



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE CABINET

WEDNESDAY 7TH NOVEMBER 2012 AT 6.00 P.M.

THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors R. Hollingworth (Leader), Mrs. M. A. Sherrey JP (Deputy Leader), Dr. D. W. P. Booth JP, M. A. Bullivant, C. B. Taylor and M. J. A. Webb

AGENDA

1. To receive apologies for absence
2. Declarations of Interest
3. To confirm the accuracy of the minutes of the meeting of the Cabinet held on 3rd October 2012 (Pages 1 - 6)
4. Minutes of the meeting of the Audit Board held on 20th September 2012 (Pages 7 - 12)
 - (a) To receive and note the minutes
 - (b) To consider any recommendations contained within the minutes
5. Minutes of the meeting of the Worcestershire Shared Services Joint Committee held on 27th September 2012 (Pages 13 - 18)
 - (a) To receive and note the minutes
 - (b) To consider any recommendations contained within the minutes
6. Minutes of the meeting of the Shared Services Board held on 11th October 2012 (Pages 19 - 22)
 - (a) To receive and note the minutes
 - (b) To consider any recommendations contained within the minutes

7. Minutes of the meeting of the Overview and Scrutiny Board held on 22nd October 2012 (to follow)
 - (a) To receive and note the minutes
 - (b) To consider any recommendations contained within the minutes
8. To receive a recommendation from the Licensing Committee held on 29th October 2012 relating to a Revised Statement of Gambling Principles (to follow)
9. To receive verbal updates from the Leader and/or other Cabinet Members on any recent meetings attended in an ex-officio capacity (Pages 23 - 24)
10. Pre Planning Application Policy (Pages 25 - 52)
11. Bromsgrove Monument (Pages 53 - 56)
12. Housing Strategy Options and Initiatives (Pages 57 - 68)
13. The Localism Act - Changes to Access to Information Rules (Pages 69 - 86)
14. Community Right to Bid - Assets of Community Value (Pages 87 - 98)
15. Neighbourhood Planning (Pages 99 - 112)
16. Contribution to NewStarts Vehicle (Pages 113 - 116)
17. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

30th October 2012

Agenda Item 3

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE CABINET

WEDNESDAY, 3RD OCTOBER 2012 AT 6.00 P.M.

PRESENT: Councillors R. Hollingworth (Leader), Mrs. M. A. Sherrey JP (Deputy Leader), Dr. D. W. P. Booth JP, M. A. Bullivant, C. B. Taylor and M. J. A. Webb

Observers: Councillors S. R. Colella and P. M. McDonald.

Officers: Mr. K. Dicks, Mr. J. Staniland, Ms. D. Poole, Mr. G. Revans, Ms. S. Morgan, Mrs. S. Sellers, Mr. D. Allen, Ms. T. Beech, Mr. M. Bough and Ms. R. Cole.

53/12 **APOLOGIES**

No apologies for absence were received.

54/12 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

55/12 **MINUTES**

The minutes of the meetings of the Cabinet held on 5th September 2012 and 26th September 2012 were submitted.

RESOLVED that the minutes be approved as a correct record in each case.

56/12 **OVERVIEW AND SCRUTINY BOARD**

The minutes of the meeting of the Overview and Scrutiny Board held on 10th September 2012 were submitted.

RESOLVED that the minutes be noted.

57/12 **AUDIT BOARD**

It was noted that the minutes of the meeting of the Audit Board held on 20th September 2012 would be considered at the next meeting of the Cabinet.

58/12 **PROPOSED REVISED ARRANGEMENTS FOR PERFORMANCE REPORTING**

The Head of Business Transformation gave a short presentation on the future of Performance Reporting.

The presentation included a brief overview of work undertaken on Transformation which was part of the Shared Services process. Members were reminded that performance measures, which emerged from the Transformation process within service areas, rather than imposed performance targets would be used in future to improve performance.

It was intended that operational measures would be considered on a monthly basis by the Corporate Management Team, with strategic measures being reported quarterly to Members via the Cabinet and the Overview and Scrutiny Board. The role of Members was crucial if systems were to be well managed, with Portfolio Holders in particular being required to work with officers to utilise measures to understand and improve systems.

It was noted that for a transitional period the Performance Reports would be a combination of new measures and some retained performance indicators. New measures would emerge (with some being deleted if they were no longer appropriate) and would be illustrated by a variety of charts and graphs. Whilst the reports would still be in paper form initially, eventually a dashboard of key measures would be available centrally with access for all. A key issue would be that Performance information would be available in "real time" so that issues could be addressed by Members and officers as they occurred rather than on a retrospective basis.

The Cabinet expressed support for the proposals and felt it was important that all Members had the opportunity to understand the new arrangements. It was noted that a similar presentation would be given to the Overview and Scrutiny Board and that training and support would be provided for Members. As stated above whilst there would be paper based reports for a period, eventually the information would be provided in "real time" and Members would need to access this electronically. It was intended to provide additional internet facilities in the Members' Room to assist any Members who were not easily able to access the information.

The Leader then thanked the Head of Business Transformation for her presentation.

59/12 **TENANCY STRATEGY 2012-2014**

The Cabinet considered a report on a proposed Tenancy Strategy for Bromsgrove which the Local Authority had a duty to publish by 15th January 2013 under the Localism Act 2011.

It was reported that the Strategy had been developed in close consultation with Registered Providers of Social Housing, stakeholders and Members. The Strategy contained details of the matters to which Registered Providers must have regard when formulating their own Tenancy Policies in relation to issues such as the types and lengths of tenancies they would grant and how disposals of stock should be managed.

Members raised a number of issues, including the need to ensure boats were included in the exclusion list in paragraph 5.40 of the document, in relation to

the determination of a Local Connection. It was felt that the document would provide enough flexibility for both this Authority and the Registered Providers in relation to tenancy issues and making the best use of limited stock.

The Cabinet thanked the Strategic Housing and Enabling Officer, Ms. A. Glennie for the work she had undertaken on the Strategy.

RESOLVED that the Bromsgrove District Council Tenancy Strategy as set out in Appendix A to the report be approved.

60/12 **DISABLED PARKING REVIEW (INCLUDING BLUE BADGE HOLDERS)**

The Cabinet considered a report on a Review which had been undertaken in relation to the use of Council car parks by Blue Badge holders. This had been as part of an investigation into the possibility of granting free parking to disabled users.

The Portfolio Holder Councillor M. J. A. Webb explained in detail the background to the report and the work which had been undertaken by the cross party working group, which had consisted of Members and officers, to obtain accurate data on the level of use of the car parks by Blue Badge holders.

By using a variety of data including on site surveys it had been determined that for budget purposes it was reasonable to assume the annual revenue generated by disabled parking bays to be approximately £50,000 per annum.

It was reported that in order to take into account the views of disabled users of the service when considering the options available, meetings had taken place with community members and groups representing disabled people. In addition, in July 2012 a detailed survey had been sent to over 1200 Blue Badge holders. It was noted that at the time of the survey it had not been possible to access the Worcestershire County Council Blue Badge holder data base due to data protection issues, although it was hoped these issues had now been resolved. The survey had also been publicised through the local press and the Council's website.

The response to the survey had been very good with 474 responses being received. The survey had been designed to obtain views on all aspects of Blue Badge parking including location of spaces, ease of use of the service and cost issues.

Councillor Webb then outlined the results of the survey which he felt in some instances had been unexpected and contrary to generally held beliefs. In particular he highlighted that only 19 respondents had ever used the "BURT" bus, whilst 26% of respondents were not aware of the additional free hour offered to Blue Badge Holders. In addition the vast majority of respondents stated that they felt the car park spaces and the location of the pay machines were suitable and that the pay machines were easy to use. Whilst 46% stated that the cost of parking in Bromsgrove meant they shopped elsewhere, the majority of these gave Redditch as an alternative where a charge was also

made for parking by Blue Badge holders. From the answers given to other questions it appeared that the quality/numbers of shops available was also a key factor.

Councillor Webb drew Members' attention to the options outlined in the report and reminded Cabinet that separately from this exercise, a full review of all aspects of the operation of the car park service was underway. In addition the regeneration of the Town Centre would also impact greatly on car parking and would be likely to attract more people to use the car parks. It was felt that there was a need to fully publicise and promote the facility for Blue Badge Holders to have an additional hour's parking free of charge. This would be particularly effective if it was to be publicised as part of the information distributed when new or replacement Blue Badges were being issued.

Following discussion it was

RESOLVED:

- (a) that there be no change to the current arrangements in respect of car parking for Blue Badge holders, but that the facility of the additional hour of free parking be actively promoted and fully publicised; and
- (b) that following the active promotion referred to above, a further survey be undertaken to assess the needs of Blue Badge holders and that the timing of this be agreed between the Head of Environmental Services and the Portfolio Holder, in the light of the regeneration of the Town Centre and the on going review of the car park service as a whole.

61/12 **VERBAL UPDATES FROM THE LEADER AND/OR OTHER CABINET MEMBERS ON ANY RECENT MEETINGS ATTENDED IN AN EX-OFFICIO CAPACITY**

Councillor Mrs. M. A. Sherrey reported that she had recently attended the Bromsgrove Sports Awards and the High Five Awards together with the Older People's Day event.

Councillor M. A. Bullivant reported that he had also recently attended the Older People's Day event together with the Bromsgrove "No Barriers" Award event.

62/12 **BELBROUGHTON CONSERVATION AREA APPRAISAL AND MANAGEMENT PLAN**

The Cabinet considered a report on the proposed revision to the boundaries of the Belbroughton Conservation Area and associated Management Plan.

Members felt that this was a useful document which should assist with protection of the area within the planning process. It was noted that there had been a public consultation in respect of the document.

RESOLVED that the Belbroughton Conservation Area Appraisal and Management Plan, including boundary amendments, be approved and the

contents thereof be endorsed as a material consideration for planning purposes.

63/12 **LANDSCAPE CHARACTER ASSESSMENT SUPPLEMENTARY GUIDANCE 2012**

The Cabinet considered a report on The Landscape Character Assessment Supplementary Guidance which had been produced by Landscape Officers at Worcestershire County Council to aid interpretation of the Landscape Character Assessment. It was noted that the document was to be considered by all District Councils within Worcestershire.

RESOLVED that the Landscape Character Assessment Supplementary Guidance, attached as Appendix A to the report, be approved as a material consideration for planning purposes to aid the interpretation of Landscape Character when planning issues are considered.

64/12 **TOWNSCAPE HERITAGE INITIATIVE**

(The Leader agreed to the consideration of this item of business as a matter of urgency as a decision was required prior to the next meeting of the Cabinet).

Members were reminded that in April 2010 the Council had provisionally been awarded £1.2m from the Heritage Lottery Fund to operate a Town Heritage Initiative in Bromsgrove Town Centre Conservation Area. Following this, in April 2012 a second round bid had been submitted containing additional detail on the Conservation area and how the funding would be utilised to add lasting improvements and historic value to the area and it was reported that this bid had now been approved by the Heritage Lottery Fund.

It was reported that in order for the grant arrangements to be finalised, the Heritage Lottery Fund required a formal resolution from the Cabinet.

RESOLVED:

- (a) that the successful outcome of the Townscape Heritage Initiative application together with the award of a grant of up to £1.2m in respect of the funding of improvements in the Bromsgrove Town Centre Conservation Area be noted with pleasure; and
- (b) that the terms of the grant comprising the Standard Terms of Grant (attached as Appendix 1 to the report), the additional conditions set out in the formal Heritage lottery Fund offer letter (attached as Appendix 2 to the report) and the Heritage Lottery Fund document "Managing your Grant"(attached as Appendix 3 to the report) be accepted.

65/12 **LOCAL GOVERNMENT ACT 1972**

That under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the item of business the subject of the following minute on the grounds that it involves the disclosure of "Exempt Information" as defined in Part 1 of Schedule 12A of the

Act the relevant paragraph of that part being as set out below and that it is in the public interest to do so.

<u>Minute No</u>	<u>Paragraph</u>
66/12	3

66/12 **DISPOSAL OF COUNCIL ASSETS AT HANOVER STREET CAR PARK AND GEORGE HOUSE**

The Cabinet considered a report giving an update on the marketing exercise previously agreed in relation to the disposal of Council owned assets at Hanover Street Car Park and George House, Bromsgrove.

Members discussed the detail of the report and had particular regard to the strategic importance of the development of the site in the regeneration of the Town Centre.

RESOLVED:

- (a) that the contents of the report be noted;
- (b) that the long-term lease of the freehold land at Hanover Street Car Park and George House to the developer for the sum set out in the report be approved, subject to the confirmation by the District Valuer that the consideration is equivalent to or exceeds the commercial value of the land;
- (c) that the arrangements for the management of the car park spaces at the site including the Council managing the car park on the basis that the income from the parking spaces will be retained by the Authority, be approved; and
- (d) that delegated authority be granted to the Executive Director (Planning and Regeneration, Regulatory and Housing Services) in consultation with the Portfolio Holder and the Executive Director (Finance and Corporate Resources) to agree the final terms for the disposal of the land with the developer and to enter into the necessary legal documents required for the purposes of implementing (b) and (c) above.

The meeting closed at 8.00 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE AUDIT BOARD

THURSDAY, 20TH SEPTEMBER 2012 AT 6.00 P.M.

PRESENT: Councillors L. C. R. Mallett (Chairman), J. S. Brogan (Vice-Chairman), Ms. M. T. Buxton, Dr. B. T. Cooper, Miss P. A. Harrison (during Minute No's 16/12 to part of 22/12) and Mrs. H. J. Jones

Officers: Ms. J. Pickering, Mr. A. Bromage and Mrs. P. Ross

16/12 **APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor S. J. Dudley

17/12 **DECLARATIONS OF INTEREST**

The following declarations of interest were made:

Item 7 – Audits in Progress as at 31st March 2012, Parks and Open Spaces (Fieldwork stage)

Councillors L. C. R. Mallett and Ms. M. T. Buxton each declared an other disclosable interest as ward members for Whitford, ward area for Sanders Park and that Councillor L. C. R. Mallett had been involved in a number of projects for Sanders Park.

18/12 **MINUTES**

The Minutes of the meeting of the Audit Board held on 21st June 2012 were submitted.

RESOLVED that the minutes be approved as a correct record.

19/12 **CORPORATE RISK REGISTER**

The Board considered a report which detailed the Corporate Risk Register and the current arrangements for risk management within the Council.

The Executive Director, Finance and Corporate Resources introduced the report and in doing so informed Members that the Corporate Risk Register, as detailed at Appendix 1 to the report, had been developed and agreed by the Corporate Management Team following consideration of potential risks that could affect the Council.

Members were further informed that officers were currently developing Departmental Risk Registers and that key issues on the Corporate Risk Register and Departmental Risk Registers would be reported back to the Board on a quarterly basis. Following further discussion it was agreed that the high level actions on Departmental Risk Registers would be included within the quarterly reports for discussion, with the detailed Departmental Risk Registers provided for information periodically.

The Executive Director, Finance and Corporate Resources responded to Members' questions with regard to the six Corporate Risks identified and the scoring methodology. Following further discussion the Executive Director, Finance and Corporate Resources was tasked with taking the comments of the Board and the additional risks identified, to be included within the Corporate Risk Register back to the Corporate Management Team as follows:

- Members had expressed concern with regard to the Likelihood score of 1, Low, for the following:
 - Corporate Risk Reference 3 – Failure to realise the potential benefits of implementing shared services
 - Corporate Risk Reference 4 – Failure to develop a vibrant Town Centre
 - Corporate Risk Reference 5 – Impact on the Council of a change in political direction. Do ongoing and regular discussions with all members and more specifically Group Leaders take place?
- Include the following within the Corporate Risk Register:
 - Safeguarding the Council's reputation (reputational risk, treasury management, ombudsman and complaints)
 - Fraud
 - Further reduced funding from government

The Executive Director, Finance and Corporate Resources in response to Councillor Dr. B. T. Cooper confirmed that officers did undertake regular training to support future business continuity events.

RESOLVED:

- (a) that, subject to the comments and additional risks identified in the preamble above, the Corporate Risk Register be noted, and
- (b) that the Audit Board Work Programme be updated to include Corporate Risk Register and the high level actions from Departmental Risk Registers quarterly reports, with the Departmental Risk Registers to include a frontline service and a support service register. Detailed Departmental Risk Registers to be provided for information periodically.

20/12 **AUDIT BOARD WORK PROGRAMME 2012 / 2013**

The Board considered the Work Programme for 2012/2013.

It was noted that the Audit Board no longer received the Statement of Accounts. The Executive Director, Finance and Corporate Resources informed the Board that since 2010 / 2011 the Statement of Accounts were presented at Cabinet, but she considered it would be useful for the Board to receive the Audit Commission Annual Governance report at the next meeting of the Board.

RESOLVED that the Work Programme be updated to include the items discussed and agreed by the Board during the course of the meeting.

21/12 **EXCLUSION OF THE PUBLIC**

The Board considered whether or not to exclude the public from the meeting for the consideration of Agenda Item No. 7; The Internal Audit Monitoring Report of the Acting Shared Service Manager of the Worcestershire Internal Audit Shared Service. The Acting Shared Service Manager had provided a combined report and the Chairman advised that the Board had considered whether the public interest in maintaining the exemption outweighed the public interest in disclosing the information, which the Board agreed it did not.

RESOLVED that the public not be excluded from the meeting during the consideration of Agenda Item No. 7, Monitoring report of internal audit work and performance as at 31st August 2012, pages 13 to 20, and that this part of the report be placed in the public domain.

22/12 **INTERNAL AUDIT MONITORING REPORT (PAGES 13 TO 20)**

Mr. A. Bromage, Worcestershire Internal Audit Shared Service, Acting Audit Manager presented the report and in doing so informed Members that individual reports would be presented to future meetings of the Board and as agreed, further completed audits would be presented to the next meeting of the Audit Board.

The Acting Audit Manager further informed Members that, as agreed at the meeting held on 21st June 2012, the Management of Data audit would be included in the 2012 / 2013 Audit Plan as part of the Governance audit.

Audits in progress as at 31st August 2012

The following audits had now been completed and would be presented to the next meeting of the Board:

- Asset Management 2011-12
- Street Scene
- Parks and Open Spaces

The Acting Audit Manager and the Executive Director, Finance and Corporate Resources responded to Members' questions with regard to the Asset Management 2011-2012 audit and the updating of acquisition and disposals on the Finance Asset Register.

