

# FAREHAM

BOROUGH COUNCIL

## Minutes of the Council

**Date:** Thursday, 5 December 2019

**Venue:** Council Chamber - Civic Offices

**PRESENT:**

Mrs P M Bryant  
(Mayor)

M J Ford, JP  
(Deputy Mayor)

**Councillors:** Mrs S M Bayford, I Bastable, Miss S M Bell, F Birkett, J E Butts, T M Cartwright, MBE, Mrs L E Clubley, S Cunningham, P J Davies, S Dugan, Mrs T L Ellis, K D Evans, Miss T G Harper, Mrs C Heneghan, Mrs C L A Hockley, L Keeble, J G Kelly, S D Martin, Ms S Pankhurst, R H Price, JP, Mrs K K Trott, N J Walker and S D T Woodward



**1. PRAYERS**

The meeting was opened with Prayers led by the Mayor's Chaplain, Father Roger Jackson of St Peter and St Paul's Church, Fareham.

**2. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors K A Barton, T Davies, J Englefield, G Fazackarley, J Forrest and Mrs K Mandry.

**3. MINUTES**

RESOLVED that that the Mayor be authorised to sign as a correct record the Minutes of Council meeting held on 24 October 2019

**4. MAYOR'S ANNOUNCEMENTS**

The Mayor announced that her next tea party will be held on the 9 January when Santander will be giving a talk on Cyber Security and Scam Information. The tea party on 6 February will include a talk by David Lockett MBE on the History of Lockett's Travel.

On the 29 February at 7pm there will be a Leap Year Supper at Portchester Parish Hall where there will be a talk by Richard Newman on the History of Bursledon Brickworks and a Call My Bluff quiz.

The Mayor announced that she had great pleasure in accepting an invitation from the First Sea Lord to greet the new aircraft carrier Prince of Wales as she arrived in her Home port at Portsmouth recently and was now honoured and thrilled to have been invited to attend her Commissioning Ceremony next Tuesday which she has accepted.

**5. EXECUTIVE LEADER'S ANNOUNCEMENTS**

There were no Executive Leader announcements made at the meeting.

**6. EXECUTIVE MEMBERS' ANNOUNCEMENTS**

**Executive Member for Health and Public Protection**

Fareham Community Hospital

Councillor T M Cartwright MBE, the Executive Member for Health and Public Protection, announced that he recently attended the Fareham Locality Patient Group meeting at the Hospital where one of the items on the Agenda was a

dialysis service. The Executive Member was pleased to inform Council that the Finance Director of the NHS Trust confirmed that dialysis would take place at the hospital. The alteration works have been agreed and work started on the 18<sup>th</sup> November with a finish towards the end of January 2020. In February 2020, initial staff training will take place followed by patient access.

The other announcement at the meeting was that the NHS is looking at its pricing structures at the hospital to make it more competitive. This is excellent news and we can look forward to additional services taking place in the future.

## **Executive Member for Streetscene**

### Climate Change Working Group

Councillor S D Martin, the Executive Member for Streetscene, took the opportunity to provide a brief update on the progression of the Council's work on the climate change agenda.

Since the last Council meeting, the inaugural meeting of the Climate Change Working Group has recently been held, and in particular the Working Group considered and agreed the group's Terms of Reference. These Terms of Reference cover the role and membership of the group, the broad scope of work to be progressed, reporting arrangements, meeting arrangements and resources.

Next key steps include the appointment of a part-time Climate Change Officer. The post has been advertised internally and it is envisaged that an appointment will be made shortly, resulting in a dedicated resource being available to progress the Council's work from mid-January onwards.

A scoping report will be created setting out the detailed scope of work to be undertaken by the Council, including mitigating the effects of climate change through carbon reduction planning, and also climate change adaptation and resilience work. It is envisaged that this report will be presented to the Policy & Resources Scrutiny Panel to be held in early March 2020, followed by consideration by the Executive in either April or May 2020.

Regular updates on the progression of the Council's work on climate change will be made available on the Council's website, given the wider public interest in the matter.

Councillor Martin also announced the retirement of James Clark, the Manager and Registrar of Portchester Crematorium, after 31 years of service. Mr Clark joined the Crematorium in 1983 as a trainee administrator and is only the 3<sup>rd</sup> Registrar to hold the position. Councillor Martin wished Mr Clark well in his retirement.

## **7. DECLARATIONS OF INTEREST**

Councillor R H Price JP declared a pecuniary interest in respect of item 18 on the agenda as he owns a property immediately adjacent to a development

site. Councillor R H Price JP left the chamber as soon as the development sites were listed and took no further part in the discussion.

Councillor I J Bastable declared a non-pecuniary interest in respect of item 18 on the agenda as he has a friend who lives adjacent to the Brook Lane site.

Councillor Miss S M Bell declared a non-pecuniary interest in respect of item 18 on the agenda as she is a Council appointed Trustee of Portchester Parish Hall which has an interest in land at Moraunt Drive.

Councillor N J Walker declared a non-pecuniary interest in respect of item 18 on the agenda as he is the Chairman of Portchester Parish Hall Board of Trustees which has an interest in land at Moraunt Drive.

