

## Taunton Deane Borough Council

At a meeting of Taunton Deane Borough Council held in the John Meikle Room, The Deane House, Belvedere Road, Taunton on 5 October 2010 at 6.30 pm.

**Present** The Mayor (Councillor Horsley)  
The Deputy Mayor (Councillor Brooks)  
Councillors Mrs Allgrove, Beaven, Bowrah, Cavill, Coles, Mrs Copley, Mrs Court-Stenning, Critchard, Denington, D Durdan, Ms Durdan, Farbahi, Mrs Floyd, Gaines, Govier, Guerrier, Hall, Hayward, Henley, Mrs Herbert, C Hill, Mrs Hill, House, Miss James, R Lees, Mrs Lees, Mrs Lewin-Harris, McMahon, Meikle, Mrs Messenger, Morrell, Mullins, Murphy, O'Brien, Prior-Sankey, Slattery, Mrs Smith, P Smith, Mrs Stock-Williams, Stone, Stuart-Thorn, Swaine, Thorne, Watson, Mrs Waymouth, Ms Webber, A Wedderkopp, D Wedderkopp, Mrs Whitmarsh, Williams and Mrs Wilson

Also present : Mrs Anne Elder, Chairman of the Standards Committee.

### 1. **Reflection**

The meeting was opened with a reflection offered by Mr Martin Wall, a member of the Society of Friends.

### 2. **Minutes**

The minutes of the meeting of Taunton Deane Borough Council held on 13 July 2010, copies having been sent to each Member, were signed by the Mayor.

### 3. **Apologies**

Councillors Bishop, Edwards and Paul.

### 4. **Communications**

The Mayor announced that he had almost completed his 310 mile Bicycle Ride in aid of his two charities, Tossing a Star Fish and The Taunton Musical Trust. He had only eight further miles to go and hoped to complete this distance in French Weir Park, Taunton in the morning.

He thanked Councillors for their support.

### 5. **Declarations of Interest**

Councillors Brooks, Govier, Prior-Sankey, Mrs Waymouth and D Wedderkopp declared personal interests as Members of Somerset County Council. Councillor Henley declared personal interests both as a Member of

the Somerset County Council and as an employee of Job Centre Plus. Councillor McMahon declared personal interests both as a Member of the Somerset County Council and as a Director of Southwest One. Councillor Slattery declared a personal interest as an employee of Sedgemoor District Council. Councillor Miss James declared a personal interest as an employee of Viridor. Councillors Mrs Court-Stenning, Mrs Hill, Mrs Smith and Stone declared personal interests as employees of Somerset County Council. Councillors Hayward and Mrs Whitmarsh declared personal interests as the Council's representatives on the Somerset Waste Board. Councillor Mrs Wilson declared a personal interest as an employee of Job Centre Plus. Councillor Mullins declared a personal interest as an employee of EDF Energy. Councillor O'Brien declared a personal interest as one of her clients was involved in recruitment opportunities at Hinkley Point. Councillor Farbahi declared a personal interest as the owner of land at Cotford St Luke. Councillor Watson declared a personal interest as the alternative Director of Southwest One. Councillor D Durdan, as a Member of the Tone Leisure Board, declared a prejudicial interest in the matter covered by Minute No. 7 below and left the room during its consideration. Councillor Williams declared a personal interest in the confidential Recommendation to Council on the basis that his company had previously used the services of the architect named in the report.

#### 6. **Public Question Time**

Mr Brian Haines referred to the proposals to redevelop the Castle Green Area of Taunton, including the public car park. He referred to the online brochure which, in his view appeared to be biased in terms of the way in which the "future" photographs were portrayed and that there was no mention of the financial implications through the loss of car park income and the annual maintenance costs of the proposed new area.

He specifically asked:-

- (1) How did Taunton Deane propose to fund the maintenance of the rebuilt Castle Green when it already could not afford to maintain and repair High Street?
- (2) Did the Council realise that Castle Green Car Park was one of its most popular car parks?
- (3) Why had interested parties in the nearby area not been consulted? Mr Haines added that he had undertaken a survey of 56 businesses himself over the past couple of days. All but one of those businesses had said they were against the closure of the Castle Green Car Park and were angry that they had not been directly consulted.
- (4) Why had users of the car park also not been consulted?
- (5) It appeared that a Government Quango was driving the direction of Taunton without involving the businesses in the area. Why and how had

this lamentable mistake occurred?

As there was almost unanimous opposition by the surrounding businesses to the proposals, Mr Haines asked if Taunton Deane would now:-

- Honestly and fully consult with businesses and property owners in the most affected area?
- Similarly consult with users of the car park? and
- Defer activating the scheme until proper consultations had taken place and been evaluated both as to their user impact and financial implications?

In response Councillor Cavill, the Economic Development and the Arts Portfolio Holder, stated that consultations had been carried out on the redevelopment of Castle Green since the inception of the proposals.

He added that a detailed written response would be prepared to the questions raised by Mr Haines and this would be sent to him in due course.

#### 7. **Debate on the decision to end the Free Swimming Scheme**

Councillor Henley explained that following the Executive's decision to end the Free Swimming Scheme, a petition had been organised by the Liberal Democrat Group which sought the reinstatement of the scheme.

The petition contained more than 1,500 signatures from Taunton Deane residents and, in accordance with Standing Order 16, the request had been received for the matter to be debated at Full Council.

During the course of the debate, Councillor Henley moved that the administration be requested:-

- (1) To honour the views of the Community Scrutiny Committee which had twice voted for the retention of free swimming and the reinstatement of the scheme for both age groups (the over 60's and the under 16's) as soon as possible until 31 March 2011; and
- (2) To consider what types of free swimming schemes could be introduced from April 2011 and work with potential outside partners to deliver these.

Councillor A Wedderkopp seconded this motion.

The mover and seconder of the motion requested that a formal roll call of votes be taken and recorded in the Minutes in accordance with Standing Order 18(2).

The motion was put and was lost, the voting being 25 for and 26 against, as follows:-

**For**

Councillor Brooks  
Councillor Coles  
Councillor Mrs Copley  
Councillor Critchard  
Councillor Farbahi  
Councillor Mrs Floyd  
Councillor Gaines  
Councillor Govier  
Councillor Henley  
Councillor Mrs Hill  
The Mayor (Councillor Horsley)  
Councillor Miss James  
Councillor R Lees  
Councillor Mrs Lees  
Councillor Mrs Messenger  
Councillor Mullins  
Councillor Murphy  
Councillor Prior-Sankey  
Councillor Slattery  
Councillor Mrs Smith  
Councillor P Smith  
Councillor Swaine  
Councillor A Wedderkopp  
Councillor D Wedderkopp  
Councillor Mrs Wilson

**Against**

Councillor Mrs Allgrove  
Councillor Beaven  
Councillor Bowrah  
Councillor Cavill  
Councillor Mrs Court-Stenning  
Councillor Denington  
Councillor Ms Durdan  
Councillor Guerrier  
Councillor Hall  
Councillor Hayward  
Councillor Mrs Herbert  
Councillor C Hill  
Councillor House  
Councillor Mrs Lewin-Harris  
Councillor McMahon  
Councillor Meikle  
Councillor Morrell  
Councillor O'Brien  
Councillor Mrs Stock-Williams  
Councillor Stuart-Thorn  
Councillor Thorne  
Councillor Watson  
Councillor Mrs Waymouth  
Councillor Ms Webber  
Councillor Mrs Whitmarsh  
Councillor Williams

**8. Regulation of Sexual Entertainment Venues**

Considered report previously circulated concerning the proposed adoption of provisions which would introduce an adoptive licensing regime for "sexual entertainment venues".

Currently, the only control over sexual entertainment venues was the requirement to obtain a Premises Licence under the Licensing Act 2003.