Audit Days

The Acting Audit Manager responded to Members' concerns with regard to the total of 78 days that had been delivered against a target of 300 days for 2012 / 2013. He informed Members that work was still to be carried out for quarter 2 and as detailed at Appendix 1 to the report the Core Financial Systems would be audited in quarters 3 and 4 which would account for almost a third of the plan. Work was still continuing on quarter 2 so this would not be reflected in the figures.

The Acting Audit Manager responded to the Chairman with regard to the Lead Auditor leaving the service and the potential impact this would have on the service for Bromsgrove. The Acting Audit Manager informed Members that whenever there was a natural turnover the delivery of the service was re-assessed in respect of its effectiveness and efficiency. He reassured Members that the audit team were now essentially resourced in order to deliver the audit plan in full for this year, and that the service was currently delivering more in comparison to the previous year.

The Executive Director, Finance and Corporate Resources informed the Board that she had raised her concerns with the Acting Audit Manager in respect of the delivery of the audit plan 2012/2013 and that she now felt more assured with the delivery of the audit plan.

The Acting Audit Manager responded to Members' questions with regard to the potential of natural turnover and a possible shortage of staff. Members were informed that any staff shortage due to natural turnover would be covered with agency staff and that additional costs would be met within the overall budget already set; there would be no additional cost implications.

RESOLVED that the monitoring report of internal audit work and performance as at 31st August 2012 (pages 13 to 20), be noted.

RECOMMENDATION that Cabinet be made aware of the concerns raised by the Board in respect of the delivery of the Internal Audit Plan 2012 / 2013.

23/12 **LOCAL GOVERNMENT ACT 1972**

“RESOLVED that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item of business of the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, as amended, the relevant paragraph of that part being as set out below, and that it is in the public interest to do so:-

<u>Minute No.</u>	<u>Paragraph</u>	
24	7	
25	7	“

24/12 **INTERNAL AUDIT MONITORING REPORT (PAGES 21 TO 42)**

The Board considered a report which detailed the monitoring report of internal audit work and performance as at 31st March 2012, pages 21 to 42 and provided an update on Protecting the Public Purse checklist.

Mr. A. Bromage, Worcestershire Internal Audit Shared Service, Acting Audit Manager presented the report and in doing so informed Members that individual reports would be presented to future meetings of the Board and as agreed, further completed audits would be presented at the next meeting of the Board.

The Acting Audit Manager further informed Members that, as agreed at the Audit Board meeting held on 21st June 2012, the Management of Data audit would be included in the 2012 / 2013 Audit Plan as part of the Governance audit.

Following further discussion on one of the audits being put on hold, Members requested that the Executive Director, Finance and Corporate Resources obtain further detailed information with regard to the reasons the audit was put on hold and report back to the Board.

The Acting Audit Manager responded to Members' questions with regard to the final Internal Audit Report for Worcestershire Regulatory Services and the Audit Opinion and Executive Summary as detailed in the report.

The Executive Director, Finance and Corporate Resources responded to Members' questions with regard to Performance Indicators and Contracts Register, as detailed at Appendix 4 to the report. Members were assured that each department were aware of contracts held and therefore there was no potential risk to budgets.

Protecting the Public Purse

The Acting Audit Manager presented the completed self assessment checklist as requested during the Audit Board meeting on 21st June 2012. The Acting Audit Manager informed Members that in order to provide assurance to the Board the checklist item was identified, a comment made and evidence shown in order to determine how the decision was determined. Members were informed that item 9 should show 'Yes' in column two.

RESOLVED:

- (a) the Executive Director, Finance and Corporate Resources be tasked to check that Managers follow the 'due process' with regard to contracts entered into and that the Legal Services Team see all contracts entered into. The findings to be reported back to a future meeting of the Audit Board; and
- (b) that the Executive Director, Finance and Corporate Resources and Acting Audit Manager be tasked to provide further clarification with Heads of Service on the questions raised with regard to the following items and report back to the next meeting of the Board:

- Item 17 – Housing Tenancy
 - Item 21 – Recruitment; and
- (c) that the monitoring report of internal audit work and performance as at 31st August 2012 (pages 21 to 42), be noted.

25/12 **FRAUD INVESTIGATION - VERBAL UPDATE**

(The Chairman agreed that this matter be raised as an urgent item, in light of further information received by the Executive Director, Finance and Corporate Resources).

The Executive Director, Finance and Corporate Resources provided Members with a further verbal update on the one case referred to in the Corporate Anti-Fraud Performance Report 2010/2011.

RESOLVED:

- (a) that the current and final position be noted and that the lessons learnt be noted by the Senior Management Team with regard to this investigation; and
- (b) that any future decisions with regard to potential Fraud Investigations be made by the Chief Executive, Bromsgrove District Council and Redditch Borough Council and the Section 151 Officer.

The meeting closed at 7.20 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

WORCESTERSHIRE REGULATORY SERVICES

MEETING OF THE WORCESTERSHIRE SHARED SERVICES JOINT COMMITTEE

THURSDAY, 27TH SEPTEMBER 2012 AT 5.30 P.M.

PRESENT: Councillors M. Hart (Chairman), D. Thain (Vice-Chairman, during Minute No's 18/12 to 24/12), M. A. Bullivant, C. B. Taylor, Mrs. B. Behan, D. Hughes, Mrs. P. Witherspoon, R. Hill, Mrs. L. Hodgson, A. N. Blagg, Mrs. E. Stokes and P. Harrison

Observers: Mr. V. Allison, Deputy Managing Director, Wychavon District Council

Officers: Mr. S. Jorden, Mrs. S. Sellers, Mr. M. Kay and Mrs. P. Ross

15/12 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors M. Braley, Redditch Borough Council, P. Mould, Redditch Borough Council, J. Riaz, Worcester City Council and K. Jennings, Wychavon District Council.

16/12 DECLARATIONS OF INTEREST

No declarations of interest were received.

17/12 MINUTES

The minutes of the meetings of the Worcestershire Shared Services Joint Committee held on 28th June 2012 and 11th July 2012 were submitted.

RESOLVED that the minutes be approved as a correct record.

18/12 WORCESTERSHIRE REGULATORY SERVICES GROWTH POTENTIAL

The Committee considered a preliminary report which detailed opportunities to explore potential growth for Worcestershire Regulatory Services.

The Head of Worcestershire Regulatory Services (WRS) introduced the report and in doing so informed the Committee that WRS were well aware of the implications of the next Government settlement (2014/2015 onwards) and the significant impact this was likely to have on local authority finance. Members were informed that an options report on the likely impact of further cuts to the budget (5%, 10%, and 15%) in 2014/2015 would be presented to the next meeting of the Joint Committee.

The creation of WRS had helped the seven participating authorities to reduce costs whilst maintaining resilience. In light of the uncertainty of the financial settlement that would be available to Local Government from 2013/2014, WRS had developed two strategies, as detailed in the report.

There was an opportunity to grow the business in such a way that growth would deliver benefits for the original partners. WRS had had discussions with five Local Authorities, as detailed in the report, to gauge interest in either joining the partnership or outsourcing their services to WRS. WRS were also looking at the feasibility of working with a wider range of partners to establish a regional Animal Health team and metrology. The Head of WRS highlighted that WRS were currently looking at the feasibility of these opportunities and that these discussions were still at an early stage. A report detailing potential business models would be presented to the Joint Committee early in 2013. It was clear that there were real opportunities for WRS to grow the business in a way that would generate an income for partners and help offset the WRS budget.

The Head of WRS advised Members that in order to maximise these opportunities it had become clear during the preliminary discussions that a review of the current governance arrangements would need to be undertaken to support a different business model.

The Head of WRS responded to Members' questions with regard to:

- Founder Members being treated as preference shareholders
- Business Model options
- Financial analysis of opportunities
- Profit sharing amongst the core partners
- Would WRS consider opportunities to enter into the private sector?

Councillor Mrs. B. Behan, Malvern Hills District Council expressed reservations in respect of the governance arrangements and how would this impact on Bromsgrove District Council as the host authority. The service had already been pared back to make savings and the service was currently operating on a slim field of operators, had staff been trained or would staff be trained if additional services were undertaken for other authorities. She was not opposed to it, but was worried. She also expressed further concern in respect of the public and their line of entry via the Worcestershire Hub. Would further operators be required if additional services were undertaken for other local authorities? She was slightly hesitant to go down this route, she sensed the need, but wondered how the current WRS structure would grow. She would not like to see a north/south/east/ west split of any sort.

The Head of WRS responded and highlighted that he understood the concerns expressed and that there would be no commitment until any opportunities had gone through the correct governance arrangements.

RESOLVED that Worcestershire Regulatory Services continued to explore opportunities to grow the business by taking on other partners or being contracted to deliver similar services for others, be approved.

19/12 **ICT PROJECT - VERBAL UPDATE FROM STEVE JORDEN**

The Head of Worcestershire Regulatory Services (WRS) provided the Committee with a verbal update on the ICT Project. Members were informed that the IT contract with IDOX had been signed. The Head of WRS considered the contract to be advantageous to WRS and that it would work well for IDOX. The next phase would be to fill in the detail on the IT Project Plan and align resources. Staff from WRS would work on the IT Project so that WRS staff had ownership of the IT system, this would involve 'backfilling' where needed, a budget had been allocated for 'backfilling'. The detailed IT Project Plan would be presented by the ICT Project Manager to a future meeting of the Joint Committee. Members were further informed that penalty clauses had been built into the contract with IDOX to ensure delivery of the system as specified and that deadlines were met.

Following further discussion the Head of WRS responded to Members' questions with regard to:

- The host authority for the ICT system
- The type of ICT system supplied, whether bespoke or an off the shelf system.
- Ownership of the Licence. Could IDOX sell the system as a marketable product?

20/12 **WORCESTERSHIRE REGULATORY SERVICES JOINT COMMITTEE BUDGET MONITORING APRIL - JULY 2012**

The Committee was asked to consider a report which detailed the financial position for the period April to July 2012.

The Executive Director, Finance and Corporate Resources, Bromsgrove District Council introduced the report and in doing so apologised to the Committee and ask Members to note that the figure of £6.008m shown on page 11 of the report should read £5.626m. Member's attention was drawn to Appendix 1 to the report and the Training and Seminars figure of £35,000. The Executive Director, Finance and Corporate Resources reminded the Joint Committee that Members had agreed at the Joint Committee meeting on 28th June 2012 to set aside £35,000 to fund a leadership development programme for senior for managers.

RESOLVED that the financial position for the period April to July 2012, be noted

21/12 **WORCESTERSHIRE REGULATORY SERVICES ANNUAL RETURN 2011 / 2012**

The Committee was asked to consider a report which detailed the amended Worcestershire Regulatory Services (WRS) Annual Return 2011/2012, which included the Accounting Statements for the Joint Committee for the period 1st April 2011 to 31st March 2012.

With the agreement of the Chairman the External auditor's certificate and opinion for the year ended 31st March 2012 was distributed to all Members present.

The Executive Director, Finance and Corporate Resources, Bromsgrove District Council introduced the report and in doing so drew Member's attention to the reasons for the amended report. The initial WRS Annual Return 2011/2012 approved by Members at the Joint Committee meeting on 28th June 2012, included the pension adjustments. Following further clarification and the advice given in relation to the presentation of the reserves relating to pension adjustments, the amended WRS Annual Return 2011/2012 excluded the pension adjustments as now advised by the new External Auditors, Clement Keys.

The Executive Director, Finance and Corporate Resources, Bromsgrove District Council informed Members that she had sought assurance from Clement Keys in respect of governance arrangements. More specifically if any concerns were raised at a later date, that the Joint Committee approved and the Chairman signed the initial Accounting Statements on 28th June 2012 and that the amended Accounting Statements were approved by the Joint Committee and signed by the Chairman on 27th September 2012. Clement Keys had acknowledged the concerns expressed by the Executive Director, Finance and Corporate Resources, Bromsgrove District Council and had agreed to confirm in writing that it was their error and therefore no concerns would be raised at a later date.

RESOLVED that the amended Worcestershire Regulatory Services Annual Return 2011/2012, to include the Accounting Statements for the Joint Committee for the period 1st April 2011 to 31st March 2012, be approved.

22/12 **EXCLUSION OF THE PUBLIC**

The Committee considered whether or not to exclude the public from the meeting for the consideration of Agenda Item No. 9; Worcestershire Regulatory Services Joint Committee, Confidential Minutes, 11th July 2012. The Chairman advised that the Committee had considered whether the public interest in maintaining the exemption outweighed the public interest in disclosing the information, which the Committee agreed it did not.

RESOLVED that the public not be excluded from the meeting during the consideration of Agenda Item No. 9; Worcestershire Regulatory Services Joint Committee, Confidential Minutes, 11th July 2012, and that the minutes be placed in the public domain.

23/12 **MINUTES**

The minutes of the meeting of the Worcestershire Shared Services Joint Committee held on 11th July 2012 were submitted.

RESOLVED that the minutes be approved as a correct record.

24/12 **COMMUNICATIONS**

(The Chairman agreed that this matter be raised as an urgent item).

Councillor Mrs. E. Stokes, Wychavon District Council informed the Committee of the issues raised by Members at Wychavon District Council's Overview and Scrutiny Committee on 18th September 2012, as detailed in the minutes:

"A significant number of Members raised issues with making contact when using the Worcestershire Hub, explaining that at times it was impossible to make contact until they used a private direct dial number into the service. Steve Jorden thanked members for this feedback noting them and confirmed he would investigate what was causing the issues."

Wychavon District Council, Overview and Scrutiny Committee had requested that Councillor Mrs. E. Stokes raise these issues at the next meeting of the Worcestershire Shared Services Joint Committee. The Head of Worcestershire Regulatory Services confirmed that he had attended Wychavon District Council's, Overview and Scrutiny Committee meeting on 18th September 2012 and had, as requested by Members, investigated the issues raised; which had included looking at the duty log, but he could find no information in relation to the issues raised. He further informed the Committee that should Members of the participating authorities experience further communication issues, it would be helpful if they could log the date, time and brief details of the issues encountered. Members could also raise any concerns in respect of communications directly with him or Mark Kay, Business Manager, Worcestershire Regulatory Services.

The meeting closed at 6.20 p.m.

Chairman

This page is intentionally left blank

**REDDITCH BOROUGH COUNCIL AND
BROMSGROVE DISTRICT COUNCIL**

SHARED SERVICES BOARD

11th October 2012 at 5.30pm

COMMITTEE ROOM 2, TOWN HALL, REDDITCH

Present: Councillors Bill Hartnett (Chair), Greg Chance, Carole Gandy and Debbie Taylor (Redditch Borough Council)

Mark Bullivant (substitute for Cllr Sherrey), Steve Colella and Roger Hollingworth (Bromsgrove District Council).

Officers: Ruth Bamford, Kevin Dicks, Angie Heighway, Helen Mole, Deb Poole and Liz Tompkin

Notes: Denise Sunman

1. APOLOGIES

There were no apologies for absence.

2. MINUTES

2.1 The minutes of the previous meeting of the Board held on 23rd August 2012 were agreed as a correct record.

CONFIDENTIALITY

These notes are an open public record of proceedings of the Board.

[Meetings of the Board are not subject to statutory Access to Information requirements; but information relating to individual post holders and/or employee relations matters would nonetheless not be revealed to the press or public.]

3. PRESENTATIONS – TRANSFORMATION UPDATES

3.1 Locality – Joined Up Working

Mrs Heighway outlined work which was ongoing to understand multi-organisation services. The organisations involved were:

- a) Public Health & Clinical Commissioning Group;
- b) Social Services / Worcestershire County Council (WCC);
- c) Police;
- d) Prison;
- e) New College;
- f) CAB;
- g) Worcestershire Health & Care NHS Trust; and
- h) Schools (Arrow Vale)

Key issues had been identified as follows:

- i) Referrals lead to more referrals;
- ii) Organisations operate in silos;
- iii) Lack of data sharing;
- iv) Issues are processed rather than fixed;
- v) Agencies do not take ownership of cases;
- vi) Manage risk by being seen to do the right thing.

She reported that a further meeting of the Joined Up Working Group was to take place at the beginning of November to take ownership of the next steps which would include:

- A presentation to the Public Services Executive Group (PSEG);
- Agencies to share learning from the project within their organisations;
- Help for the three locality cases identified by the process;
- Explore Data Protection Act (& Freedom of Information) as a barrier to getting things done; and
- Grow and extend the Winyates trial (Locality).

Members acknowledged the importance of the work that had been done.

3.2 Housing Maintenance

Mrs Tompkin gave an up-date on the trial that had commenced in February 2012.

She reported the following outcomes from data collected between 28th March 2012 and 5th September 2012:

- a) 59.6 hours total end to end time to fix;
- b) 88.1% arrived at time first requested by customer;
- c) 92.9% of repairs completed at the first visit;
- d) 2.5% failure demand;
- e) Supervisor was called on 9 occasions;
 - 6 for advice

- 2 for delivery of stores
- 1 for an urgent job
- f) Called on stores 40 times to deliver parts;
 - Unable to deliver on 11 occasions.

Members were informed that work was ongoing to:

- i) to design a better IT system for controlling the work and appointments;
- ii) More trades to be included in the team – trial of an external works team;
- iii) More back office staff to be available to take calls;
- iv) Development of job descriptions;
- v) Production of a skills matrix for all staff;
- vi) Creation of a training programme for tradesmen;
- vii) Discussions with College;
- viii) Increased number of apprenticeships;
- ix) Programming of more ‘planned works’;
- x) More planned maintenance carried out ‘in-house’;
- xi) Seek accommodation to site Repairs & Maintenance and Housing teams on a single site;
- xii) Investigate more flexible working based on customer appointment times;
- xiii) Work with Stores on their transformation

3.3 Housing Management Transformation

Mrs Tompkin gave an update on the Housing Management Transformation and its links to the Locality Project in Winyates. She outlined the lessons that had been learnt:

- a) Working to a set of principles, rather than procedures, enabled better understanding of the problems to be solved;
- b) Working as a team with ‘one’ purpose enabled delivery of outcomes;
- c) Ownership of cases was required;
- d) Removal of the ‘that’s not my job’ way of thinking;
- e) Invest in more training for teams to increase skills;
- f) Current demand for Equipment and Adaptations is not being met and ways to work differently need to be identified;
- g) More ‘joined up’ working with external agencies is required;
- h) A ‘joint purpose’ with external agencies is required.

