between supporting the base budget with £2.21m (65%) and providing one-off funding of £1.19m (35%) to various corporate requirements and council ambitions.

- 5.3 As previously highlighted, during the current financial settlement discussions the government indicated their intention to remove up to 2/3's of the current NHB funding in order to redirect it to support social care. A consultation was issued in early 2016 which looked at reducing the number of years that NHB was paid for – reducing from 6 to 4 was the governments preferred position – and the 'sharpening of the incentive' for councils by which NHB payments would be reduced if no local plan was in place, houses were developed following appeal and growth was below a national baseline. No information has been received from the government on whether they intend to take these changes forward in part, in full or not at all.
- 5.4 In order to estimate the likely level of NHB for 2017/18 and future years, a view has been taken on the most likely change that the government will introduce to the scheme – reducing from six to four years of payments. It has also been assumed that there will be a one year transitional arrangement put in place. The estimate for next year is based on the current property base within the Borough with future year projections based on housing numbers within the Joint Core Strategy. Table 3 shows the funding currently received by the council from NHB and a forecast of potential future receipts.

Table 3 – Forecast New Homes Bonus

	Year 6 2016/17	Year 7 2017/18 Projection	Year 8 2018/19 Projection	Year 9 2019/20 Projection	Year 10 2020/21 Projection	Year 11 2021/22 Projection
Year 1 actual income	£526,818	£0	£0	£0	£0	£0
Year 2 actual income	£410,595	£410,595	£0	£0	£0	£0
Year 3 actual income	£294,622	£294,622	£294,622	£0	£0	£0
Year 4 actual income	£638,205	£638,205	£638,205	£638,205	£0	£0
Year 5 actual income	£871,491	£871,491	£871,491	£871,491	£871,491	£0
Year 6 actual income	£659,431	£659,431	£659,431	£659,431	£659,431	£659,431
Year 7 projected income	£0	£900,000	£900,000	£900,000	£900,000	£900,000
Year 8 projected income	£0	£0	£883,773	£883,773	£883,773	£883,773
Year 9 projected income	£0	£0	£0	£1,018,585	£1,018,585	£1,018,585
Year 10 projected income	£0	£0	£0	£0	£1,416,782	£1,416,782
Year 11 projected income	£0	£0	£0	£0	£0	£1,467,961
Sub-total	£3,401,162	£3,774,344	£4,247,522	£4,971,485	£5,750,062	£6,346,532
Reductions under scheme redesign	£0	£-410,595	£-932,827	£-1,509,696	£-1,530,922	£-1,559,431
Total NHB available	£3,401,162	£3,363,749	£3,314,695	£3,461,789	£4,219,140	£4,787,101

- 5.5 As can be seen in table 3, despite the reduction in reward proposed, the Council's level of NHB remains reasonably constant over the next three years followed by substantial increases in the latter two years as the level of house building within the Borough increases. This projection is however subject to potential large positive and negative variances dependent on the governments final scheme redesign and actual levels of housebuilding, so should be treated with caution.

- 5.7 The Council has previously agreed to cap the level of general support to the base budget at 65% of NHB receipts. This has been a prudent strategy so as to avoid over reliance on NHB within the base budget. However, given the increasing pressure on the budget position as a result of reduced core funding and increasing costs it is recommended that this is relaxed in the medium term to allow increasing amounts of support to our core services to avoid unnecessary cuts to these services. A strategy to increase base budget support by £200,000 per annum over the next five years would see an extra £1m invested in protecting current service levels. This would see the percentage going to the base budget increase in the next three years before falling back towards the 65% level by year five of the plan.

The following table indicates the level of support to the ongoing budget and one-off programme based on current forecasts and this proposed strategy.

Table 4 – Forecast split useage of NHB

	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
	2016/17	2017/18 Projection	2018/19 Projection	2019/20 Projection	2020/21 Projection	2021/22 Projection
Support to base budget	£2,210,755	£2,410,755	£2,610,755	£2,810,755	£3,010,755	£3,210,755
% of total NHB	65%	72%	79%	81%	71%	67%
One-off support to council priorities	£1,190,407	£952,994	£703,939	£651,034	£1,208,385	£1,576,346
% of total NHB	35%	28%	21%	19%	29%	33%
Total NHB	£3,401,162	£3,363,749	£3,314,695	£3,461,789	£4,219,140	£4,787,101

6.0 RETAINED BUSINESS RATES

- 6.1 The current Business Rates Retention scheme was introduced in 2013 and is intended to provide incentives for local authorities to drive economic growth, as the authorities will be able to retain a share of the growth generated in business rates revenue in their areas.
- 6.2 The last two financial years have seen Tewkesbury incur substantial losses under the scheme as the burden of part funding successful appeals, some dating back as far as 2005, has far outweighed the growth within the Borough. In both of these financial years, the council has received safety net payments from the Gloucestershire Pool in order to cover its losses, therefore depriving Gloucestershire communities of the financial benefits of business growth. Given this position, and the ongoing quantity of appeals within the system, particularly Virgin Media, Tewkesbury withdrew from the Gloucestershire Pool for 2016-17. As these appeals have yet to be dealt with by the Valuation Office Agency (VOA), Tewkesbury will again remain outside of the Pool for the financial year 2017-18.

- 6.3 Initial reviews of the retained business rates position of the scheme for this financial year showed a more encouraging position with reasonable levels of growth in the Borough being reflected in a positive financial position. However, due to the level of work involved in determining a new valuation list for 2017, the VOA did not process any appeals in this initial period. Recent months have seen an increasing number of appeals being processed which has led to negative impact on the overall position. At the half year point, the scheme is in credit by approximately £20,000 which, although a vast improvement on previous years, is not particularly encouraging in meeting the current target of £260,000. Given this latest position, the current trend of successful appeals and a review of the new rating list issued in September, which is likely to generate further significant levels of appeals, it is felt that there is currently little chance of meeting an income target of £260,000 in the near future. This income line will therefore be dropped from the Council's budget for the next financial year and only reinstated once positive and consistent growth is achieved.
- 6.4 Looking to the future, the government is currently consulting on the introduction of 100% retained business rates for authorities before the end of the current parliament. Under the current system roughly £12bn per year of business rates income is kept by Central government to fund local authority services. This is referred to as the "Central share" and is redistributed to councils in the form of Revenue Support Grant (RSG) and other grants including New Homes Bonus (NHB). In future, when this sum is retained by local authorities, new burdens of a broadly similar value will be passed across to local government. As a result, local government will not initially have more funding; over the longer term this will depend on whether business rates grow faster or slower than local authority service demands and costs, and to add further complication will depend on where the revised business rates baseline is set for the council.
- 6.5 The new system is likely to retain the top ups and tariffs of the current system to ensure an equitable distribution of funds around the country. It is also likely to retain some form of safety net provision to protect councils from the full impact of appeals. However, the current levy system, whereby 50% of growth above a baseline is returned to central government, is likely to be removed.
- 6.6 In previous years, local authorities have been funded through a mixed structure of grant e.g. RSG and locally driven income e.g. council tax and business rates which provided some mitigation of risk. Moving to a 100% retained system means the risk fully transfers to local government and as such individual councils must assess their level of risk and make appropriate contingency plans to manage the potential costs of the changing system and furthermore the local fluctuations in business rates revenue over time.
- 6.7 Despite the uncertainty of the future scheme and the current appeals issue, income from business rates offers significant potential for growth over the medium to long-term as aspirations for the development of Junction 9 and 10 and also the continued development of Gloucester Business Park become reality. Growing and retaining the business rate base in Tewkesbury should be a key priority for the Council.

7.0 GROWTH PRESSURES

- 7.1 In addition to the pressures on the council's finances already mentioned, the council continues to face rising costs. Whilst the budget is prepared on a standstill basis, in that no price inflation is added other than to contractual commitments and the cost of energy, other areas of rising and potential cost can have a major impact on the council's budget as highlighted in the following paragraphs.

- 7.2 The cost of employees is the Councils biggest area of expenditure and increases can be significant. In the Summer 2015 Budget, the Chancellor announced a pay award cap of 1% per annum for 4 years from 2016/17 for public sector workers. Pay awards in local government are covered by collective bargaining between employers and trade unions and this is not subject to direct control from central government. However, it is reasonable to assume that the local government employers will mirror what happens in the rest of the public sector and this assumption has been built into the projections. Pay settlements for the three years from 2017/18 are estimated to be 1% per annum with future years based on the Consumer Price Index target of 2%. Given recent projections of increasing levels of inflation, these assumptions could come under threat from increased pay demands in future years. An increase in salary above the levels contained within the MTFs will incur an extra £80,000 cost per annum for every 1% added.
- 7.3 The forecast for pay awards of 1% follows on from pay awards of 1% in the last three years and a number of years of pay freeze prior to that. Suppression of pay in local government presents a risk to Tewkesbury in being able to recruit and retain suitable staff in some key areas. The Council will need to consider the ongoing impact of pay restraint and may need to increase key salaries or provide market supplements in order to attract qualified and experienced staff capable of taking the council forward on its transformational journey.
- 7.4 It is also now five years since the Council last undertook a full organisation wide pay review with good practice recommending that this exercise takes place at least every five years. It is therefore expected that a pay review will take place during the period of this MTFs and therefore a figure of £150,000 has been assumed as a prudent estimate of the likely ongoing result of this exercise. This has been built in to the forecast for the 2018/19 financial year.
- 7.5 The results of the triennial valuation of the Gloucestershire Local Government Pension scheme are expected in late November and will set the levels of contribution from the Council for the next three years. In the current year, the Council makes an annual contribution of £1.5m towards the pension fund deficit whilst paying 14.7% of payroll against current employee obligations. This results in total pension payments of £2.271m per annum. It is expected that the financial requirements for both the pension deficit and the current employee obligations will rise under the new valuation. The MTFs allows for increased payments of £200,000 per year each year for the pension deficit whilst an increase in the current cost to circa 17% which increases the cost by around £130,000 per annum. Under these projections the Council will be paying around £3m on an annual basis to cover its pension requirements by 2019/20.
- 7.6 The cost of providing the waste and recycling service is projected to rise significantly over the course of the MTFs. The fall in prices obtained for selling recyclate will have a significant impact on the price the council pays to a contractor for processing its collected recyclables. The current contract for processing recyclate allows for an annual cost of £75,000 but projections of current market values see this annual cost rise to £400,000 per annum. The tender for this service is currently out to the market and the level of actual cost is expected to be known before Christmas.
- 7.7 In addition, the Council approved the change in the method of waste and recycling collection at its meeting in February 2016. The new method, which will come into effect from April 2017, will see food waste collected on separate vehicles from residual waste. This will provide capacity to meet the needs of the growing Borough. The increase in resources associated with this as well as normal contractual increases will see the cost of the contract with Ubico Ltd increase by approximately £300,000 per annum.

7.8 After many years of freezing service levels, a number of services are starting to require additional resources in order to meet the needs of customers. A separate report on adding to the establishment of the Development Management team will be presented to Council, which could see additional staffing costs of circa £80,000, whilst a collated list of other growth bids will be presented with the budget.

8.0 CAPITAL PROGRAMME

8.1 The capital expenditure of the council has an impact on the revenue budget and is part of the overall preparation of the revenue proposals for the coming year.

8.2 It is estimated that £5.91m will be spent on Capital Programme schemes during 2016/2017 which are to be funded by a combination of usable capital receipts reserve (£5.66m), revenue resources (£0.09m) and internal borrowing (£0.16m). The programme includes the final expenditure on a new leisure centre, purchase of a new vehicle fleet and a property investment. This level of commitment will exhaust the council's current capital receipts reserve and will require the council to borrow from its internal treasury funds. It is expected over the course of this MTFs that the council will dispose of some assets and generate new capital receipts to aid future investment plans. This expectation will be recognised as capital disposals are agreed by Executive Committee.

8.3 Looking ahead, the total value of the currently approved Capital Programme over the following five years is approximately £6.08m and is mainly focussed on the regeneration of the former Cascades site in Tewkesbury. Table 5 summarises the planned capital expenditure for future years, together with information on the funding of that expenditure.

Table 5 – Capital programme

	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	TOTAL
Capital expenditure	£5.91m	£3.06m	£2.68m	£0.18m	£0.08m	£0.08m	£11.99m
Funded by:							
Capital receipts reserve	£5.66m	£1.47m	£0.00m	£0.00m	£0.00m	£0.00m	£7.13m
Internal Borrowing	£0.16m	£1.50m	£2.60m	£0.10m	£0.00m	£0.00m	£4.36m
External Borrowing	£0.00m	£0.00m	£0.00m	£0.00m	£0.00m	£0.00m	£0.00m
Revenue Reserves	£0.09m	£0.08m	£0.08m	£0.08m	£0.08m	£0.08m	£0.49m
Total	£5.91m	£3.06m	£2.68m	£0.18m	£0.08m	£0.08m	£11.99m

8.4 Annual expenditure on Disabled Facilities Grants (DFG's) has traditionally required a commitment of circa £200,000 from the councils own resources to support the grant available from central government. Following changes to the way the government allocate DFG funding, the current year allocation, and future years, is wrapped up in the Better Care Funding (BCF) received by the County Council and passported onto the District Council. The BCF allocation for the current year, and future projections of this allocation, has been increased substantially and it is therefore not expected that the Council's own resources will be required to 'top-up' the government allocation going forward. This is therefore a significant reduction in the on-going capital programme.

8.5 The capital programme is likely to see increases in planned expenditure in future years as both new investment plans are brought forward and the on-going vehicle replacement programme, funded from revenue reserves, is activated. The Public Service Centre will require major capital investment in order to deliver plans for its customer facing activities and to renovate the top floor in readiness for occupation by other parties. The Council will also need to consider plans to renovate the civic suite and re-use the old depot site in Tewkesbury. In addition to this, it is recommended that the Council pursue plans for investment in further commercial property assets from which it can derive an on-going return. The capital programme will be updated with these plans as and when they receive approval from full Council.

9.0 MEDIUM TERM FINANCIAL PROJECTION

9.1 The council's Medium Term Financial Projection includes the impact of all known capital and revenue commitments between 2017/18 and 2021/22 and includes the assumptions on financing streams previously highlighted. This is summarised in table 6.

Table 6 – Medium Term Financial Projection

	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
	£'000	£'000	£'000	£'000	£'000	£'000
Expenditure:						
Employees	8,148	8,339	8,499	8,622	8,795	8,945
Premises	533	513	519	525	531	538
Transport	144	155	157	158	161	165
Supplies and services	6,399	6,256	6,287	6,317	6,361	6,404
Housing benefits	18,989	18,989	18,989	18,989	18,989	18,989
Income	-25,324	-25,175	-25,098	-25,059	-25,022	-25,010
Total (Base budget)	8,889	9,077	9,353	9,552	9,815	10,031
Growth	0	1293	1,728	1,978	2,174	2,174
Approved savings plan	0	-435	-435	-570	-855	-905
Net budget	8,889	9,935	10,646	10,960	11,134	11,300
Financed by:						
Settlement Funding	-2,577	-2,238	-2,056	-1,853	-1,876	-1,923
Collection Fund Surplus	-104	-75	-75	-75	-75	-75
Retained Business Rates	-261	0	0	0	0	0
New Homes Bonus	-2,211	-2,211	-2,211	-2,211	-2,211	-2,211
Council tax income	-3,320	-3,361	-3,435	-3,538	-3,644	-3,749
Use of reserves	-416	0	0	0	0	0
Total financing	-8,889	-7,885	-7,777	-7,677	-7,806	-7,958
Deficit (cumulative)	0	2,050	2,869	3,283	3,328	3,342
Deficit (annual)	0	2,050	819	414	45	14

9.2 The table illustrates a funding gap of £3.34m over the five year life of the MTFs. In order for the council to remain financially sustainable over the medium term, a number of financial strategies will need to be followed to bridge the gap as well as allowing for the use of alternative funding streams such as New Homes Bonus and retained Business Rates, as already discussed.

10.0 COUNCIL TAX

- 10.1 The current Band D council tax for the authority is £104.36 per annum and is the fifth lowest in England for a District Council. The current year charge was an increase of £5 or 5.03% over the previous year, the largest increase allowed by the government before the increase is deemed excessive and would be subject to a local referendum. This was the first year in the last six that the Council has decided not to freeze its council tax and approve an increase.
- 10.2 The government are currently consulting on its preferred excessive council tax limits and are likely again to agree an increase of £5 or 2%, whichever is higher, for a District Council.
- 10.3 Previous financial strategies have suggested that council tax levels should increase in line with the referendum limits and given the size of the deficit faced by the council it is recommended that this strategy is continued. Increasing the council tax level by the current referendum limit of £5 per annum over the life of the MTFs would generate an additional £849,000 of income against projections of the likely council tax base in each year. Table 7 highlights the proposed charge and the additional income derived.

Table 7 – Council Tax Projections

Year	2017/18	2018/19	2019/20	2020/21	2021/22	Total
Band D Council Tax	£109.36	£114.36	£119.36	£124.36	£129.36	
Council tax income generated	£161,009	£164,557	£169,493	£174,607	£179,616	£849,283

- 10.4 The next table extrapolates table 7 and shows the proposed charge against all bandings for each of the five years. It also highlights how many households there are currently in each band.

Table 8 – Impact of proposed charges per council tax band

Year	Number of properties	% of total	2017/18	2018/19	2019/20	2020/21	2021/22
Band A charge	6,292	15.9%	£72.91	£76.24	£79.57	£82.91	£86.24
Band B charge	6,378	16.1%	£85.06	£88.95	£92.84	£96.72	£100.61
Band C charge	10,968	27.7%	£97.21	£101.65	£106.10	£110.54	£114.99
Band D charge	5,819	14.7%	£109.36	£114.36	£119.36	£124.36	£129.36
Band E charge	4,938	12.5%	£133.66	£139.77	£145.88	£152.00	£158.11
Band F charge	3,112	7.9%	£157.96	£165.19	£172.41	£179.63	£186.85
Band G charge	1,831	4.6%	£182.27	£190.60	£198.93	£207.27	£215.60
Band H charge	189	0.5%	£218.72	£228.72	£238.72	£248.72	£258.72

- 10.5 The proposed council tax for the next financial year of £109.36 is likely to be approximately £40 below the bottom quartile threshold and £60 below the national average for a District Council. Projections of future increases to council tax will ensure the council remains within the bottom quartile for council tax charges and meet its priority to maintain a low council tax.

11.0 BUSINESS TRANSFORMATION STRATEGY

- 11.1 Over the period of the last government, the council has responded to the financial challenges facing local authorities through the introduction of a wide range of efficiency and service improvement measures. It has also implemented and developed shared services and shared service arrangements to meet business and budget needs. This approach has resulted in reduced costs and staffing whilst maintaining service levels.
- 11.2 A more strategic and planned approach to meet the significant challenges posed by continuing public sector funding reductions was necessary and therefore the Business Transformation Strategy was developed. This would help the council to plan and implement innovative or radical change to the range, scope, shape and practices of current council services. The council has embarked on a journey to re-shape itself and its partnerships to fit the resources available and now needs to accelerate the pace of change and take bigger steps. This work will also help the council to prepare for the changing agenda around public sector reform and the rethinking of the relationship between public services, people, place and economy.
- 11.3 The Business Transformation Strategy was recently refreshed at Executive and a fifth theme, commercialisation, added to the existing four themes. The following sections explain achievements and forward plans in each of the five themes:

11.4 Partnerships and commissioning

The Council has been involved in the setting up of a number of successful shared services in recent years such as One Legal and Building Control. It is also a shareholder in Ubico Ltd who provide the Council's waste and recycling, street cleaning and grounds maintenance requirements. In addition the Council has attracted a number of partners to operate out of the Public Service Centre in Tewkesbury. These partners include the County Council, Department of Works and Pensions and Gloucestershire Police. This has provided better services to our residents but also delivered an ongoing income stream to the Council.

The Council will build on this culture by looking for further opportunities to partner with other local authorities in the provision of its services and will also consider outsourcing opportunities if appropriate. Given this Council's relatively low expenditure on services, it is not envisaged that large levels of savings from efficiency would be made on entering a shared service or outsourcing. The opportunities are more likely to be beneficial in terms of service resilience and building future opportunities for income generation from those service areas. Therefore the estimates of likely financial benefit from these opportunities have been restricted.

The Council also hopes to attract additional rent paying public sector partners to its building in Tewkesbury although will consider parties from other sectors if appropriate. An income target for this has already been established within the base budget.

11.5 Use of buildings

In addition to the sharing of premises with public sector partners, the council has also invested in photovoltaics at the Public Service Centre which is reducing the cost of energy consumed. It has also completed the £7.5m development of a new leisure centre and expects to secure a retail unit in the near future to add to its portfolio.

In April 2016, members agreed plans for the regeneration of Tewkesbury town centre utilising the former Cascades site as well as car parks at Spring Gardens and Oldbury Road. Acting as the developer the Council expects to create a number of retail units from which it can generate an ongoing revenue return and a residential offering which can be sold to a third party developer. It will also secure the current usages on site such as car parking, the market and the MOP fair.

Building on the established commercial investment portfolio, members have recently agreed to the £15m acquisition of office and commercial property within the Borough which, if secured, will provide a substantial ongoing benefit. A new commercial investment property strategy is currently being prepared and will suggest further investment is made in properties both within the Borough and externally. Given the historically low interest rates currently available for capital investment it is envisaged that a net ongoing return of circa 1.5% could be made from a £40m portfolio.

11.6 Using technology

The Council hopes to make better use of technology in order to provide a better customer experience, a more efficient process for staff and revenue savings towards the budget deficit. As an example, the council's new website, costing just £150, is due to go live in December and support all of those aforementioned ambitions. In addition the new asset inspection system for play areas and trees is now fully operational and providing an effective management tool whilst reducing the capacity required to monitor and manage council assets.

There are many other areas that the Council has plans to review and would benefit from either new technology, replacement of existing technology or simply making more out of the systems currently available. The council will also review its communication channels to ensure the most appropriate and efficient are being used. A new printing and postage contract will minimise the amount of mail that is sent out from the PSC whilst improvements in the use of email distribution will look to further minimise the overall quantum of post being sent to customers.

11.7 People and culture

Plans are in place to create and implement a workforce development strategy whilst improving the flexibility of working arrangements for staff will help with recruitment and the delivery of services to the customer.

Changes in the culture of the public service will put more focus on performance and commercial orientation and different approaches to some aspects of service delivery will have a knock on financial benefit for the council.

11.8 Commercialisation

The newly added theme of commercialisation hopes to embed a change of culture within the organisation so that commercial opportunities are sought and delivered as part of normal business. This includes reviewing our current commercial activities such as trade waste to ensure they are operating at the optimum commercial level and exploring completely new opportunities such as a housing development company or the operation of a crematorium.

In addition our core services will review what they can offer on a commercial basis and what trading opportunities may exist. Ensuring current fees and charges are maximised within the permitted legislation is crucial to covering the current cost of services and so a new fees and charges strategy will set a framework for delivering a robust and systematic approach to annual fee setting.

12.0 REVENUE RESERVES

- 12.1 The General Fund 'working balance' and the earmarked reserves are a significant element of the council's financial resources, and as such it is important that they are aligned to priority areas as well as mitigating against potential financial risks to the authority.
- 12.2 The council's 'Working Balance' is the revenue reserve that is set aside to cover any significant business risks and emergencies that might arise outside of the normal set budget. This reserve had been increased in previous years from £500,000 to £600,000 which equated to approximately 8.5% of net revenue budget for the year 2010/11. At the end of 2012/13, it was necessary to reduce the balance to £450,000 in order to accommodate a specific reserve to guard against the risk inherent in the new retained business rates scheme.
- 12.3 The external auditor does not provide specific guidance on what the level of council reserves should be other than that they should be adequate to cover potential risks. It is considered that the £450,000 currently in the working balance is adequate to cover potential unknown risks provided sufficient earmarked reserves are provided to mitigate other known risks.
- 12.4 As at the 31 March 2016, the council had £6.9m in useable earmarked reserves, although it should be noted that over half of this reserve is not useable as it covers the timing difference in business rate payments to the government and a proportion of the balance is held on behalf of third parties for specific purposes.
- 12.5 It is suggested that the level of these reserves are adequate to cover medium levels of risk. Further expansion of the risk management reserves should be considered at the earliest opportunity in order to provide enhanced levels of confidence and reassurance in the financial affairs of the council.
- 12.6 Given the £3.3m deficit faced by the council in the next five years and in particular the frontloading of that deficit with over £2.8m due to be found in the next two years, it will be necessary to use a substantial amount of reserves to help smooth the deficit. As illustrated in table 9 in section 13 it is estimated that around £805,000 of one-off support from reserves will be required to enable the Council to set a balanced budget for 2017-18. This can be met from the current MTFs reserve of £330,000, uncommitted new homes bonus in the current year of £450,000 and from the projected surplus on the current year budget.