Councillor T M Cartwright, MBE, declared a non-pecuniary interest in respect of item 18 on the agenda as he is pre-determined on applications relating to those applications for Warsash sites.

Councillor J G Kelly declared a non-pecuniary interest in respect of item 18 on the agenda as he is a Council appointed Trustee of Portchester Parish Hall which has an interest in land at Moraunt Drive.

Councillor S D T Woodward declared a non-pecuniary interest in respect of item 18 on the agenda as the owner for the Funtley site is known to him and the owner of Egmont Nursery site is also known to him.

Councillor M J Ford declared a non-pecuniary interest in respect of item 18 on the agenda as he is pre-determined on applications relating to those applications for Warsash sites.

## **8. PRESENTATION OF PETITIONS**

There were no petitions presented at this meeting.

## **9. DEPUTATIONS**

There were no deputations given at this meeting.

## **10. REPORTS OF THE EXECUTIVE**

(1) Minutes of meeting Monday, 4 November 2019 of Executive

RESOLVED that the Minutes of the Executive held on Monday 4 November 2019 be received.

(2) Schedule of Individual Executive Member and Officer Delegated Decisions

RESOLVED that the Schedule of Individual Executive Member and Officer Delegated Decisions be received.

## **11. REPORTS OF OTHER COMMITTEES**

- (1) Minutes of meeting Wednesday, 16 October 2019 of Planning Committee

RESOLVED that the Minutes of the Planning Committee held on Wednesday 16 October 2019 be received.

- (2) Minutes of meeting Wednesday, 13 November 2019 of Planning Committee

RESOLVED that the Minutes of the Planning Committee held on Wednesday 13 November 2019 be received.

- (3) Minutes of meeting Monday, 25 November 2019 of Audit and Governance Committee

RESOLVED that the Minutes of the Audit and Governance Committee held on Monday 25 November 2019 be received.

## **12. REPORTS OF THE SCRUTINY PANELS**

- (1) Minutes of meeting Thursday, 17 October 2019 of Streetscene Scrutiny Panel

RESOLVED that the Minutes of the Streetscene Scrutiny Panel held on Thursday 17 October 2019 be received.

- (2) Minutes of meeting Monday, 21 October 2019 of Leisure and Community Scrutiny Panel

RESOLVED that the Minutes of the Leisure and Community Scrutiny Panel meeting held on Monday 21 October 2019 be received.

- (3) Minutes of meeting Wednesday, 23 October 2019 of Policy and Resources Scrutiny Panel

RESOLVED that the minutes of the Policy and Resources Scrutiny Panel meeting held on Wednesday 23 October 2019 be received.

- (4) Minutes of meeting Thursday, 31 October 2019 of Health and Public Protection Scrutiny Panel

RESOLVED that the Minutes of the Health and Public Protection Scrutiny Panel meeting held Thursday 31 October 2019 be received.

- (5) Minutes of meeting Thursday, 7 November 2019 of Housing Scrutiny Panel

RESOLVED that the Minutes of the Housing Scrutiny Panel meeting held on Thursday 7 November 2019 be received.

**13. QUESTIONS UNDER STANDING ORDER 17.2**

There were no Questions received for this meeting.

**14. MOTIONS UNDER STANDING ORDER 15**

There were no Motions received at this meeting.

**15. APPOINTMENTS TO OUTSIDE BODIES**

(1) Solent Growth Forum

In considering this item it was AGREED that Councillor Mrs S M Bayford be appointed as the Council's Representative on the Solent Growth Forum.

**16. ANNUAL REVIEW OF THE CORPORATE STRATEGY 2017-2023**

RESOLVED that the Council:

- (a) notes the results of the annual review of the Corporate Strategy; and
- (b) approves the updates to the Corporate Strategy.

**17. COUNCIL TAX DISCOUNT SCHEME**

RESOLVED that the Council approves:

- (a) the approach for the proposed policy for up to 100% of the Council Tax for properties occupied by Care Leavers under 25 years of age, to be considered as irrecoverable (Section 10 of Appendix A to the report); and
- (b) the latest discretionary reductions and premiums set out in Section 9 of Appendix A to the report for:
  - (i) 0% discount for properties which are unoccupied and unfurnished for less than 2 years (Class C);
  - (ii) 0% discount for properties requiring major works to render them habitable (Class D);
  - (iii) 100% to 300% Long Term Empty property premiums for properties which have been unoccupied and unfurnished for more than 24 months.

## 18. ANNUAL REVIEW OF CONSTITUTION

A revised Appendix C – Scheme of Delegation to Officers was tabled in respect of this item.

In respect of the draft Scheme of Delegation to Officers at Appendix C, Councillor R H Price proposed that paragraph 2.17 be removed and this was seconded by Councillor S Cunningham.

During debate on this item, Councillor S D T Woodward confirmed the 12 sites relating to the planning applications as referred to in the report, following which Councillor Price sought legal advice in respect of his Declaration of Interest as one of the applications relates to a site adjacent to his address.