The next steps would be to:

- i) Include all Winyates demand;
- ii) Start a separate trial in Equipment and Adaptations;
- iii) Begin work on identifying waste in tenancy management processes;
- iv) Continue to work alongside the Housing Options and Repairs and Maintenance transformation teams;
- v) Continue to work with the Joined Up Working Group.

It was **AGREED** that

a joint Member Development session be arranged to brief on the Joined Up Working Project and Locality Working.

3.4 Mrs Tompkin reported on work ongoing to look at the feasibility of the Councils setting up a Social Letting Agency in partnership with the private sector to manage vacant properties on behalf of owner / occupiers.

3.5 Planning

Mrs Bamford gave a verbal update on transformation of the planning application process. She reported that work was ongoing to use computer software more efficiently for the production of letters to customers in conjunction with making those letters more understandable and 'customer friendly'.

She reported that in future a planning officer would be responsible for an application from receipt to decision. She said that this approach might take longer but would lead to more positive decisions being made.

4. PROGRESS REPORT

The Board received a progress report which provided an update on all elements of the Shared Services / Transformation work taking place across both Councils.

5. NEXT MEETING

Members noted that the next meeting of the Board would be held on **Thursday, 10th January 2013** in the **Conference Room, Bromsgrove District Council** commencing at **5.30 pm**, as previously.

The meeting commenced at 5.30 pm and closed at 7.15pm

Agenda Item 9

THERE ARE NO ENCLOSURES FOR THIS AGENDA ITEM

This page is intentionally left blank

CABINET

7th NOVEMBER 2012

MEMBER INVOLVEMENT IN PRE-APPLICATION DISCUSSIONS

Relevant Portfolio Holder	Councillor Kit Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ruth Bamford
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Key Decision No	

1. SUMMARY OF PROPOSALS

1.1 To adopt a revised protocol for the engagement of Members in pre-application discussions associated with planning applications.

2. RECOMMENDATIONS

2.1 **That Members recommend to Council:**

1) That the Member Protocol for involvement in pre-application discussions, in its amended form as set out at Appendix 1, be approved and be implemented from 1st January 2013;

2) That any Member wishing to become involved in pre-application discussions under the Member protocol must have completed the appropriate training;

3) That delegated authority be granted to the Head of Legal and Democratic Services to make the consequential amendments to the Council's constitution.

3. KEY ISSUES

Background

3.1 Members approved a new policy to allow for member involvement in pre-application discussions at Full Council on 20th April 2011. Following a programme of training events the new protocol was implemented in October 2011.

3.2 At Full Council on 14th March 2012 Members decided to suspend the Pre-Application Protocol pending a review to be carried out by the Leader of the Council and the Leader of the Labour Group in conjunction with Officers and the Chairman. That review has now been completed.

Role of Leader and Planning Portfolio Holder

-
- 3.3 Officers consider there to be many advantages to having member involvement in the pre- application process and are therefore keen to see the protocol reintroduced. Some of these advantages of this process are listed in para 3.2 of the previous report, found in Appendix 2. These advantages are also supported by the NNPF in paragraphs 188 – 195. Para 188 says *'Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community'*.
- 3.4 However it is considered appropriate to suggest one change to the protocol that was previously adopted, in that the Leader and the Portfolio Holder for Planning, Core Strategy and Regulatory Services should be invited to pre-application discussions that fall within the criteria in the protocol.
- 3.5 The reason for inviting the Leader and Portfolio Holder for Planning, Core Strategy and Regulatory Services as opposed to say the Planning Committee Chairman is to enable an overview of significant proposals affecting the District as a whole so that there is consistency of approach in negotiations and liaisons with developers. Matters that could be District wide include; provision of on/off site play space or commuted sums, the associated management of this area, highways matters, the interplay between planning applications and the implementation of the Core Strategy and to ensure appropriate regard is given to the balance to be struck between the protection of the green belt and economic prosperity.

Member Training

- 3.6 It is proposed to adopt a similar protocol to that previously introduced and that it be for all Members, regardless of which Ward they represent or on which Committees they sit. It is also recommended that if a protocol is adopted, the Head of Planning and Regeneration Services arrange training sessions for Members and Officers to ensure that the process is clearly understood and to answer any Member questions. It is suggested by Officers that such training would be a necessary prerequisite to Member involvement in pre-application discussions.
- 3.7 In view of the need for training, it is proposed that the new protocol comes into effect on the 1st January 2013, with training offered in December 2012. All members wishing to participate in pre-application discussions under the new protocol will have to have undergone the appropriate training.

Constitutional Changes

3.8 Adoption of the amended protocol would result in change to the Constitution's associated documents, as a matter of public record and this requires an amendment to the constitution. The Protocol also contains guidance on Member conduct.

Financial Implications

3.9 Minimal additional resources would be required as the proposed procedures are an extension of the current Officer practice. These can be absorbed from within the existing budgets.

Legal Implications

3.10 The proposals fall within the following legislative framework:

- Town & Country Planning Act 1990 (as amended)
- Planning & Compensation Act 1991 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

There are no significant legal implications arising from the re-introduction of the of the member protocol; as stated in the main body of the report the adoption of the protocol will bring the Council into line with recognised good practice. Pre-application discussions with developers are not binding in terms of the final decision which will continue to be taken under the above legislation by either officers or Members as appropriate.

Service / Operational Implications

3.11 Users of the pre-application advice service will welcome the broadening out of the parties involved in the process. It will enable the widest audience to express its views about a development proposal at a time of greatest flexibility from the developer's point of view. This will in turn add an element of increased confidence in the process when moving forward to the submission of a scheme.

Customer / Equalities and Diversity Implications

3.12 Elected Members in their role as community spokespeople would add value to the pre-application process with respect to the issues of equalities and diversity and where material to the submission, this could result in improvements in the relationship between the built environment and its local context.

4. RISK MANAGEMENT

- 4.1 Provided that all advice to Members enshrined within the Constitution and Code of Conduct are adhered to, there are no additional risks perceived. Indeed the process could be improved by having Member involvement at an earlier stage.

5. APPENDICES

Appendix 1 – Revised protocol

Appendix 2 -Original Committee report from 2011 (considered by Planning Committee on 28th March 2011 and Full Council on 20th April 2011)

6. BACKGROUND PAPERS

AUTHOR OF REPORT

Name: Helena Plant
E Mail: h.plant@bromsgroveandreditch.gov.uk
Tel: 01527 881335

APPENDIX 1; REVISED PROTOCOL

**Member Protocol for Involvement in Pre-Application Discussions for
Proposed Developments**

Contents:

1. Criteria for Member involvement in pre-application discussions.
2. Protocol for Member engagement in pre-application discussions.
3. Guidance to Members on conduct.
4. List of references.

1. CRITERIA FOR MEMBER INVOLVEMENT IN PRE-APPLICATION PLANNING DISCUSSIONS

On sites where the following criteria apply, there will be an offer made to relevant Members of Bromsgrove District Council for involvement in pre-application discussions with Planning Officers in accordance with the protocol adopted by this Council, in accordance with the factors noted below:

Criteria for the site:

- 1) Major application;
RESIDENTIAL (i.e. 10 dwellings or more, or ½ a hectare or more)
or
NON RESIDENTIAL DEVELOPMENT (i.e. 1000 square metres or more of new floor space, or 1 hectare or more) or
- 2) Site allocated within adopted Local Plan as an ADR
- 3) Site allocated in emerging Core Strategy as a Development Site
- 4) Site known to be controversial (to Head of Planning & Regeneration or Development Control Manager) by virtue of its planning history or the nature of the development now proposed,
or
- 5) As directed by Chairman of Planning Committee or Planning Portfolio Holder, or
- 6) As directed by Head of Planning & Regeneration or Development Control Manager; or
- 7) At the request of a Member when reasons given in writing to Head of Planning & Regeneration or Development Control Manager.

In addition:

- Where criteria 2 or 3 apply, the Leader of the Council and the Portfolio Holder for Planning, Core Strategy and Regulatory Services will also be notified.
- Where criteria 7 applies, the Members' request should include any specific Members who they would like to be involved in discussions.

In general, where proposals fall below the thresholds noted above, Members will not be invited to participate in pre-application discussions.

Criteria for Members

Members will be notified by email with an associated link to the relevant documentation and invited to participate in discussions:

- Where any of the criteria above apply, all of the ward Members for the ward in which the site lies will be notified.
- If the site abuts a ward boundary, or if the site encompasses more than one ward, all ward Members for the adjacent ward/s shall also be notified and invited to participate in discussions. (Abuts is

BROMSGROVE DISTRICT COUNCIL

CABINET

7th NOVEMBER 2012

defined as where the red line of the application site, as drawn on
the submission, touches another ward boundary)

2. MEMBER PROTOCOL FOR INVOLVEMENT IN PRE-APPLICATION DISCUSSIONS FOR PROPOSED DEVELOPMENTS IN THE DISTRICT

Either:

Officers receive pre-application enquiry and identify need for Member involvement (using criteria in Section One)

Or:

Members are approached and pass on enquiry to Development Control Manager. If they specifically wish to be involved in discussions, or wish other Members to be involved, this should be raised with the DC Manager at this stage

Then:

1. Development Control Manager allocates enquiry to an appropriate CASE OFFICER (CO)
2. CO validates pre-application submission and identifies and notifies all those who need to be involved in the discussion, having regard to criteria at Appendix
3. CO carries out site visit (it is recommended that Members to be involved in discussions also carry out a site visit. This should be co-coordinated with the case officer where ever possible)
4. CO arranges meeting between all relevant parties
5. CO chairs and records meeting, as well as coordinating relevant correspondence, responses, consultations etc.
8. Discussions continue, possibly supported by additional meetings until the developer is advised that it seems appropriate for a planning application to be submitted

3. GUIDANCE TO MEMBERS ON CONDUCT

Transparency and clarity in terms of process

1.1. It is important that if Members are to become more involved in the pre-application process, there is a clear framework for such involvement, so that there is accountability and fairness built in. This is necessary for all parties involved in the process, be they professionals, Officers, Members or other interested parties. The conduct of all those involved must also adhere to appropriate guidelines in order that the later stages of the process are not prejudiced.

1.2. It is intended that any protocol that is adopted would be for use by all Members, regardless of which ward they represent or on which committees they sit. It is also recommended that if a protocol is adopted, the Development Control Manager and Head of Planning and Regeneration arrange for suitable training for Members and Officers to ensure that the process is clearly understood and to answer any Member queries.

1.3. Guidance for Members engaging in pre-application discussions is available in a number of sources, and the documents noted at section 5 are useful to refer to. In particular, reference could be made to 'Positive Engagement', which includes some handy hints and tips for Councillors.

Member participation and conduct

Always have an Officer present

1.4. In terms of Member involvement, guidance is required in terms of how they may participate in the process, and what they may make comments upon. It is generally acceptable that they be party to pre-application discussions, providing that they ensure that an appropriate Planning Officer accompanies them, and that notes of the meeting are retained on the correct file. It is advisable for the Case Officer involved to chair meetings and lead discussions, allowing all parties, including Members, to participate as appropriate to the discussion.

Only make relevant, appropriate comments

1.5. When attending such discussions, Members should be careful to comment only on procedural matters, and general principles of acceptable or unacceptable development types and styles. Members should be fully acquainted with the contents of the Development Plan, in order that comments relating to broad principles of development are in accordance with the aims and objectives of the plan. It is also helpful for Members to be aware of any specific local issues and/or concerns, in order that they can be fed into the process early on. These matters can then be taken into consideration by developers when designing development schemes, as well as all relevant policy issues raised by Members and/or Officers.

Avoid pre-disposition

1.6. Members should be careful to avoid comments relating to specific elements of a proposal, or to pass opinions on such things, especially if they are or could be Members of the Planning Committee that may subsequently determine a planning application for the proposed development.

Declare any prejudicial interests and do not participate

1.7. Members should be careful to declare at the outset of such discussions any interests that they may have, be it in relation to their capacity as ward member, or as a neighbour, or for other reasons. These should be documented on the file for future reference. Members should also be aware and take care of their comments in relation to both predisposition and pre-determination so as not to prejudice their position for the future.

Treat all discussions as confidential

1.8. Members should also have regard to the fact that pre-application planning discussions are always confidential (in order to preserve commercial confidentiality) and that information relating to proposed developments does not reach the public arena until either a planning application is submitted or the developers choose to engage the community in a consultation exercise. Therefore such matters should not be discussed openly or in public, and Officers will always take care to ensure that such records are kept in appropriate secure conditions.

Seek support from Officers if required

1.9. If in any doubt at any time regarding planning matters, Members should always contact the Head of Planning & Regeneration or the Development Control Manager to seek further advice and assistance. It is always recommended that Members enquire first, in order that constituents, developers or other parties are not misled at any stage in relation to the adopted processes and procedures adhered to by this Council. Members should also be aware that failure to comply with adopted procedures could leave them open to scrutiny if it becomes apparent later.

4. LIST OF REFERENCES

Killian-Pretty Review and government response thereto

<http://www.communities.gov.uk/publications/planningandbuilding/killianprettysummary>

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/killianprettyresponse.pdf>

Constructive Talk – investing in pre-application discussions

<http://www.pas.gov.uk/pas/aio/39020>

Positive engagement in planning decisions

http://www.acses.org.uk/public_file/filename/12/positive_engagement_v4_2_.pdf

Councillor involvement in planning decisions

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/153569.pdf>

Bromsgrove District Council Statement of Community Involvement (SCI)

<http://www.bromsgrove.gov.uk/cms/environment-and-planning/planning/local-development-framework/community-involvement.aspx>

Open for business

<http://www.pas.gov.uk/pas/aio/41620>

Making your mind up – improving planning decision making

<http://www.pas.gov.uk/pas/aio/62452>

Probity in planning

ACSeS Model Members Planning Code

http://www.acses.org.uk/public_file/filename/8/ACSeS_Members_Planning_Code_update_draft_07_07.pdf

Public involvement in development control process – a good practice guide

<http://www.lga.gov.uk/lga/aio/114364>

Member Code of Conduct

Constitution

ATLAS Guidance Note: Implementing PPAs

<http://www.atlasplanning.com/lib/Download/351/080404%20PPA%20Guidance%20Web%20Download.pdf?CFID=246636&CFTOKEN=99816479>

Fees leaflet:: Your planning services: how to make contact and what to expect

<http://www.bromsgrove.gov.uk/cms/environment-and-planning/planning/planning-advice-and-guidance.aspx>

Report to Cabinet April 2010 regarding fees and charges for planning functions

**CONSTITUTIONAL AMENDMENT AND PROPOSED MEMBER PROTOCOL
FOR INVOLVEMENT IN PRE-APPLICATION DISCUSSIONS FOR PROPOSED
DEVELOPMENTS IN THE DISTRICT**

Relevant Portfolio Holder	Councillor Mrs. J. Dyer M.B.E.
Relevant Head of Service	Head of Planning and Regeneration Services
Non-Key Decision	

1. Summary of Proposals

To adopt a protocol for the engagement of Members in pre-application planning discussions and to provide a clarity and fairness to the process, making it accountable. This would enable the Council operate in line with current good practice advice.

2. Recommendations

That Members recommend to Council:

- 1) That the Member Protocol for Involvement in Pre-Application Discussions for Proposed Development as set out at Appendix 1 be approved and be implemented from 01 October 2011;**
- 2) That any Member wishing to become involved in Pre-Application Discussions under the Member Protocol must have completed the appropriate training;**
- 3) That the implementation of the protocol be reviewed jointly by Officers and Members 12 months after it is implemented;**
- 4) That delegated authority be granted to the Head of Legal and Democratic Services to make the consequential amendments to the Council's constitution.**

3. BACKGROUND

3.1 Pre-application discussions are generally carried out between Officers and agents acting on behalf of developers/landowners etc. The discussions relate to the specific site and development proposal in question, and seek advice (given without prejudice to the outcome of any subsequently submitted application) on the planning framework for the site, the likely acceptable uses, styles, designs etc for the site and the likelihood of gaining a favourable Officer recommendation on any future application.

- 3.2 Members of the Council are currently not involved in these pre-application discussions, however pre-application discussions without Members is normal practice.
- 3.3 The pre-application process allows for detailed matters such as design features and planning obligation requirements to be discussed and negotiated outside the time constraints of a submitted planning application, and for proposals to be re-designed, amended or altered in order to arrive at what Officers perceive being the best possible solution for the site in the circumstances. Such discussions are led for the Council by the Development Control Case Officer, and usually there is a single point of contact in the planning agent for the developer, although other personnel are involved on both sides as appropriate. From a Council perspective, this can include colleagues from teams such as legal, leisure, environmental health and others, as well as County Council colleagues.
- 3.4 The information required in order to respond to requests for pre-application advice, and an indication of the service that this Council provides, can be found in the fees and charges leaflet available on the Council website. This is as agreed by Members at Cabinet in April 2009.
- 3.5 Good practice guidance states that more should be achieved at the pre-application stage of the planning process. Initially, this related to large scale major developments, but as time has progressed it has begun to encompass much smaller schemes too, as well as controversial or unusual proposals.
- 3.6 Guidance includes a drive towards more and better community involvement, especially early on in the process, and the inclusion of Members as community representatives. Member engagement in the pre-application stage of the planning process has generally been cautioned or avoided in the past, however the more recent guidance suggests that this view should be revisited and reconsidered as part of the engagement of people within the planning process at all levels and stages.
- 3.7 There may be some concern amongst some Members about the lack of involvement in and knowledge of the process of shaping their places, communities and spaces, at the pre-application stage. This includes concerns about lack of Member involvement in negotiations for Planning Obligation requirements.
- 3.8 There has also been a general concern amongst Members and planners relating to the perceived role of Members in the process, their matters of

Interest and prejudice, especially when Members sit on a determining committee such as Planning Committee.

- 3.9 Developers and those acting on their behalf have also often expressed concern that even where they have engaged with Officers on a proposed development, if there has been no Member involvement there is a possibility that their proposals might be thwarted at the seemingly final hurdle of the Planning Committee meeting, once time and money has been put into the process of designing a proposal. Often in such cases, issues are raised by Members that could easily have been resolved if identified early in the process. It is in response to these issues that this report has been compiled.

