

Council Agenda

Date: Thursday, 11th October, 2012
Time: 2.00 pm
Venue: The Assembly Room - Town Hall, Macclesfield SK10 1EA

The agenda is divided into two parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Minutes of the Meeting Held on 19 July 2012** (Pages 1 - 20)

To approve the minutes as a correct record.

3. **Mayor's Announcements**

To receive such announcements as may be made by the Mayor.

4. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

5. **Public Speaking Time/Open Session**

In accordance with Council Procedure Rule 35 and Appendix 7 to the rules, a total period of 15 minutes is allocated for members of the public to speak at Council meetings.

Individual members of the public may speak for up to 5 minutes, but the Chairman will decide how the period of time allocated for public speaking will be apportioned, where there are a number of speakers.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given. It is not a requirement to give notice of the intention to make use of public speaking provision. However, as a matter of courtesy, a period of 24 hours notice is encouraged.

6. **Notices of Motion** (Pages 21 - 22)

To consider any Notices of Motion that have been received in accordance with Procedure Rule 12.

7. **Recommendation from Constitution Committee - Crewe Community Governance Review - Final Outcome** (Pages 23 - 72)

To consider the recommendation of the Constitution Committee.

8. **Recommendation from Constitution Committee - Notice of Motion re Location of Strategic Planning Board Meetings** (Pages 73 - 78)

To consider the recommendation of the Constitution Committee.

9. **Recommendation from Constitution Committee - Key Decisions** (Pages 79 - 96)

To consider the recommendation of the Constitution Committee.

10. **Recommendation from Constitution Committee - Review of Contract Procedure Rules** (Pages 97 - 102)

To consider the recommendation of the Constitution Committee.

(Note: the contract procedure rules will be amended to incorporate the additional amendments agreed by the Constitution Committee and any further changes agreed by the Vice-Chairman of the Committee in consultation with the Director of Finance and Business Services. They will then be circulated to Members as an Addendum to this item).

11. **Recommendation from Constitution Committee - Proposed Amendments to the Council's Finance and Contract Procedure Rules/Project Gateway** (Pages 103 - 116)

To consider the recommendation of the Constitution Committee.

12. **Recommendation from Constitution Committee - Special Responsibility Allowance: Local Service Delivery Committees for Crewe and Macclesfield** (Pages 117 - 122)

To consider the recommendation of the Constitution Committee.

13. **Recommendation from Constitution Committee - Petitions Scheme** (Pages 123 - 138)

To consider the recommendation of the Constitution Committee

14. **Recommendation from Constitution Committee - Review of the Planning Protocol of Conduct and the Planning Public Speaking Protocol** (Pages 139 - 172)

To consider the recommendation of the Constitution relating to the review of the Planning Protocol of Conduct and the Planning Public Speaking Protocol, together with the recommendations of the Strategic Planning Board and the Audit and Governance Committee.

15. **Recommendation from the Audit and Governance Committee - Standards Issues and Planning Protocol** (Pages 173 - 186)

To consider the recommendation of the Audit and Governance Committee relating to the appeals procedure in relation to complaints under the Member Code of Conduct.

16. **Recommendation from Audit and Governance Committee - Audit and Governance Committee Annual Report 2011/12** (Pages 187 - 210)

To receive the Audit and Governance Committee Annual Report 2011/12.

17. **Recommendation from Independent Remuneration Panel - Notice of Motion re Member Allowances/Mileage Rates** (Pages 211 - 214)

To consider the recommendation of the Independent Remuneration Panel.

18. **Recommendation from Cabinet - Middlewich Eastern Bypass & Midpoint 18** (Pages 215 - 266)

To consider the recommendation of Cabinet.

19. **Questions**

In accordance with Procedure Rule 11, opportunity is provided for Members of the Council to ask the Mayor, the appropriate Cabinet Member or the Chairman of a Committee any question about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities. Questions must be sent in writing to the Monitoring Officer at least 3 clear working days before the meeting.

At Council meetings, there will be a maximum question time period of 30 minutes. Questions will be selected by the Mayor, using the criteria agreed by Council. Any questions which are accepted, but which cannot be dealt with during the allotted period will be answered in writing. Questions must be brief, clear and focussed.

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CHESHIRE EAST COUNCIL**Minutes of a meeting of the Council**

held on Thursday, 19th July, 2012 at Grand Hall, Congleton Town Hall, High Street, Congleton CW12 1BN

PRESENT

Councillor G M Walton (Chairman)

Councillor D Flude (Vice-Chairman)

Councillors C Andrew, Rachel Bailey, Rhoda Bailey, A Barratt, G Barton, G Baxendale, G Boston, D Brickhill, D Brown, L Brown, B Burkhill, P Butterill, R Cartlidge, J Clowes, S Corcoran, H Davenport, R Domleo, D Druce, K Edwards, P Edwards, I Faseyi, J P Findlow, W Fitzgerald, S Gardiner, L Gilbert, M Grant, P Groves, J Hammond, A Harewood, P Hayes, S Hogben, D Hough, P Hoyland, O Hunter, J Jackson, L Jeuda, M Jones, S Jones, A Kolker, W Livesley, D Mahon, D Marren, M A Martin, P Mason, S McGrory, R Menlove, G Merry, A Moran, B Moran, B Murphy, H Murray, D Newton, P Nurse, M Parsons, P Raynes, M Sherratt, B Silvester, M J Simon, L Smetham, D Stockton, C G Thorley, A Thwaite, D Topping, M J Weatherill, R West, P Whiteley, S Wilkinson and J Wray

Apologies

Councillors D Bebbington, W S Davies, R Fletcher, H Gaddum, M Hardy, F Keegan, J Macrae, A Martin, D Neilson, L Roberts, J Saunders and G Wait

26 MINUTES OF ANNUAL COUNCIL MEETING - 16 MAY 2012**RESOLVED**

That the minutes be approved as a correct record.

(Cllr Brickhill voted against the motion).

27 MAYOR'S ANNOUNCEMENTS

The Mayor announced :-

1. That it was over two months since he had been appointed as Mayor. He had represented Cheshire East Council at over 80 events and met with many hundreds of people. He thanked them all for their time, hospitality and the contribution that they made to life across Cheshire East.
2. On the day after his appointment he had the privilege of participating in Her Majesty the Queen's Diamond Jubilee visit to Cheshire when he attended an event at Chester Zoo. On 27th May

he had attended a service of thanksgiving at Chester Cathedral to commemorate the Diamond Jubilee, together with other Jubilee celebrations. The celebration of the Jubilee culminating with the lighting of a Beacon on Teggs Nose on the evening of the Bank Holiday on 4th June.

3. Her Royal Highness the Countess of Wessex had visited Cheshire East on 19 June when she toured the David Lewis Centre and then graced the Cheshire Show with her presence. At the Show she visited the Cheshire East stand and met with both Members and staff. On the previous day he had had the pleasure of meeting HRH the Duke of Gloucester when he visited the Borough to present Oliver Valtec in Knutsford with a Queen's Award for Enterprise.
4. That it was always nice to meet children and young people and those that worked with them. Over the last couple of months he had had the pleasure of attending many events which had celebrated the contribution that the next generation make to society. These had included a summer fair to celebrate the 50th anniversary of the Rainbow Pre School in Handforth, visits to Goostrey Community Primary School, Knutsford Academy and Pownall Hall School's summer fair and two mornings spent at South Cheshire College. He had also attended a wonderful event at the Liverpool Philharmonic Hall where the Cheshire Youth Orchestra was performing.
5. With the Olympic Games fast approaching he had attended a number of events which have celebrated this momentous occasion. The Olympic torch had visited Cheshire East in May and he had been delighted to host an event at Tatton Park. On the previous Sunday Tatton had hosted a function to say farewell to the Olympians who had been training across the North West and on the previous Tuesday he had attended an event wishing the best of luck to those who had been training in Cheshire East, at the BMW car franchise in Crewe.
6. The Borough had been playing a full part in the Cultural Olympiad with "The Moment When", a dance performance held at Tatton Park on the previous Sunday. He was sure that Members would join with him in sending best wishes to all the teams and individuals who would be representing Great Britain at the forthcoming Olympic and Paralympic Games.
7. As Mayor he was always delighted to help celebrate the role that business and commerce played across the Borough. It had been particularly gratifying to attend the ground breaking ceremony in Wilmslow to mark the construction of the new Headquarters for the Waters Corporation. He also attended the opening of a new manufacturing plant in Crewe by Busch GVT Limited. Both were wonderful examples of major international companies being attracted into the Borough.

8. He thanked those who had attended his civic service on the previous Sunday at Knutsford Parish Church; He particularly thanked his Chaplain and those at the church for the contribution that they had made to the day. He informed members that in the next few weeks they would be receiving an invitation to his Civic Ball, which would be held at Tatton Park on Friday 14th September.
9. He was pleased to announce that the Council's A-Team apprentices had been shortlisted as a North West finalist for the prestigious National Apprenticeship Awards 2012; He was sure that Members would join him in wishing them luck.
10. The Mayor also congratulated Cllr Harewood on her recent marriage.

28 **DECLARATIONS OF INTEREST**

Cllr Flude declared an interest in item 13 – Capital Programme Approvals, Schemes over £1m, by virtue of being the Chair of the Governors of Pebble Brook Primary School, which was one of the Schools named in the report.

29 **PUBLIC SPEAKING TIME/OPEN SESSION**

Mrs Charlotte Peters Rock used public speaking time to present a record of questions on behalf of Mrs Mabel Taylor, which had been asked at previous meetings of the Council.

She also raised several problems, which she considered were currently occurring within the LCASC complaints system of Cheshire East Council and which she felt meant that there was inadequate redress for the general public.

She also raised concerns with regard to the previous Portfolio Holder Cllr Domleo's joint responsibilities for Adult Services and Health and Wellbeing and particularly in relation to his new role Vice Chairman of the Health and Wellbeing Scrutiny Committee.

30 **NOTICES OF MOTION**

Consideration was given to the following Notices of Motion :-

1 Proposed by Cllr G Baxendale and seconded by Cllr M Jones

Armed Forces Community Covenant

"The Council's formal signing of the Community Covenant scheme which clearly demonstrates its commitment and support to the Armed Services is to be welcomed. However, this Motion seeks to ask the Cabinet to take responsibility for the development of a detailed Action Plan, based on the Scheme, which will outline, by Service area, the practical support that the

Council can provide to those currently serving in the Armed Services, their families and those that have served in the past.”

RESOLVED

That the motion stands referred to Cabinet for consideration.

2 Proposed by Cllr A Moran and Seconded by Cllr P Edwards

Right to Speak at Meetings

“That visiting Members to all Cabinet meetings, Committees and Sub Committees have the right to speak once on each separate item on the agenda before the debate proper commences. This will apply to all items on the agenda including part 2 items.”

RESOLVED

That the motion stands referred to the Constitution Committee for consideration.

3 Proposed by Cllr B Murphy and Seconded by Cllr M Parsons

Corporate Communications Function

“This Council calls for an immediate all-party inquiry into the Council’s corporate communications function with particular reference to:

- its purpose, relevance and value-for-money
- overall cost, budgetary provision/resource allocation and cost effectiveness
- political impartiality and support for members
- the corporate culture it seeks to foster
- its policies/protocols for media relations, publications, communication technology, corporate ID, corporate communications/marketing, and internal communications.”

RESOLVED

That the motion stands referred to Cabinet for consideration.

4 Proposed by Cllr D Brickhill and Seconded by Cllr P Edwards

Consultants

“No outside consultants (other than clerical staff) shall be employed by the Council without their specific instruction.”

RESOLVED

That the motion stands referred to Cabinet for consideration.

5 Proposed by Cllr D Brickhill and Seconded by Cllr A Moran

Road Maintenance

“That all pre planned road maintenance (except pothole filling) is to be carried out on an equal expenditure basis per Ward in direct proportion to the electorate in that Ward, unless the relevant parish councils resolve that they are satisfied with the state of their roads. A monthly report to all Councillors is to be published by 15th of each month by the Highways Department showing the work done in the previous month and the work to be done in the next month.”

That the motion stands referred to Cabinet for consideration.

6 Proposed by Cllr A Moran and seconded by Cllr D Brickhill

Notices of Motion

“That all Motions that are referred by Council to a Committee or Cabinet must be put on the agenda for the next meeting of that body or brought back to the next Council meeting for vote on a final decision.”

That the motion stands referred to the Constitution Committee for consideration.

7 Proposed by Cllr D Brickhill and Seconded by Cllr S Hogben

Location of Strategic Planning Board Meetings

“That when the Strategic Planning Board agenda contains a majority of items from the south of the Borough, the meeting will be held in Crewe or Sandbach.”

That the motion stands referred to the Constitution Committee for consideration.

8 Proposed by Cllr B Murphy and seconded by Cllr P Edwards

Confidentiality

“In the light of the ever-growing demand for public accountability in public services and the need to sustain public trust and confidence in democratic governance, this Council calls for a review of its policies and protocols in relation to confidentiality.”

RESOLVED

That the motion stands referred to the Constitution Committee for consideration.

9 Proposed by Cllr B Murphy and seconded by Cllr P Edwards

Suspension of Employees Accused of Misconduct

In the light of apparent inconsistencies in the use of suspension for disciplinary offences, this Council calls for a review of its practices in this respect with particular reference to the criteria used to determine whether or not suspension is appropriate.

RESOLVED

That the motion stands referred to Cabinet for consideration.

10 Proposed by Cllr G Boston and Seconded by Cllr L Jeuda

Quality Care Commission Report – Learning Disability Services

On the 25th June 2012 the Care Quality Commissions (CQC) published the results of its damning National Review Report in to Learning disability services. It found over 50% of services inspected did not comply with CQC regulations and 27 of those services had safeguarding concerns identified. In addition findings showed that *“some assessment and treatment services are admitting people for long spells of time, and discharge arrangements are taking too long to arrange.”*

Given that CQC have recommended:

- Commissioners need to urgently review the care plans for people in treatment and assessment services and identify and plan move on arrangements to the next appropriate service and care programme.
- Commissioners also need to review the quality of advocacy services being provided, particularly in those locations where we identified non-compliance with the standards.

Motion

“That Members are advised of any Cheshire East people placed in any of the services that have safe guarding issues and those people have their placements reviewed as a matter of urgency.

That Members are advised how many people are currently in treatment and assessment services and the length of time they have been there.

That Members are advised of the steps being taken to *“urgently review the care plans for people in treatment and assessment services and identify and plan move on arrangements to the next appropriate service and care programme.”*

That Members are advised when the review of the quality of advocacy services being provided, particularly in those locations where CQC identified non-compliance with the standards, will take place.”

RESOLVED

That the motion stands referred to Cabinet for consideration.

11 Proposed by Cllr G Boston and Seconded by K Edwards

Planning

“Cheshire East Council recognises and accepts that the decisions in relation to planning applications submitted to the Northern and Southern Planning committees and to the Strategic Planning Board should be left to the detailed consideration and decision by the members both individually and collectively of those Committees.

Those Committees are in a quasi judicial position and need to approach those decisions in an objective and fair manner in relation to considering how to decide such applications. Whilst recognising the right of individual councillors who are not on planning committee to express personal views, this Council rejects and deplores public comment from any Councillors especially the Leader of the Council who ought to be more careful with his comments, that might imply that decisions have been taken by the Council weeks or even months before the Planning Committees or Planning Board have met.

Council also agrees as a matter of urgency that all Members who have not already done so attend planning training whether or not they sit on the planning committee to ensure that in future inexperienced Elected Members whatever their role do not inadvertently compromise the Council.”

The Mayor stated that given the nature of the motion he had determined that it should be debated and disposed of at the meeting, in accordance with Constitutional rules. A debate on the motion therefore took place.

A note clarifying the rules on pre-determination was circulated to all Members of the Council at the meeting, at the request of the Leader of the Council, Cllr Michael Jones.

RESOLVED

The motion was not agreed by Council.

12 Proposed by Cllr L Jeuda and Seconded by Cllr G Boston

In proposing the motion Cllr Jeuda corrected the figure in respect of unclaimed pension credit from £2.8million to £2.8billion.

Benefit Awareness

A recent report by the WRVS, Ageing across Europe, has found that older people in the United Kingdom have the highest rates of loneliness and isolation than in Germany, the Netherlands and Sweden. Many older people are living in poverty and this affects their life expectancy and risk of social isolation. Given that £2.8 billion in Pension Credit goes unclaimed every year in the UK, whilst 1.8 million older people are living in poverty demands urgent action.

Motion

“This Council undertakes to conduct a campaign aimed at older people making them aware of benefits they are entitled to.

At the same time Cheshire East to provide additional funding to those organisations currently struggling to meet the demand for Benefits advice.”

RESOLVED

That the motion stands referred to Cabinet for consideration.

13 Proposed by Cllr D Druce and seconded by Cllr W Livesley

South Macclesfield Development Area

“This Council supports the development of South Macclesfield Development Area which would deliver many regeneration and wider benefits including a new link road connecting Congleton Road and Leek Road.”

RESOLVED

That the motion stands referred to Cabinet for consideration.

31 RECOMMENDATION FROM CABINET - SHADOW HEALTH AND WELLBEING BOARD TERMS OF REFERENCE

Consideration was given to the recommendation of Cabinet to approve revised Shadow Health and Wellbeing Board Terms of Reference, together with a number of changes to the Terms of Reference, which had been agreed by Cabinet and were highlighted in blue and appended to the agenda.

RESOLVED

1. That the revised Shadow Health and Wellbeing Board Terms of Reference, including the changes agreed by Cabinet, be approved.

2. That Council supports the recommendation to further review the Board's Terms of Reference in advance of the Board assuming its statutory functions, taking account of Board priorities expressed within the Joint Health and Wellbeing Strategy which will be finalised in the autumn following a period of consultation.

32 RECOMMENDATION FROM THE STANDARDS COMMITTEE - LOCALISM ACT 2011, NEW CODE OF CONDUCT

At its meeting on 18 June 2012, the Standards Committee had considered two reports setting out the detailed requirements of the Localism Act 2011 to have a Member Code of Conduct, together with a process for the investigation of complaints. A report updating Council following the meeting, which made a number of recommendations to adopt the revised documents to come into force with immediate effect was submitted. A separate report, at item 9 of the agenda, made recommendations as to the changes to be made to the terms of reference of the Audit and Governance Committee.

Council was also recommended to approve the appointment of four new Independent persons, as required by Section of the Localism Act 2011.

The minutes of the Standards Committee were appended to the agenda.

AMENDMENT

An amendment to delete the words "There is no right of appeal from the decision of the Standards Hearings Sub-committee" at paragraph 29 of the Complaints Procedure, set out at page 63 of the report and to replace with the words "That a right of Appeal shall be built into the process" was moved and seconded and declared carried.

RESOLVED

1. That the new Code of Conduct for Elected Members of Cheshire East Council at Appendix 1 of the report be approved.
2. That the procedure relating to investigation of complaints under the new Code of Conduct, at Appendix 2 of the report, together with the criteria to be used to evaluate complaints, at Appendix 3 of the report, be approved and that a right of Appeal be built into the process.
3. .That the appointment of 4 new Independent Persons, as required by Section 28 of the Localism Act 2011, namely Mr Peter John Bryant, Mr Robert Fousert, Mrs Sheila Margaret Roberts and Mr Roger Pomlett for a period of three years expiring 31 December 2015 be approved.

4. That all Members complete the new Register of Interest Forms within 28 days of the Council meeting.
5. That the Leader of the Council write to all of the former Independent Members of the Standards Committee to thank them for their role on the Committee.

33 RECOMMENDATION FROM CONSTITUTION COMMITTEE - PROPOSED AMENDMENT TO AUDIT AND GOVERNANCE COMMITTEE'S TERMS OF REFERENCE AND THE COUNCIL'S PROCEDURE RULES

The Standards Committee, at its meeting on 19 July 2012 had considered the proposed adoption of additional terms of reference for the Audit and Governance Committee to enable responsibility for ethical standards and conduct issues to be transferred from the Standards Committee, in line with the requirements of the Localism Act 2011. The proposed terms of reference were set out in the Appendix to the report to the Constitution Committee and included the establishment of three ad hoc panels and sub-committees to consider, at different stages, alleged breaches in the Member Code of Conduct. The membership of the bodies would be drawn from a pool of 15 Members, comprising the Members of the Audit and Governance Committee and five others.

The Constitution Committee had also recommended that Council agree that the Council Procedure Rules be amended to require a Member who declares a disclosable pecuniary interest in an item of business to withdraw from the meeting at the appropriate juncture.

Consideration was given to the recommendations from the Constitution Committee.

RESOLVED

1. That the terms of reference set out in the Appendix to the report to the Constitution Committee be approved, the sub-committee and panels to operate under the procedures approved and adopted by Council.
2. That the proposed pool of 15 Members be constituted on the basis of political proportionality and the political groups be invited to submit nominations to the five additional places as appropriate.
3. That the Council Procedure Rules be amended to require a Member who declares a disclosable pecuniary interest in an item of business to withdraw from the meeting at the appropriate juncture, the Borough Solicitor being authorised to make such changes to the Constitution as she considers appropriate to give effect to the wishes of Council.

34 RECOMMENDATION FROM CONSTITUTION COMMITTEE - NOTICE OF MOTION ON CHANGES TO THE ARRANGEMENTS FOR SCHEDULED COMMITTEE MEETINGS

The Constitution Committee, at its meeting on 5 July 2012, had considered the following motion, proposed by Councillor D Brickhill and seconded by Councillor P Edwards, which had been referred by Council to the Committee for consideration: -

“That meetings set out in the Council diary shall not be changed either by timing or location unless:

All Members have been consulted and there is no relevant business in which case the meeting is cancelled.

All Members are consulted and more than 60 agree to the change.”

The Constitution Committee recommended that Council approve a change to the Committee Procedure Rules to provide that a scheduled meeting of a decision-making body may be cancelled or changed by the Chairman following consultation with the whole membership of that body, provided that such cancellation or change takes place at least five clear working days before the scheduled date of the meeting, to enable sufficient public notice to be given.

AMENDMENT

An amendment to insert after the words “the whole membership of that body” the additional words “and with the agreement of a simple majority of the members of that body” was moved and seconded and declared carried.

RESOLVED

That a change to the Committee Procedure Rules be approved, to provide that a scheduled meeting of a decision-making body may be cancelled or changed by the Chairman following consultation with the whole membership of that body and with the agreement of a simple majority of the members of that body, provided that such cancellation or change takes place at least five clear working days before the scheduled date of the meeting to enable sufficient public notice to be given.

35 RECOMMENDATION FROM LICENSING COMMITTEE - SKIN PIERCING BYE-LAWS

The Licensing Committee, at its meeting on 16 January 2012, had considered a report regarding proposed draft byelaws relating to the regulation of acupuncture, tattooing, semi-permanent skin colouring,

cosmetic piercing and electrolysis and recommended approval of the byelaws to Council.

Consideration was given to the recommendation of the Licensing Committee.

RESOLVED

1. That the byelaws relating to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis attached as an appendix to the report to the Licensing Committee be approved and authorisation be provided for the affixing of the common seal of the Council to the byelaws.

2. That the Borough Solicitor, or officer acting on her behalf, be authorised to carry out the relevant statutory procedures in relation to the making of the byelaws and to apply to the Secretary of State for confirmation of the byelaws.

36 REPORT BACK FROM STRATEGIC PLANNING BOARD ON THE NOTICE OF MOTION RELATING TO COMMUNITY LEVY PAYMENTS

Consideration was given to the report back from Strategic Planning Board on the Notice of Motion Relating to Community Levy Payments.

RESOLVED

That the decision be noted.

37 CAPITAL PROGRAMME APPROVALS - SCHEMES OVER £1M

Consideration was given to the report of the Strategic Director of Children, Families and Adults, which sought approval for the virement of Block Grant Funding contained within the approved 2012/13 Capital Programme to specific named schemes to address demographic basic need for pupil places.

RESOLVED

That virements and Supplementary Capital Estimates totalling £4.3m for the following schemes be approved :-

- £1.7m to Wilmslow High School Learning Resource Centre
- £1.0m to Pebble Brook Primary School Extension
- £1.6m to Wheelock Primary School Extension

38 ADDITIONAL GRANT FUNDING

Consideration was given to the report of the Director of Finance and Business Services, which provided details of additional unbudgeted specific grant received or due to be received by the Council in respect of which services were seeking approval to incur expenditure in 2012/2013.

The Department for Transport (DfT) had announced that Cheshire East's bid to the Local Sustainable Transport Fund (LSTF) had been successful. The value of the bid was £3.509 million (64% revenue and 36% capital) over the following three years, until March 2015.

Various service bids were also being made in respect of unused grant funding received in the 2011/2012 financial year, which was therefore effectively now held in general reserves.

Some of the items required urgent approval so that intended expenditure could be incurred, but, for convenience, the report included all known bids for which Council approval was required.

RESOLVED

1. That in respect of the Local Sustainable Transport Fund (LSTF):-
 - (a) the Department of Transport's offer of grant funding totalling £3.509m over three years be accepted;
 - (b) a Supplementary Revenue Estimate (SRE) of £578k in 2012/2013 be approved;
 - (c) a Supplementary Capital Estimate (SCE) totalling £1.273m across three financial years until March 2015 be approved.
2. That additional service expenditure of £301,000k for 2012/2013, fully funded from unspent specific grant allocations from 2011/2012 as detailed in the Appendix to the report be approved.

39 PAY POLICY STATEMENT 2012/13 UPDATE

Consideration was given to the report of the Head of Human Resources and Organisational Development, which sought Council approval, following recommendation from Staffing Committee, for the adoption of the updated Pay Policy Statement 2012/13. The Updated Pay Policy Statement was attached at Appendix 1 of the report and the changes had been highlighted within it.

As the Staffing Committee had met after the agenda papers had been published the minute of the meeting in respect of this matter was circulated to Members at the meeting.

The Staffing Committee had suggested that additionally the details of a Chief Executive's termination payment and terms of the compromise agreement should be reported for noting to the next meeting of the Council and that the indicative figures be included in the report. The relevant paragraph was amended to read as follows: -

"Termination payments in addition to a payment in relation to contractual notice pay (and including any outstanding holiday pay) for the Chief Executive and the terms of any associated compromise agreement will be subject to approval by the Staffing Committee and reported to the next meeting of full Council for noting and to include the indicative figures."

After moving the recommendation of the Staffing Committee, the mover of the motion, Cllr Topping agreed to add "Chairman of the Staffing Committee" in paragraph 8, of the Pay Policy Statement, at page 145 of the agenda, relating to Compromise Agreements, to read :-

"The final decision and approval for any termination payment and approval for the terms of a compromise agreement in relation all employees up to Deputy Chief Officer level (as defined in this Pay Policy Statement) rests with the Chief Executive and, in cases of Chief Officers (Statutory, non Statutory and those earning over £100,000 per annum), this will be in discussion with the Leader and the Chairman of the Staffing Committee".

RESOLVED

That, subject to the additional wording in relation to the approval of the Chief Executive's termination payments and the amended wording in paragraph 8 of the document, the updated Pay Policy Statement for 2012-13 be approved.

40 OVERVIEW AND SCRUTINY ANNUAL REPORT 2011/12

Consideration was given to the Overview and Scrutiny Annual Report 2011/12. The Mayor reported that it has been brought to his attention that Cllr Sherratt's name had been omitted from the membership details for the Children and Families Scrutiny Committee, listed in the report. Subject to this addition, it was moved and seconded that the 2011/2012 report be received and posted on the Council's website.

With reference to the section of the report relating to the April meeting of the Sustainable Communities Scrutiny Committee, where consideration had been given to the impact the introduction of the Community Infrastructure levy would have on Section 106 Agreements and how the negative impact of developments would be mitigated a correction was made to the wording to read " The Committee recommended to Council that at least 80% of funds should be retained within local areas (in most

cases), to ensure that local people gain from having new developments placed in their community”.

RESOLVED

That, subject to the above corrections, the Overview and Scrutiny Annual Report 2011/12 be received and posted on the Council’s website.

41 QUESTIONS

The following questions had been submitted :-

Question 1- Support for Dairy Farmers – Submitted by Cllr Wilkinson

Can the Leader confirm that this Council is doing all it can to support the dairy farmers in Cheshire East as they face the huge decreases in the farm gate prices for their milk?

Response

The Leader of the Council, Cllr Michael Jones responded that he agreed that the Council must support the industry. He had prepared a full response , but due to the lateness in the day, this would be circulated to all Members of the Council, after the meeting.

Supplementary Question

Cllr Wilkinson thanked the Leader for his response and asked that if the Leader was minded to write to the Minister for Agriculture, would he point out that farm estates were suffering and that this could have an impact on the greater rural economy.

Cllr Jones agreed to work with Cllr Wilkinson on the submission of a letter to the Minister.

Question 2- Development in Shavington – Submitted by Cllr D Marren

A recent letter to the Crewe Chronicle captured the concerns of many residents of Shavington, in suggesting that Cheshire East Council is actively encouraging growth in and around Shavington. If true, the Council can expect a strong reaction from the village and sympathetic Councillors.

Can the Portfolio Holder detail which sites identified as deliverable in the 2011 Strategic Housing Land Availability Assessment around Shavington have had applications for development submitted; which sites officers expect applications for in the short and midterm; the names of the developers and what support and/or encouragement is being given/has been given to these applicants by this Council?

Response

Cllr Rachel Bailey undertook to provide a written response to the question to all Members of then Council, after the meeting.

Question 3 - Press Releases – Submitted Cllr Corcoran

This Council has been reported as stating that it shouldn't break the law.

1) Could we also have a clear statement that this Council should always tell the truth?

2) In particular, please can someone explain to me why this Council issued a press release stating that 'The disparity (of not allowing bus passes on Dial-a-Ride in the south of the borough) arose following the collapse of East Cheshire Community Transport' when in fact the disparity arose before then and indeed the withdrawal of the use of bus passes on Dial-a-Ride was partly responsible for the collapse of East Cheshire Community Transport?

3) Could someone also explain to me why this inaccuracy was not corrected promptly when I pointed it out to the Press Office?"

Response:

Cllr M Jones 1) Cllr Jones responded that the Council could not always tell the truth, for example where there were safeguarding issues and in the interest of the public it was not possible to disclose everything. The Council did not lie, but could not always tell the truth.

Cllr Menlove 2) From April 2 this year, there was a disparity between the north of the borough and the south. The replacement flexible transport service in the north of the borough was required by law to accept bus passes, as it was registered public transport. In the south of the borough, the previous service operated under a Section 19 permit and the Council had previously decided that Section 19 services would not be allowed to accept bus passes.

The Council strongly refutes that its actions in anyway resulted in the collapse in East Cheshire Community Transport. The decision regarding Section 19 permits in no way was responsible for the collapse of East Cheshire Community transport. The administrators' report into the collapse showed the company had debts approaching £300,000. Furthermore, It is our understanding that several days prior to East Cheshire Community Transport ceasing trading they became a

Limited Company and as a result, Cheshire East Council is now unable to recover monies due to it.

A grant of £81,000 was awarded to the company on April 1 2012, to be paid in monthly instalments. It transpires that the Council acted with taxpayers' best interests at heart because had the grant been paid upfront in one lump sum, then almost £75,000 would have been lost.

The Council has supported this organisation throughout. In June last year, Cheshire East Council gave the charity a one-off grant of £125,000 to buy vehicles and software. The Council even maintained the Dial-a-Ride vehicles at taxpayers' expense. Sadly, this one-off funding was unable to save them.

- Cllr D Brown 3) Cllr Brown apologised that inaccurate information was sent out. When the inaccuracy was identified he had decided , in consultation with the Communications team, not to go back to the media to ask them to print a correction, as the situation had been rectified.

Supplementary Question

Cllr Corcoran thanked Cllr Brown for accepting that there had been a mistake, but he considered that an e-mail should have been sent to Members to inform them. However, he did not feel that Cllr Menlove had answered his question and questioned why the press statement had been issued.

Cllr Menlove responded that sometimes people made mistakes and quite simply a mistake had been made on this occasion.

Question 4 - Definition of a 'Sustainable Development' – Submitted by Cllr Corcoran

What is this Council's working definition of a 'sustainable development'?

The National Planning Policy Framework states that there is a presumption in favour of sustainable development. Cheshire East Council has intimated that it uses the North West Development Agency (NWD A) sustainability toolkit to assess sustainability. The interim planning policy that has recently been subject to consultation used the distances to local services taken from the NWD A sustainability toolkit question 34. However, I am told by Cheshire East officers that in assessing planning applications a tolerance of 50% is added to all the distances given in the NWD A sustainability toolkit. As an example the NWD A sustainability toolkit lists Primary school (1000m). When Cheshire East assesses a site, is a primary school 1,400m away a pass or a fail (or a marginal fail)?"

Response

Cllr Rachel Bailey undertook to provide a written response to the question to all Members of the Council, after the meeting.

Question 5 - Responding to Elected Members – Submitted by Cllr Boston

You will recall I put a motion to Council on the 16th April that Cheshire East Council adopt a policy of responding to elected member enquiries within 2 working days.

When 3 months later this motion had not been responded to I asked why my request for a quick response to Members has not yet been responded to! The response from Member Services - “There has been a great deal of Cabinet business since the annual meeting of Council and it has not therefore been possible to list every item as early as might have been desired.” serves to underpin my point.

Although it has now been listed for 23rd July can you confirm that this practice of poor or non response to Members will drastically improve in the future and that Members as the elected representatives and voice of the people will not continue to be ignored?

Response from Cllr David Brown

Cllr Brown apologised to Cllr Boston that it had taken so long to include her motion on the Cabinet agenda.

He stated that the Council had always been committed to supporting Members and responding to their enquires in an efficient and timely way.

He considered that the exchange of information between officers and Members was crucial. The Council was always looking for opportunities to continue to embed a culture where Members received prompt responses to queries. This approach of “Think Member First” was something which would continue to be a theme of his Group. Where more could be done to embed this, the Cabinet work with officers to achieve this.

He stated that Councillor Boston’s motion would be presented to Cabinet on the following Monday. She was right that there had been a lot of Cabinet business since her motion was first put to Council, but he could assure her that, when her motion is considered, it would receive full consideration.

He reported that some work was taking place to revise and streamline responses to Member enquiries and this would be considered by Cabinet at its next meeting. There was a policy, which he felt needed looking at.

The public should expect a similar time for responses and Members should not be special. The Council should respond to any query within 5 days, not necessarily with a full answer but at least with an acknowledgment identifying the course of action.

The Leader of the Council, Cllr M Jones, added that he intended to propose that every Notice of Motion referred from Council to Cabinet must be considered by Cabinet within the next two meetings.

42 EXCLUSION OF PRESS AND PUBLIC

RESOLVED

That the press and public be excluded from the meeting during the consideration of the following item pursuant to Section 100(A) 4 of the Local Government Act 1972 as amended on the grounds that they involved the disclosure of exempt information as defined in Paragraph 4 of Part 1 and 2 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing this information.

43 RECOMMENDATION FROM STAFFING COMMITTEE - SENIOR MANAGEMENT

As the Staffing Committee had met after the agenda papers had been published the minute of the meeting in respect of this matter was circulated to Members at the meeting.

Consideration was given to the recommendations from the Staffing Committee.

RESOLVED: That :-

- (1) the terms of the provisional agreement negotiated with the Chief Executive, as set out in paragraph 10.3 of the report, be approved.
- (2) the Borough Solicitor be authorised to enter into a compromise agreement with the Chief Executive.
- (3) the Borough Solicitor be designated Officer as:-
 - The Electoral Registration Officer for the registration of electors under Section 8 of the Representation of the People Act 1983,
 - the Returning Officer for the election of Councillors for the District and parishes within the District, under Section 35 of the 1983 Act; and

- the Acting Returning officer at UK Parliamentary elections; the local returning Officer at European Parliamentary elections; and the Local returning Officer for the Police and Crime Commissioner Elections.

The meeting commenced at 6.00 pm and concluded at 11.55 pm

Councillor G M Walton (Chairman)

CHAIRMAN

COUNCIL – 11 OCTOBER 2012**NOTICES OF MOTION****1 Proposed by Cllr M Jones and Cllr P Edwards****Vote of Thanks**

2012 has seen two very intensive periods of severe flooding across Cheshire East. The first was in June and the second in September. During both events, Council employees responded quickly to the rapidly changing conditions and worked effectively together along with external partners to minimise the disruption caused to road users whilst protecting both domestic and business properties within the area. Areas most severely affected in the recent storm included:-

- River Bollin at Little Bollington
- The River Dane at Middlewich
- Wrinchill Road, Nantwich
- Whitehaven Lane, Faddiley
- Maw Green Lane, Crewe
- Warford Lane, Great Warford
- Tabley Hill Lane, Tabley
- A50 Dog Lane, Brereton
- Wilmslow Road, Alderley Edge
- A50 King Edward Road, Knutsford
- Bradfield Green, Crewe
- Trent and Mersey Canal, Middlewich

Teams worked relentlessly throughout the flooding 24 hours a day until the flood risk had diminished. Although the majority of floods have now been removed or have subsided naturally, there are still many locations where follow-up work is required.

Notice of Motion

“This Council places on record its thanks and appreciation to our local communities, our employees, our partners in Fire, Police, Environment Agency, Town and Parish Councils, and other agencies, who worked tirelessly and effectively during the recent storms and delivered a truly coordinated and effective response”.

2 Proposed by Cllr D Brickhill**Highways Contract**

“That the Environment and Scrutiny Committee conduct an examination of the performance of the highways contract and its contractor Ringway Jacobs placing particular emphasis on improving response times to maintenance and

gateway white lining calls. It should report back to council before Christmas 2012.”

3 Proposed by Cllr D Brickhill

Start Time of Council Public Meetings

“That in view of the increasingly bad traffic congestion in the morning rush hours all this councils’ public meetings, which cause additional traffic to travel in these periods, should never start before 10 am if held in Sandbach and not before 10.30 am if held elsewhere.”

4 Proposed by Cllrs S Wilkinson and Rachel Bailey

Bovine TB

“That Cheshire East endorses measures to halt the current high incidence of Bovine TB with the ultimate aim of both healthy wildlife and cattle population, never mind vital protection of the economic social wealth, health and wellbeing of our rural community.

In so doing Cheshire East supports early liaison with both EU and DEFRA to ensure infected areas within the Borough are tackled speedily”.

5 Proposed by Cllr F Keegan

Petition DCLG to Re-locate Statutory Allotments

"This Council believes that Town and Parish Councils have the right to petition the Department for Communities and Local Government to re-locate Statutory Allotments.”

COUNCIL MEETING – 11TH OCTOBER 2012**Extract from the Minutes of the Constitution Committee Meeting on 20th September 2012****15 CREWE COMMUNITY GOVERNANCE REVIEW - FINAL OUTCOME**

Having declared a disclosable pecuniary interest earlier in the meeting, Councillor S Hogben withdrew from the meeting.

The Committee considered a report on the outcome of the final stage of consultation for the review and the results of a ballot of electors in the unparished part of Leighton.

Nine responses to the consultation were received and were appended to the report. The results of the Leighton ballot showed that 85% of respondents were in favour of being included in Leighton Parish.

The Sub-Committee had recommended that the unparished part of the Leighton Borough Ward be included in the adjoining Leighton Parish. The Sub-Committee had left it to the Committee to determine the number of parish councillors for Crewe.

A re-organisation Order was required to be approved by the Council to bring any new arrangements into effect, following the final outcome of the Review. Within this Order, for the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008, a sum had to be included for the budget for the first year of operation of the new parish council, which could not be exceeded. The Sub-Committee has therefore prepared a draft budget. The draft re-organisation Order and the draft budget were attached as Appendices to the report. In developing the budget figure, consideration had been given to the transfer of assets to the new parish council, having taken into consideration advice from Counsel. The Sub-Committee had recommended that all Council allotments within the unparished area and the public conveniences in Lyceum Square, Crewe should transfer as part of the re-organisation order.

The minutes of the meetings of the Sub-Committee held on 18th July 2012 and 4th September 2012 were appended to the report.

In considering the results of the consultation, ballot and recommendations of the Community Governance Sub-Committee, and in formulating its recommendations to Council, Members ensured that the proposed community governance arrangements within the area under review were reflective of the identities and interests of the community in the area; and were effective and convenient.

The Committee was asked to authorise the Sub-Committee to take all necessary actions in preparation for the new Crewe parish council.

RESOLVED

That

(1) Council be recommended to approve that

- (a) the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a Parish Council for the unparished area of Crewe and that Parish Council be advised to consider its designation as a Town Council;
- (b) having taken into account the representations received, the Parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards, with each ward having the number of parish councillors as follows:

St Barnabas	2
Crewe Central	2
Crewe North	2
Crewe South	3
Crewe East	4
Crewe West	3
TOTAL	16

- (c) having considered the results of the ballot of electors, the unparished part of the Borough ward of Leighton be included within the Leighton Urban ward of Leighton Parish;
- (d) elections to the Crewe Parish Council be held on 4th April 2013;
- (e) the public conveniences in Lyceum Square, Crewe be transferred to the new parish council with effect from 1st April 2013 but Cheshire East Council continue to manage the facilities for the first three months; a sum of £30,000 to be included in the budget for the first year of the parish council to cover the cost of managing these assets;
- (f) the Council allotments within the unparished part of Crewe be transferred to the new parish council with effect from 1st April 2013 on the basis of a 150 year lease; a sum of £30,000 to be included in the budget for the first year of the parish council to cover the cost of managing these assets;
- (g) the draft budget be approved, as attached to the report, subject to the addition of a contingency fund of £100,000, the budget totalling £442,000;

- (h) the draft re-organisation order be updated as required and submitted to Council on 13th December for approval, following a mini-review of the electoral arrangements for the Parish of Leighton arising from the proposed boundary change to the Leighton Urban Ward;
- (2) the terms of reference of the Community Governance Review Sub-Committee be extended to enable the Sub-Committee to take all necessary actions in preparation for the new Crewe parish council.

At the conclusion of this matter, Councillor S Hogben was invited to return to the meeting.

Note: the draft order, map and budget appended to the report have been amended in accordance with the Committee's recommendations to Council.

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 20th September 2012
Report of: Borough Solicitor
Subject/Title: Crewe Community Governance Review – Final Outcome
Portfolio Holder: Councillor L Gilbert

1.0 Report Summary

- 1.1 The draft recommendation of the Council for the outcome of the review, as agreed at the Council meeting held on 16th May 2012, was as follows:

“RESOLVED

1. a. *that the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a Parish Council for the unparished area of Crewe and that Parish Council be advised to consider its designation as a Town Council;*
- b. *that the Parish should be divided into 6 wards (see map below) for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards except that, subject to recommendation c. below, the unparished part of Leighton (Polling District 1FJ4) be incorporated into the St Barnabas parish ward, and that each ward should have the number of Parish Councillors as follows:*

<i>St Barnabas</i>	<i>2</i>
<i>Crewe Central</i>	<i>2</i>
<i>Crewe North</i>	<i>2</i>
<i>Crewe South</i>	<i>3</i>
<i>Crewe East</i>	<i>4</i>
<i>Crewe West</i>	<i>3</i>
<i>TOTAL</i>	<i>16</i>

- c. *that the electors of the unparished part of the Borough ward of Leighton be asked whether they would prefer to be included within the proposed parish of Crewe or within the existing parish of Leighton;*
- d. *that elections to the Crewe Parish Council should be held as soon as is practicably possible and should thereafter be synchronised with the ordinary date of Parish Council elections; and*

e. that these proposals form the basis of a second stage of public consultation and that the Boundary Commission be informed of the proposals.