- 12.7 Future years of the MTFs projection will also require substantial support from one off sources and it is estimated that around £2.6m will be required over the next five years to balance the annual budget. The use of one-off monies allow for savings plan and income generation to be delivered as well as the natural growth in the council tax base and new homes bonus. It is also hoped that the retained business rates scheme and in particular the move to 100% retention, will bring added income streams to the council from which it can meet its ongoing expenditure needs.
- 12.8 To meet the requirement of £2.6m it will be necessary to utilise the majority of the balance of new homes bonus that is not directed to support the underlying base budget. This may mean that some of the items previously funded from this source such as grants may need to be suspended until such times that base budget support isn't required. It will also be necessary to direct any surplus funds towards the MTFs support reserve in order to meet this requirement.
- 12.9 Section 25 of the Local Government Act 2003 required the chief finance officer to report to the council, as part of the budget and tax setting report, their view on the robustness of estimates and the adequacy of reserves. This view will be given in the report to council in February 2017.

13.0 SUMMARY DEFICIT REDUCTION PROGRAMME

- 13.1 In order to summarise both the overall deficit and the various strategies which have been highlighted to tackle the deficit, a five year projection of the suggested deficit reduction programme has been compiled. This is shown in table 9 below.

Table 9 – Summary deficit reduction programme

	17/18	18/19	19/20	20/21	21/22	TOTAL
	£'000	£'000	£'000	£'000	£'000	£'000
Anticipated deficit	-£2,050	-£818	-£414	-£45	-£13	-£3,342
Unfunded savings b/fwd	£0	-£805	-£755	-£665	-£330	-£2,555
Total deficit	-£2,050	-£1,623	-£1,169	-£710	-£343	-£5,896
Corporate funding:						
Council tax support	£161	£164	£169	£174	£179	£849
New Homes Bonus support	£200	£200	£200	£200	£200	£1,000
Council tax policies	£12	£10	£0	£0	£0	£22
Transformation Programme:						
1. Partnerships and commissioning	£70	£70	£35	£40	£0	£215
2. Use of buildings	£300	£300	£0	£0	£0	£600
3. Using technology	£65	£20	£20	£20	£10	£135
4. People and culture	£100	£0	£0	£0	£0	£100
5. Commercialisation	£339	£107	£87	-£50	-£100	£383
Total identified ongoing savings / income	£1,247	£871	£511	£384	£289	£3,304
Surplus / (Shortfall)	-£803	-£751	-£658	-£325	-£53	-£2,592
Use of reserves	£805	£755	£665	£330	£55	£2,610

Net surplus / (shortfall)	£2	£4	£7	£5	£2	£18
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14.0 RISK AND SENSITIVITY ANALYSIS

14.1 The MTFS is based on a series of estimates and assumptions about future expenditure and income levels as well as government funding and local financing. These estimates and assumptions are based on the best information available at the time but will obviously be susceptible to fluctuations and changes to both national and local policy. It is therefore important not only to model different scenarios but also be aware of individual sensitivities within the figures. Table 10 analyses the risk around some of the key assumptions within the MTFS:

Table 10 – sensitivity analysis

Description	2017/18	2018/19	2019/20	Sensitivity
Pay	1.00%	1.00%	1.00%	+/- 1.00% = £80,500
General inflation	2.00%	2.00%	2.00%	+/- 0.50% = £25,000
Energy – increases	2.00%	2.00%	2.00%	+/- 5.0% = £25,000
Income - fees and charges	2.00%	2.00%	2.00%	+/- 0.50% = £28,000
Return on council investments	0.41%	0.43%	0.43%	+/- 0.10% = £6,000
Total sensitivity / risk re: changes to the above expenditure and income assumptions:				+/- £164,500
Resources				Sensitivity
Council tax	4.79%	4.57%	4.37%	+/- 1.00% = £33,600
Funding Settlement decrease	13.2%	8.1%	9.9%	+/- 1.00% = £25,700
New Homes Bonus decreases	1.1%	1.4%	-4.4%	+/- 5.00% = £170,000
Tax base	1.2%	2.2%	3.0%	+/- 0.5% = £16,600
Council tax total collected	98.50%	98.50%	98.50%	+/- 1.0% = £33,200
Total sensitivity / risk re: changes to the above resource assumptions:				+/- £279,100

14.2 As with all plans and strategies, it is prudent to set aside some monies in order to deal with unforeseen issues and for deviations from the set budget as a result of changes to the assumptions underpinning the plan.

14.3 It is therefore recommended that the use of New Homes Bonus continues to allow for an uncommitted sum to cover the risks in setting a budget within the current financial climate. Any unspent monies from these set asides should be accumulated within reserves at the year end to provide further on-going security.

15.0 PUBLIC AND STAKEHOLDER CONSULTATION

- 15.1 The production of the Medium Term Financial Strategy and the annual budget report is carried out with reference to the Transform Working Group, with views of members taken into account when compiling both reports.
- 15.2 In addition, consultation with both the general public and local businesses will continue to take place on budget principles and specific budget proposals.

16.0 TREASURY STRATEGY AND MINIMUM REVENUE PROVISION (MRP)

- 16.1 The council has previously enjoyed debt free status and been in a position to invest significant sums in treasury markets. As a result of the current capital programme, all capital balances will be expended in the current year as projects such as the new leisure centre and the purchase of a new vehicle fleet are completed. This will mean that the council will need to borrow monies in order to fund its future investment ambitions.
- 16.2 Given this change in status, the new year Treasury Management Strategy will place a greater focus on borrowing strategies whilst still ensuring that the cash flow balances the Council does have available are invested appropriately to ensure liquidity and minimisation of risk where possible.
- 16.3 The Councils borrowing requirement will increase rapidly in the coming year if plans for commercial investment and Public Service Centre development are approved and delivered. This requirement will run into tens of millions and therefore having in place an efficient borrowing strategy will be important in minimising the annual cost of borrowing that the revenue account will bear.
- 16.4 Borrowing rates are currently at an historic low with rates for Public Works Loan Board 40 year loans having fallen as low as 2.1% in recent months. This offers excellent value when considering capital investment opportunities but it may be possible to secure even better rates by using a mixture of short term and pre-arranged long term borrowing and securing agreements with other financial institutions. All options will need to be considered as the investment requirements are progressed over the life of the MTFs.
- 16.5 In addition to the interest rate payable, the council must also make provision for the repayment of principal borrowed. It is required to make a revenue charge each year to provide for this repayment. This has been historically based on regulations stating that 4% of the Non-HRA capital financing requirement at the end of each year be charged to revenue in the following year.

An amendment to the Government's Capital Financing Regulations, replaces the present rules with a simple duty for an authority each year to make an amount of Minimum Revenue Provision (MRP) which it considered to be "prudent". The prudent provision is to ensure that debt is repaid over a period reasonably commensurate with that over which the capital expenditure provides benefits.

Under the new regulations, the authority is required before the start of each financial year to prepare a statement of its policy on making MRP and submit it to the Full Council. The approved policy for 2016/17 is as follows:

For unsupported capital expenditure incurred after 31st March 2008, MRP will be determined by charging the expenditure over the expected useful life of the relevant assets in equal instalments or as the principal repayment on an annuity with an annual interest rate, starting in the year after the asset becomes operational. MRP on purchases of freehold land will be charged over 50 years. MRP on expenditure not related to fixed assets but which has been capitalised by regulation or direction will be charged over 20 years.

MRP will be charged in the year after the capital expenditure has been incurred.

- 16.6 The new Treasury Management Strategy and the MRP statement will form part of the overall budget proposals put to Council in February 2017.

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	16 June 2016
Subject:	Revision of Hackney Carriage (Taxi) and Private Hire Licensing Policy
Report of:	Bhavdip Nakum, Licensing and Systems Officer
Corporate Lead:	Richard Kirk, Interim Environmental Services and Housing Group Manager
Lead Member:	Councillor J R Mason
Number of Appendices:	Two

Executive Summary:

To inform the Licensing Committee about the consultation on the review of Hackney Carriage (Taxi) and Private Hire Licensing Policy and to ask the Committee to recommend the draft policy for adoption by Council.

Recommendation:

To RECOMMEND TO COUNCIL that the draft policy be ADOPTED.

Reasons for Recommendation:

To ensure that the Council's policy is robust in providing a safe service to the residents and visitors of the Borough and to provide clarity to applicants, existing licence holders and members of the public.

Resource Implications:

Total cost will be met from existing resources.

Legal Implications:

The Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 provide the authority for the Council to licence hackney carriage drivers and vehicles and private hire drivers, vehicles and operators.

Risk Management Implications:

If the council does not fulfil its duties under the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 and does not follow the best practice suggested by the Courts and the Department for Transport when licensing drivers, vehicles and operators, it may be liable to legal challenges.

Performance Management Follow-up:

If the Committee recommends a redraft, a special Licensing Committee meeting will be held to approve the policy statement for consultation or recommend further amendments.

Environmental Implications:

None.

1.0 INTRODUCTION AND BACKGROUND

1.1 On 11 February 2016, the Licensing Committee resolved to recommend the policy draft (**Appendix A**) for 6 weeks consultation.

2.0 CONSULTATION

2.1 The consultation began on 18 March 2016 and comments could be submitted until 30 April 2016.

2.2 The consultation was published on the Council's website and letters were sent to all current licence holders inviting them to take part in the consultation.

2.3 Five responses were received during the consultation. All responses are from members of the taxi and private hire trade in the Borough. These responses can be seen at Appendix B.

3.0 RELEVANT COUNCIL POLICIES/STRATEGIES

3.1 Environmental Health Enforcement Policy.

4.0 RELEVANT GOVERNMENT POLICIES

4.1 The Department for Transport has produced best practice guidance to local authorities to assist them in the licensing of taxi and private hire vehicles.

5.0 RESOURCE IMPLICATIONS (HUMAN/PROPERTY)

5.1 Met from existing resources.

6.0 SUSTAINABILITY IMPLICATIONS (SOCIAL/COMMUNITY SAFETY/CULTURAL/ECONOMIC/ ENVIRONMENT)

6.1 An effective Taxi and Private Hire policy can help promote community safety and increase public confidence.

7.0 IMPACT UPON (VALUE FOR MONEY/EQUALITIES/E-GOVERNMENT/HUMAN RIGHTS/HEALTH AND SAFETY)

7.1 None.

8.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

8.1 Licensing Committee decision on 11 February 2016.

Background Papers: Private Hire Vehicle Licensing: Guidance Note, Guidance to Local Authorities and Operators on Provisions in the Equality Act in respect of Taxis, Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, Road Safety Act 2006: Private Hire Vehicles - Guidance Note.

Councillors' Handbook on Taxi and Private Hire Licensing.

Contact Officer: Bhavdip Nakum, Licensing and Systems Officer

Tel: 01684 272044 Email: bhavdip.nakum@teWKesbury.gov.uk

Appendices: Appendix A: Draft Policy.

Appendix B: Consultation Responses.



Tewkesbury Borough Council

(DRAFT)

HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE POLICY

2016 - 2019

**Tewkesbury Borough Council, Council Offices
Gloucester Road, Tewkesbury, Gloucestershire, GL20 5TT**

www.tewkesbury.gov.uk/licensing

Revised with effect from

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1. Overview

1. 1 Local area profile

Tewkesbury Borough Council has the responsibility to regulate hackney carriage and private hire trade under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. We are responsible for licensing hackney carriage and private hire vehicles, drivers and operators. This policy outlines how we will discharge the regulatory functions for hackney carriage and private hire licensing within the borough.

Tewkesbury Borough covers an area of 160 square miles in north Gloucestershire with a population of approximately 86,000 people. The borough is situated within the Severn vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.

The borough is predominantly rural in nature with the largest towns / villages being Tewkesbury, Winchcombe, Bishop's Cleeve and Churchdown.



1.2 Purpose and Objectives

- a) **to confirm to members** of the licensing committee the boundaries and powers of the council and the parameters within which to make decisions
- b) **to inform applicants** of the parameters within which the council will make licensing decisions and therefore how licensed operators, drivers and vehicles can operate within the area of the council.
- c) **to inform local residents and businesses** of the parameters within which the council will make licensing decisions and therefore how their needs will be addressed
- d) **to support a case in a court of law** where the council has to show how it arrived at its licensing decisions.

In setting out this policy, we seek to promote the following objectives:

- a) the protection of public health and safety
- b) the maintenance of a professional and respected hackney carriage and private hire trade
- c) access to an efficient and effective transport service
- d) the protection of the environment.

The aim of the licensing process, in this context, is primarily to protect the public as well as to ensure that the public have reasonable access to these services, because of the part they play in local transport provision. It is important that the council's hackney carriage and private hire licensing powers are used to ensure that licensed vehicles in the borough are safe, comfortable, properly insured and available where and when required.

We will have regard to this policy document and the objectives set out above when exercising our discretion in carrying out their regulatory functions. Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits in accordance with the enforcement policy. Where it is necessary to depart substantially from this policy, clear and compelling reasons will be given for doing so.

The policy provides guidance for applicants, drivers and operators to assist them with the application processes and operation of their businesses. This guidance, application forms and current fees are also available on the council's website. In order to ensure that the most up to date version is used, applicants, drivers and operators should not store these forms on their own system but should download the latest version of a form when it is required.

1.3 Role of hackney carriages and private hire vehicles

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide demand responsive services in situations where public transport is either not available (for example in rural areas, or outside 'normal' hours of operation such as in the evenings or weekends), and/or for those with mobility difficulties.

1.4 Best practice guidance and legislation

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. As a result of the then Office of Fair Trading producing a report on the UK hackney carriage and private hire trade, the DfT was asked to produce best practice guidance for local licensing authorities. The latest guidance was issued in March 2010. In addition, the Equality Act 2010 has implications for both hackney carriage and private hire operators in respect of disabled access to vehicles and further guidance and directions are expected on this matter.

The DfT guidance is directed at local authorities in England and Wales with responsibility for hackney carriage and private hire licensing who will "decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes". The document recognises that licensing authorities may reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances. We have taken account of the DfT guidance and the Local Government Association's handbook for councillors on taxi and private hire licensing to shape this policy.

This policy also takes account of the legislative basis of the council's taxi licensing powers, contained in the Town Police Clauses Act 1847 and 1889, the Public Health Act 1875, the Local Government Act 1972 and the Local Government (Miscellaneous Provisions) Act 1976 as amended, which the council have adopted.

1.5 Costs and benefits of licensing policies

The DfT guidance stresses that licensing requirements which are unduly stringent are likely to unreasonably restrict the supply of hackney carriage and private hire services by increasing the cost of operation or by otherwise restricting entry to the trade. We recognise that too restrictive an approach may well work against the public interest and can have safety implications.

We will ensure that each of the various licensing requirements is properly justified by the risk it seeks to address. The financial or other cost of a particular requirement, in terms of its effect on the availability of transport to the public, should at least be matched by the benefit it will provide to the public.

The cost of administering the policy including the cost of enforcement where the law allows will be met from licensing fees. In adopting this policy, we will try to strike a balance between the financial interests of the trade, public safety and the delivery of other council plans and policies.

1.6 Safeguarding

Human Trafficking is a crime relating to moving a vulnerable person from one place to another against their will. Child Sexual Exploitation is the sexual abuse of young people under 18 and usually involves relationships where young people receive something (food, accommodation, drugs, alcohol, affection, gifts, money) as a result of performing sexual acts. Criminals often use licensed vehicles and drivers to move these vulnerable people. Licensed drivers are the eyes and ears of their communities through the work they do and the contacts they have.

Licence holders can operate in positions of trust and it is vital that any relevant information about safeguarding issues is shared so that individuals are blocked from becoming taxi operators or holding any other kind of licence in different council areas across the county/country. Without effective information sharing, there is a real risk of unsuitable people being granted licences to operate which puts people at risk. We will share relevant information with Police and other authorities to protect children and vulnerable adults.

Licensed drivers' and operators' ability to spot the signs of human trafficking and having the knowledge of how to report their concerns can be a major help in preventing this crime. One sign on its own may not be significant, but several signs together should give cause for concern.

If the drivers and operators think that a passenger;

- a) does not know their home or work address
- b) allows others to speak for them when addressed directly
- c) lives or travels in a group, sometimes with other persons who do not speak the same language or not similar age
- d) are collected very early and/or returned late at night on a regular basis
- e) may have poor clothing for the work they are doing, and/or a lack of safety equipment
- f) they may look thin, ill or depressed
- g) has no cash of their own
- h) be known to work at a brothel and be frequently moved from one site to another.

They should contact Gloucestershire Constabulary by calling 101 (or if an emergency 999) or Crimestoppers on 0800 555 111

1.7 Enforcement

The DfT guidance is clear on the necessity of enforcement to maintain high standards of public safety. All enforcement schemes need to be proportionate and transparent. While the ultimate authority is the court, the expectation is that enforcement will be carried out by officers overseen by the Licensing Committee and their associated sub-committees.

Our enforcement system will need to deal with persistent, low level breaches up to serious, possibly, criminal behaviour. There needs to be a grade of sanctions from informal advice and warnings through to suspension and revocation of licence. It is clear that the majority of enforcement will be for relatively minor offences or breaches and will be undertaken by the officers.

1.8 Tariff

We operate a council set hackney carriage tariff. The tariff is a maximum figure that hackney carriage drivers can charge based on a range of factors including time of day or night and special occasions such as bank holidays. The tariff does not apply to private hire vehicles or pre-booked journeys where the cost is agreed in advance. Drivers may charge any amount for a journey provided it does not exceed the fare on the meter. Hackney carriage vehicles must clearly display the tariff card within the vehicle.

2. Hackney Carriage and Private Hire Vehicles

2.1 Limitation of numbers

We will not set a limit on the number of licensed hackney carriages. No powers exist to limit the number of licensed private hire vehicles.

2.2 Specifications and conditions

We have adopted minimum standards that will be applied to all licensed vehicles. These are set out in Appendix A for hackney carriages and Appendix B for private hire vehicles.

We may impose such conditions that are reasonably necessary when granting hackney carriage or private hire vehicle licences. Licensed vehicles provide a service to the public therefore; we will only license vehicles suitable for this purpose. It is important to set criteria for the external and internal condition of the vehicle, provided that these are not unreasonably onerous, to maintain high standards within the trade.

We can licence vehicles for the carriage of up to eight passengers provided that there is compliance with the specifications and conditions. We will determine 'novelty vehicles' on a case by case basis.

We will not license purpose built hackney carriage vehicles as private hire as this can confuse members of the public. We will not licence any vehicle with a 'Q' plate registration as 'Q' plates are issued for vehicles which are either not originally registered in the UK and proof of age was unavailable at registration or for vehicles that have been built using a significant proportion of used parts.

2.3 Maximum age of vehicles

The DfT guidance states that it is possible for an older vehicle to be in good condition and that the setting of an age limit beyond which the licensing authorities will not license vehicles may be arbitrary and disproportionate. We will not apply age restrictions to vehicles meeting the required standards.

2.4 Vehicle testing

The DfT guidance recognises that an annual MOT test for licensed vehicles of whatever age is appropriate. More frequent tests are not recommended, except for older vehicles.

A vehicle will require an MOT test, from any certified testing station, before a licence is granted and the MOT must be valid for at least 11 months. Officers may inspect vehicles that have not previously been licensed before a licence is granted.

Hackney carriage and private hire vehicles will be tested once each year until six years old. Brand new registered vehicles that have less than 5000 miles will not have to undertake a vehicle test. If the vehicle is over six years old when a licence is issued it will be required to undertake two MOT tests each year falling at the start of the licence and six months into the licence.

Officers may request that work identified on the MOT test is undertaken before a licence is granted, or within a certain time frame of the licence being granted. If vehicles are found to be in breach of licence conditions, officers may require the proprietor to bring all licensed vehicles, or vehicles used by the operator or company, to the council for inspection.

2.5 Signage

Members of the public can often confuse private hire vehicles with hackney carriages, without realising that private hire vehicles are not available for immediate hire or allowed to be hailed in the street. It is therefore important that the public are able to easily distinguish each type of vehicle.

For this reason private hire vehicles must not display any roof signs and hackney carriage vehicles must display roof signs as specified elsewhere in the policy.

Both hackney carriages and private hire vehicles must display a licence plate on the outside rear of the vehicle. We may use different colours and different styles for hackney carriage and private hire vehicles.

The external licence plate shall be securely fixed to the outside and rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet, or on a secure bracket. Temporary fixing such as magnets or Velcro[®] is not allowed.

2.6 Advertising on licensed vehicles

Advertising will be permitted on all licensed vehicles in accordance with the vehicle specifications and conditions. Complaints about unsuitable or offensive advertisements may be referred to the officers.

2.7 Plate exemption for private hire vehicles

Private hire vehicles which are used for contract work for at least 75 per cent of the time can be exempted from displaying a plate. The operator's records for these vehicles must prove that the required amount of contract work is being carried out. We will also require evidence as to why a plate exemption is required. Where an exemption is granted, the rear licence plate must be carried in the boot of the vehicle at all times. Vehicles given this exemption will normally be executive type cars. We will determine applications for exemption on a case by case basis. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators and drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.

The licence fee payable for plate exemption is subject to annual review and will be published together with other council licensing fees.

2.8 Security and CCTV

There is no mandatory requirement for CCTV system in the licensed vehicles. Operators and drivers may install such equipment but its use must be clearly indicated by signs in the vehicle including contact details for the system manager/operator. All such equipment and images must be operated in accordance with the Data Protection Act 1998. It is the responsibility of the driver/operator to ensure compliance.

2.9 Environmental considerations

It is important that emissions from hackney carriages and private hire vehicles are reduced as far as possible. In the event that central government introduces measures to control emissions or local emission controls were to be required by an air quality action plan the council may review the policy on emission standards for licensed vehicles.

2.10 Stretched limousines and novelty vehicles

The number of stretched limousines being imported, particularly from the United States, has been increasing. They are generally used for private hire work and special occasions.

We are sometimes asked to license stretched limousines as private hire vehicles. We will assess licence applications for these vehicles in accordance with the 'novelty vehicles specifications' set out in Section 2 of the Appendix B.

Where a vehicle has been imported from another country, we may require DVSA approved certification prior to licensing approval. Due to the individual nature of stretched limousines or novelty vehicles, it will inevitably give rise to issues that would not apply to conventional private hire vehicles and therefore it will

be necessary to consider special conditions on any such licence. We will take into consideration the guidance issued by the DfT, 'Guidance for operators of stretched limousines'.

Stretched limousines or novelty vehicles may be granted a private hire vehicle licence provided that they are capable of carrying no more than eight passengers and meet the requirements of the Single Vehicle Approval (SVA) or Individual Vehicle Approval (IVA) certificate.

All applications to license stretched limousines or novelty vehicles as private hire vehicles will be judged on their merits. As these vehicles will not meet the usual vehicle specification, additional documentation and inspection will be needed in order to ensure safety and suitability.

2.11 Funeral and wedding vehicles

There is currently no requirement for a vehicle to be licensed where it is being used in connection with a funeral.

A vehicle does not need to be licensed to be used in connection with a wedding. However, if a licensed hackney carriage vehicle is used for a wedding the licence plate and roof sign must be displayed.

2.12 Livery

There is no requirement for licensed vehicles to be finished in a special livery or appearance. The visual distinction between hackney carriages and private hire vehicles can be achieved by the signage.

2.13 Transfers

A proprietor of a licensed hackney carriage or private hire vehicle may transfer their interest in the vehicle to another person. Under Section 49 of the Local Government (Miscellaneous Provisions) Act 1976, they must ensure that the licensing authority is notified of the new proprietor's name and address within 14 days.

Applications to transfer a licence must be made on the prescribed application form. The licence fee payable for a transfer is subject to annual review and will be published together with other council licensing fees.

2.14 Accidents

Drivers or operators must inform licensing officers when a hackney carriage or a private hire vehicle is involved in a road traffic accident. The accident must be reported regardless of however major or minor. Drivers or operators must report within three working days of the accident occurring and bring the vehicle for inspection if requested by officers. Officers may examine the extent of the damage and determine whether or not the vehicle must be repaired to allow it to continue as a licensed vehicle.