4. KEY ISSUES

Transparency and clarity in terms of process

- 4.1 It is important that if Members are to become more involved in the pre-application process, there is a clear framework for such involvement, so that there is accountability and fairness built in. This is necessary for all parties to the process, be they professionals, Officers, Members or other interested parties. The conduct of all those involved must also adhere to appropriate guidelines in order that the later stages of the process are not prejudiced.
- 4.2 It is intended that any protocol that is adopted would be for use by all Members, regardless of which ward they represent or on which committees they sit. It is also recommended that if a protocol is adopted, the Head of Planning and Regeneration Services arrange for a training session for Members and Officers to ensure that the process is clearly understood and to answer any Member queries. It is suggested by Officers that such training would be a necessary prerequisite to Member involvement in pre-application discussions.
- 4.3 Guidance for Members engaging in pre-application discussions is available in a number of sources, and the documents noted at section 5 of appendix 1 are useful to refer to. In particular, reference could be made to 'Positive Engagement', which includes some handy hints and tips for Councillors.

Proposed document for adoption

- 4.4 The protocol to be found at Appendix 1 is proposed for adoption and subsequent implementation by Members and Officers. Its adoption would result in it being included in the Constitution's associated documents, as a matter of public record. The Protocol contains guidance on Member conduct.

- 4.5 Section 1 of Appendix 1 details the proposed criteria for Member involvement in pre-application discussions, which would be used to determine whether an enquiry is one where Members should be involved in discussions. This criteria allows for Member involvement in a significant number of applications. However, to continue to have a manageable process it is pointed out that the threshold for Member involvement and other issues will need to be reviewed after the system has been running for 12 months. This is covered by Recommendation 3 of this report.
- 4.6 Section 2 of Appendix 1 sets out a stage by stage procedure giving a sequence of events to be followed when requests for pre-application advice are received, in order that they can be dealt with consistently and fairly. Section 2 points out that pre-application meetings cannot be arranged around the availability of Members because of deadlines and the needs of applicants who are paying for the Service.
- 4.7 If a Member is approached for pre-application advice, then the contact details should be passed to the Development Control Manager for the enquiry to be dealt with as appropriate. Otherwise, enquiries will reach the Development Control team directly for processing.
- 4.8 When the Development Control Case Officer receives a case, they will validate the proposal and will then identify parties to be involved in discussions.
- 4.9 Section 3 of Appendix 1 provides the key information for Members regarding the process, and how to engage within it. At Section 4 of Appendix 1, a list of reference material can also be found. Section 4 of Appendix 1 refers to useful reading.

Timescales for implementation and review and training

- 4.11 In view of the need for training, it is proposed at this stage that the new protocol comes into effect on 3rd October 2011. All members wishing to participate in pre-application discussions under the new protocol will have to have undergone the appropriate training.
- 4.12 It is suggested that the protocol be implemented for an initial trial period, and that it is then reviewed after 12 months, in order to allow for ongoing monitoring and improvement. The protocol will be incorporated into the Council's constitution.

5. FINANCIAL IMPLICATIONS

Minimal additional resources would be required as the proposed procedures are an extension of the current Officer practice. These can be absorbed from within the existing budgets.

6. LEGAL IMPLICATIONS

The proposals fall within the following legislative framework:

Town & Country Planning Act 1990 (as amended)
Planning & Compensation Act 1991 (as amended)
Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

There are no significant legal implications arising from the introduction of the of the member protocol; as stated in the main body of the report the adoption of the new protocol will bring the Council into line with recognised good practice. Pre-application discussions with developers are not binding in terms of the final decision which will continue to be taken under the above legislation by either officers or Members as appropriate.

7. POLICY IMPLICATIONS

The Constitution would be altered and the protocol would be adopted as formal Council procedural policy, and would complement rather than conflict with any existing policy.

8. COUNCIL OBJECTIVES

- 8.1 The protocol would assist in the implementation of the One Community objective and priority of the Council by ensuring Members, as representatives of the local area, feed their comments in to the process at the earliest opportunity. The protocol would also support the environment and improvement objective by virtue of enhancing development proposals at the beginning of the design process.

9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

- 9.1 Providing that all advice to Members enshrined within the Constitution and Code of Conduct are adhered to, there are no additional risks perceived. Indeed the process could be improved by having Member involvement at an earlier stage.

Pre-application discussions include sustainability and environmental issues.

10. CUSTOMER IMPLICATIONS

10.1 Users of the pre-application advice service will welcome the broadening out of the parties involved in the process. It will enable the widest audience to express its views about a development proposal at a time of greatest flexibility from the developer's point of view. This will in turn add an element of increased confidence in the process when moving forward to the submission of a scheme.

10.2 The associated fees and charges leaflet which sets out the service customers can expect would require amendment to include the involvement of Members with respect to the sections relating to; benefits of the service, what happens next and the general information.

11. EQUALITIES AND DIVERSITY IMPLICATIONS

11.1 Elected Members in their role as community spokespeople would add value to the pre-application process with respect to the issues of equalities and diversity and where material to the submission, this could result in improvements in the relationship between the built environment and its local context.

12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

12.1 A thorough understanding of all relevant issues at the outset will be beneficial to both developer and the Council with respect to the efficient use of Officer and Member time. This protocol will assist in supporting this objective. There are no procurement or asset management consequences.

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

13.1 It is established that the benefits of the pre-application process include the front loading of matters such as climate change and biodiversity. These benefits will not be reduced as a result of this protocol.

14. HUMAN RESOURCES IMPLICATIONS

14.1 There are no additional HR implications as the minor alterations to back office systems that can be met from existing resources.

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

15.1 Training for Members will be a prerequisite of their involvement in the pre-application process and this will fully address the issue of Member conduct.

16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998

16.1 The impact of a development on crime and disorder is a material planning consideration to be taken into account in the determination of any proposal.

17. HEALTH INEQUALITIES IMPLICATIONS

17.1 None.

18. LESSONS LEARNT

This is a new procedure which follows the advice and case studies of others. Therefore, whilst learning some lessons others will come from the proposed review, after which the protocol can be evaluated and changed if it is considered necessary.

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

19.1 The potential for Members to discharge their community function by becoming involved in pre-application discussions was advocated through the Spatial Planning Peer Review of October 2009. As part of that process the views of stakeholders and customers were sort and the associated Action Plan reflects this fact.

20. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	Yes at CMT
Executive Director (S151 Officer)	Yes at CMT
Executive Director – Leisure, Cultural, Environmental and Community Services	Yes at CMT
Executive Director – Planning & Regeneration, Regulatory and Housing Services	Yes at CMT

Director of Policy, Performance and Partnerships	Yes at CMT
Head of Service	Yes
Head of Resources	Yes at CMT
Head of Legal, Equalities & Democratic Services	Yes at CMT
Corporate Procurement Team	Yes at CMT

21. WARDS AFFECTED

All.

22. APPENDICES

Appendix 1 - Proposed document for inclusion as a Constitution Associated Document.

23. BACKGROUND PAPERS

See reference list at Section 4 of Appendix 1

AUTHOR OF REPORT

Name: Helena Plant
E Mail: h.plant@bromsgrove.gov.uk
Tel: 01527 881335

APPENDIX 1

Member Protocol for Involvement in Pre-Application Discussions for Proposed Developments

Contents:

1. Criteria for Member involvement in pre-application discussions.
2. Protocol for Member engagement in pre-application discussions.
3. Guidance to Members on conduct.
4. List of references.

1. CRITERIA FOR MEMBER INVOLVEMENT IN PRE-APPLICATION PLANNING DISCUSSIONS

On sites where the following criteria apply, there will be an offer made to relevant Members of Bromsgrove District Council for involvement in pre-application discussions with Planning Officers in accordance with the protocol adopted by this Council, in accordance with the factors noted below:

Criteria for the site;

- 1) Large scale major application (i.e. 200+ dwellings or 4ha site or 10,000m²+ new floor area or 2ha+ site); or
- 2) Site allocated within adopted Local Plan as an ADR
- 3) Site allocated in emerging Core Strategy as a Development Site
- 4) Significant redevelopment opportunities in Town Centre, boundaries of which are defined by the Town Centre AAP
- 5) Site known to be controversial (to Head of Planning & Regeneration or Development Control Manager) by virtue of its planning history or the nature of the development now proposed, or
- 6) As directed by Chairman of Planning Committee or Planning Portfolio Holder, or
- 7) As directed by Head of Planning & Regeneration or Development Control Manager; or
- 8) At the request of a Member when reasons given in writing to Head of Planning & Regeneration or Development Control Manager.

In addition:

- Where criteria 2, 3 or 4 apply, the Chair and Vice-Chair of Planning Committee and the Leader of the Council will also be notified.
- Where criteria 8 applies, the Members' request should include any specific Members who they would like to be involved in discussions.

In general, where proposals fall below the thresholds noted above, Members will not be invited to participate in pre-application discussions.

Criteria for Members

Members will be notified by email with an associated link to the relevant documentation and invited to participate in discussions:

- Where any of the criteria above apply, all of the ward Members for the ward in which the site lies will be notified.
- If the site abuts a ward boundary, or if the site encompasses more than one ward, all ward Members for the adjacent ward/s shall also be notified and invited to participate in discussions. (Abuts is defined as where the red line of the application site, as drawn on the submission, touches another ward boundary)

2. MEMBER PROTOCOL FOR INVOLVEMENT IN PRE-APPLICATION DISCUSSIONS FOR PROPOSED DEVELOPMENTS IN THE DISTRICT

Either:

Officers receive pre-application enquiry and identify need for Member involvement (using criteria in Section One)

Or:

Members are approached and pass on enquiry to Development Control Manager. If they specifically wish to be involved in discussions, or wish other Members to be involved, this should be raised with the DC Manager at this stage

Then:

1. Development Control Manager allocates enquiry to an appropriate CASE OFFICER (CO)
2. CO validates pre-application submission and identifies and notifies all those who need to be involved in the discussion, having regard to criteria at Appendix
3. CO carries out site visit (it is recommended that Members to be involved in discussions also carry out a site visit. This should be co-ordinated with the case officer where ever possible)
4. CO arranges meeting between all relevant parties
5. CO chairs and records meeting, as well as coordinating relevant correspondence, responses, consultations etc.
8. Discussions continue, possibly supported by additional meetings until the developer is advised that it seems appropriate for a planning application to be submitted

3. GUIDANCE TO MEMBERS ON CONDUCT

Transparency and clarity in terms of process

1.1. It is important that if Members are to become more involved in the pre-application process, there is a clear framework for such involvement, so that there is accountability and fairness built in. This is necessary for all parties involved in the process, be they professionals, Officers, Members or other interested parties. The conduct of all those involved must also adhere to appropriate guidelines in order that the later stages of the process are not prejudiced.

1.2. It is intended that any protocol that is adopted would be for use by all Members, regardless of which ward they represent or on which committees they sit. It is also recommended that if a protocol is adopted, the Development Control Manager and Head of Planning and Regeneration arrange for suitable training for Members and Officers to ensure that the process is clearly understood and to answer any Member queries.

1.3. Guidance for Members engaging in pre-application discussions is available in a number of sources, and the documents noted at section 5 are useful to refer to. In particular, reference could be made to 'Positive Engagement', which includes some handy hints and tips for Councillors.

Member participation and conduct

Always have an Officer present

1.4. In terms of Member involvement, guidance is required in terms of how they may participate in the process, and what they may make comments upon. It is generally acceptable that they be party to pre-application discussions, providing that they ensure that an appropriate Planning Officer accompanies them, and that notes of the meeting are retained on the correct file. It is advisable for the Case Officer involved to chair meetings and lead discussions, allowing all parties, including Members, to participate as appropriate to the discussion.

Only make relevant, appropriate comments

1.5. When attending such discussions, Members should be careful to comment only on procedural matters, and general principles of acceptable or unacceptable development types and styles. Members should be fully acquainted with the contents of the Development Plan, in order that comments relating to broad principles of development are in accordance with the aims and objectives of the plan. It is also helpful for Members to be aware of any specific local issues and/or concerns, in order that they can be fed into the process early on. These matters

can then be taken into consideration by developers when designing development schemes, as well as all relevant policy issues raised by Members and/or Officers.

Avoid pre-disposition

1.6. Members should be careful to avoid comments relating to specific elements of a proposal, or to pass opinions on such things, especially if they are or could be Members of the Planning Committee that may subsequently determine a planning application for the proposed development.

Declare any prejudicial interests and do not participate

1.7. Members should be careful to declare at the outset of such discussions any interests that they may have, be it in relation to their capacity as ward member, or as a neighbour, or for other reasons. These should be documented on the file for future reference. Members should also be aware and take care of their comments in relation to both predisposition and pre-determination so as not to prejudice their position for the future.

Treat all discussions as confidential

1.8. Members should also have regard to the fact that pre-application planning discussions are always confidential (in order to preserve commercial confidentiality) and that information relating to proposed developments does not reach the public arena until either a planning application is submitted or the developers choose to engage the community in a consultation exercise. Therefore such matters should not be discussed openly or in public, and Officers will always take care to ensure that such records are kept in appropriate secure conditions.

Seek support from Officers if required

1.9. If in any doubt at any time regarding planning matters, Members should always contact the Head of Planning & Regeneration or the Development Control Manager to seek further advice and assistance. It is always recommended that Members enquire first, in order that constituents, developers or other parties are not misled at any stage in relation to the adopted processes and procedures adhered to by this Council. Members should also be aware that failure to comply with adopted procedures could leave them open to scrutiny if it becomes apparent later.

4. LIST OF REFERENCES

Killian-Pretty Review and government response thereto

<http://www.communities.gov.uk/publications/planningandbuilding/killianprettysummary>

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/killianprettysresponse.pdf>

Constructive Talk – investing in pre-application discussions

<http://www.pas.gov.uk/pas/aio/39020>

Positive engagement in planning decisions

http://www.acses.org.uk/public_file/filename/12/positive_engagement_v4_2_.pdf

Councillor involvement in planning decisions

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/153569.pdf>

Bromsgrove District Council Statement of Community Involvement (SCI)

<http://www.bromsgrove.gov.uk/cms/environment-and-planning/planning/local-development-framework/community-involvement.aspx>

Open for business

<http://www.pas.gov.uk/pas/aio/41620>

Making your mind up – improving planning decision making

<http://www.pas.gov.uk/pas/aio/62452>

Probity in planning

ACSeS Model Members Planning Code

http://www.acses.org.uk/public_file/filename/8/ACSeS_Model_Members_Planning_Code_update_draft_07_07.pdf

Public involvement in development control process – a good practice guide

<http://www.lga.gov.uk/lga/aio/114364>

Member Code of Conduct

Constitution

ATLAS Guidance Note: Implementing PPAs

<http://www.atlasplanning.com/lib/Download/351/080404%20PPA%20Guidance%20Web%20Download.pdf?CFID=246636&CFTOKEN=99816479>

Fees leaflet:: Your planning services: how to make contact and what to expect

<http://www.bromsgrove.gov.uk/cms/environment-and-planning/planning/planning-advice-and-guidance.aspx>

Report to Cabinet April 2010 regarding fees and charges for planning functions

APPENDIX

This page is intentionally left blank

CABINET

7TH NOVEMBER 2012

BROMSGROVE MONUMENT

Relevant Portfolio Holder	Roger Hollingworth
Portfolio Holder Consulted	Yes
Relevant Head of Service	Jayne Pickering
Wards Affected	St Johns

1. SUMMARY OF PROPOSALS

1.1 This report seeks Cabinet consideration of a proposal to contribute funds from balances to support the provision of a Monument to the services on the Council owned land in Crown Close, next to Amphlett Hall, in partnership with the Bromsgrove Armed Forces Memorial Fund. Members approved in 2010 the provision of the monument subject to planning applications and legal considerations.

2. RECOMMENDATIONS

The Cabinet is asked to :

2.1 Recommend to Council the release from balances of up to £20k as the Council's contribution towards the cost of the monument.

3. KEY ISSUES

Financial Implications

3.1 The cost of the monument would be approximately £45k. It is anticipated that the majority of these funds can be met from the revenue raised by the charity. The contribution from the Council will be a maximum of £20k and it is proposed that these funds are released from balances. Any additional funds raised by the charity will be utilised to provide for future maintenance of the monument which will be undertaken by the Council.

Legal Implications

3.2 The land on which the monument would be sited is owned by the Council as part of the title for Amphlett Hall. It is anticipated that the charity will be granted a licence to enter onto the land and construct the monument. The land will remain in the Council's ownership and on the expiry of the licence the monument itself will be given to the Council.

3.3 As explained below at 3.6 and 3.7, the land is subject to a covenant in favour of the Ecclesiastical Commissioners, but it is anticipated that obtaining the Commissioner's release from the covenant is unlikely to

present any significant legal problems based on the experience of the Council in dealing with the Burma Star Memorial.

Service / Operational Implications

- 3.4 In April 2011 a report was presented to Members with a proposal to agree to the development of a Monument on the open space in Crown Close. Whilst there are 33 memorials around the town they are often on private sites or inside buildings and currently there is no dedicated monument, in a public open space, to all the services. The charitable organisation "Bromsgrove Armed Forces War Memorial Fund" has been established with the aim to raise funds to construct the monument.
- 3.5 In recognition of the lack of such a monument in the town it is proposed that the Council provide a contribution towards the cost of the project and that the remainder be financed by the charitable funds raised. Any surplus funds will be retained by the Council to provide for maintenance of the monument in future years.
- 3.6 The land was purchased in 1899 from the Ecclesiastical Commissioners for England and the 1899 Conveyance imposed a covenant that the land would be used as "an open space and public recreation ground and for no other purpose whatever except with the previous consent in writing of the Ecclesiastical Commissioners".
- 3.7 There is already a war memorial on part of the open land owned by the Council. The Burma Star Memorial which was erected around 1982. It is therefore anticipated that there will not be an issue in gaining agreement to build this monument however officers will liaise with the Commissioners to ensure that formal approval is secured. The new monument would be owned and maintained by the Council.
- 3.8 It is proposed that the grounds maintenance of the monument is undertaken within the Council and this will be funded from the charitable funds raised.

Customer / Equalities and Diversity Implications

- 3.9 None as a direct result of this report

4. RISK MANAGEMENT

The project requires approval of the construction from the Commissioners. Officers will manage the procurement and delivery of the project to ensure it is within the financial contribution from the Council and appropriate construction quality is followed.