- 2. the proposed arrangements for the final stage of the consultation process, as set out in paragraph 4.2 of the report to the Community Governance Review Sub-Committee on 27th April 2012, be approved, subject to the dates being altered in line with paragraph 4 below;*
- 3. the proposed consultation with the electors for the unparished part of Leighton be conducted by means of a formal ballot;*
- 4. the indicative timetable proposed by the Sub-Committee for the latter stages of the Review be approved as follows and the project plan be amended accordingly:*

<i>28th May 2012</i>	<i>Publish Notice of final stage of consultations</i>
<i>11th June – 2nd July 2012</i>	<i>Final stage of public consultations</i>
	<i>Postal Ballot in unparished part of Leighton Borough Ward</i>
<i>20th September 2012</i>	<i>Constitution Committee</i>
<i>11th October 2012</i>	<i>Council makes final decision and approves Order</i>
<i>1st April 2013</i>	<i>Order comes into effect</i>
<i>4th April 2013</i>	<i>Elections to new parish council</i>

- 5. it be noted that Gresty Brook (Polling District 1GM2) in the Crewe South Borough Ward is already located within the parish of Shavington and accordingly does not form part of this Review; and*
- 6. the Community Governance Review Sub-Committee be asked to consider the detailed arrangements for setting a budget and precepting and the extent and timing of the transfer of assets to the new Parish Council, to enable the relevant provisions to be included in the Order.”*

- 1.2 Further to the above decision of Council, the Sub Committee carried out consultation on these proposals and conducted a ballot of electors in the unparished part of the Leighton Borough Ward, where electors were asked whether they wished to be part of the existing Minshull Vernon and District Parish Council or the new Crewe Town Council.
- 1.3 Nine responses were received to the third stage of consultation, which were noted – but the Sub Committee agreed that a decision on the warding arrangements and the number of parish councillors for Crewe be deferred to the Constitution Committee. A copy of the representations received and the result of the ballot, considered by the Sub Committee on 18 July, are attached

as **Appendix A**. The result of the ballot showed that 85% of respondents were in favour of being part of Minshull Vernon and District Parish Council.

- 1.4 A re-organisation Order is required to be approved by the Council to bring any new arrangements into effect, following the final outcome of the Review. Within this Order, for the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008, a sum must be included, which is the budget for the first year of operation of the new Town Council, which cannot be exceeded. The Sub Committee has therefore done further work on preparing a draft budget. A copy of the draft re-organisation Order and the draft budget are attached as **Appendices B and C** to this report for consideration. In developing the budget figure, consideration has been given to the transfer of assets to the new Town Council, having taken into consideration advice from Counsel. As such, the Sub Committee proposes that Allotments and Public Conveniences in Lyceum Square are assets which should transfer as part of the re-organisation order.
- 1.5 The minutes of the meetings of the Sub Committee held on 18th July 2012 and 4th September 2012 are attached as **Appendices D and E** to this report.

2.0 Recommendations

2.1 To recommend to Council

- a) that the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a Parish Council for the unparished area of Crewe and that Parish Council be advised to consider its designation as a Town Council;
- b) To confirm, or amend, the draft recommendation on the warding arrangements and number of parish councillors for Crewe, taking into account representations received.
- c) That, having considered the results of the ballot of electors in the unparished part of the Borough ward of Leighton, to agree the sub- Committee's recommendation that the unparished part of the Borough ward of Leighton be included as part of the Leighton Urban ward of Minshull Vernon and District Parish Council.
- d) That elections to the Crewe Parish Council be held on 4th April 2013.
- e) That the public conveniences in Lyceum Square be transferred to the new parish council with effect from 1st April 2013 but Cheshire East Council continue to manage the facilities for the first three months; a sum of £30,000 be included in the budget for the first year of the parish council to cover the cost of managing these assets.
- f) That the allotments within the unparished part of Crewe be transferred to the new parish council with effect from 1st April 2013 on

the basis of a 150 year lease; a sum of £30,000 be included in the budget for the first year of the parish council to cover the cost of managing these assets.

g) That the draft budget be approved, as attached to the report, totalling £342,000.

h) That the draft re-organisation order be approved, as attached to the report and the above sum be added to paragraph 11.

2.2 To resolve

i) That the terms of reference of the Community Governance Review Sub-Committee be extended to enable the Sub-Committee to take all necessary actions in preparation for the new Crewe parish council.

3.0 Reasons for Recommendations

3.1 The Sub Committee has conducted the review in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007 and the Government's guidance on conducting community governance reviews.

3.2 In considering the results of the consultation and formulating recommendations, Members have ensured that the proposed community governance arrangements within the area under review are reflective of the identities and interests of the community in that area; and are effective and convenient.

3.3 Key considerations taken into account in conducting the review include:

- The impact of community governance arrangements on community cohesion
- The size, population and boundaries of local communities or parishes
- The proposed arrangements reflecting the distinctive and recognisable communities of interest with their own sense of identity
- The degree to which the proposals offer a sense of place and identify for residents
- The ability of the proposed Crewe Town council to deliver quality services economically and efficiently whilst providing users with a democratic voice
- The degree to which the proposed Crewe Town Council would be viable in terms of a unit of local government providing some local services that are convenient and accessible to local people

3.4 In accordance with the Government Guidance, the review has also considered and reviewed other options (such as maintaining existing arrangements, multiple parish councils, Neighbourhood management, Community Forums, Residents and tenant's associations , Community

Associations/ community development trusts) for community governance, and determined, following public consultation, that they did not represent better options in terms of addressing the criteria.

4.0 Wards Affected

- 4.1 Wards covering the unparished area of Crewe.

5.0 Local Ward Members

- 5.1 As Above

6.0 Policy Implications

- 6.1 None

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 The Council has a statutory duty to conduct and meet the costs associated with undertaking the Community Governance Review.
- 7.2 For the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008, a sum must be identified for inclusion in the Re-organisation Order. This is sum, for the first year of operation of the new Town Council, which cannot be exceeded.
- 7.3 The Council's policy is for the cost of any parish elections, which do not fall on an ordinary day of election for which other elections are being administered, are met by the parish councils concerned. This has been taken into account in determining the sum for inclusion in the re-organisation order.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The review has been conducted in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007

9.0 Risk Management

- 9.1 The review has been conducted with due regard to the Government's Guidance on the conduct of Community Governance Reviews.

10.0 Background and Options

- 10.1 The background to the review and options are detailed earlier in the report.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Mrs Lindsey Parton

Designation: Registration Service and Business Manager

Tel No: 01270 686477

Email: Lindsey.parton@cheshireeast.gov.uk

**CREWE COMMUNITY
GOVERNANCE REVIEW**

**REPRESENTATIONS RECEIVED IN
RESPONSE TO STAGE 3
CONSULTATION**

18 Holly Mount
Basford
CREWE
CW2 5AZ
27 June 2012

Democratic Services
Cheshire East Council
Westfields
Sandbach
CW11 1HZ

CREWE COMMUNITY GOVERNANCE REVIEW

Thank you for the opportunity to comment on this stage of the Governance Review.

By way of background I have lived in the Crewe area since 1966. In 1983 I was elected as a Borough Councillor for the Delamere Ward of Crewe, a position I held until the abolition of the authority in 2009. For several years I was Chairman of the Authority's Community Scrutiny Committee. In 2009 I was accorded the honour of Honorary Alderman in recognition of my service.

I fully support the creation of a Town Council for Crewe. However, I cannot support the warding arrangements proposed by Cheshire East Council as they would lead to significant variations in electoral representation. As an alternative I would propose the creation of ten two-member wards as follows:

Crewe Central, Crewe North & Crewe St Barnabas would remain as proposed by Cheshire East.

Crewe South and Crewe West would each be divided into two two-member wards [in the case of Crewe South the first ward could be based on the newer property in the western part of the Ward, the second on the older property north of Nantwich Road and in the south-eastern part of the ward; Crewe West could be easily divided between the communities around Queens Park, and the community based on the Ruskin Park area].

Crewe East Ward would be divided into three two-member wards [probably based on a) the Maw Green area; b) the Sydney area; c) the Earle Street – Hungerford Road area].

The creation of these relatively smaller wards would create stronger community links between town councillors and those they represent, and create a more varied – and representative – council by making it more practical for independent and others outside the party machinery to achieve election.

Yours sincerely,



Gwyn Griffiths

2.

MOUNTFORD, Paul

From: captainhastings@orange.net
Sent: 30 June 2012 11:29
To: COMMUNITY GOVERNANCE REVIEW
Subject: crewe town council

Dear Sir/Ms,

I am in favour of 16 councillors and strongly opposed to any greater number.
D P Hughes

MOUNTFORD, Paul

From: TIMPSON, Edward [TIMPSONE@parliament.uk]

Sent: 28 June 2012 15:10

To: COMMUNITY GOVERNANCE REVIEW

Subject: Crewe Community Governance Review

Crewe finds itself in an interesting predicament following a lengthy period of rather cumbersome consultation from Cheshire East Council, the outcome of which will, I am sure, be a new town council for Crewe.

In the first referendum of Crewe taxpayers on the issue, some people found the questions overly complex, but on the other hand proper information was provided to voters about what a town council is, what it will do, and how much it might cost.

Conversely, in the second referendum, a simpler question was, quite rightly, put - yes or no. However the educational material explaining what people were voting for was not sent out.

The difference is that when taxpayers were told what it might cost, they voted against. When taxpayers were not told, they voted for.

So my concern is this: will this town council help make Crewe a better place to live and work, and will it provide value for money?

This is not to suggest that it won't - I very much hope it does. And that is the challenge to those 16 people who are elected in April.

But if it doesn't deliver for the people of Crewe, and address the key problems the town is facing, then they will have the people of Crewe to answer to.

Some of those who have shown interest in standing for the town council are always very quick to criticise Cheshire East Council. Some are Cheshire East councillors themselves, and want a second job.

But very soon, the boot will be on the other foot. They too must be prepared to be held to account for their actions and how they spend our residents' money.

I am not currently convinced that they have properly thought this through, but I hope that in the end they do it wisely.

Edward Timpson
MP for Crewe and Nantwich

UK Parliament Disclaimer:

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4.

MOUNTFORD, Paul

From: Linda Davenport [lindadavenport@chalc.org.uk]
Sent: 21 June 2012 11:48
To: COMMUNITY GOVERNANCE REVIEW
Subject: Response to Lindsey Parton's email of 12 June - final stage consultation re. Crewe CGR
Follow Up Flag: Follow up
Flag Status: Red

Good morning Lindsey

Thanks for sending over the two documents. I note from the Stakeholder briefing note that elections are planned for April 2013, but thereafter "synchronised with the ordinary date of elections" so I'm assuming the 2013 councillors will serve for two years only then have to stand for re-election in 2015. Please let me know if I have misunderstood Cheshire East's intentions.

You may recall that ChALC, both directly and via Mike Flynn, was involved with the implementation of the Order creating Wilmslow, Styal & Handforth local councils, eg. advising on elements of expenditure to be included in the first precept, supporting candidates with information about the practicalities, powers and duties of being a local councillor and drafting agendas/ providing model documents for the new council's first meeting, and we are equally as happy to provide a service to Crewe if this would assist Cheshire East Council's aims for its new local council.

With best regards, Linda

Linda Davenport
Development Officer
Cheshire Association of Local Councils (ChALC)
Blue Bache Barn
Burleydam
Whitchurch
SY13 4AW
Tel: 01948 871314

MOUNTFORD, Paul

From: peterakent@tiscali.co.uk
Sent: 18 June 2012 00:20
To: COMMUNITY GOVERNANCE REVIEW
Cc: GRAVES, Rachel
Subject: RE: Crewe Community Governance Review
Follow Up Flag: Follow up
Flag Status: Red
Attachments: 2012-06 submission to CEC.doc

Thank you for your invitation to comment on the final stage of the review. Please find attached the response from the "A Voice for Crewe" campaign.

Peter Kent

From: GRAVES, Rachel [mailto:Rachel.Graves@cheshireeast.gov.uk]
Sent: 12 June 2012 08:13
To: 'peterakent@tiscali.co.uk'
Subject: Crewe Community Governance Review

Dear Sir/Madam

The review of Community Governance Arrangements in Crewe is now entering the final stage.

I am contacting you as the Council would welcome your views on this important issue which will be taken into account in reaching any decisions.

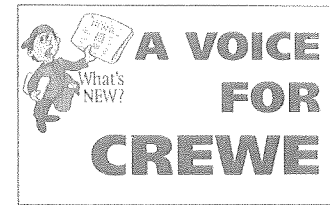
Please find attached a letter and a briefing note which provide information about the final stage of the Review. Further information can be found on the Cheshire East website at www.cheshireeast.gov.uk/crewegovreview

You can respond by email to communitygovernance@cheshireeast.gov.uk or by post to The Registration Service and Business Manager, Democratic Services, Cheshire East Council, Westfields, Sandbach, Cheshire, CW11 1HZ. **Please respond by Monday 2 July 2012.**

Kind regards

Lindsey Parton
Registration Service and Business Manager
Cheshire East Council
Westfields, Sandbach

Tel: 01270 686477



Thank you for the invitation to comment on the final stage of the review of Community Governance Arrangements in Crewe.

There remains really just one point of contention and that is the number of councillors and warding arrangements. The campaign has always argued in favour of 20 members (see our submission in September 2009), based on the existing Borough wards, and with two town councillors for each Borough councillor. In the event of further borough ward boundary changes as populations and electorates change, this is a robust principle that can be maintained, with the least possible administrative cost falling on your council.

Democratic equality

The wards in Crewe are of different sizes and the numbers of Borough councillors have been adjusted appropriately, so that there is broad equality of representation throughout the town.

However, the current proposal of 16 town councillors is achieved by simply adding on 1 for every Borough councillor and this destroys that principle of equality. To be precise, if there are 16 members along the lines of the current suggestion, the number of electors per councillor would be:

- Central 1862 20% below the average, so over-represented
- East 2715 17% above the average, so under-represented
- North 1842 21% below
- St Barnabas 1929 17% below
- South 2458 6% above
- West 2579 11% above

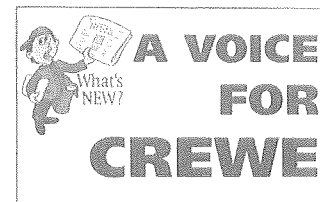
The average number of voters is 2327 and, as you can see, the variation is considerable.

But if there are 20 members, then the figures are:

- Central 1862 Exactly matching the average
- East 1810 3% below
- North 1842 1% below
- St Barnabas 1929 4% above
- South 1844 1% below
- West 1935 4% above

Here the average is 1862 per councillor. And given the Boundary Commission's usual advice of there being no more than 5% deviation from the norm, it fits nicely, as one would expect.

These figures are based on the current electorate as supplied by your own council. The figure for Crewe South excludes that part of the ward lying in Shavington parish. The figures also exclude the 403 residing in the currently unparished area of Leighton, since its future depends on the ballot currently being undertaken. If it were to be



included in the St Barnabas ward for town council purposes, this is clearly an area that would be examined in the next boundary review.

Effectiveness

Our proposal gives a reasonable number of councillors overall, in comparison with other parts of the Borough. Examples abound on this, but the most relevant is probably the one from the most recent review elsewhere in the Borough. Only last year, Cheshire East set up new town councils in Wilmslow, Handforth and in Styal. Wilmslow Town Council has an electorate of 19,088 and 15 council seats – this gives an average of 1272 electors per member. The numbers are lower for Handforth and Styal. Of course, there is a maximum practicable size so if we had the same ratio as Wilmslow it might be thought to be unworkable (though there were 32 on the old Crewe Borough Council). But whilst 15 for Wilmslow is reasonable, 16 for a town almost twice the size is not. We would also draw your attention to the recent decision of Sandbach Town Council, representing 14600 electors, to increase its numbers to 20 because of the workload falling on its members.

Most of these points were advanced at a recent Council meeting and the only point that was raised against was that if you have too many councillors it impedes progress. However, there was no response to the logical response that other councils like Wilmslow, for instance, should therefore look to a reduction in their numbers. I do hope that your members are not so firmly wedded to the idea of 16 members that they will not be prepared to give reasonable consideration to the case for 20.

Yours faithfully,

PETER KENT
Co-ordinator, Campaign for "A Voice for Crewe"

6,

MOUNTFORD, Paul

From: D CANNON [cannon380@btinternet.com]
Sent: 27 June 2012 20:01
To: COMMUNITY GOVERNANCE REVIEW
Subject: CREWE COMMUNITY GOVERNANCE REVIEW
Attachments: CrewWard.pdf; TownCoun2.doc

Lindsey Parton,
Registration Service and Business Manager.

Dear Lindsey,

The two files which are attached to this message together contain the submission by the Liberal Democrats Crewe & Nantwich constituency party to the final stage of public consultation in the Crewe Community Governance Review.

The main text is in "TownCoun2". "CrewWard" is an appendix which suggests how the existing polling districts in Crewe could be grouped to make smaller wards for the proposed Town Council.

Yours sincerely,

David Cannon
for Crewe & Nantwich Liberal Democrats

PROPOSED TOWN COUNCIL FOR CREWE

The Executive Committee of Crewe & Nantwich Liberal Democrats discussed the recommendations from the review of community governance in Crewe at our May meeting.

Members welcome the prospect of a Town Council for Crewe, which we supported in our submission to the earlier stage of public consultation.

One reason for supporting a Town Council was our concern at the size of the job taken on by a Cheshire East councillor representing a Crewe ward. They must be willing to take a strategic view of issues that affect the whole of Cheshire East but also engage with the minutiae of issues that affect only their ward. We also expressed the hope that a Town Council in Crewe would make it easier for people to stand for election for the first time, and thus increase the number of people actively involved in local democracy.

The present proposals for a Town Council only partly address our original hopes and concerns. If the Council is restricted to 16 members, then each councillor will represent many more electors than is the case with existing town and parish councils in Cheshire East. The effect is made worse by the use of multi-member wards based on those used for Cheshire East elections at present. Anyone considering standing for election for the first time faces the daunting prospect of seeking support from a large area, maybe beyond the part of the town for which they have an affinity. Another objection is the variable size of the Cheshire East wards. Voters face the potential confusion of having differing numbers of votes depending on where they live. “First Past the Post” elections, are also often in practice “Winner Takes All” elections when multi-member wards are used. When wards vary in size the party with the most support gains disproportionately.

Liberal Democrats advocate a Town Council of 20 members, so that in effect, each representative of Crewe on Cheshire East Council would be supported by two town councillors. We wish to see the multi-member Cheshire East wards subdivided for the purpose of Town Council elections, to create ten equal sized, two member wards. These wards would correspond more closely with localities that are recognised within the town. The appendix shows how this could be done, using the existing Polling Districts. It is no less feasible to create smaller, equal sized wards for Town Council elections, based on the 16 member council that is proposed in the consultation documents.

APPENDIX

The purpose of this appendix is to show that for Town Council purposes, Crewe may be divided into ten wards, each electing two councillors, using existing polling districts. This requires that the Cheshire East wards of Crewe South and Crewe West be split into two parts, and that Crewe East be split into three parts. These wards could be divided in other ways. Liberal Democrats are not advocating this division more strongly than any alternative: our purpose is to show that splitting the wards is feasible. Numbers of electors are taken from the 2011 register.

CREWE POLLING DISTRICTS

Division of CREWE EAST into three Town Council wards:

Brierley Street area	1AC1	855	
Lea Ave est + part Poets est	1DF1	2114	
Crewe Road estate	1DG1	307	
University	1DG2	60	
"Waldron" Total			3336
Lower Middlewich St	1AD1	1014	
Broughton Rd/ Stoneley Rd	1CC1	412	
Upper Middlewich St	1CD1	1602	
Trees estate west	1CF1	1226	
"Maw Green" Total			4254
Trees estate east	1CE1	1075	
Sydney + part Poets estate	1DF2	2155	
"Sydney" Total			3230
Crewe East	Total		10820

Division of CREWE SOUTH into two Town Council wards:

Bedford St/ Gresty Rd	1DA1	1864	
Brookhouse Dr/ Collinbrook Av	1DB1	1555	
Claughton Ave	1DC1	537	
"Alexandra" Total			3956
Edleston Road area	1DE1	2097	
Rosehill estate	1BD2	416	
Ruskin Park	1BD3	793	
"St John's" Total			3306
Shavington Parish (excluded)	1GM2		
Crewe South	Total		7262

Division of CREWE WEST into two Town Council wards:

Wistaston Green estate	1BA1	1948	
Queens Park Gardens	1BB1	253	
Marshfield estate	1BF1	1223	
Victoria Avenue estate	1BB2	575	
"Queen's Park" Total			3999
Alton Street west	1BC1	1659	
Danebank Avenue	1BD1	1226	
Alton Street east	1DD1	907	
"Valley" Total			3792
Crewe West	Total		7791
CREWE CENTRAL	Total		2999
CREWE NORTH	Total		3592
ST BARNABAS	Total		3788

MOUNTFORD, Paul

From: PAM MINSHALL [pam.minshall@btinternet.com]
Sent: 13 June 2012 15:25
To: COMMUNITY GOVERNANCE REVIEW
Subject: Crewe Town Council
Follow Up Flag: Follow up
Flag Status: Red

We are pleased that at last, the wish for a town council, expressed several years ago by the residents of Crewe, is going to be fulfilled. We agree that the existing wards are the obvious structure, and with the suggestion for the minor anomalies. However, the proposal for 16 councillors seems perplexing and arbitrary since it means that the number of electors per councillor varies considerably while the boundary Commission advises no more than 5% deviation from the norm. We believe that it would be much simpler and fairer to give the new Crewe Council 20 councillors, two for each of the existing Borough Councillors. This would even out the number of electors per councillor, be easy to maintain as boundaries changed and would be more appropriate in comparison with other parish councils in Cheshire East where there are much smaller electorates than will be the case in Crewe, while not being so large as to impede progress.

Pam Minshall

Crewe Historical Society
Valley Community Action Project.

MOUNTFORD, Paul

From: Helen Birtles [helen@birtles6000.freemove.co.uk]

Sent: 12 June 2012 21:34

To: COMMUNITY GOVERNANCE REVIEW

Subject: Local Governance review

Follow Up Flag: Follow up

Flag Status: Red

Dear Rachel

Further to your email, I am writing to confirm that on behalf of the members of Union Street Baptist Church we shall be pleased to see the formation of a Town Council for Crewe. Your plans seem very suitable and we look forward to seeing the results of the election. Thank you for including us.

Helen Birtles

Church Secretary.

From: CREWE CHARTER TRUSTEES
Sent: 05 July 2012 18:47
To: COMMUNITY GOVERNANCE REVIEW
Subject: Crewe Community Governance Review

Importance: High
Dear Lindsey,

This representation is submitted by the Charter Trustees of Crewe in response to the consultation letter dated 11th June 2012 which set out the current proposals contained within the Crewe Community Governance Review.

The response of the Trustees is that they are broadly in agreement with the proposals set out in the briefing note which accompanied the letter of 11th June, with the exception that the proposed number of 16 members for Crewe Town Council is too low and that consideration should be given to its increase before the proposals come into effect.

Regards

Tony Lee

Clerk to the Crewe Charter Trustees
Municipal Buildings, Earle Street, Crewe CW1 2BJ

(01270) 537274 (Tuesdays and Thursdays only)

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Final Results

Area	No of voting papers received	Crewe Town Council	Minshull Vernon & District Parish Council	Rejected	Total	Do totals match?
Leighton (1FJ4)	77	11	66	0	77	YES
TOTALS	77	11	66	0	77	YES

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LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

The Cheshire East Borough Council (Reorganisation of Community Governance) (Crewe) Order 2012

Made [.... October 2012]

Coming into force in accordance with article 1(2)

Cheshire East Borough Council ("the Council"), in accordance with section 83 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act"), has undertaken a community governance review and after having made recommendations on 16 May 2012 and having undertaken the processes described below, has made a decision dated 11 October 2012 to which this Order gives effect.

In accordance with section 93 of the 2007 Act, the Council has consulted with the local government electors and other interested persons and has had regard to the need to secure that community governance reflects the identities and interests of the community and is effective and convenient:

The Council, in accordance with section 100 of the 2007 Act, has had regard to guidance issued under that section.

The Council makes the following Order in exercise of the powers conferred by sections 86, 98(3), 98(4), 98(6) and 240(10) of the 2007 Act and of all other powers enabling it in that behalf.

1. Citation and commencement

- (1) This Order may be cited as the Cheshire East Borough Council (Reorganisation of Community Governance) (Crewe) Order 2012.
- (2) Subject to paragraphs (3) and (4) below, this Order comes into force on the 1st April 2013
- (3) Article 8 and Schedule 1 shall come into force on 4 April 2013
- (4) For the purposes of:
 - (a) this Article
 - (b) Article 11, and
 - (c) Article 13 – and all proceedings preliminary or relating to the election of parish councillors for the parish of Crewe to be held on 4 April 2013,this Order shall come into force on the day after that on which it is made.

2. Interpretation

In this Order—

"borough" means the borough of Cheshire East

"existing" means existing on the date this Order is made

"map" means the map marked "Map referred to in the Cheshire East Borough Council (Reorganisation of Community Governance) Order 2012" and deposited in accordance

with section 96(4) of the 2007 Act: and any reference to a numbered sheet is a reference to the sheet of the map which bears that number

“new parish” means the parish constituted by article 4

“ordinary day of election of councillors” has the meaning given by section 37 of the Representation of the People Act 1983 and

“electoral registration officer” means an officer appointed for the purpose of, and in accordance with, section 8 of the Representation of the People Act 1983.

3. Effect of Order

This Order has effect subject to any agreement under section 99 (agreements about incidental matters) of the Local Government and Public Involvement in Health Act 2007 relevant to any provision of this Order.

4. Constitution of new parish

- (1) With effect from 1 April 2013, a new parish, comprising the area outlined in yellow and shaded green on the map, shall be constituted within the borough.
- (2) The name of the new parish shall be Crewe.

5. Parish Council

- (1) There shall be a parish council for the parish of Crewe.
- (2) The name of that council shall be “The Parish Council of Crewe”.

6. Elections for the parish of Crewe

- (1) Elections of all parish councillors for the parish of Crewe shall be held on 4 April 2013.
- (2) The term of office of every parish councillor elected on 4 April 2013 for the parish of Crewe shall be two years until 2015 and thereafter coincide with the ordinary day of election of parish councillors every four years in accordance with s.16 (3) of the Local Government Act 1972.

7. Number of parish councillors

The number of councillors to be elected for the new parish Council shall be 16.

8. Wards of the new parish of Crewe and numbers of parish councillors

- (1) The Parish of Crewe shall be divided into six wards which shall be named as set out in column (1) of Schedule 1.
- (2) Each parish ward shall comprise the area of the borough ward in Crewe specified in respect of each ward in column (2) of Schedule 1 and designated on the map by reference to the name of the ward and demarcated by green lines.
- (3) The number of councillors to be elected for each ward shall be the number specified in column (3) of Schedule 1.

9. Annual meeting of parish council

The annual meeting of the new parish council in 2013 shall be convened by the Chief Executive of Cheshire East Borough Council. The meeting for the new parish council shall take place no later than 14 days after the day on which the councillors elected to the new parish council take office.

10. Variation to the area of Minshull Vernon and District Parish Council

The area of the Minshull Vernon and District parish council shall be varied to include within the Leighton Urban ward of Leighton parish the unparished part of the borough ward of Leighton (polling district 1FJ4) as indicated by the red line on the map.

11. Calculation of Budget Requirement

For the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008, there is specified in relation to the parish of Crewe the sum of £442,226.

12. Transfer of property, rights and liabilities

The land, property, rights and liabilities described in Schedule 2 shall transfer from the borough to the new parish council on the date specified in column (2) of that Schedule.

13. Electoral register

The Electoral Registration Officer for the borough shall make such rearrangement of, or adaptation of, the register of local government electors as may be necessary for the purposes of, and in consequence of, this Order.

14. Order date

1st April 2013 is the order date for the purposes of the Local Government (Parishes and Parish Councils) (England) Regulations 2008.

Sealed with the seal of the council on the [] day of [October 2012].

Borough Solicitor

SCHEDULE 1 (ARTICLE 8)**WARDS OF THE PARISH OF CREWE****NAMES AND AREAS OF WARDS AND NUMBERS OF COUNCILLORS**

Column 1 Name of parish Ward	Column 2 Area of Ward	Column 3 Number of parish councillors
Crewe St Barnabas	The whole of the borough ward of Crewe St Barnabas as shown on the map	2
Crewe Central	The whole of the borough ward of Crewe Central as shown on the map	2
Crewe North	The whole of the borough ward of Crewe North as shown on the map	2
Crewe South	The whole of the borough ward of Crewe South, except for Gresty Brook (Polling District 1GM2), as shown on the map	3
Crewe East	The whole of the borough ward of Crewe East as shown on the map	4
Crewe West	The whole of the borough ward of Crewe West as shown on the map	3

SCHEDULE 2 (ARTICLE 12)**LAND AND PROPERTY TO BE TRANSFERRED**

Column 1	Column 2
Land and property to be transferred	Date
Public Conveniences at Lyceum Square, Crewe	1 April 2013
Allotments holdings on the basis of 150 year leases situated at: Alton Street; Brookhouse Drive; Claughton Avenue; Electricity Street; Ford Lane; Henry Street; Hungerford Road; Hulme Street; Manor Way; Ruskin Road; and Walker Street	1 April 2013

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a decision made by Cheshire East Borough Council for the creation of a new parish and a parish council for Crewe within the borough of Cheshire East.

The new parish will be created with effect from 1 April 2013. The electoral arrangements for the parish council apply in respect of parish elections to be held on 4 April 2013.

Article 6 provides for the first parish elections in the parish of Crewe in 2013, and then in 2015 and every four years thereafter according to the established system of parish elections.

Article 7 specifies the number of parish councillors for the new parish of Crewe.

Article 8 and Schedule 1 establish the names and areas of the wards of the new parish of Crewe (as indicated on the map) and the numbers of councillors for each ward.

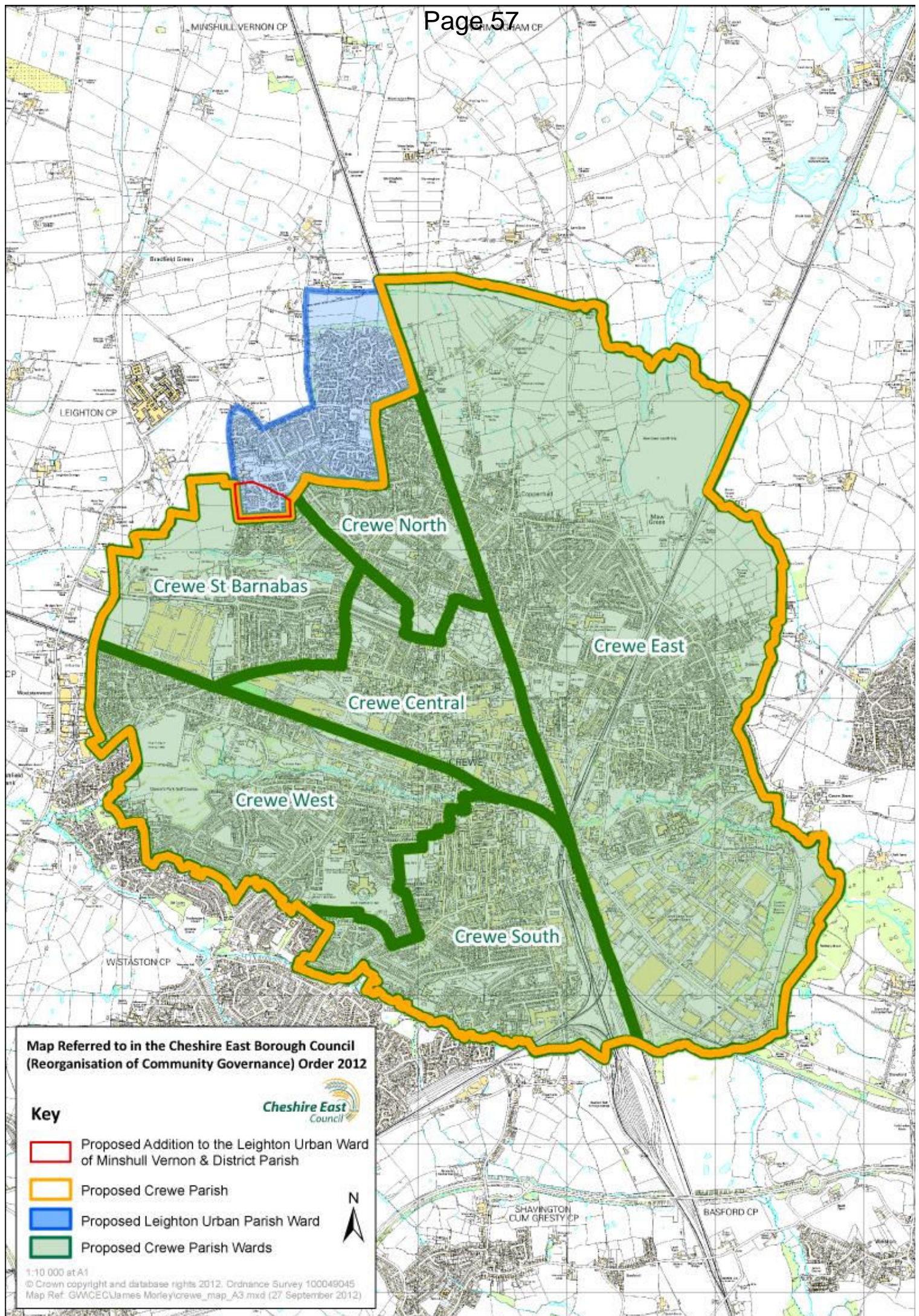
Article 10 provides for a consequential amendment to the area of the Leighton parish within the Minshull Vernon and District parish council.

Article 11 specifies the amount of the initial precept for the new parish to be applied in the 2013 – 14 financial year.

Article 13 obliges the Electoral Registration Officer to make any necessary amendments to the electoral register to reflect the new electoral arrangements.

The map defined in Article 2 shows the area comprising the new parish of Crewe and the wards of the new parish, together with the change to the area of Minshull Vernon and District parish council. It is available for inspection, at all reasonable times, at the offices of Cheshire East Borough Council.

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Map Referred to in the Cheshire East Borough Council
(Reorganisation of Community Governance) Order 2012

Key



- Proposed Addition to the Leighton Urban Ward of Minshull Vernon & District Parish
- Proposed Crewe Parish
- Proposed Leighton Urban Parish Ward
- Proposed Crewe Parish Wards



1:10 000 at A1

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Map Ref: GW\CEC\James Morley\crewe_map_A3.mxd (27 September 2012)

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Recommended Budget Year 1 - Crewe Town Council

Budget Head	Detail	Amount	Remarks
Staff	Salary (Town Clerk)	£41,616	Full time, Profile of LC3 (SCP 49), depending on qualifications and experience
	Salary (Deputy TC/Ops Offr)	£13,755	Need for this post and hours/week depend on tasks generated by devolved assets/services (assume 20 hours), Profile LC2 (SCP 30 (£25,472 pro rata) depending on qualifications and exp'ce
	Salary (Bookkeeping)	£4,638	Part-time 10 hours/week SCP 18
	Salary (Admin/Mayor's Sec'y)	£16,830	Full time, SCP 17
	Pension	£13,062	If the council wish to offer participation in the Local Government Pension scheme to four staff, this is based on approximately 17% of salaries. Amount calculated using above figures
	Advertising & recruitment	£1,000	Likely to be required for first year only
Office costs	Stationery etc.	£4,000	This is to cover the costs of stationery, printing, photocopying and postage, eg. printing & distribution of Newsletters.
	Rent, rates	£7,000	An office will be required to accommodate both the Clerk and administration
	Energy costs	£2,000	Includes a first year budget for purchasing equipment if necessary (the premises may already have central heating installed, hence this could be less)
	Telephone incl Broadband	£1,000	This includes equipment and initial setup costs and is likely to be lower in future years
	Furniture	£3,000	Amount will increase as more staff are employed.
	PC/Printers	£6,000	Desktop PCs are required for the office and a laptop for the clerk, plus a photocopier/printer capable of producing quality documents. Costs are likely to be lower in future years.
Statutory	Insurance	£3,000	Public/Employer Liability and Fidelity. Plus assets when devolved.
	Audit Fee	£2,500	Internal & External auditor costs
Council costs	Meeting room hire	£2,600	Based upon £100 per meeting [current cost to another CEC Town Council] and 26 meetings (12 full council and three committees - Planning meeting 6 times per year, Finance and one other meeting four times per year). It should be noted that it is possible for Local Councils to meet in schools at cost, ie. heat, light, caretaker wages. However the council is likely to wish to establish its own identity as soon as possible.
	Training	£2,000	Training will be required for both staff and councillors.
	Chairman/Mayor's allowance	£2,500	There are additional costs associated with representing the council and this is usually recognised in a small allowance. This figure excludes mileage or other transport costs.
	ChALC Affiliation Fee	£1,225	Fee 2012/13
Miscellaneous	Christmas Lights	£30,000	Includes provision for the council to spend money to exercise all/any of its powers to benefit the community. Crewe TC may wish to qualify to exercise the General Power of Competence (Localism Act 2011) after having recruited a suitably qualified clerk. Most Local Councils also provide a Grants Scheme for community groups. LGA72 s.137 permits a council to spend money to benefit its community (or part of it) if the council has no other existing power. Size of expenditure must be commensurate with resulting benefit. The s.137 formula to determine the max. expenditure under this section per year = Tariff (for 2012/13 £6.80) x Electorate = £6.80 x 37705 = £256,394.00. As the council will spend time in Year 1 setting itself up, including establishment of requisite procedures, eg. Standing Orders, Financial Regulations, its total expenditure in Year 1 may be unrealistically low compared with its needs in Years 2 onwards.
	Floral Arrangements	£25,000	
	Town Centre Management	£36,000	
	General Grant	£13,000	
	Councillors' allowances	£500	Based on Independent County Remuneration Panel
	Asset Transfer	£100,000	Funding to facilitate the transfer of further Assets from Cheshire East borough Council
Elections 2013		£50,000	As this is not a year of ordinary elections
Assets	Allotments	£30,000	Allotment holdings on the basis of 150 lease situated at: Alton Street, Brookhouse Drive, Cloughton Avenue, Electricity Street, Ford Lane, Henry Street, Hungerford Road, Hulme Street, Manor Way, Ruskin Road and Walker Street
	Public Conveniences	£30,000	Public Conveniences at Crewe Market including two parttime staff.
Total		£442,226	

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the
Community Governance Review Sub-Committee
held on Wednesday, 18th July, 2012 at East Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor D Marren (Chairman)
Councillor P Groves (Vice-Chairman)

Councillors J Jackson, B Murphy and P Whiteley

Absent

Councillor G Baxendale

In attendance

Councillor M Grant

Officers

Lindsey Parton, Registration Service and Business Manager
Mike Flynn, Community Governance Advisor
Chris Allman, Corporate Improvement Project Advisor
Rose Hignett, Senior Electoral Services Officer
Jamie Oliver, Communications Officer
James Morley, Democratic Services Officer

45 DECLARATIONS OF INTEREST

Councillor Janet Jackson declared a personal interest as a Member of the Macclesfield Charter Trustees.

Councillor Brendan Murphy declared a personal interest as a Member of the Macclesfield Charter Trustees.

46 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public who wished to address the Committee.

47 MINUTES OF PREVIOUS MEETING

RESOLVED

- (1) That the minutes of the meeting on the 27th April be approved as a correct record.
- (2) That Councillor J Jackson's abstention from voting on the minutes of the previous meeting be noted.

48 CREWE COMMUNITY GOVERNANCE REVIEW - OUTCOME OF CONSULTATION

The Sub-Committee gave consideration to a report on the outcomes of the third stage of consultation for the Crewe Community Governance Review including the result of the ballot of electors in the unparished part of the Borough ward of Leighton.

The Registration Service and Business Manager presented the report. The report set out the review process so far including the results from the second stage of consultation and draft recommendations proposed by Council on 16th May 2012. Consultation was carried out on these proposals as well as a ballot of electors in the unparished part of Leighton Borough ward who were asked whether they wished to be part of the existing Minshull Vernon & District Parish Council or the new Crewe town council. The Sub-Committee received 8 responses to the third stage of consultation. The results of the ballot and copies of the representations received were appended to the report.

The results of the ballot of electors in unparished part of Leighton showed that 85% of respondents were in favour of being part of Minshull Vernon and District Parish Council.

The Sub-Committee gave consideration to the responses received. The majority of responses commented on the proposed wards for the parish and the number of councillors that would be elected to the parish council. The Sub-Committee agreed that a recommendation to Council on the warding arrangements and number of councillors should be made by the Constitution Committee.

The next phase of the review was to draft a formal Order for the establishment of a parish council for Crewe based on the recommendations of the review. The Order was to be formally made by Council in October 2012. Officers were asked to give consideration to a draft of the Order and present it to the Sub-Committee at a future meeting.

RESOLVED

- (1) That the report and responses to stage 3 consultation of the Crewe Community Governance Review be noted.
- (2) That, having considered the results of the ballot of electors in the unparished part of the Borough ward of Leighton, the Sub-Committee recommend to the Constitution Committee that the unparished part of the Borough ward of Leighton be included as part of the Leighton Urban ward of Minshull Vernon & District Parish Council.
- (3) That a decision on recommendations to Council on the warding arrangements and number of parish councillors for Crewe be deferred to the Constitution Committee.

- (4) That officers be commissioned to carry out work on the drafting of a Reorganisation Order.

49 CREWE COMMUNITY GOVERNANCE REVIEW - DEVELOPING A BUDGET AND TRANSFER OF ASSETS

The Sub-Committee discussed the work required from the Sub-Committee in determining the budget for the parish council's first year of operation. Part of the Reorganisation Order made by Council for the formation of a town council for Crewe would need to include a budget for the first year of operation and precept to be paid by residents of the parish. The Order would also include any assets to be transferred to the parish council from the Borough Council (Cheshire East Council).

The Sub-Committee agreed that the budget needed by the parish council would depend on the level of activity expected and the value and cost of assets to be transferred to the parish council. Consideration was given to the types of assets that may be transferred to the parish council such as public toilets and allotments which are assets which have typically been transferred to town and parish councils in other parts of the Borough. Consideration was also given to the possibility of transferring specific assets relevant to Crewe such as the Market Hall, Lyceum Theatre and Queens Park.

A Special Expenses Levy was a charge made by the Borough Council to residents in an area who benefit from a particular asset (e.g. leisure centre/park) provided by the Borough Council. The purpose of this was to ensure that local people benefiting from an asset were paying for it as opposed to all residents of a Borough covering the cost as part of Council Tax. It was suggested that if a special expenses levy was going to be applied by the Borough Council to an asset then it may be beneficial to residents for the local parish council to receive the asset from the Borough Council and charge a precept to residents to fund the asset. In this case the local residents would still be covering the cost however would have more say in the operation of the asset at a local level.

It was unclear what types of assets could be included in a reorganisation order and which would require negotiation with the parish council once formed and handed over to elected parish councillors. The Sub-Committee required officers to give legal and financial advice on plans and proposals regarding assets.

There seemed to be a consensus that £50-£60 as a precept seemed reasonable when compared to precepts in existing parish councils and considering the potential needs of the Crewe town council. The Sub-Committee agreed that once a budget and precept is proposed by Cheshire East Council it will be necessary to communicate this to residents effectively to explain the reasons for the budget and precept chosen.

RESOLVED

That officers be requested to consider what assets could be transferred to the new town council including the implications on budget requirement so that a budget and precept for 2013/14 can be identified for inclusion in the draft Reorganisation Order. Consideration would need to be given to the effect special expense levies would have on council tax bills for residents of Crewe.

50 COMMUNITY TRUSTS

Item 8 on Community Trusts was moved to Item 6 of the Agenda.

There had been confusion among Councillors, members of the public and Officers about the possibility of a community trust being set up to receive assets and deliver services particularly as part of the options for the Macclesfield Community Governance Review. Clarification had been sought by Councillors from Officers about any powers under legislation that Cheshire East Council had in setting up such a Trust.

Officers confirmed that legal advice had been sought and would report their findings to the Sub-Committee in due course.

51 MACCLESFIELD COMMUNITY GOVERNANCE REVIEW - PROJECT PLAN

The Sub-Committee gave consideration to the proposed project plan for Stage 1 of the consultation for the Macclesfield Community Governance Review including proposed arrangements for public meetings to be held.

A decision had originally been made to fast track the review for Macclesfield to complete the review and produce an Order in time for the February 2013 meeting of Full Council so that if a Parish Council for Macclesfield was recommended it could be created in April 2013. Public meetings for the review had been planned for August during school summer holidays. The Sub-Committee believed that the Council may receive criticism for this due to many members of the public taking vacations during August and being unable to attend the meetings.

This was now considered to be an unrealistic timescale and in order to complete a robust and comprehensive review it was agreed that a new project plan would be needed. The Sub-Committee agreed that lessons needed to be learned and absorbed from the Crewe Community Governance Review and put into practice during the Macclesfield Review. Officers would be given more time to develop the literature for Stage 1 of the review and public meetings could be held once the school summer holidays had ended.

It was originally proposed that two public meetings would be held at Macclesfield Town Hall. It was suggested that several meetings should be held in various locations around the unparished area to improve publicity and coverage of the review.