2.15 For hackney carriage vehicles

- a) **Hackney carriage roof signs and meters:** A roof sign must be displayed on the top of the vehicle showing the word 'Taxi'. The sign shall be controlled by the meter and shall be illuminated when the vehicle is available for hire. The design of the roof sign shall be approved by the licensing officers. Taxi meters may be tested for accuracy at the discretion of licensing officers.
- b) **Use of hackney carriage vehicles:** When an applicant wishes to licence a vehicle as a hackney carriage, we will need information, pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976, as to whether the applicant intends to use the vehicle to stand or ply for hire in the council's area and also if the applicant intends to use the vehicle entirely or predominantly remotely from the council's area on a pre-booked basis. Whilst each application will be considered on its own merits, we will have regard to the geographic location of an applicant's home and business address. If we have a reason to believe that the hackney carriage is to be used entirely or

predominantly remotely from the council's area on a pre-booked basis, then the application for a licence will normally be refused or existing licence may be suspended or revoked.

2.16 Grant and renewal of hackney carriage and private hire vehicle licences

Hackney carriage and private hire vehicle licences will be granted for a period of one year. We may issue licences for a shorter period where it may be necessary, we will issue shorter licences on case by case basis.

It is the proprietor's or operator's responsibility to ensure that vehicle tests are carried out in sufficient time and that insurance, vehicle registration documents and the annual fee are available for processing in time for the issue of a licence.

We will only accept complete applications comprising all the necessary documents and checks. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued. The vehicle will then be unlicensed and must not be used as a hackney carriage or private hire vehicle.

Applications for a hackney carriage or private hire vehicle licence must be made on the prescribed application form, including any electronic forms and in accordance with our application procedure. Relevant forms and documents are available on our website together with guidance to assist in the completion of the application.

The licence fees payable are subject to annual review and will be published together with other council licensing fees.

2.17 Change of details

The proprietor must notify licensing officers in writing of any change of address or telephone number during the period of the licence within seven days of the change taking place.

3. Hackney Carriage and Private Hire Drivers

3.1 Age and experience

We will not impose either a maximum or minimum age limit for drivers. Applicants must have held a DVLA licence for at least three years prior to applying for a licence to drive a hackney carriage or private hire vehicle.

3.2 Knowledge test and spoken English proficiency

Hackney carriage drivers need a good working knowledge of the area for which they are licensed. The law requires that members of the public are transported by the most direct and therefore cheapest route. Hackney carriages can be hired immediately, directly with the driver, at hackney carriage stands or hailed on the street. The DfT recognises that most licensing authorities require prospective hackney carriage drivers to pass a test of local topographical knowledge as a condition of gaining a licence.

In order to maintain the high standards expected of drivers, we will not issue a licence to drive a hackney carriage vehicle unless the applicant has passed a knowledge test of the area covering local geography.

Applicants are given their result as soon as possible and always within one week. If the applicant has passed the test, their application can proceed to the next stage. If they have failed the test they are given feedback and a re-sit is booked as soon as the applicant requires and there is a place available.

There is a fee to sit and re-sit the test and this is published separately together with the other council licensing fees. No applicant may sit the test more than five times in any 12 month period except in exceptional circumstances.

There has been an increase in the number of applications for hackney carriage and private hire drivers' licences from people whose first language is not English. Most communication between drivers and passengers is spoken so it is essential that all candidates have a reasonable standard of spoken English.

Licensing officers will decide spoken English proficiency and if a new applicant needs to undergo additional testing. New applicants for hackney carriage and private hire driver's licence must demonstrate a basic level of spoken English or they will be required to pass a prescribed independently administered English test prior to their application for a private hire or hackney carriage driver's licence being considered. Candidates will be responsible for all the costs associated with this additional testing.

3.3 Driving proficiency, qualifications and giving assistance

We have concluded that the standard DVLA driving test provides sufficient evidence of driving competency for the drivers of hackney carriage and private hire vehicles. There are nationally recognised vocational qualifications for the hackney carriage and private hire trades. These cover customer care, including how best to meet the needs of people with disabilities and there may be advantages in encouraging drivers to obtain one of these qualifications in the future. We encourage such training as this enhances the standing of the trade as one with recognised qualifications to demonstrate competence.

A driver who has accumulated nine or more points on their DVLA licence or who have complaints proven against them about the standard of their driving may be required to pass the Driving Standards Agency Taxi and Private Hire Drivers Assessment in order to remain licensed by the council.

3.4 Safeguarding training

The council has duty to protect those who are vulnerable. We are committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and we expect the taxi and private hire trade to share this commitment.

All licensed drivers must demonstrate successful completion of a prescribed safeguarding training within six months of first being licensed or within 12 months of renewing their licence.

The fee for this training will be published separately together with the other council licensing fees.

If an applicant or existing licensed driver can show they have passed adequate similar training will be exempted from this requirement. Existing drivers who successfully completed the safeguarding training organised by the council are also exempt from this requirement.

Drivers who fail to comply with this requirement will have their licence suspended until they demonstrate that they have met this requirement.

3.5 DVLA driving record check

Before the grant or renewal of a driver's licence, the applicant will be required to submit to a DVLA check. Applicants can share their driving records by using an electronic self-service system. There is no fee for the self-service system. However, applicants will pay a fee if they do not wish to use the self-service system. We will require a mandate for release of information under the data subject access provisions of the Data Protection Act 1984, section 21 (1) and (2), from the DVLA for every application.

This check brings to light any driving offences committed that may not appear on the licence submitted and which should have been declared on the application form.

3.6 Medical examination

The DfT recognises that it is good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and for each renewal. Adopting 'Group 2' medical standards as applied by

DVLA to the licensing of lorry and bus drivers and applying standards to hackney carriage and private hire drivers is considered to be best practice by DfT guidance.

A medical examination carried out by a GP at the surgery the applicant is registered at is required before the grant of a driver's licence in order to assess an applicant's fitness to drive a licensed vehicle. A DVLA Group 2 standard of medical fitness for professional drivers will be required.

A request form for a medical examination, which must be presented to a GP at the applicant's registered GP surgery, is obtainable from the licensing team. The applicant will be responsible for paying the fee for the examination to their GP surgery. On completion of the examination, a confidential report will be submitted to the council. The GP completing the medical examination will be required to certify that they have checked the applicant's personal medical records before completing the medical examination.

The DVLA Group 2 medical standard stipulates that over the age of 45 drivers will require a medical every five years. Drivers aged 65 and over, or those with relevant medical conditions, will require an annual examination. More frequent checks will be required if the medical practitioner thinks it is necessary. Holders of current PSV and/or HGV licences who can produce proof of a current medical examination, not more than one month old, will not need to undergo a further medical examination before licensing or re-licensing.

Licence holders must advise the licensing team, in writing, of any deterioration in their health that may affect their driving capabilities. If there is any doubt as to the medical fitness of the applicant, we may require the applicant to undergo a further medical examination by a medical practitioner appointed by us. In these circumstances we will pay for the medical examination. Where there remains any doubt about the fitness of any applicant, the applicant will be brought before the licensing sub-committee and they will review the medical evidence and make the final decision.

3.7 Disclosure and Barring

A criminal record check on a driver is an important safety measure. The DfT considers that such checks should be at the level of enhanced disclosure through the Disclosure and Barring Service as these disclosures include details of spent convictions and police cautions.

The Rehabilitation of Offenders Act 1974 and associated amendments sets out the period after which a conviction/caution/warning would be regarded as 'spent' and not normally require disclosure of that conviction. However, in 2002 the Rehabilitation of Offenders Act 1974 was amended so as to exclude hackney carriage and private hire drivers from the 1974 Act. This was because the driving of hackney carriages and private hire vehicles was listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Applicants for such licences must therefore disclose all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders, traffic offences and fixed penalty notices, including those that would previously have been regarded as spent under the 1974 Act.

An Enhanced Disclosure and Barring Service disclosure certificate will be required before a licence to drive a hackney carriage or private hire vehicle is granted and then every three years. We will accept portability of DBSs where it is done through an approved DBS body and the workforce category is the same as the workforce category for hackney carriage and private hire drivers. We will only accept DBS certificates issued within 28 days prior to the date we receive the DBS certificate.

Where the applicant is registered with the DBS Update service, we will accept the DBS certificate regardless of how long ago it was issued and we will carry out an electronic check in accordance with the DBS procedures. If the electronic check reveals that there is a change since the last DBS certificate was issued, we will require a new DBS certificate.

We may request another disclosure at any time if a further check is considered necessary. As a further safeguard a regime of random Enhanced DBS checks on drivers may be carried out. If a driver is given notice to undertake a random DBS check by the council they must do so within 28 days of the request.

There will be a condition on the licence to advise drivers that their hackney carriage or private hire driver's licence may be suspended or revoked if any relevant information is later found on the DBS disclosure.

We are bound by rules of confidentiality, and we will not divulge any information to third parties. The applicant for a DBS disclosure is sent a disclosure report to their home address; this must then be shown to the licensing team. We will manage information arising from disclosures in accordance with the DBS's codes of practice.

Licensed drivers must report all new convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) in writing within seven working days.

Currently the DBS only has details of offences committed in England, Scotland, Wales, Northern Ireland, Jersey, Guernsey, the Isle of Man and Gibraltar, therefore if an applicant has lived in countries other than these an authenticated certificate of good conduct from the relevant embassy/ies will be required. If an applicant submits a certificate of good conduct in a language other than English, we may appoint a translator and the translation fee will be passed on to the applicant. The application will not be considered complete if this fee has not been paid. Most embassies produce the certificate in English.

3.8 Relevance of convictions and cautions

When assessing whether an applicant is a 'fit and proper person' to hold a licence, or whether an existing licence holder is still a 'fit and proper person' to continue to hold a licence, we will consider each case on its merits. It will take account of convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences) whether spent or unspent, but only in so far as they are relevant to an application for a licence. The licensing officer will assess the information provided, in accordance with the licensing policy, and decide whether the applicant is a 'fit and proper person' to hold a licence or whether the existing licence holder is still a 'fit and proper person' to continue to hold a licence. Where the applicant meets the requirements of the policy and the licensing officer concludes that the applicant is a 'fit and proper person' the licensing officer has the delegated authority to approve the application.

Where the licensing officer cannot be satisfied that either the applicant or an existing licence holder is a fit and proper person the matter may be referred to the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

When dealing with convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences), we will take into account:

- a) whether convictions are spent or unspent
- b) the nature of the offences
- c) the age of the offences
- d) whether the offences are relevant
- e) the number of offences.

Guidance about specific offences is given in Appendix E. In general terms, if the offence is recent and relevant to public safety, the council is;

- a) less likely to approve the application for a new licence, and
- b) more likely to revoke an existing licence.

Applicants can appeal to their local magistrate's court against a refusal to grant or decision to suspend or revoke the licence.

Applicants or existing licence holders may be referred to the licensing sub-committee where the applicant/existing licence holder's record includes one or more of the following:

- a) any term of imprisonment or custody
- b) any conviction for a violent or sexual offence, or dishonesty which is of a serious nature
- c) any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving
- d) nine or more points on their DVLA Driving Licence.

3.9 Proof of right to work in the UK

Employers are liable to a civil penalty of up to £20,000 per illegal worker if they knowingly employ someone who does not have the right to work in the UK.

Whilst not being the employer of hackney carriage or private hire drivers, it is necessary for licensing authorities to check on an applicant's right to work before granting a hackney carriage/private hire driver's licence. We agree that this is not only good practice but helps protect the income of those currently licensed who do have the right to work.

We will refer to the latest Government guidance when dealing with applicants and therefore all applicants will have to prove their right to work in the UK by supplying the relevant documentation as detailed in the guidance.

If an applicant is unable to provide satisfactory proof of their right to work in the UK, there will be no option other than to refuse to grant or refuse to renew the licence, or if circumstances came to light during the duration of a licence, to revoke it. To issue the licence may be regarded as condoning the offence and assisting the applicant to gain employment to which they are not entitled.

All current licensed drivers if required will be asked to prove their right to work on renewal of their licence. The right to work will normally only need to be proved once. Applicants may only be licensed until their right to work will expire.

If after referring to the relevant Government guidance, licensing officers are still unsure about an applicant's right to work in the UK, they will discuss the applicant's documentation with the Home Office. If it transpires the applicant is illegally in the UK (due to illegally entering or overstaying for example) council officers will assist the UK Border Force, Immigration Office or police in their enquiries as necessary.

3.10 Behaviour and conduct of drivers

Adopting a Code of Good Conduct for hackney carriage and private hire drivers serves to promote the council's licensing objectives.

The standards expected of licensed drivers are set out in the Code of Good Conduct that is included within the conditions attached to the driver's licence and set out at Appendix A.

Failure to comply with any aspect of the Code of Good Conduct will not necessarily result in enforcement action. However, breach of the code is an indicator which licensing officers will use to help decide upon subsequent enforcement action. This may result in enforcement action by licensing officers or if necessary, by the licensing sub-committee. Repeated breaches following education or warnings may lead to more serious consequences including if necessary, refusal to renew, suspension or revocation of licences.

3.11 Fit and proper

'Fit and proper person' is not defined in any of the legislation but is key when determining a driver application or renewal. The following statement is commonly used as a guide to clarifying the meaning. 'Would you allow your son, daughter, mother, spouse or other person you care about get into this vehicle with this person alone?'

This statement was confirmed in discussion by Silber J. in the case of Leeds City Council v Hussain (2002) which surrounds the suspension of a driver;

‘... the purpose of the power of suspension is to protect the users of licensed vehicles and those who are driven by them and members of the public. Its purpose is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault people’

Officers and the licensing sub-committee will bear the above statement in mind when determining applications, renewals and when making enforcement decisions. Other factors such as safeguarding matters will also be considered on a case by case basis.

3.12 Grant and renewal of licences

Licences to drive hackney carriage and private hire vehicles (driver’s licence) will generally be granted for three years. We may issue licences for a shorter period where it may be necessary, we will issue shorter licences on case by case basis.

To allow sufficient time for documents to be processed, applicants should ensure to submit their complete application, including the fee, at least eight weeks before expiry of a driver’s licence.

We will aim to send a reminder letter to drivers twelve weeks before the expiry of an existing licence. Drivers are reminded that we are not obliged to do this and the responsibility of ensuring licences and DBS disclosures do not expire remains with the licence holder. If a DBS disclosure has not been issued in time we may only renew a driver’s licence if the applicant has returned their application form for the DBS disclosure in the time specified on the renewal letter.

We may refuse to grant licences where the application is missing any of the necessary documentation. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued, therefore the driver will be unlicensed during which time it will be illegal for them to drive a licensed hackney carriage or private hire vehicle or to use an unlicensed vehicle for the carriage of passengers for hire and reward.

Applications for a hackney carriage/private hire driver’s licence must be made on the prescribed application form, including any electronic forms.

Once we have the complete application, we will consider it on its own merits taking into account the driver’s previous history of behaviour to determine if they meet the ‘fit and proper person’ criteria.

The licence fees payable is subject to annual review and will be published together with other council licensing fees.

3.13 Change of details

Drivers must notify us in writing within seven days of any change of address or telephone number during the period of the licence.

4. Private Hire Operators

4.1 Requirements and obligations

Any person who operates a private hire service (who is not a hackney carriage proprietor allowing hackney carriages to be used for private hire) must apply for a private hire operator’s licence. The objective in licensing private hire operators is the safety of the public. Best practice in respect of the

controls required over private hire operators is to ensure that the costs of any licensing requirements are commensurate with benefits that they seek to achieve.

A private hire vehicle must only be dispatched to a customer by a licensed private hire operator. Such a licence permits the operator to invite or accept bookings for a private hire vehicle. Private hire operators must ensure that every private hire vehicle that they operate is licensed by the same council who issued them with the operator's licence and that it is driven by a person who holds a private hire driver's licence issued by the same council.

Applicants must apply for an operator's licence using the prescribed form, including any electronic forms and submit the correct fee. All new private hire operators must undergo a Basic Disclosure (if the operator is also a licensed driver with the council the requirement for the DBS disclosure is waived as the driver will have been subject to an Enhanced Disclosure). We will then decide whether the applicant is a fit and proper person to hold such a licence. The applicant must prove that they are entitled to work within the UK. For details of the requirement and guidance please see paragraph 3.9

If an applicant is unable to provide satisfactory proof of their right to work in the UK, there will be no option other than to refuse to grant or refuse to renew the licence, or if circumstances came to light during the duration of a licence, to revoke it. To issue the licence may be regarded as condoning the offence.

4.2 Criminal record checks

Private hire operators are not exempt from the Rehabilitation of Offenders Act 1974. We will require a Basic Disclosure and Certificate of Good Conduct (if required) before a licence is granted and then every five years. Where the private hire operator is trading as a limited company we may also require the directors and company secretary to undertake a Basic Disclosure check.

We will consider each application on its own merits once the application form and supporting documents are complete.

4.3 Conditions

Private hire operators' licences are issued with conditions set out in Appendix B. We may impose additional conditions where necessary. If multiple vehicles are found to be in breach of licence conditions or there is a pattern of breaching the licensing requirements and conditions, officers may require the operator to bring all licensed vehicles to the council for inspection.

4.4 Record keeping

Section 56(2) and (3) of the Local Government (Miscellaneous Provisions) Act 1976 requires operators to record specific information. The information shall be kept in a suitable book or on a computer or any other similar device. If using a book the pages must be numbered consecutively and the operator shall enter or cause to be entered before commencement of each journey, the following particulars of every booking accepted:

- a) the time and date of the booking
- b) the name of the hirer
- c) the fare quoted
- d) how the booking was made, e.g. telephone or email and the time
- e) the time of the proposed pick up
- f) the point of pick up and drop off
- g) the registration or plate number of the vehicle allocated for the booking and the name of the driver.

Operators are legally required to keep records in respect of all bookings, vehicles and drivers, for a period of one year as set out in the private hire operator's conditions.

Operators who maintain computerised records will be required to give access to these records to licensing officers upon request in order that the licensing officers can carry out their enforcement duties. Operators will also be required to provide adequate instruction to licensing officers in order to enable them to interrogate the computerised records to gather the information they require to carry out their enforcement duties.

4.5 Insurance

Operators are required to provide evidence that public liability insurance to the value of £5 million has been taken out for premises that are open to the public (e.g. waiting rooms).

4.6 Address from which an operator may operate

The address used on the operator's application form must be the one where the invitation and acceptance of bookings take place. This will be the premises where the records referred to above are kept and at which they may be inspected by licensing officers. This will also be the address at which the vehicle(s) will normally be kept and be available for inspection.

We cannot grant a private hire operator's licence for an operator with an operating base that is outside the council's areas. It will be the responsibility of the operator to ensure that necessary planning consent exists for the operational address to be used for that purpose.

4.7 Sub-contracting

A private hire operator may sub-contract a booking to another licensed private hire operator in accordance with relevant legislation. A record of who the booking was sub-contracted to and when must be made in accordance with the licence conditions.

4.8 Grant and renewal of licences

Private hire operator's licences will be granted for a five year period. We may issue licences for a shorter period where it may be necessary. We will issue shorter licences on case by case basis.

Whilst we will aim to send a reminder letter to the current operator before their existing licence expires, operators are reminded that we are not obliged to do this and the responsibility for ensuring licences do not expire remains with the licence holder.

If a disclosure has not been issued in time, we will only renew an operator's licence if the applicant has returned their application form in the time specified on the renewal letter. However, we may place a condition on the licence that private hire operator's licence may be suspended or revoked if any relevant information is later found on the disclosure.

We may refuse to grant licences where the application is missing any of the necessary paperwork. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued, resulting in it being illegal to operate as no operator's licence would be in force.

Applications for operator's licences must be made on the prescribed application form, including any electronic forms. The licence fees payable are subject to annual review and will be published together with other council licensing fees.

4.9 Change of details

The operator must notify the council in writing within seven days of any change of address, (whether this is a home address or the operating address) or change of telephone number or any other details during the period of the licence.

APPENDIX A: Licence conditions and specifications for hackney carriage vehicles

Hackney carriage vehicle conditions

1. A hackney carriage proprietor is an owner or part owner of a vehicle, or where a vehicle is subject to a leasing contract, hire agreement or hire purchase, a proprietor is the person in possession of the vehicle under the agreement. In both cases the proprietor requires a hackney carriage proprietor's licence from the council, before they are legally entitled to use the vehicle for plying for hire.
2. Licences can be obtained by making an application to the council. Each applicant must submit an application in respect of every vehicle for which a licence is required. The following details specify the standard minimum requirements for vehicles licensed for public hire or reward by the council. They have been set down for the purposes of indicating to any prospective licence holder what will be acceptable, under delegated powers, to licensing officers and this should be borne in mind before a vehicle is purchased. Any vehicle presented for licensing which does not comply may only be accepted after consideration of the merits of the application by the licensing sub-committee. The applicant will, in these circumstances, be required to submit a persuasive and substantial case for departing from the normal policy.

Specification

3. The vehicle must meet the following specification:
 - a) the vehicle must be capable of carrying not fewer than four passengers and no more than eight.
 - b) each passenger seat shall be fitted with a seat belt. No seats may be side facing.
 - c) the seat provided for each passenger will have a minimum width of 16 inches (40.6 cm) measured across its narrowest part.
 - d) each passenger shall have direct access to a door without the need to remove or completely fold flat any other seating in order that passengers may access their seat easily and escape without delay in case of emergency. The council will consider vehicles that have seats that 'tilt' forward by a single operation. If this type of seat is fitted the driver must inform the passengers of the operation of the seats before a journey commences.
 - e) the vehicle will be right hand drive.
 - f) the vehicle will have four road wheels.
 - g) the vehicle will have an engine with a capacity of at least 990cc. including vehicles badged by the manufacturer as '1.0' models. Electric vehicles fitted with 'range extender' technology may be exempt from this restriction.
 - h) the vehicle in addition to the driver's door, will have three doors each of which must be fitted with an efficient handle, lock and window operation to allow access and egress for passengers.
 - i) the vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage for the total capacity of the vehicle.
 - j) estate cars must have a guard/cover fitted to prevent luggage entering the passenger compartment.
 - k) no alteration to the manufacturer's specification for the vehicle, including a change of or additional fuel type, shall be carried out except with the prior written approval of the council.
 - l) the front windscreen, front and rear windows must have a visible light transmission (VLT) of not less than 75 per cent so that the passengers can be seen from the outside of the vehicle. Only vehicle manufacture tints are permitted on the vehicle.

Equipment

4. The vehicle must carry the following equipment:
 - a) an in-date suitable and efficient fire extinguisher (1.0 kg dry powder or larger foam fire extinguisher) to meet BS EN 3 1996 (BS 5423), maintained at all times. It shall be securely

fixed in the vehicle and be readily visible and available for immediate use in an emergency. Each driver of a vehicle must familiarise themselves with the use of the fire extinguisher contained in the vehicle.

- b) a spare wheel suitable for immediate use and properly maintained; if the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have modern technology may be exempt from this condition at the discretion of the council.
- c) a jack and tools for changing the wheels
- d) a spare auto lamp kit applicable to the vehicle and the taxi sign
- e) a warning triangle
- f) a torch
- g) an in-date first aid kit.

Condition of vehicle

- 5. Drivers shall carry out a visual inspection of the vehicle at the beginning of the day before they start working. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council and in particular the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills, tears and the seats must function in accordance with the original manufacturer's specification. The vehicle will comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including, but without prejudice to the Motor Vehicle (Construction and Use) Regulations.

Insurance and other documentation

- 6. The proprietor shall not use the vehicle, nor permit it to be used, as a hackney carriage vehicle if it does not have a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for hire or reward/public hire. The proprietor must produce when requested a valid certificate of insurance. On renewal of the insurance a copy of the new certificate must be provided to the council. The council will only accept insurance from UK insurance bodies that are registered with the Motor Insurance Bureau.
- 7. The proprietor must produce when requested the vehicle registration document, evidence that the vehicle has a valid MOT certificate and evidence that the vehicle has a valid vehicle excise licence.

Licence plates

- 8. The external licence plate supplied by the council shall be securely fixed to the outside rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet or on a secure bracket. The penalty for failing to display a licence plate is a fine not exceeding Level 3 on the Standard Scale. The licence plate remains the property of the council at all times. If required to do so at any time the licence holder must return the plate to the council within seven days.

Roof sign and advertisement requirements

- 9. There is no exception to the roof sign unless the vehicle is a London style cab or other similar vehicle which has a built in taxi roof sign.
- 10. Advertisements are permitted on the interior of purpose built hackney carriages on the underside of the tip up seats and across the bulkhead above the dividing glass partition only. The permitted sizes are as follows:
 - a) bulkhead 60cm x 8cm
 - b) tip up seat 33cm x 30.5cm.