5. BACKGROUND PAPERS

Cabinet report – 6th April 2011
Cabinet report - 2nd June 2010

AUTHORS OF REPORT

Name: Jayne Pickering
E Mail: j.pickering@bromsgroveandredditch.gov.uk
Tel: 01527-881400

This page is intentionally left blank

CABINET

7th November 2012

HOUSING STRATEGY OPTIONS & INITIATIVES

Relevant Portfolio Holder	Cllr Del Booth
Portfolio Holder Consulted	Yes
Relevant Director	Sue Hanley, Executive Director for Leisure, Environment & Community Services
Wards Affected	All
Ward Councillor Consulted	N/A
Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The aim of this report is to outline the key strategic, legal and policy drivers behind the Government's plans for the national and local housing market. Some of these changes have been implemented already, and others are due to come in shortly, but they are a sum of their parts, and should be seen as a package of measures, rather than stand alone initiatives or changes.
- 1.2 This report also focuses in on some key strategic actions the Council may take immediately, given the changes, to ensure it remains well-placed to meet and manage the future housing needs of residents in Bromsgrove by supporting the supply of affordable housing and flexible tenure in the district.

2. RECOMMENDATIONS

The Cabinet is asked to resolve:-

- 2.1 That the Council refreshes the district level Housing Strategy Action Plan to ensure the latest changes and developments in national housing policy and practice are fully incorporated at a local level
- 2.2 That the Council refreshes the Private Sector Housing Strategy to ensure it drives the supply of good quality private sector options for local communities
- 2.3 That the Council reviews the Home Choice Plus Choice-Based Letting Scheme Allocations Policy with other key partners across the county, and establishes balanced communities and a housing pathway for local people, in line with the framework for a Gold Standard housing advice service set out in the DCLG report Making Every Contact Count – a joint approach to preventing homelessness.

CABINET

7th November 2012

- 2.4 That the Council adopts the power available under sections 148 and 149 of the Localism Act 2011 to discharge homelessness duties into the private rented sector as part of its broader approach to housing allocations.
- 2.5 That the Council utilises the new Tenancy Strategy to support Registered Housing providers in implementing flexible tenure across Bromsgrove
- 2.6 That the Council continues to aim to secure up to 40% affordable housing on new developments in Bromsgrove. That the Council adopts a site-by-site approach to splits by tenure type, with a strong focus on providing opportunities for local people to access a wide variety of home ownership options, and getting as many households as possible onto the housing ladder.

3. KEY ISSUES

Financial Implications

- 3.1 None of the recommendations above require additional investment by the Council, but the financial implications of failing to manage demand or provide an adequate supply of affordable housing in the county can be significant. Research shows that failing to tackle an inadequate housing supply, or homelessness, creates additional pressure on various services across the statutory and third sectors. Providing good quality affordable housing can enable adults and children to secure and sustain employment, training and education, and it also makes a significant contribution to the local health and wellbeing of communities by reducing the likelihood of poor health, crime and other social problems. These benefits can actually see reductions in Council expenditure.
- 3.2 Homelessness often increases when there is an inadequate supply of affordable housing in the district. This can result in an increase in the number of households being placed in temporary accommodation, which is always the most costly way of managing demand, especially when those temporary placements entail bed and breakfast provision.
- 3.3 There is currently a reserve available of £190k which was set aside by Members to support the financial pressures associated with the changes to welfare reform, mortgage assistance and specific projects across the District. The use of this reserve will be reported to members as part of the quarterly financial monitoring report.

Legal Implications

- 3.4 As referred to in the main body of the report there have been a number of significant changes to housing legislation introduced by the Localism Act 2011. The new provisions are set out in Chapter 7 of the act at sections 145 to 185 and in the accompanying Schedules. Members are referred to paragraphs 3.11 and 3.17 which summarise the main elements of the changes.
- 3.5 The Council has a statutory responsibility to comply with the new provisions. Where the revised provisions are different to those on which previous policies were based, it is incumbent on the Council to review the policies in question and consider any updating that is required.
- 3.6 Where due to new initiatives that have been introduced Members have a greater number of options available in relation to affordable housing options based on private ownership, this will need to be balanced against the Council's overall requirement to secure affordable housing suitable to the needs of its population. In this regard any risk of challenge to Council decisions will be mitigated by the Council being able to evidence the factors which have led to departures from existing practices and by ensuring that a measured and gradual approach is adopted to any changes that are introduced.
- 3.7 With regard to Home Choice Plus Choice Based Lettings Scheme, Members are reminded that this is an area where the Council has entered into formal working arrangements with other partner authorities to jointly deliver the scheme. Whilst at this stage the recommendation is to review the policy, there would be legal and financial implications which would have to be investigated in more detail were the Council to decide to withdraw from the scheme. These are issues which would have to be addressed in a separate report in the event that Members were considering withdrawal from the scheme as an option.

Service / Operational Implications

- 3.8 Broadly speaking the government aims to achieve the following outcomes in terms of reforming the housing market:
- get the housing market moving again

- lay the foundations for a more responsive, effective and stable housing market in the future
 - support choice and quality for tenants
 - improve environmental standards and design quality.
- 3.9 In 2011, the Government published 'Laying the Foundations: a Housing Strategy for England', which announced a number of important changes designed to influence the housing market in England. The strategy aims to:
- Increase the supply of homes and to promote stable growth
 - Enable social and affordable housing reform
 - Create a thriving private rented sector
 - Tackle the use of empty homes
 - Improve the quality of housing experience and support
 - Improve the quality, sustainability and design of housing
- 3.10 The drive to increase the supply of homes and to promote stable growth locally encourages councils to make an immediate impact in their housing market, and to plan strategically at a local level for future national reform of housing planning and funding. Opportunities to make an immediate impact are encouraged through the new build indemnity scheme, supporting first time buyers via FirstBuy, the further release of public sector land, the Get Britain Building investment fund, and the reconsideration of Section 106 agreements agreed prior to April 2010. Strategic reform of housing planning and funding requires councils to begin to think ahead about supporting locally planned large scale development, Community Right to Build, making best use of the New Homes Bonus, supporting Custom Home Building, proportionate and cost-effective regulation, and economic and financial stability measures.
- 3.11 Enabling social and affordable housing reform encourages councils to make best use of new freedoms and flexibilities made available under the Localism Act 2011. This new legislation allows councils to change the way in which people access social housing locally, the types of tenancies which are provided, and the way in which homelessness duties are discharged. Other measures to support reform include

investing £4.5 billion in new affordable housing over this current Spending Review period, encouraging further innovation by housing associations, tackling tenancy abuse, the entry of for-profit providers into the affordable housing market, self-financing for council housing, and re-invigorating Right-to-Buy with the one-for-one replacement of homes sold.

- 3.12 Creating a thriving private rented sector encourages supporting investment in homes to rent, the marketing of new Build to Rent pilot sites through the Homes and Communities Agency, reviewing investment barriers locally, driving up standards, raising consumer awareness, and Councils making full use of powers available to them to tackle dangerous and poorly maintained homes.
- 3.13 The 2011 strategy saw the award of the New Homes Bonus to empty homes brought back into use, and further national funding to tackle this issue, together with moves to consider levying an 'empty homes premium' on Council Tax payable, and the potential to strengthen the use of Empty Dwelling Management Orders locally.
- 3.14 Councils are encouraged to pay particular attention to the needs of vulnerable groups and troubled families, in terms of improving quality and support, and ensure members of the armed forces can access housing locally. Increasing tenant control, providing a better deal for older people, and supporting the community during the course of welfare reform are also important themes.
- 3.15 Councils are encouraged to ensure homes are well designed, of high quality and are environmentally sustainable, as well as energy efficient and help to reduce carbon emissions.
- 3.16 On 6th September 2012, further measures to boost house building, jobs and the economy were announced by Government, and these tie in with a number of themes contained in the 2011 Housing Strategy. These measures include removing restrictions on house builders where work is currently stalled due to sites being commercially unviable, and, where developers can prove a council's requirements make the project unviable, these will be removed. The announcement also outlined new legislation for Government infrastructure guarantees, a major infrastructure fast track, and greater use of the Planning Inspectorate where councils are poor at processing decisions, together with an extension to 'FirstBuy', and reducing the rules and regulations around making minor improvements to commercial and residential properties.
- 3.17 Many of the themes contained within the Government's 2011 Housing Strategy are enshrined in the Localism Act 2011. This Act makes some

very significant changes to the housing regulatory and policy framework, and the key ones are:

- Local authorities must publish a tenancy strategy
- A new Direction to the Regulator of social housing on Tenure, removing the principle of greatest tenure security and asking providers to take account of housing stock management issues when deciding what tenure to offer
- Abolishing the Tenant Services Authority (TSA), with transfer of Regulation to the Homes and Communities Agency (HCA)
- Changes to the handling of housing complaints via an Independent Housing Ombudsman
- Inside the new Directive, changes to security of tenure via 'flexible tenancies', 2 years being the exception, and 5 years the norm
- Under the new TSA Tenancy Standard, encouraging wider use of Affordable Rent tenancies, allowing landlords to charge up to 80% full market rent
- Protecting existing secure and assured tenants' succession rights
- Succession to a secure tenancy entered into on or after the date the Localism Act comes into force will be limited to a spouse, civil partner or cohabitee. There will be no statutory succession to a family member
- Acceptance or refusal of a private rented sector offer (a fixed term assured shorthold of at least 12 months) will discharge a homelessness duty under Section 193 of the Housing Act 1996, subject to the property being suitable and affordable for the applicant.
- The opportunity to review local Housing Allocation policies to ensure they build balanced sustainable social housing communities.

3.18 Running alongside the wide-ranging changes to housing strategy, legislation, policy and practice, the government is also introducing a series of welfare reforms under the Welfare Reform Act 2012. The key changes are:

- The introduction of Universal Credit, to be piloted from April 2013 onwards, with national roll out expected in October 2013 for new claims. By 2017, Universal Credit will have replaced a number of other benefits, including housing benefit, to become a single means-tested benefit available to people under state pension credit age.
- The power for the Secretary of State to prescribe the amount by which a claimant's eligible rent will be restricted if their dwelling is larger than they need, sometimes referred to as 'the bedroom tax'.

- From April 2013, limiting overall-working age benefit entitlement (from all sources) to £500 per week for couples and lone parents, and £350 per week for single claimants
- The freezing of Local Housing Allowance (LHA) rates from April 2012 onwards and, from 2013 onwards, uprating these annually in line with the Consumer Prices Index
- Capping LHA payable for each property size, applying a four-bed limit and calculating LHA on the 30th percentile of local market rents rather than the mid-point
- Reforming the Social Fund by replacing it with 'locally administered assistance'
- More powers for the DWP to recover overpayments of benefit

3.19 It is clear therefore that this is a period of considerable change across the housing, welfare and planning arenas, and that housing supply and demand is being tackled in two ways:

- by increasing the number of homes being built
- by maximising occupancy of existing stock, and increasing the move-on amongst tenants currently living in Registered Provider homes

At the same time, the housing market and the economy remain under considerable pressure, locally and nationally. The potential scope and impact of these changes, especially when considered as a package, rather than as separate measures, means that the council needs to continue to ensure it is well-placed to help local communities meet the housing and planning challenges and opportunities that lie ahead, because, as well as presenting opportunities, the changes also present a number of risks in the short and medium term, which are considered below.

3.20 There are some immediate strategic actions the council may wish to take in order to ensure the housing market best meets the needs of local people, particularly in relation to the Government's aims in the 2011 strategy around supply and growth, the Localism agenda, and welfare reform. These are at the front end of the issue of housing supply and demand, and if taken, should positively impact on the overall availability of affordable housing in due course, and further enhance Bromsgrove's reputation as a great place to live - Bromsgrove was highlighted as one of the top ten places to live in a recent report compiled by Experian, published in the Sunday Times on 20th May 2012.

- 3.21 The first action the Council may wish to take is to refresh its district level Housing Strategy Action Plan, to ensure the plan fully incorporates the changes made since the publication of the Countywide Housing Strategy in 2011. It is important to ensure that the latest changes are captured locally, and that the right approach and products are therefore being developed to ensure the Council is able to provide suitable affordable housing options locally, and to manage the risk of increased supply and demand pressures whilst these changes are being implemented. The Council also needs to create a more comprehensive profile of local housing needs data which incorporates the wider health and well-being agenda, so that housing placements are better integrated with local employment opportunities, and also have a greater bearing on reducing health and social inequalities.
- 3.22 The Council has a Private Sector Housing Strategy, published in 2009, which aims to ensure a supply of good quality private sector housing options is available for local people. Under the Localism Act 2011, councils will be able to adopt a power, if they so wish, to discharge their duties towards homeless households by securing suitable private sector accommodation, which is available to the household for at least 12 months. This new power, available from November 9th 2012 onwards, is designed to reduce pressure on housing allocations by allowing councils to better manage the demand generated for social housing by homeless households. This change will therefore require councils to ensure a stronger supply of private rented options are available in order to make the most of the opportunity to reduce demand on the housing register, so it would be timely to review the Private Sector Housing Strategy in advance, and to consider options for how the discharge of the homelessness duty into the private sector might work locally, in order to ensure adequate plans are in place to drive up standards and supply across the private rented sector in Bromsgrove.
- 3.23 Since the introduction of the Localism Act 2011, a number of Councils across the country have reviewed, or are reviewing, their Choice-Based Lettings allocations policies. This review goes hand-in-hand with the changes made to homeless discharge of duty, outlined in 4.2, and with the broader moves to introduce flexible tenures across the social housing market. The Localism Act has not made changes to the reasonable preference groups, but Councils are now free to set local priorities within their allocation policies, such as increasing access for previously under-represented groups - for example, those working but on low incomes, those leaving the armed forces, or individuals making a community contribution. These allocations policy reviews are also seeing the introduction of income and asset thresholds, and a strengthening of local connection rules, which in time will see a reduction in the number of applicants registered for social housing.

Councils are seeking to establish a more realistic position about the number of households who can reasonably be expected to secure a property locally through the housing register.

- 3.24 In terms of supply and growth, currently, the Local Development Framework Draft Core Strategy 2, Core Policy 7, sets out expectations for the provision of affordable housing locally, and the council aims to ensure that new housing developments provide 40% affordable housing on-site, or that a financial contribution is secured from the developer when this is not possible.
- 3.25 Core Policy 7 also details specific potential breakdowns of tenures on site –for example, 2/3 social rented, and 1/3 intermediate housing. However, given the scale of changes made by Government, which have yet to fully impact, and the steps that need to be taken locally by Registered Providers and the Council to manage supply and demand inside the new framework of flexible tenure, the Council is likely to be better-placed taking a more flexible, site-by-site view on tenure split in the short term, whilst still retaining the aspiration to achieve 40% affordable provision on-site overall, with the support of robust data.
- 3.26 In the current economic climate, and with the wider range of options announced within the last year, adopting a site-by-site view on tenure split will enable the council to demonstrate that it takes local economic factors and demographics, which may vary considerably from ward to ward, fully into account when negotiating affordable housing supply with developers. It also provides an opportunity to be adaptable, and to integrate some of the latest package of housing measures into the Bromsgrove housing market, whilst allowing additional scope to manage supply and demand issues during the transitional period that is likely to form part of the flexible tenure and welfare reform agenda. Avoiding a ‘one size fits all’ approach also helps mitigate against the risk of developers maintaining the Council is making projects unviable, and thus the likelihood of Planning Inspectorate interventions. It also provides Registered Providers with flexibility whilst they pursue private finance to fund their business models. This is a matter that the Council may wish to review in due course, but given the scale of changes underway or imminent, a site-by-site approach in the interim period allows the Council to manage the pressures it faces flexibly.
- 3.27 Many of the operational implications are as above, but the changing nature of tenure security is likely to increase the number of people seeking advice about their future housing requirements, which, in turn, will require housing advice providers to respond swiftly to an increased number of enquiries, so prevention will become increasingly important in the housing field. In short, a new enhanced housing options model

will become increasingly important at the front end, which blends web-based help with telephone and face-to-face support.

- 3.28 Welfare Reform changes could take time to bed in locally, and the transition period could place existing services under greater increased demand for assistance, requiring high quality inter-agency information sharing and awareness-raising across the local housing sector, as well as forward-planning for the implications of income changes for households in terms of the tenure type they are able to afford.

An increased focus on the private rented sector as a source of supply will require concentrated resources in this area in order to drive up standards, and the adoption by the Council of the power to discharge homelessness duties into the PRS, while a review of the Choice-Based Lettings system is likely to see a smaller number of customers on the register, which may require a different method of administration.

There will be a much greater emphasis on affordability of housing options as more tenancies move to 80% market rent, and this could become an area of increased legal challenge for the authority.

Customer / Equalities and Diversity Implications

- 3.29 Assessing the likely impacts of policies, programs and services from a public equality perspective, during the course of making any changes to strategies and policies, and reviewing and reporting on progress annually.

4. RISK MANAGEMENT

- 4.1 The main risks associated with the introduction of the changes are:
- Increased pressure on homelessness services as a result of potential supply pinch points in Bromsgrove and a reticence to review Choice-Based Lettings
 - An increase in private sector rents and/or Registered Provider rents could leave households struggling if their incomes remain under pressure
 - Increased challenges faced by the Council on affordability of allocations via the Housing Register
 - An over-supply of particular intermediate products that are not financially accessible to local people, and a limited appetite amongst lenders to finance homeowner purchases

- The speed at which Registered Providers are able to respond to flexible tenure, and to raise private finance to fund the purchase of new properties, compounded by fixed tenure type targets
- The speed of move-on for existing tenants from RP properties, and delays in encouraging enough through-put to create vacancies for future tenants
- Decreased confidence in the local housing market amongst customer and providers, with the resulting economic knock-on effects for the local economy

5. APPENDICES

Not applicable

6. BACKGROUND PAPERS

Laying the Foundations: A Housing Strategy for England
Making every contact count: A joint approach to preventing homelessness
Countywide Housing Strategy 2011
Revealed – the best places to live – Sunday Times May 20th 2012

AUTHOR OF REPORT

Name: Derek Allen

E Mail: Derek.allen@bromsgroveandredditch.gov.uk

Tel: 01527 881278

This page is intentionally left blank

ACCESS TO INFORMATION RULES – UPDATE

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Key Decision / Non-Key Decision	Non-key

1. SUMMARY OF PROPOSALS

- 1.1 This report proposes changes to the Access to Information Rules in the Council's Constitution. These are needed to comply with recent Regulations issued under the Localism Act.