It was noted that, unlike the Crewe Community Governance Review, there was no requirement for the Macclesfield Community Governance Review to be completed within a period of 12 months as the 12 month deadline only applied to reviews that had been carried out as a result of a petition.

RESOLVED

That the proposed project plan illustrated in the Agenda be rejected and officers be requested to return to the Sub-Committee with a revised longer term project plan for stage 1 of the review at the next meeting.

52 MACCLESFIELD COMMUNITY GOVERNANCE REVIEW - STAGE 1 CONSULTATION

The Item on Macclesfield Community Governance Review – Stage 1 Consultation was deferred to a later meeting due to the rejection of the project plan for the Macclesfield Community Governance Review during the previous item.

53 DATE OF NEXT MEETING

The Sub-Committee discussed possible dates for the next meeting.

RESOLVED

- (1) That the next meeting of the Sub-Committee be held on Wednesday 8th August 2012 at 9am.
- (2) That a tentative date of Wednesday 29th August at 9am be held for the subsequent meeting of the Sub-Committee.

The meeting commenced at 10.04 am and concluded at 11.35 am

Councillor D Marren (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the
Community Governance Review Sub-Committee
held on Tuesday, 4th September, 2012 at East Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor D Marren (Chairman)
Councillor P Groves (Vice-Chairman)

Councillors D Bebbington (for Cllr Baxendale), S Hogben (for Cllr Jackson)
and P Whiteley

In attendance

Councillor R Cartlidge

Officers

Brian Reed, Democratic and Registration Services Manager
Mike Flynn, Community Governance Adviser
Julie Openshaw, Deputy Monitoring Officer
Paul Mountford, Democratic Services Officer
James Morley, Democratic Services Officer
Rose Hignett, Senior Electoral Services Officer

Apologies

Councillors G Baxendale, J Jackson and B Murphy

54 DECLARATIONS OF INTEREST

Councillors D Bebbington, R Cartlidge and S Hogben declared non-pecuniary interests as Crewe Charter Trustees.

Councillors Cartlidge and Hogben also declared disclosable pecuniary interests as holders of allotments in the unparished part of Crewe and signalled their intention of leaving the meeting prior to the matter of allotments being considered.

55 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

56 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting of 18th July 2012 be approved as a correct record.

57 MACCLESFIELD COMMUNITY GOVERNANCE REVIEW

The Sub-Committee considered a revised project plan and timetable for the Macclesfield community governance review.

Councillor Murphy, who had been unable to attend the meeting, had indicated that he had no particular comments to make on the project plan.

RESOLVED

That the revised project plan for the Macclesfield community governance review be approved.

58 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A to the Local Government Act 1972 and the public interest would not be served in publishing the information.

59 CREWE COMMUNITY GOVERNANCE REVIEW

The Sub-Committee considered the further advice of counsel relating specifically to the transfer of assets and services to the proposed Crewe parish council.

The Local Government and Public Involvement in Health Act 2007 gave a principal council the power to include within a reorganisation order provisions for the transfer of assets and functions to a new parish council. However, such powers had to be exercised rationally, taking into account all relevant considerations such as the parish council's ability and willingness to manage an asset or provide a service.

Counsel had also commented in particular on the transfer of allotments and public conveniences. It was counsel's view that Cheshire East Council would be required to transfer any allotments it held to the new parish council and to make provision for their administration in the budget for the new council. The position in relation to the transfer of public conveniences was different and the Council would have to make a decision on whether it would be reasonable to make such a transfer. In so doing, the Council would need to take into account the condition and maintenance costs of conveniences.

Having considered the advice of counsel, the Sub-Committee proceeded to consider the implications for the transfer of assets and in particular public conveniences and allotments.

It was noted that the public conveniences in Lyceum Square, Crewe were fairly new and in a good state of repair. It was suggested that these toilets could be transferred on the basis that Cheshire East Council remained responsible for their management for an initial period of three months.

RESOLVED

That it be recommended that the public conveniences in Lyceum Square, Crewe be transferred to the new parish council with effect from 1st April 2013 but Cheshire East Council continue to manage the facilities for the first three months; a sum of £30,000 be included in the budget for the first year of the parish council to cover the cost of managing these assets.

At this point, Councillors Cartlidge and Hogben, having declared disclosable pecuniary interests as allotment holders earlier in the meeting, left the meeting.

Members noted the legal advice that allotments must transfer to the new parish council. Members felt however that there was a need to protect the future use of the sites which could be done by transferring the leasehold only.

RESOLVED

That it be recommended that the allotments within the unparished part of Crewe be transferred to the new parish council with effect from 1st April 2013 on the basis of a 150 year lease; a sum of £30,000 be included in the budget for the first year of the parish council to cover the cost of managing these assets.

In taking this decision, and whilst acknowledging the need to comply with the requirements of the new Member Code of Conduct, the Members present, all being Conservative, expressed concern that the two Labour Members at the meeting had been excluded during the consideration of the allotments and the decision taken thereon.

At the conclusion of the Sub-Committee's consideration of this matter, the Chairman invited Councillors Cartlidge and Hogben to return to the meeting, which they did.

60 PUBLIC AND PRESS RE-ADMITTED

RESOLVED

That the Sub-Committee return to the remaining business under Part 1 of the agenda and the public and press be readmitted to the meeting.

61 CREWE COMMUNITY GOVERNANCE REVIEW

Draft Budget

The Sub-Committee considered a draft budget for the first year of the proposed parish council.

In considering this matter, Members asked what would happen with the bank account and assets held by the Crewe Charter Trustees. Officers undertook to investigate and report back.

Members also sought clarification of the precepting mechanism. Subject to further advice from Finance officers, the officers present advised that once the precept had been included in the order, Cheshire East Council would issue the bills to households.

RESOLVED

That

(1) it be recommended that the draft budget be approved subject to the following amendments:

- (a) the deletion of the budget headings for general grant and councillors' allowances;
- (b) the inclusion of the following additional budget headings and amounts:

Christmas Lights	£30,000
Town Centre Management	£36,000
Floral Displays	£25,000
Councillors' Expenses	£500
Community Grants	£13,000

(2) it be noted that the revised budget will also include the provisions for public conveniences and allotments as approved earlier in the meeting.

This would bring the budget total to £342,000. The Chairman urged Opposition Members present to discuss within their Group whether this amount would be sufficient for the first year of the new parish council.

Draft Order

The Sub-Committee considered a draft reorganisation order for the unparished part of Crewe.

Officers advised that it may be necessary to include in the order reference to the unparished part of Leighton for which separate arrangements were proposed. Officers had arranged a meeting with representatives of

Minshull Vernon and District Parish Council on 12th September to discuss the matter. There was some discussion about whether it would be necessary to hold parish elections in Leighton, given that the 400 or so electors to be added to that parish would not have voted in the parish elections but would presumably be paying a parish precept. Some Members considered this unlikely and that in all likelihood the parish council would co-opt if an additional parish councillor for the enlarged parish was considered necessary.

The Council's Legal Officer at the meeting advised that any decision of the Sub-Committee on the draft order would by implication relate to any relevant assets, including the allotments. Councillors Cartlidge and Hogben, having declared disclosable pecuniary interests as allotments holders earlier in the meeting, left the meeting prior to a decision on this matter.

RESOLVED

That the draft order be recommended for approval subject to the inclusion of reference to the arrangements for the unparished part of Leighton.

Councillors Cartlidge and Hogben were invited to return to the meeting.

Councillor and Warding Arrangements

RESOLVED

That the matter of the number of councillors and distribution of wards within the proposed Crewe parish be left for the Constitution Committee to consider and make recommendations to Council.

Preparatory Role for Sub-Committee

RESOLVED

That the Constitution Committee be recommended to extend the terms of reference of the Community Governance Review Sub-Committee to enable the Sub-Committee to take all necessary actions in preparation for the new Crewe parish council.

The meeting commenced at 2.00 pm and concluded at 3.56 pm

Councillor D Marren (Chairman)

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COUNCIL MEETING – 11TH OCTOBER 2012

Extract from the Minutes of the Constitution Committee Meeting on 20th September 2012

16 NOTICE OF MOTION - VENUE FOR MEETINGS OF THE STRATEGIC PLANNING BOARD

The Committee considered the following motion which had been proposed by Councillor D Brickhill and seconded by Councillor S Hogben, and referred by Council to the Committee for consideration:

“That when the Strategic Planning Board agenda contains a majority of items from the south of the Borough, the meeting will be held in Crewe or Sandbach.”

The Committee considered a number of options for ensuring that meetings of the Strategic Planning Board would be held at the most appropriate venue.

Councillor D Brickhill, the proposer of the motion, and Councillor H Davenport, the Chairman of the Strategic Planning Board, were present at the meeting and spoke on this matter.

RESOLVED

That Council be recommended to agree that the venue arrangements for meetings of the Strategic Planning Board should be as follows:

That the Capesthorpe Room, Macclesfield Town Hall and the Council Chamber, Municipal Buildings, Crewe be reserved in advance for every scheduled meeting of the Strategic Planning Board, with the room that is not required for a particular meeting being released at the appropriate time, the choice of venue to be at the discretion of the Chairman of the Strategic Planning Board in consultation with officers.

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting:	20 th September 2012
Report of:	Democratic and Registration Services Manager
Subject/Title:	Notice of Motion - Venue for Meetings of the Strategic Planning Board

1.0 Report Summary

- 1.1 The report invites the Committee to consider the following Motion, proposed by Councillor D Brickhill and seconded by Councillor S Hogben- "That when the Strategic Planning Board agenda contains a majority of items from the south of the Borough, the meeting will be held in Crewe or Sandbach" which has been referred by Council to the Committee for consideration.

2.0 Recommendation

- 2.1 That the options outlined in the report be considered by the Constitution Committee with a view to adopting one of the options as a formal policy.

3.0 Reasons for Recommendations

- 3.1 To comply with the Notice of Motion request proposed and seconded at a meeting of full Council held on 19 July 2012.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 None.

7.0 Financial Implications

- 7.1 Costs of hiring an external venue to hold meetings of the Strategic Planning Board if it is not possible to hold the meeting in a Council

owned building, as well as any additional costs regarding microphones and hire of IT equipment.

8.0 Legal Implications

8.1 None.

9.0 Risk Management

9.1 None.

10.0 Background

10.1 Currently it has been the policy to hold meetings of the Strategic Planning Board at Macclesfield Town Hall, unless there are applications on the agenda which are likely to cause considerable public interest, in which case attempts are made to ensure the venue for that particular meeting is moved. This is done in consultation with the Chairman of the Board.

10.2 Difficulties have arisen for Officers in finding a venue that meets all the requirements of the Council when notice of what will be on the agenda for consideration is only confirmed 5 working days prior to the meeting taking place. A week prior to the agenda being published, Officers receive a draft list of the applications which may go to the Strategic Planning Board, however this list often changes and many of the applications don't make it onto the agenda.

10.3 A further problem that Officers face is the location of applications can vary widely. Generally there is a trend for applications to be in both the Crewe and Macclesfield areas and sometimes the number of applications is split proportionally. On other occasions, the agenda has contained applications for one particular area of the Borough, or more rarely applications relating to a number of areas within the Borough. The agenda published on 29 February 2012 illustrates the point well where there were applications for Disley, Tytherington, Shavington Cum Gresty, Middlewich, Congleton and Gawsorth.

10.4 Advice is sought from the Planning Department as to the nature of the applications and whether or not it is anticipated that many people will be attending the meeting. If an application is expected to be controversial and it isn't related to the Macclesfield area then the Officers do everything they can to ensure the meeting takes place in the affected area, however it has not always been possible to locate a suitable venue. One of the priorities is to ensure the agenda is published within the legal timescales and therefore as a result Officers are often left with insufficient time to spend on looking for an alternative venue if the key choices are unavailable.

10.5 Recently the Board have had to consider a number of applications for the Crewe area. Finding a suitable venue in this area which has sufficient room to accommodate the general public (any venue

accommodating less than a 100 people would not be considered suitable), sufficient parking close to venue and microphone facilities all at a reasonable cost has proved extremely difficult. The Council Chamber in the Municipal Buildings in Crewe is frequently booked as is the Long Gallery in the Victoria Centre. The library in Crewe has meeting rooms, however the Council would need to hire out microphones at an extra cost and provide its own refreshments. In addition this room has an exercise class booked every Wednesday for the next year between 10.30am and 11.30am and it can only hold up to a maximum number of 80 people. On a few occasions the Council has booked Crewe Alexander Football Club which provides all the relevant facilities that Macclesfield Town Hall offers but this has been at considerable expense to the Council and is not considered to be financially sustainable.

- 10.6 A copy of the report has been circulated to the Chairmen and Vice Chairmen of the all of the Planning Committees and Councillor Mrs Rachel Bailey for comment.
- 10.7 There are a number of options which the Constitution Committee could consider and they are listed as follows:-

Option A

Keep Macclesfield Town Hall as the permanent venue for meetings of Strategic Planning Board regardless of the applications on the agenda.

Option B

Leave the decision to the Chairman's discretion.

Option C

Book the Capesthorne Room, Macclesfield Town Hall and the Council Chamber, Crewe Municipal Building in advance and then cancel one of the rooms if not required. (Note: For this Municipal year the Council Chamber may not be available for the dates required but Democratic Services could book it in advance for the next Municipal year).

Option D

Book a number of venues throughout the Borough and cancel all but the necessary venue once agenda has been confirmed.

Option E

Book a venue that is central to the North and South ie Congleton and keep it as the permanent base.

11.0 Access to Information

- 11.1 The background papers relating to this report can be inspected by contacting the report writer:

Name: Sarah Baxter

Designation: Democratic Services Officer

Tel No: 01270 686462

Email: sarah.baxter@cheshireeast.gov.uk

COUNCIL MEETING – 11TH OCTOBER 2012

Extract from the Minutes of the Constitution Committee Meeting on 20th September 2012

17 KEY DECISIONS - DEFINITION AND THRESHOLDS

The Committee considered revised definitions with regard to key decisions.

The definition of a key decision was two-fold. The first limb related to those executive decisions where either expenditure or savings were significant having regard to either the service or the function to which the decision related. The Council's current definition of a key decision did not specify any financial thresholds. Guidance indicated that the Council ought to look at specifying limits, both in the interests of consistency and so that the public were clear about which decisions were considered to be significant in financial terms.

The second limb of the definition of a key decision related to its impact and effect upon local communities. Although the statutory definition required the impact to be on two or more wards, guidance recognised that in some instances there would be a significant impact on one ward.

Information had been obtained on the definition of a "key decision" adopted by Cheshire East Council's 15 near statistical neighbours and was appended to the report.

The Director of Finance and Business Services advised the Committee that for Cheshire East Council, a financial threshold of £1M would be appropriate. Members felt, however, that a lower threshold would allow more openness and scrutiny of decisions and as a result should lead to better decisions.

RESOLVED

That Council be recommended to approve that the following definition of a key decision be adopted:

"an executive decision which is likely –

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority.

For the purpose of the above, savings or expenditure are "significant" if they are equal to or greater than £250,000."

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 20th September 2012
Report of: Borough Solicitor
Subject/Title: Key Decisions – Definition and Thresholds

1.0 Report Summary

- 1.1 This report sets out the Council's current definition of a key decision and compares the definition adopted by a number of comparator authorities. It is recommended that Council should be requested to adopt a new definition as set out at in Section 11.6 having regard to the definition used in the comparator authorities.

2.0 Recommendation

- 2.1 That the Committee

(1) consider the Key Decision definitions adopted by the identified comparator authorities; and

(2) recommend the definition set out in paragraph 11.6 to Council for approval.

3.0 Reasons for Recommendations

- 3.1 The Council's current definition of a key decision is based on the statutory definition and as a result does not set out any financial limits to be used as a guideline figure to assess what is a key decision in budgetary terms. A number of Councils have adopted appropriate limits or thresholds and members have requested that comparator information is made available to enable the Council's current definition to be reviewed.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Key decisions are significant decisions made by the Cabinet and as such will affect the vast majority of the Councils major policies. In particular the

Guidance issued under the Local Government Act 2000 in relation to the making of key decisions indicates that decisions made by the Cabinet in the course of the development of proposals to full Council to amend the Policy Framework will fall within the definition of a key decision.

7.0 Financial Implications

- 7.1 There are no direct financial implications associated with the proposed decisions.
- 7.2 The proposed revised definition for a Key Decision is in line with the current Financial Procedure Rules and therefore there are no revisions proposed for any other associated areas of the Constitution.

8.0 Legal Implications

- 8.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 come into force on the 10 September 2012 and replace earlier regulations made under the Local Government Act 2000 for those authorities operating executive arrangements. However the definition of a key decision is largely unchanged from that set out in earlier regulations.

9.0 Risk Management

- 9.1 The Council needs to be clear that all decisions which do fall within the definition of a “ Key Decision “ are properly identified and appear on the Councils Forward Plan otherwise there is the risk of challenge that the decision is ultra vires on the basis that the requisite procedures have not been followed.

10.0 Background and Options

- 10.1 The Constitution states that certain types of decisions made by the Cabinet, individual Cabinet Members, Committees, Sub-Committees of the Cabinet are “Key Decisions”. Except in cases of urgency, these types of decision receive advance publicity in the Forward Plan so that members of the public and Councillors are able to consider the implications of the decision. They may also seek to influence the decision by making contact with the decision-maker. Key Decisions appear on the Council’s Forward Plan, which can be viewed on the Council’s website, or in hard copy form at the Council’s offices.
- 10.2 The Constitution provides that the Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, Officers, Area Committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. The Forward Plan must be published at least 14 days before the start of the period covered and made available to the relevant Overview and Scrutiny Committees. It will describe the following

particulars in so far as the information is available or might reasonably be obtained

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

10.3 The Constitution also sets out the procedure to be followed where decisions are urgent or it is impracticable for the item to be included in the Forward Plan.

11.0 Key Decisions

11.1 Cheshire East uses the original statutory definition of a Key Decision as set out in the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000. An extract from the constitution is set out below

“an executive decision which, is likely –

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or*
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.”*

11.2 As part of the overall arrangements for the modernisation of Local Government and the introduction of executive arrangements the then Government issued “Local Government Act 2000: Guidance to Local Authorities” setting out detailed advice and examples on how the new decision making structures would be expected to operate. Chapter 7 dealt with “Accountable decision making”. The intention was to make decision making more efficient, transparent and accountable so that the public knew who was

responsible for making decisions, when they would make them, how they could have input and access to information about decisions and could influence the decision making process and that significant decisions should not be a surprise to those they affect.

- 11.3 The definition of a key decision is two fold. The first limb relates to monetary considerations and covers those executive decisions where either expenditure or savings are significant having regard to either the service or the function to which the decision relates. The guidance states that whilst it is for the potential decision maker to decide in any one case whether a decision made is likely to involve significant expenditure, for the purposes of consistency and to ensure the public are clear about what is regarded a significant locally, the authority itself ought to agree as a full Council limits above which items are significant. It would be open to the Council to set different thresholds for different services or functions given the overall budget for the services or function and likely impact upon the local community. The guidance stresses that there ought to be consistency between neighbouring Councils of comparable size.
- 11.4 The second limb of the definition of a key decision relates to its impact and effect upon local communities. Although the statutory definition requires the impact to be on two or more wards the guidance recognises that in some instances there will be very significant impact on one ward (e.g. closure of a school or carrying traffic calming works) and such a decision ought to be treated as if it were a key decision. The strategic nature of the decision being taken is a relevant consideration as well as its negative or positive impact upon the community or of the service provided to a significant number of people living or working in the locality.
- 11.5 The Councils current definition of a key decision does not specify any thresholds in the first limb of the definition. The Guidance indicates that the Council ought to look at specifying limits, both in the interests of consistency and so that the public are clear about which decisions are considered significant in financial terms. Information has been obtained on the definition of a “key decision” adopted by Cheshire East Council’s 15 near statistical neighbours as approved by the Audit Commission namely:
- Bath and North East Somerset
 - Bedford
 - Central Bedfordshire
 - Cheshire West and Chester
 - East Riding of Yorkshire
 - Herefordshire
 - North Somerset
 - Shropshire
 - Solihull
 - South Gloucestershire
 - Stockport
 - Trafford
 - Warrington
 - Wiltshire

- York

The definitions are set out at Appendix A

11.6 Based on a consideration of the various definitions it is recommended that the following Key Decision definition is recommended for approval by full Council:

an executive decision which is likely –

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or*
- (b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority.*

For the purpose of the above, savings or expenditure are “significant” if they are equal to or greater than [£].

The background papers relating to this report can be inspected by contacting the report writer:

Name: Caroline Elwood
Designation: Borough Solicitor
Tel No: 01270 685882
Email: caroline.elwood@cheshireeast.gov.uk

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Authority	Definition of a Key Decision
Bath and North East Somerset	<p>A “key decision” is defined in law as one which is likely to:</p> <ul style="list-style-type: none"> (a) result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or (b) be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority. <p>Those taking “key decisions” will do so in accordance with the requirements of the Access to Information and Executive Procedure Rules set out in this Constitution.</p>
Bedford	<p>A Key Decision is an executive decision which is likely:</p> <ul style="list-style-type: none"> (1) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates; or (2) to be significant in terms of its effects on communities living or working in an area comprising one or more wards in the Borough. <p>and, in accordance with Section 38 of the Local Government Act 2000, in determining the meaning of “significant” for these purposes, regard shall be had to any guidance issued by the Secretary of State.</p> <p>A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 6 of this Constitution.</p>
Central Bedfordshire	<p>1.1 A Key Decision means an executive decision which is likely:-</p> <ul style="list-style-type: none"> 1.1.1 To result in the Council incurring expenditure which is, or the making of savings, which are significant as defined in 1.2 below, having regard to the Council’s budget for the service or function to which the decision relates; or 1.1.2 To be significant in terms of its effect on communities living or working in an area comprising one or more wards in the area of the Council. <p>1.2 For the purposes of 1.1.1 above, savings or expenditure are significant if they exceed £200,000 per annum (revenue) or</p>

	<p>£500,000 whole life cost (capital),.</p> <p>1.3 Savings and expenditure in 1.2 above, does not include:-</p> <p>1.3.1 The day to day activity of the Council's treasury management functions, which are covered by the Treasury Management Policy Statement approved separately by the Council.</p> <p>1.3.2 Expenditure which is identified in the approved Revenue Budget or Service Plan for the service concerned;</p> <p>1.3.3 Implementation of a capital project identified in the approved Capital Programme and in respect of which the detailed business case (or equivalent) has been approved;</p> <p>1.3.4 Implementation of an explicit policy within the approved Budget and Policy Framework or fulfilment of the policy intention of a key decision previously approved by the Executive;</p> <p>1.3.5 The invitation of tenders or awarding of contracts where necessary to provide for the continuation of an established policy or service standard.</p> <p>1.4 For the purpose of 1.1.2 above, a decision will be regarded as "significant" if the outcome of the decision will have an impact, for better or worse, on the amenity of the community or quality of service provided by the Authority to a substantial number of people living or working in the wards affected.</p> <p>1.5 A decision maker may only take a Key Decision in accordance with the requirements of the Access to Information Procedure Rules set out in Part G2 of the constitution.</p>
<p>Cheshire West and Chester</p>	<p>4.1 Under the Local Government (Executive Arrangement) (Access to Information) (England) Regulations 2000, a key decision is a decision made by the Executive, an individual Member or Officer which is likely:</p> <p>“(a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or the function to which the decision relates; or</p> <p>(b) to be significant in terms of its effects on Communities living or working in an area comprising two or more wards in the area of the local authority”.</p> <p>4.2 The definition of "Key Decision" for Cheshire West and Chester is to be found in paragraph 41 of the Council Procedure Rules (Section 13)</p>

	<p>41.2 The following decisions are Key Decisions:</p> <p>an executive decision which is likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the authority's budget for the service or function to which the decision relates; or to be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority</p> <p>41.3 Under part (a) of the definition any expenditure or savings of £1million or more shall be significant for that part of the definition, with the exception that the letting of any contract which involves the provision of services to, or the purchase of goods and services by the Council, where such contract relate to the internal workings of the Council and therefore do not have a significant impact on local communities in the same way as other contracts. Such contracts include advertising, provision of locum staff, library books, vehicles, consumables, food, gas, electricity and cleaning services shall be excluded from the definition of a key decision</p> <p>41.4 Where the Executive as a body is making Key Decisions, that meeting shall be held in public. Where a matter is to be considered and Regulation 7 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 is applicable then the meeting will be held in public. In both cases the public may be excluded from the meeting where confidential or exempt information is likely to be disclosed.</p> <p>41.5 Where an officer exercising an executive function under delegated powers, receives a report which he/she intends to take into consideration when making a Key Decision that decision shall not be taken until the report has been made available for inspection by the public for five clear working days following receipt of the report by the decision taker. A copy of such report must be supplied as soon as reasonably practicable to the Chairman of the relevant Scrutiny Committee.</p>
<p>East Riding of Yorkshire</p>	<p>(i) A Key Decision is an Executive decision to be taken by The Cabinet which falls within the following definition approved by the Council:-</p> <ul style="list-style-type: none"> Any decision relating to the approval of or variation to the Council's policy framework or budget which is reserved in the Council's constitution for determination by Full Council on a recommendation from The Cabinet (Any recommended to Council item), or Any decisions made in the course of developing proposals to the Full Council to amend the policy framework. This includes decisions made to amend draft policies for the purposes of consultation.

	<ul style="list-style-type: none"> • Any decision which will result in income, expenditure or savings with a gross full year effect of £500,000 or greater whether or not the item has been included in the relevant approved budget with the exception of expenditure which is required for the day to day provision of services (eg day to day supplies, payment of energy bills etc.), or • Any decision which is likely to have a significant impact on people living or working in communities in two or more Wards with the exception of decisions that involve two or more Wards simply because of the carrying out of a programme of works. <p>(ii) A decision taker may only make a key decision in accordance with the requirements of The Cabinet Procedure Rules set out in Part 4 of this Constitution.</p>
<p>Herefordshire</p>	<p>3.3.5.1 A Key Decision is a decision:-</p> <ol style="list-style-type: none"> a. taken by the Cabinet or an individual Cabinet Member, b. in connection with the discharge of a Cabinet Function and which is determined as such by the Leader and is likely: <ol style="list-style-type: none"> i. to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or ii. to be significant in terms of its effects on communities living or working in an area comprising one or more wards in the County. <p>3.3.5.2 For the purposes of 3.3.5.1(b)(i) above £500,000 shall generally be regarded as significant in terms of expenditure or savings. A matter involving a lesser sum may be regarded as significant in terms of expenditure or savings in exceptional circumstances including but not limited to:</p> <ol style="list-style-type: none"> a. where a lesser sum is involved but other non financial factors make the matter significant in terms of the service or function to which the decision relates, b. or where a lesser sum is involved but it has significant impact on the budgets for other services or functions or on the Council's budget as a whole. <p>3.3.5.3 For the purposes of 3.3.5.1 (b) (ii) above any issue which, in the opinion of the Leader of the Council, is likely to have a significant effect or impact any group(s) of people shall be regarded as significant in terms of impact on communities. In deciding whether an issue has a significant effect or impact on any group(s) of people the Leader shall have regard to:</p> <ol style="list-style-type: none"> a. whether the decision may incur a significant social, economic or environmental risk or benefit

	<p>b. the likely extent of the impact of the decision both within and outside the County</p> <p>c. whether the decision is likely to be a matter of political or other controversy</p> <p>d. the extent to which the decision is likely to result in or attract substantial public interest.</p> <p>3.3.5.4 The decision of the Leader of the Council as to whether a decision is a Key Decision may be challenged by Call In.</p> <p>3.3.5.5 The Chief Executive will maintain a list of anticipated Cabinet decisions that may be Key Decisions.</p>
North Somerset	<p>Key decisions taken by the Executive as a whole, have to be taken at a public meeting of the Executive and advance notice of the decision is therefore required. A "key decision" is an Executive decision which is likely:-</p> <ul style="list-style-type: none"> • to result in the Local Authority incurring expenditure which is, or the making of savings which are, significant having regard to the Local Authority's budget for the service or function to which the decision relates • to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Local Authority <p>With regard to decisions referred to above, they shall not be taken by an individual Executive Members unless prior notice that the decision is to be taken has been issued and at least five clear days have elapsed since the notice had been published.</p>
Shropshire	<p>(i) A key decision is a Cabinet decision which is likely:</p> <p>(a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or</p> <p>(b) to be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the local authority.</p> <p>NOTE: The current Financial and Contract Rules recommend any financial decision over and above a budget value of £140,000 to be a key decision.</p> <p>(ii) A decision-taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.</p>

<p>Solihull</p>	<p>A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.</p> <p>These are decisions which are likely:-</p> <ul style="list-style-type: none"> (i) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority. <p>The Council will treat decisions on the following matters as key decisions:</p> <ul style="list-style-type: none"> • Statutory plans - policy framework plans, which need full Council approval in any event. • Any matter on which Cabinet will require full Council approval. • Contracts involving expenditure or income of over £250,000 (Contracts over £5000,000 expenditure will need Council approval anyway) in respect of any single contract. • Virement between budget heads of more than 10% for any amount exceeding £250,000. • Proposal for Council development on any land which is not "permitted development" under the Permitted Development Order (i.e. which requires an application for planning permission) except for development which involves temporary consent. • Any proposal which changes charges to any users of a service. • Any proposal to cease to provide a Council service (other than temporarily) at any premises. • Any proposal to make substantive changes to any service provided by the Council. • Consideration of budget estimates.
<p>South Gloucestershire</p>	<p>(i) A key decision is an Executive decision which is likely:</p> <ul style="list-style-type: none"> (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority. <p>(ii) Key decisions may only be made by the full Executive (the</p>

	Cabinet) or by a committee of the Cabinet or an individual executive councillor (or under delegations to an area committee or under joint arrangements) and will follow the Executive Standing Orders set out in Part 4, Section B of this Constitution.
Stockport	<p>A decision of the Executive, an Area Committee, or of a Corporate Director acting in accordance with the Scheme of Delegation will be a Key Decision if it comes within one or more of the following categories:</p> <ul style="list-style-type: none"> i) It is likely to result in the Council incurring expenditure or making savings which are significant having regard to the Council's budget for the service or function to which the decision relates; or ii) it is likely to be significant in terms of its effects on communities living or working in 2 or more Stockport wards. iii) it forms part of the development of, or the development of a change to, the Policy Framework or Budget. iv) it involves revenue expenditure or saving that is neither provided for within the Budget, nor virement permitted by the Constitution. v) it involves capital expenditure that is not provided for within: <ul style="list-style-type: none"> a. the capital estimate for a specific scheme; or b. a lump sum capital estimate; c. the capital programme at all, subject to rule 5.7 of the Financial Procedure Rules, which permits the Executive to utilise released capital funding for other projects where approved scheme costs are reduced or the approved scheme is deleted (unless the resources were specifically ring fenced). vi) it involves a significant reduction in or significant change to a service or facility provided by the Council, such reduction or change not being within the Policy Framework or Revenue Budget. vii) it consists of the declaration of land or property, the estimated value of which exceeds £250,000, as surplus to the Council's requirements. viii) it involves securing approval in principle to the acquisition or disposal of land or property the value of which is estimated to exceed £250,000. ix) it involves securing approval in principle to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, review, variation or termination of any leases, licences, easements or wayleaves, at considerations in excess of £250,000 per annum or a premium of £250,000. x) its consequences are likely to result in compulsory redundancies or major changes to the terms and conditions of employment of a significant number of

	<p>Council employees.</p> <p>A Key Decision may only be taken in accordance with the requirements of the Executive Procedure Rules (Part 4 PR3) and Access to Information Rules (Part 4 PR7).</p>
Trafford	<p>(i) An executive decision taken by the Executive, an Executive Member or an officer will be a Key Decision if it comes within one or more of the following categories:</p> <ul style="list-style-type: none"> a. It is likely to result in the Council incurring expenditure or making of savings which are significant having regard to the Council's budget for the service or function to which the decision relates; or b. to be significant in terms of its effects on communities living or working in 2 or more Trafford wards. c. It forms part of the development of, or the development of a change to, the Policy Framework or Budget. d. It involves securing approval in principle to the acquisition or disposal of land or property the value of which is estimated to exceed £500,000. e. It involves securing approval in principle to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, review, variation or termination of any leases, licenses, easements or wayleaves, at considerations in excess of £250,000 per annum or a premium of £500,000 f. Its consequences are likely to result in compulsory redundancies or major changes to the terms and conditions of employment of a significant number of Council employees. <p>(ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.</p>
Warrington	<p>12.5.1 The statutory definition, as contained in paragraph 8 of Part III of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, is as follows:-</p> <p>an executive decision, which is likely:-</p> <ul style="list-style-type: none"> (a) to result in the Local Authority incurring expenditure which is, or the making of savings which are significant having regard to the Local Authority's budget for the service or function to which the decision relates; or (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Local Authority.

	<p>12.5.2 Under part (a) of the definition and subject to 12.5.3 below the Borough Council has decided that any expenditure or savings of £250,000 or more shall be significant for the purposes of that part of the definition. All such Key Decisions must be approved by the Executive Board.</p> <p>12.5.3. The Council has decided that the letting of any contract on behalf of the Council by an authorised person which involves the provision of services to, or the purchase of goods and services by the Borough Council shall be excluded from the definition of a key decision, where such contracts relate mainly to the internal workings of the Authority and do not therefore have a significant impact directly on local communities in the same way as other key decisions. Such contracts may include advertising, library books, vehicles, consumables, food, gas, electricity, and cleaning of borough premises.</p>
Wiltshire	<p>Wiltshire Council defines a key decision as:</p> <ul style="list-style-type: none"> • any decision which would result in the closure of an amenity or total withdrawal of a service; • any restriction of service greater than 5 per cent measured by reference to current expenditure or hours of availability to the public; • any action incurring expenditure or producing savings greater than 20 per cent of budget service areas against which the budget is determined by Full Council; • any decision in accordance with the Council's Financial Regulations (Part 9), involving financial expenditure of £500,000 or above, with the exception of operational expenditure by Corporate Directors identified within the approved budget and policy framework. • any proposal to change the policy framework. • any proposal which would have a significant effect on communities living or working in an area comprising two or more electoral divisions.
York	<p>A key decision means a decision made in connection with the discharge of a function which is the responsibility of the Cabinet and which is likely to:</p> <ol style="list-style-type: none"> a) result in the Council incurring expenditure, or making savings which are significant having regard to the Council's budget for the service or function to which the decision relates; or b) be significant in terms of its effects on communities <p>For the purpose of the above, savings or expenditure are significant if they are equal to or greater than £500,000 or equal to or greater than £100,000 where the savings or expenditure exceeds 10% of the budget for the service plan area whichever is</p>

	<p>the less. Expenditure in excess of the above levels will not constitute a key decision if such expenditure is made as part of the implementation of a decision which itself was a key decision e.g. the award of a contract <i>or where the expenditure is routine expenditure as described in the Contract procedure rules.</i></p> <p>A decision taker may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules set out in Part 4 of this Constitution.</p>
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COUNCIL MEETING – 11TH OCTOBER 2012**Extract from the Minutes of the Constitution Committee Meeting on 20th September 2012****18 REVIEW OF CONTRACT PROCEDURE RULES**

The Committee considered proposed amendments to the Council's contract procedure rules.

The Audit and Governance Committee on 14th June 2012 had resolved that the Council's contract procedure rules be submitted to the next meeting of the Constitution Committee for further review with a view to increasing the level of Member involvement in decision-making. At its meeting on 5th July this Committee resolved that the Task Group previously appointed by the Committee to review detailed changes to the Constitution be asked to undertake the further review and report back to the Committee's next meeting.

The Task Group had met on 9th August to review the contract procedure rules and had agreed as follows:

- Clarity was required around the responsibilities of Directors which would include ensuring that they took all reasonable steps for the proper administration of contracts and procurement in their Departments.
- Revisions were required to clarify the process, actions and approvals required in respect of exceptions to the rules and non-compliance with the rules and urgency.
- Other matters including retaining records, specifications, whole life costs (excluding VAT) and quotations.
- The need for a short Guide to Procurement for Officers to complement the existing Knowledge Map.

The contract procedure rules had been amended in the light of the Task Group's comments and were appended to the report for the Committee's consideration. The Shared Services Manager had undertaken to produce the additional guidance on contracts and procurement as requested by the Task Group.

The Director of Finance and Business Services circulated a number of additional proposed amendments at the Committee's meeting.

The Committee was asked to consider the amended contract procedure rules and the further amendments proposed by the Director. A number of additional amendments were suggested by Members relating to:

- The definition of financial thresholds
- The recording of training needs

- The need for a breakdown of non-compliances against heads of service

RESOLVED

That

- (1) the proposed amendments to the contract procedure rules, including the additional amendments proposed by the Director of Finance and Business Services at the meeting, be approved for recommendation to Council subject to the further amendments agreed by Members;
- (2) the Vice-Chairman of the Committee be authorised to determine any final amendments to the contract procedure rules in consultation with the Director of Finance and Business Services;
- (3) a final updated version of the rules incorporating all amendments be produced for consideration by Council; and
- (4) Council be recommended to approve the amended contract procedure rules and the consequential amendments to the Constitution.

Note: the contract procedure rules will be amended to incorporate the additional amendments agreed by the Constitution Committee and any further changes agreed by the Vice-Chairman of the Committee in consultation with the Director of Finance and Business Services. They will then be circulated to Members as an Addendum to this item.

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 20th September 2012
Report of: Borough Solicitor
Subject/Title: Review of Contract Procedure Rules

1.0 Report Summary

- 1.1** The purpose of this report is to propose amendments to the Council's Contract Procedure Rules and to seek the approval of the Committee and a recommendation from it to the Council that the amendments be made.

2.0 Recommendations

- 2.1** That the amendments to the Contract Procedure Rules (as set out in the Appendix to this report) be recommended to the Council for approval and the Constitution be amended accordingly.

3.0 Reasons for Recommendations

- 3.1** The Action Plan approved by the recent meeting of the Audit and Governance Committee recognised that the Council needs to ensure robust controls are in place. At its meeting on the 5th July the Committee resolved to undertake a further review of the Contract Procedure Rules. A meeting of the Constitution Task Group was held to undertake the review. This report sets out the recommendations of the Group and will support delivery of the Action Plan.

4.0 Wards Affected

- 4.1** All

5.0 Local Ward Members

- 5.1** All

6.0 Policy Implications

- 6.1** None have been identified.

7.0 Financial Implications

- 7.1 There are no direct financial implications associated with the decisions in this report.

8.0 Legal Implications

- 8.1 Any changes to the Constitution need to be agreed by the Council following a recommendation from the Constitution Committee. Any changes which are proposed also need to comply with the relevant statutory requirements.
- 8.2 The Purchase of goods, services and works by the Council as a public sector body is regulated by the Public Contracts Regulations 2006 (the Regulations) which implement into English law the EU procurement regime currently in place throughout the EU.
- 8.3 It is important to note that the Regulations only apply to contracts with a value that exceeds the relevant thresholds. The current thresholds that apply to local authorities are as follows:

SUPPLIES (GOODS)	SERVICES	WORKS
£156,442	£156,442	£3,927,260

- 8.4 However, in undertaking any procurement (including those below the EU threshold) a contracting authority must also comply with the following key principles (derived from the Treaty on the Functioning of the European Union (TFEU) and the fundamental freedoms of the EU):
- Proportionality
 - Mutual recognition
 - Transparency
 - Non-discrimination
 - Equal treatment
- 8.5 In simple terms, the Council is required to act in a transparent way, treating all potential providers equally and in a non-discriminatory way. There are also detailed requirements in relation to the drafting of technical specifications, the requirement to publish contract award notices and submission of returns to the Office of Government Commerce (OGC).
- 8.6 As third parties have a right to take court action for financial loss if there is any failure to comply with the principles, it is extremely important that the Council does comply with the key Principles set out in paragraph 8.4.

9.0 Risk Management

- 9.1 The Action Plan approved by the recent meeting of the Audit and Governance Committee recognised that the Council needs to ensure robust controls are in place. A fundamental review of procedures is being undertaken to ensure that the proper checks and balances are in place to safeguard and ensure proper processes are followed.

10.0 Background and Options

- 10.1 At their meeting on 14 June 2012 members of the Audit and Governance Committee resolved that the Council's Contract Procedure Rules be submitted to the next meeting of the Constitution Committee to further review with a view to increasing the level of Member involvement in decision – making. The Contract Procedure Rules form part of the Council's Constitution and were last reviewed and approved by this Committee on 22 September 2011 and subsequently approved by full Council in October 2011. The Rules set out a framework for the procurement of goods, works and services with a view to achieving value for money and an open and transparent process which complies with best practice and the Council's Procurement Strategy. Detailed guidance on the Contract Procedure Rules can be found on the Council's Procurement Knowledge Map on the centranet site.
- 10.2 At its meeting on 5th July the Committee resolved that the Task Group previously appointed by the Committee to review detailed changes to the Constitution be asked to undertake a further review of the Contract Procedure Rules and report back to the Committee's next meeting.
- 10.3 The Task Group met on 9th August and a number of matters were considered. The Task Group agreed the following:
- Clarity was required around the responsibilities of Directors which would include ensuring that they took all reasonable steps for the proper administration of contracts and procurement in their Departments
 - Revisions were required to clarify the process, actions and approvals required in respect of exceptions to the rules, non compliance with the rules and urgency
 - Other matters included retaining records, specifications, whole life costs (excluding VAT) and quotations
 - The need for a short Guide to Procurement for Officers to complement the existing Knowledge Map.
- 10.4 In the light of the conclusions reached by the Task Group the contract procedure rules have been amended a copy of which is enclosed at Appendix 1.
- 10.5 The Shared Services Manager undertook to produce the additional guidance on contracts and procurement.

- 10.6 Members' views are sought on the proposed changes to the Contract Procedure Rules.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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Designation: Borough Solicitor

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COUNCIL MEETING – 11TH OCTOBER 2012

Extract from the Minutes of the Constitution Committee Meeting on 20th September 2012

19 PROPOSED AMENDMENTS TO THE COUNCIL'S FINANCE AND CONTRACT PROCEDURE RULES/PROJECT GATEWAY

The Committee considered proposed amendments to Sections A and B of the Council's Finance and Contract Procedure Rules and the creation of a 'Project Gateway' to provide a strong quality assurance model for major projects and programmes in Cheshire East.

The new Project Gateway would bring about a more robust discipline to the management of major Projects and Programmes across the Council. The new governance arrangements associated with the Project Gateway impacted on the decision-making process and the required financial controls and therefore a review of the Finance and Contract Procedure Rules was required.

A key aspect of effectively operating the Project Gateway was the formation of a high-level, Member-led Governance group called the Executive Monitoring Board which would take on the challenge role as part of the development of the Council's Business Plan and the monitoring of its delivery. The Board would replace the Capital Asset Group by taking on the Capital Modelling, Planning and Monitoring role as described in the current Capital Strategy. One of the key aims of the Board would be to provide consistent and robust direction for all major Projects and Programmes in Cheshire East through the Project Gateway model. Further details of the Gateway model were set out in the report.

The proposed amendments to the Finance and Contract Procedure Rules were set out in Appendix 1 to the report and fell broadly into two main categories:

1. Amendments to Section A with regard to Virements and Supplementary Estimates
2. Amendments to Section B with regard to Capital Approvals, Capital Block Provisions, Capital Monitoring and Amendments to the Capital Programme

RESOLVED

That Council be recommended to approve that

- (1) the proposed amendments to Sections A and B of the Finance and Contract Procedure Rules be approved subject to the following amendment:

“That projects with an estimated cost of between £100,000 and £250,000 are to be brought to the appropriate Policy Development Group for consideration and/or noting.”

(2) the Constitution be amended accordingly.

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 20th September 2012
Report of: Director of Finance and Business Services
Subject/Title: Proposed Amendments to the Council's Finance and Contract Procedure Rules/Project Gateway

1.0 Report Summary

- 1.1 This report seeks approval from the Committee for proposed amendments to Sections A and B of the Council's Finance and Contract Procedure Rules and a recommendation to Council for their endorsement. The proposed amendments are required due to the creation of a 'Project Gateway' to provide a strong quality assurance model for major projects and programmes in Cheshire East and the establishment of new governance arrangements to enable the new process.

2.0 Recommendations

- 2.1 That the amended Finance and Contract Procedure Rules (as set out in Appendix 1) be recommended to Council for approval and the Constitution be amended accordingly.