The Solicitor to the Council advised that as specific sites had been mentioned, any Declaration of Interest which any Member had concerning a site, or sites, would need to be declared.

Councillor R H Price declared a pecuniary interest as he owns a property immediately adjacent to a development site. Councillor R H Price left the Chamber for the remainder of this item and took no part in the discussion or vote.

As Councillor R H Price had proposed the amendment but had left the Chamber and was unable to take part in discussion, Councillor S Cunningham proposed the Amendment that paragraph 2.17 be removed.

In accordance with the advice received from the Solicitor to the Council, non-pecuniary declarations of interests were made by the following Councillors, as detailed at item 7:

Councillor I J Bastable  
Councillor Miss S Bell  
Councillor N J Walker  
Councillor T M Cartwright  
Councillor G Kelly  
Councillor S D T Woodward  
Councillor M J Ford

The amendment proposed by Councillor S Cunningham was debated and at the request of Councillor S Cunningham a recorded vote was taken on the amendment and, having been seconded by Councillor Mrs K K Trott, it was LOST with 19 voting in favour, 3 voting against and 1 abstention.

(Councillors S Cunningham, G Kelly and Mrs K K Trott voting in favour, Councillors I J Bastable, Mrs S Bayford, Miss S Bell, F W Birkett, J E Butts, T Cartwright, Mrs L Clubley, P Davies, S Dugan, Mrs T Ellis, K D Evans, M J Ford, Miss T Harper, Mrs C L A Hockley, L Keeble, S D Martin, Miss S Pankhurst, N J Walker and S D T Woodward voting against and Councillors Mrs C Heneghan abstaining).

During debate on the recommendations as laid out in the report, Councillor P Davies proposed an amendment to paragraph 2.17 that wording be inserted after the fifth word in the first sentence, as underlined:

*“Authority to determine planning applications, in specific planning application circumstances and as determined by the Planning Committee, following due consideration of any further material planning considerations and amendments to and/or additional planning conditions and amendments to and/or additional heads of terms in related planning obligations where necessary, to address any likely significant effects identified through appropriate assessments where:....”*

This amendment was seconded by Councillor Bastable, however during debate on this item, Councillor Bastable retracted his seconding and therefore without a seconder, the Motion FELL.

Councillor S D T Woodward proposed an Amendment to paragraph 2.17 that the paragraph be amended to specify that that once the 12 planning applications had been dealt with, the delegation in the Constitution be removed.

Having been seconded by Councillor T Cartwright, the Amendment was CARRIED unanimously.

RESOLVED that the Council approves:-

- (a) the amendments to the Standing Orders with Respect to Meetings, as set out in Appendix B to the report;
- (b) the amendments to the Scheme of Delegation to Officers as set out in Appendix C to the report, to include the amended wording to be inserted into paragraph 2.17 that once the 12 planning applications had been dealt with, the delegation in the Constitution be removed;
- (c) the addition of the Anti-Bribery Policy in Part 5 of the Constitution; and
- (d) the deletion of the Part 3 – Chapter 12 – Deputation Scheme.

## **19. CHANGE TO COUNCIL MEETING DATE**

RESOLVED that the Council agrees a revised date for the Council meeting in February 2020 and that the meeting be moved from Friday 28 February to Friday 21 February commencing at 5pm.

## **20. APPOINTMENTS TO COMMITTEES**

There were no changes to the appointment to Committees made at this meeting.

(The meeting started at 5.00 pm



and ended at 6.11 pm).



# FAREHAM

BOROUGH COUNCIL

## SCHEME OF DELEGATION TO OFFICERS



Deleted: April 2019

## Contents

<b>General .....</b>	<b>3</b>
2. Delegation to the Chief Executive Officer .....	4
3. Delegation to the Solicitor to the Council .....	4
4. Delegation to all Chief Officers .....	4
<b>PLANNING COMMITTEE .....</b>	<b>6</b>
1. General .....	6
2. Delegation to the Head of Development Management .....	6
3. Delegation to the Director of Planning and Regeneration .....	9
4. Delegation to all Chief Officers .....	9
<b>LICENSING AND REGULATORY AFFAIRS COMMITTEE.....</b>	<b>10</b>
1. General .....	10
2. Delegation to the Director of Leisure and Community .....	10
4. Delegation to the Chief Executive Officer of the Council.....	11
<b>PROPER OFFICER APPOINTMENTS.....</b>	<b>12</b>

Note : Reference should be made also to Part 1 Chapter 10 of the Constitution – Functions and Areas of Responsibility of Officers.

This delegation scheme is made under section 15(5) Local Government Act 2000.