- 1.2 The Cabinet is being asked to consider the proposals in advance of the Council since many of the changes directly affect the governance of the Cabinet.

- 1.3 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations came into force in September. They are issued under the Localism Act but were unexpected and did not include any transition arrangements.

- 1.4 The main changes introduced by the Regulations are:
 - The Cabinet is no longer required to produce a Forward Plan (of Key Decisions published 4 months in advance) or publish details of consultation being carried out for any items;
 - This is replaced by a requirement to give 28 days' notice of Key Decisions, including a notice about any key decision items where it is intended for the decision to be taken in private (exempt and confidential items). Members of the public can make representations if they feel an item should be considered in public and the Cabinet has to give notice of any such contact and its response to the request 5 clear days before its meeting;
 - Where 28 days notice of key decisions has not been given or key decisions are submitted with less than 5 clear days' notice then certain notices have to be published giving reasons for this;
 - A new requirement for officers making executive decisions to publish a notice of the decision, reasons for it and any conflicts of interest declared by the officer or a consultee;
 - A requirement to publish background papers for reports – currently these are simply listed and made available on request. In future these should be published at the same time as the report and remain accessible to the public for 4 years via the website and in paper form;
 - changes to the rights to access documents for members Overview and Scrutiny after an executive decision has been made. The previous exemption of a document in draft form has been removed..

- 1.5 The enclosed Access to Information Rules have been updated to take account of the legal requirements. In drafting these we have gone beyond the minimum requirements of the Regulations. For example, we suggest that the replacement for the Forward Plan (the “Work Programme”) continues to include non-key decisions and items due more than 28 days’ after publication. This is transparent and helps plan the business of the Cabinet, Overview and Scrutiny Committee and Council.
- 1.6 We are seeking clarity about the definition of Officer decisions that are required to be recorded under the legislation. At face value the Regulations appear to imply that all decisions identified in the Council’s Scheme of Delegation as Executive functions would be recorded. This would include day-to-day management decisions about the running of departments, such as ordering stationery, which are already set out in the Council’s scheme of delegations and details of expenditure over £500 are already published in the Council’s website.
- 1.7 A reasonable approach would be to require officers to record and publish Executive decisions that are either delegated from meetings of the Cabinet for specific items or relate to expenditure over £50,000. This figure is consistent with where tenders have to be obtained for procurement purposes and with the financial cut-off for determining key Executive decisions.
- 1.8 The Regulations make it clear that a decision-making body is not required to record or film meetings or to allow any others to film them. Currently most meetings at Bromsgrove are recorded on audio tape – a practice that was introduced some time ago to aid the person taking the minutes of the meeting. However, Minute takers do not need the tapes to fulfil their role. The system is unreliable as it does not always capture all speakers, especially if they forget to use the microphone at meetings. Members of the public are not always aware when they speak at meetings that they are being recorded and what the recording is used for, which risks challenge under Data Protection rules. We therefore propose that the Council stops tape recording meetings with immediate effect.

2. RECOMMENDATIONS

- 2.1 Council is recommended to approve the revised Access to Information Rules for inclusion in the Council’s constitution;
- 2.2 That the proposal to cease recording meetings of the Council, Cabinet and Committees be noted.

3. KEY ISSUES

Financial Implications

- 3.1 There are no financial implications arising from this report.

Legal Implications

- 3.3 The proposed changes to the Access to Information Rules result from the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

Service / Operational Implications

- 3.5.1 Most of the requirements of the Regulations can be accommodated within our existing administrative arrangements for the appropriate meetings. However, the new requirement to record executive decisions made by officers has the potential to increase the bureaucracy around day-to-day administrative decision-making. The proposals take account of this by restricting this requirement to decisions made on matters involving expenditure above £50,000.

Stopping the recording of meetings will release staff time and resources as they will no longer be required to arrange the transcription of tape recordings.

Customer / Equalities and Diversity Implications

- 3.7 We are proposing to achieve the changes required by the Regulations without introducing extra bureaucracy so that the information produced is accessible to the public.

4. RISK MANAGEMENT

- 4.1 There is a risk of less information being available to Councillors and the public if the Regulations are implemented to the letter (for example, there would be less than 4 months' notice of key decisions if the 28 days' notice of items was adhered to). The proposals continue the Council's current approach which is more transparent.
- 4.2 As with all governance items, if our processes do not comply with the law then there is a risk that decisions of the Council will be challenged.

5. APPENDICES

Appendix 1 - Access to Information Rules – proposed new rules for part 5 of the Constitution.

6. BACKGROUND PAPERS

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

<http://www.legislation.gov.uk/2012?title=access%20to%20information>

7. KEY

AUTHOR OF REPORT

Name: Sheena Jones

email: sheena.jones@bromsgroveandredditch.gov.uk

Tel.: 01527 548240

ACCESS TO INFORMATION PROCEDURE RULES

Proposed changes are shown in bold lettering in italics

1. SCOPE

These rules apply to all meetings of the Council, the Cabinet, the Overview and Scrutiny Board, the Standards Committee, Area Committees and other committees, boards and panels ("meetings") unless a statutory exemption applies. Overview and Scrutiny Task Groups are not covered by these Rules.

These rules also apply to Executive Decisions made by individual officers.

2. ADDITIONAL RIGHTS TO INFORMATION

These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. NOTICES OF MEETING

4.1 The Council will give at least 5 clear days notice of any meeting by posting details of the meeting at The Council House, Burcot Lane, Bromsgrove and on the Council website.

4.2 However, in cases of exceptional urgency the Chief Executive, having consulted with the Chairman of the Council or the Chairman of the relevant Committee, Board or Panel, may convene a meeting giving less than 5 clear days' notice. The agenda and minutes of the meeting shall specify the nature of the exceptional urgency.

4.3 For the avoidance of doubt, where the term "clear days" is used, this does not include statutory and concessionary holidays, the day on which notice is given, the day of the meeting or any Saturday or Sunday.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

5.1 The Council will make copies of the agenda and reports open to the public available for inspection at The Council House at least 5 clear days before the meeting. Copies of the agenda and reports for all meetings will be sent to all members of the Council at least 5 clear days before the meeting.

5.2 Items will only be added to an agenda less than 5 clear days before the date of the meeting in cases of exceptional urgency and only if the officer or

member presenting the item has, before the meeting, submitted to the Head of Legal, Equalities & Democratic Services a form signed or approved by the Chairman of the Council or the relevant Committee as appropriate giving reasons why:

- (a) the item could not have been included on the agenda; and
- (b) the item required a decision before the next scheduled meeting of the Council or Committee.

5.3 If an item is added to the agenda less than 5 clear days before the date of the meeting, the revised agenda will be open to inspection from the time the item was added to the agenda.

5.4 In cases of exceptional urgency where less than 5 days' notice of a meeting is given, copies of the agenda and reports will be made available and shall be open to inspection from the time the meeting is convened.

6. SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. WITHDRAWAL OF ITEMS FROM AN AGENDA

Items on the agenda for meetings of the Council, Cabinet, Audit Board and Overview and Scrutiny Board will not be withdrawn less than 3 clear calendar days before the date of the meeting except in exceptional circumstances and only when the Chairman of the Council, the Leader or the Chairman of the Board as appropriate has agreed to the item being withdrawn at that time.

8. ACCESS TO MINUTES ETC. AFTER THE MEETING

The Council will make available copies of the following for 6 years after a meeting:

- (a) the minutes of the meeting, or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the

minutes of proceedings which disclose exempt or confidential information;

- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

9. BACKGROUND PAPERS

9.1 List of background papers

The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report of an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11), and in respect of Cabinet reports, the advice of a political advisor.

9.2 Public inspection of background papers

When a report for a meeting is made available for Cabinet meetings the Council will also make available at its office and on its website, one copy of each of the background papers referred to in the list prepared under rule 9 above.

These ***background papers*** will be available for public inspection for **4** years after the date of the meeting. Copies of background papers will be supplied to any person on payment of a charge for postage and any other costs.

10. SUMMARY OF THE RIGHTS OF THE PUBLIC

These Rules constitute a summary of the rights of the public to attend meetings and to inspect and copy documents. These Rules will be kept at and available to the public at The Council House, Bromsgrove. .

11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

11.1 Confidential information - requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

11.2 Exempt information - discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

11.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

11.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any condition):

Category	Condition
1. Information relating to any individual.	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

Category	Condition
<p>2. Information which is likely to reveal the identity of any individual.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>"Financial or business affairs" includes contemplated, as well as past or current, activities.</p> <p>Information falling within paragraph 3 is not exempt by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> a) the Companies Act 1985 b) the Friendly Societies Act 1974 c) the Friendly Societies Act 1992 d) the Industrial and Provident Societies Acts 1965 to 1978 e) the Building Societies Act 1986 f) the Charities Act 1993. <p>"Registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).</p> <p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the</p>

Category	Condition
	<p>circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>"Employee" means a person employed under a contract of service.</p> <p>"Labour relations matter" means:</p> <p>a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>b) any dispute about a matter falling within paragraph (a) above;</p> <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.</p> <p>"office holder", in relation to the authority means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>5. Information in respect of which a claim to legal professional</p>	<p>Information is not exempt information if it relates to proposed development</p>

Category	Condition
privilege could be maintained in legal proceedings.	<p>for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes:</p> <p>(a) to give, under any enactment, a notice under, or by virtue of, which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
7. Information relating to any action taken, or be taken, in connection with the prevention, investigation or prosecution of crime.	Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

In some cases the Council may consider an item in public although the report it is discussing contains some exempt information. In all cases a public summary of the item will be provided after the meeting, usually as part of the minutes of the meeting.

The Cabinet will indicate on its Work programme where it is likely to exclude the public from a meeting or part of a meeting. Members of the public can make representations to the Council if they feel that the item should be considered in public. Rule 15 below refers to this in more detail.

13. APPLICATION OF RULES TO THE CABINET

Rules 14-24 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a Key Decision then it must also comply with Rules 1-12 unless either Rule 16 (General Exception) or Rule 17 (Special Urgency) applies. A Key Decision is as defined in Article 13.3 of this Constitution.

14. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 16 (General Exception) and Rule 17 (Special Urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a ***Work Programme***) has been published in connection with the matter in question;
- (b) at least **28** days have elapsed since the publication of the Work Programme.

15. THE WORK PROGRAMME

15.1 Period of *Work Programme*

Work Programmes will be prepared by the Leader to cover a period of ***at least 28 days***. They will be prepared on an ***approximately*** monthly basis and ***published at least 28 days before the first meeting of the Cabinet to which Key decisions on the Programme relate.***

15.2 Contents of the *Work Programme*

The ***Work Programme*** 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, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an Cabinet function during the period covered by the ***Programme***. It will describe the following ***items*** in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a ***key*** 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) **a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the key decision is to be made;**
- (e) **the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;**
- (f) **that other documents relevant to those matters may be submitted to the decision maker; and**
- (g) **the procedure for requesting details of those documents (if any) as they become available..**
- (h) **which of the key decisions outlined may involve the consideration of exempt or confidential information, the reasons why and how the public may make representations when they consider the item should be considered in public.**

The **Work Programme** must be published at least **28** days before the start of the period covered.

Exempt information need not be included in the **Work Programme** and confidential information cannot be included.

16. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the **Work Programme**, then subject to Rule 17 (Special Urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next **Work Programme**;
- (b) the Chief Executive has informed the Chairman of the Overview and Scrutiny Board, or in his/her absence **each member of the Board** by notice, of the matter **about** which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council **and published it on the Council's website**; and

- (c) at least 5 clear days have elapsed since the Chief Executive complied with (a) and (b).

The notice should include reasons why it has not been possible to include the item on the Work Programme.

17. SPECIAL URGENCY

If the date by which a decision must be taken ***means that*** Rule 16 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Board, or in his/her absence the Vice-Chairman, that the taking of the decision ***is urgent and*** cannot be reasonably deferred.

If the Chairman of the Overview and Scrutiny Board, or in his/her absence the Vice-Chairman, is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman, will suffice.

As soon as reasonably practicable after the decision-maker has agreement that the decision is urgent and cannot reasonably be deferred, they must publish a notice on the Council's website setting out the reasons why the meeting is urgent. The notice must also be available at the Council's offices for members of the public to see.

18. REPORT TO COUNCIL

18.1 When the Overview and Scrutiny Board can require a report

If the Overview and Scrutiny Board considers that a Key Decision has been taken which was not:

- (a) included in the ***Work Programme***; or
- (b) the subject of the general exception procedure (Rule 16); or
- (c) the subject of an agreement with the Chairman of the Overview and Scrutiny Board, or in his/her absence the Vice-Chairman, or the Chairman/Vice-Chairman of the Council under the Special Urgency procedure (Rule 17)

the Overview and Scrutiny Board may, subject to Rule 18.2, require the Cabinet to submit a report to the next available meeting of the Council. The power to require a report rests with the Overview and Scrutiny Board, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Overview and Scrutiny Board when so requested by the Chairman or Vice-Chairman of the Overview and Scrutiny Board or any three

members of the Overview and Scrutiny Board. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Board.

18.2 Cabinet 's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council falls within 7 days of receipt of the written notice or the resolution of the Overview and Scrutiny Board, then the report may be submitted to the following meeting of the Council. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

18.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 17 (Special Urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

19. RECORD OF DECISIONS

19.1 Meetings

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include:

- a statement of the reasons for each decision;
- any alternative options considered and rejected at that meeting;
- ***A record of any conflict of interest relating to the matter declared by any member of the decision-making body;***
- ***For any declared conflict of interest, a note of dispensation granted by the Head of Paid Service (the Chief Executive).***

19.2 Officer Decisions

From time to time, Officers will make decisions that would otherwise be made at meetings of the Cabinet. As soon as practicable after the decision is made the officer will provide a written statement which will include:

- ***A record of the decision and the date it was made;***
- ***The reasons for the decision;***

- *Details of alternative options considered and rejected when making the decision;*
- *Any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision;*
- *A note of dispensation granted by the Council's Head of Paid Service (the Chief Executive) relating to any declared conflicts of interest.*

The Decisions recorded will be those where a matter has been delegated to an officer/s at a meeting of the Cabinet or involves expenditure above the lower limit for EU Procurement.

19.3 Publication of Decisions

Once a decision is made under paragraphs 19.1 and 19.2 above, copies of the record of the decision will be published, as soon as reasonably practicable, on the Council's website. Copies will also be available for inspection by members of the public at the Council's offices.

20. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

Meetings of the Cabinet relating to matters which are not Key Decisions will be held in public and must comply with Rules 1-12.

21. ATTENDANCE AT MEETINGS OF THE CABINET

- 21.1 All members of the Council are entitled to attend a meeting of the Cabinet. Members of the Council who are not members of the Cabinet may speak at meetings of the Cabinet only with the consent of the person presiding. Only members of the Cabinet may vote.
- 21.2 All members of the Council are entitled to attend a meeting of a committee of the Cabinet. Members of the Council who are not members of the Cabinet and who are not members of the committee may speak at such meetings only with the consent of the person presiding. Only members of the committee may vote.
- 21.3 The Head of Paid Service, the Section 151 Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- 21.4 A meeting of the Cabinet or any of its committees may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions.
- 21.5 In all cases, the provisions of Rule 19 (Record of Decisions) will apply.

22. OVERVIEW AND SCRUTINY BOARD - ACCESS TO DOCUMENTS

22.1 Rights to copies

Subject to Rule 22.2 below, the Overview and Scrutiny Board will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the Cabinet; or
- (c) ***Any decision made by an officer in accordance with executive arrangements.***

22.2 Limit on rights

The Overview and Scrutiny Board will not be entitled to:

- (a) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (b) the advice of a political adviser.

23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

23.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a meeting or ***to a decision made by an officer in accordance with Executive arrangements,*** unless (a) (b) or (c) below applies:

- (a) it contains exempt information, ***unless it is exempt under paragraphs 3 or 6 of the categories of exempt information. However, information which is exempt under paragraph 3 does not have to be disclosed if it related to terms proposed or to be proposed by or to the authority in the course of negotiations for a contract;***
- (b) it contains confidential information; or
- (c) it contains the advice of a political adviser.

23.2 Material relating to Key Decisions

All members of the Council will be entitled to inspect any document in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph (a) (b) or (c) above applies.

23.3 Nature of rights

These rights of a member are additional to any other right he/she may have.

CABINET

7th NOVEMBER 2012

COMMUNITY RIGHT TO BID – ASSETS OF COMMUNITY VALUE

Relevant Portfolio Holder	Kit Taylor
Portfolio Holder Consulted	
Relevant Head of Service	Ruth Bamford
Wards Affected	All

1. SUMMARY OF PROPOSALS

- 1.1 The report outlines the provisions relating to the ‘Community Right to Bid’ contained in the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) and the implications for the council resulting from the requirement to hold a ‘List of Assets of Community Value’. The report also proposes a decision making process for the listing of community assets.
- 1.2 These provisions of the Localism Act and the Regulations came into force on 21 September 2012.

2. RECOMMENDATIONS

That the following recommendations be resolved:

- 2.1 **That Members approve the process for the listing and sale of community assets and the provisions relating to compensation as set out in this report and Appendices 1, 2 and 3.**
- 2.2 **That Members approve the delegations within this report to the Head of Planning and Regeneration and to the Executive Director for **Planning & Regeneration, Regulatory and Housing Services**, and grant delegated authority to the Head of Legal, Equalities and Democratic Services to update the Scheme of Delegations accordingly.**

That Members recommend to Full Council :

- 2.3 **That Members note the new responsibility placed on local authorities to pay compensation to affected land owners under the Assets of Community Value Regulations and task the section 151 officer to make appropriate provision in the Medium Term Financial Plan to accommodate future requests for compensation.**

3. KEY ISSUES

Financial Implications

CABINET

7th NOVEMBER 2012

- 3.1 The provisions have an impact on the rights of private property owners, therefore there will be a compensation scheme enabling owners to claim for costs or loss incurred as a direct result of complying with the procedures.
- 3.2 Under the Assets of Community Value Regulations the local authority is responsible for paying compensation in respect of listed assets within its area. There is no statutory cap on the amount of compensation that may be payable in respect of any one claim, and a local authority may face multiple claims in any one year. The Department for Communities and Local Government issued guidance on 4th October 2012 in relation to the Community Right to Bid. With regard to compensation claims, any individual or total payments of over £20k in a financial year will be funded by the government. In addition a New Burdens grant is to be allocated to all administering Councils to cover the costs associated with implementing the new scheme. The funding for 2012/13 has been advised at £4873. It is anticipated that, subject to Government approval, further payments will be made in 2013 and 2014.
- 3.3 Whilst the funding from government will help to meet some of the costs of the new arrangements, local authorities will still be expected to fund the first £20k of any compensation payments. The Section 151 officer will need to make provision in the Medium Term Financial plan for a fund to be established to cover the cost of future compensation claims.
- 3.4 Council owned property is potentially subject to listing and Members should note that the Executive Director Finance and Resources has a potential conflict in these matters due to property ownership. Local authorities and various specified public bodies are not able to claim compensation in respect of listed assets that they own.