11. No advertisement may be placed on the dividing glass partition other than notices approved by the council.
12. Advertisements are not permitted on the interior of non-purpose built hackney carriage vehicles, without prior written permission from the council.
13. Advertisements are permitted on the exterior of hackney carriages.
14. Proprietors may display a full livery and/or vehicle 'body-wrap'.
15. Operators are also permitted to display the following on the vehicle:
 - a) a sign indicating membership of the AA, RAC or other similar motoring organisation
 - b) a first aid kit sticker
 - c) any other material supplied by government or a government organisation or corporation with the permission of the council.

Audio, video or surveillance systems

16. No audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

Smoking

17. No smoking is permitted in the vehicle by either the driver or passengers. The vehicle must comply with The Smoke-free (Exemptions and Vehicles) Regulations 2007 (S.I. 2007/765).

Meters/fare card

18. All hackney carriage vehicles shall be fitted with a taximeter compliant with the Measuring Instruments (Taximeters) Regulations 2006 (S.I. 2006/2304). The taximeter shall be maintained in a sound working condition at all times. The taximeter shall be set for the current maximum tariff agreed by the council (or can be set at a lower tariff) and shall be sealed by the approved testing stations to prevent unauthorised adjustment of that meter. Hackney carriage proprietors and drivers shall ensure the 'For Hire' sign or other illuminated sign is extinguished when the fare commences and the taximeter is brought into operation.
19. The taximeter must:
 - a) be of the clock calendar type and change according to the wording of the council's agreed current maximum fare tariff or a lower tariff set by the operator
 - b) not be altered or tampered with except with the approval of the council and must be retested by one of the council's approved testing stations if it is altered. All openings shall be sealed with a 'tamper evident' seal supplied by the council.
 - c) show the fare recorded on the taxi meter in plainly legible figures and the word 'FARE' shall be clearly displayed so as to apply to such figures
 - d) be kept securely fixed in such a position so that the fare recorded is visible to all passengers within the vehicle at all times and the figures shall be illuminated for this purpose whenever necessary.
20. A fare card must be fixed in such a position so that the fare to be charged is visible to all passengers within the vehicle at all times, and the figures shall be illuminated for this purpose. The fare card shall clearly display the vehicles licence number.

Wheelchair access

21. If the vehicle is designed or adapted to carry a wheelchair, the proprietor of the vehicle must ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.
22. Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.

Trailers

23. Trailers may only be used with the prior written approval of the council. The trailer can only be used in connection with pre booked bookings and cannot be used for plying for hire on a rank or the street.
 - a) the trailer must at all times comply with all requirements of Road Traffic legislation in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078)
 - b) the vehicle insurance must include cover for towing a trailer
 - c) a suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

Lost property

24. The proprietor or driver of a hackney carriage must hand in any found lost property to the nearest police station within 48 hours.

Convictions/ change in particulars of proprietor

25. The proprietor shall give notice in writing to the council within seven days of any conviction, warnings, reprimands, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.

APPENDIX B: Licence conditions and specifications for private hire vehicles and operators

SECTION 1

General

1. A private hire vehicle proprietor is an owner or part-owner of a vehicle, or where a vehicle is subject to a hire agreement or hire purchase, the person in possession of the vehicle under the agreement. A private hire vehicle proprietor must obtain a private hire vehicle licence from the council within whose area he or she wishes to trade for each vehicle used for private hire. The vehicle can only be operated under an operator's licence issued by the council.
2. Licences can be obtained by making an application to the council. Each applicant must submit an application in respect of every vehicle for which a licence is required. The following details specify the standard minimum requirements for vehicles licensed for private hire or reward by the council. They have been set down for the purposes of indicating to any prospective licence holder what will be acceptable, under delegated powers, by officers and this should be borne in mind before a vehicle is purchased. Any vehicle presented for licensing which does not comply may only be accepted after consideration of the merits of the application by a panel. The applicant will, in these circumstances, be required to submit a persuasive and substantial case for departing from the normal policy.

Specification

3. The vehicle must meet the following specification:
 - a) The vehicle must be capable of carrying not fewer than four passengers and no more than eight
 - b) Each passenger seat shall be fitted with a seat belt. No seats may be side facing.
 - c) The seat provided for each passenger will have a minimum width of 16 inches (40.6 cm) measured across its narrowest part
 - d) Each passenger shall have direct access to a door without the need to remove or completely fold flat any other seating in order that passengers may access their seat easily and escape without delay in case of emergency. The council will consider vehicles that have seats that tilt forward by a single operation. The driver must explain to the passengers the operation of the seats before a journey commences.
 - e) will be right hand drive
 - f) will have four road wheels
 - g) the vehicle will have an engine with a capacity of at least 990cc including vehicles badged by the manufacturer as '1.0' models. Electric vehicles fitted with 'range extender' technology may be exempt from this restriction.
 - h) will in addition to the driver's door, have three doors each of which must be fitted with an efficient handle, lock and window operation to allow access and egress for passengers
 - i) the vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage for the total capacity of the vehicle.
 - j) estate cars must have a guard/cover fitted to prevent luggage entering the passenger compartment
 - k) no alteration to the manufactures specification for the vehicle, including a change of or additional fuel type, shall be carried out except with the prior written approval of the council
 - l) the front windscreen, front and rear windows must have a visible light transmission (VLT) of not less than 75 per cent so that the passengers can be seen from the outside of the vehicle. Only vehicle manufacture tints are permitted on the vehicle
 - m) a private hire vehicle must not be of such design or appearance as to lead any person to believe it is a hackney carriage.

Equipment

4. The vehicle must carry the following equipment:

- a) An in-date suitable and efficient fire extinguisher (1.0 kg dry powder or larger foam fire extinguisher) to meet BS EN 3 1996 (BS 5423), maintained at all times when the vehicle is licensed shall be securely fixed in the vehicle and be readily visible and available for immediate use in an emergency. Each driver of a vehicle must familiarise themselves with the use of the fire extinguisher contained in the vehicle
- b) A spare wheel suitable for immediate use and properly maintained; if the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have modern technology may be exempt from this condition at the discretion of the council
- c) a jack and tools for changing the wheels
- d) a spare auto bulb kit applicable to the vehicle
- e) a warning triangle
- f) a torch
- g) an in-date first aid kit.

Condition of the vehicle

- 5. Drivers shall carry out a visual inspection of the vehicle at the beginning of the day before they start working. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council and in particular the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills, tears and the seats must function in accordance with the original manufacturer's specification. The vehicle will comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including, but without prejudice to the generality of the Motor Vehicle (Construction and Use) Regulations which currently apply.

Insurance and other documentation

- 6. The proprietor shall not use the vehicle, nor permit it to be used, as a private hire vehicle if it does not have a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for private hire. The proprietor must produce when requested a valid certificate of insurance. On renewal of the insurance a copy of the new certificate must be provided to the council. The council will only accept insurance from UK insurance bodies that are registered with the Motor Insurance Bureau.
- 7. The proprietor must produce when requested the vehicle registration document, evidence that the vehicle has a valid MOT certificate and evidence that the vehicle has a valid vehicle excise licence.

Licence plates

- 8. The external licence plate supplied by the council shall be securely fixed to the outside and rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet, or on a secure bracket. The licence plate remains the property of the council at all times. If required to do so at any time the licence holder must return the plate to the council within seven days. The penalty for failing to comply with this request is a fine not exceeding Level 3 on the Standard Scale. An exemption for private hire vehicles from displaying the plate may be given at the discretion of the licensing officer in accordance with the policy on plate exemption.

Private hire signs and advertising

- 9. Private hire vehicles may display advertising provided it does not use the words 'Taxi' or 'Cab' that may indicate the vehicle is a hackney carriage. Private hire vehicles may also display:
 - a) a sign indicating membership of the AA, RAC or other similar motoring organisation
 - b) a sign which requires passengers not to smoke

- c) a first aid kit sticker
- d) any other material supplied by government or a government organisation or corporation with the permission of the council.

Audio/video or surveillance systems

10. No audio/video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

Smoking

11. No smoking is permitted in the vehicle by either the driver or its passengers. The vehicle must comply with The Smoke-free (Exemptions and Vehicles) Regulations 2007 (S.I. 2007/765).

Wheelchair access

12. If the vehicle is designed or adapted to carry a wheelchair, the proprietor of the vehicle must ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.

13. Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.

Trailers

14. Trailers may only be used with the prior written approval of the council and subject to the following requirements:

- a) trailers can only be used in connection with private hire bookings
- b) the trailer must at all times comply with all requirements of Road Traffic legislation in particular those laid down in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078).
- c) the vehicle insurance must include cover for towing a trailer
- d) a suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

Plate exemption

15. Vehicles which are used for contract work for at least 75 per cent of the time may be exempted from displaying a plate. The operator's records for these vehicles must prove that the required amount of contract work is being carried out and the council will require evidence as to why plate exemption is required. Such vehicles must display front and rear windscreen badges, which will be provided by the council. These badges will show the details of the vehicle as they appear on the plate. The licence plate will be provided and must be carried in the boot of the vehicle at all times. Vehicles given this exemption will normally be executive type cars. The council will determine applications for exemption on a case by case basis. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators/drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.

Lost property

16. The proprietor or driver of a private hire vehicle must hand in any found lost property to the nearest police station within 48 hours.

Convictions/change in particulars of proprietor

17. The proprietor shall give notice in writing to the council within seven working days of any convictions, warnings, reprimands, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.

SECTION 2

Novelty vehicles

1. For the purpose of this policy, a novelty vehicle shall mean a vehicle that is used for a particular occasion or occasions of a restricted nature, e.g. transport to parties or an 'executive vehicle' and is not a conventional vehicle used for standard private hire work. Examples of vehicles that may fall within the 'special event' category are stretch limousines, classic cars, fire engines (recreational), executive vehicles or a vehicle that has fewer than four seats.
2. This element of the policy does not apply in relation to vehicles used solely in connection with weddings and funerals, as these are exempt from private hire licensing.
3. The general licence conditions for private hire vehicles will not normally allow for novelty vehicles to be licensed for a number of reasons including the style and design of the vehicle.
4. Any novelty vehicle that has not been type approved, which does not meet the requirements of the Construction and Use Regulations or which otherwise would not meet the standard private hire vehicle conditions, the proprietor may apply to be licensed by seeking variation or exemption from some of the standard conditions.
5. Each vehicle will be considered and assessed on merit taking account of:
 - a) the overall condition of the vehicle
 - b) the number of passengers for which it is required to be licensed
 - c) the specific criteria for which exemption is sought.
6. The primary consideration will always be the safety and comfort of the travelling public.
7. This policy sets out the general considerations the council will take into account when considering an application for the licensing of a novelty vehicle.

Specification for novelty vehicles

8. Vehicles may be right or left hand drive provided that left hand drive vehicles have vehicle type approval from the Vehicle Certification Agency, Department for Transport, of which the council requires proof.
 - a) the vehicle must not have fewer than four road wheels
 - b) the number of doors must be sufficient to allow safe access and egress for the number of passengers for which approval is sought
 - c) the vehicle must comply with Construction and Use Regulations.
9. Vehicles must carry:
 - a) a fire extinguisher of a minimum of 1Kg power type and BS EN3 compliant, serviced in accordance with BS 5306, and a service record kept for inspection by an authorised officer of the council. The extinguisher must be securely affixed in the vehicle and ready for immediate use.
 - b) a first aid kit.
 - c) a spare wheel suitable for immediate use.
 - d) a jack and tools for changing the wheels.

- e) the screen sticker, if supplied by the council, must be displayed in the lower nearside corner of the rear windscreen.
 - f) spare light bulbs.
 - g) no audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.
10. Any vehicle that has been constructed or adapted to seat more than eight passengers cannot be licensed as a private hire vehicle.
11. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council. In particular, the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills and tears and the seats must function in accordance with the original manufacturer's specification.
12. No age limit will be set for novelty vehicles but they are required to be tested as per private hire vehicles.
13. The individual nature of a novelty vehicle will inevitably give rise to issues that would not apply to conventional private hire vehicles and therefore it will be necessary to consider whether special conditions should be included on any licence.

SECTION 3

Licence conditions for private hire operators

1. The holder of a private hire operator's licence shall comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
2. The records required to be kept by the operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book or on a computer or any other recordable device. If using a book the pages must be numbered consecutively and the operator shall enter or cause to be entered before commencement of each journey, the following particulars of every booking accepted:
 - a) the time and date of the booking
 - b) the name of the hirer
 - c) the fare quoted
 - d) how the booking was made, e.g. telephone or electronic and the time of booking
 - e) the time of the proposed pick up
 - f) the point of pick up and drop off
 - g) the registration or plate number of the vehicle allocated for the booking and the name of the driver.
3. If the operator uses a computerised booking system the council will require access to the system so that the council is able to establish that records are entered sequentially and that it is able to establish the date and time at which the record was created.
4. The operator shall also keep records of the particulars of all private hire vehicles, which shall include details of the owner, registration numbers and drivers of such vehicles, together with any radio call signals used. All records kept by the operator shall be kept for a period of not less than 12 months following the date of the last entry and shall be made available, upon request to an authorised officer of the council, police officer or any other relevant enforcement agency.
5. Operators will also be required to provide adequate instruction to officers in order to enable them to interrogate the computerised records to gather the information they require to carry out their enforcement duties.

APPENDIX C: Licence conditions and code of conduct for hackney carriage and private hire drivers

1. All drivers are required to be familiar with all parts of the council's policy and comply with the requirements of the policy and the conditions that form a part of their licence.
2. Any hackney carriage/private hire driver's badge that is supplied by the council will cease to be valid on the expiry of the licence or upon suspension, surrender or revocation of the licence. Any badge supplied remains the property of the council and must be returned to the council if suspended, revoked or expired. If demanded the licence holder must return their licence and badge to the council. The penalty for failing to comply with this request is a fine not exceeding Level 1 on the Standard Scale.
3. Whilst in control of a hackney carriage or private hire vehicle, the driver shall, if required to do so by any person, give his or her name and badge number and also the name and address of the owner/proprietor and the identification marks of the vehicle.
4. The driver shall give notice in writing to the council within seven working days of any convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.
5. If a driver is given notice to undertake a random DBS check by the council they must do so within 28 days of the request.
6. The driver shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle. Drivers must ensure their appearance is smart and professional when working.
7. Any driver of a hackney carriage/ private hire vehicle acting in a disorderly, abusive, aggressive, or violent manner towards any member of the public, other driver or officer of the council may be deemed not to be a 'fit and proper person' to hold a licence.
8. Vehicle proprietors and drivers shall ensure that licensed vehicles do not cause an obstruction or nuisance to local residents when parked or collecting passengers.
9. To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:-
 - a) not sound the vehicle's horn unless in case of emergency
 - b) keep the volume of audio and communications equipment to a reasonable level
 - c) switch off the engine if required to wait
 - d) take all reasonable additional action as is necessary to avoid disturbance to residents in the neighbourhood.
10. Every driver shall at all times when in charge of a licensed vehicle wear their driver's badge supplied by the council and the badge should be clearly visible.
11. Under Equalities Act 2010 Section 168 (Assistance Dogs), drivers will be required to carry an assistance dog accompanying a disabled person without any additional charge unless the driver has a medical exemption certificate that allows him/her not to carry dogs for medical reasons.
12. A driver shall give notice in writing to the council within seven working days of any change in medical condition. If required by the council a new medical may be required to determine if the driver is a 'fit and proper person'.
13. At hackney carriage ranks drivers shall;

- a) queue in an orderly manner and proceed along the rank in order and promptly
- b) if approached by a potential customer, direct them to the hackney carriage at the front of the rank unless the passengers specifically ask for a particular driver or company
- c) assist in improving air quality by switching off vehicle engines when parked, unless there are reasonable safety or comfort grounds for not doing so, for example keeping warm in very low temperatures.
- d) remain in or within 10 metres of the vehicle.
- e) not park on the rank when not working.

14. Every driver of a licensed vehicle when requested by any person hiring or seeking to hire the vehicle shall:

- a) convey a reasonable quantity of luggage
- b) afford reasonable assistance in loading and unloading
- c) be polite, helpful and fair to passengers, particularly those whose mobility may be restricted.

Legislation

15. The holder of every hackney carriage and private hire vehicle and drivers licence shall comply with the provisions relating to hackney carriage and private hire drivers and vehicles contained in the following legislation:

- a) Town Police Clauses Act 1847
- b) Part II Local Government (Miscellaneous Provisions) Act 1976
- c) Road Traffic Act 1988 Part 11 (a) Construction and Use of Vehicles and Equipment
- d) Section 168 Equalities Act 2010 (Assistance Dogs).

16. Notwithstanding the relevant legislation, the council's conditions, the council's hackney carriage and private hire driver, vehicle and operator policy and the council's byelaws, drivers, proprietors and operators should be aware of the following criminal offences:

- a) failure to give assistance to wheelchair users or failure to carry them safely
- b) charging an additional fee/fare for carrying a passenger needing assistance or for carrying an assistance dog
- c) refusal to carry an assistance dog without a medical exemption
- d) driving whilst using a hand held mobile telephone or device
- e) smoking in a hackney carriage or private hire vehicle
- f) driving whilst under the influence of alcohol, illegal or prescription drugs. Any amount of alcohol or illegal drug can affect a driver's capability to drive safely.
- g) exceeding the safe permitted number of working hours
- h) claiming benefits for which there is no entitlement
- i) and should always be aware of and obey traffic regulations and The Highway Code. This list is not exhaustive and the relevant enforcement agency (Police, local authority etc.) may take action as it sees fit. This may include prosecution.

APPENDIX D: Consideration of applications for the grant, renewal, suspension or revocation of licences

1. Upon receipt of a completed application form, the licensing officer will consider the application on its individual merits taking into account the person's previous history of behaviour to determine whether they meet the 'fit and proper person' criteria. Where the consideration is a review of an existing licence holder this will be to determine whether that person continues to meet the 'fit and proper person' criteria. Where the application is incomplete, it will not be considered until the missing details or documents are supplied and may be returned along with any fee provided.
2. Where having considered the application or review against the criteria of the council's policy the licensing officer considers that the person meets the criteria of a fit and proper person, the licensing officer has delegated powers to approve the application.
3. Successful applicants will be issued with a licence. Those who are granted a driver's licence will be issued with a badge, which will remain the property of the council and must be surrendered if the driver's licence is suspended or revoked. If a licence is suspended the driver must within seven days of that suspension return the badge to the council. If that suspension is subsequently lifted the badge will be returned to the driver within two working days.
4. Where having taken into account the applicant's history of behaviour including convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) the licensing officer is not satisfied that the person meets the criteria of a 'fit and proper person' and should therefore not be granted a licence, the officer will make a recommendation to the licensing sub-committee.
6. The proceedings and terms of reference of the licensing sub-committee are set out on the council's website.

Suspension or revocation

7. Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 a district council may suspend, revoke or refuse to renew a Hackney Carriage / Private Hire driver's licence. This may be for the following reasons;
 - a) since the grant of the licence they have been convicted of an offence involving dishonesty, indecency or violence, or
 - b) any other reasonable cause.
9. Under this section the driver has 21 days to appeal against the decision to their local Magistrates Court and during the appeal period the licence holder can continue to drive Hackney Carriage / Private Hire vehicles.
10. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 enables a decision to suspend or revoke a Hackney Carriage / Private Hire drivers licence to take immediate effect should the council believe it to be necessary in the interests of public safety. This means the driver cannot continue to drive Hackney Carriage / Private Hire vehicles during the appeal period.
11. The Licensing Committee delegated authority to the Deputy Chief Executive to immediately suspend or revoke a Hackney Carriage or Private Hire driver's licence where it is considered necessary in the interest of public safety.
12. A 'fast track' procedure will be adopted to re-licence those drivers who have had their licence revoked but have subsequently been found to be fit and proper. In these cases, the driver will supply the council with a new application form but there will be no subsequent application fee. All pre-check enquiries (DBS, medical, references etc.) would stand and the dates they were previously due to expire would be valid, as would the licence itself.

APPENDIX E: Relevance of convictions

1. All applicants for a hackney carriage/private hire driver's licence must complete an enhanced Disclosure and Barring Service (DBS) check prior to the granting of a licence.
2. On completing the council's licence application form all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) and pending court cases or licensing hearings must be declared. Failure to disclose convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) which are subsequently notified by the Disclosure and Barring Service or any pending court cases or licensing hearings will be considered to be an act of dishonesty and may result in the application being refused or the licence revoked. Applicants should note that any reference in this appendix to conviction also includes all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences).
3. All past convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) will be considered in accordance with Home Office guidelines. The Rehabilitation of Offenders Act 1974 as amended by the Legal Aid, Sentencing and Punishment Act 2012 sets out the period after which all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) are regarded as 'spent' and which would not normally necessitate disclosure. In 2002 the Rehabilitation of Offenders Act was amended so as to exclude hackney carriage and private hire drivers from the effects of the 1974 Act. Applicants for such licences are now required to disclose all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) including those that would previously have been regarded as spent under the Act. The council will use the Rehabilitation of Offenders Act 1974 as guidance but in every case the individual facts will be considered in accordance with the criteria set out in the policy.
4. The overriding consideration is the safety of the public. The council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
5. A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.
6. Some discretion may be applied if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

The Rehabilitation of Offenders Act 1974

7. Rehabilitation of Offenders Act 1974 guidelines as amended by the Legal Aid, Sentencing and Punishment Act 2012 will be used by the council, but for repeat offenders or offences that are not stipulated under the Rehabilitation of Offenders Act 1974 the following guidelines will be used to determine if an applicant is a fit and proper person to hold a licence.

Minor traffic offences

8. Convictions for minor traffic offences should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence. However, the number, type and frequency of such

offences will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least six months. An application will normally be refused where an applicant has nine or more penalty points on his/her DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last six months. An existing licence holder may be suspended where the person has nine or more penalty points on his/her DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last six months. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DVSA (Driver & Vehicle Standards Agency) Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

These offences are;

MS10 Leaving a vehicle in a dangerous position
MS20 Unlawful pillion riding
MS30 Play street Offences
MS40 Driving with uncorrected defective eyesight or refusing to submit to a test
MS70 Driving with uncorrected defective eyesight
MS80 Refusing to submit to an eyesight test
MS90 Failure to give information as to identity of driver etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations
PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

TS10 Failing to comply with traffic light signals
TS20 Failing to comply with double white lines
TS30 Failing to comply with a 'Stop' sign
TS40 Failing to comply with direction of a constable or traffic warden
TS50 Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines)
TS60 Failing to comply with school crossing patrol sign
TS70 Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring
Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting
Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting
Offences as coded above, but with 0 changed to 6 (e.g. PC16 becomes PC16)

This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

Major traffic offences

9. Isolated convictions, without disqualification, for a major traffic offence should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence but will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. More than one conviction for this type of offence within the last two years would require the application or an existing licence holder to be referred to the licensing sub-

committee for a decision. No further application would normally be considered until a period of three years free from convictions has elapsed. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DVSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

These offences are;

- AC10 Failing to stop after an accident
- AC20 Failing to give particulars or to report an accident within 24 hours
- AC30 Undefined accident offences

- BA10 Driving while disqualified by order of court
- BA30 Attempting to drive while disqualified by order of court

- CD10 Driving without due care and attention
- CD20 Driving without reasonable consideration for other road users
- CD30 Driving without due care and attention or without reasonable consideration for other road users
- CD40 Causing death through careless driving when unfit through drink
- CD50 Causing death by careless driving when unfit through drugs
- CD60 Causing death by careless driving with alcohol level above the limit
- CD70 Causing death by careless driving then failing to supply a specimen for analysis
- CD80 Causing death by careless or inconsiderate driving
- CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers

- DD40 Dangerous driving
- DD60 Manslaughter or culpable homicide while driving a vehicle
- DD80 Causing death by dangerous driving
- DD90 Furious driving

- DR10 Driving or attempting to drive with alcohol level above limit
- DR20 Driving or attempting to drive while unfit through drink
- DR30 Driving or attempting to drive then failing to supply a specimen for analysis
- DR40 In charge of a vehicle while alcohol level above limit
- DR50 In charge of a vehicle while unfit through drink
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
- DR70 Failing to provide specimen for breath test
- DR80 Driving or attempting to drive when unfit through drugs
- DR90 In charge of a vehicle when unfit through drugs

- IN 10 Using a vehicle uninsured against third party risks

- LC20 Driving otherwise than in accordance with a licence
- LC30 Driving after making a false declaration about fitness when applying for a licence
- LC40 Driving a vehicle having failed to notify a disability
- LC50 Driving after a licence has been revoked or refused on medical grounds

- MS50 Motor racing on the highway
- MS60 Offences not covered by other codes

- UT50 Aggravated taking of a vehicle

- Aiding, abetting, counselling or procuring
Offences as coded above, but with 0 changed to 2 (e.g. LC20 becomes LC22)

- Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. LC20 becomes LC24)
Inciting

Offences as coded above, but with 0 changed to 6 (e.g. DD40 becomes DD46)

This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

Hybrid traffic offences

10. Offences of this type will be treated as major traffic offences if the court awarded four or more penalty points or as minor traffic offences if the court awarded three or less penalty points and will then be dealt with in accordance with minor or major traffic offences as necessary.