3.0 Reasons for Recommendations

- 3.1 Following consideration of an internal audit report by the Audit and Governance Committee at its meeting on 14th June 2012 an action plan was approved that included a commitment to review procedures and systems in respect of the Council's major Projects and Programmes.
- 3.2 The new governance arrangements impact on the decision making process for major Projects and Programmes. This therefore required a review of the Finance and Contract Procedure Rules within the Council's Constitution. The results of this review and the recommended amendments to the Finance and Contract Procedure Rules are set out in this report.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

6.1 None

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 The Finance and Contract Procedure Rules set out the arrangements for managing the Council's financial affairs and are a key element of the overall governance and control framework. They apply to every Member and officer of the Council and anyone acting on its behalf, including School Governors operating under local delegation arrangements.
- 7.2 Compliance with the provisions of the Finance and Contract Procedure Rules is essential in ensuring the security of Council assets and the appropriate and lawful use of resources. It is also essential in maintaining appropriate standards of stewardship and accountability and in demonstrating value for money for local tax payers and other stakeholders.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Council is required to prepare and publish an Annual Governance Statement (AGS). This requirement was introduced by the revised CIPFA/SOLACE Good Governance Framework (Delivering Good Governance in Local Government) and is necessary to meet the statutory requirement set out in Regulation 4 of the Accounts and Audit Regulations (2003 as amended).
- 8.2 The purpose of the AGS process is to provide a continuous review of the organisation's governance arrangements so as to give assurance on the effectiveness on the processes and/or to address identified weaknesses.
- 8.3 The creation of a 'Project Gateway' to provide a strong quality assurance model for major Projects and Programmes in Cheshire East will help meet the AGS requirements and support effective management within the Council.

9.0 Risk Management

- 9.1 The Council is undergoing continual change both in terms of the way it works and the climate in which it operates. It is essential that there is a clear framework of rules in place to guide officers and Members in both their financial and operational decision making, in order to ensure proper control and to safeguard both the reputation and the resources of the Council and its employees.
- 9.2 The Finance and Contract Procedure Rules provide this guidance and give assurance both to the Council and its stakeholders with regard to proper financial management. They are an important control in mitigating against the risk of fraud and misappropriation as well as waste, inefficiency and poor decision making. In order to be effective however, they need to be regularly

reviewed and updated so that they remain relevant and usable, and reflect best practice developments at local and national level.

- 9.3 Section C of the Finance and Contract Procedure Rules deals specifically with Risk Management and the Control of Resources and establishes the key principles for wider risk management practice across the Council.

10.0 Background and Options

- 10.1 The new Project Gateway will bring about a more robust discipline to the management of major Projects and Programmes across the Council. The new governance arrangements associated with the Project Gateway impact on the decision making process and the required financial controls and therefore a review of the Finance and Contract Procedure Rules is required.

- 10.2 A key aspect of effectively operating the Project Gateway is the formation of a high-level, Member-led Governance group called the Executive Monitoring Board (EMB). The EMB will take on the challenge role as part of the development of the Council's Business Plan and the monitoring of its delivery. As part of this role it will replace the Capital Asset Group by taking on the Capital Modelling, Planning and Monitoring role as described in the current Capital Strategy. One of the key aims of the EMB will be to provide consistent and robust direction for all major Projects and Programmes in Cheshire East through the Project Gateway model. The first meeting of the EMB took place on 29th August 2012. It will be supported by a Technical Enabler Group (TEG) comprising of key corporate enablers supporting major Projects and Programmes and a Programme Office (PMO). The TEG is in the process of being set up.

- 10.3 The EMB is comprised of the following members:

Portfolio Holder for Performance (Chair)
Portfolio Holder for Finance (Vice-Chair)
Strategic Director for Places and Organisational Capacity
Strategic Director for Children, Families and Adults
Director of Finance and Business Services

In attendance to support the Board:

Organisational Change Manager (PMO Lead)
Corporate Finance Officer
Heads of Service as appropriate

- 10.4 The EMB will essentially perform three streams of work:

Stream 1 - Deliver the Capital Strategy

- EMB will develop and recommend a strategic, five-year Capital model based on its role in the Capital Visioning work.

- EMB will develop and recommend a Capital funding strategy, which will inform the Council's borrowing strategy as part of the Treasury Management Strategy.
- EMB will develop the Capital model to include all associated financial benefits, including Capital Receipts, Service income streams and Service cost elimination/reductions.
- EMB will form a recommended list of proposals to be considered as part of the Business Planning process.

Stream 2 -Review and challenge of proposals as part of the Business Planning Process

- Review and challenge proposals for Capital and Revenue coming through the Business Planning Process in 2012/13 and in subsequent years. Proposals will be presented to EMB in the form of a Business case on the agreed template. **(Gate 1)**
- Compile the final list of Revenue and Capital proposals to be included in the Business Plan and to form the 2013/14 Capital Programme.
- Project or Programme leads, if appropriate, will be required to attend EMB to present and answer questions relating to their proposal.
- EMB will reject Business Planning proposals if they are unconvinced of the viability of the Business case, any other aspect of the delivery plan or of the fit with corporate priorities, which may result in the cessation of the proposal or a request for a revised proposal (ceased proposals should be properly recorded as they may be reviewed by other Business Planning stakeholders).
- If a Business Planning Proposal is recommended by EMB it will then feed back into the Business Planning process for wider consultation.
- Once recommended proposals have been through wider consultation EMB will review the draft list for inclusion in the draft Business Plan, including the Capital Programme.
- Identify improvements in the process as part of the annual lessons learnt exercise.

Stream 3 - Quality assurance and monitoring of progress

- EMB will recommend the major Delivery Plan for 2013/14 and subsequent years, based on the approved Business Plan and Budget, and monitor all major Revenue and Capital Projects and Programmes.
- All major Projects and Programmes must prepare a detailed **Project Initiation Document (PID)** outlining in more detail how the Project or Programme will be delivered, providing more robust data to confirm the viability of the Business Case.
- Project or Programme leads will be required to make further presentation to the EMB to gain confirmation to proceed. **(Gate 2)**
- EMB will review and challenge new and revised Business Cases submitted in-year, with a requirement to pass through Gate 1 and Gate 2 as appropriate.
- In terms of the embargo to start any new activities, imposed by Cabinet on 15th August 2012, on an exception basis, EMB requires the preparation and

submission of a business case requesting the release of funding for business critical propositions.

- If a Project or Programme is found to be no longer viable, EMB will recommend a course of action via the required decision making route.
- EMB will sign off the Capital elements of Quarterly Performance report to Cabinet, including virements and Supplementary Capital Estimates against the Capital Programme.
- EMB will sign off the Delivery Plan elements of the Monthly Performance report to CMT and Informal Cabinet, including forecast Capital outturn.
- Monitor progress for new starts in 2012/13 and beyond, for all projects and programmes with a total spend in excess of £250k and/or where there is significant risk to ensure all core Project and Programme disciplines are being carried out to agreed standards.
- Project or Programme leads will be required to prepare a succinct Highlight Report on the agreed template provided by the Programme Office and may be required to attend EMB to respond to key questions.
- EMB will determine the frequency of monitoring, dependent upon the assessed risk.
- Monitoring will focus mainly on financial performance, progress against plan, risks and issues, quality and benefits.
- EMB will drive an increased focus on Benefits Management and will therefore want assurance throughout the Project lifecycle that benefits have been clearly identified, quantified, tracked and achieved.
- Ensure major Projects and Programmes are on track to deliver what they set out to do in their Business Planning proposal and confirm there is a continued Business Case viability.

- 10.5 The proposed changes to the Finance and Contract Procedure Rules are set out in Appendix 1 and fall broadly into two main categories:

Amendments to Section A with regard to Virements and Supplementary Estimates

- 10.6 In terms of Virements, in paragraph A.32 there is a need to change the name of the Portfolio Holder and introduce a new decision layer between £250,000 and £500,000. Recognition is given to the role of the EMB in the decision making process.
- 10.7 In terms of Supplementary Estimates, in paragraph A.36 there is a need to remove an anomaly to a reference to paragraph A.33. With regard to the new process there is also a need to change the name of the Portfolio Holder and introduce a new decision layer between £250,000 and £500,000. Recognition is given to the role of the EMB in the decision making process, including the requirement to recommend through to Cabinet and Council.

Amendments to Section B with regard to Capital Approvals, Capital Block Provisions, Capital Monitoring and Amendments to the Capital Programme

- 10.8 In terms of Capital Approvals, the wording in B.27 has been amended to acknowledge the establishment of the Project Gateway for major Projects and Programmes. The wording in paragraphs B.28 and B.29 has been amended to include recognition that major projects in excess of £250,000, or where there is a significant risk, will be considered by the EMB.
- 10.9 In terms of Capital Block Provisions, the wording in paragraph B.32 has been amended to require the detailed breakdown of Block Provisions to be considered by the EMB.
- 10.10 In terms of Capital Monitoring and Amendments to the Capital Programme, the wording in paragraphs B.34 has been amended to recognise the requirement for in-year Business Cases to be endorsed by the EMB before being taken through the appropriate decision making route. The wording in paragraph B.35 has been amended to recognise that once the Capital Programme has been approved Project and Programme managers must submit a Project Initiation Document (PID) to the EMB for approval to commence a Project or Programme. Paragraph B.35 has also been amended to ensure that the viability of Projects and Programmes is monitored by the EMB and where a Project or Programme is found to be no longer viable it will be recommended for abandonment through the appropriate decision making route.

Access to Information

The background papers relating to this report are available from the report writer below.

The report writer is:

Name: Lisa Quinn

Designation: Director of Finance and Business Services

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E-mail: lisa.quinn@cheshireeast.gov.uk

Appendix 1 – Relevant Paragraphs of the Finance and Contract Procedure Rules in the Constitution

A.32 Approval limits for virements are as follows:

Approval Level	Virement Amount/Percentage
Head of Service	Up to £100,000 or 10% of their net Service budget, whichever is the lowest. (Revenue)
Corporate Management Team	<p>Greater than 10% of a net Service budget but less than £100,000 (Revenue)</p> <p>Up to £100,000 between net Service budgets (Revenue) within their area of responsibility</p> <p>Up to £100,000 funded from underspends within the approved Service budget (Capital)</p>
Corporate Management Team in consultation with Resources Finance Portfolio Holder	Over £100,000 and up to and including £250,000 (Revenue/Capital)
Portfolio Holders and Corporate Management Team in consultation with Performance Portfolio Holder, Finance Portfolio Holder via Executive Monitoring Board	Over £250,000 and up to and including £500,000 (Revenue/Capital)
Cabinet Members	Over £500,000 and up to and including £1,000,000 (Revenue/Capital)
Council	<ul style="list-style-type: none"> ▪ £1,000,000 or more; and/or ▪ Significant ongoing financial implications; and/or ▪ Significant policy change. (Revenue/Capital) <p>“Significant” to be defined by the Director of Finance and Business Services or their representative.</p>

No virements are permitted from ringfenced budgets.

Supplementary Estimates

A.33 Where services wish to undertake an activity not originally identified in the budget or extend an existing capital scheme where additional income or ringfenced funding becomes available in year, approval must be sought

for a fully funded supplementary capital or revenue estimate in accordance with A36 below. The Director of Finance and Business Services must be consulted to establish that the funding identified can be legitimately linked to the expenditure in question.

- A.34** Any request for a supplementary capital or revenue estimate for £1,000,000 or more, whether or not it is fully funded, must be approved by Council.
- A.35** Supplementary estimates which are not fully funded and are to be met from reserves or balances or general purpose funding (i.e. Council tax or non-ringfenced grant) regardless of value, must be approved by Council. Council approval is also required where there are significant implications (as determined by the Director of Finance and Business Services) for future year's budgets.
- A.36** Approval limits for fully funded supplementary capital and revenue estimates, as defined in A33 above, are as follows:

Approval Level	Supplementary Estimate Amount
Corporate Management Team	Up to £100,000
Corporate Management Team in consultation with Resources Finance Portfolio Holder	Between £100,000 and £500,000 up to £250,000
Portfolio Holders and Corporate Management Team in consultation with Performance Portfolio Holder, Finance Portfolio Holder via Executive Monitoring Board	Between £250,000 and up to £500,000
Cabinet Members with recommendation from Executive Monitoring Board	Between £500,000 and up to £1,000,000
Council with recommendation from Executive Monitoring Board and Cabinet	Over £1,000,000 and over

Capital Programmes

Capital Expenditure

- B.26** Capital expenditure is broadly defined as expenditure **in-excess** of £10,000 **and above**, on the acquisition of a tangible asset, or expenditure which adds to (rather than merely maintains), the value of an existing asset and/or extends the useful life of an asset and increasing usability, provided that the asset yields benefits to the Council and the services it provides is for a period of more than one year.

Capital Approvals

- B.27** Capital approvals referred to in these Finance Procedure Rules relate to the total cost or "starts value" of each provision or scheme rather than the anticipated expenditure in each year. Individual items estimated to cost ~~in excess of~~ £250,000 and above will be treated as separate schemes or provisions. The Council has established a Project Gateway process to provide a strong quality assurance model for major Projects and Programmes which underpins these rules.
- B.28** An Option Appraisal in the form of a detailed Business Case Template, in a form agreed by the Director of Finance and Business Services, must be prepared for all capital proposals with a gross estimated cost of ~~in excess of~~ £250,000 and above, or where there is a significant risk, including the replacement of individual vehicles or items of equipment, before being submitted for inclusion in the Capital Programme or before approval is sought from Members in year. In accordance with the Project Gateway process all such Business Cases will be considered by the Executive Monitoring Board. A summarised version of the Business Case Template will also be required for all proposals of ~~over~~ £100,000 and less than £250,000. These will be used as the basis for assessing the affordability and deliverability of the scheme, as well as for monitoring, reporting and post-implementation review. Such Business Cases will not be considered by the Executive Monitoring Board but should be brought to the appropriate Policy Development Group for consideration and/or noting.
- B.29** Option Appraisals, in the form of a ~~detailed~~ Business Case Template, must also be prepared for all revenue proposals with a significant financial impact, risk profile or policy change, as specified by the Director of Finance and Business Services. The ~~proforma~~ template, in a form agreed by the Director of Finance and Business Services, must include an assessment of the Service consequences, risk and impact on users, and include any differential impact on particular groups or localities. In accordance with the Project Gateway process all Business Cases of ~~above~~ £250,000 and above, or where there is a significant risk, will be considered by the Executive Monitoring Board.

Capital Block Provisions

- B.30** As part of the annual policy and planning process, schemes in the capital programme which have not reached an advanced state will be reconsidered.
- B.31** Services are expected to develop reserve capital schemes which can be brought forward in the event of changes in the approved programme, subject to approval via the normal routes.

- B.32** Block provisions will be approved within the Capital Programme for individual schemes costing less than £250,000. A detailed breakdown of the expenditure proposed must be submitted for approval by the ~~appropriate Cabinet Member~~ **Executive Monitoring Board** as part of the policy and planning process. This requirement will also apply to block provisions included in the vehicle and equipment replacement programme.

Capital Monitoring and Amendments to the Capital Programme

- B.33** Where possible, all capital schemes contained within the block provision should be approved through the annual capital programme setting process, within the timetable set out by the Director of Finance and Business Services and approved by Council in February. Any subsequent further breakdown of block approvals must follow the appropriate approval route, with completion of a delegated decision template where necessary.
- B.34** Any 'in year' approval sought for capital schemes ~~of in excess of~~ £250,000 ~~and above, and/or there is significant risk,~~ must be supported by a completed, ~~detailed~~ Business Case template, in the format prescribed by the Director of Finance and Business Services, which has been endorsed by the ~~Capital Asset Group Member-led governance group called the~~ **Executive Monitoring Board** prior to submission ~~through the appropriate decision making route.~~
- B.35** ~~Once the Capital Programme has been approved, Project and Programme managers must produce a Project Initiation Document (PID) outlining in more detail how the Project or Programme will be delivered which must be approved by the Executive Monitoring Board. Project and Programme managers must ensure that the project specification remains consistent with the approved capital appraisal and continues to represent value for money for the Council. Where project outcomes or costs alter significantly from those set out in the original appraisal a revised detailed Business Case Template must be completed and submitted to the officer-Capital Asset Group Executive Monitoring Board. Where the Executive Monitoring Board have identified particular Projects and Programmes which they wish to monitor the Board will be empowered to control, if they deem it appropriate, delivery of the Project or Programme through a requirement at each critical stage for its consent before releasing the funding needed. In the event that the Executive Monitoring Board consider that a Project or Programme has become unviable the Portfolio Holder for Finance is authorised in consultation with the Leader of the Council, the Portfolio Holder for Performance and the relevant Portfolio holder to recommend the abandonment of the Project or Programme through the appropriate decision making route.~~
- B.36** Wherever possible, expenditure in respect of Highways improvements funded by developers and Rechargeable works should be included in the Capital Programme. Where this is not possible Heads of Service may approve capital expenditure in respect of:

- Highway improvements fully funded by developers under Section 278 of the Highways Act 1980, provided that a formal agreement has been completed with the developer
- Other rechargeable reinstatement work costing ~~in excess of~~ £10,000 ~~and above~~.
- Urgent work to repair, replace or reinstate vehicles, buildings or equipment, where the work is to be fully funded from insurance monies following consultation with the Finance Manager.

B.37 In addition, Heads of Service may authorise essential design work required in advance of the start of the financial year on capital schemes which are in the programme approved by Council in February.

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COUNCIL MEETING – 11TH OCTOBER 2012

Extract from the Minutes of the Constitution Committee Meeting on 20th September 2012

24 SPECIAL RESPONSIBILITY ALLOWANCE: LOCAL SERVICE DELIVERY COMMITTEES FOR CREWE AND MACCLESFIELD

The Committee considered the Independent Remuneration Panel's recommendations regarding the award of a Special Responsibility Allowance to the Chairmen and Vice-Chairmen of the Local Service Delivery Committees for Crewe and Macclesfield.

The recommended allowances related to the 2011-12 municipal year only in recognition of the work undertaken by the Committees in that year.

RESOLVED

That Council be recommended to approve that

- (1) a Special Responsibility Allowance be awarded to the Chairman and Vice-Chairman of the Local Service Delivery Committee (Crewe) and the Local Service Delivery Committee (Macclesfield), of £5,600 (Chairman) and £1,000 (Vice-Chairman) for 2011/2012 in recognition of the work undertaken during the Committees' inaugural year and in line with the requirements of Cheshire East Council's Scheme of Members' Allowances which states that a Member can only be in receipt of one Special Responsibility Allowance; and
- (2) the matter be included as part of the Independent Remuneration Panel's Review of the Scheme of Members' Allowances for 2012/2013 which will consider whether the posts merit the awarding of a Special Responsibility Allowance from 16th May 2012 onwards.

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 20th September 2012
Report of: Democratic and Registration Services Manager
Subject/Title: Special Responsibility Allowance: Local Service Delivery Committees for Crewe and Macclesfield

1.0 Report Summary

- 1.1 The report gives details of the Independent Remuneration Panel's recommendations regarding the award of a Special Responsibility Allowance to the Chairmen and Vice Chairmen of the Local Service Deliver Committees for Crewe and Macclesfield.

2.0 Recommendation

- 2.1 Constitution Committee is invited to consider the Independent Remuneration Panel's findings summarised in paragraph 11 and make recommendations to Council, including the effective date of any change.

3.0 Reasons for Recommendations

- 3.1 Before any changes can be made to the Scheme of Members' Allowances, Council must consider a report from its Independent Remuneration Panel.
- 3.2 In making its recommendations, the Independent Remuneration Panel took into consideration the current level of recompense for elected Members under Cheshire East Council's Scheme of Members' Allowances.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Any agreement to amend the allowances payable to elected Members will require alteration(s) to be made to Cheshire East Council's Scheme of Members' Allowances.

7.0 Financial Implications

- 7.1 Having considered the matter, the Independent Remuneration Panel is recommending that a Special Responsibility Allowance should be paid to the Chairmen and Vice Chairmen of the Local Service Delivery Committees for Crewe and Macclesfield for the period 2011/2012.
- 7.2 If the recommendation were to be approved, it would incur an actual cost to the budget of £6,600 rather than £13,200 (2x £5,600 and 2 x £1000) due to two of the proposed recipients having received Special Responsibility Allowances (SRA) during 2011/2012 and in accordance with the Scheme of Members' Allowances no Member can be in receipt of more than one SRA. The additional costs can be met from within the Members' Allowances budget.

8.0 Legal Implications

- 8.1 The Council is empowered to pay a range of Allowances to its Members in respect of their roles and responsibilities but must, in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, appoint an Independent Remuneration Panel to offer advice and make recommendations on the Members' Allowances Scheme to Council. This report contains the advice of the Panel.

9.0 Risk Management

- 9.1 Consideration of the report enables the Council to comply with the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2003 thereby reducing risk.

10.0 Background and Options

- 10.1 In keeping with the Government's localism agenda, Cheshire East Council established in May 2011, two Local Service Delivery Committees for Crewe and Macclesfield, to enable members in these non-parish Council areas to consider the implications for the transfer and devolution of local services.
- 10.2 Both Committees have dealt with detailed and complex issues during their first year; making recommendations and decisions in respect of local matters and this high level of responsibility is expected to continue to develop until such time as the Community Governance Reviews for Crewe and Macclesfield have been concluded.
- 10.3 In order to ensure that the work of the Committee is properly reflected, the Independent Remuneration Panel was invited to consider, whether Special Responsibility Allowances (SRA) should be payable to the Chairmen and Vice Chairmen.

- 10.4 The Panel sought information relating to the workings and make up of the Committees and noted that, whilst both Committees had been reconstituted at Annual Council in May 2012, neither had met nor appointed a Chairman or Vice Chairman for this municipal year.
- 10.5 Mindful of this position, the Panel recommended that, in recognition of the work undertaken by the Committees, a Special Responsibility Allowance should be paid to the Chairmen and Vice Chairmen of the Local Service Delivery Committee (Crewe) and the Local Service Delivery Committee (Macclesfield), specifically the Chairmen's SRA to be equivalent to the lowest Chairman's SRA currently payable in the Scheme (0.5 basic equal to £5600 per annum) and, in line with payments to Vice Chairmen, an SRA of £1000 plus £50 per meeting chaired be awarded to the Vice Chairmen of the Committees for the municipal year 2011/2012 only.
- 10.6 Given that the Committees had not met during 2012, the Panel considered that any further award should be considered as part of the review of Members' Allowances currently being undertaken.

11.0 RECOMMENDATION TO COUNCIL: That -

- 11.1 a) A Special Responsibility Allowance be awarded to the Chairman and Vice Chairman of the Local Service Delivery Committee (Crewe) and the Local Service Delivery Committee (Macclesfield), of £5,600 (Chairman) and £1,000 (Vice Chairman) for 2011/2012 in recognition of the work undertaken during the Committees' inaugural year and in line with the requirements of Cheshire East Council's Scheme of Members' Allowances which states that a Member can only be in receipt of one Special Responsibility Allowance; and
- b) The matter be included as part of the Independent Remuneration Panel's Review of the Scheme of Members' Allowances for 2012/2013 which will consider whether the posts merit the awarding of a Special Responsibility Allowance from 16 May 2012 onwards.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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COUNCIL MEETING – 11TH OCTOBER 2012

Extract from the Minutes of the Constitution Committee Meeting on 20th September 2012

25 PETITIONS - THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2000, THE LOCAL AUTHORITIES (PETITIONS) (ENGLAND) ORDER 2010 AND THE LOCALISM ACT 2011

The Committee considered proposed amendments to the Council's Petitions Scheme.

Section 46 of Chapter 10 of the Localism Act 2011 had repealed the provisions relating to facilities for receiving and dealing with petitions and e-petitions. In the light of these changes the Committee was asked to review the scheme for dealing with petitions.

Following its previous consideration of this matter, the Committee had sought the views of the Corporate Management Team and Cabinet on any proposed changes to the Petitions Scheme. Those bodies had now considered the matter and it was recommended that:

- (a) the right of a petitioner to request an overview and scrutiny committee to review the steps taken or action proposed by the Council should be removed; and
- (b) the provisions to hold an officer to account should be removed.

CMT and the Cabinet were of the view that the existing provisions requiring a petition in excess of 3,000 signatories to be submitted to full Council for debate if a petitioner so requested should be retained and therefore no amendments to this provision were proposed.

A revised Petitions Scheme was set out at Appendix 1 to the report.

RESOLVED

That Council be recommended to approve that

- (1) the Council's petitions scheme be amended to:
 - (a) remove the right of a petitioner to request an overview and scrutiny committee to review the steps taken or action proposed by the Council;
 - (b) remove the provisions to hold an officer to account; and
- (2) the revised petitions scheme as set out in Appendix 1 be approved and the Constitution be amended accordingly.

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 20th September 2012
Report of: Borough Solicitor
Subject/Title: Petitions - The Local Democracy, Economic Development and Construction Act 2000, the Local Authorities (Petitions) (England) Order 2010 and the Localism Act 2011

1.0 Report Summary

- 1.1 The Local Democracy, Economic Development and Construction Act 2009 placed a duty on Councils to promote local democracy and introduced facilities for receiving and dealing with petitions and e petitions.
- 1.2 Under the Local Authorities (Petitions) (England) Order 2010 and in accordance with Statutory Guidance the Council approved its Petition Scheme on 27th May 2010. On 1st December 2010 the Council revised the Scheme to include provision for e petitions.
- 1.3 Section 46 of Chapter 10 of the Localism Act 2011 repeals the provisions relating to facilities for receiving and dealing with petitions and e petitions. In the light of these changes this report invites the Committee to revise the scheme for dealing with petitions.

2.0 Recommendations

2.1 That

(1) the Council's petitions scheme be amended to:

- (a) remove the right of a petitioner to request an overview and scrutiny committee to review the steps taken or action proposed by the Council;
- (b) remove the provisions to hold an officer to account; and

(2) the revised petitions scheme as set out in Appendix 1 be approved and the Borough Solicitor be requested to amend the Constitution accordingly.

3.0 Reasons for Recommendations

- 3.1 Petitions are the most widely used form of civic action by individuals and communities to make representations to different public bodies on

matters affecting them. The Council should retain a Petitions Scheme but revise it to meet the needs of Cheshire East.

4 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications including

6.1 Not applicable.

7.0 Financial Implications

7.1 The Council's Modern.gov agenda management system was upgraded at no extra cost with an e-Petitions module. The cost of controlling, moderating and dealing with paper and e petitions is being met from within existing resources.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act placed a duty on the Council to have a Scheme in place to handle petitions and to provide a facility for making electronic petitions to the authority. The Local Authorities (Petitions) (England) Order 2010 required the Council to adopt a Petitions Scheme by the 15th June. The order required e petitioning to be introduced by 15th December 2010. Section 46 of Chapter 10 of the Localism Act repeals the provisions about petitions to local authorities. The Council is therefore free to determine its own arrangements.

9.0 Risk Management

9.1 The Council moderates petitions and has developed criteria to be established to decide if a petition should be rejected. This covers petitions that do not reflect the views of the Council or those which are politically motivated. Democratic Services provide guidance for the public on submitting a petition or e petition.

10 Background and Options

10.1 The Local Authorities (Petitions) (England) Order 2010 placed specific requirements on the Council. These included requirements about the way petitions should be categorised. These were as follows:-

- a. "Petitions for Debate" must be reported to and debated at full Council;

- b. “Petitions to hold an Officer to Account” trigger an open meeting of an Overview and Scrutiny Committee at which the named officer will report and be questioned on their actions
 - c. “Exempted Petitions” – Petitions received in response to statutory consultation for example on planning and licensing applications will continue to be reported to Planning and Licensing Committees or other appropriate Committee
 - d. “Ordinary Petitions”, for which the authority can determine how these petitions will be handled.
- 10.2 The Councils Petition Scheme also allows that if a petitioner so requests, an Overview and Scrutiny Committee may review the steps taken or action proposed to be taken by the Council in respect of “Ordinary Petitions”.
- 10.3 The majority of Petitions are ‘ordinary petitions’ and usually have a low number of signatures generally less than 1000. These are dealt with by Portfolio Holders and Heads of Service and Local Ward members are notified of progress.
- 10.4 Normally the Council will attempt to resolve the petitioners’ request directly, through the relevant Portfolio Holder or officer taking appropriate action. For example where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved. In this regard the Councils Petition Scheme has operated successfully.
- 10.5 In a previous report this Committee was invited to consider if there was any evidence to suggest that “Petitions for Debate” and “Petitions to hold an Officer to Account” made a significant difference to the way in which this Council dealt with Petitions and if these aspects of the Scheme should be abandoned and replaced with an alternative provision. The Committee resolved that views of Corporate Management Team and Cabinet on the proposals contained in this report.
- 10.6 The views of views of Corporate Management Team and Informal Cabinet are that if a petition has in excess of 3000 signatories and if a petitioner so requests, Council should debate the matter before it is referred on to the appropriate decision-maker for determination on the grounds that a petition of this size would be a significant matter worthy of debate at a full meeting of Council.
- 10.7 In respect of the right of a petitioner to request, an Overview and Scrutiny Committee to review the steps taken or action proposed to be taken by the Council or to hold an officer to account, Corporate Management

Team and Informal Cabinet have recommended that these should be removed.

10.8 A revised Petitions Scheme is enclosed at Appendix 1.

11.0 Access to Information

11.1 The background papers relating to this report can be inspected by contacting the report writer:

Name: Brian Reed
Designation: Democratic and Registration Services Manager
Tel No: 01270 686670
Email: brian.reed@cheshireeast.gov.uk

Appendices:

Appendix 1 A revised Petitions Scheme

APPENDIX A

Petitions

Cheshire East Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition

We treat as a petition any communication which is signed by or sent to us on behalf of a number of people. For practical purposes, we normally set a requirement for at least 10 signatories or petitioners before we treat it as a petition. Whilst we like to hear from people who live, work or study in Cheshire East, this is not a requirement and we would take equally seriously a petition from, for example, 10 visitors to the District on the subject of facilities at one of our visitor attractions.

Petitions can also be presented to the Mayor prior to a meeting of the Council. These meetings take place on a bi monthly basis, dates and times can be found on the Cheshire East Website www.cheshireeast.gov.uk. If you would like to present your petition to the Mayor, or would like your councillor to present it on your behalf, please contact the Democratic Services Manager at the address below at least 10 working days before the meeting and they will talk you through the process.

What should a petition contain?

A petition should include –

A clear statement of your concerns and what you want the authority to do. This must relate to something which is the responsibility of the authority, or over which the authority has some influence. Where a petition relates to a matter which is within the responsibility of another public authority, we will ask the petition organiser whether s/he would like us to redirect the petition to that other authority. Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision;

The name and contact details of the “petition-organiser” or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an Email address;

The names of at least 10 petitioners (which can include the petition organiser). Where the petition is in paper form, this can include an actual signature from each petitioner, but actual signature is not essential. Where the petition is in electronic form, a list of the names of the petitioners will suffice. You may include the addresses of petitioners, which may be useful to the authority, for example, in assessing the degree of local support or opposition to a planning application, but this is not essential. If you want your petition to be debated at a meeting of the Council (“A Petition for Debate”), ~~or to trigger a public meeting of an Overview and Scrutiny Committee at which a specific officer will be required to report (“A Petition to hold an Officer to Account”)~~, your petition will need to contain a higher number of signatories or petitioners (see below);

If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that we can ensure that your petition is considered along with original matter.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

Who should you send a petition to?

Where you submit a petition in response to consultation by the authority, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

We have appointed a Petitions Officer, who is responsible for receiving, managing and reporting all other petitions sent to the authority. Please address petitions to –

The Petitions Officer
Cheshire East Council,
Westfields,
Middlewich Road,
Sandbach,
Cheshire CW11 1HZ

Or to petitons@cheshireeast.gov.uk.

The Petitions Officer will ensure that your petition is acknowledged to the petition organiser and entered on the authority's petitions website and that the website is regularly up-dated with information on the progress of your petition. The Petitions Officer can also provide you with advice about how to petition the authority or the progress of your petition, at either of the above addresses or by telephone at 01270 686458.

Types of Petition

There are **five** four different types of petition, as set out below. How we deal with a petition depends on which type of petition you submit –

Ordinary Petitions

These are petitions which do not come within any of the following specific types. Please note that petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Standards Committee, rather than considered under this Petitions Procedure.

Consultation Petitions

These are petitions in response to an invitation from the authority for representations on a particular proposal or application, for example on planning or licensing applications or proposals for parking restrictions or speed limits. Consultation petitions which are received by the response date in the consultation invitation will be reported to a public meeting of the person or body which will be taking the decision on the application or proposal.

Statutory Petitions

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

Petitions for Debate

If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 3000¹ signatories or petitioners (this is reduced to 1500 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area). The Petitions Officer will request the appropriate Chief Officer to prepare a report. This report together with the Petition will be presented to full Council who will debate it fully. Council may then refer the Petition to the appropriate decision making body for further consideration.

Petitions to Hold an Officer to Account

~~If you want your petition to be considered at a meeting of an Overview and Scrutiny Committee, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter, your petition should contain at least 2000 signatories or petitioners (this is reduced to 1000 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area). The authority has determined that such petitions must relate to the Chief Executive, a Director or a Head of Service of the authority. Please note that where the petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or to the Head of Human Resources in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure.²~~

The Petitions Website

The authority maintains a petitions web page on its website.

When a petition is received, within 5 working days the Petitions Officer will open a new public file within the website and will put in that file the subject matter of the petition, its date of receipt and the number of signatories or petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

As soon as it is decided who the petition will be considered by within the authority, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the petition organiser. Once the petition has been considered, the authority's decision will be notified to the petition organiser and put on the website within 5 working days of that consideration.

¹ The number of signatories or petitioners required for Petitions for Debate, and for Petitions to Hold and Officer to Account have been set by the authority to try to ensure that matters of genuine concern can be brought to the authority's attention. These requirements will be reviewed periodically in the light of the number of petitions received, to ensure that the requirements are not excessive.

² Note that the Local Democracy, Economic Development and Construction Act 2009 makes no provision for handling petitions which raise issues of officer or member misconduct or officer competence, but in practice such petitions cannot be handled under the Petitions Procedure and must be handled under the procedures appropriate to such matters.

Petitions are presented on the petitions website in the order in which they are received, but the website can be searched for key-words to identify all petitions relating to a particular topic. All petitions are kept on the website for 2 years from the date of receipt.

The role of Ward Councillors

When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send a copy of the petition to each relevant Ward Councillor at the same time as acknowledging receipt of the petition to the petition organiser.

What happens when a petition is received?

Whenever a petition is received –

Within 5 working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.

At the same time as responding to the petition organiser, the Petitions Officer will notify Ward Councillors of receipt of the petition and the relevant officers and Portfolio Holders. In some cases, the Petitions Officer may be able to resolve the petitioners' request directly, by getting the relevant Portfolio Holder or officer to take appropriate action. For example where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved.

Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will within 5 working days of receipt of the petition provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration,

Within 5 working days of receipt of a petition, the Petitions Officer will open a new public file for the petition on the authority's petitions website, setting out the subject matter of the petition, the date of receipt and the number of petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

At each stage of the consideration of the petition, within 5 working days of any decision, the Petitions Officer will ensure that the petitions website is updated to ensure that petitioners can track progress of their petition.

The process after this stage differs for the various types of petitions – see below.

What happens to a Consultation Petition?

Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning or licensing application or a proposed traffic regulation order.

The petition will be reported to person or body who will take the decision on the proposal or application at the meeting when they are to take the decision on that application or proposal. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the terms of Reference of Committees and Sub-Committees.

Where the petition relates to a matter, which is within the delegated power of an officer, s/he will not exercise those delegated powers but will automatically refer the matter up to the relevant Portfolio Holders for decision.³

Where the petition relates to a matter, which is within the delegated powers of an individual Portfolio Holders, s/he may decide not to exercise those delegated powers but to refer the matter to Cabinet for decision.

What happens to a Statutory Petition?

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

What happens to Petitions for Debate?

Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition.

As set out below, the petition organiser will be invited to address the meeting on the subject of the petition. The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

~~What happens to a Petition to Hold an Officer to Account?~~

~~Petitions to hold an officer to account will be reported to the next convenient meeting of the relevant Overview and Scrutiny Committee.~~

~~In advance of the Committee meeting, the petition organiser will be invited to submit a list of questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chairman of the Committee, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.~~

~~At the meeting, the Chairman will invite the petition organiser to address the Committee on the issue⁴, and the relevant officer will then be required to report to the Committee in relation to the conduct of the subject matter of the petition. Members of the Committee may question the officer, and the Chairman may invite the petition organiser to suggest questions for him/her to put to the officer.~~

What happens to an Ordinary Petition?

The Petitions Officer will arrange for each ordinary petition to be reported to the appropriate officer and Portfolio Holder, which has responsibility for the subject matter of the Petition for them to deal with under delegated powers. If appropriate to do so the petition organiser will be invited to meet the Portfolio Holder to make representations in support of the petition

³ The exceptions to delegated powers set out in Paragraphs 3.8.3 and 3.8.4 will need to be carried over to the Scheme of Delegations in the Council's Constitution

⁴ Note that the 2009 Act does not give the petition organiser a right to speak at the Committee meeting, but the Council has decided that s/he should be invited to set out the petitioners' concerns in relation to the subject matter of the petition.

Within 5 working days of the consideration of the petition by the relevant Portfolio Holder, the Petitions Officer will notify the petition organiser of the Portfolio Holder's decision and advise him/her that if s/he is not satisfied with that decision, s/he may require the matter to be reported to the next convenient meeting of the appropriate Overview and Scrutiny Committee for review.

At each stage, the Petitions Officer will enter the relevant information on the website at the same time as it is sent to the petition organiser.

~~Appeal to an Overview and Scrutiny Committee~~

~~If the petition organiser is not satisfied with the outcome of the authority's consideration of his/her petition, he/she may appeal to an Overview and Scrutiny Committee by notifying the Petitions Officer of his/her intention to appeal within 20 working days of being notified of the authority's decision on the petition.~~

~~Within 5 working days of receipt of intention to appeal, the Petitions Officer will determine which is the relevant Overview and Scrutiny Committee and will notify the petition organiser of the time, date and place of the next convenient meeting of that Overview and Scrutiny Committee and will invite the petition organiser to attend the meeting and to address the Committee on why they considers that the authority's decision on the petition is inadequate.~~

~~At that meeting, the Overview and Scrutiny Committee will invite the petition organiser and Ward Councillors to make their representations and to explain why s/he considers that the Council's response was insufficient. The Overview and Scrutiny Committee may not over ride the decision maker's decision but the decision maker must consider any recommendations made by the Overview and Scrutiny Committee.~~

The role of the Petition Organiser

The petition organiser will receive acknowledgement of receipt of the petition within 5 working days of its receipt by the authority.

Where the petition is not accepted for consideration the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within 5 working days of receipt by the authority as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to 3 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.

The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

The Council will not promote individual Petitions. Raising awareness of Petitions can be done in a number of ways such as promoting it on local community websites, discussion forums or newsletters. The Council will not allow the collection of signatories in public buildings. To do so may present a safeguarding risk.

The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's

consideration within 5 working days of such decision. It is the responsibility of the petition organiser to disseminate the outcome of the petition to any signatories on the Petition.

~~The petition organiser may notify the Petitions Officer of his/her intention to appeal to an Overview and Scrutiny Committee against the decision of the authority relating to the petition within 20 working days of being notified of that decision, and may attend and address the meeting of the Overview and Scrutiny Committee as to why he/she considers that the authority's decision on the petition was inadequate.~~

Petitions which will not be reported

Duplicate Petitions

Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser.

Repeat Petitions

Where a petition will not normally be considered where they are received within 6 months of another petition being considered by the authority on the same matter.

Rejected Petitions

Petitions will not be reported if in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous or time-wasting, or do not relate to something which is the responsibility of the authority, or over which the authority has some influence.

If your petition is about something over which the council has no direct control we will pass on the petition on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

Wherever possible, it is expected that the petition will be dealt within six weeks of it being received by the Council. If this is not possible, then a holding response will be sent to the lead petitioner and relevant Portfolio Holder(s).

E Petitions

Who can sign an e-petition?

An e-Petition can be signed by a person of any age who lives, works or studies in the Cheshire East area. You do not have to be a registered user to sign all e- Petitions but you will need to provide your name and a valid email address, for verification purposes.

You can only sign an e-Petition once. The list of signatories will be checked by officers and any duplicate signatures or frivolous responses removed.

How to create a new e-Petition

An e-Petition can be created by a person of any age who lives, works or studies in the Cheshire East area. To submit an e-Petition you will need to be a registered user. Registration is a simple process that just requires you to provide us with a few details in case we need to contact you about the e-Petition. On the e-Petitions homepage, select the 'Submit a new e-Petition' option and follow the prompted steps from there. Your online form will be submitted to the Democratic Services Section who may contact you to discuss your e-Petition before it goes live.

What information should an e-Petition contain?

Your e-Petition will need to include:

- A title or the subject of the e-Petition
- A statement explicitly setting out what action you would like the Council to take (e.g. to take action or stop doing something action”).
- Any information which you feel is relevant to the e-Petition and reasons why you consider the action requested to be necessary. You may include links to other relevant websites.
- A date for your e-Petition to go live on the website. It may take Democratic Services five working days to check your e-Petition request and discuss any issues with you so please ensure that you submit the request a few days before you want the e-Petition to go live.
- A date for when your e-Petition will stop collecting signatures. We will host your e-Petition for up to 12 months but would expect most to be significantly shorter in length than this.

What issues can my e-Petition relate to?

Your e-Petition should be relevant to some issue on which the Council has powers or duties or on which it has shared responsibilities. Your petition should be submitted in good faith and be decent, honest and respectful. Your e-Petition may be rejected if it does not meet these criteria. In addition, during politically sensitive periods, such as during the period prior to an election, politically controversial material may need to be restricted. The Council accepts no liability for the petitions on these web pages. The views expressed in the petitions do not necessarily reflect those of the Council.

Promoting an e-Petition

Whilst the Council will host e-Petitions on its website, it will not generally promote individual e-Petitions. Raising awareness of your e-petition can be done in a number of ways such as promoting it on local community websites, discussion forums or newsletters.

What happens when the e-Petition is complete?

When the e-Petition reaches its closing date, you will no longer be able to sign it online. An officer from Democratic Services will submit the final petition to the relevant Portfolio Holder and Council department for action. If appropriate Ward members will also be notified. A response indicating how your e petition will be dealt with will be sent to you within 5 working days and this will set out the timescales involved. The final response will be posted on the Council's website.

If, unusually, the petition is to be considered by a Committee, the petition organiser will be invited to address the meeting on the subject of the petition and will be allowed to speak for three minutes. The meeting may ask the petition organiser questions on the subject matter of the Petition. The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

~~you will be invited to attend the meeting. If you feel that your petition has not been dealt with properly, you have the right to request that the relevant scrutiny committee review the steps that have been taken in response to your petition.~~

What can e-Petitions achieve?

When you submit an e-Petition to the Council it can have positive outcomes that lead to change and inform debate. It can bring an issue to the attention of the Council and show strong public approval or disapproval for something which the Council is doing. As a consequence, the Council may decide to, for example, change or review a policy, hold a public meeting or run a public consultation to gather more views on the issue.

Privacy policy

The details you give us are needed to validate your support of a petition and, beyond your name, will not be published on the website. This is generally the same information required for a paper petition. All petitions are a matter of public record and the public have a right to visit the Council's Offices at Westfields Sandbach to view the details of those who have signed a particular petition.

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COUNCIL MEETING – 11TH OCTOBER 2012

Extract from the Minutes of the Constitution Committee Meeting on 20th September 2012

26 REVIEW OF THE PLANNING PROTOCOL OF CONDUCT AND THE PLANNING PUBLIC SPEAKING PROTOCOL

The Committee considered proposed amendments to the Council's Planning Protocol of Conduct and Planning Public Speaking Protocol.

The proposed amendments were required to bring the protocols in line with the new Member Code of Conduct.

The proposed amendments to the Protocols were set out in the Appendix to the report. The Strategic Planning Board at its meeting on 12th September 2012 had approved the amendments subject to a number of further amendments, details of which were circulated at the meeting.

The proposals were due to be considered by the Audit and Governance Committee on 27th September 2012 following which final recommendations would be made to Council.