~~Deleted: EXECUTIVE~~

~~Deleted: FUNCTIONS~~

~~Deleted: by the Executive of Fareham Borough Council on 15 May 2006 and comes into force on 1 June 2006.~~

## 1. General

- 1.1 In this scheme Chief Officer means a Director, a Chief Officer or the Solicitor to the Council and Monitoring Officer.
- 1.2 A local authority is a creature of statute and only has the power to act according to statutory provisions. In the same way, officers of the Council only have power to do those things which they are required by law to do or which the Council or its Executive have validly delegated to them.
- 1.3 Having the power or authority to take the action is a prerequisite for any officer to act but does not replace or override normal managerial arrangements for the performance and allocation of duties, and the need to consider what action to take in the light of the Council's stated priorities aims and objectives.
- 1.4 Whilst the exercise of a function by an officer under these arrangements is not made the subject of any precondition or qualification, an officer shall when exercising a discretion be under a duty to consider whether the decision conforms to Council approved policies and strategies and that in reaching the decision he/she has observed approved practices and procedures.
- 1.5 Any decision made by the Council, Committees, the Executive or an individual Executive Member authorises any officer of the Council to take all action necessary to implement the decision.
- 1.6 Any Executive or individual Executive Member, decision whether before or after the date of adoption of this scheme to delegate any specific function, power or authority is additional to and independent of any delegation made under this scheme.
- 1.7 The delegation of a function to a Chief Officer does not require the Chief Officer to give the matter his / her personal attention. The Chief Officer may delegate the matter to another officer, but the Chief Officer remains responsible for any decisions taken by such officers in his / her name.
- 1.8 The term "function" should be construed broadly and includes action taken which is calculated to facilitate or is conducive or incidental to the discharge of the function.
- 1.9 Save in respect of any statutory roles that are not capable of delegation, any power conferred on a subordinate officer shall be exercised by the relevant service director.
- 1.10 The Monitoring Officer shall have power to amend this scheme to reflect reorganisations, changes in job titles and vacancies, where changes result in the re-distributing existing delegations and not the creation of new ones.
- 1.11 Any post specifically referred to in the scheme shall be deemed to include any successors post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded. Any power contained within this scheme in anticipation of any reorganisation may be exercised in accordance with the

**Commented [HA2]:** 1.9, 1.10, 1.11 and 1.12 - the Legal Team recommended these paragraphs be added.

preceding scheme to the date of that reorganisation.

1.12 All matters of interpretation of this document will be determined by the Monitoring Officer.

## **2. Delegation to the Chief Executive Officer**

- 2.1 Power to exercise any of the powers conferred by the Council, Executive on any Chief Officer or other officer under this scheme.
- 2.2 Power to undertake any Council or Executive function required to be undertaken by an “authorised officer” and to authorise any officer or other person to undertake any such function.

### 3. Delegation to the Solicitor to the Council

- 3.1 Power to institute and defend and take any other steps in any legal proceedings on behalf of the Council and to instruct external legal advisers on behalf of the Council.

### 4. Delegation to all Chief Officers

- 4.1 Power to authorise any officer for whom he or she has managerial responsibility to undertake any Council or Executive function required to be taken by an “authorised officer”.
- 4.2 Power to undertake all Council or Executive functions and make all decisions which the Executive is empowered to make except the following:
- 4.2.1 Matters on which the Executive is required by law or the Council’s constitution to make recommendations to the Council
  - 4.2.2 Amendments to the budget or capital programme which are above the limit for officer virements set out in the Council’s Financial Regulations
  - 4.2.3 The setting of fees and charges
  - 4.2.4 The adoption, amendment and revocation of policies and strategies
  - 4.2.5 The disposal or acquisition of or other dealing with land valued in excess of £ 10,000
  - 4.2.6 Matters which are required to be determined by the Executive under the Council’s Contract Standing Orders or Financial Regulations or other policy or strategy
  - 4.2.7 The making, variation or revocation of any statutory Orders or the granting of any consent or approval thereto
  - 4.2.8 The approval of Front Line Service Plans
  - 4.2.9 Agreements to deliver services in partnership with other local authorities or external partners
  - 4.2.10 Approval of documents forming part of the Fareham Local Development Framework
  - 4.2.11 Approval of Environmental Improvement Schemes in excess of £10,000
  - 4.2.12 The awarding of grants
  - 4.2.13 The amendment of Council house tenancy agreements

- 4.2.14 The writing off of any debt in excess of the amount specified in the Council's Financial Regulations
- 4.2.15 Adoption or amendment of a concessionary travel scheme
- 4.2.16 Approval of any member level appointment or attendance at an external meeting or conference as an "approved duty" under the Members' Allowances Scheme where approval of the Executive is required
- 4.2.17 The allocation of funding on initiatives for the prevention and detection of crime and tackling criminal damage and disorder

4.3 ~~Following~~ consultation with the relevant Portfolio Holder or the Executive Leader, authority to take any decision which would otherwise be taken by the Executive, but which requires an urgent decision

Deleted: In

Deleted: April 2019



## PLANNING COMMITTEE

This delegation scheme is made under section 101(2) of the Local Government Act 1972 by the Planning Development Control Committee of Fareham Borough Council on 14 June 2006 and comes into force with immediate effect.

### 1. General

1.1 In this scheme Chief Officer means the Director of Planning and Regeneration, the Head of Development Management, or the Solicitor to the Council and Monitoring Officer.