These offences are;

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Breach of requirements as to control of the vehicle, mobile telephones etc.

- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway
- SP60 Undefined speed limit offence

Aiding, abetting, counselling or procuring
Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting
Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting
Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

Use of handheld mobile telephones whilst driving

11. Isolated convictions for use of a handheld mobile telephone or device should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence. However, the number, type and frequency of such offences will be taken into account and if there are more than two offences of this nature the applicant will normally be expected to show a period free of conviction of at least six months. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DVSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

Offences under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976

12. One of the main purposes of the licensing regime is to ensure the protection of the public. For this reason a serious view is taken of all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) when deciding whether an applicant or an existing licence holder is to be treated as a 'fit and proper person' to hold or continue to hold a licence.
13. An applicant may be refused a licence where he or she has been convicted of an offence under the Acts at any time during the six months preceding the application, or has more than one conviction within the two years preceding the date of the application. If an existing proprietor, operator or driver is convicted of an offence under the legislation it could lead to all relevant licences being revoked for a minimum of five years; those who committed two or more offences would not normally be considered for a minimum of ten years but in most cases would be refused a licence for life. For new applicants who have submitted applications but are suspected of breaching the above named Acts, their application will be kept on hold pending a full investigation by the licensing officer. Those drivers who have had a licence revoked by any other local authority will not normally be considered for a minimum of five years after that revocation.
14. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Driving under the influence of alcohol offences

15. Convictions of driving or being in charge of a vehicle while under the influence of drink will be viewed seriously. An isolated spent conviction under the guidelines of The Rehabilitation of Offenders Act 1974 may not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence, but a warning will be given as to future behaviour. If an applicant has been convicted of drink driving whilst in charge of a vehicle, the applicant may be refused a licence until five years after restoration of the DVLA driving licence. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DVSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.
16. An unspent conviction for this type of offence will result in the refusal of the application or the revocation of an existing licence. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Public disorder offences involving alcohol

17. An isolated conviction for an alcohol related offence need not prevent an applicant from gaining a licence or an existing licence holder keeping their licence. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately

suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Drugs

18. An applicant with a conviction for a drug related offence will be required to show a period of a least five years free of convictions before an application is granted. An existing licence holder who is convicted of a drug related offence will be referred to the licensing sub-committee who could order that all relevant licences are revoked. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Indecency offences

19. Applicants with convictions for soliciting will be refused a licence until five years free of such offences. An existing licence holder who is convicted of soliciting will be referred to the licensing sub-committee who could order that all relevant licences are revoked. Applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, will be refused until a minimum of ten years free of such offences has passed. An existing licence holder who is convicted of any of these offences will be referred to the licensing sub-committee who could order that all relevant licences are revoked. More than one conviction for this kind of offence will mean that no licence will be granted. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Violence

20. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for any of the offences set out below will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences below:

- a) murder
- b) manslaughter
- c) manslaughter or culpable homicide while driving
- d) arson
- e) malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
- f) actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- g) grievous bodily harm with intent (s.18 Offences Against the Person Act)
- h) grievous bodily harm (s.20 Offences Against the Person Act)
- i) robbery
- j) racially aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- k) racially aggravated s.4 Public Order Act 1986 offence (fear or provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- l) racially aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress) (s.31 (1)(b) Crime and Disorder Act 1998)

- m) racially aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- n) racially aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32 (1) (b) Crime and Disorder Act 1998).

21. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

22. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for any of the offences set out below will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences below:

- a) common assault
- b) common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
- c) assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- d) assaulting a police officer
- e) affray
- f) racially aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
- g) riot
- h) obstruction
- i) possession of an offensive weapon
- j) possession of a firearm
- k) criminal damage
- l) violent disorder
- m) resisting arrest.

23. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Theft and fraud

24. Drivers of hackney carriage and private hire vehicles are expected to be honest.

25. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for an offence of theft or fraud will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences listed below:

- a) theft
- b) burglary
- c) fraud
- d) perjury
- e) benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- f) handling or receiving stolen goods
- g) forgery

- h) conspiracy to defraud
- i) obtaining money or property by deception
- j) other deception
- k) any other similar offence of dishonesty

26. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Driver's behaviour

27. Any hackney carriage/private hire driver acting in a disorderly, abusive or violent manner towards any member of the public, other driver, police officer or any council official (including officials from other councils) will be deemed not to be a 'fit and proper person' to hold a licence and will be referred for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Information

28. The date of the court conviction is to be taken as the start date of the rehabilitation period, unless a sentence of imprisonment or corrective training exceeding 48 months was imposed, in which case the offence is never rehabilitated.

29. A decision to refuse, revoke or suspend the licence can be appealed under the Public Health Act 1936 to the local Magistrates' Court within 21 days of the date on which the council's decision was served.

Summary of rehabilitation periods applicable to certain sentences

(Rehabilitation of Offenders Act 1974 as amended by the Legal Aid, Sentencing and Punishment Act 2012)

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 5 years) and up to and including 48 months (4 years)	7 Years	3.5 years
Custodial sentence of over 6 months and up to and including 30 months (2 5 years)	4 Years	2 years
Custodial sentence of 6 months or less	2 Years	18 months
Community order or youth rehabilitation order**	1 Year	6 months

- a) Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.
- b) In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.
- c) Those given a jail sentence of more than 30 months for sexual offending are placed on the sex offenders register indefinitely. Those imprisoned for between six and 30 months remain on the register for 10 years, or five years if they are under 18. Those sentenced to six months or less are placed on the register for seven years, or three-and-a-half years if under 18. Those cautioned for a sexual offence are put on the register for two years, or one year if under 18.

The following table sets out the rehabilitation period for sentences which do not have “buffer periods” and for which the rehabilitation period runs from the date of conviction.

Sentence/disposal	Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).
Fine	1 Year	6 months
Conditional discharge,	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

Appendix B

Consultation Responses

1.

With regard to the policy, I would like to comment as follows.

Language Test: I consider that this is vital for H/C Drivers as they usually work alone and locally from ranks etc, and I would have thought that this could be incorporated in a spoken/written/reading knowledge test.

Language Test: I consider that this may be helpful to P/H Drivers but, as they are under the control of their operator and usually work out of town, and often to and from remote areas and are all equipped with communication and guidance systems, or radio control, it would not be necessary for the language test to be part of a local knowledge test.

Instead they would need a straight forward Language test After they have been vetted by the operator who has signed to employ them, and should there be any failure in their suitability a penalty be imposed on the operator either financial or points.

With regard to vehicles over five years old: I consider that the Ministry test valid for one year should be sufficient, but with a six monthly visual only and no charge, and with brand new vehicles there should be no test required for the first year, the only test in this first year should be visual and at a reduced fee, (after all, this is the law of the land and should cover all).

I consider there should be more leniency with people who have been prosecuted for drink drive offences, by taking into consideration the margin over the limit and if they have taken a 'drink awareness course' thus reducing their ban, **(did they deliberately commit the offence, or did they take steps to re-educate themselves for the future).**

I consider drug use at the moment is easier to conceal and there is more likelihood that this may be passed on to passengers, so stiffer penalties are needed.

These comments are posted with the best intention and in the general interest of all involved in the trade and the travelling public.

2.

Dear Sirs,

I refer to your recent letter re new licensing policy.. There are just a few comments I would like to make.

Firstly in section 2.8 it states that security & cctv signs allowed but in section 16 it states the council has to be notified when such equipment is installed, a fact not included in the first statement.

Secondly in the section for insurance, particularly in the private hire section it makes it clear that the vehicle can only be used for work whilst being driven by a licenced driver. In the past I believe it also stated that the vehicle could any be driven at anytime by a licenced driver. .i.e. even when in social use as the public would not be aware of the difference. Is this still the case and if so I could not find it clearly stated.

Finally it differentiates between private hire and hackney and a need to have the relevent licence. I have both licences. Would it not be possible to introduce a dual licence. I cannot be driving more than one vehicle at a time so now with the introduction of the cost of a three year licence my renewal this year will be well in excess of £400. The cost to the council for both licences's surely is not twice that of a single issue.

As a footnote to the whole thing and not directly under the term of this review I would like to complain about the taxi ranks provided within Tewkesbury town. The concern of these licences is the safety of the public yet particularly in the evenings hackney plated cars can not even get on the rank due to public parking. In the daytime people seem to be getting the message that it might cost them to park there illegal but no such monitoring takes place in the evening. By pestering the parking body on one occasion traffic wardens did patrol the town for one evening. This is not good enough. After an evening of enjoyment the public are not that aware of what vehicle they would be getting into that is parked in a designated hackney licenced pick up spot making them vulnerable to all sorts of risks

Thanks

3.

I have speed read through the new proposed policy and all seems reasonably clear. There are others far more qualified than me to find any issues for debate and discussion.

I have been a registered taxi driver until January of this year. I renewed my license every year for a 12 month period as this arrangement suited my circumstances. Changes this year to require me and any other driver to sign up for a minimum of 3 years is a little short sighted. On top of the extra expense incurred it ignores the fact that many drivers take up the position whilst 'between jobs', and thus want to provide for themselves rather than depend on handouts from the state. To have to invest over £300 before you start earning will act as a disincentive to take up taxi driving as a temporary form of employment. In my case, I was hoping to carry on the work until this summer, ie for a period of 6 months. I still had 12 months to run on my CRB, medical etc, but the new requirements meant I had to renew these and consequently I concluded the extra expenditure was not financially worth it thus causing me to 'hang up my keys' at short notice, thus depriving the town of one more driver willing to meet the needs of its populous.

Talking to others I know I am not alone in these thoughts, and so I suggest you review this aspect of your policy.

I hope you find my views constructive and useful.

4.

Hi

Having read your proposed document I think it is fine. I do not agree with Gloucester City Council for making drivers take re-tests as I think you can over compensate on safety.

What I would say as a driver who attends Alderman Knight School is there need's to be safety issues approached regarding space and parking at this school. I would also say I was of the understanding that all taxi/private hire drivers were meant to stay with the children until the gates opened in the morning and mini buses with children in there would be a PA assisting the driver. This isn't always the case with some taxis dropping children and leaving. Also a driver should know not to cross children from their parked vehicle when another vehicle is reversing as the driver of that vehicle can only look in one mirror at a time.

'Normal' taxis seem to be a law to themselves, some don't wear badges or jackets unless the Council people are there doing checks.

Also on a completely different note getting out of the school is horrendous especially when the lights heading out to the ring road for the motorway sometimes only last for a couple of seconds.

Thanks

5.

Dear Sir/Madam,

I am replying to your recent letters regarding the consultation document for Hackney carriage and Private hire policy that Tewkesbury BC is looking at introducing.

I would like to make certain points about the draft document.

With regard to point 3.6, I have recently had to have a medical examination, and my GP was very unhappy about having to sign one document giving her opinion that I, as the applicant, meets or does not meet the criteria for a Group 2 drivers licence. Her view was that it is not her role to give opinions or judgements about my ability to drive. It is her role to give you, the licensing authority, the information you need to make that decision. I cannot find anywhere that that certificate is required under the rules of the Department for Transport or under the rules/guidelines from the DVLA for Group 2 licences. I believe this should be looked at closely with regard to legal standing of such a certificate. If a medical practitioner will not sign it then surely there is a strong possibility that applicants will be appealing any decisions not to grant a licence.

With regard to point 3.7, I cannot understand why a DRB check is required every time for a renewal of the licence. I appreciate that a check needs to be carried out, as for any jobs or careers where vulnerable people may be involved. However, it seems that taxi and private hire drivers are looked at far more closely than other professionals. Am I not correct in thinking that people such as teachers only have a DRB check when they start a new job at a new local authority? My understanding is that DRB checks do not have a time limit on them.

It appears very unfair to me that drivers have to pay for something such as this on such a regular basis.

With regard to point 3.12, why can't driver and operator licences be issued for the same length of time, particularly in cases of owner/operators. It must make your life and the operators life easier.

TEWKESBURY BOROUGH COUNCIL

Report to:	Standards Committee (Special)
Date of Meeting:	22 November 2016
Subject:	Review of Protocol for Councillors and Officers Involved in the Planning Process
Report of:	Sara Freckleton, Monitoring Officer
Number of Appendices:	2

<p>Executive Summary:</p> <p>At its meeting on 14 April 2015, the Council considered a revised Protocol for Councillors and Officers Involved in the Planning Process and resolved that the Protocol be adopted with a review after 12 months. A Standards/Planning Working Group met in September 2016 to conduct the review and proposed two main changes to Section 6 – Planning Committee Site Visits, together with minor typographical and formatting amendments. The Planning Committee is being asked for its comments on the proposed amendments at its meeting on the morning of 22 November 2016 and a verbal update will be provided at the Standards Committee meeting. The Standards Committee is asked to consider the proposed amendments, and any comments made by the Planning Committee, and to recommend to Council at its meeting on 6 December 2016 that the revised Protocol be adopted.</p>
<p>Recommendation:</p> <p>To CONSIDER the proposed amendments to the Protocol for Councillors and Officers Involved in the Planning Process, and any comments made by the Planning Committee, and to RECOMMEND TO COUNCIL that the revised Protocol be ADOPTED as set out at Appendix 1.</p>
<p>Reasons for Recommendation:</p> <p>In accordance with the Council decision to review the Protocol for Councillors and Officers Involved in the Planning Process.</p>

<p>Resource Implications:</p> <p>None arising directly from this report.</p>
<p>Legal Implications:</p> <p>None other than those referred to in the report.</p>
<p>Risk Management Implications:</p> <p>None.</p>

Performance Management Follow-up:

None.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 At its meeting on 14 April 2015, the Council considered a revised Protocol for Councillors and Officers Involved in the Planning Process and resolved that the Protocol be adopted with a review after 12 months.

1.2 The initial review was undertaken by a joint Working Group made up of four Members of the Planning Committee and four Members of the Standards Committee and it was suggested that a similar arrangement be put in place to examine how the new Protocol had worked after being operational for 12 months, and whether any further amendments were required. The Standards and Planning Committees re-established a Working Group comprising Members of both Committees at their meetings in March and April 2016 respectively.

2.0 REVIEW OF PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

2.1 The Standards/Planning Working Group met in September 2016 to conduct the review and agreed that two main changes were necessary in respect of Section 6 – Planning Committee Site Visits.

2.2 Section 6 had been amended considerably during the last review with the whole Committee now attending the Committee Site Visits which took place in advance of the meeting. One of the issues which had been discussed at length previously was whether Parish Councils should continue to be invited to Committee Site Visits. At that time it had been agreed that they should be allowed to attend on the basis of their local knowledge in order to highlight any factual information relevant to the site visit. Unfortunately, this had often continued to be misconstrued as an opportunity to express a view and resulted in a perception that the process was not open or transparent given that no other representatives were permitted to attend Committee Site Visits. Parish Councils now had an opportunity to express their views through the Scheme for Public Participation at Planning Committee, which had been established as a permanent arrangement at the Council meeting in May 2016 following a 12 month trial period, and the Working Group had agreed that this was the most appropriate way for them to engage transparently with the process.

2.3 Currently, those applications where it had been determined that an advance site visit would be appropriate were required to be set out within an ‘Advance Site Visits Briefing’ item on the Planning Committee Agenda each month. This was not something which had worked particularly well in practice and the Working Group had considered it to be an unnecessary administrative burden which was no longer required now that Members were comfortable with the arrangements for Committee Site Visits.

2.4 In addition to these two main changes, minor amendments were also proposed in order to address typographical errors and formatting throughout the Protocol. A final version of the proposed revised Protocol is attached at **Appendix 1**, with a version showing the track changes set out at **Appendix 2**.

2.5 The Planning Committee is being asked for its comments on the proposed revisions at its meeting on the morning of 22 November 2016 and a verbal update will be provided at the Standards Committee meeting. The Standards Committee is asked to consider the proposed amendments, and any comments made by the Planning Committee, and recommend to the Council at its meeting on 6 December 2016 that the revised Protocol be adopted as set out at Appendix 1.

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 All Members were sent an email inviting their comments on the Protocol prior to the Working Group meeting but no responses were received.

4.2 The Planning Committee will consider the proposed revisions recommended by the Working Group at a meeting on the morning of 22 November 2016.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Tewkesbury Borough Council Code of Members' Conduct (adopted 26 June 2012 taking effect 1 July 2012).

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None directly relevant to this report.

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None directly relevant to this report.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 Council - 14 April 2015.

Standards Committee - 21 March 2016.

Planning Committee - 12 April 2016.

Background Papers: Council Report and Minutes – 14 April 2015.

Contact Officer: Sara Freckleton, Borough Solicitor
01684 272011 Sara.Freckleton@teWKesbury.gov.uk

Appendices: Appendix 1 – Protocol for Councillors and Officers Involved in the Planning Process – Final Version.

Appendix 2 – Protocol for Councillors and Officers Involved in the Planning Process – Version Showing Changes.

TEWKESBURY BOROUGH COUNCIL

PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

2016

(Approved and adopted by Council on ~~14 April 2015~~)

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1. PURPOSE AND STATUS

- 1.1 This Protocol has been prepared as a public guide to the conduct of **all** Councillors and staff who come into contact with the planning process. It does not just apply to Members of the Planning Committee and professional Planning Officers. Its aim is to ensure and to demonstrate that the Council takes its planning decisions openly, impartially and for sound, justifiable planning reasons. The Protocol, which was first adopted by the Council as a Guide to Good Practice in 2002 has been reviewed and updated. The Human Rights Act 1998 has implications for the planning system and has created enhanced requirements for procedural fairness, transparency and accountability in determining planning applications.
- 1.2 Councillors must observe the Members' Code of Conduct adopted by the Council on 26 June 2012 and Officers are subject to an Officer Code of Conduct. In addition professional Planning Officers are bound by their Institute's own Code of Conduct.
- 1.3 This Protocol provides supplementary and localised guidance on how the planning system in Tewkesbury Borough will be operated. It provides a measure against which the Council's operation of the planning system can be judged. Adherence to the Protocol should reduce cause for complaint by the public. The Planning Protocol is intended to minimise the prospect of legal or other challenge to planning decisions. However, non-compliance with the Protocol could be taken into account in any legal challenge, investigations into any complaints, allegations of maladministration or allegations of breach of the relevant Code of Conduct (Councillor or Officer).
- 1.4 The purpose of the Protocol is to set out in detail how Councillors and Officers should act and the procedures which should be followed to ensure that they not only act in a fair and proper manner but are also seen to do so.

2. INTRODUCTION

General Principles

- 2.1 The planning system is a complex one which regulates and controls development in the public interest. Planning affects land and property interests including the value of land and the quality of the environment. Decisions affect people's daily lives and the private interests of individuals, landowners and developers. The role of the planning system is to regulate the use and development of land in the public interest. Accordingly planning decisions must be seen to be impartial and properly justified. The planning system can only operate effectively if there is trust among the various stakeholders, the public, applicants, developers, Councillors and Officers.
- 2.2 The planning system is based on the legal framework provided by planning legislation (including the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004) and Government Policy and Guidance contained in the National Planning Policy Framework, Planning Practice Guidance, Government Circulars, Good Practice Guides, Ministerial Statements and Case Law. Importantly the planning system (and the Borough Council) encourages the involvement of third parties in the process. Parish Councils, local residents, interest groups and local communities are consulted on planning proposals and are invited to comment. The Development Plan is subject to consultation through the Local Development Framework which provides for objections to be considered by Examination by an Inspector.
- 2.3 Planning decision-making is not an exact science but it relies on informed judgement within a firm policy context. It is also highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actually invites public opinion before taking decisions) and the legal nature of Development Plans and decision notices. It is important, therefore, that the

process is characterised by open and transparent decision-making.

- 2.4 The Council recognises that planning decisions are made in a plan-led system and that in dealing with applications it must have regard to, so far as they are material to the application, the provisions of the Development Plan (which includes Neighbourhood Development Plans which have been made), any local finance considerations (see Paragraph 2.7 below) and any other material considerations; with it being that, where regard is to be had to the Development Plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.5 Further, that planning legislation requires that, where planning permission is granted subject to conditions, or refused, the decision notice shall include a statement explaining how, in dealing with the application, the Council has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application.
- 2.6 Councillors and Officers aim to ensure that the decision making processes are open and fair, so that all the relevant issues are weighed in the balance and applications are dealt with in a consistent manner, through an appraisal of Development Plan policies and analysis of relevant material considerations. Officers prepare reports for Councillors which cover Development Plan Policy and other material considerations, including the implications of the Human Rights Act 1998, public representations and responses from statutory consultees concluding with a recommendation. Councillors should weigh all the issues in the balance during their considerations at Committee and vote on the planning merits of the case.
- 2.7 Planning legislation provides that regard is to be had to material local finance considerations and defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided, to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received,

or will, or could, receive, in payment of the Community Infrastructure Levy.

Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority or other Government body.

2.8 Planning decisions are based on interpretation of policies and guidance and it is essential that decisions are made impartially, having regard only to proper planning considerations, and in a way that does not give rise to public suspicion or mistrust.

2.9 This Protocol provides for periodic monitoring of planning decisions taken. Quality of outcomes and consistency of decision-making should be regularly reviewed by the Planning Committee.

The General Role and Conduct of Councillors and Officers

2.10 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are accountable to the electorate and Officers are accountable to the Council as a whole. It is the duty of Councillors to represent their constituents as a whole, including those who did not vote for them. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to Officers through a decision of the Council or its Committees. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust and understanding of each others positions. This relationship, and the trust which underpins it, must never be abused or compromised. The Council has within its Constitution adopted a Member/Officer Protocol. In the event that Members wish to discuss a particular planning matter (application, potential application or planning policy) with an Officer an appointment should, whenever practicable, be made in advance.

- 2.11 The Council's Code of Conduct sets out the requirements for Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests (see next section), but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the planning process. Of particular relevance to Councillors serving on Planning Committees, or who become involved in making a planning decision, is the requirement that a Member must:-
- “not use your position improperly to confer on or secure for yourself or any other person, an advantage or disadvantage or seek to improperly influence a decision about a matter from which you are excluded from participating or voting” (Paragraph 7(4) of the Council's Code of Conduct).
- 2.12 Although Councillors may take into account views of others they should not discriminate in favour of any particular group or individual, or put themselves in a position where they appear to do so should they wish to participate in respect of the determination of a proposal (see further at Paragraph 3.3 below on Voting and Impartiality).
- 2.13 All Officers must follow the Council's Code of Conduct for Employees or any statutory code which may come into force or be adopted by the Council. Officers who are chartered town planners must act in accordance with the Royal Town Planning Institute's (RTPI) Guidance of Professional Conduct and breaches of that guidance may be subject of separate disciplinary action by the Institute.
- 2.14 Professional Officers may have a change of opinion on receipt of further information or a change of circumstances but this must be on the basis of professional judgment; they must not be allowed to be influenced by Councillors or other Officers to change an opinion where this does not genuinely represent their professional view. The Council endorses the RTPI's statement that its members “shall not make or subscribe to any statements or reports which are contrary to their

own professional opinions”.

2.15 Employees must always act impartially. In order to ensure that senior Officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as Membership of political parties and serving on another Council. Such impartiality (particularly crucial in highly contentious matters) is reinforced by requirements on Members in the Council’s Code of Conduct. Members are placed under a requirement by Paragraphs 7(1) and 7(5) of the Council’s Code of Conduct to:

- treat others with respect; and
- not to do anything which compromises, or is likely to compromise the impartiality of those who work for, or on behalf of, your authority

2.16 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour or show bias toward any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a Planning Committee. Councillors should also be very cautious about accepting gifts and hospitality. The Gifts and Hospitality Protocol for Councillors must be observed by all Councillors including those involved in the planning process. Similarly, during the course of carrying out their duties, Officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, Officers should ensure that it is of the minimal level and declare its receipt to the Council’s Monitoring Officer as soon as possible.