RESOLVED

That having noted the recommendations of the Strategic Planning Board, the Committee makes no further comments on the proposed amendments to the Planning Protocols and recommends to Council that, subject to the views of the Audit and Governance Committee, the proposed amendments be approved and the Constitution be amended accordingly.

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CONSTITUTION COMMITTEE – 20TH SEPTEMBER 2012

ADDENDUM TO ITEM 16

Extract from the minutes of the Strategic Planning Board meeting on 12th September 2012

59 REVIEW OF THE PLANNING PROTOCOL AND THE PUBLIC SPEAKING PROTOCOL

(During consideration of the report, Councillors Mrs R Bailey and G Walton left the meeting and did not return.)

Consideration was given to the above report.

Mrs S Dillon, the Council's Legal Officer, reported the following amendments to the report:

1) That the reference to Audit and Governance Committee in paragraph 2.1 of the covering report be replaced with 'Constitution Committee'.

2) That the words in paragraph 2.9 of the Planning Protocol 'or could reasonably be perceived as having' be deleted because perception would be dealt with in paragraph 2.10.

3) That following paragraph 2.9 a new paragraph be created as follows:

2.10 If you foresee that prior involvement in a planning matter could give you an appearance of bias (to a fair-minded and informed observer), make it plain beforehand and again at the Planning Meeting that you will retain and have retained an open mind throughout and are going to take the final decision on planning merit. If the appearance of bias is so strong, in the circumstances, that an assurance will not be sufficient to rebut it, then you should declare an appearance of bias or predetermination and, unless you want to exercise public speaking rights, you should take no part in the item and, ideally, leave the room.

4) That the addition of the words 'visiting Councillors to any of the three Planning Committees' be inserted after the words 'Southern Planning Committees' in the first paragraph of the start of the Planning Protocol.

5) That in relation to the Public Speaking Protocol reference to Ward Councillors being allowed 3 minutes to speak should have been tracked in red.

Members made comments in respect of the following:

- 1) Whether the reminder to pass on lobbying correspondence should be strengthened.

- 2) Whether the Members' current discretion to stay in the public gallery or leave the room when they have pre determined an application should be strengthened so that all Members leave the room as a matter of course.
- 3) Whether Members who have not attended the site visit should declare at the meeting that they know the application sufficiently well to take part in the decision.
- 4) Whether or not the Ward Councillor time should be restricted to 3 or 5 minutes and whether or not visiting Councillors should be questioned by Members on either the Board or the two Planning Committees.
- 5) Whether evidence should be presented to prove the existence of Local Representative Groups/Civic Societies.
- 6) Whether or not paragraph 9.5 of the covering report should be worded in a stronger manner.
- 7) In relation to paragraph 8.9 of the Planning Protocol, the words 'not ever' be replaced with the word 'never'.

RESOLVED

That the report be recommended for approval to the Constitution Committee subject to the amendments put forward by the Legal Officer and subject to the following additional amendments suggested by Members of the Board:

- 1) That in relation to the Public Speaking Protocol the provision requiring a copy of a Constitution outlined in paragraph 1.1 to be produced by a Local Representative Group should be deleted.
- 2) That the final sentence in paragraph 1.2 of the Public Speaking Protocol be deleted.
- 3) That the third bullet point in paragraph 2.6 of the Public Speaking Protocol be amended so that all visiting Cheshire East Councillors (including Ward Councillors) have 3 minutes to speak and may be questioned by Members on the Strategic Planning Board/Northern or Southern Planning Committee for a maximum of 5 minutes, or longer at the Chairman's discretion.
- 4) In relation to paragraph 8.9 of the Planning Protocol, the words 'not ever' be replaced with the word 'never'.

COUNCIL MEETING – 11TH OCTOBER 2012

**Extract from the Minutes of the Audit and Governance Committee
Meeting on 27th September 2012**

27 STANDARDS ISSUES AND PLANNING PROTOCOL

3. Proposed changes to the Planning Protocols of Conduct and Public Speaking to bring them into line with the new Code of Conduct.

Revised versions of the Planning Protocols, with the proposed amendments highlighted, were appended to the report, together with additional amendments which had been proposed by the Strategic Planning Board on 12th September. The Constitution Committee on 20th September had noted the proposed amendments without further comment and had recommended them to Council subject to the views of the Audit and Governance Committee.

RESOLVED

That

- (3) Council be recommended to approve the proposed amendments to the Planning Protocols as set out in the Appendix to the report and the minutes of the Strategic Planning Board subject to:
 - (a) the speaking time for ward members remaining at 5 minutes; and
 - (b) the addition of the following sentence at the end of paragraph 2.2 of the Protocol of Conduct: "However, paragraph 2.10 should be taken into account".

[Note: non-relevant parts of the minute have been excluded.]

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting:	20 th September 2012
Report of:	Borough Solicitor
Subject/Title:	Review of the Planning Protocol of Conduct and the Planning Public Speaking Protocol

1.0 Report Summary

1.1 This report advises Members of the need to review the Council's existing Planning Protocol and Planning Public Speaking Protocol following the adoption of the new Code of Conduct by Cheshire East Council in July 2012 and the amendments to the rules on pre-determination as a result of the provisions in the Localism Act 2011.

2.0 Recommendation

2.1 That, having regard to any comments made by the Strategic Planning Board on 12th September, the Committee approve the proposed amendments to the Council's Planning Protocol of Conduct and Planning Public Speaking Protocol and, subject to any further comments by the Audit and Governance Committee, recommend their adoption by Council.

2.2 Reasons for Recommendations

3.1 It is essential that the Council's existing practice and procedures are not inconsistent with any of the provisions in the new Code.

3.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications

6.1 Strong Ethical Governance, including clear policies and protocols supporting and underpinning the Code of Conduct, are critical for the corporate governance of the Council and for public confidence in the Council's decision making processes.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 There are no obvious financial implications

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Localism Act 2011 is being implemented over a phased period of time. The provisions in relation to the replacement of the current Standards regime were brought into effect from 1st July 2012. The Act requires that the Council not only adopts a Code of Conduct but has in place effective procedures to enable the investigation of any complaints or allegations that a Member has been in breach of the Code of Conduct. The Borough Council remains responsible for investigating any allegations that a Town or Parish Councillor is in breach of their adopted Code of Conduct.

9.0 Risk Management

- 9.1 The Council must have robust processes in place both from a reputational management viewpoint and to safeguard the integrity of the Council's Corporate Governance and Decision making processes as a whole.

10.0 Background and Options

- 10.1 Under the Localism Act 2011 the Council has a statutory duty to promote and maintain high standards of conduct by both its Elected Members and co-opted Members. The Council must adopt a Code of Conduct which sets out the conduct expected of Members whenever they act in their capacity as an Elected Member and must also have in place a suitable procedure at a local level to investigate complaints that a Member is in breach of the new Code of Conduct.
- 10.2 At its meeting on 19 July 2012 Full Council approved the adoption of a new Code of Conduct for Elected Members of Cheshire East Council together with a procedure relating to the investigation of complaints under the new Code.
- 10.3 The new Code of Conduct gives rise to a need to ensure that the Planning Protocols reflect it.

11.0 Planning Protocol and Planning Public Speaking Protocol

- 11.1 Members will be aware that the Council has approved a Planning Protocol which supplements the Member Code of Conduct and sets out guidance and best practice in terms of dealing with Planning issues both as a Member of the Strategic Planning Board and Northern and Southern Planning Committees and as a Ward Member. The Planning Protocol needs to be updated to bring the guidance in line with the new Code of Conduct and to incorporate the provisions in relation to pre determination

as enacted earlier in the year under the Localism Act. The Planning Public Speaking Protocol was also approved by the Council in order to regulate how those wishing to address the Planning Committees may do so. Amendments are required in order to bring it into line with the amended Planning Protocol.

11..2 The amended Planning Protocol is set out at Appendix 1 and the amended Planning Public Speaking Protocol is set out at Appendix 2. Following consideration by both the Strategic Planning Board on 12th September and the Constitution Committee at this meeting, they will be considered by the Audit and Governance Committee at its meeting on the 27th September 2012 as that Committee now has responsibility for Code of Conduct issues and any comments from the SPB and Constitution Committee will be reported to that meeting for Members' information. Members of the Northern and Southern Planning Committees have also been made aware of the process to enable them to input into the process if they wish to do so. Members are requested to recommend to Council the adoption of the amended Planning Protocol of Conduct and the Planning Public Speaking Protocol.

11.3 The main amendments set out in the Planning Protocol are as follows :

- The description of hospitality is amended in line with Code of Conduct for Members.
- Reference is made to Disclosable Pecuniary Interests and the requirement to register/declare them.
- Reference is made to Non Pecuniary Interests which although not specified in the Code of Conduct for Members should be declared.
- The amended Protocol makes it clear that if a member has a Disclosable Pecuniary Interest in a proposal they may neither take part in the debate or vote, nor exercise public speaking rights and must leave the planning meeting when the relevant item is announced.
- There is a reminder that it is a criminal offence to fail to declare or register a Disclosable Pecuniary Interest or to take part in a debate or vote where such an interest exists.
- The amended Protocol makes it clear that if a member has a Non Pecuniary Interest arising from a close association or connection then they should not take part in the debate or vote.
- The Protocol's provisions on pre determination are up dated in line with the Localism Act 2011 and request that members leave a planning meeting where they have pre determined.
- Notifications to (and responsibilities of) the Head of Planning and Housing are now to the Development Management and Building Control Manager abbreviated to DMBCM.

11.4 The main amendments to the Planning Public Speaking protocol are set out below:

- To extend public speaking to matters other than planning applications, for example variations of planning obligations.

- To remind members that they need to register their intention to speak even if they have called in an application.
- To clarify when members may or may not speak when they have declared an interest.
- To provide that visiting members may speak for three minutes and may be asked questions through the chair.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Caroline Elwood

Designation: Borough Solicitor

Tel No: 01270 685882

Email: caroline.elwood@cheshireeast.gov.uk

PLANNING PROTOCOL OF CONDUCT IN RELATION TO THE DETERMINATION OF PLANNING MATTERS

Section	Subject	Page Number
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12	Decision Making	14
13	Training	15
14	Involvement in s106 Agreements	15
15	Monitoring and review	16

Deleted: members' code

The aim of this Planning Protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well-founded in any way and **applies to members of the Strategic Planning Board and Northern and Southern Planning Committees when they are involved in the planning process.**

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The Council was required under section 27 of the Localism Act 2011 to adopt a new code of conduct from July 2012 based on the core principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty, respect for others and leadership. The new code of conduct is entitled 'Cheshire East Council Code of Conduct for Members – 2012' and this Planning Protocol (and the Public Speaking Protocol mentioned in it) has been reviewed and amended in light of it. It is referred to as the Code of Conduct for Members throughout this Planning Protocol.

The Code of Conduct ~~for Members~~ should be applied throughout the decision making process and this Planning Protocol seeks to explain and supplement the Code of Conduct ~~for Members in relation to~~ planning control. If you do not follow this Planning Protocol you may put the Council and yourself at risk of proceedings on the legality or maladministration of the related decision. Furthermore section 34 of the Localism Act 2011 introduced new criminal

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offences of falling to declare or register certain interests and debating or voting whilst having such an interest.

The Code of Conduct for Members requires Disclosable Pecuniary Interests (which are specified and defined in it) to be notified to the Monitoring Officer. Non Pecuniary Interests may be required to be notified but none have yet been specified.

If you have any doubts about the application of this Planning Protocol to your own circumstances you should seek advice early, from the Monitoring Officer, and preferably well before any planning meeting takes place.

In this Planning Protocol "planning meeting" covers all meetings of the Strategic Planning Board and the Northern and Southern Planning Committees.

SUMMARY

Important things to remember –

1. apply the rules in the Code of Conduct for Members first, and continue to comply with them throughout the decision making process, and disclose the existence and nature of any interest set out in the Code at the relevant planning meeting unless you have already registered it.
2. understand what Disclosable Pecuniary Interests as referred to in the Code of Conduct for Members are, and the implications of such interests arising. If you have a Disclosable Pecuniary Interest in a matter you must not speak or vote on it.
3. If you have a non-pecuniary private interest in a planning matter, declare it and leave the room, although you may exercise public speaking rights before you go.
4. don't make your mind up on how you will vote on a matter before the formal consideration of the matter at the planning meeting
5. be aware that if you do lobby or campaign on a particular issue it may mean you can't take part in the decision making process
6. if you are a cabinet member, don't take part in a planning meeting in a matter where you appear to be the advocate of a proposal
7. if you are approached for technical planning advice or receive any materials relating to an application (other than those circulated by an Officer), refer the person who approached you or the material to Officers

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8. if you attend meetings individually with developers or lobby groups be careful not to put yourself in a position where you appear to favour a person or a group over another
9. if you do attend a meeting with a developer or lobby group make sure it is clear that you do not bind the authority to a particular course of action, or views, and that the meeting is noted in your diary
10. you can ask that Officers attend and/or organise meetings
11. avoid accepting gifts, benefits or hospitality from anyone involved in a planning proposal
12. it is not advisable to become a member of a group or organisation whose primary purpose is to promote or oppose specific planning proposals in your area
13. a site inspection is the opportunity to seek information and observe the site, not to start the debate into the merits of the application.
14. you can call-in an application to be determined by Committee that would otherwise be delegated to Officers, and can seek advice from Officers over the wording. Take care that the wording of your call-in does not give the impression of bias for or against an application
15. you can discuss applications with Officers but the Officer must be able to reach their own conclusion
16. make sure you are present at the planning meeting for the entire item, including the Officers introduction and update, otherwise you cannot take part in the debate or vote on that item
17. do not allow members of the public to communicate with you during planning meetings
18. you must not exercise your public speaking rights on a matter at a planning meeting if you have a Disclosable Pecuniary Interest in that matter
19. make sure your decisions at a planning meeting take into account the development plan and other relevant material planning considerations
20. put your and your local community concerns forward at the planning meeting, and consider whether planning gain requirements under s106 could help make acceptable development that would otherwise be unacceptable in planning terms

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21. include the content of s106 agreements in the debate at a planning meeting

21. If you are proposing or seconding a decision that is contrary to Officer recommendation, you need to identify the planning reasons for doing so, if necessary with the assistance of the the Officers at the planning meeting.

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22. you must attend mandatory training and should try to attend all training sessions arranged by the Council

This summary provides a list of the main points to remember while the body of the Protocol provides more detailed information, explanation and assistance.

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1 DEVELOPMENT PROPOSALS AND INTERESTS UNDER THE CODE OF CONDUCT FOR MEMBERS

1.1 DISCLOSABLE PECUNIARY INTERESTS

It is your responsibility to register Disclosable Pecuniary Interests and where such an interest has not been registered to declare its existence at the relevant planning meeting, and any informal meetings or discussions with Officers and other Councillors. Preferably, disclose any Disclosable Pecuniary Interest that you have not already registered, at the beginning of the planning (or other) meeting and not just at the commencement of discussion on that particular matter. The requirements for you to declare any Disclosable Pecuniary Interest that you have not already registered apply whenever you are in attendance at a planning (or other) meeting, regardless of whether you are a member of the Committee.

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- 1.2 Where you have a Disclosable Pecuniary Interest: You must register it in the register of interests held by the Monitoring Officer
- If a matter related to it is on the agenda of a planning meeting, you must not participate in, or give the appearance of trying to participate in, the making of any decision on the matter by the planning authority, including the processing of the application. You must withdraw from the planning meeting room when the matter is

announced ~~and you must not exercise~~ public speaking rights ~~in respect of it~~.

- You shouldn't try to represent local, Ward or Area views, get another Member to do so instead.
- Be careful not to seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a Disclosable Pecuniary Interest in a proposal, using your position to discuss that proposal with Officers or Councillors when other members of the public would not be able to do the same.
- Whilst you are not prevented from seeking to explain and justify a proposal in which you have a Disclosable Pecuniary Interest to an appropriate Officer, in person or in writing, be aware that the Code of Conduct for Members places greater limitations on you than would apply to a normal member of the public.

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1.3 You do need to notify the Monitoring Officer and Development Management and Building Control Manager ("DMBCM") in writing if you are submitting your own application, or if you are employed as an agent and:-

- The notification to the Monitoring Officer and the DMBCM should be made no later than submission of the application;
- the proposal will always be reported to a planning meeting and not dealt with by Officers under the scheme of delegation; and
- it is advisable that you employ an agent to act on your behalf on the proposal in dealing with Officers and any public speaking at the planning meeting (where appropriate) to avoid public criticism

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you can make written representations to Officers about the proposal ~~but~~ may ~~not~~ address the planning meeting pursuant to the Public Speaking Protocol.

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1.4 NON PECUNIARY INTERESTS

The Code of Conduct for Members has not specified any Disclosable Non Pecuniary Interests. However, the general obligation of honesty requires you to declare any non-pecuniary private interests relating to your public duties and to resolve any conflicts arising, in a way which protects the public interest. In practice this will mean declaring a non-pecuniary interest at the Planning Meeting and leaving the room for the duration of the item, although you may exercise public speaking rights before you go. So, if you attend a planning meeting at which a proposal is to be considered and you have some close association or connection with the site or applicant or objector by reason of, for example, a friendship or membership of a body or organisation then you should not take part in the debate or vote and should leave the planning meeting room prior to consideration of the proposal. In the interest of openness you should declare the nature of your interest.

If you have an association or connection with the site, applicant consultee or objector which is not close enough to affect your judgment but which it would be advisable to declare in the interests of openness, do this but then stay to take part in the debate and vote. This is likely to happen where you are a member of a consultee body which has expressed an opinion regarding an application

2 PRE-DETERMINATION (FETTERING DISCRETION) IN THE PLANNING PROCESS

- 2.1 Councillors making decisions in planning meetings should exercise an independent mind and decide proposals in accordance with the relevant planning considerations, so must not favour any person, company, group or locality or commit themselves to a particular point of view on a planning application prior to its full consideration at the Council's planning meetings. Not to do so puts the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination.

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- 2.2 S25 Localism Act 2011 provides that previous acts shall not be taken by themselves as proof of predetermination. However, predetermination is still unlawful: this intention of this provision is just to make it easier for members to form legitimate predispositions and to discuss planning matters in the community before they make up their minds and come to a final decision at the Planning Meeting. Prior involvement with an application could still justify a challenge on grounds other than predetermination, for example on grounds of bias or of taking an immaterial consideration into account and should be approached with caution. In the rest of this Protocol references to bias include these other grounds of challenge.

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- 2.2 In order to avoid allegations of bias, and therefore jeopardising your ability to participate in planning decision-making, wait until the formal planning meeting to hear the Officers' presentation, any public speakers and arguments on both sides before expressing your view on an application.

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- 2.3 Take care in the wording of your planning reasons on a call-in that you do not suggest that you have already formed a view on the application, if you have not done so, and that you are biased for or against it. Seek advice on this from Officers if necessary prior to completion of your form. Wording such as "I consider that this application may raise issues of ..." will help avoid claims of pre-determination if you have not done so.

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- 2.4 If the Council is the landowner, developer or applicant and you have acted as, or could be viewed as being, a chief advocate for the proposal then you may appear biased in its favour. This is more than a matter of dual membership: it arises where significant personal

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involvement in preparing or advocating the proposal means that you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

- 2.5 You are always free to listen to a person's point of view about a planning proposal, give basic procedural advice and can agree to forward any comments, but beyond this you should refer the person to the appropriate planning Officer.
- 2.6 If there are other ward Councillors available that do not sit as a member of the same planning meeting then they will not be subject to the same restrictions regarding pre-determination and can therefore be an alternative contact for members of the public or lobby groups.
- 2.7 Political group meetings prior to the planning meeting should not determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but you should not make up your mind until you have read the planning Officer's report and update and heard any further representations and the debate at the planning meeting.
- 2.8 You should not speak and vote on a proposal as a member of the planning meeting where you have pre-determined an application. You are not legally obliged to withdraw from the room but in most circumstances doing so will counter any suggestion that you influenced the remaining members by your continued presence. If in any doubt you should seek advice from the Monitoring Officer. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.
- 2.9 If you have pre-determined an application you should explain that you have, or could reasonably be perceived as having already made up your mind on an application so that this can be recorded in the minutes. You may then exercise separate speaking rights, where you do wish to speak:
- advise the democratic services Officer or Chairman that you wish to speak in this capacity before the planning meeting;
 - remove yourself from the member seating area to the public gallery for all of that item and consider whether you need to leave the room; and
 - ensure that your actions are recorded in the minutes.

If you foresee that prior involvement in a planning matter could give you an appearance of bias (to a fair-minded and informed observer), make it plain beforehand and again at the Planning Meeting that you

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will retain and have retained an open mind throughout. If the appearance of bias is so strong, in the circumstances, that an assurance will not be sufficient to rebut it, then you should declare an appearance of bias or predetermination and, unless you want to exercise public speaking rights, you should take no part in the item and, ideally, leave the room.

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3 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

3.1 The Code of Conduct for Members that you are bound by because you are a member of Cheshire East Council may be the same as or different from the one you are bound by because you are also a member of a town or parish council. Nonetheless, all Member Codes are based on the same principles including selflessness, integrity, objectivity, accountability, openness, honesty, respect for others and leadership. If you are bound by different Codes, you need to be aware of this, and if necessary you may want to seek advice on any issues you are not clear about.

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3.2 You need to exercise discretion in deciding whether or not to participate where you have been significantly involved in the preparation, submission or advancement of a planning proposal on behalf of :
 (a) another local or public authority of which you are a member; or
 (b) a body to which you have been appointed or nominated by the Council as its representative; or
 (c) you are a trustee or company director of the body submitting the proposal and were appointed by the Council

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In such cases, whilst no Disclosable Pecuniary Interest arises, an issue of lack of impartiality arises, and you should withdraw from the planning meeting.

3.3 You can take part in the debate on a proposal when acting as part of a consultee body for a planning application (where you are a member of the Parish Council, for example), provided:

- the proposal does not relate to any Disclosable Pecuniary Interest you may have
- you make it clear to the consultee body at the time they consider the matter that:
 - (a) your views are expressed on the limited information before you only;
 - (b) you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning meetings and you hear all of the relevant information; and

- (c) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the planning meeting.

It is also advisable in the interests of openness to mention your membership or role when the planning meeting ultimately comes to consider the proposal.

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4 CABINET MEMBERS

- 4.1 There is no Constitutional or legal reason why a Cabinet member should not also be a member of the planning meeting and take part in the decision-making processes which are not part of the executive function.

- 4.2 You should not speak or vote as a member of any planning meeting on any matter which you have discussed at Cabinet unless you have declared in both meetings that you will approach the planning decision afresh, taking material planning considerations into account at the Planning Meeting. Again, if the assurance will not rebut appearances, declare an appearance of bias and, unless you want to exercise public speaking rights, take no part in the matter: ideally, leave the room.

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- 4.3 Where you do wish to speak :

- advise the democratic services Officer or Chairman that you wish to speak in this capacity before commencement of the item;
- remove yourself from the member seating area to the public gallery for the duration of that item and consider leaving the room after you have spoken; and
- ensure that your actions are recorded in the minutes

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5 CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

- 5.1 If you are approached for technical planning advice you should refer the person to Officers, and can always refer a person to Officers if you are uncomfortable giving procedural or other advice.

- 5.2 Where you feel that a formal meeting would be useful in clarifying issues, you should request the **DMBCM** to organise this. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action and that views expressed are provisional, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the planning meeting.

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- 5.3 If you are invited to attend a meeting with applicants, developers or groups of objectors you should exercise care particularly between the submission of an application and the planning meeting where it is to be

determined. You can attend meetings but, ~~to avoid complaints of bias, you need to be careful not to express views or opinions on the application if you are intending to take part in the planning meeting.~~

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5.4 In addition you should consider:

- the advice on lobbying;
- whether or not it would be prudent in the circumstances to make notes when contacted;
- notifying the ~~DMBCM~~ of any significant contact with the applicant and other interested parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file;
- asking relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other Councillors might vote.

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5.5 Don't attend a planning presentation unless an Officer is present and/or it has been organised by Officers, as it is a form of lobbying and you need to be careful not to express any views on the application or give the impression you have made up your mind.

5.6 Remember that a presentation is not part of the formal process of debate and determination of any application, this will be carried out by the appropriate planning meeting of the planning authority, but you are able to ask relevant questions for the purposes of clarifying your understanding of the proposals.

6 PRE-APPLICATION DISCUSSIONS

6.1 It is recognised that pre-application discussions can be of great benefit to the planning process, however, this may create some risks for Councillors and for the integrity of the decision making process and therefore they should only take place within clear parameters and governance arrangements and always with Officers present and a written record of the discussions made and kept.

6.2 If you are involved by an Officer in pre-application discussions ensure that it is made clear that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional, as by their very nature not all relevant information will be available and no formal consultation will have taken place.

6.3 Officers should deal with any queries or give advice in pre-application discussions upon policies within the Development Plan and other material considerations that may be relevant to a particular proposal or be drawn into negotiations. This ensures a consistent and co-ordinated approach from the Council.

- 6.4 Where there is a legitimate reason justifying non-disclosure respect a request for confidentiality. Seek advice from the Officers present if you are unsure. Deleted: disclosure
- 6.5 Make sure you provide information on matters of fact, local knowledge and geography to any pre-application meeting rather than dealing with the merits of any proposed application.
- 6.6 Make sure you do not use your position to improperly influence decisions in pre-application meetings.

- 6.7 You can ask an Officer for a briefing or update on the content of pre-application meetings if you are uncomfortable about attending those meetings yourself.

7 LOBBYING OF PLANNING COMMITTEE MEMBERS

- 7.1 While you can listen to those lobbying or attempting to lobby you, you should explain that it prejudices your impartiality and therefore your ability to participate in the planning meetings decision-making to **form** an intention to vote one way or another or express such a firm point of view that **you could appear biased**. Deleted: declare
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- 7.2 As a member of the planning meeting your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

- 7.3 You should not accept any gifts, **benefits** or hospitality from a person involved in or affected by a planning proposal. Where a degree of hospitality is entirely unavoidable, you must ensure it is of a minimum level, its acceptance is declared as soon as possible and remember the Code of Conduct **for Members requires** that you register any gift, **benefit** or hospitality **which you have accepted** where its value is over **£100**. Deleted: provides
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- 7.4 Remember you can copy or pass on lobbying correspondence you receive to the **DMBCM**, if relevant or raising new issues, or declare the receipt of lobbying information at the planning meeting. Deleted: Head of Planning a HousingDevelopment

- 7.5 If you receive any offer, of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise, refer the **offer** to the **DMBCM**. Deleted: s
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- 7.6 If you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts, **benefits** or

hospitality), notify the Monitoring Officer who will in turn advise the appropriate Officers to follow the matter up.

- 7.7 Unless you have a Disclosable Pecuniary Interest, you will not have fettered your discretion or breached this Planning Protocol through:
- listening to or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Councillors or appropriate Officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

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8 MEMBERSHIP OF LOBBY OR GENERAL INTEREST GROUPS

- 8.1 Avoid becoming a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals or those within a limited geographical area, as if you do, you are likely to have fettered your discretion and have to withdraw from the planning meeting.
- 8.2 Depending on your degree of involvement with a group and its purpose, you can sometimes continue to participate but note that if it could realistically lead to allegations of bias, you should withdraw from the meeting.
- 8.3 If a matter relates directly to the lobby group of which you are a member rather than to the views it holds, or is submitted by the group you should ordinarily withdraw from considering the matter.
- 8.4 Where your lobby group has expressed a public view on a matter you need to consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors you should consider are:
- the nature of the matter to be discussed
 - the nature of your involvement with the lobby group
 - the publicly expressed views of the lobby group
 - what you have said or done in relation to the particular issue
- 8.5 If the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the

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management or decision making process of that organisation such as its Chairperson or a member of the planning meeting, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.

- 8.6 Remember that if you publicly support a particular outcome on a proposal within your Ward or actively campaign for it, you will not be able to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge, particularly where the campaign included factors or expressed viewpoints which were not material planning considerations. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining any application in accordance with the law.

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- 8.7 You are able to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but it is sensible at a planning meeting to refer to your membership where that organisation has made representations on a particular proposal; you should also make it clear to that organisation and the planning meeting that you have reserved judgement and the independence to make up your own mind on each separate proposal.

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- 8.8 Don't excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. It is difficult to define "excessively" but you need to consider whether a member of the public, knowing the facts, would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest.

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- 8.9 You should not ever decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

9 SITE INSPECTIONS

The Council has a separate protocol that deals with Site Inspections in more detail.

- 9.1 Site Inspections can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact

finding exercise. They are not to be used to determine a proposal prior to the meeting of the Planning meetings. It should be noted that this Section applies to both Councillors requests for a Site Inspection and those the ~~DMBCM~~ may arrange without prior discussion where, in his professional opinion, there is a real benefit from viewing the site.

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- 9.2 It is important to ensure that Councillors taking planning decisions are in possession of all the facts, including matters that may have been pointed out or come to light during a site visit. Attendance of Councillors at site visits will not only demonstrate that Councillors are fully informed but will also ensure that high quality consistent and sound decisions are made, and that the risks of legal challenge are minimised. The expectation is that all planning meeting members will attend all formal site inspections and a record of attendance will be maintained and monitored.
- 9.3 You should try to attend site inspections organised by the Council.
- 9.4 You can request a site inspection if you feel it is strictly necessary because:
- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed; or
 - details of the proposed development cannot be ascertained from plans and any supporting information to Councillors satisfaction at the planning meeting; or
 - where design considerations are of the highest importance particularly in relation to the surrounding locality.
- 9.5 The site inspection is an opportunity for you to seek information and to observe the site, and therefore you can ask the Officers at the site inspection questions or seek clarification from them on matters which are relevant to the site inspection. Officers may seek clarification from the applicant or an objector on your question, but you should not do this directly.
- 9.6 Be careful not to be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind while on a site inspection by expressing opinions or views to anyone. The decision can only be made at the planning meeting and you should make this clear to any applicant or other party who approaches you and suggest that they make written representations or use of the Public Speaking arrangements and direct them to, or inform, the Officer present.

- 9.7 Information that you gain from the site inspection should be reported back to the planning meetings, so that all Councillors have the same information.
- 9.8 You should not enter a site, which is subject to a proposal other than as part of an official site inspection, even in response to an invitation, as this may give the impression of bias. If you feel it is essential for you to visit the site other than through attending the official site inspection you should speak to the DMBCM about your intention to do so and give him the opportunity of an Officer accompanying you. If you do attend site on your own ensure you comply with these good practice rules on site inspections.

10 PUBLIC SPEAKING AT MEETINGS

The Council has a separate protocol that deals with the procedure for Public Speaking at meetings in more detail.

- 10.1 Members of the public and non-committee members should not communicate with you during the planning meeting (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- 10.2 Make sure that you comply with the Council's Protocol for Public Speaking at planning meetings if you are attending the planning meeting other than as a member.
- 10.3 Councillors are entitled to speak at a planning meeting in accordance with the Public Speaking Protocol either as an individual, representative or ward member.
- 10.4 Where you have a Disclosable Pecuniary Interest in an application then you must as soon as the item is announced leave the planning meeting room whilst the meeting considers the proposal.
- 10.5 Where you have a non-pecuniary interest in an application then you may exercise public speaking rights but leave the room immediately afterwards to counter any potential suggestion that the remaining members were influenced by your continued presence.
- 10.6 Planning Councillors who have pre-determined a matter may also exercise public speaking rights and should consider withdrawing from the meeting room having spoken on a matter to counter any potential suggestion that the remaining members were influenced by your continued presence.

11 OFFICERS

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11.1 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst Officers are responsible to the Council as a whole. Their relationship is based upon mutual trust and understanding and this must never be abused or compromised. Instructions to Officers can only be given through a decision of the Council, the Cabinet, Board or Committee or under delegated powers and not by individual Councillors acting outside those powers.

11.2 You can submit views on current applications to the **DMBCM**, which can be incorporated into any committee report.

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11.3 Officers are part of a management structure and you can discuss a proposal, outside of any arranged meeting, with those Officers who are authorised by the **DMBCM** to deal with the proposal at a Member level or the **DMBCM**. However, you should not seek to do anything that would compromise, or is likely to compromise, the impartiality of Officers who must be free to reach their own conclusion.

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11.4 Officers who are involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the planning meeting or its Councillors.

11.5 Remember the Council's Member/Officer Relations Protocol.

12 DECISION MAKING

The **Council** has adopted a separate protocol that deals with the Call in of planning applications in more detail.

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12.1 Ensure that the planning reasons in your request for a proposal to go before the planning meeting rather than be determined through Officer delegation are recorded and repeated correctly in the report to the planning meeting.

12.2 Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless other material considerations indicate otherwise.

12.3 It is important that you reach your decision only after due consideration of all of the information reasonably required upon which to base a decision. You should come to meetings with an open mind and if you feel there is insufficient time to digest new information or

that there is simply insufficient information before you, request that further information, and if necessary, defer or refuse the application.

12.4 It is vital that you have been present to hear the entire item, including the Officers' introduction to the matter before you vote or take part in the planning meeting's discussion on a proposal.

12.5 Check that the minutes of the meeting record correctly the reasons for the planning meeting's decision to grant, refuse or defer any proposal.

12.6 The planning meeting can delegate to the DMBCM in conjunction with the Chairman, if necessary, the specific wording of conditions that the planning meeting may wish to add or amend when they are considering an application for approval. An explanation of why the change or addition is required should be given to the planning meeting.

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12.7 Be aware that if you are proposing, seconding or supporting a decision contrary to Officer recommendations or the development plan that you need to clearly identify and explain the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and will be recorded and Officers will be able to assist with formal wording. Be aware that you may have to assist in defending a resulting decision by giving evidence in the event of any challenge.

12.8 Where necessary, you can consider deferring the determination of sensitive applications that the planning meeting wish to approve against Officer recommendation to the next meeting of the planning meeting to allow Officers to formulate appropriate conditions and provide the planning meeting with any relevant further new information.

12.9 Where necessary, you can consider deferring the determination of an application to another meeting if there is a very strong objection from Officers on the validity of reasons for refusal against Officer recommendation, to allow the proposed reasons to be further investigated and form the basis of an updated report to a future meeting.

12.10 You should ensure that you are aware of, and comply with the Protocols adopted by the Council.

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13 TRAINING

13.1 You must attend the mandatory planning training prescribed by the Council before you participate in decision-making at planning meetings.

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- 13.2 You should try to attend any other specialised training sessions provided, as these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and assist you in carrying out your role properly and effectively.

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14 INVOLVEMENT IN SECTION 106 AGREEMENTS

- 14.1 The guidance in respect of planning obligations is similar to that of planning conditions in that they must be relevant to planning and directly related to the proposed development if they are to be taken into account in making a decision on a planning application. Local Planning Authorities should not grant planning permission for unacceptable development because of unrelated benefits offered by the applicant and should not be unduly influenced by such benefits offered.
- 14.2 Remember that the purpose of Section 106 Agreements is to help make acceptable, development which would otherwise be unacceptable in planning terms, by prescribing the nature of the development, or compensating for loss or damage created by the development, or to mitigate a developments impact. They must therefore be relevant to planning and relate fairly and reasonably to the development.
- 14.3 Requirements of Section 106 Agreements should be considered and discussed at pre-application stage. The Officers will provide advice on general requirements, but if you are aware of any additional potential requirements please refer these to the DMBCM as soon as you become aware of them.
- 14.4 The content of Section 106 Agreements needs to be discussed at planning meetings, whether you are a member of the planning meeting or a visiting Member who wishes to speak on the application.
- 14.5 If you feel that a meeting would be useful to clarify issues of content of potential Section 106 agreements, you should ask the DMBCM to arrange a meeting with relevant Officers. Participants can be made aware that the discussions will not bind the authority, and that the meeting can be properly recorded on the application file and the record of the meeting disclosed when the application is considered.
- 14.6 Do remember **that it is imperative that** a Ward Councillor's role continues after the completion of the Section 106 Agreement, by assisting Officers in ensuring that the Agreements are complied with. This includes noting when development is being undertaken and assisting Officers in ensuring triggers within Section 106 Agreements are complied with. Ward Councillors can contact Officers for any information required on completed Section 106 Agreements.

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15 MONITORING AND REVIEW

- | 15.1 The **DMBCM** will report annually to the Portfolio Holder regarding compliance with the arrangements set out in this Planning Protocol and will identify any proposals for amendment in light of issues that have arisen, although any amendments would be required to go through the Council's formal process.
- | 15.2 In particular, the **DMBCM** shall monitor the following:-
- (a) the number of complaints made about breaches of the Planning Protocol and the outcome of those complaints;
 - (b) the number of appeals upheld;
 - (c) any external inspection reports in respect of relevant issues;
 - (d) the level of awareness of the Planning Protocol among Councillors and Officers; and
 - (e) the number of Ombudsman reports finding maladministration by Councillors in the conduct of planning issues.

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PROTOCOL ON PUBLIC SPEAKING RIGHTS AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

- a) The Strategic Planning Board and Planning Committees have to make decisions on the merits of each individual application, upon the basis of what is in the Development Plan and other material considerations. All written representations made to the Council will be taken into account in the Officers' written report to Committee, but this procedure allows members of the public and Councillors who are not members of the Strategic Planning Board or Committees to attend a Strategic Planning Board or Planning Committee meeting and speak for or against an application prior to the Strategic Planning Board or Planning Committees making a decision about a planning application or other item on their public agenda.
- b) The Strategic Planning Board usually meets at Macclesfield at 10.30 am every 3 weeks.

- c) The Planning Committees usually meet at the Crewe Municipal Buildings, Earle Street, Crewe, CW1 2BJ (Southern) and at the Macclesfield Town Hall, Market Place, Macclesfield, SK10 1DX (Northern) every 3 weeks.

NB. As both venues and start times of meetings are subject to change, it is important that members of the public check details on the relevant agenda (available a week before the meeting) or contact Democratic Services for confirmation.

- d) The agenda for each Strategic Planning Board or Planning Committee meeting is available five clear working days before the meeting and is available via the Council's website. Interested groups and individuals should keep themselves informed about when a planning application will come to the Strategic Planning Board or Planning Committees. A list of meetings can be obtained from the Council Offices and officers will be able to advise on the progress of applications.

- e) This protocol has been amended in light of the Code of Conduct for Members – 2012

PROCEDURE:

1. WHO CAN SPEAK AND FOR HOW LONG

- 1.1 The following individuals/groups are eligible to speak
- Objectors
 - Applicants or their agents
 - Supporters
 - The relevant Parish or Town Council

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- Local representative groups/Civic Society (where not covered by any of the above categories)
NB. In order to be treated separately to individual objectors and entitled to a separate speaking slot, local groups are expected to have a formal Constitution.
- Ward Members if they are not on the Board/Committee provided that they do not have a Disclosable Pecuniary Interest
- Members who are not on the Board/Committee and are not Ward Members provided that they do not have a Disclosable Pecuniary Interest

1.2 Each person or group identified shall be entitled to speak for a period of up to three minutes. If there is more than one person wishing to speak from a particular group e.g. objectors, people are encouraged to consult each other and agree how to share their 3 minute slot. The Chairman has a general discretion which may be exercised to extend time limits, but this will normally only be exercised in exceptional cases. Where a listed building or conservation area application is involved, no extra time will normally be provided.

1.3 The site plan will be shown and may be referred to throughout the consideration of the application. In order to be fair to all parties, no other presentation aids will be permitted. Similarly, the circulation of information, photographs and/or plans at the meeting will not be allowed.

2 HOW TO SPEAK AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

2.1 It is necessary to inform, in writing (email, fax or letter), the Democratic Services Section of an intention to speak at a Strategic Planning Board or Planning Committee meeting no later than 12.00 noon the day before the day of the planning meeting. Any emails should be sent to Speakingatplanning@cheshireeast.gov.uk Members should note that they still need to register their intention to speak even if they have called in an application.

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2.2 Speakers are advised to arrive for meetings approximately 10-15 minutes prior to the start of the meeting in order to register with the Democratic Services Officer.

2.3 A statement to the Strategic Planning Board or Planning Committee should only refer to planning issues, for example:

- exterior design, size, appearance, layout, etc
- residential amenity
- highway safety
- character of the area
- trees and historic buildings

- planning policy (Local Plan/Structure Plan)
- Government guidance

2.4 The Strategic Planning Board or Planning Committee cannot take into account non-planning issues, for example:

- boundary disputes/property rights
- personal comments about any individual
- loss of property value or loss of view
- matters covered in other laws

2.5 Speakers are reminded of the law relating to slander. If, at the meeting, they say something which is not true about another person, they could be at risk of legal action. Further, Race Relations and Human Rights legislation will not allow any discriminatory comments, for example race, religious beliefs or disability.

2.6 The order of speaking at the meetings of the Strategic Planning Board and Planning Committees is as follows -

- Announcement of the item by the Chairman
- Introduction and description of the application by the Planning Officer, including any update of the Committee report and an oral report of any site visit and highlighting of the key issues
- Ward Councillor(s) (3 mins) (NB. In single Member Wards, the Ward Member may at his or her discretion delegate the right to speak to an alternative Member.)
- Members who are not on the Board/Committee and are also non-Ward Members (3 mins)
- Parish/Town Council representations (3 mins)
- Civic Society/Local Representative Groups (3 mins)
- Objectors' representations (3 mins)
- Supporters' representations (3 mins)
- Applicants' representations (3 mins)
- Further comments by Planning Officer
- Ward Councillor if a Member of the Board/Committee
- Board/Committee Members debate and decision taken

2.7 At the Chairman's discretion, members of the Strategic Planning Board or Planning Committee may ask, through the Chairman, any of the speakers listed above to clarify an issue of fact after their statement is concluded. The Chairman may also ask that questions of fact are answered by any speakers during the Members' discussion to clarify matters. Speakers will not be permitted to ask questions of the Strategic Planning Board or Planning Committee or other speakers or to interrupt the Members' discussion on an individual planning application. The Constitution (Paragraph 58 of the General Procedure Rules) provides Chairmen with powers to ensure good order during meetings.

- 2.8 In exceptional circumstances, the Chairman may (with the approval of the Board or Committee) extend the speaking period for some or all speakers or allow more speakers if appropriate. This power will be treated with caution for controversial or complex schemes and if additional time is granted to objectors, a similar allowance will be given to supporters and/or the applicant.

2.9 Members who have a Disclosable Pecuniary Interest in an application must not speak on it and must leave the planning meeting room as soon as the application is introduced. If a member has a non pecuniary private interest they should declare it and leave the planning meeting room but may exercise public speaking rights before doing so. If a member of the committee has pre determined an application they may exercise public speaking rights and then, ideally, leave the planning meeting room.

3 AFTER THE DECISION

- 3.1 Speakers are asked to respect the decision made by the Strategic Planning Board or Planning Committee during the course of the meeting. The Strategic Planning Board's or Planning Committee's decision is final, but the applicants do have the right to appeal to the Secretary of State if their application is refused or if conditions are attached which they do not like. Objectors do not have the right to appeal a decision to the Secretary of State but they can seek to have a decision quashed by an application to the High Court by way of judicial review.

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- 3.2 If an application is deferred to a future meeting for consideration, speakers will be required to register to speak for that meeting in accordance with this protocol.

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- 3.3 This scheme will be monitored and reviewed by the Strategic Planning Board annually.

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COUNCIL MEETING – 11TH OCTOBER 2012**Extract from the Minutes of the Audit and Governance Committee
Meeting on 27th September 2012****27 STANDARDS ISSUES AND PLANNING PROTOCOL**

1. Options for a proposed appeals process in relation to complaints under the Member Code of Conduct.

The Committee considered whether such appeals should take the form of a formal hearing or by could be dealt with by way of written representations.

There were three options for the appeals body:

- three councillors from the pool of 15 and an independent person none of whom have previously been involved in a particular case;
- a body comprising the remaining three independent persons; or
- arrangements for the Fire Authority to hear any appeals.

The officers reported that the Fire Authority was agreeable in principle to act as an appeals body for Cheshire East although detailed arrangements had not been determined and Members were conscious that some form of reciprocal arrangement may be required.

It was noted that a second independent person could become involved in a case if the person under investigation sought their advice as was permitted. This would leave only two independent persons, making the second option untenable.

Members therefore favoured the first option.