1.2 Having the power or authority to take the action is a prerequisite for any officer to act but does not replace or override normal managerial arrangements for the performance and allocation of duties, and the need to consider what action to take in the light of the Council's stated priorities aims and objectives. In exercising any power, authority or function the Chief Officer (or any officer to whom he or she has delegated the power or authority or function) shall be under a duty to consider whether the decision conforms to the Council's approved policies and strategies and that in reaching the decision he or she has observed all relevant and appropriate approved practices and procedures and taken into account all responses to publicity and statutory consultations.

1.3 A Chief Officer has power to authorise any officer for whom she or he has managerial responsibility, to undertake, discharge or exercise any of the functions or powers listed below. Whilst the Chief Officer may delegate any such matter to another officer, the Chief Officer remains responsible for any decisions taken by such officers in his/her name. Such powers and/or functions include those required to be taken by "an authorised officer".

1.4 Any power, authority or function should be construed broadly and includes any action taken which is calculated to facilitate or is conducive or incidental to the exercise or discharge of the power, authority or function.

1.5 A reference to any Act or Regulations shall include any revocation, modification or replacement thereof

### 2. Delegation to the Head of Development Management

2.1 Decisions on all applications for

- Planning permission (including renewals and those submitted by other officers relating to Council owned land)
- Listed building consent

**Deleted:** <#>A local authority is a creature of statute and only has the power to act according to statutory provisions. In the same way, officers of the Council only have power to do those things which they are required by law to do or which the Council or the Planning Development Control Committee have validly delegated to them.¶

- Conservation area consent
- Display of advertisements
- Hazardous substance consent
- Approval of reserved matters
- Approval of matters covered by a condition

Except those where:

- (i) An Elected Member registers a request before the expiry of the 21 day neighbour notification period, for a planning application to be reported to the Planning Committee for decision. Requests to call applications onto the Planning Committee are to be made in writing to the Head of Development Management and must explain the material planning reasons for the call-in. The reasons for calling items onto the agenda will be set out in the Planning Officers' reports.
- (ii) Any application submitted by or on behalf of a Member or an Officer of the Council, or their respective spouses, partners or close relations.
- (iii) Five or more representations (from different households) raising material planning reasons are received during the 21 day neighbour notification period which are contrary to the intended decision of the Head of Development Management. Multiple representations from the same household are to be treated as one representation.

22 The statutory power to decline similar applications

23 Decisions on minor amendments to the permissions, consents or approvals listed in 2.1

24 Authority to enter into agreements or obligations which arise from planning applications decide under delegated powers and power to discharge or modify such agreements or obligations.

25 Any action required in relation to complaints about High Hedges under the Anti-Social Behaviour Act 2003 or Regulations made thereunder other than complaints involving Council owned land or where the complainant or hedge owner is a Councillor or an Officer.

26 Authority to take all enforcement action authorised under the Town and Country Planning Act 1990, the Planning Hazardous Substances Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning and Compensation Act 2004 including (but without prejudice to the generality of the foregoing) the issue, variation and withdrawal of enforcement notices and listed building enforcement notices, stop and temporary stop notices, planning contravention notices, breach of condition notices, completion notices, hazardous

substances contravention notices, building preservation notices, urgent works notices and the carrying out of works in default and the recovery of expenses in connection therewith

27 On receipt of a Hedgerow Removal Notice, authority to determine whether the hedge is "important" in accordance with the Hedgerow Regulations 1997 except in respect of hedgerows owned by the Council.

28 In the case of "important" hedges, to issue Hedgerow Retention Notices and Hedgerow Replanting Notices in accordance with the above Regulations except in respect of hedgerows owned by the Council.

29 Authority to determine telecommunication mast applications, power to make determinations and the granting or refusal of prior approval under the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order).

210 Authority to decide whether an Environmental Assessment or Environmental Statement is required for any planning application to be determined.

211 Authority to deal with all future applications for screening and scoping opinions under the Town and Country Planning (Environmental Impact) (England and Wales) Regulations 1999

212 Authority to issue a notice under Section 215 of the Town and Country Planning Act 1990 (proper maintenance of land).

213 Authority to determine a certificate of existing or proposed lawful use or development

~~214~~ Power to respond to consultations from neighbouring local authorities and Hampshire County Council upon planning applications and the Forestry Commission upon felling licence applications

~~215~~ Authority to institute, defend, conduct and settle all legal proceedings on behalf of the Council and to instruct external legal advisers in respect of any of the functions and powers which are delegated to them under this Scheme

Moved (insertion) [1]

216 Authority to grant or refuse consent under a TPO for felling, pruning, lopping or topping a protected tree other than applications submitted by or on behalf of:

- (i) Elected Members, their spouses or partners
- (ii) Council employees, their spouses or partners
- (iii) Hampshire County Council

2.17 Authority to determine planning applications, following due consideration of any further material planning considerations, and amendments to and/ or additional planning conditions and amendments to and/ or additional heads of terms in related planning obligations where necessary, to address any likely significant effects identified through appropriate assessments where:

Deleted: April 2019

- i. The application has already been considered by the Planning Committee;
- ii. The Planning Committee has resolved to grant planning permission; and
- iii. An appropriate assessment under the Conservation of Habitats and Species Regulations 2017 has been carried out and concluded that the proposed development will not have an adverse effect on European designated sites subject to mitigation where identified.