2.17 The Council’s Code of Conduct provides that Members must notify the Monitoring Officer of the name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an

estimated value of £50 or more. Such an interest would automatically be one that would need to be disclosed at a meeting (as an “Other Interest”) where a matter in which a Member has such an interest arises and one where consideration would need to be given as to whether the Member should not participate (see Paragraphs 3.1.5, 3.1.6(iv) and 3.1.9 below).

- 2.18 A summary guide of “Do’s” and “Don’ts” is attached at Appendix B of this Protocol, but must be read in conjunction with, and in the context of, the Council’s Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process.

3. THE DECISION MAKING FRAMEWORK

3.1 Registration and Declarations of Interest

- 3.1.1 The Localism Act 2011 and the Council's Code of Conduct place requirements on Members on the registration and declaration of their interests and the consequences for the Member's participation in consideration of a matter, in the light of those interests. Guidance on the registration and declaration of interests may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.
- 3.1.2 A Register of Members' Interests is maintained by the Council's Monitoring Officer, which is available for public inspection. A Member must provide the Monitoring Officer with written details of relevant interests (disclosable pecuniary interests and other interests falling within Appendix B of the Council's Code of Conduct – see Paragraphs 3.1.3- and 3.1.6 below) within 28 days of his/her election, or appointment to Office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.
- 3.1.3 The Council's Code of Conduct uses the terms "Disclosable Pecuniary Interests" and "Other Interests".
- 3.1.4 The Council's Code of Conduct defines "Disclosable Pecuniary Interests" as an interest set out in Appendix A of the Code of Conduct. These cover interests of the Member or the Member's spouse or civil partner, or a person with whom the Member is living as if they were civil partners or or living as husband and wife, in respect of criteria set out in that Appendix relating to: employment, office, trade, profession or vocation; sponsorship; contracts; land; licences; tenancies and securities.

- 3.1.5 The Code of Conduct defines an “Other Interest” in any matter as an interest as specified in Appendix B of the Code of Conduct (see Paragraph 3.1.6 below) or where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of the 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.
- 3.1.6 The interests set out in Appendix B of the Code of Conduct cover interests held by the Member in the following categories:
- (i) any body of which the Member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
 - (ii) any body –
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
of which the Member of the Council is a member or in a position of general control or management;
 - (iii) any person or body who employs or has appointed the Member;
 - (iv) The name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more
- 3.1.7 Where a Councillor considers he/she has an “Other Interest” or a Disclosable Pecuniary Interest” in any matter, he/she must declare it at the beginning of the meeting or when the interest becomes apparent. Councillors should be clear and specific in identifying the item on the

Agenda in which they have an interest and (unless the Monitoring Officer considers that it is a sensitive interest because its disclosure could lead to you, or the person connected with you, being subject to violence or intimidation) the nature of the interest. This declaration must be made at meetings of the Council, Planning Committee, Committee Site Visits, Working Groups or any outside body to which they are appointed or that they attend for Council, during informal meetings and in all circumstances where attending as a Councillor. Previous declarations or those made at Working Groups or Committee Site Visits must be repeated at Committee/Council meetings

3.1.8 Where the interest is a “Disclosable Pecuniary Interest” the Member must leave the meeting and not vote (unless a dispensation has been granted). It is a criminal offence to fail to comply with the requirements that relate to Disclosable Pecuniary Interests.

3.1.9 Where the interest is an “Other Interest”, whether one subject to registration or otherwise, the Member then needs to consider whether the “Other Interest” is one whereby the Member is excluded from participating or voting. The Council’s Code of Conduct provides that an “Other Interest” becomes such an interest if the matter being considered either:

- (a) affects your financial position or the financial position of the member of your family or person with whom you have a close association; or
- (b) relates to the determination of any approval, consent, licence, permission or registration in relation to you or any such person or body;

and the interest is one which a reasonable member of the public knowing facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest. If this is the case, unless a dispensation has been granted or the function to be exercised is an excepted function (see Paragraph 3.1.10 below), the Member should not participate in a discussion on the matter, must withdraw from the room and must not seek improperly to influence a decision in the matter.

3.1.10 The Council’s Code of Conduct includes some exceptions in respect of “Other Interests” and the restriction upon a Member participating or voting as set out in Paragraph 10(2) and the “excepted function” definition within Part IX of the Code of Conduct. These relate to decisions in respect of housing functions and functions in respect of

allowances, ceremonial honours and Council Tax or precept setting.

- 3.1.11 In addition to the provisions on interests in the Code of Conduct, if a Councillor, in advance of the decision-making meeting, has taken a firm view on the decision to be made, either in meetings of another body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account. Were they to participate in a decision in those circumstances, they might place their authority in danger of judicial review. The exemptions in the Council's Code of Conduct and any dispensations would only operate in the planning context if the Councillor had also scrupulously avoided forming a fixed view on the issue in advance. This is the general approach taken by this guidance and appropriate conduct in relation to Membership of other bodies and the effects of such Membership on participation in the planning decision-making process. It is expanded in Paragraph 4.1 on lobbying.

3.2 Development Proposals submitted by Councillors and Officers; and Council Development

- 3.2.1 Proposals to their own authority by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. So indeed can proposals for a Council's own development. Proposals can take the form of either planning applications or Development Plan proposals.
- 3.2.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 3.2.3 Councillors (whether on the Planning Committee or not) should not act as agents, or submit planning applications for other parties or voluntary bodies in respect of applications that will be determined by the Council.

To do so would give rise to suspicion that the Member was not impartial or may influence other Councillors in the decision making process.

- 3.2.4 Where Councillors need to submit planning applications on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers.–The Councillor must declare an interest and take no part in the decision-making process and must not use their position to improperly influence the decision.
- 3.2.5 Similarly, where an Officer or an agent submits a planning application on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers. They must take no part in as an Officer of the Council in the processing of the application or in the decision-making process.
- 3.2.6 A Councillor or Officer who either submits a planning application or Development Plan proposal on their own behalf, or on behalf of their employer as part of their job, must, whether that Councillor or Officer's involvement is apparent from the application documentation or not, notify the Development Manager and the Council's Monitoring Officer of the submission of the application or proposal. That notification must be in writing and must be sent at the same time as the submission of the application or proposal.
- 3.2.7 The Council's own proposals for development must be dealt with on exactly the same basis as applications submitted by members of the public or developers and Officers must make recommendations having regard only to proper planning matters and must not have regard to any other benefit financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal save for any

material local financial consideration.

3.2.8 Where a Council development is being considered, Councillors who have been involved in the decision to seek planning permission (e.g. Members of the Executive Committee) and who are also Members of the Planning Committee should declare this at the Planning Committee when the planning application comes up for determination. In such cases, Councillors are usually still entitled to take part in the debate and vote. The exception to this could be in the case of a Councillor that has been closely involved in negotiations with developers in working up a proposal that needs planning permission. Similarly, where an application is submitted by a Parish Council and the Councillor is also a Member of the Parish Council consideration will need to be given to the role the Member has played in respect of the application at the Parish Council level above the general considerations as to any declarations that may need to be made by way of an "Other Interest" in respect of the application due to Membership of the Parish Council.

3.2.9 The consideration of a proposal from a Councillor (or a member of his/her family) would result in the need for that particular Councillor to declare an interest under the Council's Code of Conduct and the Councillor would be required to withdraw from any consideration of the matter. The Code also provides that the Councillor should 'not seek improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a Councillor should have any less rights than a member of public in seeking to explain and justify their proposal to an Officer in advance of consideration by a Committee.

3.3 Voting and Impartiality

3.3.1 Councillors must vote in the interests of the whole Borough. Their duty is to the whole community, rather than just the people living in their Ward.

- 3.3.2 Members of the Planning Committee must not declare which way they intend to vote in advance of the consideration of an application by the Planning Committee. To do so would, in effect, be pre-judging the application and expose the Council to the possibility of legal challenge or allegation of maladministration. Members must not make their minds up until they have read the relevant Committee reports and heard the evidence and arguments on both sides at the Committee meeting.
- 3.3.3 If a Member of the Planning Committee does declare his or her support or opposition for a proposal before the matter has been put before the Planning Committee, where that Member would be entitled to vote, he/she must make declaration of their view to the Planning Committee, and should withdraw from the Committee whilst that proposal is discussed so that the Member takes no part in the debate or voting on that particular item. This does not mean that the Members of the Planning Committee cannot make a comment or reflect local concerns about a proposal before it is considered by the Planning Committee, but the view or comment must not pre-determine or be seen to pre-determine the way that Member will consider and weigh in the balance all the issues or their vote.
- 3.3.4 Some Councillors will be Members of Parish/Town Councils as well as Borough Councillors. This situation can present problems where a Parish Council is to express a view as to whether it wishes to support, object or comment on a proposal, for example where the Parish/Town Council are consulted on planning applications. Whilst the comments of Parish Councils should concentrate on local issues this is often the stage when Borough Councillors can come under pressure to indicate their support or objection to a particular proposal. Of particular concern is the potential for a conflict of interest arising when a Member of both Councils

votes on an application at a Parish/Town meeting prior to the Borough Council's Planning Committee meeting. It is quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information is made available in the Officer's report to the Borough Council. In order to avoid this potential conflict, and creating the impression that they have already made up their minds prior to the Borough Council's Planning Committee meeting, it would be preferable for Borough Councillors not to take part in the consideration of proposals at the Parish Council level (other than to listen to any debate) and not serve on Parish/Town Council Planning Committees/Sub-Committees. If a Planning Committee Member is also a Parish/Town Council Member and does decide to declare support or opposition or make comments at the Parish/Town Council then Paragraph 3.3.3 above shall apply.

3.3.5 The provisions of Paragraphs 3.3.4 above apply similarly in relation to Membership of another Local Authority. For example, if a planning application to be determined by the County Council comes before the Borough Council's Planning Committee for a consultation response, it may be preferable for any Borough Councillor who is also a Member of the County Council not to take part in the considerations of the application at the Borough Council level should they wish to take part in the determination of the application at the County Council level.

3.3.6 Where a Borough Council Member is also a Member of a Parish/Town Council or County Council and a proposal in respect of land within the Parish or the area for which the Borough Councillor is also a County Councillor is to be considered at Planning Committee or Council, the Borough Councillor should declare this at the meeting with reference to the relevant Agenda item(s) and also their position as to whether or not they have been, or will be, involved in any previous or subsequent

consideration of the proposal at the Parish/Town or County Council level.

- 3.3.7 Councillors should not organise support for or against a planning proposal should they wish to take part in the debate or voting on the proposal since this would also signal that they had made up their mind before hearing the evidence. Nor should they lobby other Councillors (see Paragraph 4.1 below). Each Councillor should make up his or her own mind on the evidence and facts presented to the relevant Committee or to the Council.
- 3.3.8 Councillors must not favour or show bias for or against any particular person, company or group, or any particular site or locality. They should not put themselves in a position where they may appear to do so.
- 3.3.9 Given that the point at which a decision is made cannot occur before the Committee meeting, when all information is to hand and has been duly considered, it is inappropriate for any pre-Planning Committee political group meeting to be held. The use of the party whip is incompatible with the role of the Planning Committee. Less formal arrangements or understandings could also amount to maladministration. Group meetings which involve discussion of planning applications or Development Plan proposals should always commence by reference to the non-political nature of planning decision-making and with a reminder of the need for Councillors to make their decision at the Committee meeting and not previously.

3.4 Pre-Application Discussions/Informal Site Meetings

- 3.4.1 Most pre-application discussions take place between Officers and potential applicants. Officers of the Council will make it clear at the outset and at the end of such discussions that the advice given is personal and provisional and will not bind the Council to making a particular decision.

- 3.4.2 The advice offered should be consistent and based upon the Development Plan and other material considerations. Senior Officers will ensure that there is no significant difference of interpretation of planning policies between Planning Officers. Officers taking part in such discussions will make it clear whether or not they are the decision maker. A written record will be made of all meetings.
- 3.4.3 Councillors should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should ask prospective applicants to contact the appropriate Officer to advise on both merits and procedures. If Councillors do give an indication of their initial reaction to a proposal (e.g. this appears to accord with planning policy) they should make it clear that they will only be in a position to take a final view after considering the Officer's reports and representations and hearing any debate at the Committee meeting.
- 3.4.4 Formal meetings (i.e. those meetings which are more than merely the receiving and absorbing of information) of Councillors with applicants, developers and their agents should be undertaken in the presence of at least one Officer and a written record should be made of that meeting.
- 3.4.5 Informal site meetings with applicants/agents may be misinterpreted by the public, an applicant, or agent and a Councillor discussing issues on site and perceived to be more than merely the receiving and absorbing of information. Clearly, Councillors need to be able to respond to their constituents and on occasion a visit to a site for a proposed extension (for example) to hear concerns from constituents may be justified. A note should be taken and care exercised to ensure the applicant, objector and supporters are treated equally.
- 3.4.6 The fact that Councillors have discussed any such proposal with the applicant or supporters/objectors must be made clear when the

application is before the Committee for determination. Copies of notes (or e-mails) should be forwarded to the Case Officer to be placed on file.

3.5 Chair and Vice-Chair's Management Briefing

The Chair and Vice-Chair of the Planning Committee will, once the Agenda for the meeting has been produced, receive a pre-Committee briefing on matters pertaining to the management of the business of the Committee. The sole purpose for the Chair and Vice-Chair's Briefing is to enable the efficient management of the business of the Committee.

3.6 The Committee's Decisions

3.6.1 In accordance with the law, where the Development Plan is relevant, decisions must be taken in accordance with it unless material considerations indicate otherwise.

3.6.2 It is inevitable, from time to time, that decisions will be made which are contrary to the Officer recommendation. However, it is important that on these occasions the Planning Committee makes clear the reasons for making such a decision at the time. Where a Member is minded to move a resolution which is contrary to Officer recommendation (whether for approval or refusal) clear and convincing reasons based on land use grounds should be given, and in the case of an approval, an indication of the acceptable conditions. The personal circumstances of an applicant will rarely provide convincing grounds to justify development which is contrary to the Development Plan. Officers should be given the opportunity to explain the implications of any proposed resolution that is contrary to Officer recommendation.

3.6.3 If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal) the Minutes of the meeting shall contain details of the Planning Committee's reasons and any Officer explanation of the implications.

3.7 Regular Review of Decisions

A review of decision-making will take place each year through consideration of an annual report to the Planning Committee. This report will include a statistical analysis of all decisions taken (specifying the Officer recommendation) during the previous year and will report the outcome of any related appeal decisions. The analysis will also identify the number of cases where Officer's recommendations were not accepted. The annual report will be considered by the Planning Committee along with any recommendations to improve quality, consistency or performance.

3.8 Access to Information

3.8.1 Section 2 of Part 4 (RULES OF PROCEDURE) of the Council's Constitution sets out the Rules for Access to Information considered by the Council or by any of its Committees. The Freedom of Information Act 2000 entitles any person to request in writing information held by the Council although there are some exemptions which mean that the information will not be disclosed. The Council has a procedure for dealing with requests under the Freedom of Information Act.

3.8.2 Section 3 of Part 5 (CODES AND PROTOCOLS) of the Council's Constitution is a Protocol for Member/Officer Relations which makes clear the restrictions which apply to the supply of information to Members of the Council. Councillors do not have a "roving commission" to access all information held by the Council and would not be permitted to inspect information which is not available to members of the public unless there is a genuine need for that Member to have that particular information, for example, if it is a matter being considered by a Committee on which that Member serves.

3.8.3 Confidential/exempt information held on the files relating to complaints of, or investigations into, breaches of planning control (enforcement) would

only be disclosed to a Member in the event that the Member has a need to know that confidential information. Similarly, it would only be disclosed to a member of the public if it did not qualify as an exemption under the Freedom of Information Act 2000.

3.9 Decision-Making

Part 3 of the Council's Constitution sets out the responsibility for functions. The Council has delegated a substantial amount of its decision-making to Committees. The Council and/or its Committees have also delegated responsibility for certain decisions and functions to Officers. The Council has not delegated policy making to any Committee or Officer. The Development Plan, for example, will be a matter which requires approval by the Council. In respect of Development Management, there is a Scheme of Delegation to Officers (Part 3 of the Constitution) which enables Planning Officers to determine planning and other applications for consents or permissions and also enables Officers to make decisions on when to take enforcement action in respect of breaches of planning control.

4. THIRD PARTY RELATIONSHIPS

4.1 Lobbying of Councillors and Circulation of Unofficial Information

4.1.1 Lobbying is an attempt to influence a Councillor's view in order to achieve a particular decision. It is a normal part of the political process but where Councillors are making statutory decisions, such as planning decisions, it can result in decisions being made improperly, or being perceived to be made improperly with undue influence from applicants' agents or those making representations resulting in inconsistent or erratic decision-making.

4.1.2 Planning decisions must be made strictly on the basis of the facts, policies and material circumstances relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular Members must not prejudge proposals before they have read the Officer's reports and considered all the evidence at the Committee meeting.

4.1.3 Lobbying can take many forms, including the most common:-

- Lobbying of Councillors by applicants, agents, objectors or supporters.
- Lobbying by other Councillors.

4.1.4 Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. On occasions applications/agents/owners may wish to meet Councillors at the site.

4.1.5 Where a Councillor is asked for support by an applicant or agent, supporter or objector in respect of a planning application or related matter then the Member must state that he/she will not indicate support or otherwise until they are in possession of all the facts have had heard the Committee debate. Such contact (lobbying) must be declared at the Committee meeting.

- 4.1.6 Councillors on the Planning Committee who receive correspondence from people seeking to persuade them to vote in a particular way should, where that correspondence is not referred to in either the Officers' report to Committee, or on the Additional Representations Sheet circulated at Committee, copy it to the Development Manager and the Case Officer for the application.
- 4.1.7 Councillors who receive correspondence from people seeking to persuade them to vote in a particular way in respect of a Development Plan matter should, where that correspondence is not referred to in the Officers' report to Council, copy it to the Planning Policy Manager.
- 4.1.8 Developers often arrange presentations in respect of their development proposals and, provided these are within a public forum (for example at a Parish Council meeting), Members of the Planning Committee may attend and listen to such presentations and ask questions for the purposes of clarifying their understanding of the proposals. However, it is important to be aware that a presentation is a form of lobbying and bear in mind the need to avoid pre-determination. Any attendance at developer presentations must be declared at the Planning Committee meeting.

4.2 Gifts and Hospitality; Impartiality and Respect

- 4.2.1 The Council has adopted a Protocol for Councillors on Gifts and Hospitality, which specifies the circumstances in which Gifts and Hospitality may be received and the procedures to be followed. That Protocol should be read in conjunction with this document.
- 4.2.2 Officers must always act impartially and declare any outside interests or affiliation they may have in the questionnaire provided each year for this purpose.
- 4.2.3 If Officers have a personal interest (which would include, as well as

matters relating to their own financial interests, any matters which might reasonably be regarded as affecting the well-being or financial interest of themselves, a relative or a friend) or a suspicion that they may be perceived to have a personal interest, which may affect or be perceived to affect their objective, impartial professional advice, they should declare an interest and have no dealings with the application. If the matter is considered at Planning Committee the Officer's declaration shall be made at the Committee meeting.

4.2.4 Members and Officers should treat each other with respect at all times and not do anything which is likely to compromise the impartiality of those involved in the process or to create a perception that decisions are not well-founded.

4.2.5 Members of the Planning Committee need to avoid members of the public, applicants and other Councillors seeking to communicate with them individually (whether orally in writing) during the Planning Committee's proceedings. This could be seen as seeking to influence a Councillor improperly and will create a perception of bias that may be difficult to overcome.

5. DEVELOPMENT PLANS AND PLANNING OBLIGATIONS

5.1 Development Plans

- 5.1.1 The preparation of Development Plans (including Neighbourhood Plans) through the prescribed process provides for statutory consultation and ultimately for representations to be considered on Examination by an independent Inspector.
- 5.1.2 In respect of Neighbourhood Plans, the bodies that lead and initiate proposals are Parish/Town Councils or (where there is not Parish/Town Council) neighbourhood forums. However, as well as being a statutory consultee in the neighbourhood planning process, the Council also has a direct role to play in providing advice and assistance, undertaking certain procedural steps and taking decisions on the plan throughout the process. This includes: the designation of neighbourhood areas, assessing whether legal requirements have been met, organising Referendum(s) and bringing the Neighbourhood Plan into legal effect.
- 5.1.3 It is vital that the same guidelines on probity are observed throughout the Development Plan process. Interests must be declared in accordance with the Council's Code of Conduct and Members must not seek to influence colleague Councillors on matters in which they are excluded from participating or voting under the Code of Conduct or due to issues of pre-determination. The Council must ensure that the land use allocation process is based on open analysis and appraisal of sites on planning grounds and that full consultation in accord with the statutory requirements is carried out.
- 5.1.4 The plan-making process is similar to the Development Management decision-making process in that it should be non-political. The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, particularly

in the Local Development Framework process of allocation of housing and employment sites, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.

5.2 Planning Obligations

- 5.2.1 Under Government Policy set out in the National Planning Policy Framework and planning legislation, a planning obligation should only be sought and may only constitute a reason for granting planning permission if the obligation is:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 5.2.2 The Planning Obligations Officer Working Group will meet to consider the appropriate obligations to impose on all major planning applications for residential development (i.e. those applications for 10 or more dwellings). The Terms of Reference of the Planning Obligations Officer Working Group are attached at Appendix A
- 5.2.3 In every case the heads of terms of a legal agreement are identified in the Officers' report to Planning Committee. Copies of completed agreements are made available for inspection in the Public Register at the Council Offices.
- 5.2.4 At all times Councillors should convey their observations/comments on legal agreement issues to the responsible Officers and not negotiate local requirements directly with developers unless accompanied by an Officer or in a formal meeting convened by the Borough Council. This

does not mean that Councillors cannot comment on or reflect/communicate the needs of a community, which should be taken into account, and Councillors can become involved as set out in Paragraph 5.2.5 below. If Councillors do become involved in discussion with developers or individuals through their Local Member or Parish/Town Council role, a declaration to that effect should be made at any Committee meeting and a written statement submitted to the Development Manager and the Case Officer for the application, summarising the exchange of views/information. A copy of the statement will be placed on the application file relating to that proposal.

- 5.2.5 Though Councillors should not normally become drawn into negotiations themselves, with instead negotiations undertaken by Officers, Officers should keep *relevant Ward* Councillors up to date and Councillors should relay matters of local concern in respect of any planning obligation provisions to Officers. Involving Councillors can help identify issues early on, helps Councillors lead on community issues and helps make sure that issues do not come to light for the first time at Planning Committee.

6. PLANNING COMMITTEE SITE VISITS

6.1 Purpose of Planning Committee Site Visits

- 6.1.1 Given the size and geography of the Borough it is not possible to carry out site visits for all applications considered by the Planning Committee.
- 6.1.2 To ensure that Committee applications are dealt with as effectively and quickly as possible, site visits will be held prior to Committee for all outline and full applications for large scale major residential development (i.e. those of 200 dwellings or more). This does not include reserved matters applications.
- 6.1.3 Councillors will also be able to request Planning Committee site visits during the application process, whilst the Planning Committee may also choose to defer applications for a site visit (see Paragraph 6.2.3).
- 6.1.4 The purpose of a Planning Committee site visit is solely to enable Councillors to assess a proposal and its effect on site. The visit, along with the Officer report, will allow Councillors to formulate a view, having regard to all relevant planning matters and representations which have been received.
- 6.1.5 There are a number of reasons why Councillors may request a Committee site visit, including:
- To judge whether the visual impact of the proposed development is acceptable.
 - To consider impact on residential amenity.
 - To consider design considerations including impact on the street scene or public space.
 - To assess highway safety/traffic impact.
 - To assess the impact on areas of landscape designation including the Cotswolds Area of Outstanding Natural Beauty.
 - To assess the impact on the openness of the Green Belt.

6.2 Requests for Planning Committee Site Visits

- 6.2.1 Planning Committee Site Visits will normally take place on the Friday before the Planning Committee meeting. Any Councillor may request a site visit by the Planning Committee in the same way that requests for Committee determination are made. All requests must be justified with

sound planning reasons.

6.2.2 Requests must be made as soon as possible following validation of an application. Requests must be made in writing to the Development Manager who will determine whether or not a site visit is appropriate in each individual case. If it is determined that a site visit is not necessary, the Development Manager will provide a written response to the Councillor who made the request to explain the reasons why this is the case.

6.2.3 The itinerary for site visits will be circulated as soon as possible following finalisation of the Agenda for the next Planning Committee. There will be occasions where a site visit has not been agreed in advance of the Committee meeting yet the Committee decide that a site visit is necessary. In such circumstances, the Committee is able to defer an application for a site visit which will be added to the itinerary for site visits taking place in advance of the next Planning Committee meeting. There must be sound planning reasons to defer an application for a site visit. Such reasons must be clearly set out by the proposer and recorded in the Minutes.