No special provisions were made in the 2003 Act for sexual entertainment venues. Therefore, if an application was submitted to the Licensing Authority for a Premises Licence, the authority had to grant the licence, subject to certain mandatory conditions.

If relevant representations were made by interested parties or a responsible authority, then the Licensing Authority could, following a hearing, impose other conditions or reject the application. Even then, under the current regime, it would only be able to do so where such a step was necessary to promote one of the following four licensing objective set out in the Act:-

- Prevention of public nuisance;
- Prevention of crime and disorder;
- Public safety; and
- Protection of children from harm.

Reported that Section 27 of the Policing and Crime Act 2009 had amended the Local Government (Miscellaneous Provisions) Act 1982 by introducing a new category of sex establishment called 'sexual entertainment venue'.

This amendment allowed Local Authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the 1982 Act as was currently the case with sex shops and sex cinemas. Section 27 also gave Local Authorities more powers to control the number and location of lap dancing clubs and similar venues in their area.

These powers were not mandatory and only applied where they were adopted by Local Authorities. Where adopted, these provisions allowed Local Authorities to refuse an application on potentially wider grounds than was initially permitted under the Licensing Act 2003.

If the Council agreed to adopt the amendment, notices specifying the date that the resolution would come into effect would be required to be placed in a local newspaper circulating in the area. The first notice had to be no later than 28 days before the day specified in the resolution for the coming into force of Schedule 3 in Taunton Deane and the notice also had to state the general effect of the Schedule.

**Resolved** that:-

- (1) The amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 be adopted with effect from 3 January 2011;
- (2) Authority be delegated to the Licensing Manager to carry out the necessary advertising to comply with Section 2 of the Local Government (Miscellaneous Provisions) Act 1982;
- (3) The power to licence Sexual Entertainment Venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 be delegated to the Community Services Manager or, in his absence, the Licensing Manager; and
- (4) The power to determine policy and fees for sex establishments licensed under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 be delegated to the Licensing Committee.

## 9. **New Executive Arrangements**

Considered report previously circulated, concerning the provisions in the Local Government and Public Involvement in Health Act 2007 regarding new Executive arrangements for Local Government.

The 2007 Act required every Local Authority to reconsider its existing Executive arrangements and adopt one of only two specific Executive models.

Local Authorities were also required to pass a resolution by 31 December 2010 on which one of the two Executive models would take effect three days after the 2011 elections, which was the timescale required to be complied with.

Taunton Deane Borough currently operated an “old-style” Leader and Cabinet Executive which was one of three Executive models outlined in the Local Government Act 2000.

The 2007 Act now allowed for only two Executive models:-

- Mayor and Cabinet, or
- Leader and Cabinet (the ‘Strong Leader’ model).

Reported that the ‘new’ Leader and Cabinet arrangements provided the closest match with the arrangements that the Council currently operated and provided for an Executive consisting of:-

- a Leader elected by the Council; and
- two or more Councillors (with a maximum of nine) appointed to the Executive by the Leader.

The key differences between the new model and the current arrangements were summarised below:-

- the Leader would be appointed by Full Council for a four year term of office, but the Council would have the ability to remove the Leader by resolution before then – *rather than an annual appointment as was currently the case;*
- the Leader would remain in his/her term of office until the Annual Council meeting after the election where his/her successor would be appointed;
- the Leader would be required to appoint a deputy, for a term of office to run concurrently with the Leader’s term of office (the deputy could be removed by the Leader at any time but, if so, there would have to be a replacement). *There was no requirement presently for the appointment of a Deputy Leader although the Council had always had one.*

The 2007 Act had set out certain requirements which a Local Authority had to satisfy when changing its governance arrangements. If the Council failed to comply with this legislation and make the necessary changes, the Secretary of State would be in a position to impose them.

The Minister for Housing and Local Government, had made it clear that the Coalition Government's view was that Councils did not need to incur any significant expenditure on these requirements. One of the reasons for this was the Government's intention to repeal the 2007 Act in the Localism Bill due to be introduced later in this Parliamentary session. This could mean that any governance model adopted from May 2011 might be further changed within a year or so.

Members noted that if the Council decided that it wished to review its present system to perhaps bring a different model (a Mayor and Cabinet) into effect, then a referendum would need to be held before any steps to implement this change could be taken.

Further reported that the Council had to pass a formal resolution on its governance structure before 31 December 2010. Before doing so, it had to consult the public and other interested persons on the potential models over a period limited to four weeks and produce proposals for a change in governance if this was required.

The timetable for implementation was therefore as follows:-

<b>Date</b>	<b>Action</b>
5 October 2010	Approval for procedure and consultation process
4 week consultation period 1 December 2010	18 October – 19 November 2010 Report to Executive with results of consultation process and recommendations on the two options
14 December 2010	Full Council resolution to adopt new arrangements
5 May 2011	Borough Council Elections
9 May 2011	New Executive arrangements to take effect.

During the discussion of this item, Members indicated that of the two Executive models outlined in the 2007 Act, retention of a Leader and Cabinet would be preferred.

**Resolved** that:-

- (1) The Leader and Cabinet (the 'Strong Leader') model be supported;
- (2) Authority be given to commence the public consultation exercise on the two Executive models in accordance with the timetable set out above;

- (3) Authority be delegated to the Monitoring Officer and the Chairman of the Corporate Governance Committee to agree the wording for the public consultation exercise; and
- (4) A special meeting of Full Council be convened immediately upon the rising of the scheduled Full Council meeting on 14 December 2010, to agree new Executive arrangements and the relevant changes to the Constitution.

10. **Update of various parts of the Constitution**

Submitted report previously circulated, which detailed a number of further proposed changes to the Council's Constitution.

The Council had recently undertaken a Core Council Review to re-structure the Authority to ensure that it was fit for purpose and able to carry out its functions in the future.

As a result of these changes, Part 3 of the Constitution required updating to ensure that it reflected the new structure and that the delegations now sat with the correct Member or officer.

Further reported that a recent Court of Appeal case had illustrated the importance of ensuring that a Council's Constitution complied with the voting procedures set down in the Local Government Act 1972.

This case stated that Councils should not set down different voting principals in their Constitutions to deal with different situations by stating that the vote needed a two thirds majority or by giving a number of votes required.

It was therefore proposed to alter the Constitution to ensure that any decision made was based on a majority of those present and voting.

Also submitted details of a proposed minor change to the Budget and Policy Framework Procedure Rules to ensure that any alternative budget proposals put forward had first been properly costed by the Section 151 Officer.

The changes had been considered and approved by both the Constitutional Sub-Committee and the Corporate Governance Committee.

**Resolved** that the proposed changes to the Constitution as set out in the Appendices 1, 2 and 3 to these minutes be approved.

11. **Recruitment of an independent Member to Taunton Deane Borough Council's Standards Committee**

Reported that following the resignation of Mr Peter Malim OBE from the Standards Committee earlier in the year, three candidates had been interviewed following public advertisement of the vacancy.



From the candidates, Mr Terry Bowditch, who had previously worked for the Audit Commission, had been provisionally invited to join the Standards Committee.

In order to comply with the terms of the Council's Constitution this appointment had to be formally made by Council.

**Resolved** that Mr Terry Bowditch be appointed as an independent Member of the Council's Standards Committee.

12. **Proposals for the Construction of Hinkley Point C**

Submitted for the information of Members the Council's response to EDF Energy's Stage 2 Consultation : Preferred proposals for Hinkley Point C Nuclear Development.

The deadline for submission had been 4 October 2010 and insufficient time had therefore been available for the proposals to be thoroughly scrutinised by Members or to be brought before Full Council for discussion.

As well as including general comments on the proposals the reply, which had been prepared by the Growth and Development Manager, contained individual responses to topics relating to Accommodation, Environmental Issues, Transport Issues, Economic, Employment and Skills Issues and Compensation.