### 3. Delegation to the Director of Planning and Regeneration

- 3.1 Authority to make provisional Tree Preservation Orders (TPOs) (including those in Conservation Areas), the making of such Orders to be reported to the next available meeting of the Planning Development Control Committee.
- 3.2 The confirmation of unopposed TPOs.

### 4. Delegation to all Chief Officers

- 4.1 Authority to authorise any officer of the Council or Contractor for whom he/she has responsibility to enter onto land for any of the purposes authorised under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, Part 8 of the Anti-Social Behaviour Act 2003, the Planning and Compensation Act 2004 or any Regulations made thereunder.
- 4.2 Authority, following consultation with the Chairman of the Planning Development Control Committee (or in his/her absence the Vice Chairman of that Committee), to exercise any of the functions of the Council which are delegated to the Committee, where in the opinion of the Chief Officer, such matter is urgent and cannot await the next scheduled meeting to the Committee, subject to the decision or action taken being reported to the next scheduled meeting of the Committee.

Deleted: ¶  
Delegation to the Head of Development Management¶

Moved up [1]: <#>Authority to institute, defend, conduct and settle all legal proceedings on behalf of the Council and to instruct external legal advisers in respect of any of the functions and powers which are delegated to them under this Scheme¶

Deleted: in

Deleted: April 2019

## LICENSING AND REGULATORY AFFAIRS COMMITTEE

This delegation scheme is made under section 101(2) of the Local Government Act 1972 by the Licensing and Regulatory Affairs Committee (“the Committee”) of Fareham Borough Council on 18 September 2007 and comes into force on 19 September 2007.

### 1. General

1.7 In this scheme Chief Officer means the Council's Chief Executive Officer and the Director of Leisure and Community.

1.8 Having the power or authority to take the action is a prerequisite for any officer to act, but does not replace or override normal managerial arrangements for the performance and allocation of duties, and the need to consider what action to take in the light of the Council's stated priorities aims and objectives. In exercising any power, authority or function the Chief Officer (or any officer to whom he or she has delegated the power or authority or function) shall be under a duty to consider whether the decision conforms to the Council's approved policies and strategies and that in reaching the decision he or she has observed all relevant and appropriate approved practices and procedures and taken into account all responses to publicity and statutory consultations.

1.9 A Chief Officer has power to authorise any officer for whom he or she has managerial responsibility, to undertake, discharge or exercise any of the functions or powers listed below. Whilst the Chief Officer may delegate any such matter to another officer, the Chief Officer remains responsible for any decisions taken by such officers in his/her name. Such powers and/or functions include those required to be taken by “an authorised officer”.

1.10 Any power, authority or function should be construed broadly and includes any action taken which is calculated to facilitate or is conducive or incidental to the exercise or discharge of the power, authority or function.

1.11 A reference to any Act or Regulations shall include any revocation, modification or replacement thereof.

### 2. Delegation to the Director of Leisure and Community

2.1 The Director of Leisure and Community is authorised to discharge any function of the Licensing and Regulatory Affairs Committee

- As a licensing and registration authority
- In relation to Health and Safety
- In relation to safety at sports grounds

**Deleted:** <#>A local authority is a creature of statute and only has the power to act according to statutory provisions. In the same way, officers of the Council only have power to do those things which they are required by law to do or which the Council or the Committee has validly delegated to them.¶

- In relation to fire safety
- In relation to the approval of premises (including vessels and markets)
- In relation to gambling
- In relation to smoke-free legislation
- Under Section 142 of the Highways Act 1980 (Power to licence planting retention and maintenance of trees etc in part of the highway).
- Under Section 149 Highways Act 1980 (Powers relating to the removal of things so deposited on highways as to be a nuisance)
- Under Section 32 of the Acquisition of Land Act 1981 (Power to extinguish certain public rights of way)
- Under Section 294 of the Housing Act 1981 (Power to extinguish public right of way over land acquired for clearance).

and any other function that is or becomes the responsibility of the Committee.

With the exception of those matters reserved to the Committee by law or by any Council policy.

#### **4. Delegation to the Chief Executive Officer of the Council**

- 4.1 The Chief Executive Officer is authorised to discharge any function of the Committee in relation to Election Services with the exception of those matters reserved to the Committee by law or by any Council policy.
- 4.2 The Chief Executive Officer is authorised to make decisions regarding discretionary payments on early termination of employment in accordance with the Council's approved policy statement and with The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006.