6.3 Procedure for Planning Committee Site Visits

6.3.1 In order to ensure that all Planning Committee Site Visits relating to planning matters are dealt with consistently and fairly, site visits will be carried out in accordance with the procedure set out at **Appendix C** of this Protocol.

Attendance

6.3.2 All Members of the Planning Committee will be invited to attend

Committee Site Visits along with Ward Members (and, where appropriate, adjacent Ward Members). All site visits will be attended by a Planning Officer and, where appropriate, representatives of specialist consultees (for example, the County Highways Authority or Environment Agency) where they have been expressly invited by the Planning Committee or the Development Manager.

7. MEMBER TRAINING

7.1 Induction Training

No Councillor shall serve on the Planning Committee unless he/she has attended initial induction training sessions.

7.2 Updates and Continuous Member Development Programme

7.2.1 Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices verbally at meetings, or in briefing notes (for example, the Member Update Sheet) and be required to participate in the continuous Member Development Programme agreed by the Planning Committee and requiring that each Member of the Planning Committee must attend as an absolute minimum 50% of the training events held in any year.

7.2.2 Group Leaders will be asked to encourage Planning Committee Members to participate in the continuous Member Development Programme and will review their nomination for the Planning Committee at the Annual Council meeting if an acceptable level of attendance is not achieved.

7.2.3 The continuous Member Development Programme training will be offered to all Members of the Council and all are strongly recommended to attend, whether or not at the time of the training they are a Member of the Planning Committee.

PLANNING OBLIGATIONS OFFICER WORKING GROUP

Introduction

Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) provides for the making of legal obligations in connection with the grant of planning permission, the purpose of which is to address specific issues arising out of development proposals. Legal obligations signed in accordance with Section 106 require certain actions to be undertaken, or payments to be made, to enable development proposals to be deemed acceptable and properly assimilated into their surroundings. All planning obligations must meet the test of the Community Infrastructure Levy (CIL) regulations.

To ensure that policy in respect of planning obligations is being correctly applied, and to support the identification of Section 106 requirements arising from developments, the Council has formed a Planning Obligations Officer Working Group.

Terms of Reference

1. To provide a mechanism for the formulation of Section 106 obligations from inception to completion and to monitor the implementation of Section 106 obligations.
2. To enable a corporate approach to the assessment of the infrastructure and housing needs arising from new developments.
3. To provide a structured process and an evidence based approach, involving community engagement where required, to identify Section 106 funding and requirements that reflect the needs and aspirations of the community.
4. To provide a recommendation to the Corporate Leadership Team on the draft heads of terms for major applications of strategic importance.
5. To support Planning Case Officers in their management of the negotiating process.
6. To provide a single point of access to data on all Section 106 activities including detailed information on financial contributions made by developers and the receipt of such by the Council.
7. To provide a means for monitoring the application of Section 106 policy across the Council.
8. To monitor and produce regular monitoring reports to the Corporate Leadership Team outlining the progress on implementation of legal obligations.

Meetings

Meetings will be held on a monthly basis with meetings set at least three months in advance.

Extraordinary meetings may be necessary to deal with large-scale major applications.

Membership

The Working Group comprises:

Representatives from Development Management, Planning Policy, Housing Strategy, Community (public open space and community facilities), Finance, Waste, and One Legal. Where appropriate, colleagues from the County Council (highways and education/libraries), Environment Agency and the Primary Care Trust (or successor organisation) will also be invited.

The Role of the Corporate Leadership Team (CLT)

A report shall be prepared every six months advising of major cases which are likely to be reported to CLT over the next six months.

CLT will identify which cases they would like to review and comment on whether the proposed obligations in each case are considered appropriate in line with corporate objectives.

SUMMARY GUIDE OF DO'S AND DON'TS

This must be read in conjunction with, and in the context of, the Council's Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process

DO

Do always involve Officers and structure discussions with developers

Do inform Officers about any approaches made to you and seek advice

Do familiarise yourself with the Council's Code of Conduct and follow it when you are representing the Council

Do keep your Register of Interests up to date

Do follow the Council's Protocol for Councillors and Officers involved in the Planning Process

Do be aware of what predisposition, predetermination and bias mean in your role – ask your Monitoring Officer if unsure

Do be prepared to hold discussions with an applicant and your Officers before a planning

DON'T

Do not use your position improperly for personal gain or to advantage your friends or close associates

Do not meet developers alone or put yourself in a position where you appear to favour a person, company or group –even a “friendly” private discussion with a developer could cause others to mistrust your impartiality

Do not attend meetings or be involved in decision-making where you have a disclosable pecuniary interest or another interest which is one whereby you are excluded from participating or voting under the Council's Code of Conduct – except where you have been granted a dispensation or speaking when the general public are also allowed to do so.

Do not accept gifts or hospitality

Do not prejudge or be seen to prejudge an issue if you want to be a decision-maker on a proposal

Do not seek to influence Officers or put pressure on them to support a particular course of action in relation to a planning application

Do not compromise the impartiality of people who work for the Council

application is made, not just after it has been submitted to your authority

Do preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding

Do be aware of what disclosable pecuniary interests and other interests under the Council's Code of Conduct are – refer to your Monitoring Officer if you are unsure

Do recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role

Do stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning

Do use meetings to show leadership and vision

Do encourage positive outcomes

Do ask for training from your Council in probity matters

Do recognise that you can lobby and campaign but that this may remove you from the decision making process

Do feed in both your own and your local community's concerns and issues

Do be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making

PROCEDURE FOR PLANNING COMMITTEE SITE VISITS

1. Introduction

- 1.1 This procedure relates to the carrying out of site visits by the Tewkesbury Borough Council Planning Committee in connection with the determination of planning and related applications.
- 1.2 The purpose of site visits is solely to enable Councillors to assess a proposal and its effect on site. There will be no debate about the merits of the application during the site visit.
- 1.3 Site visits subject to the this protocol will be agreed in accordance with the procedure set out in Paragraph 6.2 of the Council's 'Protocol for Councillors and Officers Involved in the Planning Process'.

2. Who may attend a site visit?

- 2.1 All Members of the Planning Committee will be invited to the site visits which will normally take place on the Friday before Planning Committee meetings. Ward Members and, where appropriate, Members of adjoining Wards will also be invited.
- 2.2 Relevant external consultees (for example, representatives of the County Highway Authority or Environment Agency) will also be invited where the Development Manager considers it would be useful for the Committee, or where their attendance has been expressly requested by the Planning Committee/Chair.
- 2.4 The applicant and/or their agent, Parish/Town Council representative, supporters of or objectors to the proposal, or general onlookers will not be allowed to participate in the site visit.

3. How will a site visit be carried out?

- 3.1 Planning Committee site visits shall be chaired by the Chair of Planning Committee, or in his absence by the Vice-Chair. In the event that neither the Chair nor Vice-Chair is available, a Chair will be elected on the day from the Planning Committee Members in attendance.
- 3.2 Site visits will be conducted in accordance with the following:

- Site visits shall be conducted in a formal manner.
- The Chair will open proceedings and ask for any declarations of interest. The Chair will explain the purpose of the visit and how the visit will proceed.
- The Planning Officer will introduce the application, explaining the proposal and advising those present of any issues relevant to the site visit.
- The Chair will seek any points of clarification.
- Local Ward Members will be asked to highlight any local issues relevant to the site visit.
- Following the site visit, the Chair will invite any further points of clarification arising from the site visit. Councillors will be able to highlight any information which they feel is necessary for the Planning Committee meeting.
- The Chair will close the visit.

4. General matters

- 4.1 No formal notes of the site visit will be made. Members will debate any findings arising from the site visit at the Committee meeting.
- 4.2 No hospitality will be accepted.

TEWKESBURY BOROUGH COUNCIL

PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

20165

(Approved and adopted by Council on ~~14 April 2015~~)

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1. PURPOSE AND STATUS

- 1.1 This Protocol has been prepared as a public guide to the conduct of **all** Councillors and staff who come into contact with the planning process. It does not just apply to Members of the Planning Committee and professional Planning Officers. Its aim is to ensure and to demonstrate that the Council takes its planning decisions openly, impartially and for sound, justifiable planning reasons. The Protocol, which was first adopted by the Council as a Guide to Good Practice in 2002 has been reviewed and updated. The Human Rights Act 1998 has implications for the planning system and has created enhanced requirements for procedural fairness, transparency and accountability in determining planning applications.
- 1.2 Councillors must observe the Members' Code of Conduct adopted by the Council on 26 June 2012 and Officers are subject to an Officer Code of Conduct. In addition professional Planning Officers are bound by their Institute's own Code of Conduct.
- 1.3 This Protocol provides supplementary and localised guidance on how the planning system in Tewkesbury Borough will be operated. It provides a measure against which the Council's operation of the planning system can be judged. Adherence to the Protocol should reduce cause for complaint by the public. The Planning Protocol is intended to minimise the prospect of legal or other challenge to planning decisions. However, non-compliance with the Protocol could be taken into account in any legal challenge, investigations into any complaints, allegations of maladministration or allegations of breach of the relevant Code of Conduct (Councillor or Officer).
- 1.4 The purpose of the Protocol is to set out in detail how Councillors and Officers should act and the procedures which should be followed to ensure that they not only act in a fair and proper manner but are also seen to do so.

2. INTRODUCTION

General Principles

- 2.1 The planning system is a complex one which regulates and controls development in the public interest. Planning affects land and property interests including the value of land and the quality of the environment. Decisions affect people's daily lives and the private interests of individuals, landowners and developers. The role of the planning system is to regulate the use and development of land in the public interest. Accordingly planning decisions must be seen to be impartial and properly justified. The planning system can only operate effectively if there is trust among the various stakeholders, the public, applicants, developers, Councillors and Officers.
- 2.2 The planning system is based on the legal framework provided by planning legislation (including the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004) and Government Policy and Guidance contained in the National Planning Policy Framework, Planning Practice Guidance, Government Circulars, Good Practice Guides, Ministerial Statements and Case Law. Importantly the planning system (and the Borough Council) encourages the involvement of third parties in the process. Parish Councils, local residents, interest groups and local communities are consulted on planning proposals and are invited to comment. The Development Plan is subject to consultation through the Local Development Framework which provides for objections to be considered by Examination by an Inspector.
- 2.3 Planning decision-making is not an exact science but it relies on informed judgement within a firm policy context. It is also highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actually invites public opinion before taking decisions) and the legal nature of Development Plans and decision notices. It is important, therefore, that the

process is characterised by open and transparent decision-making.

- 2.4 The Council recognises that planning decisions are made in a plan-led system and that in dealing with applications it must have regard to, so far as they are material to the application, the provisions of the Development Plan (which includes Neighbourhood Development Plans which have been made), any local finance considerations (see Paragraph 2.7 below) and any other material considerations; with it being that, where regard is to be had to the Development Plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.5 Further, that planning legislation requires that, where planning permission [is](#) granted subject to conditions, or refused, the decision notice shall include a statement explaining how, in dealing with the application, the Council has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application.
- 2.6 Councillors and Officers aim to ensure that the decision making processes are open and fair, so that all the relevant issues are weighed in the balance and applications are dealt with in a consistent manner, through an appraisal of Development Plan policies and analysis of relevant material considerations. Officers prepare reports for Councillors which cover Development Plan Policy and other material considerations, including the implications of the Human Rights Act 1998, public representations and responses from statutory consultees concluding with a recommendation. Councillors should weigh all the issues in the balance during their considerations at [Ce](#)committee and vote on the planning merits of the case.
- 2.7 Planning legislation provides that regard is to be had to material local finance considerations and defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided, to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received,

or will, or could, receive, in payment of the Community Infrastructure Levy.

Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority or other Government body.

2.8 Planning decisions are based on interpretation of policies and guidance and it is essential that decisions are made impartially, having regard only to proper planning considerations, and in a way that does not give rise to public suspicion or mistrust.

2.9 This Protocol provides for periodic monitoring of planning decisions taken. Quality of outcomes and consistency of decision-making should be regularly reviewed by the Planning Committee.

The General Role and Conduct of Councillors and Officers

2.10 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are accountable to the electorate and Officers are accountable to the Council as a whole. It is the duty of Councillors to represent their constituents as a whole, including those who did not vote for them. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to Officers through a decision of the Council or its Committees. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust and understanding of each others positions. This relationship, and the trust which underpins it, must never be abused or compromised. The Council has within its Constitution adopted a Member/Officer Protocol. In the event that Members wish to discuss a particular planning matter (application, potential application or planning policy) with an Officer an appointment ~~must~~ should, whenever practicable, be made in advance.

2.11 The Council's Code of Conduct sets out the requirements for Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests (see next section), but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the planning process. Of particular relevance to Councillors serving on Planning Committees, or who become involved in making a planning decision, is the requirement that a Member must:-

“not use your position improperly to confer on or secure for yourself or any other person, an advantage or disadvantage or seek to improperly influence a decision about a matter from which you are excluded from participating or voting” (Paragraph 7(4) of the Council's Code of Conduct).

2.12 Although Councillors may take into account views of others they should not discriminate in favour of any particular group or individual, or put themselves in a position where they appear to do so should they wish to participate in respect of the determination of a proposal (see further at Paragraph 3.3 below on Voting and Impartiality).

2.13 All Officers must follow the Council's Code of Conduct for Employees or any statutory code which may come into force or be adopted by the Council. Officers who are chartered town planners must act in accordance with the Royal Town Planning Institute's (RTPI) Guidance of Professional Conduct and breaches of that guidance may be subject of separate disciplinary action by the Institute.

2.14 Professional Officers may have a change of opinion on receipt of further information or a change of circumstances but this must be on the basis of professional judgment; they must not be allowed to be influenced by Councillors or other Officers to change an opinion where this does not genuinely represent their professional view. The Council endorses the RTPI's statement that its members “shall not make or subscribe to any statements or reports which are contrary to their

own professional opinions”.

2.15 Employees must always act impartially. In order to ensure that senior Officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as Membership of political parties and serving on another Council. Such impartiality (particularly crucial in highly contentious matters) is ~~re-enforced~~ reinforced by requirements on Members in the Council's Code of Conduct. Members are placed under a requirement by Paragraphs 7(1) and 7(5) of the Council's Code of Conduct to:

- ~~t~~Treat others with respect; and
- ~~n~~Not to do anything which compromises, or is likely to compromise the impartiality of those who work for, or on behalf of, your authority

2.16 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour or show bias toward any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a Planning Committee. Councillors should also be very cautious about accepting gifts and hospitality. The Gifts and Hospitality Protocol for Councillors must be observed by all Councillors including those involved in the planning process. Similarly, during the course of carrying out their duties, Officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, Officers should ensure that it is of the minimal level and declare its receipt to the Council's Monitoring Officer as soon as possible.

2.17 The Council's Code of Conduct provides that Members must notify the Monitoring Officer of the name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an

estimated value of £50 or more. Such an interest would automatically be one that would need to be disclosed at a meeting (as an “Other Interest”) where a matter in which a Member has such an interest arises and one where consideration would need to be given as to whether the Member should not participate (see Paragraphs 3.1.5, 3.1.6(iv) and 3.1.9 below).

[2.14](#) A summary guide of “Do’s” and “Don’ts” is attached at Appendix B of this Protocol,
[2.18](#) but must be read in conjunction with, and in the context of, the Council’s Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process.

3. THE DECISION MAKING FRAMEWORK

3.1 Registration and Declarations of Interest

- 3.1.1 The Localism Act 2011 and the Council's Code of Conduct place requirements on Members on the registration and declaration of their interests and the consequences for the Member's participation in consideration of a matter, in the light of those interests. Guidance on the registration and declaration of interests may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.
- 3.1.2 A Register of Members' Interests is maintained by the Council's Monitoring Officer, which is available for public inspection. A Member must provide the Monitoring Officer with written details of relevant interests (disclosable pecuniary interests and other interests falling within Appendix B of the Council's Code of Conduct – see Paragraphs 3.1.3- and 3.1.6 ~~respectively~~ below) within 28 days of his/her election, or appointment to Office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.
- 3.1.3 The Council's Code of Conduct uses the terms "Disclosable Pecuniary Interests" and "Other Interests".
- 3.1.4 The Council's Code of Conduct defines "Disclosable Pecuniary Interests" as an interest set out in Appendix A of the Code of Conduct. These cover interests of the Member or the Member's spouse or civil partner, or a person with whom the Member is living as if they were civil partners or or living as husband and wife, in respect of criteria set out in that Appendix relating to: employment, office, trade, profession or vocation; sponsorship; contracts; land; licences; tenancies and securities.

- 3.1.5 The Code of Conduct defines an “Other Interest” in any matter as an interest as specified in Appendix B of the Code of Conduct (see Paragraph 3.1.6 below) or where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of the 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.
- 3.1.6 The interests set out in Appendix B of the Code of Conduct cover interests held by the Member in the following categories:
- (i) any body of which the Member is in a position of general control or management and to which he/she is appointed or nominated by the Council-;
 - (ii) any body –
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
 of which the Member of the Council is a member or in a position of general control or management;
 - (iii) any person or body who employs or has appointed ~~you~~ the Member;
 - (iv) The name of any person, organisation, company or other body ~~from~~ from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more
- 3.1.7 Where a Councillor considers he/she has an “Other Interest” or a Disclosable Pecuniary Interest” in any matter, he/she must declare it at the beginning of the meeting or when the interest becomes apparent. Councillors should be clear and specific in identifying the item on the

Agenda in which they have an interest and (unless the Monitoring Officer considers that it is a sensitive interest, because its disclosure could lead to you, or the person connected with you, being subject to violence or intimidation) the nature of the interest. This declaration must be made at meetings of the Council, Planning Committee, [Committee Site Visits](#), Working Groups or any outside body to which they are appointed or that they attend for Council, during informal meetings and in all circumstances where attending as a Councillor. Previous declarations or those made at Working Groups or ~~Sites Inspection Panels~~ [Committee Site Visits](#) must be repeated at Committee/Council meetings

3.1.8 Where the interest is a “Disclosable Pecuniary Interest” the Member must leave the meeting and not vote (unless a dispensation has been granted). It is a criminal offence to fail to comply with the requirements that relate to Disclosable Pecuniary Interests.

3.1.9 Where the interest is an “Other Interest”, whether one subject to registration or otherwise, the Member then needs to consider whether the “Other Interest” is one whereby the Member is excluded from participating or voting. The Council’s Code of Conduct provides that an “Other Interest” becomes such an interest if the matter being considered either:

- (a) ~~it~~ affects your financial position or the financial position of the member of your family or person with whom you have a close association; or
- (b) ~~it~~ relates to the determination of any approval, consent, licence, permission or registration in relation to you or any such person or body;

and the interest is one which a reasonable member of the public knowing facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest. If this is the case, unless a dispensation has been granted or the function to be exercised is an excepted function (see Paragraph 3.1.10 below), the Member should not participate in a discussion on the matter, must withdraw from the room and must not seek improperly to influence a decision in the matter.

3.1.10 The Council’s Code of Conduct includes some exceptions ~~to~~ in respect of “Other Interests” and the restriction upon a Member participating or voting as set out in Paragraph 10(2) and the “excepted function” definition within Part IX of the Code of Conduct. These relate to decisions in respect of housing functions and functions in respect of

allowances, ceremonial honours and Council Tax or precept setting.

- 3.1.11 In addition to the provisions on interests in the Code of Conduct, if a Councillor, in advance of the decision-making meeting, has taken a firm view on the decision to be made, either in meetings of another body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account. Were they to participate in a decision in those circumstances, they might place their authority in danger of judicial review. The exemptions in the Council's Code of Conduct and any dispensations would only operate in the planning context, if the Councillor had also scrupulously avoided forming a fixed view on the issue in advance. This is the general approach taken by this guidance and appropriate conduct in relation to Membership of other bodies and the effects of such Membership on participation in the planning decision-making process. It is expanded in Paragraph 4.1 on lobbying.

3.2 Development Proposals submitted by Councillors and Officers; and Council Development

- 3.2.1 Proposals to their own authority by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. So indeed can proposals for a Council's own development. Proposals can take the form of either planning applications or Development Plan proposals.
- 3.2.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 3.2.3 Councillors (whether on the Planning Committee or not) should not act as agents, or submit planning applications for other parties or voluntary bodies in respect of applications that will be determined by the Council.

To do so would give rise to suspicion that the Member was not impartial or may influence other Councillors in the decision making process.

3.2.4 Where Councillors need to submit planning applications on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers. ~~The must~~Councillor must declare an interest and take no part in the decision-making process and must not use their position ~~as a Councillor~~ to improperly influence the decision.

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3.2.5 Similarly, where an Officer or an agent submits a planning application on their own behalf, or on behalf of their employer as part of their job, the application will only be determined by the Planning Committee and not by Officers using delegated powers. They must take no part ~~in~~ as an Officer of the Council in the processing of the application or in the decision-making process.

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3.2.6 A Councillor or Officer who either submits a planning application or Development Plan proposal on their own behalf, or on behalf of their employer as part of their job, must, whether that Councillor or Officer's involvement is apparent from the application documentation or not, notify the Development Manager and the Council's Monitoring Officer of the submission of the application or proposal. ~~That, notification~~That notification must be in writing and must be sent at the same time as the submission of the application or proposal.

3.2.7 The Council's own proposals for development must be dealt with on exactly the same basis as applications submitted by members of the public or developers and Officers must make recommendations having regard only to proper planning matters and must not have regard to any other benefit financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning proposal save for any

material local financial consideration (see Paragraph [2-7????](#) above)..

- 3.2.8 Where a Council development is being considered, Councillors who have been involved in the decision to seek planning permission (e.g. Members of the Executive Committee) and who are also Members of the Planning Committee should declare this at the Planning Committee when the planning application comes up for determination. In such cases, Councillors are usually still entitled to take part in the debate and vote. The exception to this could be in the case of a Councillor that has been closely involved in negotiations with developers in working up a proposal that needs planning permission. Similarly, where an application is submitted by a Parish Council and the Councillor is also a Member of the Parish Council consideration will need to be given to the role the Member has played in respect of the application at the Parish Council level above the general considerations as to any declarations that may need to be made by way of an "Other Interest" in respect of the application due to Membership of the Parish Council.
- 3.2.9 The consideration of a proposal from a Councillor (or a member of his/her family) would result in the need for that particular Councillor to declare an interest under the Council's Code of Conduct and the Councillor would be required to withdraw from any consideration of the matter. The Code also provides that the Councillor should 'not seek improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a Councillor should have any less rights than a member of public in seeking to explain and justify their proposal to an Officer in advance of consideration by a Committee.

3.3 Voting and Impartiality

- 3.3.1 Councillors must vote in the interests of the whole Borough. Their duty is to the whole community, rather than just the people living in their Ward.

- 3.3.2 Members of the Planning Committee must not declare which way they intend to vote in advance of the consideration of an application by the Planning Committee. To do so would, in effect, be pre-judging the application and expose the Council to the possibility of legal challenge or allegation of maladministration. Members must not make their minds up until they have read the relevant Committee reports and heard the evidence and arguments on both sides at the Committee meeting.
- 3.3.3 If a Member of the Planning Committee does declare his or her support or opposition for a proposal before the matter has been put before the Planning Committee, where that Member would be entitled to vote, he/she must make declaration of their view to the Planning Committee, and should withdraw from the Committee whilst that proposal is discussed so that the Member takes no part in the debate or voting on that particular item. This does not mean that the Members of the Planning Committee cannot make a comment or reflect local concerns about a proposal before it is considered by the Planning Committee, but the view or comment must not pre-determine or be seen to pre-determine the way that Member will consider and weigh in the balance all the issues or their vote.
- 3.3.4 Some Councillors will be Members of Parish/Town Councils as well as Borough Councillors. This situation can present problems where a Parish Council is to express a view as to whether it wishes to support, object or comment on a proposal, for example where the Parish/Town Council are consulted on planning applications. Whilst the comments of Parish Councils should concentrate on local issues this is often the stage when Borough Councillors can come under pressure to indicate their support or objection to a particular proposal. Of particular concern is the potential for a conflict of interest arising when a Member of both Councils

votes on an application at a Parish/Town meeting prior to the Borough Council's Planning Committee meeting. It is quite conceivable that a Councillor in this position could end up voting in a different way when all the relevant information is made available in the Officer's report to the Borough Council. In order to avoid this potential conflict, and creating the impression that they have already made up their minds prior to the Borough Council's Planning Committee meeting, it would be preferable for Borough Councillors not to take part in the consideration of proposals at the Parish Council level (other than to listen to any debate) and not serve on Parish/Town Council Planning Committees/Sub-Committees. If a Planning Committee Member is also a Parish/Town Council Member and does decide to declare support or opposition or make comments at the Parish/Town Council then Paragraph 3.3.3 above shall apply.