The response had concluded that there were a number of areas where the Stage 2 Consultation proposals had failed to address the impacts and exploit the potential benefits of the proposal on the wider area, and Taunton in particular. Taunton Deane therefore required closer engagement with EDF Energy in order to resolve these inadequacies prior to the Development Consent Order application being submitted.

**Resolved** that the reply submitted to EDF Energy in response to its Hinkley Point C Stage 2 Consultation, be formally ratified.

13. **Recommendations to Council from the Executive and the Corporate Scrutiny Committee**

(a) **Proposed Crime and Disorder Reduction Partnership Merger**

Consideration had recently been given to a proposal to merge the East and West Crime and Disorder Reduction Partnerships (CDRP) into one countywide structure.

The Crime and Disorder Act 1998 had prompted the formation of the Taunton Deane CDRP which sought to tackle crime and disorder and the misuse of drugs.

However, the effects of the Police and Justice Act 2006, which placed significant obligations on single authority CDRPs, had led the Taunton Deane CDRP to informally merge with Sedgemoor and West Somerset CDRPs to form the Safer Somerset West Partnership.

Last year a review of the community safety structures in Somerset had been carried out by the Community Safety Network on behalf of the Safer Communities Group.

One of the recommendations made by the Network was that the Safer Communities Group should become the CDRP for the whole of Somerset as all the statutory agencies already attended this meeting.

The districts had therefore been asked to consider whether they wished to consider merging with the County Council to form one CDRP.

From the Safer Somerset West Partnership, both West Somerset and Sedgemoor District Councils had already agreed to this proposed merger on an informal basis for a period of 12 months.

On the motion of Councillor Mrs Lewin-Harris, it was

**Resolved** that:-

- (1) the proposed merger of the Safer Somerset West Crime and Disorder Reduction Partnership with the Mendip and South Somerset Community Safety Partnership (Somerset East) to form a County-wide Crime and Disorder Reduction Partnership, currently operating as the Safer Communities Group, be agreed and approved; and
- (2) The proposed merger to be on an informal basis for a period of 12 months.

**(b) Budget Strategy**

The Medium Term Financial Plan (MTFP) had predicted significant financial challenges ahead for the Council. This, together with the unprecedented levels of uncertainty on future Coalition Government Grant settlements meant the Council needed to review its approach to budget setting.

A report had therefore been considered by the Corporate Scrutiny Committee at its meeting on 23 September 2010 which proposed to introduce a Budget Strategy that covered a four year period. This would bring new financial flexibility to Councillors within that time period and would refocus limited resources on the priorities of the Council.

Although the forthcoming Comprehensive Spending Review would provide details on the Government's departmental spending cuts, the impact on the Council would not be clear for a while.

The traditional budget setting process needed to be adjusted to support the organisation and allow it to strategically plan budget reductions over the medium term.

Cuts of between 25% and 40% were expected over a four year period and it therefore seemed sensible to start planning for a grant reduction of 40% over that four year period.

Each Manager would be expected to review their spending areas to offer choices as to how savings could be delivered. Whilst some services would be able to deliver savings early, others could require investment to realise the longer term savings. The Council would need to react flexibly to support this approach.

A complete review of the Corporate Strategy would be carried out when the Council's priorities had been identified and finalised in the summer of 2011.

The strategic approach proposed was likely to deliver long term benefits but would not resolve the budget gap for 2011/2012. This meant that a more "traditional" savings plan approach would be required for next year's budget.

On the motion of Councillor Williams, it was

**Resolved** that the proposed Budget Strategy, as endorsed by the Corporate Scrutiny Committee, be approved.

(c) **Changes proposed to Themes 3 (Deane DLO) and 5 (Corporate Management Team and Legal and Democratic Services) of the Core Council Review**

A report had been considered by the Corporate Scrutiny Committee at its meeting on 23 September 2010 concerning proposed changes to Themes 3 (Deane DLO) and 5 (Corporate Management Team (CMT) and Legal and Democratic Services) of the Core Council Review as a direct result of the Budget Strategy Project.

There was an expectation that the Council would need to make savings of between 25% and 40% following receipt of its grant settlement from the Coalition Government. This would require the Council to respond strategically and to make investments, to generate new income streams or to disinvest and make cuts across services.

Following the elections in May 2011, the new administration would be required to set new priorities, each of which, would need a four year plan to reflect the quantum of change required by the Corporate Strategy, priorities and Budget Strategy. This was a significant piece of work that required corporate capacity to deliver.

Full Council had previously agreed a 'twin-track' approach to the transformation of services provided by Deane DLO. This would involve embarking on a procurement process towards full outsourcing of DLO services, alongside the development of an 'internal transformation' option.

A detailed specification, based on current service levels had been agreed which was to have formed the basis for both options.

However, officers had recently reviewed the activity towards outsourcing, in the wider context of the Comprehensive Spending Review and the recommended approach to developing a four year Budget Strategy.

It had been concluded that it would be inappropriate to continue with the outsourcing process at the moment. It was highly likely that in developing the Budget Strategy, changes to the current levels of service provided by the DLO would be made, which would require significant changes to the specification.

It had therefore been suggested that outsourcing should be revisited in the Summer of 2011, once a revised specification for DLO services had been drawn up.

Work would continue on the development of an interim business case for internal transformation. This would be subject to review, in line with any changes to the DLO service specification.

The interim business case would include a range of service improvement measures and savings proposals for inclusion in the 2011/2012 budget. The interim business case would be subject to consultation with staff, UNISON, stakeholders and Members.

It was also proposed that Brendan Cleere, Strategic Director, should be seconded to the DLO to lead the project, with the DLO Project Members' Steering Group overseeing the process of transformation.

Theme 5 contained service areas that had been reviewed and changed before the start of the Core Council Review (CCR).

The CMT review had reduced CMT from nine posts to six posts and the number of personal assistants from four to three. The Legal and Democratic review had replaced the posts of Corporate Governance Director, Legal Services Manager and Democratic Services Manager with a single post of Legal and Democratic Services Manager.

The Budget Strategy work and completion of the DLO review required leadership and significant corporate capacity. For the Council to be successful with these projects, maintain focus on the Corporate Aims, as well as day to day service delivery, it was considered that the same level of capacity as now was required.

CMT would therefore put forward savings plans for the 2011/2012 budget setting and would produce a four year budget plan based on the priorities of the Council following the next local elections.

The Legal and Democratic Services Manager was currently developing a proposal which could deliver a joined up service for all Somerset Local Authorities to opt into.

This model, which followed those used to create the Somerset Waste Partnership and the South West Audit Partnership, could potentially deliver savings and resilience. Rescheduling of the review of Legal and Democratic Services to the four year Budget Strategy would enable these proposals to be sensibly developed as they could not be delivered in time for the 2011/2012 budget setting. In the interim, savings plans would be put forward on the same basis as the remainder of the organisation.

On the motion of Councillor Williams, it was

**Resolved** that the revised approach to both Themes 3 and 5 of the Core Council Review, as endorsed by the Corporate Scrutiny Committee, be approved.

#### 14. **Reports of the Leader of the Council and Executive Councillors**

The following reports were made to the Council on the main items of current and future business.

##### (i) **Leader of the Council (Councillor Williams)**

Councillor Williams's report covered the following topics:-

- Taunton in Bloom;
- Local Enterprise Partnerships;
- Hinkley Point Opportunities;
- Project Taunton;
- Meetings with Community and Business Groups;
- Wellington Issues;
- The Council Budget Situation;
- Somerset College Fashion Show.

##### (ii) **Corporate Resources (Councillor Hall)**

The report from Councillor Hall provided information on the following areas within his portfolio:-

- Corporate Strategy;
- Southwest One;
- Revenues and Benefits;

- Customer Contact;
- Legal and Democratic Services;
- Performance and Client Team.