---

## PROPER OFFICER APPOINTMENTS

Ref No.	Source	Power Delegated	Proper Officer
1.	Local Government and Housing Act 1989 Section 4	To be the "Head of the Paid Service"	Chief Executive Officer
2.	Local Government and Housing Act 1989 Section 5	To be the "Monitoring Officer"	Director of Support Services
3.	Local Government Act 1972 Section 151 as amended by Local Government Finance Act 1988 Section 14  Local Government and Housing Act 1989 Section 139  Schedule 5 Local Government Act 1972 Section 101	To be the officer responsible for financial administration	Deputy Chief Executive Officer
4.	Local Government Act 1972 Section 229(5)	To certify a photocopy of a document in the custody of the Council to enable it to be used in legal proceedings instead of the original in any matter	Chief Executive Officer Solicitor to the Council
5.	Local Government (Misc Provisions) Act 1976 Section 41	To certify a copy of an order, report or minutes as a true copy and evidence in legal proceedings	Chief Executive Officer Solicitor to the Council
6.	Local Government Act 1972 Section 234(1)and(2)	To sign formal notices, orders or other documents which the Council are authorised or required to do by or under any enactment	Chief Executive Officer Solicitor to the Council

7.	Local Government Act 1972 Section 101	To attest the Common Seal of the Council for any purpose	Chief Executive Officer Solicitor to the Council Deputy Chief Executive Officer Monitoring Officer Director of Planning and Regeneration Director of Support Services Director of Leisure and Community
8.	Local Government Act 1972 Section 101	To act in all appropriate cases in the event of the "Proper Officer" and designated deputy in respect of a function being absent or otherwise unable to act	Chief Executive Officer
9.	Local Government Act 1972 Section 101	To be the "Proper Officers" in relation to any reference in any enactment passed before or during the 1971/72 Session of Parliament or in any instrument made before 26 October 1972	Chief Executive Officer Solicitor to the Council Directors and Chief Officers
10.	Local Government Act 1972 Section 100B (2)	To determine those reports or parts of reports which contain exempt information and are not available to the public.	Monitoring Officer Head of Democratic Services
11.	Local Government Act 1972 Section 100B (7)	To determine which reports or parts of reports contain exempt information and are not available for supply to newspapers.	Monitoring Officer Head of Democratic Services

Deleted: April 2019



12.	Local Government Act 1972 Section 236(1) and (9)	To send copy of Byelaws to the County Council and other authorities.	Solicitor to the Council
-----	--	--	--------------------------

**Deleted:** April 2019

13.	Local Government Act 1972 Section 238	To certify printed copy of Byelaws made by Council	Solicitor to the Council
14.	Local Government Act 1972 Section 243 (2)	To keep the Roll of Freemen of the Borough	Chief Executive Officer
15.	Local Government Act 1972 Section 99 and Paras (4)(2)(b) and 3 of Schedule 12	To sign summons to meetings and to specify to whom and where notices should be sent	Chief Executive Officer
16.	Local Government Act 1972 Section.270	To be the Proper Officer for the purpose of taking declarations made by candidates in accordance with the Representation of the People Acts 1983 and 1985 in relation to the election expenses of Borough Council candidates	Chief Executive Officer Head of Democratic Services
17.	Representation of the People Act 1983. Section 8.	To be the Electoral Registration Officer for the Fareham County Constituency and that part of the Gosport Borough Constituency within the administrative area of Fareham Borough Council	Chief Executive Officer
18.	Representation of the People Act 1983. Section 52.	In the event of the absence or incapacity of the Chief Executive Officer or of a vacancy, to undertake any of the acts with respect to the Electoral Registration Officer in accordance with Section 52	Head of Democratic Services
19.	Representation of the People Act 1983 Section 35	To be the Returning Officer for Borough Council Elections	Chief Executive Officer
20.	Local Government Act 1972 8 Section 3	To witness and receive declarations of acceptance of office.	Chief Executive Officer or, in his or her absence, Head of Democratic Services.

21.	Local Government Act 1972 Section 84	To receive written notice of resignation by the Mayor, Deputy Mayor and councillors	Chief Executive Officer or, in his or her absence, Head of Democratic Services.
22.	Local Government Act 1972 Section 88(2)	To convene meetings of the Council to fill a vacancy in the office of Mayor (where such a casual vacancy occurs)	Chief Executive Officer or, in his or her absence, Head of Democratic Services.
23.	Local Government Act 1972 Section 96(1) and (2)	To receive notices of pecuniary interest by councillors and to keep records of disclosures of pecuniary interests	Monitoring Officer Solicitor to the Council
24.	Health and Safety at Work etc Act 1974	<p>(a) To exercise the powers of an Inspector specified in:</p> <p>(1) Sections 20, 21, 22, 25 and 39 of the 1974 Act</p> <p>(2) Any Health and Safety Regulations; and</p> <p>(3) The provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the 3rd column of that schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provision so specified, as enforced from time to time;</p> <p>(b) To institute proceedings pursuant to Section 38 of the 1974 Act;</p> <p>but not to the extent that these functions are</p>	Director Leisure and Community or in his absence Head of Environmental Health or a Principal Environmental Health Officer