RESOLVED

That

- (1) Council be recommended to approve that the appeals procedure in relation to complaints under the Member Code of Conduct take the form of an oral hearing, the appeals body to comprise three councillors from the pool of 15 and an independent person none of whom have previously been involved in a particular case;

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CHESHIRE EAST COUNCIL

Audit and Governance Committee

Date of Meeting: 27th September 2012
Report of: Borough Solicitor
Subject/Title: Standards Issues and Planning Protocol

1.0 Report Summary

- 1.1 This report advises Members on a number of issues in relation to the new Code of Conduct adopted by Cheshire East Council in July 2012, including the possibility of an Appeals Procedure, the need to review the Council's existing Planning Protocol and the necessity to have in place a number of dispensations under the Code.

2.0 Recommendations

That the Committee

- (1) approve the proposed amendments to the Council's Planning Protocol and recommend its adoption by full Council;
- (2) determine the appropriate Procedure for an Appeal as set out at paragraph 11.0 of the report; and
- (3) approve the general dispensations for all Members of Cheshire East Council as set out at paragraph 12.3 of the report.

3.0 Reasons for Recommendations

- 3.1 In order to ensure that the Council's procedures following the adoption of the new Member Code of Conduct in July 2012 are robust and comply with best practice. It is also essential that the Council's existing practice and procedures are not inconsistent with any of the provisions in the new Code.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Strong Ethical Governance, including clear policies and protocols supporting and underpinning the Code of Conduct, are critical for the corporate governance of the Council and for public confidence in the Council's decision making processes.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 Costs in relation to any Appeal Process are dependent upon the number of complaints received, however at the moment it is anticipated that these costs and for the other aspects mentioned in the report will be met from existing resources.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Localism Act 2011 is being implemented over a phased period of time. The provisions in relation to the replacement of the current Standards regime were brought into effect from 01 July 2012. The Act requires that the Council not only adopts a Code of Conduct but has in place effective procedures to enable the investigation of any complaints or allegations that a Member has been in breach of the Code of Conduct. The Borough Council remains responsible for investigating any allegations that a Town or Parish Councillor is in breach of their adopted Code of Conduct.

9.0 Risk Management

- 9.1 The Council must have robust processes in place both from a reputational management viewpoint and to safeguard the integrity of the Councils Corporate Governance and Decision making processes as whole.

10.0 Background and Options

- 10.1 Under the Localism Act 2011 the Council has a statutory duty to promote and maintain high standards of conduct by both its Elected Members and co-opted Members. The Council must adopt a Code of Conduct which sets out the conduct expected of Members whenever they act in their capacity as an Elected Member and must also have in place a suitable procedure at a local level to investigate complaints that a Member is in breach of the new Code of Conduct.
- 10.2 At its meeting on 19 July 2012 Full Council approved the adoption of a new Code of Conduct for Elected Members of Cheshire East Council together with a procedure relating to the investigation of complaints under the new Code. It was further agreed that a right of appeal should be built into the process for the subject member following the decision of the Standards Hearing sub-committee that a Member has been in breach of the Code of Conduct.

11.0 Right of Appeal

11.1 The procedure for the determination and investigation of complaints is set out in the attached flow chart at Appendix 1 and under the Procedure at Appendix 2 of the report. The original intention was that there would be no appeal at any point in the procedure for complaints for either the subject member or the complainant in order to facilitate a more light touch and streamlined approach. Members have however now agreed that it is appropriate to incorporate the right of appeal for the subject member from the decision of the Standards Hearing sub-committee following an external investigation and Hearing into a complaint under the Member Code of Conduct.

11.2 In accordance with the Council's own assessment criteria only those matters considered to be serious allegations will be referred for formal investigation by an external investigator. In the majority of cases the investigator will be expected to complete his investigation and produce a written report within 8 weeks of the referral. If the report concludes that there has been evidence of failure to comply with the provisions of the Code of Conduct then the matter will be referred to the Standards Hearing sub-committee who will conduct a Hearing to determine if the subject member has failed to comply with the Code and, if so, what sanction is appropriate. The matter will be considered afresh having regard to the investigator's findings and all relevant evidence presented by the complainant and subject member. As required by the legislation the Independent Person will be present at the Hearing and will be consulted and his/her views taken into account before any decision is reached.

11.3 Appeal Hearing - format

An Appeal could either be by way of a further oral hearing of the relevant issues or alternatively could be by way of written representations from all parties. During the consultation in relation to the initial procedure to be adopted Members from all parties tended, on balance, not to favour the idea of written representations and it is therefore suggested that a further oral Appeal Hearing would be more appropriate.

11.4 Composition of Appeal Body

There are a number of options in relation to the composition of the Appeal Body itself:-

Audit and Governance Members – The Appeal Body could comprise 3 different Members from the Audit and Governance pool of 15 Members sitting with an Independent Person. Neither the Members nor the Independent Person should have previously been involved in the particular case. This has merits since these will be Members who have had training in the Code and the procedure for Appeals and will therefore have the requisite expertise and experience.

Independent Persons - The Council has appointed 4 Independent Persons who will be consulted at the Initial Assessment Stage and also at the Hearing

sub-committee prior to any formal decision being reached. The subject member has also the opportunity to consult an Independent Person at any stage in the investigative process prior to the final determination. It would be an option to set up an appeal panel consisting of those Independent Persons who have not previously been involved in the matter to objectively determine the outcome.

Fire Authority - It may be possible to establish arrangements with the Cheshire Fire Authority to hear any Appeals. The panel would be ring fenced to those Fire Authority Members who were not Cheshire East Council Members. This would have the advantage of ensuring that any Appeal would be external to the Authority and therefore considered objectively but by elected Members with a general understanding of the requirements of the Code, although the Cheshire East Code might vary slightly from others in the locality. An informal approach has been made to the Fire Authority to explore this option.

11.5 Timescales and Sanctions

It is suggested that any Appeal by the subject member must be lodged within 14 days of the decision of the Hearings sub committee and that an Appeal Panel will be convened within 21 days. Any appeal would be by way of a complete re hearing of the issues and would not be confined to new evidence or only on specified grounds. It is proposed that any appeal panel would be able to dismiss or uphold the Appeal and reconsider the range of sanctions available to the original Hearing sub-committee

12.0 Dispersations

12.1 The Localism Act prevents Members from participating in any business of the Council where they have a Disclosable Pecuniary Interest unless they have sought a dispensation under Section 33 of the Act. Applications must be made in writing and dispensations may be sought for a period of up to four years. Dispensations may be sought on the following grounds:

- That so many Members of the decision making body have a disclosable pecuniary interest in a matter that the business of the meeting would be impeded
- Without a dispensation the representation of different political groups on the body would be so upset as to alter the outcome of any vote
- The dispensation is in the interests of persons living in the area
- No Member of Cabinet would be able to participate on the matter without a dispensation
- It is otherwise appropriate to grant a dispensation

12.2 Under the former Model Code of Conduct Members were granted general dispensations in relation to a number of matters:

- Housing, where the Member was a tenant of the authority providing the matter did not relate particularly to the Members own tenancy or lease
- School meals or school transport or travelling expenses where they were a parent or guardian of a child in full time education or a parent governor unless the matter related specifically to the school the child attended
- Statutory sick pay under Part X1 of the Social Security Contributions and Benefits Act 1992 where they were in receipt of or entitled to receive such pay
- An allowance, payment or indemnity given to Members
- Any ceremonial honour given to Members
- Setting Council tax or a precept under the Local Government Finance Act 1992

12.3 At the full Council meeting of the 19 July 2012 the Terms of Reference of the Audit and Governance Committee were amended to include “ *Granting Dispensations under the provisions of the Localism Act 2011 to enable a Member or co opted Member to participate in the meeting of an Authority* “ Past experience has been that applications for Dispensation by individual Members have been infrequent however given the fact that there are now no general dispensations in place it is recommended that Members approve the following general dispensations to speak and vote on the following items to all Cheshire East Council Members and co opted Members for a period of four years:

- Any allowance, payment or indemnity given to Members
- Any Ceremonial Honours given to Members
- Statutory sick pay under Part X1 of the Social Security Contributions and Benefits Act 1992 where they were in receipt of or entitled to receive such pay
- Setting the Council Tax or a precept under the Local Government and Finance Act 1992 (or any subsequent legislation)
- Setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (Including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation)
- School Meals or School Transport or Travelling expenses where the Member is a parent / guardian of a child in full time education or a parent

governor (unless the matter relates specifically to the school the child attends)

13.0 Planning Protocol

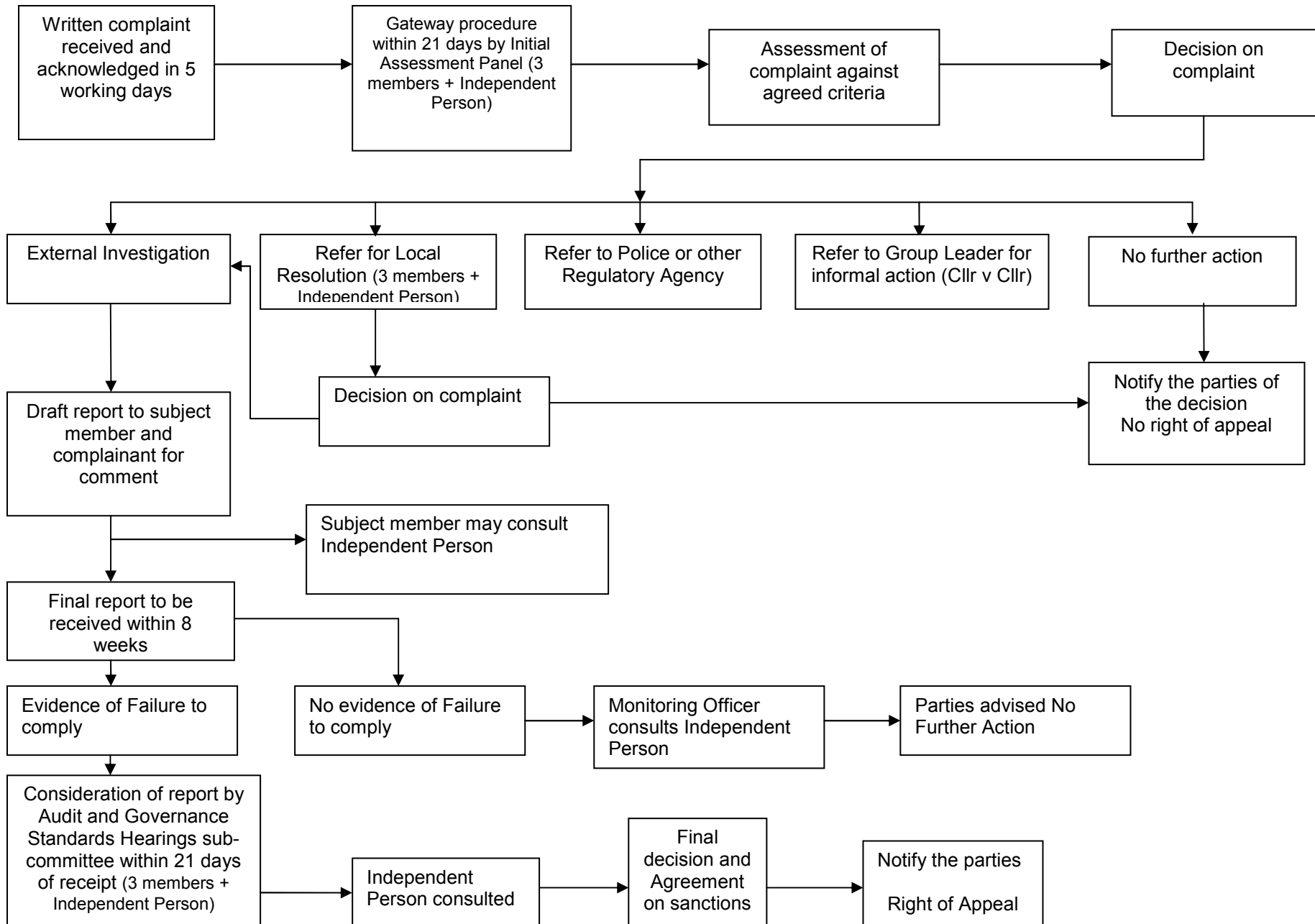
- 13.1 Members will be aware that the Council has approved a Planning Protocol which supplements the Member Code of Conduct and sets out guidance and best practice in terms of dealing with Planning issues both as a Member of the Strategic Planning Board and Northern and Southern Planning Committees and as a Ward Member. The Protocol needs to be updated to bring the guidance in line with the new Code of Conduct and to incorporate the provisions in relation to pre-determination as enacted earlier in the year under the Localism Act.
- 13.2 The amended Protocol is set out at Appendix 3. It has been considered by the Strategic Planning Board at its meeting on 12th September 2012 and the Constitution Committee on 20th September 2012. The minute of the Strategic Planning Board is attached at Appendix 4. The comments of the Constitution Committee will be reported at the meeting. Members are requested to recommend to Council the adoption of the amended Planning Protocol.

14.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Caroline Elwood
Designation: Borough Solicitor
Tel No: 01270 685882
Email: caroline.elwood@cheshireeast.gov.uk

Procedure for Complaints



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COMPLAINTS UNDER THE NEW CODE – PROCEDURE

Making a Complaint

1. Complaints must be submitted to Cheshire East Council's Monitoring Officer using the Council's standard Complaint Form setting out in sufficient detail why the Complainant considers there has been a failure to comply with the relevant Code of Conduct.
2. The Monitoring Officer will acknowledge receipt within 5 working days
3. The Subject Member will be advised that there has been a complaint and will be provided with a copy of the complaint form, unless, in exceptional circumstances, where the Monitoring Officer, in consultation with the Independent Person has granted the Complainant's request for confidentiality. Under no circumstances must the Subject Member contact the Complainant direct regarding any issues raised in the complaint.

Initial Assessment / Gateway Procedure

4. The Monitoring Officer will refer the complaint to the Audit and Governance Initial Assessment Panel within 21 days of receipt for an initial assessment.
5. After consulting the Independent Person, the Panel will determine whether to;
 - **Take no action**
 - **Refer the matter to the relevant Group Leader for informal action** (NB for complaints against Cheshire East Councillors only and not generally an appropriate option if the complaint is from a member of the public)
 - **Refer the matter for Local Resolution**
 - **Refer the matter for formal investigation by an external investigator**
 - **Refer the matter to the Police or other relevant Regulatory Agency**
6. The Initial Assessment Panel's Decision on what action to take on a complaint is final. There is no right to have the decision reviewed.
7. The Complainant, Subject Member and Parish Clerk, as appropriate, will be informed of the outcome of the decision.
8. Meetings of the Panel will not be open to the public.

Local Resolution

9. The Complainant and Subject Member will be advised that the Initial Assessment Panel has concluded that the complaint is suitable for Local Resolution without the need for a formal investigation and full hearing and will be invited to submit written representations outlining the nature of the dispute using a standard template to ensure consistency.
10. Both the Complainant and Subject Member will be able to bring a Supporter and up to three witnesses each to accompany them before an ad hoc panel of three elected members together with the Independent Person. The Supporter will not represent the Subject Member but will be able to confer with him or her.
11. The Panel will consider the written representations and hear any relevant evidence before reaching a determination and considering whether any sanction is appropriate.
12. The Panel may refer the matter for a formal investigation should it become apparent that the issues are more complex or serious than was originally anticipated.
13. Local Resolution Panels will normally meet in public and will be convened within 28 days of the decision of the Initial Assessment Panel subject to availability of the relevant parties.
14. Both the Complainant and Subject Member will receive copies of each others written statements and details of any witness to be called 5 working days before the Panel meets. Copies will be made available to three Panel members and Independent Person at the same time.
15. The Panel will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
16. There is no right of Appeal from the decision of the Local Resolution Panel which is intended to resolve less serious complaints speedily and cost effectively.

External Investigation

17. The matter will be referred for an independent investigation by a suitably experienced investigative officer. In most cases the investigation is expected to be completed within 8 weeks of the referral.
18. The report of the independent investigator should incorporate the following:-

- **Executive Summary** - An outline of the allegation, who made it, the relevant provisions of the Code and whether there has been a breach.
- **Member's official details** - A brief outline of when the Member was elected, term of office, details of committees served on and any relevant training.
- **Complainants details and any relevant background**
- **Summary of facts and evidence gathered**- A summary of the facts and evidence gathered highlighting facts which are in dispute and setting out the investigating officer's conclusions based on the balance of probabilities.
- **Reasoning as to whether there has been a failure to comply with the Code and investigator's findings** – Dealing with each allegation in turn an outline of whether the investigating officer considers there has been a breach and any aggravating or mitigating facts.
- **Schedule** - a list of witnesses interviewed and copies of relevant documents.

19. A copy of the draft report will be circulated to the Subject Member and Complainant to check for factual accuracy.

20. The Investigating Officer will take into account any comments received before sending the final report to the Monitoring Officer.

External Investigation – No Evidence of Failure to Comply

21. Where the report concludes that there is no evidence of failure to comply with the Code of Conduct, the Monitoring Officer will review the report in consultation with the Independent Person.

22. If satisfied with the conclusions, the Complainant, Subject Member and the Town or Parish Clerk (if appropriate) will be notified within 15 working days that no further action will be taken and will be given a copy of the final report.

23. If after consultation with the Independent Person the Monitoring Officer is not satisfied that the investigation has been concluded properly she may ask the Independent Investigator to reconsider the report and / or refer the matter to the Standards Hearings sub committee for a formal hearing of the issues.

External Investigation – Evidence of Failure to Comply

24. Where the report concludes that there has been a failure to comply with the provisions of the Code of Conduct the matter will be referred to the Standards Hearings sub committee who will conduct a hearing to determine if the Subject Member has failed to comply with the provisions of the Code and if so what sanction is appropriate.
25. The Hearings sub committee will consider the matter afresh having regard to the Investigators findings and all relevant evidence presented by the Complainant and Subject Member.
26. The Independent Person will be present at the hearing and will be consulted and his/ her views taken into account before any decision is reached.
27. The Hearings sub committee will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
28. Meetings of the Hearings sub committee will be subject to the normal rules for publication of agendas and access to information.
29. There will be a right of appeal from the decision of the Standards Hearings sub committee. (Note: the exact procedure is still to be determined)

Independent Person

30. The Subject Member has the opportunity to consult the Independent Person at any stage in the investigation process and prior to the final determination.

Membership of Panels / sub committees

31. If a Member has sat on a Local Resolution Panel which refers a matter for external investigation then he or she may not subsequently sit on any Hearings sub committee.

Vexatious Complaints

32. The Council will maintain a list of vexatious or repeated complaints and will report any concerns regarding abuse of the process to the Audit and Governance Committee.

August 2012

COUNCIL MEETING – 11TH OCTOBER 2012**Extract from the Minutes of the Audit and Governance Committee
Meeting on 27th September 2012****28 AUDIT AND GOVERNANCE COMMITTEE ANNUAL REPORT 2011/12**

The Committee considered a draft of its Annual Report 2011/12.

Many Audit Committees prepared an annual report to demonstrate how they had fulfilled their terms of reference and to account for their performance. CIPFA guidance stated that key aspects to consider including in such a report were:

- Committee membership.
- Summary of activity, including key topics, decisions and recommendations.
- Review of the committee's effectiveness.
- Development activity undertaken. For example, training and networking.

The CIPFA guidance also stated that annual reports should be publically available and should be readable and accessible.

The requirement to submit an annual report was now included within Cheshire East Council's Constitution and the 2011/12 report was the first annual report of the Committee.

Members agreed a couple of minor amendments with regard to the dates referred to in the report.

RESOLVED

That Annual Report 2011/12 as amended be approved for submission to Council.

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CHESHIRE EAST COUNCIL

Audit and Governance Committee

Date of meeting: 27th September 2012
Report of: Chairman of the Audit and Governance Committee
Title: Audit and Governance Committee Annual Report 2011/12
Portfolio Holder: Councillor Peter Raynes

1.0 Report Summary

- 1.1 The purpose of the report is for the Committee to consider the draft 2011/12 Annual Report of the Audit and Governance Committee and agree the final version of the report that will go to Council in October 2012.

2.0 Recommendation

- 2.1 That the Committee consider the draft Annual Report 2011/12 as attached (Appendix A) and agree the final version that will go to Council in October 2012.

3.0 Reasons for Recommendation

- 3.1 In accordance with the Council's Constitution, the Audit and Governance Committee shall submit an annual report to Council.

4.0 Wards Affected

- 4.1 All wards

5.0 Local Wards Affected

- 5.1 Not applicable

6.0 Policy Implications

- 6.1 Not applicable

7.0 Financial Implications

- 7.1 None

8.0 Legal Implications

- 8.1 None

9.0 Risk Assessment

- 9.1 There is a requirement within the Council's Constitution for the Audit and Governance Committee to submit an annual report to Council. Failure to submit the record would be a breach of the Constitution.

10.0 Background and Options

- 10.1 Many Audit Committees prepare an annual report to demonstrate how they have fulfilled their terms of reference and to account for their performance. CIPFA guidance states key aspects to consider including in such a report are:

- Committee membership
- Summary of activity, including key topics, decisions and recommendations.
- Review of the committee's effectiveness, including any external assessment results.
- Development activity undertaken. For example training, networking with other audit committees or peer reviews.

It also states that annual reports should be publically available and care should be taken to make them readable and accessible.

- 10.2 The requirement to submit an annual report is now included within Cheshire East Council's Constitution and the 2011/12 report is the first annual report of this Committee.

11.0 Access to information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Councillor John Hammond

Designation: Chair of the Audit and Governance Committee

Tel No: 01270 753205

Email: john.hammond@cheshireeast.gov.uk



**Cheshire East Council
Audit and Governance Committee
Annual Report 2011/12**

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Introduction by the Chair of the Audit and Governance Committee



I am pleased to present the first Annual Report of the Audit and Governance Committee which describes the Committee's activity over the municipal year to May 2012.

The reduction in resources available to local government makes the importance of effective governance and accountability greater than ever. The past year has seen the Audit and Governance Committee exercise robust challenge across its entire remit through the questions raised and the requests made for additional information.

During the year the Committee has considered the key issues affecting the Council's governance framework. Apart from the substantial work plan, the Committee has also shown that it can be proactive in seeking to understand and review emerging areas of risk and concern. A particular example being the early request for a thorough and robust investigation of all issues surrounding the expenditure incurred on the proposed waste transfer station at Lyme Green.

In my opinion, a key strength of the Committee is that it operates in an open, honest and impartial fashion which, in turn, should promote confidence in the Council's governance processes.

I hope that this Annual Report helps to demonstrate both to the Council and the wider community in general, the important role that is performed by the Audit and Governance Committee and the particular contribution that it makes to the Council's overall governance and control arrangements.

On a final note, following the recent abolition of the Standards Committee, the Audit and Governance Committee, through ad-hoc Bodies, has now assumed responsibility for dealing with complaints relating to the new Code of Conduct. As Chairman, you have my assurance that we will do our utmost to carry on the excellent work of the previous Standards Committee in taking this important role forward during 2012/13.

Councillor John Hammond

Chair of the Audit and Governance Committee

September 2012

Audit and Governance Committee Background and Review of 2011/12

Background

Why do we have an Audit and Governance Committee?

Audit Committees are an essential element of good governance. Good corporate governance requires independent, effective assurance about the adequacy of financial management and reporting. These functions are best delivered by an Audit Committee, independent from the executive and scrutiny functions.

Effective Audit Committees help raise the profile of internal control, risk management and financial reporting issues within an organisation, as well as providing a forum for the discussion of issues raised by internal and external auditors. They enhance public trust and confidence in the financial governance of an authority.

When does it normally meet?

It meets four times a year and works to a strategic work plan. Membership of the Committee is ten councillors in proportion to the Council's political composition, see **Appendix A** (page 5). All meetings are held in public. Details of future meetings are shown in **Appendix E** (page 15).

When did it start work?

The current Committee began in May 2010 after it was decided to decommission the Governance and Constitution Committee and have a separate Audit Committee (named 'Audit and Governance' Committee) and a Constitution Committee. This strengthened the governance framework

by allowing each Committee to focus on its own particular areas.

Review of 2011/12

When did it meet in 2011/12?

There were four scheduled meetings in the year:

- 30th June 2011
- 29th September 2011
- 31st January 2012
- 27th March 2012

The agenda items covered are shown in **Appendix B** (page 7). Reports and supporting documents are publically available at www.cheshireeast.gov.uk

What work did it carry out in 2011/12?

A work plan was agreed at the beginning of the year and all planned work was completed, including the following:

- Statement of Accounts
- Annual Governance Statement (AGS)
- Internal Audit Plan
- Internal Audit Annual & Interim Reports
- Audit Commission Reports to the Council
- Risk Management Reports
- Anti-Fraud and Corruption Arrangements
- Whistleblowing Policy

Details of work carried out are shown in **Appendix B** (page 7).

Audit and Governance Committee Background and Review of 2011/12

Review of 2011/12 (continued)

What key decisions did the Committee take in 2011/12?

During 2011/12, the Committee made a number of key decisions, including the following:

- Approved the 2010/11 Statement of Accounts
- Approved the 2010/11 AGS
- Endorsed the updated Risk Management Policy
- Endorsed the updated Whistleblowing Policy

In addition, the Committee requested a number of pieces of work/additional actions, including the following:

- An investigation of issues surrounding the proposed waste transfer station at Lyme Green.
- Risk owners to be invited to Committee meetings to discuss their mitigation plans.
- Consideration to be given to conducting an anonymous survey of staff to ascertain the degree of satisfaction with the Whistleblowing Policy.

Did the Committee cover the right areas?

To ensure that the Committee met its remit for the year, its activities have been matched to the designated functions of the Committee as set out in the Council's [Constitution](#). The results are set out in **Appendix C** (page 8).

What is the role of Internal Audit?

The Internal Audit service carries out reviews throughout the year on the whole

of the Council's control environment, comprising risk management, key control and governance processes. This work includes a mix of risk based auditing, regularity, ICT audit, investigations and the provision of advice to officers.

Internal Audit activity is regularly reported to the Committee by the two Audit Managers, Jon Robinson and Neil Taylor, including the annual opinion on the adequacy and effectiveness of the Council's internal control environment.

Who are the Council's External Auditors?

During 2011/12, the Council's External Auditors were the Audit Commission's in-house Audit Practice. This is led by Judith Tench, District Auditor and Andrea Castling, Audit Manager, who attend all Audit and Governance Committee meetings.

Following the externalisation of the Audit Commission's work to private sector firms, the Council's new External Auditors are Grant Thornton, with effect from 1st September 2012. The majority of current Audit Practice staff transfer to the private sector firms at the end of October 2012.

Does it meet best practice standards?

The functions of the Audit and Governance Committee are based on best practice, as featured in the CIPFA (Chartered Institute of Public Finance and Accountancy) publication, *Audit Committees – Practical Guidance for Local Authorities*.

To ensure its ongoing effectiveness in 2011/12, the Committee has been

Audit and Governance Committee Background and Review of 2011/12

Review of 2011/12 (continued)

assessed against the detailed checklist included within the CIPFA guidance. The results are shown as **Appendix D** (page 11)) and show that the Committee fully complies with best practice, with the exception of two aspects which it partially complies with.

What training and development is carried out for Members?

During 2011/12, the following training sessions for members of the Committee were carried out:

- Induction for new Members of the Committee
- Statement of Accounts
- Annual Governance Statement
- Data Protection

In September 2011, it was agreed by the Committee that individual Members would become more involved in specific areas of audit and governance work as a means of developing in-depth knowledge and expertise and subsequently five Member/Officer Groups were set up and had their first meetings in January 2012, covering the following areas:

- Audit
- Corporate Governance & Annual Governance Statement
- Financial Statements
- Fraud Management
- Risk Management

What is planned for 2012/13?

The Committee's work plan for 2012/13 is shown as **Appendix E** (page 15). These are the items required to ensure the Committee covers its remit. The work plan

is brought to each Committee meeting for update, where necessary, and approval. Members consider the contents of the Work Plan and establish any additional agenda items/training/briefing sessions that will enable it to meet its responsibilities.

Audit and Governance Committee Members 2011/12**Councillor John Hammond**

Councillor Hammond has been an elected member of Cheshire East Council since its beginning in April 2009. He has served on the Audit and Governance Committee since its inception in June 2010 and became the Chair in May 2011.

**Councillor Martin Hardy**

Councillor Hardy has been an elected member of Cheshire East Council since its beginning in April 2009. He has served on the Audit and Governance Committee since its inception in June 2010 and became the Vice-Chair in May 2011. He stepped down as Vice-Chair in January 2012 and remains on the Committee.

**Councillor David Marren**

Councillor Marren became an elected member of Cheshire East Council in May 2011 and has served on the Audit and Governance Committee since then. He replaced Councillor Hardy as Vice-Chair for the remainder of the 2011/12 municipal year.

**Councillor Sam Corcoran**

Councillor Corcoran became an elected member of Cheshire East Council in May 2011 and has served on the Audit and Governance Committee since then.

**Councillor Rod Fletcher**

Councillor Fletcher has been an elected member of Cheshire East Council since its beginning in April 2009 and has served on the Audit and Governance Committee since May 2011.

Audit and Governance Committee Members 2011/12**Councillor Steven Hogben**

Councillor Hogben became an elected member of Cheshire East Council in June 2011 and after attending as a substitute in June 2011, he has since served on the Audit and Governance Committee from September 2011 to date.

**Councillor Andrew Kolker**

Councillor Kolker has been an elected member of Cheshire East Council since its beginning in April 2009. He served as Vice-Chair of the Governance and Constitution Committee for a time and has been on the Audit and Governance Committee from June 2010 to date.

**Councillor Arthur Moran**

Councillor Moran has been an elected member of Cheshire East Council since its beginning in April 2009. He served on the Audit and Governance Committee for the year May 2011 to May 2012.

**Councillor Margaret Simon**

Councillor Simon has been an elected member of Cheshire East Council since its beginning in April 2009. She has served on the Audit and Governance Committee since its inception in June 2010 and was Chair for the 2010/11 year.

**Councillor Jacqueline Weatherill**

Councillor Weatherill has been an elected member of Cheshire East Council since its beginning in April 2009. She served on the Audit and Governance Committee for the year May 2011 to May 2012.

Audit and Governance Committee Activity 2011/12**30th June 2011****Items covered:**

Appointment of Appeals Sub-Committee
 External Audit: Annual Audit Fees 2011/12
 External Audit: Progress Report 2010/11
 Draft Statement of Accounts and Annual Governance Statement 2010/11 – Approval Process
 Internal Audit Annual Report 2010/11
 Risk Management Update Report
 Risk Management Policy Review
 Business Continuity Update Report
 Whistleblowing Policy
 Anti Fraud and Corruption Arrangements

29th September 2011**Items covered:**

External Audit: 2010/11 Annual Governance Report
 Annual Governance Statement (AGS) 2010/11
 Internal Audit Plan 2011/12 and Update Report
 Risk Management Update Report
 Annual Report of Corporate Complaints and Local Government Ombudsman's Annual Review 2010/11
 Breach of the Council's Contract Procedure Rules

31st January 2012**Items covered:**

External Audit: Annual Audit Letter 2010/11
 External Audit: Audit Plan 2011/12
 External Audit: Audit Committee Update
 Statement of Accounts for 2011/12
 Compliance with Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Regulations 2004
 Annual Governance Statement (AGS) – 2011/12 Process and Update on 2010/11 Action Plan
 Compliance with International Auditing Standards
 Internal Audit 2011/12 Interim Report
 Risk Management Update Report

27th March 2012**Items covered:**

External Audit: Certification of Claims and Returns – Annual Report
 Internal Audit Plan 2012/13
 Audit Committee Self-Assessment
 Business Continuity Management Update
 Whistleblowing Policy
 Risk Management Update Report

Audit and Governance Committee Functions and Relevant Activity 2011/12

Function of Audit and Governance Committee <i>(per Committee Terms of Reference)</i>	Relevant activity in 2011/12
Annual Report	
Submitting an Annual Report to the Council.	It was agreed at the Committee meeting in June 2011 that, with effect from the next municipal year, the Audit and Governance Committee submit an Annual Report to Council.
Audit	
Overseeing the Council's role and responsibilities in respect of Audit.	<p><i>Internal Audit:</i> The Committee approved the overall strategy and annual programme of audits (March 2012) and monitored progress against the plan (September 2011 & January 2012).</p> <p><i>External Audit:</i> The Committee received and considered the work of the External Auditor (June 2011/September 2011/January 2012 & March 2012).</p>
Supporting the Council's audit function, both internal and external.	See above.
Considering the Head of Internal Audit's Annual Report and opinion and a summary of internal audit activity and the level of assurance over corporate governance arrangements.	The Internal Audit Annual Report, including the Head of Internal Audit's opinion was presented to the Committee in June 2011.
Receiving the Internal Audit Plan and summary reports on performance against the plan.	Internal Audit interim reports against the 2010/11 plan were received in September 2011 and January 2012, with the 2012/13 Internal Audit Plan received in March 2012.
Corporate Governance & Annual Governance Statement	
Overseeing the Council's role and responsibilities in respect of Corporate Governance.	The Committee received and approved the Annual Governance Statement (September 2011), agreed the AGS process (January 2012) and received an update on progress against the AGS Action Plan (January 2012).
Developing a Code of Corporate Governance and to undertake as appropriate an assessment of wider governance issues.	Changes to the Code of Corporate Governance are agreed by the Committee, when applicable (last done in November 2010). An update on the Code of Corporate Governance and the Governance Framework

Audit and Governance Committee Functions and Relevant Activity 2011/12

Function of Audit and Governance Committee <i>(per Committee Terms of Reference)</i>	Relevant activity in 2011/12
	is scheduled for the September 2012 meeting of the Committee.
Reviewing and approving the Annual Governance Statement.	The Annual Governance Statement 2010/11 was approved at Committee in September 2011.
Financial Statements	
Supporting the Chief Financial Officer in relation to the performance of her duties.	Reports on the Statement of Accounts, including progress and audit thereof were presented at June 2011/September 2011 and January 2012 Committee meetings.
Approving any Council Statement of Accounts as may be required by the relevant Account and Audit Regulations.	The Statement of Accounts 2010/11 was approved at Committee in September 2011.
Considering External Audit and other external agencies reports to those charged with governance as a source of assurance.	The Annual Audit Letter was reported to Committee in January 2012 by the External Auditor. A progress report on implementation of the 2010/11 Statement of Accounts Action Plan was brought to Committee by Officers in January 2012. The 2010/11 Annual Governance report was reported to the Committee in September 2011.
Fraud Management	
Ensuring the Council has in place appropriate policies and mechanisms to safeguard the Council's resources.	The Committee considered the outcome of a review of Anti Fraud and Corruption arrangements in June 2011.
Reviewing and making recommendations upon the Whistleblowing arrangements process.	The revised Whistleblowing Policy was endorsed at Committee in June 2011. An update on the effectiveness of the Policy and the number of reports received during 2011/12 was received by the Committee in March 2012.
Ensuring that the Council maintains a robust counter fraud culture via the implementation of an Anti Fraud and Corruption Policy and Strategy.	The Committee considered the outcome of a review of Anti Fraud and Corruption arrangements in June 2011.
Seeking assurance that Customer Complaint arrangements are robust.	Annual Report of Corporate Complaints and Local Government Ombudsman's Annual Review 2010/11 presented to Committee in September 2011.

Audit and Governance Committee Functions and Relevant Activity 2011/12

Function of Audit and Governance Committee <i>(per Committee Terms of Reference)</i>	Relevant activity in 2011/12
Risk Management	
Ensuring any Council's Risk Management arrangements are operating effectively.	Risk Management Update Reports are received at each Committee.
Where necessary, overseeing and agreeing the arrangements for Members to be indemnified for and insured against risks and liabilities arising from the performance of their duties as Members of the Council, and as the Council's representatives on outside bodies.	General updates on insurance are reported to the Corporate Risk Management Group as part of their remit to review and monitor risks in relation to specific area needs as and when required e.g. Climate Change, Health and Safety, Insurance and the National Fraud Initiative (NFI). A summary of the key points from the insurance updates are included in the Risk Management Update reports to the Committee and a similar arrangement will continue in 2012/13. Any specific issues relating to Members' indemnity will be reported where necessary.

Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
Terms of Reference				
Have the committee's Terms of Reference been approved by full Council?	✓			Approved as part of Constitution. Terms of Reference updated in 2011/12 to include requirement to submit an Annual Report to full Council.
Do the Terms of Reference follow the CIPFA model?	✓			Based on <i>Audit Committees – Practical Guidance for Local Authorities</i> , CIPFA 2005.
Internal Audit Process				
Does the Committee approve the strategic audit approach and the annual programme?	✓			Internal Audit Strategy approved in Sept 2009, with update in Nov 2010. Update planned in 2012/13. Audit Plans approved annually – 2011/12 Plan approved in March 2011.
Is the work of Internal Audit reviewed regularly?	✓			Annual Internal Audit Opinion report received in June 2011. Interim reports received in Sept 2011 and Jan 2012.
Are summaries of quality questionnaires from managers reviewed?	✓			Results of questionnaires reported in interim reports for 2011/12 and are reported in the Annual Report.
Is the Annual Report, from the Head of Audit, presented to the committee?	✓			Annually to support production of the Annual Governance Statement (AGS). Last reported in June 2011.
External Audit Process				
Are reports on the work of External Audit and other inspection agencies presented to the Committee?			✓	External Audit reports: June 2011 – Progress Report, Sept 2011 – Annual Governance Report 10-11, Jan 2012 – Annual Audit Letter 10-11/Audit Plan 11-12 were all presented to the Committee. Reports of other inspection agencies e.g. OFSTED are not presented to the Committee.
Does the Committee input into the External Audit programme?			✓	The Committee received and commented on the External Auditor's 2011/12 plan in January 2012, although there was no prior specific discussion on the content. The plan sets out the audit work in respect of the audit of the Financial Statements and the Value For Money

Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
				conclusion 2011/12.
Does the Committee ensure that Officers are acting on and monitoring action taken to implement recommendations?	✓			E.g. Progress on implementing the Final Accounts Action Plan was reported to the Committee in Jan 2012, and is discussed at the appropriate specialist Member/Officer Group.
Does the Committee take a role in overseeing: <ul style="list-style-type: none"> • Risk Management strategies • Annual Governance Statement • Anti Fraud arrangements • Whistleblowing strategies? 	✓ 			Review of Policy in June 2011. Update reports at each meeting. Approved 10/11 AGS in Sept 2011, Process for 11/12 AGS and update on 10/11 AGS action plan in Jan 2012. Review of Strategy reported Jan 2011. Update planned in 2012/13. Review of Policy in June 2011.
Membership				
Has the membership of the Committee been formally agreed and a quorum set?	✓			
Is the Chair free of Executive or Scrutiny functions?	✓			
Are Members sufficiently independent of the other key Committees of the Council?	✓			The Chair and Vice-Chair are free of Executive and Scrutiny responsibilities. There are two Scrutiny Chairs on the Committee.
Have all Members' skills and experiences been assessed and training given for identified gaps?	✓			The Committee considered training requirements against the Better Governance Forum recommendations in Sept 2010 and training requirements are considered at each subsequent Committee as part of the Work Programme/Plan. Induction sessions have been delivered in June 2010 and Sept 2011 covering core functions re: Internal & External Audit, Risk & Governance and Financial Statements, and a series of training sessions have been delivered around the

Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
				IFRS, AGS, Risk and Customer Complaints. In Sept 11, it was agreed by the Committee that individual Members would become more involved in specific areas of audit and governance work as a means of developing in-depth knowledge and expertise and subsequently five Member/Officer Groups have been set up and had their first meetings in Jan 2012.
Can the Committee access other Committees as necessary?	✓			Best practice states that the Audit Committee should report direct to the governing body i.e. full Council. For 2011/12, the Audit & Governance Committee has produced an Annual Report to go to full Council.
Meetings				
Does the Committee meet regularly?	✓			
Are separate, private meetings held with the External Auditor and the Internal Auditor?	✓			External Audit: a meeting with the Chair and Vice-Chair took place in March 2012. Internal Audit: There are a combination of Member/Officer Group meetings and pre-Committee briefings.
Are meetings free and open without political influences being displayed?	✓			
Are decisions reached promptly?	✓			Any deviations from the Work Programme are discussed and agreed at each Committee.
Are agenda papers circulated in advance of meetings to allow adequate preparation by Members?	✓			There has been a conscious effort to make Committee reports more concise in 2011/12 to aid preparation. A review of the Work Programme is planned to ensure appropriate frequency of updates.
Does the Committee have the benefit of attendance of appropriate Officers at its meetings?	✓			The introduction of the Internal Audit Reporting Protocol and associated follow up procedure will enable appropriate managers to be invited to Committee to report back on e.g. implementation of recommendations.

Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
Training				
Is induction training provided to Members?	✓			See response regarding the assessment of Members' skills and experiences.
Is more advanced training available as required?	✓			As above.
Administration				
Does the Authority's S151 Officer or deputy attend all meetings?	✓			S151 Officer or deputy has attended all 2011/12 meetings.
Are the key Officers available to support the Committee?	✓			Key Officers i.e. Internal Audit, Finance, Legal, Democratic Services, External Audit attend all meetings. Other Officers will attend as and when appropriate to present specific reports.

Key:

Y **Met**
P **Partially met**
N **Not met**

Audit and Governance Committee Work Plan 2012/13

Committee Date/Agenda Item	Description
14 June 2012 – Special Meeting	
Lyme Green	Investigation of all issues surrounding the expenditure incurred on the proposed waste transfer station at Lyme Green.
28 June 2012	
External Audit – Progress Report 11/12	External Audit progress report against their 11/12 Plan.
Financial Statements 11/12 Update	Process and timetable for the approval of the 11/12 Financial Statements.
Draft Annual Governance Statement (AGS) 11/12	Draft AGS 11/12 for comment/agreement; final version to be approved at September meeting.
Internal Audit Annual Report 11/12	Opinion on the overall adequacy and effectiveness of the Council's control environment for 11/12.
Corporate Risk Management Group Annual Report 11/12 & Risk Management Policy Review <i>including Risk Owner Mitigation Plan</i>	First Annual Report of the Corporate Risk Management Group, an update of the Risk Management Policy and attendance by a Corporate Risk Owner to explain their mitigation plan.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
27 September 2012	
External Audit – Annual Governance Report 11/12	Summary of findings from the 11/12 audit and key issues identified by External Audit in issuing their opinion on the Council's Financial Statements and its arrangements for securing economy, efficiency & effectiveness in the use of resources.
Annual Report 11/12	First Annual Report of the Chair of the Audit & Governance Committee to Council (as agreed at Committee in June 2011).
Financial Statements 11/12	Approval of the final 11/12 Financial Statements.
Final AGS 11/12	Final AGS 11/12 for approval.
Governance Framework and Code of Corporate Governance Update	Council's Governance Framework for discussion/agreement and approval of updates to Code of Corporate Governance.
Internal Audit Interim Report	Progress report against the Internal Audit Plan 12/13.
Anti Fraud and Corruption Update	Periodic review of Anti Fraud and Corruption Policy and arrangements against best practice.
Treasury Management Update Report	Update report on Treasury Management.
Risk Management Update	Update report on Risk Management, including Business

Audit and Governance Committee Work Plan 2012/13

Committee Date/Agenda Item	Description
Report <i>including Risk Owner Mitigation Plan</i>	Continuity and attendance by a Corporate Risk Owner to explain their mitigation plan.
Contract Regulations	Report on compliance with contractual regulations, including specific examples, as requested by Members.
Lyme Green Action Plan	Quarterly progress report on Lyme Green.
Standards Issues and Planning Protocol	Report on a number of issues in relation to the new Code of Conduct.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
31 January 2013	
External Audit – Annual Audit Letter 11/12	Summary of the External Audit findings from 11/12 audit.
External Audit – Audit Plan 12/13	External Audit's planned work for the audit of Financial Statements and the Value For Money conclusion 12/13. Also specifies the level of audit fees.
Financial Statements -12/13 Progress Report	Progress on preparation of the 12/13 Financial Statements.
Internal Audit Interim Report	Progress against the Internal Audit Plan 12/13.
Draft Treasury Management Strategy Report	Consider draft Treasury Management Strategy, before approval by Council in February 2013.
Data Protection and Freedom of Information Update	Update on Data Protection and Freedom of Information issues including volumes of requests and trends.
AGS – Update on 11/12 Action Plan & 12/13 Process	Progress to date on the 11/12 AGS Action Plan and suggested approach for the 12/13 AGS for approval.
Compliance with International Auditing Statements	Report setting out response to External Audit request for information regarding management arrangements for identifying and reporting risk of fraud and complying with the relevant laws and regulations.
Annual Report of Corporate Complaints and Local Government Ombudsman's Annual Review 11/12	Summary of the complaints received by the Council and also those dealt with by the Local Government Ombudsman about the Council for 11/12.
Risk Management Update Report <i>including Risk Owner Mitigation Plan</i>	Update report on Risk Management, including Business Continuity and attendance by a Corporate Risk Owner to explain their mitigation plan.
Lyme Green Action Plan	Quarterly progress report on Lyme Green.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.