(iii) **Planning and Transportation (Councillor Edwards)**

The report from Councillor Edwards provided information on the following areas within his portfolio:-

- Regional Spatial Strategy and the Core Strategy;
- Development Management;
- Firepool;
- Affordable Housing;
- Landscape Team;
- Civil Parking Enforcement;
- Solar Photovoltaic Arrays.

(iv) **Community Leadership and Communications (Councillor Mrs Lewin-Harris)**

Councillor Mrs Lewin-Harris presented the Community Leadership and Communications report which focused on the following areas within that portfolio:-

- Local Strategic Partnership;
- Youth Initiatives Fund and Rural Deprivation Fund;
- Grant Finder;
- Annual Policing Awards;
- Communications.

(v) **Economic Development and the Arts (Councillor Cavill)**

The report from Councillor Cavill covered:-

- Economic Development;
- The Co-operative Stores Limited;
- EDF Energy;
- Access to Finance/Grants;
- Arts;
- Taunton Tourist Information Centre;
- Asset Management.
- Local Action for Rural Communities.

(vi) **Environmental Services (Councillor Hayward)**

The report from Councillor Hayward drew attention to developments in the following areas:-

- Environmental Health Teams;

- Crematorium;
- Waste Management;
- Climate Change / Carbon Management.

(vii) **Sports, Parks and Leisure (Councillor Mrs Herbert)**

The report from Councillor Mrs Herbert dealt with activities taking place in the following areas:-

- Parks;
- Community Leisure;
- Play;
- Tone Leisure (Taunton Deane) Limited Activities.

(viii) **Housing Services (Councillor Mrs Court-Stenning)**

Councillor Mrs Court-Stenning submitted her report which drew attention to the following:-

- Housing Property Services Review;
- Affordable Housing;
- Regeneration of Halcon, Taunton;
- Estate Officers;
- Sheltered Housing;
- Somerset West Private Sector Housing Partnership.

15. **Motion – Proposed further pedestrianisation of part of Taunton Town Centre**

Proposed by Councillor Mrs Smith, seconded by Councillor Henley.

This Council deeply regrets the decision of Somerset County Council (SCC) to announce cessation of the plan to possibly pedestrianise North Street/Bridge Street on the completion of the Third Way. It also regrets the halting of the consultation on the four options being considered for a comprehensive town centre pedestrianisation which could have been delivered when the Northern Inner Distribution Road (NIDR) had been built

It notes that this decision could undermine the regeneration of Taunton's Town Centre at a time when there is a danger of losing its competitive edge over Exeter and Bristol as an attraction for retail business and economic development.

This Council also notes that the impact of this unilateral action undermines the basis of the partnership that has served Project Taunton so well. The decision further undermines the relationship between SCC and this Council on highway matters where consultation has always been strength of the goodwill between the two Councils over many years.

This Council notes that the report to the Cabinet Member of the SCC that highway officers have highlighted the risk of more accidents happening if the Third Way happens with no pedestrianisation. They also highlighted the risk to prosperity of the town. These concerns have been raised by professional officers and not politicians and the SCC Cabinet Member has not addressed either of them. We want to know what SCC intends to do about these risks if they are determined to do nothing about pedestrianisation. We also note the total waste of time and money SCC has made of a public consultation.

This Council also notes that the axing of the “temporary” pedestrianisation of North Street/Bridge Street is likely to have a disproportionate cost/benefit effect on the economy of Taunton. It also believes that the temporary pedestrianisation was solely dependent on the completion of the Third Way and not the NIDR.

It therefore requests that the relevant Cabinet Member from SCC be asked to appear before the next meeting of this Council's Community Scrutiny Committee to explain the decision which is going to have such an adverse impact on Taunton's economic development and long term future.

It further asks the Executive of this Council to undertake in conjunction with Project Taunton a consultation process to consider if temporary pedestrianisation of North Street/Bridge Street can be re-instated with the possibility of funding coming from internal sources and Growth Point funds and other forms of finance available.

The motion was put and was lost.

16. **Suspension of Council Procedure Rules**

**Resolved** that Standing Order 29(1) be suspended to allow the meeting to continue for a further 30 minutes.

17. **Exclusion of the Press and Public**

**Resolved** that the press and public be excluded from the meeting for the following item because of the likelihood that exempt information would otherwise be disclosed relating to Clause 3 of Schedule 12A to the Local Government Act, 1972 and the public interest in withholding the information outweighed the public interest in disclosing the information to the public.

18. **Recommendation to the Council**

**Former Nursery Site at Mount Street, Taunton**

A discussion on this recommendation took place. However, following the receipt of detailed amendments to what was being proposed to Members and, taking account of the lateness of the hour, it was resolved that the item be deferred for further consideration at a special meeting of Full Council on a date to be determined.



(Councillor Govier left the meeting at 9.40 pm.)

(The meeting ended at 10.17 pm.)

# **APPENDIX 1**

**PART THREE -**

**RESPONSIBILITY  
FOR  
FUNCTIONS**

## Part 3 Responsibility for Functions

### 1.0 Scheme of Delegations

- 1.1 Legally a local authority depends upon a series of statutes which in some cases give it a power (that is, a discretion,) to do something - or - in others - a duty to carry out that function or service. Each power or duty is often made subject to various limits as to just how it is to be exercised.
- 1.2 Because of this statutory foundation for the work of local councils, it is important that we are always specific as to which statute we are using to achieve our purposes. Unless we make that clear, then it is difficult if not impossible for the community to hold us to account.
- 1.3 Apart from this “what and how”, we also need to say - for transparency and accountability purposes - “who” it is within the Council - that has the power to do something. This means that we must produce a “Delegation Scheme” describing these formal responsibilities.

### 2.0 Who?

- 2.1 To help understand what follows, there are a number of levels of decision-making under our Constitution. Each of these is reflected by the tables which follow later in this section.
- 2.2 First is Full Council itself. Full Council retains a range of higher level decisions - many relating to our overall strategies - or to the setting of our annual budget and of Council Tax. Some of these functions can legally only be undertaken at this highest level. With others, it has been this Council's own choice to do so.
- 2.3 Next is the Executive. The law requires that the great majority of the Council's decision-making must only be carried out by or through the Executive - either meeting together – or, in some cases, on an individual basis. The Act prevents other councillors making such decisions.
- 2.4 Individual Executive Councillors also have decision-making powers delegated to them.
- 2.5 Next comes a group of “regulatory” functions. Broadly, these are roles where the Council has the task of controlling the activities of individuals - often on an application-by-application basis. To deal with these detailed controls, parliament decided that special committees should be retained - outside the Executive. In our case this means we have, for instance, a Planning Committee and a Licensing Committee made up of elected members and which meet in public so as to hear the various opinions expressed about individual cases before them.

- 2.6 The Corporate Governance Committee has certain limited decision-making powers delegated to it by the Council. These powers are described later in Section 4 Appendix 1 Part J
- 2.7 Finally are the officers. The great bulk of day-to-day operational decision-making is delegated by the Council, or the Executive, or the Planning and Licensing Committees to our professional staff. They need these powers so as to enable them to provide the services of the Council in the most economic, efficient and effective way.

### **3.0 What?**

- 3.1 Attached are a number of tables setting out the broad areas of our statutory powers and the activities and functions we are involved in.
- 3.2 Section 1 is a list of those matters which remain either with the Full Council itself for decision or which are within its control - because the law either requires or permits it. The section also shows to whom these powers have been delegated (if at all) - whether to a committee or to an officer.
- 3.3 Section 2 sets out those powers and duties which the law excludes from Executive decision-making - such as planning, licensing and staffing issues. These are listed as delegated to a committee or to an officer with any limits on those delegations also included.
- 3.4 Section 3 lists those powers and duties which are ones which only the Executive can deal with - itself - or through the officers or area or joint committees. This covers the great majority of our powers and duties - with most operational decision-making continuing to be delegated to the Officers.
- 3.5 This part also lists these functions across a series of Portfolios. These reflect the current responsibilities of each of the current members of the Executive for the setting of the overall direction for these services. The extent of these Portfolios can be varied at the discretion of the Leader. The electronic version of this Constitution will describe the current positions.
- 3.6 Section 4 describes the delegation arrangements to the Officers and the individual Executive Councillors. As with our current Delegation Scheme, most of the operational decision-making under these powers and duties is delegated on to the officers.
- 3.7 Section 4 Appendix I Part A sets out the current decisions delegated by the Planning Committee to the Growth and Development Manager or in his absence the Development Management Lead or the Building Control Manager
- 3.8 Section 4 Appendix I Part B describes the similar delegations made by the Licensing Committee to the Community Services Manager or in his absence the Licensing Manager.
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3.9 Section 4 Appendix I Parts C&D set out similar delegations made by the Committee to the Community Services Manager and in his absence the Environmental Health Lead .