- 3.3.5 The provisions of Paragraphs 3.3.4 above apply similarly in relation to Membership of another Local Authority. For example, if a planning application to be determined by the County Council comes before the Borough Council's Planning Committee for a consultation response, it may be preferable for any Borough Councillor who is also a Member of the County Council not to take part in the considerations of the application at the Borough Council level should they wish to take part in the determination of the application at the County Council level.
- 3.3.6 Where a Borough Council Member is also a Member of a Parish/Town Council or County Council and a proposal in respect of land within the Parish or the area for which the Borough Councillor is also a County Councillor is to be considered at Planning Committee or Council, the Borough Councillor should declare this at the meeting with reference to the relevant Agenda item(s) and also their position as to whether or not they have been_ or will be_ involved in any previous or subsequent

consideration of the proposal at the Parish/Town or County Council level.

- 3.3.7 Councillors should not organise support for or against a planning proposal should they wish to take part in the debate or voting on the proposal since this would also signal that they had made up their mind before hearing the evidence. Nor should they lobby other Councillors (see Paragraph 4.1 below). Each Councillor should make up his or her own mind on the evidence and facts presented to the relevant Committee or to the Council.
- 3.3.8 Councillors must not favour or show bias for or against any particular person, company or group, or any particular site or locality. They should not put themselves in a position where they may appear to do so.
- 3.3.9 Given that the point at which a decision is made cannot occur before the Committee meeting, when all information is to hand and has been duly considered, it is inappropriate for any pre-Planning Committee political group meeting to be held. The use of the party whip is incompatible with the role of the Planning Committee. Less formal arrangements or understandings could also amount to maladministration. Group meetings which involve discussion of planning applications or Development Plan proposals should always commence by reference to the non-political nature of planning decision-making and with a reminder of the need for Councillors to make their decision at the Committee meeting and not previously.

3.4 Pre-Application Discussions/Informal Site Meetings

- 3.4.1 Most pre-application discussions take place between Officers and potential applicants. Officers of the Council will make it clear at the outset and at the end of such discussions that the advice given is personal and provisional and will not bind the Council to making a particular decision.

- 3.4.2 The advice offered should be consistent and based upon the Development Plan and other material considerations. Senior Officers will ensure that there is no significant difference of interpretation of planning policies between Planning Officers. Officers taking part in such discussions will make it clear whether or not they are the decision maker. A written record will be made of all meetings.
- 3.4.3 Councillors should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should ask prospective applicants to contact the appropriate Officer to advise on both merits and procedures. If Councillors do give an indication of their initial reaction to a proposal (e.g. this appears to accord with planning policy) they should make it clear that they will only be in a position to take a final view after ~~having considered~~ the Officer's reports ~~and~~ representations and ~~heard any~~ hearing any debate at the Committee meeting.
- 3.4.4 Formal meetings (i.e. those meetings which are more than merely the receiving and absorbing of information) of Councillors with applicants, developers and their agents should be undertaken in the presence of at least one Officer and a written record should be made of that meeting.
- 3.4.5 Informal site meetings with applicants/agents may be misinterpreted by the public, an applicant, or agent and a Councillor discussing issues on site and perceived to be more than merely the receiving and absorbing of information. Clearly, Councillors need to be able to respond to their constituents and on occasion a visit to a site for a proposed extension (for example) to hear concerns from constituents may be justified. A note should be taken and care exercised to ensure the applicant, objector and supporters are treated equally.
- 3.4.6 The fact that Councillors have discussed any such proposal with the applicant or supporters/objectors must be made clear when the

application is before the [C](#)ommittee for determination. Copies of notes (or e-mails) should be forwarded to the Case Officer to be placed on file.

3.5 **Chairman and Vice-Chairman's Management Briefing**

The Chairman and Vice-Chairman of the Planning Committee will, once the Agenda for the meeting has been produced, receive a pre-Committee briefing on matters pertaining to the management of the business of the Committee. The sole purpose for the Chairman and Vice-Chairman's Briefing is to enable the efficient management of the business of the Committee.

3.6 **The Committee's [D](#)ecisions**

3.6.1 In accordance with the law, where the Development Plan is relevant, decisions must be taken in accordance with it unless material considerations indicate otherwise.

3.6.2 It is inevitable from time to time that decisions will be made which are contrary to the Officer recommendation. However, it is important that on these occasions the Planning Committee makes clear the reasons for making such a decision at the time. Where a Member is minded to move a resolution which is contrary to Officer recommendation (whether for approval or refusal)–clear and convincing reasons based on land use grounds should be given, and in the case of an approval, an indication of the acceptable conditions. The personal circumstances of an applicant will rarely provide convincing grounds to justify development which is contrary to the Development Plan. Officers should be given the opportunity to explain the implications of any proposed resolution that is contrary to [O](#)fficer recommendation.

3.6.3 If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal) the Minutes of the meeting shall contain details of the Planning Committee's reasons and any Officer explanation of the implications.

3.7 Regular Review of Decisions

3.7.1

A review of decision-making will take place each year through consideration of an annual report to the Planning Committee. This report will include a statistical analysis of all decisions taken (specifying the Officer recommendation) during the previous year and will report the outcome of any related appeal decisions. The analysis will also identify the number of cases where Officer's recommendations were not accepted. The annual report will be considered by the Planning Committee along with any recommendations to improve quality, consistency or performance.

3.8 Access to Information

3.8.1 Section 2 of Part 4 (RULES OF PROCEDURE) of the Council's Constitution sets out the Rules for Access to Information considered by the Council or by any of its Committees. The Freedom of Information Act 2000 entitles any person to request in writing information held by the Council although there are some exemptions which mean that the information will not be disclosed. The Council has a procedure for dealing with requests under the Freedom of Information Act.

3.8.2 Section 3 of Part 5 (CODES AND PROTOCOLS) of the Council's Constitution is a Protocol for Member/Officer Relations which makes clear the restrictions which apply to the supply of information to Members of the Council. Councillors do not have a "roving commission" to access all information held by the Council and would not be permitted to inspect information which is not available to members of the public unless there is a genuine need for that Member to have that particular information, for example, if it is a matter being considered by a Committee on which that Member serves.

3.8.3 Confidential/~~e~~Exempt information held on the files relating to complaints

of, or investigations into, breaches of planning control (enforcement) would only be disclosed to a Member in the event that the Member has a need to know that confidential information. Similarly, it would only be disclosed to a member of the public if it did not qualify as an exemption under the Freedom of Information Act 2000.

3.9 Decision-Making

3.9.1

Part 3 of the Council's Constitution sets out the responsibility for functions. The Council has delegated a substantial amount of its decision-making to Committees. The Council and/or its Committees have also delegated responsibility for certain decisions and functions to Officers. The Council has not delegated policy making to any Committee or Officer. The Development Plan, for example, will be a matter which requires approval by the Council. In respect of Development Management, there is a Scheme of Delegation to Officers (Part 3 of the Constitution) which enables Planning Officers to determine planning and other applications for consents or permissions and also enables Officers to make decisions on when to take enforcement action in respect of breaches of planning control.

4. THIRD PARTY RELATIONSHIPS

4.1 Lobbying of Councillors and Circulation of Unofficial Information

- 4.1.1 Lobbying is an attempt to influence a Councillor's view in order to achieve a particular decision. It is a normal part of the political process but where Councillors are making statutory decisions, such as planning decisions, it can result in decisions being made improperly, or being perceived to be made improperly with undue influence from applicants' agents or those making representations resulting in inconsistent or erratic decision-making.
- 4.1.2 Planning decisions must be made strictly on the basis of the facts, policies and material circumstances relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular Members must not prejudge proposals before they have read the Officer's reports and considered all the evidence at the Committee meeting.
- 4.1.3 Lobbying can take many forms, including the most common:-
- Lobbying of Councillors by applicants, agents, objectors or supporters.
 - Lobbying by other Councillors.
- 4.1.4 Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. On occasions applications/agents/owners may wish to meet Councillors at the site.
- 4.1.5 Where a Councillor is asked for support by an applicant or agent, supporter or objector in respect of a planning application or related matter then the Member must state that he/she will not indicate support or otherwise until they are in possession of all the facts have had heard the Committee debate. Such contact (lobbying) must be declared at the Committee meeting.

4.1.6 Councillors on the Planning Committee who receive correspondence from people seeking to persuade them to vote in a particular way should, where that correspondence is not referred to in either the Officers' report to Committee, or on the Additional Representations Sheet circulated at Committee, copy it to the Development Manager and the Case Officer for the application.

4.1.7 Councillors who receive correspondence from people seeking to persuade them to vote in a particular way in respect of a Development Plan matter should, where that correspondence is not referred to in either the Officers' report to Council, ~~or on the Additional Representations Sheet circulated at Committee~~, copy it to the Planning Policy Manager.

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4.1.8 Developers often arrange presentations in respect of their development proposals and, provided these are within a public forum (for example at a Parish Council meeting), Members of the Planning Committee may attend and listen to such presentations and ask questions for the purposes of clarifying their understanding of the proposals. However, it is important to be aware that a presentation is a form of lobbying and bear in mind the need to avoid pre-determination. Any attendance at developer presentations must be declared at the Planning Committee meeting.

4.2 Gifts and Hospitality; Impartiality and Respect

4.2.1 The Council has adopted a Protocol for Councillors on Gifts and Hospitality, which specifies the circumstances in which Gifts and Hospitality may be received and the procedures to be followed. That Protocol should be read in conjunction with this document.

4.2.2 Officers must always act impartially and declare any outside interests or affiliation they may have in the questionnaire provided each year for this purpose.

- 4.2.3 If Officers have a personal interest (which would include, as well as matters relating to their own financial interests, any matters which might reasonably be regarded as affecting the well-being or financial interest of themselves, a relative or a friend) or a suspicion that they may be perceived to have a personal interest, which may affect or be perceived to affect their objective, impartial professional advice, they should declare an interest and have no dealings with the application. If the matter is considered at Planning Committee the Officer's declaration shall be made at the Committee meeting.
- 4.2.4 Members and Officers should treat each other with respect at all times and not do anything which is likely to compromise the impartiality of those involved in the process or to create a perception that decisions are not well-founded.
- 4.2.5 Members of the Planning Committee need to avoid members of the public, applicants and other Councillors seeking to communicate with them individually (whether orally in writing) during the Planning Committee's proceedings. This could be seen as seeking to influence a Councillor improperly and will create a perception of bias that may be difficult to overcome.

5. DEVELOPMENT PLANS AND PLANNING OBLIGATIONS

5.1 Development Plans

- 5.1.1 The preparation of Development Plans (including Neighbourhood Plans) through the prescribed process provides for statutory consultation and ultimately for representations to be considered on Examination by an [Independent Inspector](#).
- 5.1.2 In respect of Neighbourhood Plans, the bodies that lead and initiate proposals are Parish/Town Councils or (where there is not Parish/Town Council) neighbourhood forums. However, as well as being a statutory consultee in the neighbourhood planning process, the Council also has a direct role to play in providing advice and assistance, undertaking certain procedural steps and taking decisions on the plan throughout the process. This includes: the designation of neighbourhood areas, assessing whether legal requirements have been met, organising [Referendum\(s\)](#) and bringing the [Neighbourhood Plan](#) into legal effect.
- 5.1.3 It is vital that the same guidelines on probity are observed throughout the Development Plan process. Interests must be declared in accordance with the Council's Code of Conduct and Members must not seek to influence colleague Councillors on matters in which they are excluded from participating or voting under the Code of Conduct or due to issues of pre-determination. The Council must ensure that the land use allocation process is based on open analysis and appraisal of sites on planning grounds and that full consultation in accord with the statutory requirements is carried out.
- 5.1.4 The plan-making process is similar to the Development Management decision-making process in that it should be non-political. The basis of the planning system is the consideration of private proposals against

wider public interests. Much is often at stake in this process, particularly in the Local Development Framework process of allocation of housing and employment sites, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.

5.2 Planning Obligations

5.2.1² Under Government Policy set out in the National Planning Policy Framework and planning legislation, a planning obligation should only be sought and may only constitute a reason for granting planning permission if the obligation is:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

5.2.2 The Planning Obligations Officer Working Group will meet to consider the appropriate obligations to impose on all major planning applications for residential development (i.e. those applications for 10 or more dwellings). The Terms of Reference of the Planning Obligations Officer Working Group are attached at Appendix A

5.2.3 In every case the heads of terms of a legal agreement are identified in the Officers' report to Planning Committee. Copies of completed agreements are made available for inspection in the Public Register at the Council Offices.

5.2.4 At all times Councillors should convey their observations/comments on legal agreement issues to the responsible Officers and not negotiate local requirements directly with developers unless accompanied by an

Officer or in a formal meeting convened by the Borough Council. This does not mean that Councillors cannot comment on or reflect/communicate the needs of a community, which should be taken into account, and Councillors can become involved as set out in Paragraph 5.2.5 below. If Councillors do become involved in discussion with developers or individuals through their Local Member or Parish/Town Council role, a declaration to that effect should be made at any Committee meeting and a written statement submitted to the Development Manager and the Case Officer for the application, summarising the exchange of views/information. A copy of the statement will be placed on the application file relating to that proposal.

- 5.2.5 Though Councillors should not normally become drawn into negotiations themselves, with instead negotiations undertaken by Officers, Officers should keep *relevant Ward* Councillors up to date and Councillors should relay matters of local concern in respect of any planning obligation provisions to [Officers](#). Involving Councillors can help identify issues early on, helps Councillors lead on community issues and helps make sure that issues do not come to light for the first time at Planning Committee.

6. PLANNING COMMITTEE SITE VISITS

6.1 Purpose of Planning Committee Site Visits

- 6.1.1 Given the size and geography of the Borough it is not possible to carry out site visits for all applications considered by the Planning Committee.
- 6.1.2 To ensure that Committee applications are dealt with as effectively and quickly as possible, site visits will be held prior to Committee for all outline and full applications for large scale major residential development (i.e. those of 200 dwellings or more). This does not include reserved matters applications.
- 6.1.3 Councillors will also be able to request Planning Committee site visits during the application process, whilst the Planning Committee may also choose to defer applications for a site visit (see [Paragraph 6.2.3 below](#)).
- 6.1.4 The purpose of a Planning Committee site visit is solely to enable Councillors to assess a proposal and its effect on site. The visit, along with the Officer report, will allow Councillors to formulate a view, having regard to all relevant planning matters and representations which have been received.
- 6.1.5 There are a number of reasons why Councillors may request a Committee site visit, including:
- To judge whether the visual impact of the proposed development is acceptable.
 - To consider impact on residential amenity.
 - To consider design considerations including impact on the street scene or public space.
 - To assess highway safety/traffic impact.
 - To assess the impact on areas of landscape designation including the Cotswolds Area of Outstanding Natural Beauty.
 - To assess the impact on the openness of the Green Belt.

6.2 Requests for Planning Committee Site Visits

- 6.2.1 Planning Committee Site Visits will normally take place on the Friday before the Planning Committee meeting. Any Councillor may request a site visit by the Planning Committee in the same way that requests for Committee determination are made. All requests must be justified with

sound planning reasons.

6.2.2 Requests must be made as soon as possible following validation of an application. Requests must be made in writing to the Development Manager who will determine whether or not a site visit is appropriate in each individual case. ~~Those applications where it has been determined that an advance site visit will be appropriate will be set out within an "Advance Site Visits Briefing" item within Planning Committee Agendas.~~ If it is determined that a site visit is not necessary, the Development Manager will provide a written response to the Councillor who made the request to explain the reasons why this is the case.

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6.2.3 The itinerary for site visits will be circulated as soon as possible following finalisation of the Agenda for the next Planning Committee.

There will be occasions where a site visit has not been agreed in advance of the Committee meeting yet the Committee decide that a site visit is necessary. In such circumstances, the Committee is able to defer an application for a site visit which will be added to the itinerary for site visits taking place in advance of the next Planning Committee meeting. There must be sound planning reasons to defer an application for a site visit. Such reasons must be clearly set out by the proposer and recorded in the Minutes.

6.3 Procedure for Planning Committee Site Visits

6.3.1 In order to ensure that all Planning Committee [Site Visits](#) relating to planning matters are dealt with consistently and fairly, site visits will be carried out in accordance with the procedure set out at **Appendix C** of this Protocol.

Attendance

- 6.3.2 All Members of the Planning Committee will be invited to attend [Committee Site Visits](#) along with Ward Members (and, where appropriate, adjacent Ward Members). ~~A single representative of the relevant Parish/Town Council will be invited to highlight any factual information relevant to the site visit.~~

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All site visits will be attended by a Planning Officer and, where appropriate, representatives of specialist consultees (for example, the County Highways Authority or Environment Agency) where they have been expressly invited by the Planning Committee or the Development Manager.

7. MEMBER TRAINING

7.1 Induction Training

7.1.1

No Councillor shall serve on the Planning Committee unless he/she has attended initial induction training sessions.

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7.2 Updates and Continuous Member Development Programme

7.2.1 Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices verbally at meetings, or in briefing notes (for example, the Member Update Sheet) and be required to participate in the continuous Member Development Programme agreed by the Planning Committee and requiring that each Member of the Planning Committee must attend as an absolute minimum 50% of the training events held in any year.

7.2.2 Group Leaders will be asked to encourage Planning Committee Members to participate in the continuous Member Development Programme and will review their nomination for the Planning Committee at the Annual Council meeting if an acceptable level of attendance is not achieved.

7.2.3 The continuous Member Development Programme training will be offered to all Members of the Council and all are strongly recommended to attend, whether or not at the time of the training they are a Member of the Planning Committee.

PLANNING OBLIGATIONS OFFICER WORKING GROUP

Introduction

Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) provides for the making of legal obligations in connection with the grant of planning permission, the purpose of which is to address specific issues arising out of development proposals. Legal obligations signed in accordance with Section 106 require certain actions to be undertaken, or payments to be made, to enable development proposals to be deemed acceptable and properly assimilated into their surroundings. All planning obligations must meet the test of the Community Infrastructure Levy (CIL) regulations.

To ensure that policy in respect of planning obligations is being correctly applied, and to support the identification of [Section 106](#) requirements arising from developments, the Council has formed a Planning Obligations Officer Working Group.

Terms of Reference

1. To provide a mechanism for the formulation of Section 106 obligations from inception to completion and to monitor the implementation of [Section 106](#) obligations.
2. To enable a corporate approach to the assessment of the infrastructure and housing needs arising from new developments.
3. To provide a structured process and an evidence based approach, involving community engagement where required, to identify Section 106 funding and requirements that reflect the needs and aspirations of the community.
4. To provide a recommendation to the Corporate [Management Leadership](#) Team on the draft heads of terms for major applications of strategic importance.
5. To support Planning Case Officers in their management of the negotiating process.
6. To provide a single point of access to data on all Section 106 activities including detailed information on financial contributions made by developers and the receipt of such by the Council.
7. To provide a means for monitoring the application of Section 106 policy across the Council.
8. To monitor and produce regular monitoring reports to the Corporate [Management Leadership](#) Team outlining the progress on implementation of legal obligations.

Meetings

Meetings will be held on a monthly basis with meetings set at least three months in advance.

Extraordinary meetings may be necessary to deal with large-scale major applications.

Membership

| The [Working Group](#) comprises:

Representatives from Development Management, Planning Policy, Housing Strategy, Community (public open space and community facilities), Finance, Waste, and One Legal. Where appropriate, colleagues from the County Council (highways and education/libraries), Environment Agency and the [Primary Care Trust](#) (or successor organisation) will also be invited.

| **The Role of the Corporate [Management Leadership Team \(CLMT\)](#)**

| A report shall be prepared every six months advising of major cases which are likely to be reported to [CLMT](#) over the next six months.

| [CLMT](#) will identify which cases they would like to review and comment on whether the proposed obligations in each case are considered appropriate in line with corporate objectives.

SUMMARY GUIDE OF DO'S AND DON'TS

This must be read in conjunction with, and in the context of, the Council's Code of Conduct and the whole of this Protocol for Councillors and Officers involved in the Planning Process

DO

Do always involve Officers and structure discussions with developers

Do inform Officers about any approaches made to you and seek advice

Do familiarise yourself with the Council's Code of Conduct and follow it when you are representing the Council

Do keep your Register of Interests up to date

Do follow the Council's Protocol for Councillors and Officers involved in the Planning Process

Do be aware of what predisposition, predetermination and bias mean in your role – ask your Monitoring Officer if unsure

DON'T

Do not use your position improperly for personal gain or to advantage your friends or close associates

Do not meet developers alone or put yourself in a position where you appear to favour a person, company or group –even a “friendly” private discussion with a developer could cause others to mistrust your impartiality

Do not attend meetings or be involved in decision-making where you have a disclosable pecuniary interest or another interest which is one whereby you are excluded from participating or voting under the Council's Code of Conduct – except where you have been granted a dispensation or speaking when the general public are also allowed to do so ~~(the Council's does not have a public speaking scheme in respect of its Planning Committee)????~~

Do not accept gifts or hospitality

Do not prejudge or be seen to prejudge an issue if you want to be a decision-maker on a proposal

Do not seek to influence Officers or put pressure on them to support a particular course of action in relation to a planning application

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Do be prepared to hold discussions with an applicant and your Officers before a planning application is made, not just after it has been submitted to your authority

Do preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding

Do be aware of what disclosable pecuniary interests and other interests under the Council's Code of Conduct are – refer to your Monitoring Officer if you are unsure

Do recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role

Do stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning

Do use meetings to show leadership and vision

Do encourage positive outcomes

Do ask for training from your Council in probity matters

Do recognise that you can lobby and campaign but that this may remove you from the decision making process

Do feed in both your own and your local community's concerns and issues

Do be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making

Do not compromise the impartiality of people who work for the Council

PROCEDURE FOR PLANNING COMMITTEE SITE VISITS

1. Introduction

- 1.1 This procedure relates to the carrying out of site visits by the Tewkesbury Borough Council Planning Committee in connection with the determination of planning and related applications.
- 1.2 The purpose of site visits is solely to enable Councillors to assess a proposal and its effect on site. There will be no debate about the merits of the application during the site visit.
- 1.3 Site visits subject to the this protocol will be agreed in accordance with the procedure set out in [section-Paragraph 6.2](#) of the Council's 'Protocol for Councillors and Officers Involved in the Planning Process'.

2. Who may attend a site visit?

- 2.1 All Members of the Planning Committee will be invited to the site visits which will normally take place on the Friday before Planning Committee meetings. Ward Members and, where appropriate, Members of adjoining Wards will also be invited.
- ~~2.2 A single representative of each Town or Parish Council in which the application site is situated will be invited to the site visit.~~
- 2.3 Relevant external consultees (for example, representatives of the County Highway Authority or Environment Agency) will also be invited where the Development Manager considers it would be useful for the Committee, or where their attendance has been expressly requested by the Planning Committee/Chairman.
- 2.4 The applicant and/or their agent, [Parish/Town Council representative](#), supporters of or objectors to the proposal, or general onlookers will not be allowed to participate in the site visit.

3. How will a site visit be carried out?

- 3.1 Planning Committee site visits shall be chaired by the Chairman of Planning Committee, or in his absence by the Vice-Chairman. In the event that neither the

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Chairman nor Vice-Chairman is available, a Chair will be elected on the day from the Planning Committee Members in attendance.

3.2 Site visits will be conducted in accordance with the following:

- Site visits shall be conducted in a formal manner.
- The Chairman will open proceedings and ask for any declarations of interest. The Chairman will explain the purpose of the visit and how the visit will proceed.
- The Planning Officer will introduce the application, explaining the proposal and advising those present of any issues relevant to the site visit.
- The Chairman will seek any points of clarification.
- Local Ward Members will be asked to highlight any local issues relevant to the site visit.
- ~~The Parish/Town Council representative will be invited to highlight any factual information relevant to the site visit and answer Councillors' questions on factual matters.~~
- Following the site visit, the Chairman will invite any further points of clarification arising from the site visit. Councillors will be able to highlight any information which they feel is necessary for the Planning Committee meeting.
- The Chairman will close the visit.

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4. General matters

4.1 No formal notes of the site visit will be made. Members will debate any findings arising from the site visit at the Committee meeting.

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4.2 No hospitality will be accepted.

Agenda Item 13

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Agenda Item 14a

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