Audit and Governance Committee Work Plan 2012/13

Committee Date/Agenda Item	Description
28 March 2013	
External Audit – Certification of Claims & Returns	Annual report on the issues, amendments and qualifications arising from certification work of grant claims and returns.
Internal Audit Plan 13/14	Approval of risk based Internal Audit Plan for following year.
Audit Committee Self Assessment	Self assessment of the effectiveness of the Committee, which feeds into the AGS process.
Whistleblowing Policy Update	Periodic assurance on effective operation of Whistleblowing Policy.
Risk Management Update Report <i>including Risk Owner Mitigation Plan</i>	Update report on Risk Management, including Business Continuity and attendance by a Corporate Risk Owner to explain their mitigation plan.
Lyme Green Action Plan	Quarterly progress report on Lyme Green.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
Unallocated Items	
	<i>The following items will be presented to the Committee but have not as yet been allocated to a specific agenda.</i>
Internal Audit Terms of Reference	Update and amendment to Internal Audit Terms of Reference.
Internal Audit Strategy	Update and amendment to Internal Audit Strategy.
	<i>The following items may, subject to requirement, be presented to the Committee.</i>
Insurance	Where necessary, overseeing and agreeing the arrangements for Members to be indemnified for and insured against risks and liabilities arising from the performance of their duties as Members of the Council, and as the Council's representatives on outside bodies.
Regulation of Investigative Powers Act (RIPA)	Any potential updates of the requirements of the RIPA legislation and actions to ensure the Council complies.
Anti Money Laundering	Consideration of any updates to the Anti Money Laundering Policy and assurance from management that measures are operating effectively.

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CHESHIRE EAST COUNCIL

COUNCIL

Date of Meeting: 11th October 2012
Report of: Democratic and Registration Services Manager
Subject/Title: Notice of Motion – Members' Mileage Rates

1.0 Report Summary

- 1.1 The report invites Council to consider the response of the Independent Remuneration Panel to the following Motion that was proposed by Councillor S Corcoran and seconded by Councillor K Edwards –

“This Council thanks the Leader for sharing his thoughts at the last Council meeting on whether Councillor Allowances should be increased to replace mileage rates. However, this Council does not support the idea because:

1. It would disadvantage Councillors in outlying areas.
2. It would disadvantage active Councillors who travel frequently to attend meetings and reward councillors who do not attend many meetings.
3. At a time when public opinion of payments to MPs and Councillors is highly sceptical, the public perception might be that this is a ruse to bring in an increase in allowances through the back door.

2.0 Recommendation

- 2.1 That the payment of travel expenses by way of an increase to elected Members' Basic Allowance is not considered by the Independent Remuneration Panel to be a viable option for Cheshire East Council at this point in time; given that: -

- i) It goes against the principle of Members being reimbursed for actual expenditure incurred in the performance of their duties; and
- ii) It would have a detriment impact on Members due to the travel element of the basic allowance being liable for tax.

3.0 Reasons for Recommendations

- 3.1 To comply with the Notice of Motion request proposed and seconded at a meeting of full Council held on 23 February 2012.

4.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications

6.1 None.

7.0 Financial Implications

7.1 Whilst payment of travel by lump sum would reduce administration costs, the 'travel element' of the basic allowance would be taxable and liable for National Insurance contributions.

8.0 Legal Implications

8.1 None.

9.0 Risk Management

9.1 None.

10.0 Background

10.1 Cheshire East Council currently operates a claims-based mileage system as part of its Scheme of Members' Allowances whereby Members can claim a rate per mile, in line with officers, for mileage incurred in the performance of their Council duties.

10.2 A suggestion was put forward by the former Leader of the Council that the Council should consider replacing the claims based scheme with a lump sum payment; to be paid to Members each year either as part of or in addition to their basic allowance.

10.3 In response to the proposal, Councillor Corcoran submitted the following Notice of Motion to Council on 23 February 2012, which was seconded by Councillor K Edwards:

This Council thanks the Leader for sharing his thoughts at the last Council meeting on whether Councillor Allowances should be increased to replace mileage rates. However, this Council does not support the idea because:

1. It would disadvantage Councillors in outlying areas.
 2. It would disadvantage active Councillors who travel frequently to attend meetings and reward councillors who do not attend many meetings.
 3. At a time when public opinion of payments to MPs and Councillors is highly sceptical, the public perception might be that this is a ruse to bring in an increase in allowances
- 10.4 Council subsequently referred the Notice of Motion to the Independent Remuneration Panel for consideration. This report contains the recommendation of the Panel.

11.0 Independent Remuneration Panel

- 11.1 Cheshire East Council appointed its new Independent Remuneration Panel ('the Panel') in spring 2012 and following an induction period, the Panel has been examining various aspects of the Allowances Scheme. The Notice of Motion was put before the Panel at its meeting on 13 August 2012.
- 11.2 A briefing paper was prepared for the Panel which outlined the positive and negative aspects of changing the current arrangements which can be summarised as follows.
- 11.3 Payment by lump sum would reduce administration costs as there would be no need to process the same volume of claims but the 'travel element' of the basic allowance would become taxable and liable for National Insurance contributions.
- 11.4 Councils which paid separate lump sums tended to be authorities with small geographical areas unlike Cheshire East although there was evidence of some Councils adopting a banding approach to reflect 'urban' and 'rural' members.
- 11.5 Having considered the proposal and the Notice of Motion, it was the Panel's opinion that, as adding additional remuneration to the Basic Allowance to cover travel expenses would render it liable for tax, this approach would be detrimental to Members. Furthermore, there was no equitable way in which an allowance could be set which would not benefit or disadvantage Members to different degrees based on the varying distances which needed to be travelled to attend meetings across a range of venues.
- 11.6 With this in mind, the Panel did not consider that a lump sum payment made to Members to cover mileage incurred was a viable option for the Council to pursue at this time.

12.0 Access to Information

- 12.1 The background papers relating to this report can be inspected by contacting the report writer:

Name:	Diane Moulson
Designation:	Senior Member Development Officer
Tel No:	01270 686476
Email:	diane.moulson@cheshireeast.gov.uk

Council Meeting - 11th October 2012
Extract from Cabinet Minutes – 25th June 2012

KEY DECISION MIDDLEWICH EASTERN BYPASS AND MIDPOINT 18

Consideration was given to acting as the grant recipient and accountable body for the grant of £4m from the Governments Regional Growth Fund for the development of the Middlewich Eastern Bypass by Pochin Developments.

A report set out the context of the proposal and the benefits of supporting the delivery of the scheme; these included the creation of new business premises and approx 2,800 jobs, environmental improvements arising from traffic being diverted away from Middlewich, and the reduction of congestion on the A54 link to the M6.

RESOLVED

1. To agree that the Council shall act as the grant recipient for this project and to accept the terms of a conditional grant offer letter from the Secretary of State for Business, Innovation and Skills (BIS), subject to the satisfactory advice of the Borough Solicitor.
2. To delegate authority to the Strategic Director (Places & Organisational Capacity), in conjunction with the Portfolio Holder, to accept the final grant offer letter, subject to the satisfactory advice of the Borough Solicitor and independent Due Diligence advice.

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CHESHIRE EAST COUNCIL

REPORT TO: CABINET

Date of Meeting:	25 th June 2012
Report of:	Strategic Director – Places & Organisational Capacity
Subject/Title:	Middlewich Eastern Bypass & Midpoint 18
Portfolio Holder:	Councillor Menlove Portfolio Holder for Environment and Councillor Macrae Portfolio Holder for Prosperity and Economic Regeneration

1.0 Report Summary

- 1.1 Following the Government's proposed allocation of £4.1m from its Regional Growth Funding to Pochin Developments Ltd to support the development of the Middlewich Eastern Bypass, Cheshire East Council has been requested to act as the grant recipient and accountable body to receive and manage the grant.
- 1.2 This report sets out the context of this proposal and the benefits of supporting the delivery of this scheme.

2.0 Decision Requested

- 2.1 To agree that the Council shall act as the grant recipient for this project and to accept the terms of a conditional grant offer letter from the Secretary of State for Business, Innovation and Skills (BIS), subject to the satisfactory advice of the Borough Solicitor.
- 2.2 To delegate authority to the Strategic Director (Places & Organisational Capacity), in conjunction with the Portfolio Holder, to accept the final grant offer letter, subject to the satisfactory advice of the Borough Solicitor and independent Due Diligence advice.

3.0 Reasons for Recommendations

- 3.1 The proposed development is expected to deliver significant benefits to the borough, including:
 - a) Enabling the creation of 143,000 sq m of new business premises and around 2,800 jobs.
 - b) Environmental benefits arising from traffic being diverted away from Middlewich Town Centre, thereby improving conditions for residents, businesses and visitors.
 - c) Reduction in congestion on the A54 link to the M6, particularly the section between Leadsmithy Street and Pochin Way.

- 3.2 The project will be at no cost to the Council, other than a modest amount of officer time in administering the grant and legal conditions. All costs associated with external legal advice, etc will ultimately be met either by Pochin Developments Ltd, either directly or through the Regional Growth Fund grant, as appropriate.
- 3.3 There are no significant risks to the Council in administering the grant, since all the fundamental terms of the funding agreement the Council enters into with BIS will be mirrored in the funding agreement the Council will have in place with Pochin Developments Ltd.

4.0 Wards Affected

- 4.1 Middlewich, Brereton Rural

5.0 Local Ward Members

- 5.1 Cllrs Paul Edwards, Simon McGrory, Michael Parsons and John Wray

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 The grant will enable to construction of the Middlewich Eastern Bypass which will have the benefit of:
- a) opening up a major new development site (Midpoint 18) which will be capable of delivering up to 2,800 new jobs.
 - b) improving the environment and thereby health conditions, through reduced air pollution in Middlewich town centre and reduced emissions through reduced journey times in and around Middlewich.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 The grant of £4.1m has been identified by Pochin Developments Ltd (PDL) as the maximum amount of gap funding required to complete the Middlewich Eastern Bypass. All other costs associated with construction of the road will be borne by PDL.
- 7.2 The grant offer letter specifies the terms and conditions under which the grant will be paid, including the following:-
- Receipt of a Confirmatory Due Diligence Report, certified by an independent accountant;
 - Receipt of a satisfactory Project Delivery Plan;

- Confirmation from PDL of their legal commitment to contribute £17.9m to construct the Middlewich Eastern Bypass required to deliver the project;
- Confirmation that the private sector funding of £17.9m has been secured by PDL.

- 7.3 The conditions of the grant require quarterly monitoring reports to be submitted throughout the fifteen year monitoring period. The final monitoring report for the year should be submitted in January and must be followed by an annual report from an independent accountant, submitted no later than the 14th of February of that financial year. The costs of which will be borne by PDL.
- 7.4 Grant may be varied, withheld or subject to repayment if progress is not deemed to be satisfactory, job targets are not achieved or grant claimed is above the level permitted under State aid law. These conditions will be mirrored in the agreement with PDL to ensure that the Council is not subject to any risk of grant shortfall.
- 7.5 PDL must fully demonstrate that these conditions have been met, grant will only be paid over to PDL when it has been received by the Council from BIS. This will ensure cashflow is not adversely affected and the Council will not be subject to the risk of non-payment of grant.
- 7.6 The Council owns land which it will be required to transfer to PDL or dedicate as highway for nil consideration (as referred to in 8.2). The value of this land is currently being established and will be subject to review in line with Finance and Contract Procedure Rules.
- 7.7 The Council would be liable for Part 1 claims but will be seeking the Standard Indemnity from PDL and will recover all legal administrative costs.
- 7.8 The Council will become responsible for the ongoing maintenance costs once the 12 months defect period has expired following adoption as it would with any other road adopted within the Borough.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Council, by paying the grant to PDL, will be giving financial aid to an undertaking carrying out an economic undertaking. If the aid were to be determined to be unlawful State aid then repayment of grant together with interest could be called for. As a precaution, the Council and PDL have obtained advice jointly, from a specialist State aid solicitor, that the risk of an adverse State aid complication arising in this case is very low.
- 8.2 As stated above the Council will enter into legal arrangements with PDL under which obligations imposed by BIS on the Council, other than administrative obligations, will be passed on to PDL. Similarly risks to the Council especially in terms of variation or withholding of or claims for repayment will be mirrored in the Council – PDL agreement(s). If the Council is to dispose of any land to facilitate the project, then it will have to obtain the best consideration

reasonably obtainable, unless it can rely on the General Disposal Consent (England) 2003. A separate approval will be required for any such disposal.

9.0 Risk Management

- 9.1 The merits of the proposal have been rigorously appraised by the Head of Development and Head of Highways & Transport and the legality of receiving and giving the grant has been considered by the Borough Solicitor. The only identified risks to the Council are of BIS calling for repayment of grant monies due to the job target not being achieved or satisfactory progress not being made towards reaching the job target, and PDL not being solvent or being otherwise unable to repay the grant clawed back from the Council, or the bypass not being completed and BIS claiming back the grant from the Council. There is a 15 year monitoring period in relation to the job creation and repayment is calculated according to the jobs shortfall. In order to mitigate against the risk, financial checks will be made in respect of PDL at this stage and consideration given to the possibility of obtaining a group company guarantee or other security.
- 9.2 Furthermore, BIS require the Council to appoint independent accountants to undertake Due Diligence assessment of the project and the delivery plan, including job creation. This is now in the process of being procured by the Council (with costs to be met by PDL) and will form the final determining factor in the BIS's decision to offer the grant
- 9.3 The key secondary risks relate to:
- a) the viability risks to PDL, who may incur debt and interest charges if they are unable to recoup income associated with the bypass and development in the timeframe they envisage. Financial checks on the company will be undertaken to mitigate this but, ultimately, it will not impact on the delivery of the bypass itself.
 - b) the fact that a significant employment site will become available at around the same time as a strategic employment site at Basford East, Crewe. This could have some consequences to the pace of its development. The Council will continue to work with all developer interests to mitigate the risks of this, through promotion of these sites and targeting different types of businesses at each, reflecting the respective strengths of each location.
- 9.4 The offer letter advises making regular claims to reduce the risk of not receiving the grant funding, our desire is to draw down and pay at the end of the construction period. Officers will endeavour to clarify whether the single drawdown is acceptable to BIS before finalising the grant letter and accepting the offer.

10.0 Background and Options

- 10.1 Midpoint 18 is a successful 450 acre sub-regional employment site located to the east of Middlewich town centre.

- 10.2 Pochin Developments Ltd were granted outline planning permission in June 2008 for a mixed use development including B1, B2 and B8, appropriate leisure and tourism (including hotel) uses, the completion of the southern section of the Middlewich Eastern Bypass, and associated landscaping works.
- 10.3 The bypass itself and an initial development plot have received detailed planning permission. Key to this permission was the condition that buildings could not be occupied until the whole of the bypass has been opened to traffic.
- 10.4 It is proposed that the development will be accessed via an extension to Pochin Way as a 2.2km section of road passing through the site extending to Booth Lane to the south. The scheme would provide economic and transport benefits to Middlewich and the wider area, although it has never been an identified strategic Local Transport Plan (LTP) priority.
- 10.5 The key outcomes of the scheme are expected to be:
- Creation of 143,000m² of business development and around 2800 jobs.
 - Environmental benefits as traffic routes away from Middlewich Town Centre improving conditions for residents and visitors and enhancing the retail experience.
 - Reduction in congestion on the A54 link to the M6, particularly the section between Leadsmithy Street and Pochin Way.
- 10.6 Midpoint 18 is not considered to be a strategic regional site but it has sub-regional importance and has been identified as one of thirteen sites with strong potential to facilitate the future economic growth of the Cheshire and Warrington sub-region. The site itself is attractive as a distribution location owing to its strategic road links, but needs the development of the full site to reach its full potential.

Delivery Issues

- 10.7 Midpoint 18 is in an enviable location close to Junction 18 of the M6 and, despite the recession, there continues to be strong interest from occupiers, which is evident through recent deals at Midpoint, as well as other locations in the borough (e.g. Expert Logistics in Crewe, Waters Corporation in Wilmslow). It has to be recognised however that the scheme may compete as a distribution location with Basford West in Crewe, which has been identified as a strategic priority for the Council in terms of its role in the All Change for Crewe regeneration programme.

Land Assembly & Interests

- 10.8 The delivery of the Middlewich Eastern Bypass and the development of land at Midpoint 18 remains dependent on the assembly of land ownerships across the site. Currently the land proposed for Phase 3 of Midpoint 18 is occupied by a number of different landowners including Pochin (the developers of Midpoint 18) and Bovale (who have acquired the Centura Foods land holding).

Financial Appraisal and Funding

- 10.9 Although this is private sector led, even at the height of the market the scheme was not financially viable without public sector subsidy. In 2007, an informal grouping of developers, former Cheshire County Council and North West Development Agency (NWDA) officers and the main developers (Pochin and Bovale) put together proposals for a public-private funding package.
- 10.10 The total cost of the Bypass, including the railway and canal crossings, is in the region of £22million which was to be funded primarily through a developer/landowner contribution of almost £13million. In support of the private sector funds, circa £3million was identified through former Cheshire County Council's LTP2 budget and a funding proposal was made to the North West Regional Development Agency (NWDA) for £6million. Subsequently the scheme was withdrawn from the grant application process as a tripartite agreement between the Council, developers and the NWDA was not reached.
- 10.11 As soon as the Government announced the phased closure of NWDA, funding has not been available from this source. The final year of LTP2 designated funding was in 2010/11 but, with no secure delivery commitment for the bypass at this time, funds were refocused elsewhere. There was no subsequent allocation for this scheme in LTP3 for Cheshire East.
- 10.12 In 2010, the Council appointed a consultancy team led by AECOM to undertake an independent appraisal of the proposal and the development of a delivery strategy for the bypass. This report has been critical in informing the Council's position and the wider business case for investment, and has been used in the justification for funding through PDL's Regional Growth Fund bid.

Alternative means of delivery

- 10.13 The Council has been in informal dialogue over the past 18 months with a separate developer with a view to developing a bypass and associated employment. This, however, was significantly less well developed, as it required a different route and was without ground investigations, construction costs and planning consent. Whilst this

could be an alternative means of delivering the similar benefits, it bears greater risks overall, particularly in terms of timescale for delivery.

10.14 In terms of public grant funding for such schemes, RGF remains the only mechanism of this kind. The project is not eligible for ERDF or Evergreen funding in the foreseeable future.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Jez Goodman
Designation: Economic Development & Regeneration Manager
Tel No: 01270 685906
Email: jez.goodman@cheshireeast.gov.uk

Appendix 1

Middlewich Action Plan - Regional Growth Fund Round 2 Programme Bid, submitted by Pochin Developments Ltd (1 July 2011).

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Middlewich Action Plan Regional Growth Fund



Round 2 Programme Bid



by



Pochin Developments Limited

with



Berkeley Hanover Consulting

and



David Tucker Associates





REGIONAL GROWTH FUND

**Round 2: Programme
Application Form – Part 1**

Department for Business, Innovation and Skills
Department for Communities and Local
Government
HM Treasury
Department for Transport
Department for Environment, Food and Rural
Affairs

Programme Application Form

Part 1

General Guidance Notes

The Regional Growth Fund (RGF) application form consists of two parts. Part 1 (this document) contains 39 questions related to the programme, its governance and its costs and benefits. Part 2 (the Financial Annex) is an Excel spreadsheet for the key financials of the programme and should be used as a tool to complete the indicated Part 1 questions.

Both Part 1 and Part 2 of the application form should be completed as fully as possible

Please read the accompanying guidance notes carefully when completing the form to ensure you include the full set of information required.

*Both parts 1 and 2 of the application form **should be submitted in Word (.doc) and Excel (.xls) format respectively** to:*

RGFround2applications@bis.gsi.gov.uk

Programmes

*Programme proposals will need to demonstrate a **clear over-arching investment strategy** for a **specific geographical area**.*

There is no prescription as to the scale or complexity of geographic area that can be covered by a programme bid – applicants will need to set out the case for the geographic

BIS | Department for Business
Innovation & Skills



HM TREASURY

Department for
Transport



extent of the programme, having regard to the purposes for which the Regional Growth Fund has been established and the local enterprise partnerships strategic priorities – where these exist.

Programmes provide for a collaborative approach to delivering a set of related activities, in the target area, which create sustainable private sector jobs and growth.

There is no prescription about the content of a programme – it's for applicants to clearly set out the rationale for their proposal. One of the potential benefits could be the ability to draw on the capability and capacity of a number of different organisations, of different types, so as to give greater certainty of deliverability of the outcomes, for example a programme bid could include new jobs and skills, support housing growth and transport improvements under one programme.

As with all bids to the RGF, applicants will have to demonstrate the additionality of the programme in terms of significant private sector growth; leveraging private sector investment and creating sustainable private sector jobs. Proposals will not have to provide a detailed description of every ultimate scheme beneficiary. However, bids should provide confidence in the ability to deliver and evidence of business needs, potential beneficiaries and delivery mechanisms could all be important.

Each programme will need a lead partner with whom we can contract. This will need to be a suitable legal entity (see programme application guidance Q8) but could be a public body, a civil society organisation such as a charity, a social enterprise or a private sector organisation.

The lead partner will be responsible for performing the confirmatory due diligence following any conditional offer, and if approved will manage claims and programme funding allocation, consolidate all financial management and reporting, as well as ensuring that State Aid issues are managed and that sub-contracting follows normal public procurement practice, together with any additional due diligence that might be required as the programme develops.

NB: This application form is for programmes. There is a separate application form for project and project packages.

Record Keeping and Freedom of Information

In order to meet the requirements of the Freedom of Information Act 2000 reasons for decisions about applications and claims must be recorded properly on file at all stages. This record keeping will also ensure that there is a clear audit trail for all applications. Administrative records will be maintained for all applications irrespective of whether they were successful.

Applicants should be aware that information provided in confidence is likely to be exempt information under the terms of Section 41 of the Freedom of Information Act 2000, and that the operating department will respect its confidentiality.

Applicant Information

Applicant name (including title):	Mr Brian T. Reay
Company / Organisation:	Pochin Developments Limited
Company registration number (if UK registered):	740515
Position in Company / Organisation:	Director
Address:	Brooks Lane, Middlewich, Cheshire
Postcode:	CW10 0JQ
Telephone:	01606 831 615
Mobile:	07836 633 823
Email:	brian.reay@pochins.plc.uk
Website:	www.pochins.plc.uk

Applicant Check List

Please review this list and check off each item before submitting your bid.

- | | |
|---|----------------------------|
| 1. The programme demonstrates a clear over-arching investment strategy for a specific geographical area | ✓ <input type="checkbox"/> |
| 2. I have completed both Part 1 and Part 2 of the form | ✓ <input type="checkbox"/> |
| 3. I have used the guidance available to complete the form fully and correctly | ✓ <input type="checkbox"/> |
| 4. This application is for at least £1m of RGF funding | ✓ <input type="checkbox"/> |
| 5. The proposed investment will impact areas in England | ✓ <input type="checkbox"/> |
| 6. The programme will directly leverage private sector funds | ✓ <input type="checkbox"/> |
| 7. The applicant is a private sector body or a public/private partnership or social enterprise. | ✓ <input type="checkbox"/> |
| 8. The support requested would be compliant with State aid regulations | ✓ <input type="checkbox"/> |
| 9. RGF funding is essential to enable this project to proceed | ✓ <input type="checkbox"/> |

Executive Summary

This section is designed to capture the key information from this bid, and provide an overall summary.

[\[guidance\]](#)

Programme title (Q1a):	Middlewich Action Plan and Bypass - An Integrated Programme for Local Economic Regeneration and Growth
Brief programme summary: (Q1b)	<p>The following outlines the way in which the completion of the Middlewich Eastern Bypass can be funded and thereby facilitate significant commercial and residential development to be built in Middlewich and the surrounding area that in turn will stimulate economic growth and large scale private sector employment creation. See key plan for location and general layout of the Action Area.</p> <p>The Bypass will also relieve significant traffic congestion which currently blights the town centre and the consequential inward investment will inject additional community funding to improve the public realm. Delivering economic growth at this scale requires the Middlewich Action Plan to achieve a series of economic and social objectives. Each objective needs to be either economically or commercially viable and has been endorsed by the local community.</p> <p>The first and most important objective is to build the Bypass. This final section of highway extends to 2.2km and will link the A54 east of Middlewich to the A533 to the south of the town. This route would remove traffic from town centre streets and reduce conflict along the congested east west A54 route from the M6 into the town. Junctions along the length of the Bypass will serve the new Midpoint 18 employment sites without adding heavy lorry traffic to the town centre roads. New cycle routes and footpath links will encourage movement into the town centre by means other than by private car. Cledford Lane will remain open on the west side of the Bypass but only pedestrians, cyclists and those on horseback will be able to travel across the Bypass from the west to the east.</p> <p>A significant investment in the masterplanning for the Phase 3 of Midpoint 18 and detailed planning consent for both the first part of the development and the Bypass have already been completed. The planning application was approved in 2008 in outline, approved in detail in 2009 and extended in 2011. Without the access created by the Bypass, Phase 3 of Midpoint 18</p>

	<p>and adjacent land cannot be developed. The Bypass would thus enable major development and release over £350m of funding by the private sector for large-scale commercial and residential schemes. Without the Bypass, Midpoint 18 Phase 3 simply cannot happen, the Bypass is also the driver for a number of other private sector employment generating initiatives in the town centre.</p> <p>The cost of the Bypass and the associated infrastructure works is estimated to be £22m. The principal of obtaining this funding has been established for some time. In 2008, the Highway Authority and the North West Development Agency committed a total of £9.1m (42%) to the scheme. Pochin – the developers of Midpoint 18 – had assembled private sector funding of the remaining balance of £12.9m (58%). There are now no longer any funds available from Cheshire East or NWDA. Pochin has now arranged to assemble further private sector funding that now totals 81% of the scheme cost - £17.9m. This leaves a shortfall of £4.1m.</p>								
Geographic spread of programme:	<p>The Middlewich Action Plan is clearly centred on the town of Middlewich. The Bypass is located to the east of the town but its travel benefits will accrue to users over a much wider area. The employment benefits comprise of a number of different elements and are described below. Virtually all the direct employment generation will arise either in Middlewich town centre and the adjacent Midpoint 18 Business Park. The indirect and induced employment impacts are likely to be slightly dispersed, with most remaining in Cheshire East and the sub region.</p> <table border="1"> <thead> <tr> <th>Area</th><th>Approximate proportion of direct employment impacts</th></tr> </thead> <tbody> <tr> <td>Cheshire East</td><td>95%</td></tr> <tr> <td>NW England</td><td>5%</td></tr> <tr> <td>Total</td><td>100%</td></tr> </tbody> </table>	Area	Approximate proportion of direct employment impacts	Cheshire East	95%	NW England	5%	Total	100%
Area	Approximate proportion of direct employment impacts								
Cheshire East	95%								
NW England	5%								
Total	100%								
What is the (peak) <u>gross</u> number of direct and indirect jobs created and safeguarded by the programme?	<p>Direct: created 2800 safeguarded 150 Total 2950</p> <p>Indirect: created 840 safeguarded 45 Total 885</p> <p>Four areas of employment impact arising from the opening of the Bypass have been assessed by separate research for Cheshire East and Pochin. They are:</p> <ul style="list-style-type: none"> • Generation of employment in the currently vacant parts of Phases 1 and 2 of Midpoint 18 • Generation of employment in Phase 3 of Midpoint 18 (see below) • Safeguarding of existing jobs (British Salt) • Generation of Middlewich town centre jobs as a result of amelioration of traffic congestion in and around town centre. 								

Pochin believes that the take-up of land at Phase 3 will be spread over 15 years but with some front-loading as a result of their view regarding Plot 101. It has been assumed that this site will take at least 2 years to become fully operational. The rest of the growth has been applied at a steady growth rate over the 15 years with the exception of Plot 120. This has been assumed to be developed over year 5 and year 6. The annual employment growth based on these annual take-ups combined with the English Partnerships' employment density figures are shown in the table below. The accumulated employment growth is shown in the right-hand column.

**Annual and Accumulative Employment Growth
at Phase 3**

Year	Annual Increase	Accumulative Increase
1	620	620
2	370	990
3	120	1110
4	120	1230
5	220	1450
6	220	1670
7	120	1790
8	120	1910
9	120	2030
10	120	2150
11	120	2270
12	120	2390
13	120	2510
14	145	2655
15	145	2800

The totality of these impacts in terms of direct job creation is shown below.

	Direct Jobs
Phases 1 and 2 – Midpoint 18	300-400
Phase 3 – Midpoint 18	2,800
Safeguarding	100-150
Town Centre	300-500
TOTAL	3,500-3,850

	<p>These above figures relate to the generation or safeguarding of direct jobs. In addition indirect and induced jobs will be generated by the creation and safeguarding of these direct jobs. We have applied the generally accepted 1.3 multiplier to assess these additional impacts.</p> <p>Hence, it is our conclusion that the Bypass will have a total employment impact of 4,500 to 5,000 new jobs over a 15-year period with at least 1,500 jobs being created within 3 years of the Bypass opening.</p>
Total cost of programme:	£22.0m.
Total RGF funding sought:	£4.1m.
Other sources of public funding sought/ obtained? e.g. ERDF, TSB, RDPE	None.
Name of principal recipient of RGF funds:	Pochin Developments Limited.
Are any recipient(s) SMEs	Not directly – however the benefits to the town centre will largely be to SMEs as well as some SMEs are likely to become tenants at Midpoint 18.
Are any recipients or partners LEPs? Is yes, which LEP	Cheshire and Warrington LEP supports the bid as shown in Part 3 of this bid document.
Is this bid a private/public partnership or solely private	<p>The funding is private – though support to the project is shown in the correspondence from Cheshire East Council, Middlewich Town Council and the Weaver Valley Partnership in Part 3 of this bid document.</p> <p>The funding for this project was originally a typical private/public partnership. Both Cheshire County Council and the NWDA were entirely committed to the project to provide £9.1m - 42% of the project cost. The offer of these funds was withdrawn in 2010 due to the local and regional Government cutbacks. Pochin has been able to reduce the shortfall from £9.1m to £4.1m. The bid is, in effect, now totally a private bid for construction, but the Highway Authority - Cheshire East - is committed to long-term maintenance of the Bypass when it becomes adopted.</p>
Have you submitted any other bids? If yes, what is the bid's title?	No.
Have you bid for RGF funding before? If yes, please provide your bid reference no.	No.

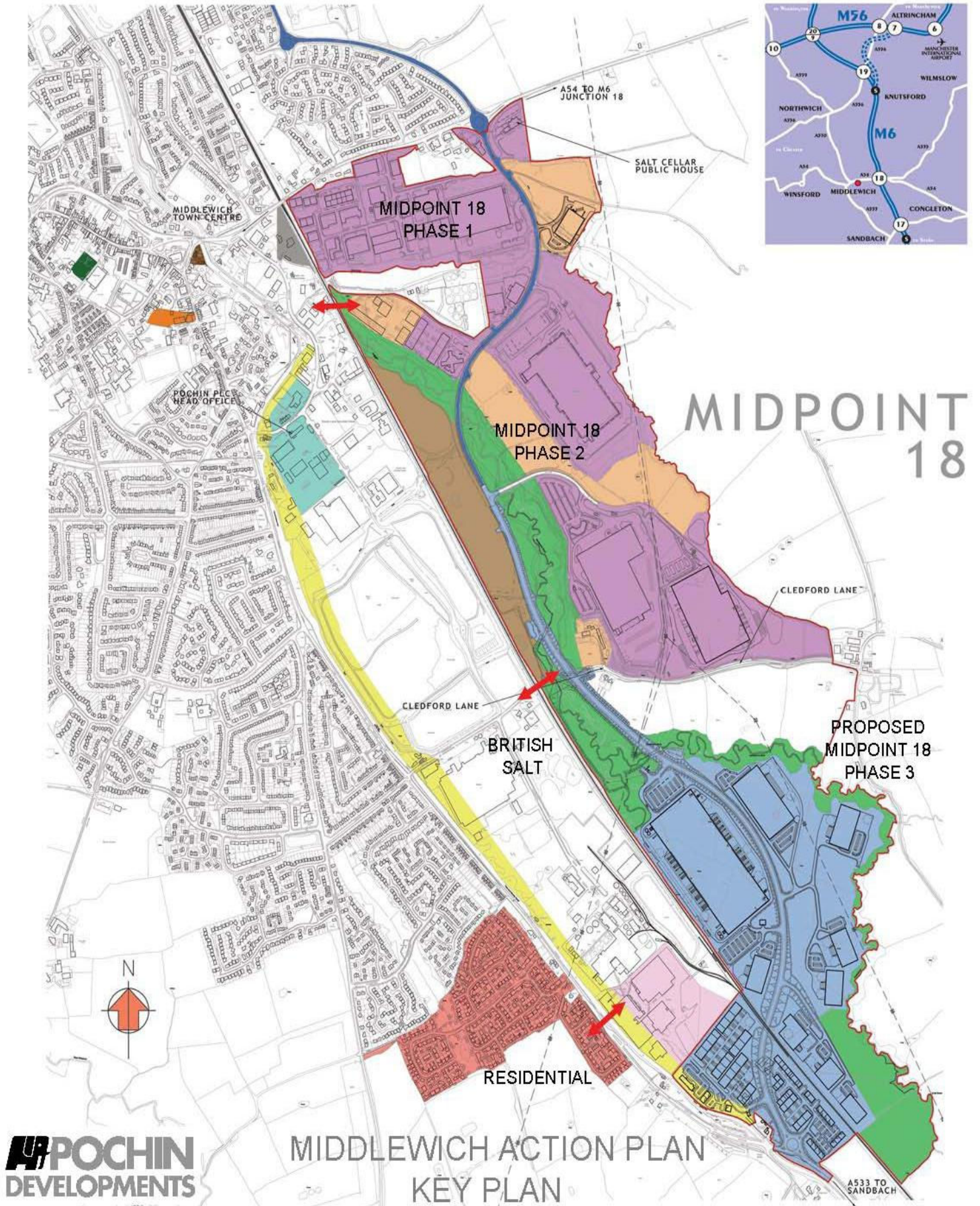
<p>Why is this bid being putting forward as a programme?</p>	<p>With a population of around 13,200 the town has some 9,500 residents of working age. The economic activity rate is 74%. While this is broadly comparable to the rate for the UK as a whole, it masks a number of problems that will lead to significant economic disadvantage if they are not addressed in the coming years. Key factors in this include:</p> <ul style="list-style-type: none"> • A long-term trend of declining local private sector job numbers. This has been happening since 2003 but the rate of decline has accelerated in recent years with the closure of several major local employers. • A mismatch of jobs and opportunities. The town provides nearly 6,000 jobs but over 3,500 of these are taken by people commuting into the town. Conversely, some 5,000 of the town's 7,150 economically active population commute out to work. • Underperformance of retail. Middlewich retains just 38% of its convenience goods expenditure and 6% from comparison goods spending. A critical factor in this underperformance is the traffic and congestion problems faced by shoppers and visitors, itself in part caused by traffic flows relating to the employment imbalances. <p>Resolving these structural faults in the local economy requires investment to:</p> <ul style="list-style-type: none"> • Create substantial new local employment opportunities. • Ease traffic access and congestion problems. • Provide sustainable homes. <p>There have been many reports published on the economic status of the Cheshire towns in recent years. By way of example, we quote from the report by Roger Tym & Partners published in March 2009, entitled Cheshire & Warrington Market Towns Investment Prospectus. The report says <i>'Middlewich already accommodates a mid size and two smaller supermarkets (but) it retains just 38% of convenience goods expenditure and just 6% for comparison goods from its catchment'</i>.</p> <p>The report reviewed seven such towns and identified Middlewich as one of three which required a <i>'step change'</i> to address underperformance. It concluded that <i>'severely underperforming retail provision (should) be addressed through a new supermarket and complementary smaller units and by making the retail environment more attractive, amenable and vital'. In this</i></p>
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	<p><i>way the 'demand would be captured and retail expenditure leakage captured'.</i></p> <p>Since the publication of the Roger Tym report a number of significant business closures have adversely impacted employment levels in Middlewich. These include Centura Foods, Tesco Distribution and Albion Chemicals.</p>
<p>Who is primarily supported?</p>	<p>Please tick all those that apply</p> <p><input type="checkbox"/> An individual enterprise</p> <p><input type="checkbox"/> A small group of enterprises</p> <p>✓ <input type="checkbox"/> Investment and support for SMEs</p> <p>✓ <input type="checkbox"/> Sector support and development</p> <p>If so, which sector: Commercial, Housing and Industrial</p> <p>✓ <input type="checkbox"/> A specific geographical area</p> <p><input type="checkbox"/> Public sector organisation</p> <p>The intended initial beneficiary will be the Applicant. The RGF funding will cover the shortfall of available monies from the private sector and enable Pochin to build the Bypass. The commercial, industrial and housing developments simply cannot be served without the Bypass. Furthermore, without a Bypass the town centre will suffer from increasing traffic congestion on the surrounding network and any opportunity to improve the vitality and viability of the town centre will be extremely limited.</p> <p>The secondary beneficiaries are clearly the local population, existing businesses and visitors.</p>
<p>Which types of activity are included?</p>	<p>Please tick all those that apply</p> <p>✓ <input type="checkbox"/> Research, Development and Innovation</p> <p>✓ <input type="checkbox"/> People, skills and training</p> <p><input type="checkbox"/> Rail Infrastructure</p> <p>✓ <input type="checkbox"/> Other Transport Infrastructure</p> <p>✓ <input type="checkbox"/> Public Infrastructure eg public realm</p> <p>✓ <input type="checkbox"/> Site preparation and infrastructure (e.g. clearing / preparing land, flood mitigation, but not transport)</p> <p>✓ <input type="checkbox"/> Industrial or commercial property development</p> <p>✓ <input type="checkbox"/> Housing</p> <p><input type="checkbox"/> Other please specify</p>

	<p>The Bypass would be the element of the Action Plan it and would be accompanied by complimentary measures that would enhance the economic base of the town centre. B1, B2, B8 and leisure related activities would arise both in the town centre and at Midpoint 18. Local housing investments and the public realm would improve.</p>
<p>Will the bid have:</p>	<p>Please tick all those that apply</p> <p>✓ <input type="checkbox"/> Significant Environmental Benefits</p> <p><input type="checkbox"/> Significant Impact in Rural Areas</p> <p><input type="checkbox"/> Equalities Impact</p> <p>Without the Bypass, the redevelopment of the town centre and the opening up of Phase 3 at Midpoint 18 cannot happen. The Bypass would not only address a number of severe obstacles to town centre regeneration, it would also lead to a number of direct and wider economic benefits. The Bypass would enable the local planning authorities to tackle the entrenched economic problems that have blighted Middlewich for several decades. In summary, the Bypass would facilitate the further elements of the Action Plan and result in:</p> <ul style="list-style-type: none"> • Private sector investment amounting to 81% of the £22m cost of the road project. This amounts to a public to private sector gearing of 1: 4.36 (£4.1m public sector, £17.9m private sector). • 100 construction jobs over a sustained period. • Relief of the traffic congestion affecting Middlewich (improved amenity). • Establishment of the conditions to enable the upgrading of Middlewich town centre. • Primary servicing of the Midpoint Phase 3 employment project extending to 143,000sqm (1,539,000sqft) generating an estimated 2,800 jobs. • A total of some 4,500/5,000 additional direct/indirect/induced jobs that would not be generated and supported in its absence. • Significant further job creation through the longer term development/construction programmes. • Provision of a hotel for Middlewich as part of the Midpoint Phase 3 project. • Potential for circa 500 new homes on adjacent sites (currently poor quality agricultural land) subject to planning approvals and current Local Development Framework • Ecological enhancement of the green spaces within the Midpoint 18 Business Park will be implemented as each phase is developed.

- The generation of an estimated £3,000,000pa in new business rates following development of Midpoint Phase 3.
- The generation of a potential further £140,000 pa in new business rates from brownfield development.
- The generation of approximately £750,000pa in new council tax income linked to potential new homes
- Potential further investment to Cheshire East from Central Government through the New Homes Bonus of up to in the order of £4,500,000 calculated from the occupation date of new homes.
- An increase in the potential viability for the proposed Middlewich railway station through the creation of new employment and residential areas to support the town core.
- Delivery of a major retail store.
- Town Wharf heritage redevelopment.
- Council Offices redevelopment.
- Library and community centre redevelopment.
- Canal side public open space.
- Cycle path and footpath improvements.
- Marina development.

In terms of direct jobs, the RGF contribution of £4.1m is equivalent to the generation of 900 jobs per £1m public sector contribution. Combining, the direct jobs with the indirect and induced jobs would increase this ratio to about 1,200 jobs per £1m public sector contribution.



Section A: Programme Description

This section of the application form seeks basic information about the nature of the programme. It is designed to identify private, civil society organisations and public sector partners involved in the programme or to establish the bidders track record in establishing these partners if they are not yet identified.

1. (a) What is the programme title? (please provide a short title, maximum of 20 words)
[guidance]

Middlewich Action Plan and Bypass - An Integrated Programme for Local Economic Regeneration and Growth.

- (b) Briefly summarise the programme, its main objectives (i.e. the overarching investment strategy) and a brief outline of the main programme activities and outcomes (maximum of 300 words)?
[guidance]

The programme to achieve the Middlewich Action Plan is made up of a series of interdependent objectives. On commencement of the first objective, several related objectives will then be commenced.

On completion of the first objective, the remaining objectives will then proceed. More aspirational objectives will follow.

The first objective is to complete the construction of the Middlewich Eastern Bypass and it is this strategic infrastructure which requires Regional Growth Funding of £4.1m to be added to the £17.9m private sector funding, which together, will match the required £22m cost. This first objective will create 100 construction jobs over two years.

As soon as this infrastructure commences construction of three related objectives will commence. Employment development consisting of a 600,000sq.ft. multi-model distribution centre will create 80 construction jobs over 18 months and up to 900 permanent jobs over a wide range of job types.

An hotel of 112 rooms will create 60 construction jobs over 9 months and 40 permanent jobs.

House building will commence shortly before the Bypass is completed to create 80 construction jobs over four years.

The remaining objectives will bring 120 construction jobs and the balance permanent jobs detailed in the Executive Summary when the remaining employment and industrial developments are constructed.

A specialist industrial occupier who is not reliant on the Bypass, to be constructed, will create 300 construction jobs, 50 permanent jobs and secure 150 existing jobs for the future.

Other outputs will be in training retail and tourist based jobs taking up existing space within the Action Plan area.

Table 1 shows the sequence of implementation of the objectives in relation to RGF Funding.

Table 1

Objective	Title	Timeline (Years)									
		-2	-1	0	1	2	3	4	5	+5	
1	Completion of the Middlewich Bypass										
2	Initial Employment Development										
3	Leisure Development										
4	House Building										
5	Additional Employment Development										
6	Industrial Development										
7	Indirect and Aspirational Development										

(c) What is the geographical target area and spread of the programme? *Explain why this is the appropriate scale.*

[guidance]

The Action Plan is centred on Middlewich. The first objective, the completion of the Bypass, is situated to the east of the town. The other objectives are located within the town centre and to the east and south of the town. The majority of the direct employment will arise in these areas but the indirect and induced jobs will be more widely disbursed within the other Weaver Valley towns of Northwich and Winsford and broadly within the Borough of Cheshire East.

It is expected that 95% of the impact of this new employment will affect Cheshire East and the remainder within North West England, a one hours drive time.

2. What good(s) or service(s) will be offered to the market directly and indirectly as a result of the known components of the programme? E.g. training, transport improvements, housing, etc.

[guidance]

(a) Goods and services directly offered to the market by the programme partners as a direct result of this investment?

The Middlewich Action Plan will offer a large range of services to the market. Objective 1 - Completion of the Bypass: This will be procured by a series of contracts let directly by the Applicant. The primary contract will secure the basic engineering infrastructure but support contracts to an extensive range of work and statutory undertakers will be required to deliver the complete project. The RGF Funding will only be used for the primary contract.