3.10 Section 4 Appendix I Part E sets out similar delegations made by the Council

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3.11 Section 4 Appendix I Parts F G H and I describe powers that are only exercisable by Full Council.

3.12 Section 4 Appendix I Part J sets out the powers and duties of the Corporate Governance Committee.

3.13 Section 4 Appendix I Part K sets out the Proper Officers in respect of various Public Health Acts and Regulations.

## Section 1 The Powers of Full Council

- 4.0 The functions statutorily reserved to the Council are set out below in Column 1. Column 2 shows who else is involved - either as having full statutory powers delegated to them or as being the source of a recommendation to full Council.
- 4.1 Where a power is shown as delegated to an officer then that officer shall also have the power to re-delegate that power to another officer of the authority or to refer or remit it to another regulatory body of the Council for it to decide.
- 4.2 Where a regulatory power is shown as delegated to an officer, that power shall include the authority to enforce those regulatory powers using all the formal powers available to the Council under the relevant legislation.
- 4.3 Where a reference to a statutory power is made, then that reference shall include any secondary legislation and to any subsequent consolidating, amending or substituting legislation.

	Function	If delegated - then to whom?
1	To set the " <i>Policy Framework</i> " and the " <i>Budget</i> " within which the Executive must operate. [Both these terms are defined below.]	Council - on the recommendation of the Executive or of the Scrutiny Committees.
2	In a limited range of cases - to make decisions about the discharge of an "executive function". This applies <i>only</i> to those cases where the decision-maker is considering an issue - which is not only:- (a) covered by the Policy Framework or the Budget, but also - (b) where the decision-maker is inclined to make it in a manner which:- <ul style="list-style-type: none"> <li>• would be contrary to that Framework, or</li> <li>• would be contrary to/or not wholly in accordance with the Budget.</li> </ul>	Council - on the recommendation of the Executive, an Executive Councillor or of the Scrutiny Committees.
3	To exercise - through delegated powers - those "regulatory functions" (these are listed in detail at Appendix 1) which must not be within the remit of the Executive:- (a) Development Control; Building Control. <b>Appendix 1 – Part A</b>  (b) Licensing and Registration <b>Appendix 1- Part B</b>	Planning Committee; Growth & Development Manager, Development Management Lead, <a href="#">Building Control Manager</a> , Solicitor to the Council.  The Licensing Committee; Community Services Manager, the Licensing Manager and the Environmental Health Lead Officer

	Function	If delegated - then to whom?
	<p>(c) Food Safety <b>Appendix 1 - Part C</b></p> <p>(d) Health and Safety at Work (this relates only to those functions which the Council exercises <u>other than</u> as employer) <b>Appendix 1 - Part D</b></p> <p>(e) Electoral services <b>Appendix 1 - Part E</b></p> <p>(f) Corporate Governance <b>Appendix 1 - Part J</b></p>	<p>Community Services Manager or Environmental Health Lead</p> <p>Community Services Manager.</p> <p>Electoral Registration Officer and Returning Officer.</p> <p>Monitoring Officer and S151 Officer</p>
	<p>(g) Staffing matters (other than those dealt with in Part 4H of the Constitution - the Standing Orders as to Employment of Officers).</p> <p>(h) Ceremonial and Miscellaneous matters <b>Appendix 1 - Part G</b></p>	<p>Head of Paid Service; the Strategic Directors; Head of HR, the relevant Unit Managers and the Staffing Panel.</p> <p>Council <u>on the recommendation of the Corporate Governance Committee</u>.</p>
4	To agree and/or to make significant changes to the terms of reference of the Planning Committee, the Overview and Scrutiny Committees	Council - on the recommendation of the Overview & Scrutiny Committees or the Planning Committee.
5	To decide on the number of seats to be allocated to each Party Group (or to independent councillors) in accordance with the "proportionality" rules in the Local Government and Housing Act 1989.	Council - on the recommendation of the Monitoring Officer.
6	To agree the arrangements for the appointment of the Head of Paid Service and to note the Appointment Panel's decision	Council - on the recommendation of the relevant Appointments Panel set up for that purpose.
7	To agree the arrangements for the appointment of the Monitoring Officer and the Section 151 Officer and to note the Appointment Panels' decisions.	Council - on the recommendation of the Head of Paid Service.
8	To confirm the dismissal of the Head of Paid Service, the Monitoring Officer or the Section 151 Officer.	Council - at the recommendation of the relevant Disciplinary Panel set up for that purpose and the recommendation of an appointed Independent Person (as referred to in paragraph 6 of the Officer Employment Procedure (Rule 8 - Part 4-H4).
9	To appoint the Leader of the Executive.	Council - on the recommendation of the controlling political group or groups of the Council.
10	To decide on the number of Executive Portfolios which the Leader may allocate.	Council - on the recommendation of the Leader.

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	<b>Function</b>	<b>If delegated - then to whom?</b>
11	To remove the Leader or other members of the Executive.	Council - in accordance with the procedure in Article 7.
12	To adopt the Constitution and to agree any major changes to it.	Council - on the recommendation of the Corporate Governance Committee
13	To approve any application to the Secretary of State in respect of a Housing Land Transfer.	Council - on the recommendation of the Executive.
14	To appoint and dismiss representatives to those outside bodies whose role is <u>not</u> closely linked to an Executive function.	The Legal and Democratic Services Manager - acting on the advice of the relevant Scrutiny Committee.
15	To adopt/modify a Members' Allowances Scheme.	Council - on the recommendation of a Panel of external members.
16	To change the name of the area, to confer the title of Honorary Alderman or the Freedom of the Borough.	Council - on the recommendation of the Leader of the Council
17	To make, amend, revoke, re-enact or adopt bylaws and to promote or oppose the making of local legislation.	Council - on the recommendation of one of the Overview & Scrutiny Committees whose role covers the services affected.
18	To adopt any plan or strategy (whether statutory or non-statutory) which the Council has decided should be undertaken by itself rather than by the Executive.	Council - on the recommendation one of the Scrutiny Committees using the "call-in" mechanism in Part 4E of the Constitution.
19	To deal with any other matters which, by law, must be reserved to Council.	Council <u>on the recommendation of the Monitoring Officer</u>

## 4.2 The Council's Policy Framework

This is defined in Article 4 of the Constitution. It consists of a series of important plans and strategies which form the basis for many of its services. Each is a substantial document in itself which is regularly reviewed and updated. They are not therefore included in this Constitution but current copies are always available at the Deane House.

## 4.3 The Budget

Includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its Capital Expenditure.

4.4 Whilst decisions on the framing of the Budget itself are ones for the full Council, many of the operational issues relating to monitoring and to virement are delegated to either the Executive, to Executive Councillors or to the Officers - subject always to the approval of the Section 151 Officer.



## **Section 2 Regulatory Powers of the Council**

5.0 In order to carry out the Council's "regulatory powers" the following committees be constituted:-

- Planning Committee
- Licensing Committee - from whom individual Licensing Panels are appointed to deal with individual applications
- Staffing Panel - pool of members from whom individual Panels/Sub Committees are drawn as and when necessary in relation to appointment and disciplinary matters
- Corporate Governance Committee

Deleted: - 17 members.