Legal Implications

- 3.5 The Council has a statutory responsibility to implement the provisions as set out in the Localism Act and the Regulations. Failure to do so may be prejudicial to and result in legal challenges from voluntary and community organisations, parish councils and landowners.

Service / Operational Implications

- 3.6 The intention of the 'Community Right to Bid' is to give communities a right to identify a building or other land that they believe to be of importance to their community's social well-being and give them a chance to buy it if comes up for sale. In broad outline the new provisions are as follows.

Listing

- 3.7 The first step is for a community group to identify a building or other land that they believe to be of importance to their community's well-being and nominate it for listing by the local authority.
- 3.8 A local authority must maintain a list of land in its area which is land of community value. If a nominated asset meets the definition of an asset of community value set out in the Act, the local authority must add it to the list.
- 3.9 The owner of an asset may require an internal review of any decision to list it, and if the review upholds the listing he may appeal to the First Tier Tribunal.
- 3.10 There are no similar rights of review or appeal for community groups. A community group's only mechanism for challenging a decision by a local authority not to list an asset is judicial review.
- 3.11 Assets must be removed from the list after 5 years. Prior to removal officers must write to interested community organisations. Community groups may nominate the asset for re-inclusion on the list.

Sale of a listed asset

- 3.12 If an asset is listed, the owner must notify the local authority of any proposed sale, and the local authority must inform the community group which nominated the asset for listing and publicise the fact of the proposed sale generally in the area where the asset is situated. The sale cannot take place for an initial period of 6 weeks, and if during this period a community group expresses an interest in purchasing the asset the sale must be delayed for 6 months to allow time for a community bid to be organised.
- 3.13 The asset may be sold to a community group during this 6 month period.
- 3.14 At the end of the 6 month period the asset can be sold on the open market. At this point community groups have the same rights as any other bidders. The community right to bid does not restrict who the owner of the asset can sell his property to or at what price.
- 3.15 It is likely that not all potential assets of community value will be identified and listed from the outset and that a community group may only become concerned about a particular property when it becomes aware that its sale is proposed. An application for listing does not trigger any moratorium on sale.

Compensation

- 3.16 As the provisions have an impact on the rights of private property owners, owners are able to claim compensation from the local authority for losses or expenses which flow from the land being listed, including reasonable legal expenses incurred in a successful appeal to the First Tier Tribunal.
- 3.17 Applications for compensation are made to the local authority and whether, and how much, compensation is payable is determined by the local authority. As the local authority is also responsible for paying compensation, there must be a clear process for officers to determine compensation payments objectively.
- 3.18 The owner has a right to require an internal review of any compensation decision and following review may appeal to the First Tier Tribunal.

Process for Listing Community Assets

- 3.19 The key steps for considering a nomination to the List of Community Assets are set out in Appendix 1. The local authority must determine a nomination for listing within 8 weeks.
- 3.20 Only voluntary and community organisations with a local connection (as defined in the Regulations), and local parish councils, may make nominations for community assets to be listed. Nominations from other groups must be rejected.
- 3.21 There are some exemptions from listing. Notably residential premises may not be listed (but not living quarters which are an integral part of an asset such as a pub or shop which is otherwise eligible for listing).
- 3.22 The provisions require a local authority to notify the owner(s), occupier(s), nominator(s) and local parish council of any decision to list an asset.. The local authority is also required to maintain a list of unsuccessful community nominations, and provide reasons to the nominator for any decision not to list an asset.
- 3.23 An owner may require an internal review of a listing decision by the local authority. The owner has 8 weeks from notification of the listing decision to request a review.
- 3.24 The review must be completed within 8 weeks (unless otherwise agreed with the owner). It must be carried out by an officer who did not take any part in making the listing decision. The review process may include an oral hearing, and must do so if the owner requests that it does.

CABINET

7th NOVEMBER 2012

- 3.25 If an owner is dissatisfied with the outcome of an internal review, he may appeal to the First Tier Tribunal.

Process for the Sale of a Community Asset

- 3.26 The key steps to be undertaken should there be a proposal to sell a listed asset of community value are set out in Appendix 2.
- 3.27 The owner of the asset must notify the local authority of any proposal to make a relevant disposal.
- 3.28 A relevant disposal of a listed community asset is the sale of the freehold, or the grant or assignment of a lease for 25 years or more, but only where the disposal will give the new owner 100% vacant possession. (A limited number of disposals, such as transfer by way of gift, within a family, due to inheritance or where the asset forms part of a larger estate are exempt and can take place unimpeded by the community right to bid.)
- 3.29 On receipt of a notification, the local authority must publicise the proposal to sell in the area where the asset is situated and notify any group which nominated the asset for inclusion on the list.
- 3.30 The owner's notification triggers an initial interim moratorium on the sale. of 6 weeks. If during these 6 weeks a community group states an intention to itself bid for the asset the full 6 month moratorium on sale is triggered.
- 3.31 The owner may dispose of the asset to a community group during the 6 month moratorium.
- 3.32 Any other disposal of the asset during the moratorium period (or without the relevant notices of the proposal to dispose having been given) would be ineffective from the outset (i.e. void).
- 3.33 If the owner wishes to claim compensation for any loss or expense flowing from compliance with the process he must do so within 13 weeks of the loss or expense being incurred.

Internal processes

- 3.34 The proposed internal process for listing community assets is set out in Appendix 3.
- 3.35 On receipt of a nomination officers would make initial checks, for example that the nomination is from valid community group and contains The correct information etc). If the nomination is clearly a non-starter, or

CABINET

7th NOVEMBER 2012

incomplete, the applicant would be informed with the reasoning for the decision.

- 3.36 For nominations taken forwards, a period of consultation would then commence involving the owner and other interested parties. Local ward members would also be consulted at this stage.
- 3.37 Following the completion of the consultation process, the Head of Planning and Regeneration will provide a recommendation to the Cabinet as to whether the nomination should be accepted. The recommendation will take into account comments received from the consultation. The recommendation will seek a view from the Cabinet to inform the final decision made by the Head of Planning and Regeneration in consultation with the Portfolio Holder for Planning and Regeneration.
- 3.38 Once the decision is made the owner and nominator will be informed accordingly.
- 3.39 An owner may require the decision to list a property to be reviewed by the council. The request for the review has to be made within 8 weeks of his being notified of the decision. The review must be determined within 8 weeks (unless otherwise agreed with the owner). The review must be undertaken by a senior officer not involved in the initial decision. It is proposed that the Executive Director Planning and Regeneration undertakes the review.
- 3.40 As referred to at paras 3.16 to 3.18 above, the regulations provide that the Council must pay compensation to certain land owners for losses arising from the listing process. It is proposed that the officer with responsibility for assessing compensation claims in the first instance (under Regulation 14) will be the Head of Planning and Regeneration. An applicant for compensation has the right to ask for the initial decision to be reviewed under Regulation 16. The review must be carried out by a senior officer who did not make the original decision. It is proposed that compensation reviews be carried out by the Executive Director for Planning & Regeneration, Regulatory & Housing Services.

Customer / Equalities and Diversity Implications

- 3.41. The process will be fair and consistent for all members of the community and therefore it is not anticipated that there will be any direct impact on individual community groups or members.

4. RISK MANAGEMENT

The main risk is related to the need to have a manageable process for compiling and managing a list of assets of community value [and determining related compensation claims]. The processes as attached at the Appendices reflects the processes that are to be put in place to mitigate the risks associated with the implementation of the Act.

5. APPENDICES

Appendix 1: Proposed Process for Listing Community Assets

Appendix 2: Proposed Process for the Sale of Community Assets

Appendix 3: Proposed Internal Process for Listing Community Assets

6. BACKGROUND PAPERS

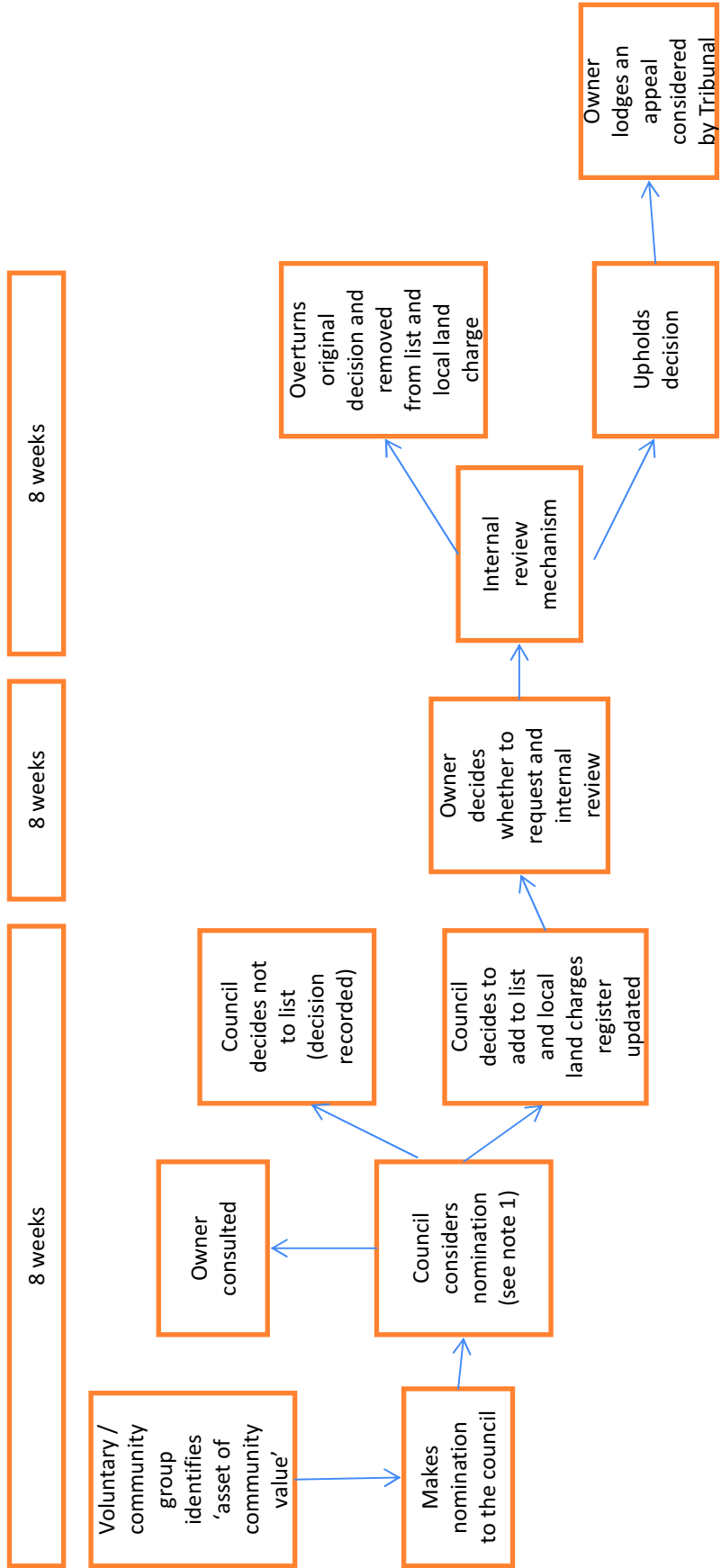
- Localism Act 2011
- The Assets of Community Value (England) Regulations 2012
- Community Right to Bid: Non-statutory advice note for local authorities

AUTHORS OF REPORT

Name: Ruth Bamford
E Mail: ruth.bamford@bromsgroveandredditch.gov.uk
Tel: 01527 64252 Ext 3219

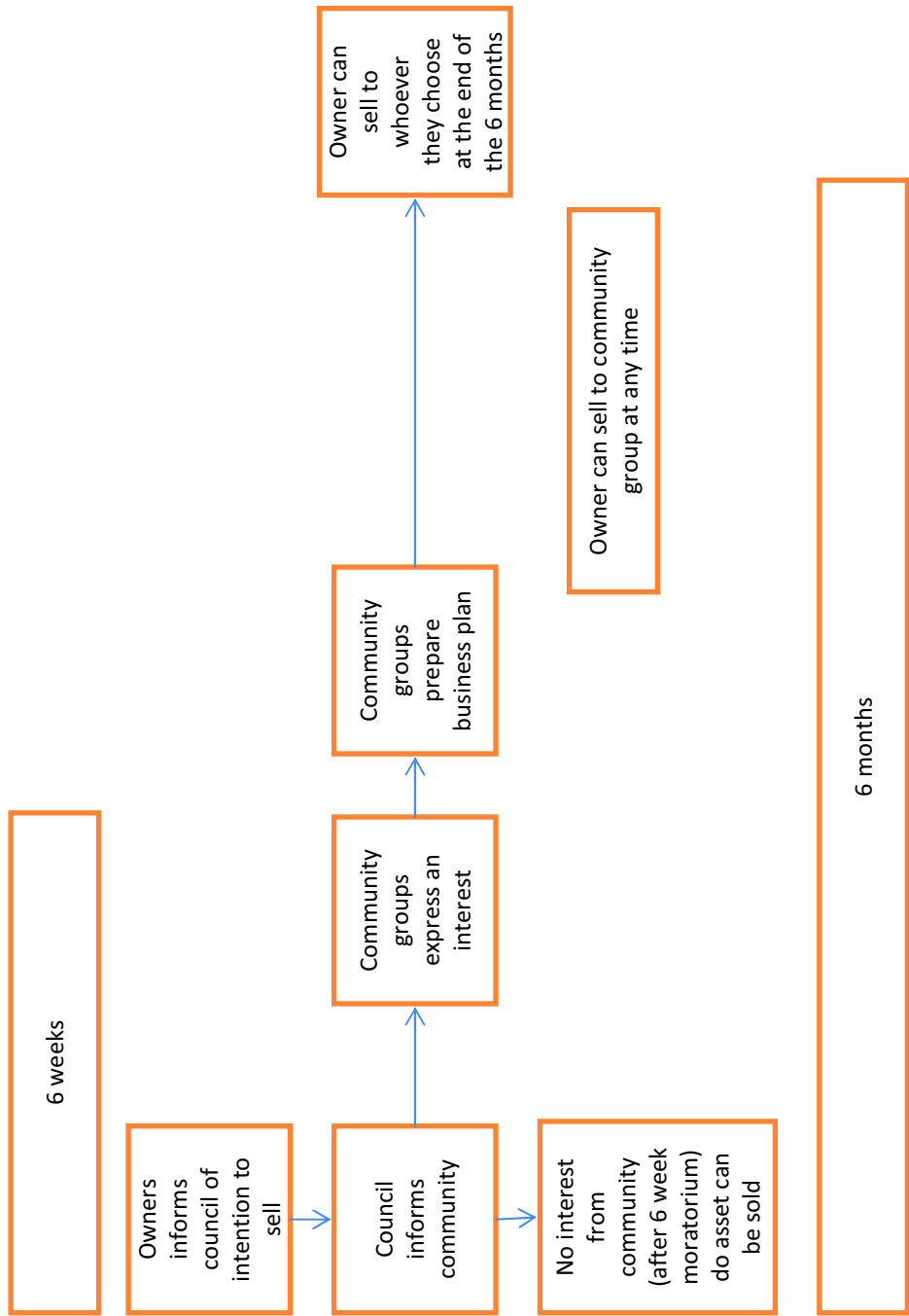
This page is intentionally left blank

Appendix 1 - Process for listing community assets

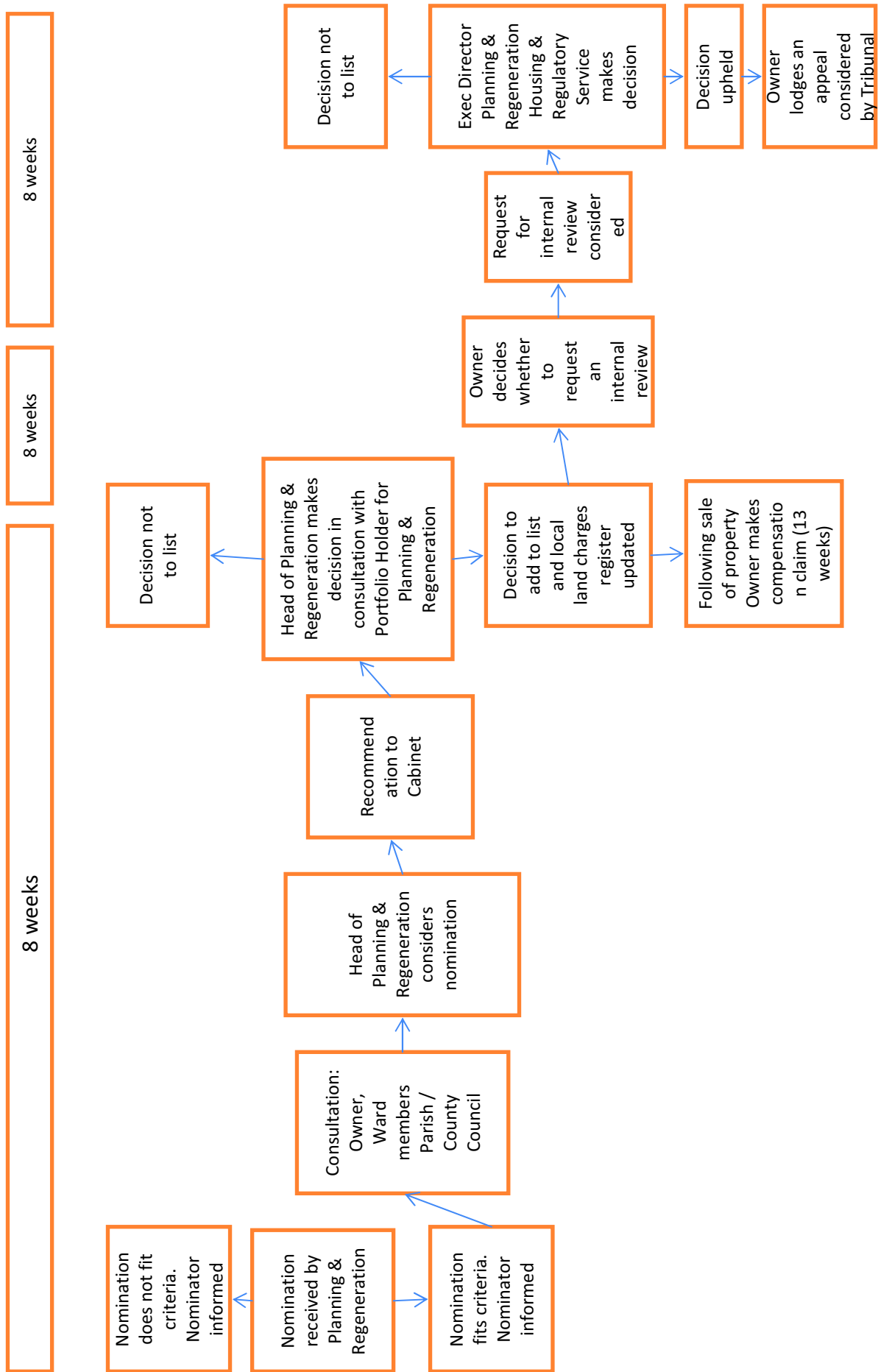


Note 1
 A building or other land should be considered an asset of community value if:
 its actual current use furthers the social wellbeing and interests of the local community, or a use in the recent past has done so; and
 that the use is not an ancillary one; and
 for land in current community use it is realistic to think that there will continue to be a use which furthers the social wellbeing and interests, or
 for land in community use in the recent past it is realistic to think that there will be community use within the next 5 years (in either case,
 whether or not that use is exactly the same as the present or past); and
 it does not fall within one of the exemptions e.g. residential premises and land held with them.
 'Social interests' includes cultural, recreational and sporting interests.