The direct result of the Bypass will be:

- *Private sector investment amounting to 81% of the £22m cost of the road project. This amounts to a public to private sector gearing of 1 : 4.36 (£4.1m public sector, £17.9m private sector).*
- *100 construction jobs.*
- *Relief of the traffic congestion affecting Middlewich (improved amenity).*
- *Establishment of the conditions to enable the upgrading of Middlewich town centre.*
- *Primary servicing of the Midpoint 18 Phase 3 employment project extending to 143,000sq.m. (1,539,000sq.ft.) generating an estimated 2,800 jobs.*
- *A total of some 4,500/5,000 additional direct/indirect/induced jobs that would not be generated and supported in its absence.*
- *Significant further job creation through the development/construction programmes.*
- *Servicing of a hotel site for Middlewich as part of the Midpoint 18 Phase 3 project.*
- *Potential for circa 500 new homes on adjacent sites (currently poor quality agricultural land) subject to planning approvals and current Local Development Framework.*
- *The generation of an estimated £3,000,000 pa in new business rates following development of Midpoint 18 Phase 3.*
- *The generation of a potential further £140,000 pa in new business rates from Project Delta.*
- *The generation of approximately £750,000 pa in new council tax income linked to potential new homes.*
- *Potential further investment to Cheshire East from Central Government through the New Homes Bonus of up to in the order of £4,500,000 calculated from the occupation date of new homes.*

Objectives 2 and 3: Completion of employment and leisure development will include a range of construction contracts for building and other works directly by the Applicant.

The remaining objectives will be procured by each resultant beneficiary.

(b) If the programme will create additional market opportunities, these should be listed here.

The establishment of conditions to enable upgrading of Middlewich town centre will create retail and leisure based opportunities.

The traffic relief for the town centre will facilitate:

- *An increase in the potential for the proposed Middlewich railway station and canal side improvements through the creation of new employment and residential areas to support the town core.*
- *Delivery of a major retail store.*
- *Town Wharf heritage redevelopment.*
- *Council Offices redevelopment.*
- *Library and community centre redevelopment.*
- *Canal side public open space.*
- *Tow path and footpath improvements.*
- *Marina development.*

3. Set out the main programme activities and proposed timescale in which they will be carried out. Include as part of this a simplified programme plan or Gantt chart, and provide costing in Part 2, Section D of the application form. *Please note the RGF will not cover programme administration costs, these should be covered by other funding sources, potentially through private sector leverage.*

[\[guidance\]](#)

(a) Activities carried out by programme partners as a direct result of this investment?

Objective 1 - Completion of the Bypass is the key delivery mechanism.

Table 2 below shows the programme of activities to achieve completion of the Bypass. It should be noted that a substantial number of activities have already been put in place and preparation is in hand when funding is secured.

Table 2

Activity	Timeline (Years)								
	-3	-2	-1	0	1	2	3	3+	
Planning									
Land									
Highway Closures and TRO									
Service Provisions									
Service Diversions									
Planning Condition Discharge									
Site Preparation									
Advanced Works									
Main Works Contract									
Open to Traffic									

(b) Other activities which may be carried out as an indirect result of the programme? If it is not certain that an activity will go ahead, please estimate the likelihood of it going ahead with and without the programme.

The sequence of further direct and indirect activities is also shown in Table 1 (Q 1(b)).

(c) Where details of component projects are not already known, please provide information to demonstrate how partners will be identified and engaged and demonstrate a track record of delivering similar programmes.

The indirect activities which are as yet not detailed include increasing the potential for the proposed Middlewich railway station, canal side improvements, Town Wharf heritage redevelopment, marina development all of which will be separately funded.

The Applicant has extensive experience of delivering mixed use developments and major infrastructure throughout the North West and specifically in Middlewich. Appendix 3.2 of this document sets out this experience and the capability of the Applicants project delivery team.

4. Please summarise how the programme will contribute to the objectives of the Regional Growth Fund. See application form guidance (Maximum of 750 words)
[guidance]

It is generally agreed by all parties - public and private - that the benefits of the Bypass include:

(i) Traffic relief and removal of congestion from the Middlewich town centre;

- (ii) *Associated environmental improvements (noise, air quality, disturbance etc.) for those living and working in and around the town centre;*
- (iii) *Unlocking the remaining parts of Midpoint 18 - particularly the Phase 3 development that is presently sterilised due to inadequate access (a planning condition to the permission requires the Bypass to be in place before further new buildings can be occupied); and*
- (iv) *Enhancing the attractiveness of Midpoint 18 Phase 3 as an employment location by improving its accessibility to the wider area.*

There is consensus amongst key stakeholders that the Bypass is a necessary infrastructure project and Pochin and the Council are keen to ensure its completion is secured as soon as possible.

A recent study by AECOM commissioned by Cheshire East Council has concluded that the Bypass “would provide economic and transport benefits to Middlewich and the wider area”. It also concludes on page 8 that the main impacts of the Bypass would include:

- (i) *The consequential generation of 143,000 sq.m. of business development that would lead to some 2,800 new jobs;*
- (ii) *Environmental benefits arising from traffic relief in Middlewich town centre; and*
- (iii) *Reduction in congestion on the A54 link to the M6.*

The report also concludes that the proposals for Midpoint 18 and the Bypass have “the potential to significantly grow local employment” and “then associated businesses may be attracted to Midpoint 18 and environmental clustering may occur”.

The accepted view of the Council’s consultants (AECOM) is that poor public transport and traffic problems - in the absence of the construction of the Bypass - would continue to inhibit the performance of the town and also exacerbate the perceived shortage of community facilities by making access to existing provision more difficult.

Without the Bypass, Midpoint 18 Phase 3 would simply not happen and the rates of development at other projects are likely to be detrimentally effected. Indeed, the Bypass clearly influences a number of direct and indirect economic consequences and impacts.

Another recent study - the Weaver Towns Report - states that;

“the town centre of Middlewich is grossly underperforming; the town centre does not adequately provide for the needs of its catchment population and that there is a requirement for additional retail floorspace, for both comparison goods, within the centre to meet this need”.

The Bypass would provide part of the solution and hence can be seen as the catalyst that could enable the existing retail centre to become sustainable at levels above those currently in operation.

Overall, the Bypass will directly facilitate employment by releasing land at Midpoint 18 but also trigger off contingent investments in large-scale local housing and town centre regeneration. Without the Bypass none of these contingent benefits can take place.

5. Please use the table in **Annex 1** to provide details of the *recipients* of RGF funds (who will manage the programme), *partners* of this bid (not recipients but have a role in the delivery of the programme) and *intended beneficiaries* where known (directly supported recipients) of the programme funds? Who are their immediate and ultimate parents? Provide where appropriate details for each of these of legal status, entity name, address, company registration number or VAT registration number, sector, directors, principal shareholders, and contact details. **Please also identify any recipients which are SMEs.**

[\[guidance\]](#)

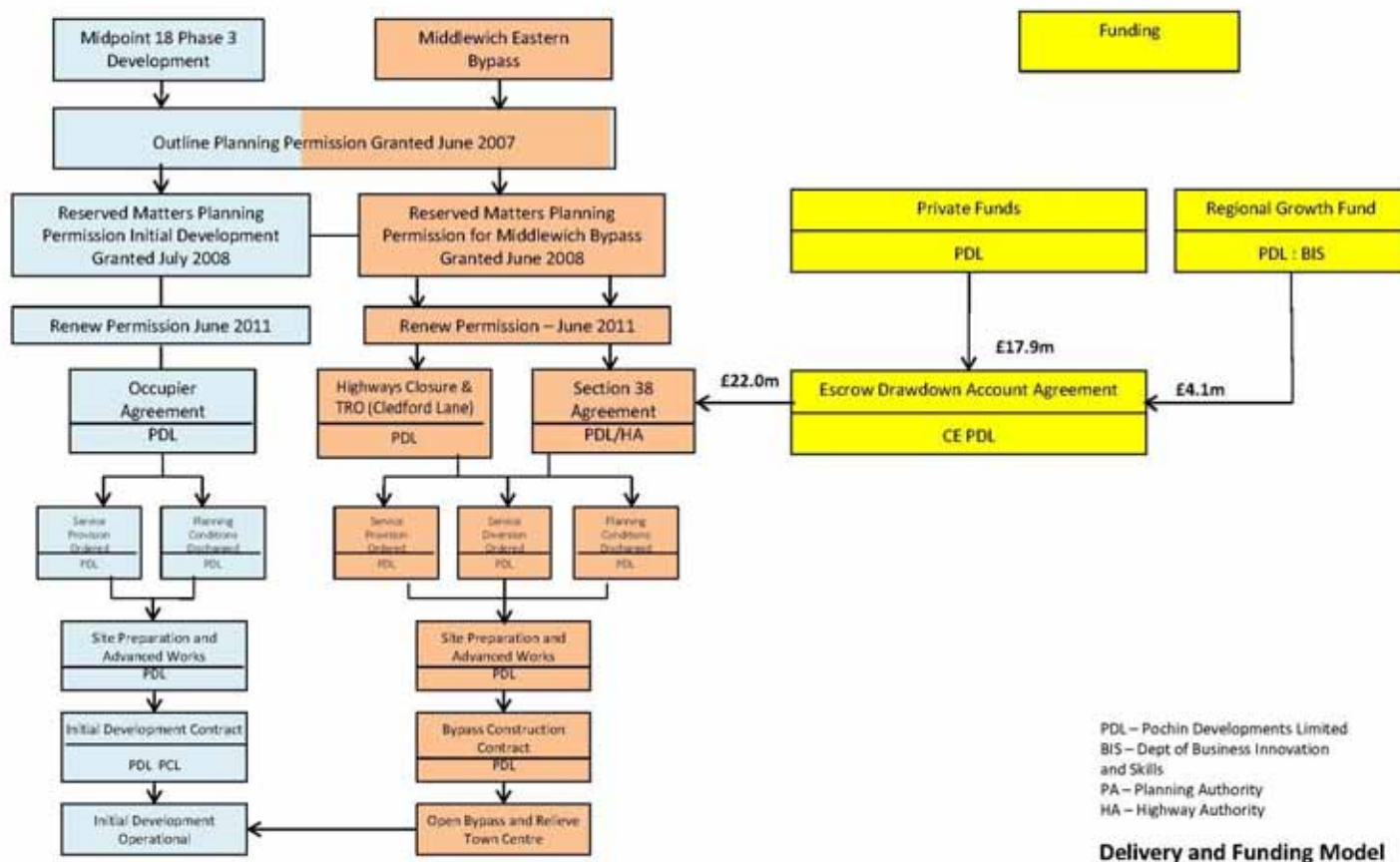
The recipients of the RGF Funds will be the Applicant but Table 3 below shows the financial control mechanism for both the private and public sector partners. Appendix 3.2 provides the details of the Applicant. The direct beneficiaries will be determined by competitive tendering and competition.

Table 3

PDL350/38

Table 3 Middlewich Action Plan – Objective 1: Complete the Bypass

28/06/11



6. How will the programme be funded? Please identify sources, amount of funding, terms of funding and indicate whether these have been confirmed. Show how these sources of funding along with the RGF support add up to the total cost of delivering the programme set out in question 3.

[\[guidance\]](#)

(a) Funding for the investment itself?

Source of funding	Entity (private/public)	Type of funding eg. grant/ loan/ loan guarantee/ equity etc	Amount of funding (£m)	% of total programme costs	Confirmed?
Applicant	Private	Equity	£17.9m	81%	Yes
BIS	Public	Equity	£4.1m	19%	No
TOTAL			£22.0m	100%	

Additional Notes (including more details on the status of other sources of funding):

<include additional notes here>

(b) Funding of related or contingent investments?

Source of funding	Entity (private/ public)	Type of funding eg. grant/ loan/ loan guarantee/ equity etc	Amount of funding (£m)	% of total programme costs	Confirmed?
TOTAL				100%	

Additional Notes (including more details on the status of other sources of funding):

<include additional notes here>

7. If you are applying for a loan or loan guarantee from the RGF, please set out the terms on which this support is sought. For loans, include details of the term of the loan, the payback profile (bullet or linear), proposed interest rate, and any interest payment holiday sought. For loan guarantees, include the term of the guarantee, the premium to be paid and details of available security. This information is required solely for indicative purposes and if the applicant is successful in securing a condition offer this might require different terms.

[\[guidance\]](#)

Not applicable.

8. If you have also submitted an application for ERDF, or are planning to, please explain which elements of the RGF programme you consider to be eligible for ERDF and are planning to use as match funding. There is no requirement for all RGF expenditure to be eligible for ERDF, but it must be eligible if it is to be used to co-finance an ERDF project.

[\[guidance\]](#)

Not applicable.

Section B: Without RGF Support

In order to maximise the impact of the Regional Growth Fund, Government support should be restricted to those instances where the market cannot, or will not fully or in-part, bring an investment forward in the absence of public support. This section will establish a rationale for Government support by enabling us to understand whether and why the programme would not otherwise go ahead as proposed.

9. In the absence of RGF support, would funding be available for the beneficiaries of the programme from other sources (and if so in what form)? *Please provide commercial and economic reasoning to support your argument.*
[\[guidance\]](#)

In the absence of RGF support the programme is only likely to go ahead on a much longer timescale. As time passes, the likelihood of commencement would become less and less likely.

To set this statement in context, it is necessary to understand that efforts to complete this programme have been in existence for many years. All the infrastructure for Phase 1 and 2 of Midpoint 18 has been delivered by the Applicant. In 2007 the Applicant was working in partnership with Cheshire County Council and North West Development Agency to jointly deliver that for Phase 3. An agreement was reached whereby the Applicant was required to provide 59% of the cost of the Bypass, the Highway Authority 14% and North West Development Agency 27%.

The office of the North West Development Agency has recently provided the following quotation to describe what happened next.

“NWDA fully appraised and approved in principal in December 2007, subject to confirmation of match funding commitments and NWDA Board Approval, an investment of £5.8m to open up the Midpoint 18 site for further development through the provision of the Middlewich Eastern Bypass. In reaching this decision NWDA recognised that the project would deliver significant economic benefits for Middlewich and the wider sub-region. However following protracted, unresolved negotiations to secure match funding commitments, a process complicated by Local Government Reorganisation in Cheshire, the Agency wrote to Cheshire East in July 2010 confirming that it was unable to commit funding to the project as a consequence of the Government’s decision to close the RDA by March 2012.”

The match funding referred to above was to be provided by the Applicant and Cheshire County Council.

In subsequent meetings with Cheshire East Council, the Applicant was advised that no match funding was available from the Local Transport Funds.

Despite the prolonged period of economic downturn, the Applicant has been able to draw further private sector funding together to reach the current figure of £17.9m, 81% of the total.

This private sector contribution is conditional on the public sector figure of £4.1m, 19% of the cost. The Applicant has itself already invested substantial sums to date to secure land and planning permission for the Bypass and the employment and leisure development. It must also budget for development expenditure to undertake further site based infrastructure and therefore the limit of private sector contribution has been reached as it equates to the uplift in value of land which would benefit from the Bypass and take account of the contingency for overrun which it would fund.

- (a) would the funding be available for beneficiaries (and in what form)?

Every avenue of funding has been examined over a long period of time and an alternative of funding for the beneficiaries is just not available.

(b) will the wider development of the area, if applicable, proceed (and in what form)?

Every avenue of funding has been examined over a long period of time and an alternative of funding for the beneficiaries is just not available.

10. Are there other ways of achieving the aims of the programme which will not require RGF support? *Please outline what these are and why they are considered inferior:*
[guidance]

The programme can only be delivered through public/private sector partnership and this continues to be most successful in all ways, except that of funding commitment.

The only way for delivery in the foreseeable future is through the currently proposed joint financial commitment of private equity and public funding via RGF.

(a) ways of achieving the aims of the programme itself?

Without the Bypass, the redevelopment of the town centre and the opening up of Phase 3 at Midpoint 18 cannot happen in the foreseeable future. The Applicant has been able to commit 81% of the capital requirement but all other forms of public and private sector funding have been exhausted and indicate absolutely no possibility of funds in the next 5/8 years.

(b) ways in which the wider development of the area would proceed?

The Bypass would not only address a number of severe obstacles to town centre regeneration, it would also lead to a number of direct and wider economic benefits. The Bypass would enable the local planning authorities to tackle the entrenched economic problems that have blighted Middlewich for several decades. There is simply no other way to tackle these economic problems.

11.(a) Why is the level of RGF support sought in this application the minimum amount of required to allow the project to proceed? *Please provide analysis and evidence to justify the amount and timing of support.*
[guidance]

The RGF bid figure of £4.1m has been based on detailed calculation of the cost of the Bypass and the private sector equity which is deliverable. These calculations have been examined and validated by the Cheshire East Council and an independent report commissioned.

The current timeframe for drawdown of both private and public sector funds is shown in Part 2 of the Application.

(b) Is this amount scalable? If yes, how?
[guidance]

The Applicant has managed to reduce the funding gap from £9.1m to £4.1m since the withdrawal of public funding commitments in mid 2010. We will not seek any additions to the £4.1m from the RGF in the event that the outturn cost of the Bypass exceeds the current cost of £22m.

Section C: Sustainable Private Sector Growth

The Regional Growth Fund seeks to encourage sustainable private sector-led growth. Please complete this section only where specific projects are already known which deliver individual components of the programme. Financial accounts (simplified profit & loss and cashflow) of these projects should have been entered in Part 2 Section B of the application form in response to Q3.

Questions 12-15 make reference to goods and services identified in Question 2. Where more than one good or service has been identified, for one or more programme component, the following questions should be answered separately for each good/service.

Where specific elements of the programme have not been clearly identified you should answer Q23.

Details of delivery have not yet been clearly identified. Q23 has therefore been answered.

12. (a) Using the pro-forma in Part 2, Section A of the application form, please provide a simplified forecast of Profit & Loss and cashflow over the economic lifetime of the programme. Where specific projects are already known which deliver individual components of the programme please detail these costs in Part 2 Section B. *The answer to this question should refer to goods and services identified in Question 2(a).* [\[guidance\]](#)

(b) Explain the rationale for the base case and downside scenarios, and for each of the assumptions underlying the cashflow. This should be linked to the market forecasts set out below.

<insert response here>

Responses to parts (a) and (b) in Questions 13-15 should correspond to answers provided to the corresponding sub-sections of Question 2 i.e. when answering Questions 13(a), 14(a) and 15(a), responses should correspond to the goods and services identified in Question 2(a). When answering Questions 13(b), 14(b) and 15(b), responses should correspond to the goods and services identified in Question 2(b).

13. What are the characteristics of the market for the product(s) or service(s) directly or indirectly offered as a result of the programme component(s)? *Please refer to product/service volumes and margins and identify key market participants.* [\[guidance\]](#)

(a) Market for goods or services directly offered as a result of this investment?

<insert response here>

(b) Market for other goods or services that may be indirectly created as a result of this investment?

<insert response here>

14. How is the market forecast to change over time?

[\[guidance\]](#)

(a) Market for goods or services directly offered as a result of this investment?

<insert response here>

(b) Market for other goods or services that may be indirectly created as a result of this investment?

<insert response here>

15. What assumptions are being made about market share? *Include as appropriate information on customers, suppliers and competitors to support these assumptions. .*

[\[guidance\]](#)

<insert response here>

16. What are the key risks, constraints and dependencies (e.g. planning consents) in executing the programme? *Please demonstrate how these will be managed.*

[\[guidance\]](#)

(a) Risks etc. around activities carried out by programme partners, directly related to the investment, as set out in Question 3(a)?

Risk	Risk Owner	Likelihood	Impact	Mitigation
		High/Med/Low	High/Med/Low	
		High/Med/Low	High/Med/Low	
		High/Med/Low	High/Med/Low	

<include additional notes here>

(b) Risks etc. around activities not directly related to the programme, in particular those set out in Question 3(b)?

Risk	Risk Owner	Likelihood	Impact	Mitigation
		High/Med/Low	High/Med/Low	
		High/Med/Low	High/Med/Low	
		High/Med/Low	High/Med/Low	

<include additional notes here>

17. How does the programme fit with the economic priorities and prospects of the locality as a whole? This should be linked to the wider economic vision for the area set out by the Local Enterprise Partnership (where one exists), as well as actions and policies of other local partners. Please be specific when identifying economic priorities, actions and policies, and explain how the programme links with them.

[\[guidance\]](#)

<insert response here>

18. Please provide a list of key project personnel who will be involved in delivering the project, including summary CVs covering role in project, employment history, qualifications, relevant skills and experience.

[\[guidance\]](#)

<insert response here>

19. Who will be responsible for any liabilities associated with the programme e.g. cost overruns or shortfalls in receipts?

[\[guidance\]](#)

<insert response here>

20. Is the proposed level of RGF support considered to be compliant with European State aid regulations? *Please give a brief explanation of your assessment and use the tick boxes below to indicate the mechanism(s) through which support would be legal. Please refer to the Guidance document for further information provided for this question.*

[\[guidance\]](#)

Regional aid	<input type="checkbox"/>
SME aid	<input type="checkbox"/>
Aid for Research, Development & Innovation	<input type="checkbox"/>
Training aid	<input type="checkbox"/>
Environmental aid	<input type="checkbox"/>
Social aid	<input type="checkbox"/>
Aid for promoting women entrepreneurship	<input type="checkbox"/>
De Minimus	<input type="checkbox"/>
Other, please specify	<input type="checkbox"/>
Non-aid	<input type="checkbox"/>

<include a brief explanation here>

21. Are any of the identified programme partners making (or intending to make) a separate bid to the RGF? *If so, please identify by project or programme title and indicate whether these bids are considered to be mutually exclusive.*

[\[guidance\]](#)

<insert response here>

22. Please provide a summary of the public support that any private sector partners involved in the programme, including civil society organisations have received, or applied for, in the last three years..

[\[guidance\]](#)

<insert response here>

23. Where some or all specific projects have not been identified, please set out your plan for ensuring the programme will deliver sustainable private sector growth. Include evidence of experience and/or expertise in driving/enabling growth appropriate to the geography..

[\[guidance\]](#)

Section A sets out the range of objectives which this programme seeks to deliver. The RGF Fund only relates to the first of these objectives and it is this which has been planned in detail. The programme relies upon the Bypass being built and for development to take place. The step change of economic prosperity is best illustrated by examples which the Applicant has carried out to date in other areas throughout the North West. Appendix 3.2 provides this experience. The plan for this programme follows these successful projects from the past.

Section D: Costs and Benefits

In order to ensure good value for money for the taxpayer, it is important that the additional economic benefits associated with supporting a programme exceed the costs of Government support. This section seeks to identify and characterise the full range of economic costs and benefits associated with the intervention.

Where details of specific projects or components of the programme are not known, applicants should draw upon the programme plan to identify and provide evidence for expected benefits, referring to your answer to Q17 to use details of the planned appraisal process to forecast expected benefits. Throughout and across all types of bids, the link to job growth must be made absolutely clear.

24. Please provide an approximate estimate of the spread of employment impacts, including direct and indirect jobs, by Local Authority District where possible using the table provided in **Annex 2 – THIS TABLE MUST BE COMPLETED.**
[guidance]

We need to know the estimated number, type and location of jobs that will be created or safeguarded through the programme. These jobs can be directly or indirectly created or safeguarded. Indirect jobs can arise through:

- the activity of the programme, (i.e. through the supply chain); and
- wider economic benefits enabled or unlocked by the programme

Job forecasts should **not** include those created through income multipliers.

Employment impact areas will be 95% Cheshire East and 5% North West England. Annex 2 has been completed with these figures.

The totality of these impacts in terms of direct job creation is shown below.

	<i>Direct Jobs</i>
<i>Phases 1 and 2 - Midpoint 18</i>	<i>300 - 400</i>
<i>Phase 3 - Midpoint 18</i>	<i>2,800</i>
<i>Safeguarding</i>	<i>100 - 150</i>
<i>Town Centre</i>	<i>300 - 500</i>
TOTAL	3,500 - 3,850

These above figures relate to the generation or safeguarding of direct jobs. In addition, indirect and induced jobs will be generated by the creation and safeguarding of these direct jobs. It is not possible to be specific about the type of jobs as these will be entirely dependent on the nature of tenants to Phase 3 of Midpoint 18. However, we can say that based on the existing companies resident on Phases 1 and 2, we would expect a wide range of skill requirements. The jobs will be by definition either located on Midpoint 18, the surrounding area including Phases 1 and 2 as well as Middlewich town centre.

25. Using Part 2, Section C of the application form, please set out the **gross** number and type of jobs that will be:

[guidance]

(a) *directly* created and safeguarded by the programme over its economic lifetime (if details of specific projects are known).

It is our view that the Bypass will have a total employment impact of 3,500 to 3,850 jobs over a 15 year period with at least 1,200 jobs being created within 3 years of the Bypass opening. All these jobs will be created in Middlewich and the local area.

(b) *indirectly* created and safeguarded by the programme over its economic lifetime. Where less specific information is known, expected employment impacts should be set out and explained including details of the assumptions being made and the data and research that have been used to draw these. This may include evidence from previous programmes, or programme plans setting out the benchmarks which will be used to determine programme spend.

It is our view that the Bypass will have a total indirect employment impact of 1,000 to 1,150 jobs over a 15 year period with at least 350 indirect jobs being created within 3 years of the Bypass opening. All these jobs will be created in Middlewich and the local area.

26. What, if any, Research and Development (R&D) activities are planned or expected as part of the programme? Please describe these activities below (including location, nature of activities, required inputs and expected outcomes) and complete the R&D expenditure profile in Part 2, Section D of the application form. .

[\[guidance\]](#)

None.

27. What, if any, skills and training provision will be associated with the programme? Please describe these activities below (including location, type of training and qualification level) and where possible complete the skills and training expenditure profile in Part 2, Section D of the application form..

[\[guidance\]](#)

Skills and training will be provided throughout the range of beneficiaries.

The Bypass will not directly have a training component. However, we will insist on a labour agreement with the successful contractor that they provide training and skills provision for a minimum of 10% of the workforce from amongst local residents.

A propos the employment generation associated with Phase 3 of Midpoint 18, we can state that we are aware of the considerable investment in training that many of our existing tenants engage upon in order to 'skill-up' the local labour force. We are totally confident that new tenants will follow a similar pattern.

28. Please describe briefly, summarising and citing supporting analysis and evidence where possible, the wider secondary benefits/costs associated with the programme over its economic lifetime. These cover non-employment related impacts only, as employment impacts have been addressed in Q34. If any of these wider benefits are "valued" or "monetised" in a Green Book compliant manner, the assumptions underlying the valuation must be clearly set out.

[\[guidance\]](#)

Wider impacts are benefits/costs that are not directly captured by the recipients of RGF. The following list gives examples of wider impacts. However, this list is only indicative and it may not be applicable for all applicants. Programmes do not need to

produce wider secondary benefits in order to be eligible for RGF. Where possible please include details of when and where these benefits will accrue.

Wider benefits not captured in BCR	Tick if Yes	When and where?	Supporting analysis and evidence (eg data, survey, research) including any quantification
Uplift in land values in neighbouring areas	Yes	Middlewich town centre	
Increasing attractiveness of an area to businesses, due to improvements to public goods (e.g. parks and the public realm) or crime reductions	Yes	Local area after opening of the Bypass	
Future savings to the exchequer stemming from the higher likelihood of gaining and retaining employment by residents of the area	Yes	Local area after opening of the Bypass	
Future savings to the exchequer as a result of reduced crime or improvements in health	Yes	Local area after opening of the Bypass	
Environmental benefits, such as improved open spaces, biodiversity, air quality, noise, land remediation, reduction in greenhouse gas emissions, etc	Neutral	Local area after opening of the Bypass	
Reductions in the distance from the labour market among residents of the area as they become more job-ready/move closer to the labour market	Neutral	Local area after opening of the Bypass	
Transport economic efficiency e.g. safety enhancements and time savings accruing to other businesses and consumers ¹	Yes	Middlewich. Local area after opening of the Bypass	See notes below and Appendix 3.3.
Improvements to social cohesion	Yes	Local area after opening of the Bypass	
Option value - where the project creates a significant incremental option to make follow-on investments, or flexibility to alter the investment at some point in the future	Yes	Local area after opening of the Bypass	
Other (write in)	Y/N		

Additional notes:

Transport Notes on Middlewich Bypass

The A54 through Middlewich forms part of the locally strategic highway network. It is identified within the Cheshire East Local Transport Plan (LTP) 2011-2026 as being of sub-regional importance.

The road links to the M6 at Junction 18 and for this reason provides the main access from the Strategic Road Network not only to Middlewich but also to Northwich, Winsford, Knutsford and a significant proportion of Crewe, as well as a large rural hinterland. The A54 currently caters for, in

¹ Please present transport benefits in the form of an Appraisal Summary Table (AST):
<http://www.dft.gov.uk/webtag/documents/project-manager/pdf/unit2.7.2.pdf>

the region of 19,000 vehicles per day (AADT) and this is forecast to rise to nearly 26,000 by 2021ⁱ. At present around 1,000 of these are Heavy Goods vehiclesⁱⁱ.

Current assessment of the road network undertaken for the LTP confirms that the route through the town centre in particular is reaching high levels of network stress in 2006ⁱⁱⁱ. This will clearly be exacerbated as traffic flows rise.

The need for a bypass has been long established and the current LTP confirms this as follows:

“The scheme would provide economic and transport benefits to Middlewich and the wider area, including:

- Creation of 143,000m² of business development and around 2800 jobs
- Environmental benefits as traffic routes away from Middlewich Town Centre, improving conditions for residents and visitors and enhancing the retail experience
- Reduction in congestion on sections of the A54

The scheme is important to the delivery of the economic growth of Middlewich as a sustainable town and key service centre.”^{iv}

The impacts of the bypass were assessed in detail in 2004 and 2005 as part of the original planning application, submitted at the time by Cheshire County Council. Whilst this report is now a little dated, there have been no significant changes in traffic flows since and the broad conclusions remain appropriate and robust. This is confirmed in the LTP which states that “the number of vehicles using the boroughs roads has remained relatively stable since 2004”.^v

The provision of improvements and in particular the Middlewich bypass as a key driver to them through the centre of Middlewich remains wholly consistent with LTP policy objectives as follows:

Objective 1 (Congestion): Minimise congestion in our urban areas and on important routes and improve the overall efficiency of the highway network.

Objective 2 (Accessibility): Improve accessibility to key services (employment, education, health, shopping and leisure) and reduce the need to travel.

Objective 3 (Maintenance): Improve maintenance of the highway and transport network.

Objective 4 (Community): Support community involvement and decision-making.

Objective 5 (Health): Support active and healthy lifestyles.

Objective 6 (Environment): Protect and enhance the local and global natural environment (including environmental assets such as biodiversity, geodiversity, soils and protected landscapes).

Objective 7 (Safety): Improve road safety for all users and increase personal and community safety.

The ES of that development reached the following conclusions:

- Traffic flows on the A54 through the town centre would reduce by some 30%;
- Traffic flows on other lines including the A530 would reduce by up to 37%.
- The scheme would result in positive Noise and Air Quality impacts on the town centre.
- General impacts of the scheme were assessed at a local level on the bypass and concluded that all could be adequately mitigated against.

The conclusions of the ES in terms of the benefits arising are summarised in the Appraisal Summary Table at Appendix 3.3.

ⁱ Figures from SKM 2004 ES of proposed bypass.

ⁱⁱ Para 3.100 of LTP.

ⁱⁱⁱ Para 3.79 of LTP.

^{iv} Page 51 – LTP.

^v Para 3.78 of LTP.

29. What other activities will you undertake, apart from the core activities for which RGF funding is being sought, which are likely to have wider impacts on society? e.g. community mentoring programmes, site visits for disadvantaged groups etc. .

[\[guidance\]](#)

The Applicant is engaged directly with the local community as representative of local business on the Middlewich Vision Steering Group. The programme has been put together in close working relationship with Middlewich Vision and the Town Council. See letter of support at Appendix 3.1.

30. If the benefits of the project, that is both employment and wider benefits, are expected to last more than 10 years, please provide the estimated long-term costs of sustaining these benefits and the period over which they are incurred e.g. maintenance costs of infrastructure.

[\[guidance\]](#)

The benefit of the programme will last much longer than 10 years but the operating cost will be met entirely by the private sector. The Highway Authority has agreed to adopt the completed project.

31. With reference to the characteristics of the programme and its beneficiaries, please describe why this programme could not be pursued through individual specified projects or packages of projects.

[\[guidance\]](#)

The programme provides a step change to the local economy whereby the greater benefit is greater than the sum of the parts.

Section E: Governance and Capability

This section will develop Government's understanding of the capability of the programme operator to manage, appraise and evaluate the programme in a way that is Green Book compliant and which satisfies the objectives of the RGF.

32. Capability:

- (a) Who will be the accountable body responsible for ensuring that activities supported as part of the programme fit within the programme's objectives, are value for money and an efficient use of public resource?.

[\[guidance\]](#)

Pochin Developments Limited will be the accountable body working through a legal agreement with Cheshire East Council as Highway Authority.

- (b) Has this partner previously acted in this capacity?.

[\[guidance\]](#)

The mechanism and financial controls are based on a standard Section 38/Section 278 legal Agreement, a tried and tested procedure.

- (c) How will the functions of the accountable body be funded?.

[\[guidance\]](#)

From its own sources.

33. Programme Plan: Please outline the delivery plan for the programme including the timescales for delivery of the objectives of the programme including key milestones..

[\[guidance\]](#)

The programme plan is enclosed as Table 3.

34. Funding model: If the programme uses a revolving funding model, e.g. a loan or loan guarantee, please use the pro-forma in Part 2, Section A or B (depending on whether it constitutes the whole or part of the programme) to provide the financial projections based on the level of RGF support you have bid for..

[\[guidance\]](#)

Not applicable.

35. Governance: Describe how the accountable body will ensure the activities of the programme meet objectives of the fund and carry out the due diligence before approving projects? Please describe the process by which funding will be allocated through the programme, including a detailed **description of the appraisal process** to ensure that projects delivering the various components of the programme fit within the RGF objectives (including where known: who, when, how, how it will be funded and evidence of the capacity and experience to do this)..

[\[guidance\]](#)

Through the mechanism described in 32(b) above.

36. Monitoring: How will the accountable body monitor the impacts and outputs of the programme activities and projects? How will this feed into financial control arrangements (including, how and when activities will be monitored and evidence of the capacity and experience to do this)..

[\[guidance\]](#)

Through the mechanism described in 32(b) above.

37. Evaluation: How do you plan to evaluate the programme to ensure that outcomes are delivered (i.e. what methodologies will be used, will this be contracted out/done internally, what are the timings for this)? Provide details of the monitoring and feedback approach which will be used to evaluate the impact and process of the programme over its lifetime as well as any plans for a final evaluation..

[\[guidance\]](#)

Not applicable.

38. How will the outcomes of the programme be sustainable and contribute to wider economic growth and jobs once the public funding for the programme ceases? You should make reference to the proposed economic life of the improvements outlined in the bid..

[\[guidance\]](#)

The funding is entirely for the Bypass. The local Highway Authority - Cheshire East Council - is totally committed to the upkeep of the bypass post opening. Pochin will be commercially committed to the long-term sustainability of Midpoint 18 as our core aim is to own, manage and operate business parks and associated commercial activity. At all times, it is our commercial imperative to optimise the land take-up on our sites and by definition to sustain employment levels.

Section F: Equality

39. Do you envisage that the programme or its outcomes will have a disproportionate impact, whether positive or negative, on any of the following groups?

- (a) minority or majority ethnic communities
- (b) women or men, including transsexual people
- (c) disabled people
- (d) lesbians, gay men, bisexual or heterosexual people
- (e) people with particular religious or non-religious beliefs
- (f) people in particular age groups

If yes, please describe the impact or impacts the programme is expected to have, the group or groups which may be affected, and any steps, if applicable, which have been taken to mitigate the impact(s)..

[\[guidance\]](#)

No.

Annex 1

RGF Recipients, Project Partners, Intended Beneficiaries (where known)

Organisation	Recipient/partner/ beneficiary 1	Recipient/partner/ beneficiary 2	Recipient/partner/ beneficiary 3	Recipient/partner/ beneficiary 4	Recipient/partner/ beneficiary 5
Recipient/partner / beneficiary	<i>Pochin Developments Limited</i>				
Role in project	<i>Recipient</i>				
Building Name/No.	-				
Sub-dwelling (e.g. Unit 1)	-				
Street	<i>Brooks Lane</i>				
Locality (e.g. village or area)					
Town	<i>Middlewich</i>				
County	<i>Cheshire</i>				
Postcode	<i>CW10 0JQ</i>				
Contact Name	<i>Brian T. Reay</i>				
Contact Telephone	<i>01606 831 615</i>				
Contact Email	<i>brian.reay@pochins.plc.uk</i>				
VAT Registration No.	<i>279 4342 27</i>				
Company Registration No.	<i>740515</i>				
Sector	<i>Property</i>				
Directors	<i>J W P Nicholson B T Reay</i>				
Principal Shareholders	<i>Pochin's PLC</i>				
Immediate Parent Company	<i>Pochin's PLC</i>				
Ultimate Parent Company	<i>Pochin's PLC</i>				
Legal Status (see guidance)					
SME?	Y/N	Y/N	Y/N	Y/N	Y/N
LEP?	No	Y/N	Y/N	Y/N	Y/N

Annex 2

Areas of Impact

Local Authority Area	Approximate proportion of employment impacts (%)
----------------------	--

Adur	0	East Hampshire	0	Milton Keynes	0	St Edmundsbury	0
Allerdale	0	East Hertfordshire	0	Mole Valley	0	St. Helens	0
Amber Valley	0	East Lindsey	0	New Forest	0	Stafford	0
Arun	0	East Northamptonshire	0	Newark and Sherwood	0	Staffordshire Moorlands	0
Ashfield	0	East Riding of Yorkshire	0	Newcastle upon Tyne	0	Stevenage	0
Ashford	0	East Staffordshire	0	Newcastle-under-Lyme	0	Stockport	0
Aylesbury Vale	0	Eastbourne	0	Newham	0	Stockton-on-Tees	0
Babergh	0	Eastleigh	0	North Devon	0	Stoke-on-Trent	1
Barking and Dagenham	0	Eden	0	North Dorset	0	Stratford-on-Avon	0
Barnet	0	Elmbridge	0	North East Derbyshire	0	Stroud	0
Barnsley	0	Enfield	0	North East Lincolnshire	0	Suffolk Coastal	0
Barrow-in-Furness	0	Epping Forest	0	North Hertfordshire	0	Sunderland	0
Basildon	0	Epsom and Ewell	0	North Kesteven	0	Surrey Heath	0
Basingstoke and Deane	0	Erewash	0	North Lincolnshire	0	Sutton	0
Bassetlaw	0	Exeter	0	North Norfolk	0	Swale	0
Bath and North East Somerset	0	Fareham	0	North Somerset	0	Swindon	0
Bedford	0	Fenland	0	North Tyneside	0	Tameside	0
Bexley	0	Forest Heath	0	North Warwickshire	0	Tamworth	0
Birmingham	0	Forest of Dean	0	North West Leicestershire	0	Tandridge	0
Blaby	0	Fylde	0	Northampton	0	Taunton Deane	0
Blackburn with Darwen	0	Gateshead	0	Northumberland	0	Teignbridge	0
Blackpool	0	Gedling	0	Norwich	0	Telford and Wrekin	0
Bolsover	0	Gloucester	0	Nottingham	0	Tendring	0
Bolton	0	Gosport	0	Nuneaton and Bedworth	0	Test Valley	0
Boston	0	Gravesham	0	Oadby and Wigston	0	Tewkesbury	0
Bournemouth	0	Great Yarmouth	0	Oldham	0	Thanet	0

Bracknell Forest	0	Greenwich	0	Oxford	0	Three Rivers	0
Bradford	0	Guildford	0	Pendle	0	Thurrock	0
Braintree	0	Hackney	0	Peterborough	0	Tonbridge and Malling	0
Breckland	0	Halton	1	Plymouth	0	Torbay	0
Brent	0	Hambleton	0	Poole	0	Torridge	0
Brentwood	0	Hammersmith and Fulham	0	Portsmouth	0	Tower Hamlets	0
Brighton and Hove	0	Harborough	0	Preston	0	Trafford	0
Bristol, City of	0	Haringey	0	Purbeck	0	Tunbridge Wells	0
Broadland	0	Harlow	0	Reading	0	Uttlesford	0
Bromley	0	Harrogate	0	Redbridge	0	Vale of White Horse	0
Bromsgrove	0	Harrow	0	Redcar and Cleveland	0	Wakefield	0
Broxbourne	0	Hart	0	Redditch	0	Walsall	0
Broxtowe	0	Hartlepool	0	Reigate and Banstead	0	Waltham Forest	0
Burnley	0	Hastings	0	Ribble Valley	0	Wandsworth	0
Bury	0	Havant	0	Richmond upon Thames	0	Warrington	1
Calderdale	0	Havering	0	Richmondshire	0	Warwick	0
Cambridge	0	Herefordshire, County of	0	Rochdale	0	Watford	0
Camden	0	Hertsmere	0	Rochford	0	Waveney	0
Cannock Chase	0	High Peak	0	Rossendale	0	Waverley	0
Canterbury	0	Hillingdon	0	Rother	0	Wealden	0
Carlisle	0	Hinckley and Bosworth	0	Rotherham	0	Wellingborough	0
Castle Point	0	Horsham	0	Rugby	0	Welwyn Hatfield	0
Central Bedfordshire	0	Hounslow	0	Runnymede	0	West Berkshire	0
Charnwood	0	Huntingdonshire	0	Rushcliffe	0	West Devon	0
Chelmsford	0	Hyndburn	0	Rushmoor	0	West Dorset	0
Cheltenham	0	Ipswich	0	Rutland	0	West Lancashire	0
Cherwell	0	Isle of Wight	0	Ryedale	0	West Lindsey	0
Cheshire East	95	Isles of Scilly	0	Salford	0	West Oxfordshire	0
Cheshire West & Chester	1	Islington	0	Sandwell	0	West Somerset	0
Chesterfield	0	Kensington and Chelsea	0	Scarborough	0	Westminster	0

Chichester	0	Kettering	0	Sedgemoor	0	Weymouth and Portland	0
Chiltern	0	King's Lynn and West Norfolk	0	Sefton	0	Wigan	0
Chorley	0	Kingston upon Hull, City of	0	Selby	0	Wiltshire	0
Christchurch	0	Kingston upon Thames	0	Sevenoaks	0	Winchester	0
City of London	0	Kirklees	0	Sheffield	0	Windsor and Maidenhead	0
Colchester	0	Knowsley	0	Shepway	0	Wirral	1
Column Total	0	Lambeth	0	Shropshire	0	Woking	0
Copeland	0	Lancaster	0	Slough	0	Wokingham	0
Corby	0	Leeds	0	Solihull	0	Wolverhampton	0
Cornwall	0	Leicester	0	South Bucks	0	Worcester	0
Cotswold	0	Lewes	0	South Cambridgeshire	0	Worthing	0
County Durham	0	Lewisham	0	South Derbyshire	0	Wychavon	0
Coventry	0	Lichfield	0	South Gloucestershire	0	Wycombe	0
Craven	0	Lincoln	0	South Hams	0	Wyre	0
Crawley	0	Liverpool	0	South Holland	0	Wyre Forest	0
Croydon	0	Luton	0	South Kesteven	0	York	0
Dacorum	0	Maidstone	0	South Lakeland	0	Other areas within:	
Darlington	0	Maldon	0	South Norfolk	0	East	0
Dartford	0	Malvern Hills	0	South Northamptonshire	0	East Midlands	0
Daventry	0	Manchester	0	South Oxfordshire	0	London	0
Derby	0	Mansfield	0	South Ribble	0	North East	0
Derbyshire Dales	0	Medway	0	South Somerset	0	North West	0
Doncaster	0	Melton	0	South Staffordshire	0	South East	0
Dover	0	Mendip	0	South Tyneside	0	South West	0
Dudley	0	Merton	0	Southampton	0	West Midlands	0
Ealing	0	Mid Devon	0	Southend-on-Sea	0	Yorkshire and The Humber	0
East Cambridgeshire	0	Mid Suffolk	0	Southwark	0	Unknown districts in England	0
East Devon	0	Mid Sussex	0	Spelthorne	0	Outside England	0
East Dorset	0	Middlesbrough	0	St Albans	0	TOTAL (must sum to 100%)	

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