Deleted: - 15 members

Deleted: - 11 members

5.1 The powers and duties of these committees are set out in Appendix 1.

### **Section 3 Executive Powers**

- 6.0 The majority of the decision-making of the Council relates to areas which are defined as “Executive matters” within the law and can therefore only be dealt with via the Executive. This means that:-
- (a) those members who are not “Executive Councillors” cannot make those decisions; [the exception to this general rule is in (f) below];
  - (b) Full Council itself cannot make Executive decisions either;
  - (c) nor can the Overview & Scrutiny Committees;
  - (d) the Executive meeting as a body can do so;
  - (e) so too can individual Executive Councillors - unless the Council has identified a particular power as one which should only be taken by the Executive acting together;
  - (f) area committees can be given delegated powers to take both “Executive” and “non-Executive” decisions - if the Council wants them to;
  - (g) the great majority of operation decision-making within policy and the budget is the responsibility of the officers - through this Delegation Scheme - subject to the limitations included here;
  - (h) the need for both transparency and accountability require that decision-making of this type under the Act must be carefully controlled and recorded and that all councillors together with the press and public have full access to those decisions - not only at the time - but also before and after - they are made;
  - (i) certain types of decisions - “key decisions” have even greater levels of safeguards placed upon them and require (for instance) consultation with the Council’s Review side before being progressed.
- 6.1 This Delegation Scheme has therefore been based on the following features:-
- (a) most day to day operational decision-making powers are delegated to the Council’s officers;
  - (b) the role of the Executive - meeting as a body - has been designed to avoid such operational decisions coming to it unless they are key decisions or are otherwise of real significance across the Council’s services;

- (c) the Executive's major role will be in defining and reviewing the Council's strategies and significant policies and in advising the Council on these matters and as to the Budget;
- (d) where decisions can be made at a lower level, then the Executive will ensure that this Scheme is designed, implemented and modified so as to achieve that purpose;
- (e) before accepting an item for the Executive's agenda, the relevant Executive Councillor, together with the Legal and Democratic Services Manager, will satisfy themselves that the issue could not be otherwise properly dealt with under delegated powers;
- (f) where a matter arises - which involves a range of detailed issues - but is of such significance that it must nevertheless be taken to the Executive - then the Executive Councillor responsible for that service must assess whether the matter is of such urgency that it would not be practicable for the advice to be first obtained from:-
  - (i) the Overview & Scrutiny Committees; or
  - (ii) an officer; or
  - (iii) a committee of the Executive itself.
- (g) so as to make sure that its strategic role is clearly identified and maintained, reports to the Executive will be written in such a form that ensures that:-
  - (i) unnecessary detail is excluded,
  - (ii) policy factors are clearly identified and analysed,
  - (iii) impact upon our Corporate Priorities is identified,
  - (iv) all necessary consultation as to its content has taken place, and
  - (v) the issues for decision by the Executive are justified as ones which could not reasonably be taken elsewhere.

## **Section 4 Delegations to Executive Councillors and Officers**

### **7.1 Principle 1**

The overriding principle upon which the Council's Delegation Scheme is founded is:-

All the Council's statutory powers and duties in relation to the functions and activities (listed in the following table) are delegated to the Executive and from there (as shown) to the Corporate Management Team. Those listed include all such incidental and ancillary powers as are needed in order to carry out those functions together with all statutory powers delegated to the Executive by another Local Authority by virtue of an agreement under the Local Government Acts.

**7.2** The consequent powers to make all operational decisions as to the Council's services are delegated to the Head of Paid Service, to the S.151 Officer and the Monitoring Officer (these are referred to as the "statutory officers"), together with the Strategic Directors and the Theme Managers ( the "Corporate Management Team"), so long as the decision:-

- (a) falls within the Council's Policy Framework; and
- (b) is otherwise within our approved policies; and
- (c) complies with the law, Financial Regulations, Standing Orders, Contract Standing Orders and the other controls within this Constitution; and
- (d) is wholly in accordance with the budget for the current and following year, and
- (e) has not been disapproved by any of the "statutory officers"; and
- (f) has not been the subject of a request from the responsible Executive Councillor for the decision to be remitted to the Executive.

### **7.3 Principle 2**

Even where a statutory power has been delegated, the delegatee still retains a discretion as to how the decision is to be taken. Either:-

- (a) to deal with it him/herself;
- (b) to "remit" the decision - "upwards" (that is - in order to seek endorsement of a proposed decision) - in the case of "executive matters" to the Executive, or in the case of a non-executive matter to the Council or to the Planning Committee or to an Overview & Scrutiny Committee ;
- (c) to further delegate that power;
- (d) to consult others before exercising the power;

- (e) to take the decision jointly with other Executive Councillors or officers.

#### **7.4 Principle 3**

It is expected that, within these delegations, the officers will keep Executive Councillors fully briefed as to the services for which they are responsible and that they will consult with the relevant Executive Councillor on issues where either believe that this is needed. Built upon this foundation, It is anticipated that this will mean that a number of otherwise delegated decisions will, in practice, be taken either by - or in consultation with - the Executive Councillor where s/he believes the matter to be one of particular sensitivity or corporate significance.

#### **7.5 Principle 4**

So as to avoid any misunderstandings as to the exercise of these powers, each member of the Corporate Management Team will agree with the appropriate Executive Councillor a general approach towards the working arrangements they intend to adopt between them as to:-

- (a) service briefing;
- (b) decision-making;
- (c) consultation with the Executive Councillor;
- (d) the scope for joint decisions;
- (e) the way those decisions will be formally recorded.

#### **7.6 Principle 5**

Any further general delegation of specific statutory powers by Corporate Management Team to an officer under Principle 2 shall be made in writing and shall record its extent and any limitations on the exercise of those powers.

A copy of any such delegation shall be provided to the Monitoring Officer who - as "proper officer" - when so required has the duty to formally certify the existence and validity of those statutory powers - in any legal proceedings - or

to sign formal agreements on the Council's behalf giving effect to those decisions.
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**7.7** Within these principles the following table lists the range of functions for which all the Council's statutory powers and duties are delegated to the Executive and thence to the Corporate Management Team. The table shows the current services portfolios, each of which is held by an Executive Councillor as responsible for the overall policy direction for that service. The table also shows the "lead officer" who is primarily responsible for the delivery of that service. Any limits upon the delegations to the officers (other than those listed above) are shown here.

(Note: both the extent of the portfolio held by an Executive Councillor and the identity of the "lead officer" are subject to change at the discretion of the Leader and the Chief Executive respectively. The electronic version of this Constitution will show the position as is then current).