Appendix 2 - Process for sale of listed community assets



Appendix 3 – Internal process for listing community asset



This page is intentionally left blank

Neighbourhood Planning Cabinet

7th November

Neighbourhood Planning

Relevant Portfolio Holder	Cllr Kit Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ruth Bamford
Wards Affected	All
Ward Councillor Consulted	N/a
Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Localism Act 2011 gave local communities new powers to plan for the future of their areas by introducing Neighbourhood Development Plans and Neighbourhood Development Orders. The report considers the first two applications for designation as a Neighbourhood Area, informs Cabinet about the general principles of neighbourhood planning under the Localism Act and seeks member approval for delegations to be given to officers to allow the new arrangements to be administered for the future stages of the first two applications and any subsequent applications.

2. RECOMMENDATIONS

It is recommended that:

- 2.1 That the following applications for designation as a Neighbourhood Area be publicised by the Council for a consultation period of 6 weeks in accordance Regulation 6 of the Neighbourhood Planning (General) Regulations 2012:
- a) Alvechurch Parish Council
 - b) Barnt Green Parish Council
- 2.2 The following decisions (including determination and publication of applications) be delegated to the Head of Planning & Regeneration, in consultation with the ward member(s) for the area affected and the portfolio holder for Planning:-
- 2.2.1 decisions on whether to accept and designate a Neighbourhood Area;
 - 2.2.2 decisions on whether to designate a community organisation as a neighbourhood forum;
 - 2.2.3 decisions on the validity and acceptance of submissions for a Neighbourhood Development Plan or a Neighbourhood Development

Neighbourhood Planning Cabinet

7th November

Order, including assessing the compliance of the plan/order with other relevant policies and legislation;

2.2.4 decisions on whether to decline to accept repeat proposals for Neighbourhood Development Plans or Neighbourhood Development Order;

2.2.5 the appointment of an examiner for a Neighbourhood Development Plan or Order;

2.4 That the scheme of delegations be amended to reflect the new delegations for Neighbourhood Planning.

3. KEY ISSUES

Financial Implications

3.1 The District Council will be subject to additional costs to cover the new statutory requirements as the Act imposes on local planning authorities a duty to support Parish Councils in this process, as well as to arrange and pay for any necessary examination and referendum. Central government has agreed to make a fund of £10 million pounds available to cover these costs. In a letter sent to all authorities from the department for Communities and Local Government (CLG) in August 2012 the following funding was identified:

- For 2012/13, there will be an unringfenced payment of up to £30,000 per scheme, paid in two stages.
- The first payment of £5,000 will be made following designation of a neighbourhood area recognising the officer time supporting and advising the community in taking forward a neighbourhood plan. For authorities designating several neighbourhood areas, each local planning authority can claim up to a maximum of £20,000 for area designations, in 2012/13.
- The second payment of £25,000 will be made on successful completion of the neighbourhood planning examination. This is to cover costs for that examination and any other further steps that may be needed for the neighbourhood plan to come into legal force, including referendum. However, the payment is not dependent on pursuing the referendum route if both parties agree on a different approach at that point (for example, if both parties agree, the neighbourhood plan could be taken forward as part of the local plan or as a supplementary planning document).

Neighbourhood Planning Cabinet

7th November

- 3.2 The financial cost of preparing a neighbourhood plan will vary depending on the scale and range of policies a neighbourhood wishes to include in their plan. As shown above funding is available from CLG, although it would appear that this is focussed more on covering the District Councils costs, rather than directly funding the Parish Councils. Subject to the above recommendations being approved it is envisaged that a claim for funding will be submitted to CLG for both neighbourhood plans in due course. Claims submitted for designations and successful independent examinations will need to be signed off by either the chief executive or chief finance officer of the local planning authority for assurance purposes.

Legal Implications

- 3.3 Neighbourhood planning is part of the government's initiative to give new powers to local communities to take forward planning proposals at a local level as outlined in Section 116 of the Localism Act 2011. The Act and the subsequent regulations (the Neighbourhood Planning (General) Regulations 2012) confer specific functions on the local planning authorities in relation to neighbourhood planning. In relation to any referendums that are required, the relevant regulations are set out in the Planning (Referendum) Regulations 2012.
- 3.4 Upon adoption a neighbourhood plan becomes part of the development plan and therefore will be a significant determining factor in planning applications for the area it covers. Upon adoption a neighbourhood development order removes the need for planning permission for the type of development specified in the order.
- 3.5 As set out in the main body of the report the local planning authority must follow a series of steps leading to the adoption of a Neighbourhood Plan. If at any stage in the process the Council decides not to grant a certain decision then full reasons must be given. The legal method to challenge any refusal would be for the aggrieved party to seek a judicial review of the Council's decision. The exception to this is that where a local community vote in favour of a neighbourhood plan at a referendum then the Council must adopt the neighbourhood plan.

Service / Operational Implications

- 3.6 The Localism Act 2011 gave local communities more power to plan for the future of their areas by introducing Neighbourhood Development Plans and Neighbourhood Development Orders. The Regulations for

Neighbourhood Planning Cabinet

7th November

Neighbourhood Planning were laid before parliament on 6th March 2012 and came into force on 6th April 2012. The Localism Act 2011, together with these regulations, place various duties and responsibilities upon the Council.

- 3.7 A **Neighbourhood Plan** is a new way of helping local communities influence the planning of the area they live and work in. If a plan is prepared and agreed by the community in a referendum it will become part of the development plan for the area and be used in the determination of planning applications.
- 3.8 A **Neighbourhood Development Order** can grant planning permission for certain types of development without the need to submit a planning application to the Council.
- 3.9 The process for preparing a Neighbourhood Plan and a Neighbourhood Development Order is very similar and is shown in the diagram in Appendix 1
- 3.10 The first formal step in the process of preparing a Neighbourhood Development Plan/Order is the designation of a Neighbourhood Area, this is the area which the plan /order is to relate.
- 3.11 Regulation 5 requires Parish Councils to apply to the District Council to designate the area that they wish the plan to cover as a Neighbourhood Area. Applications have been received by the District Council from Alvechurch Parish Council (Appendix 2) and Barnt Green Parish Council (Appendix 3). Regulation 6 requires the District Council to publish the application on its web-site a minimum period of six weeks to provide the opportunity for representations to be made in support of the designation or otherwise.
- 3.12 **Neighbourhood forums**
In areas where there are Parish Councils the Parish Councils are the relevant body for preparing plans. In non-parished areas such as Bromsgrove Town, community groups can form neighbourhood forums to prepare plans and any such body would need to apply to the Council to be designated as a Neighbourhood forum. This is a route that would be open to either existing community groups or newly formed groups. The body will need to submit an application to the District Council which must include: _
- the name of the proposed forum
 - a copy of the written constitution
 - the name and a map of the neighbourhood area

Neighbourhood Planning Cabinet

7th November

- the contact details of at least one member to be made public and a statement which explains how the forum meets the conditions of the Act.

In determining the application the Council must ensure that the group meets the conditions of the Act and that there is only one Forum for each area. The Forum must meet the following conditions:

- Be established for the express purpose of promoting or improving the social, economic and environmental well-being of the area
- Its membership is open to individuals who live or work in the area or are elected members of a County or District Council for the area
- Includes a minimum of 21 individuals each of whom live or work in the area or is an elected member
- Have a written constitution

Once granted a designation will last for five years and will allow the Neighbourhood forum to then proceed to the second stage of making an application for designation as a Neighbourhood Area.

3.13 Preparation of the Plan

If the District Council agree the designation of the Neighbourhood Area, it will be published on the District Council's website. The next step for the Parish Council (or Neighbourhood forum) would be to begin the formal preparation of their Neighbourhood Development Plan for submission to the District Council. Once submitted the local planning authority has to consider whether the draft Neighbourhood Development Plan or Neighbourhood Development Order meet certain basic requirements including general conformity with the development plan.

The recommended changes to the delegations above cover all of the procedural steps which are required to allow the neighbourhood plan/order to progress to a stage where they can be submitted to the Council. Decisions on whether to publish the plan for statutory consultation prior to examination, and then how to deal with any recommendations arising from the examination in public, are not delegated to officers and will be reported to members at that time.

3.14 The Examination

The Council is responsible for organising and paying for the examination. The Council must appoint an independent person to carry out the examination with the agreement of the body preparing the plan. After the appointment the Council must send them copies of all the

Neighbourhood Planning Cabinet

7th November

relevant documents and any representations received as part of the consultation. The person appointed to undertake the examination is responsible for how the examination will be carried out. It is expected that this will normally be through consideration of written responses, but the examiner could hold hearings if they felt this was necessary. The examiner will consider whether the plan meets the basic conditions set out in the Act and if this is the case recommend the plan proceeds to a referendum.

3.15 The Referendum

The referendum gives the Community the final say on whether a plan should come into force in their area. The Council must make all the necessary arrangements and pay for the referendum. Separate Regulations apply to referendums as set out in 3.3 above. If a majority vote in favour of the plan in the referendum then the Council must bring it in to force and it will become part of the formal development plan for the area.

3.16 Future developments

As this is a new legislative regime that has been introduced it is difficult to assess at this stage what the implications will be going forward and what the likely volume of applications to the District Council is going to be. It is anticipated that the process of approving a Neighbourhood Plan from start to finish could take up to 2 years. This report focuses on the preliminary stages of the process. Officers will keep the new arrangements under close review and intend to bring a report back to Members in due course to give an evaluation of how the new provisions have been working and if required make recommendations as to any additional procedures that should be established to deal with latter stages of the process.

Customer / Equalities and Diversity Implications

- 3.17 Officers will advise the bodies preparing the plans/orders on the responsibility for effective and inclusive plan making, including public consultation in line with the councils own adopted Statement of Community Involvement.

4. RISK MANAGEMENT

- 4.1 There are no significant risks with the neighbourhood planning process at this stage in their development, this report covers only the procedural aspects of the process, decisions on new local policies contained within the plans and the risks associated with them will be reported as neighbourhoods reach the latter stages of the process.

**Neighbourhood Planning
Cabinet**

7th November

5. APPENDICES

Appendix 1- Neighbourhood Planning Process
Appendix 2 - Neighbourhood Area Application Alvechurch
Appendix 3 - Neighbourhood Area Application Barnt Green

6. BACKGROUND PAPERS

Localism Act 2011
Neighbourhood Planning (General) Regulations 2012
Planning (Referendum) Regulations 2012

7. KEY

N/A

AUTHOR OF REPORT

Name: Mike Dunphy
E Mail: m.dunphy@bromsgrove.gov.uk
Tel: 07814572561

This page is intentionally left blank



This page is intentionally left blank

ALVECHURCH PARISH COUNCIL
16 THE SQUARE, ALVECHURCH, B48 7LA
Tel: 0121 447 8016
e-mail – clerk@alvechurch.gov.uk

Clerk - Yvonne Goode

M Dunphy
Strategic Planning Manager
Bromsgrove District Council
The Council House
Burcot Lane
Bromsgrove
Worcestershire
B60 1AA

Dear Mike

I the under signed, for and behalf of Alvechurch Parish Council, hereby submit formal application to Bromsgrove District Council for designation of the Parish of Alvechurch as a Neighbourhood Area, as defined on the accompanying map which identifies the area to which the application relates.

The Parish of Alvechurch is considered appropriate to be designated as a Neighbourhood Area since the Parish of Alvechurch has a defined boundary and is already in place as an area governed by Bromsgrove District Council.

The body making the area application, namely Alvechurch Parish Council, is the relevant body for the purposes of section 61G(2) for the 1990 Act (inserted by paragraph 2 of the Schedule 9 to the Localism Act), and as stated in The Neighbourhood Planning (General) Regulations 2012.

Yours sincerely



Yvonne Goode
Clerk
Alvechurch Parish Council

This page is intentionally left blank



Barnt Green Parish Council

www.barntgreen.org.uk

Please address all correspondence to:
Paul MacLachlan, Executive Officer, 80 Hewell Road, Barnt Green Birmingham B45 8NF
Tel: 0121 447 9893 email: clerk@barntgreen.org.uk



M Dunphy
Strategic Planning Manager
Bromsgrove District Council
The Council House
Burcot Lane
Bromsgrove
Worcestershire
B601AA

25 September 2012

Dear Mike

I, the under signed, for and behalf of Barnt Green Parish Council, hereby submit formal application to Bromsgrove District Council for designation of the Parish of Barnt Green as a Neighbourhood Area. The accompanying map identifies the parish boundary in yellow. This is the area to which the application relates.

The Parish of Barnt Green is considered appropriate to be designated as a Neighbourhood Area since the Parish of Barnt Green has a defined boundary and is already in place as an area governed by Bromsgrove District Council.

The body making the area application, namely Barnt Green Parish Council, is the relevant body for the purposes of section 61 G(2) for the Town and Country Planning 1990 Act (inserted by paragraph 2 of the Schedule 9 to the Localism Act) and as stated in The Neighbourhood Planning (General) Regulations 2012.

Yours sincerely

Paul MacLachlan
Executive Officer
Barnt Green Parish Council

Chairman:
Cllr John Jagger, 22 Bittell Road
Barnt Green, Birmingham, B45 8LT
0121 445 2437 chair@barntgreen.org.uk

This page is intentionally left blank

CABINET

7TH NOVEMBER 2012

CONTRIBUTION TO NEWSTARTS VEHICLE

Relevant Portfolio Holder	Roger Hollingworth
Portfolio Holder Consulted	Yes
Relevant Head of Service	Jayne Pickering
Wards Affected	All

1. SUMMARY OF PROPOSALS

- 1.1 This report seeks Cabinet consideration of a proposal to contribute funds from balances to the LSP to support the purchase of a new vehicle for NewStarts Charity to enable them to continue their work supporting vulnerable people by providing free furniture and other household goods.

2. RECOMMENDATIONS

The Cabinet is asked to :

- 2.1 Recommend to Council the release to NewStarts from balances of up to £20k to be used for the purpose of assisting NewStarts to purchase a new vehicle for the collection and delivery of furniture.

3. KEY ISSUES

Financial Implications

- 3.1 The estimated maximum contribution towards the new vehicle is £20k. It is proposed that this funding be released from balances in 2012/13. The funds would be transferred to NewStarts van and a partnership arrangement will be developed with the LSP to ensure that maximum benefit can be derived for vulnerable people supported by NewStarts. The van will be owned by NewStarts with no further financial liability by the Council.
- 3.2 NewStarts will continue to raise funds towards the cost of the van from other agencies and partners. The contribution from the Council will be offset by any other funds available.

Legal Implications

- 3.3 There are no specific legal implications as a result of this contribution. The Council will not incur any future liabilities for service delivery or ongoing maintenance of the van. The arrangement will be set up in a formal partnership agreement between Bromsgrove District Council, LSP and NewStarts. The purpose of this will ensure that NewStarts continue to deliver the service specified to vulnerable members of the community and will allow monitoring statistics to be reported back to the partners.

Service / Operational Implications

- 3.4 NewStarts is a charity which helps vulnerable people - particularly those who are homeless or have recently been homeless and are in need. They provide free furniture, bedding, household items such as curtains and carpets, kitchen equipment, toiletries, toys and in many cases free food for individuals and families who have been referred to them by the social agencies – eg; BDHT, NHS, CAB.
- 3.5 The van is used to take the furniture to the homes of the people who have been referred to the charity. From delivering to 363 homes in 2009/10, the need has risen to 746 in 2011/12 with increases anticipated in the future due to the financial climate.
- 3.6 The van is also used to collect the furniture which is donated to the charity so this can be recycled to those who need it. Since 2009/10 the charity has made 5,088 collections.
- 3.7 The collection of unwanted furniture also saves waste going into landfill. Since 2009 NewStarts have recycled 562,000kg of unwanted furniture.
- 3.8 The current van used for the collections and delivery is over 9 years old and is costing a considerable amount in repair and maintenance costs.

Customer / Equalities and Diversity Implications

- 3.9. By providing the funds to contribute towards the van the charity can continue its service to all vulnerable members of the community.

4. RISK MANAGEMENT

The LSP will develop a partnership agreement with the charity to ensure that all outcomes are delivered and monitored in the future.

5. APPENDICES

N/A

6. BACKGROUND PAPERS

N/A

AUTHORS OF REPORT

Name: Jayne Pickering
E Mail: j.pickering@bromsgroveandredditch.gov.uk
Tel: 01527-881400

This page is intentionally left blank