<b>FUNCTION</b>	<b>LEAD OFFICER</b>
<b><i>Leader of the Executive</i></b>	
Chairmanship of the Executive	CHIEF EXECUTIVE (CE)
Advice to Council on overall strategy and core policies	CE
Overall financial corporate management of the Council	Section151 OFFICER (S151) and CE
Budget development and proposals to Council	S151 and CE
Budget monitoring	S151
Review of virement and spending limits	S151
Audit of the Council's financial affairs	CE
Allocation, reallocation and variation, of portfolios to Executive Councillors	CE
Liaison with the Chairs of the Overview & Scrutiny Committees as to programme of policy development and review	CE
The Executive's four months advance programme	CE
Allocating issues not falling within a portfolio to other Members of the Executive	CE
Duties in relation to urgent decisions and the call-in mechanism	CE/MONITORING OFFICER (MO)
Emergency planning	CE
Constitutional issues	CE/MO
<b><i>Communications and Community Leadership</i></b>	
Community leadership	Strategic Director (SD)

FUNCTION	LEAD OFFICER
Area Working	SD
Parish liaison	SD
Support for community groups	SD
Voluntary welfare grants	SD
Crime reduction	SD
Social inclusion	SD
Equal opportunities	SD
Youth	SD
Environmental awareness and strategy	SD
Sustainability	SD
Communications	SD
Public relations	SD

***Economic Development and the Arts***

Economic development	SD
Rural affairs	SD
Tourism	SD
Livestock marketing facility	SD
Taunton Town Centre Company	SD
Wellington Economic Partnership	SD
Shopmobility	SD
Street trading controls	<del>SD</del>
Management of corporate property portfolio	SD
Arts development	SD

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***Environmental Services***

Waste collection and recycling	SD
Health promotion	SD
Land drainage and flood prevention	SD
Waterways	SD
Pest control	SD
Conveniences	SD
Dog wardens	SD
Street sweeping	SD
Environmental Health – policy	SD
Health and Safety - policy	SD
Food Control – policy	SD

<b>FUNCTION</b>	<b>LEAD OFFICER</b>
Licensing – policy	SD
Cemeteries and Crematorium	SD
<b><i>Housing Services</i></b>	
Housing Strategy	SD
Rent rebates/allowances	SD
Homelessness	SD
Property Services	SD
Housing Management	SD
Elderly Services	SD
Lettings and Advice	SD
Housing Act advances	SD
Improvement grants	SD
Housing Standards	SD
Deane DLO	SD
<b><i>Corporate Resources</i></b>	
Deane House Central Support Services	SD
Mayoral support	SD
Civic functions	SD
Democratic Services	SD/MO
Land Charges	SD
E-Government	SD
Freedom of information	SD/MO
Electoral registration	SD/RETURNING OFFICER (RO)
Corporate personnel issues	SD
Information technology	SD
Council tax and benefits	SD
<b><i>Sports Parks and Leisure</i></b>	
Parks and playing fields	SD
Council's leisure facilities	SD
Allotments	SD
Leisure grants	SD
Sports development	SD
Leisure link with Tone Leisure	SD
<b><i>Planning and Transportation</i></b>	
Local/regional planning	SD



FUNCTION	LEAD OFFICER
Countryside	SD
Development Control – policy	SD
Building Control – policy	SD
Transport strategy	SD
Town centre strategy	SD
On and off-street parking - strategy (including DPE and residents' parking)	SD
Community transport	SD
Concessionary travel	SD
Car park operations	SD
CCTV operations	SD

## **APPENDIX 1**

### **POWERS AND DUTIES OF REGULATORY COMMITTEES**

#### **Planning Committee**

Whilst planning policy is an “Executive function”, the process for dealing with individual planning applications (and other development control activities) is “non-Executive”.

In Taunton Deane, these functions have been delegated to a Planning Committee and to the Council’s Development Control Manager.

The current extent of delegation of functions to the Committee and then to the officers is set out below. As these are subject to change, the up to date list of such delegations is to be found on the e-version of this Constitution on the Council’s website

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#### **Part A - Regulatory Powers of Planning/Growth and Development Manager**

## Exceptions to the Officer Delegations

All proposals should be determined under delegated powers other than where one of the six criteria set out below are met.

Criterion 1: In the opinion of the Growth & Development Manager (or Chair of the Planning Committee) the application is considered to be a significant, controversial or sensitive nature.

Criterion 2: The application is from an elected member or member of staff (or partner thereof) and is recommended for approval.

Criterion 3: The application is accompanied by an Environment Statement (EIA).

Criterion 4: The application is a significant departure and is recommended for approval.

Criterion 5: Where there are conflicting views (giving clear planning reasons) from a Town/Parish Council, Parish Meeting or Ward Member as well as from four or more individuals.

Criterion 6: Applications will be delegated to the Growth & Development Manager to refuse if S106 agreements are not signed within 8, 13 or 16 week timescales.

Criterion 7: Discharge of the Council's duty under s91(2) of the Building Act 1984 (enforcement of Building Regulations) in its area shall be delegated to the Building Control Manager.

In addition, any application which is not referred to Committee, but where conflicting representations have been received, is referred to the Chair/Vice Chair of the Planning Committee before a decision is made.

## Licensing Committee

Unless otherwise indicated, the following powers are delegated to the Community Services Manager and in his absence the Licensing Manager.

<b>Part B – Regulatory Powers of Licensing and Registration Functions</b>	
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875 , and section 15 of the Transport Act 1985 ; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.

6.	Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963, <u>as saved for certain purposes by article 3(3)(e) of the Gambling Act order</u>
7.	Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 <u>[as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order].</u>
8.	Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 <u>[as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order].</u>
9.	Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 <u>[as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order].</u>
10.	Power to license premises selling or supplying alcohol; providing regulated entertainment; selling hot food or drinks between 11pm and 5am.	Licensing Act 2003
11.	Power to issue Personal licences.	Licensing Act 2003.
12.	Power to license sex shops and sex cinemas <u>and Sexual Entertainment Licences.</u>	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
13.	Power to license performances of hypnotism.	The Hypnotism Act 1952
14.	Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
15.	Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907
16.	Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982

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17.	Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.
18.	Power to register premises for the preparation of food.	Section 19 of the Food Safety Act 1990.
19.	Power to license motor vehicle salvage <i>operators</i>	Motor Salvage Operators Regulations 2002
20.	Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.
21.	Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970 and 1970; section 1 of the Breeding of Dogs Act 1973 and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
22.	Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925.
23.	Power to license zoos.	Section 1 of the Zoo Licensing Act 1981
24.	Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976
25.	Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999
26.	Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939
27.	Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993

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<b>Part C - Regulatory Powers of Community Services Manager</b>	
1. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994
2. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995
3. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995
4. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993
5. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995
6. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991.
7. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.
8. Power to enforce offences relating to the display of no-smoking signs.,	Section 6(5) of the Health Act 2006
9. Power to enforce offences relating to smoking in smoke free places.	Section 7(4) of the Health Act 2006
10. Power to enforce offences of failing to prevent smoking in smoke-free places	Section 8(4) of the Health Act 2006
Power to transfer enforcement functions to another enforcement authority	Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368)

**Part D - Functions relating to Health and Safety at Work**

Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974
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**Part E - Regulatory Powers of Electoral Registration Officer/Returning Officer**

**Functions relating to Elections**

1.	Duty to appoint an Electoral Registration Officer.	Section 8(2) of the Representation of the People Act 1983
2.	Power to assign officers in relation to requisitions of the Registration Officer.	Section 52(4) of the Representation of the People Act 1983.
3.	Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part.
4.	Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972.
5.	Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.
6.	Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.
7.	Duty to provide assistance at European Parliamentary elections.	Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978
8.	Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.
9.	Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
10.	Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.

11.	Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
12.	Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
13.	Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14.	Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15.	Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.
16.	Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986
17.	Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000

**Parts F G H I - Powers exercisable only by full Council:-**

<b>Part F - Functions relating to name and status of areas and individuals</b>		
1.	Power to change the name of a district.	Section 74 of the Local Government Act 1972.
2.	Power to change the name of a parish.	Section 75 of the Local Government Act 1972.
3.	Power to confer title of Honorary Alderman or to admit to be an Honorary Freeman.	Section 249 of the Local Government Act 1972.
4.	Power to petition for a charter to confer Borough status.	Section 245 of the Local Government Act 1972.

<b>Part G - Miscellaneous functions</b>		
1.	Duty to approve authority's Statement of Accounts,	The Accounts and Audit Regulations 1996



2.	Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972
3	Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.
4.	Power to take decisions about matters such as the creation of parishes and their electoral arrangements	Chapter 3 of Part 4 of the Local Government and Public Involvement in Health Act 2007

**Part H - Power to make, amend, revoke or re-enact byelaws**

Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978

**Part I - Power to promote local Bills.**

Section 239 of the Local Government Act 1972.

**Part J – Powers and Duties of Corporate Governance Committee**

Review and challenge the action plans arising from the Audit Commission's annual management letter.

Oversee the Council's use of risk management

Monitor and review the Council's internal and external audit functions

Review and approve the Statement of Accounts

Monitor and review the Council's systems of internal control

**Part I – Proper Officers under the Public Health Acts**

← - - - Formatted: Centered

Dr K Kumaran, Consultant in Communicable Disease Control, Dorset and Somerset Health Protection Unit;

Dr Mark Salter, Consultant in Communicable Disease Control, Dorset and Somerset Health Protection Unit;

Dr Sue Bennett, Consultant in Communicable Disease Control, and Director, Dorset and Somerset Health Protection Unit;

Dr Faiza Khan, Acting Consultant in Communicable Disease Control, Dorset and Somerset Health Protection Unit

<u>Legislation</u>	<u>Part, Section or Regulations</u>	<u>Effect</u>
<u>Public Health (Control of Disease) Act 1984</u>	<u>Parts II and III</u>	<u>Notifications and control powers for Communicable Diseases</u>
<u>Public Health (Infectious Diseases) Regulations 1988</u>	<u>Regulations 6,8,9,10 Schedules 3 and 4</u>	<u>Additional powers to the above</u>
<u>Public Health Act 1936</u>	<u>Sections 84 and 85</u>	<u>Cleansing of filthy or verminous articles,</u>

Public Health Act 1961      Section 37                      persons or clothing  
Disinfestation of  
verminous articles  
offered for sale

Dr Caroline Gamlin, Joint Director of Public Health, NHS Somerset and Somerset  
County Council; and

Dr Ulrike Harrower, Consultant in Public Health, Somerset Primary Care Trust

<u>Legislation</u>	<u>Part, Section or</u> <u>Regulations</u>	<u>Effect</u>
<u>Public Health (Control of</u> <u>Disease) Act 1984</u>	<u>Parts II and III</u>	<u>Notification and control</u> <u>powers for</u> <u>Communicable</u> <u>Diseases</u>
<u>Public Health (Infectious</u> <u>Diseases) Regulations</u> <u>1988</u>	<u>Regulations 6,8,9,10</u> <u>Schedules 3 and 4</u>	<u>Additional powers to the</u> <u>above</u>
<u>National Assistance Act</u> <u>1948 as amended by</u> <u>the National Assistance</u> <u>(Amendment) Act 1951</u>	<u>Section 47</u>	<u>Removal of persons to</u> <u>suitable accommodation</u> <u>in certain circumstances</u>
<u>Public Health Act 1936</u>	<u>Sections 84 and 85</u>	<u>Cleansing of filthy or</u> <u>verminous articles,</u> <u>persons or clothing</u>
<u>Public Health Act 1961</u>	<u>Section 37</u>	<u>Disinfestation of</u> <u>verminous articles</u> <u>offered for sale.</u>

All of the doctors named above for the purposes of section 35 of the Public Health  
(Control of Disease) Act 1984

## **Article 6 The Executive**

### **6.1 Role**

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### **6.2 Form and composition**

The Executive will consist of the Leader together with eight councillors ("Executive Councillors") appointed to the Executive by the Leader with the agreement of the controlling Party Group or Groups.

### **6.3 Leader**

The Leader will be a councillor elected to that position by the full Council. Subject to the exceptions in Article 6.4 below, the Leader will hold office for twelve months at a time with his or her appointment requiring renewal at each year's Annual Council Meeting.

### **6.4 Term of Office – Exceptions**

Events which will result in the Leader's term of office ending prematurely are:-

- (a) he or she resigns from the office; or
- (b) he or she is suspended from being a councillor (under Part III of the Local Government Act 2000); or
- (c) he or she is no longer a councillor; or
- (d) he or she is removed from office by special resolution of the Council (using the procedure set out in Article 6.8.

### **6.5 Other Executive members**

Other Executive members shall hold office until:-

- (a) the happening of any of the events set out in Article 6.4; or

- (b) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive and to the Executive Councillor. The removal will take effect two working days after receipt of the notice by the Chief Executive.

## **6.6 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

## **6.7 Responsibility for functions**

### **(a) The Executive**

It shall be the function of the Executive meeting together to design and allocate Portfolios to each of their number.

### **(b) The Leader**

It will be the duty of the Leader to:-

- (1) Redefine, clarify and update the list of these Portfolios set out in Part 3 of this Constitution.
- (2) Similarly note the names of those Executive Councillors to whom those portfolios have been allocated by him/her.
- (3) Note those Executive functions which have been similarly allocated to the officers, to any Area Committees or to joint arrangements.

## **6.8 “Special Resolution”**

This is the process referred to in 6.4 and 6.5 above whereby - in exceptional circumstances - the Leader or a member of the Executive may be removed by full Council.

Fourteen days written notice of the intended moving of such a resolution at a Council meeting must be given to the Democratic Services Manager, the Chief Executive, the Leader and to any member of the Executive named in the notice. The notice shall require the signatures of at least one half of the Council.

It shall be placed on the agenda of the next ordinary Council meeting unless an extraordinary council meeting has been requisitioned. The proposal having been debated, shall be voted upon. It shall be approved by the full council with a majority of the members of the Authority present and voting at the meeting. If approved:-

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**Deleted:** require the votes of more than one half of the membership of the Council (that is, the votes of at least 29 councillors) to be approved.

- (a) a proposal shall be immediately laid before the same Council meeting as to the appointment of a new Leader; and
- (b) such a proposal shall require a simple majority, and if passed;
- (c) the change of Leadership shall take effect immediately on the passing of that resolution.

## **Appendix 2**

### **Article 15      Review and Revision of the Constitution**

#### **15.1    Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution and submit reports when necessary to the Constitutional Sub-Committee to ensure that the aims and principles of the Constitution are given full effect.

#### **15.2    Changes to the Constitution**

(a)    **Approval**

Subject to paragraph (b) below, changes to the Constitution will be approved by the full Council with a majority of the members of the Authority present and voting at the meeting. after consideration of the proposal by the Constitutional sub- Committee

(b)    **Minor Changes**

Detailed changes of a limited significance (as agreed by the Monitoring Officer) to Parts 3-8 of this Constitution may be agreed by the Chairman of the Constitutional sub- Committee. Such minor changes will be notified to all councillors and updates of the full Constitution will be circulated to members annually.

# Appendix 3

## 4 Disagreements as to the Budget

- (a) The procedures set out in section 3 above shall also apply to disagreements which may arise between the Executive and full Council as to the Budget.
- (b) For the purposes of this section the Budget means the proposals which the Executive submits to full Council in February/March of each year as to various estimates, amounts, calculations and precepts relating to the Council's financial plans and requirements for the following financial year.
- (c) Where the Executive submits its Budget to full Council before 8<sup>th</sup> February in any financial year then the mechanism set out in section 3 (above which limits the full Council's powers to object to an Executive proposal) shall also apply to those Budget recommendations from the Executive. This should be done by substituting the word 'Budget' for 'plan' each time it occurs in section 3 and by making any other necessary consequential amendments.
- (d) Where (as is the norm) the Executive submits its Budget proposals to full Council on or after 8<sup>th</sup> February then those limits on full Council's powers shall not apply. In those circumstances full Council shall, at its Council Tax setting meeting, have the unrestricted right to approve, amend or to reject the proposals from the Executive - subject always to the statutory duty of the Council to set the level of Council Tax by 11<sup>th</sup> March in any year - as required by the Local Government Finance Act 1992.
- (e) A decision by full Council which complies with the above procedure shall require only a simple majority of votes cast at that meeting and shall take effect immediately.
- (f) In approving the Budget, the Council will also specify any changes it wishes to make to the currently approved extent of virement within the Budget which may be undertaken without reference to full Council.
- (g) The Section 151 Officer shall at each stage of the budgetary process, have the right to comment upon budget proposals and any substantive changes intended to be made to them before any such decision has been put to the vote. All budget amendments shall be costed by the s151 Officer.