		discharged in the Council's capacity as an employer	
25.	Health and Safety at Work etc Act 1974 Section 19	To exercise the powers of an Inspector specified in: (1) Sections 20; 21; 22 and 25  (2) Any Health and Safety Regulations; and (3) The provisions of the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963 mentioned in Schedule 1 to the 1974 Act which are specified in the 3rd column of that Schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provisions so specified as in force from time to time  but not to the extent that these functions are discharged in the Council's capacity as an employer	Director of Leisure and Community; Head of Environmental Health; Principal Environmental Health Officers; Senior Environmental Health Officers; Environmental Health Officers; and Environmental Health Technical Officers (Section 20 only).
26.	Zoo Licensing Act 1981	Appointment as Inspector for the purposes of Sections 10, 11 and 12 of the Act and any amending statutes and regulations	Veterinary Surgeon
27.	Riding Establishments Acts 1964 and 1970	Appointment as Inspectors to carry out inspections of riding establishments on behalf of the Council	Veterinary Surgeons
28.	Animal Boarding Establishments Act 1963	Appointment as Inspectors to carry out	Veterinary Surgeons

		inspections of animal boarding establishments on behalf of the Council	
29.	Pet Animals Act 1951	Appointment as Inspectors to carry out inspections of pet shops on behalf of the Council	Veterinary Surgeons
30.	Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions) Act 1976 Part II	Appointment as Authorised Officer for the purposes of the Acts and any Regulations made thereunder	Director of Leisure and Community
31.	Local Government Act 1972 Section 101	Designation as District Controller for civil emergency purposes	Chief Executive Officer
32.	Local Government Act 1972 Section 100B, 100C and 100F	To be the "Proper Officer" for the purposes of the Act	Chief Executive Officer, or, in his or her absence, Solicitor to the Council.
33.	Local Government Act 1972 Section 100D	To be "Proper Officers" for the purposes of Section 100D(1)(a) and 100D(5)(a) of the Local Government Act 1972	Chief Executive Officer, Directors and Chief Officers
34.	Local Government and Housing Act 1989	To be the "Proper Officer" and "Designated Officer" for the purposes of the Act	Chief Executive Officer, or, in his or her absence, Solicitor to the Council, Deputy Chief Executive Officer
35.	Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012	To be the Proper Officer for the purposes of publication of information under the Regulations	Chief Executive Officer Monitoring Officer Solicitor to the Council
36.	Local Government Act 1972 Section 115(2)	To be the person to whom all officers shall pay moneys received by them and due to the local authority	Deputy Chief Executive Officer

Deleted: April 2019

37.	Freedom of Information Act 2000	To be the Qualified Person for the purposes of Section 36 of the Act.	Monitoring Officer Chief Executive Officer
38.	Local Government Act 1972 Section 146	To make declarations and to issue certificates in connection with the holding or transfer of securities held by the Council or the payment of dividend or interest	Deputy Chief Executive Officer
39.	Local Government Act 1972 Section 191(2)	To receive notices from Ordnance Survey in relation to ascertaining or locating local authority boundaries	Head of Democratic Services
40.	Local Government Act 1972 Section 210(6) and (7)	To exercise any charity functions exercised by officers of the "old" local authority whenever there is no "holder of a corresponding office" in the "new" local authority	Chief Executive Officer
41.	Local Government Act 1972 Section 225	To receive and give receipt for any document required to be formally deposited with the Council	Solicitor to the Council Head of Democratic Services
42.	Para 5 of Schedule 2 of the Licensing Act 1964 as amended by Section 204(3) and Para 6 of Schedule 25 of the Local Government Act 1972	To be the "Proper Officer" to whom notice of application for justices' licence is to be given.	Director of Leisure and Community
43.	Public Health (Control of Disease) Act 1984, as amended, and Regulations made thereunder	To act for such of the functions relating to notification, investigation, prevention and control of notifiable diseases and food poisoning as require the services of a registered medical practitioner	Director of Leisure and Community Consultants in Communicable Disease Control as appointed from time to time
44.	Housing Act 1985 (as amended)	Appointment as "Proper Officer" for the purposes of the Act	Deputy Chief Executive Officer
45.	Rent Act 1977	Appointment as "Proper Officer" for the	Deputy Chief Executive Officer

46.	Local Authorities (Standing Orders) (England) Regulations 2001, Schedule I, Part II	To notify Executive members of any proposed appointment or dismissal of the Chief Executive Officer (Head of Paid Service) or Chief Officer.	Monitoring Officer or in the event of a conflict of interest, Solicitor to the Council
47.	Local Government and Housing Act 1989 Local Authorities (Standing Orders) (England) Regulations 2001	Appointment and dismissals to Deputy Chief Officer posts, subject to notification to the Executive	Chief Executive Officer Relevant Director or Chief Officer
48.	National Assistance Act 1948 and Section 1 of the National Assistance (Amendment) Act 1951;  Public Health Acts The Public Health (Ships) Regulations	Power to Act including application to courts for any necessary orders in relation to removal to suitable premises of persons in need of care and attention.  Control of disease	Deputy Chief Executive Officer; and  Such person as is for the time being on the Health Protection Agency Public Health on-call rota covering Hampshire and the Isle of Wight
49.	Regulation of Investigatory Powers Act 2000. Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000.	Authorisation to undertake covert surveillance	Chief Executive Officer Deputy Chief Executive Officer
50.		To monitor and review the operation of the Code of Corporate Governance and report annually to Audit and Governance Committee on compliance with Code and proposing any changes necessary to ensure its effectiveness	Monitoring Officer
51.	Homelessness Act 2002	Proper Officer for the purposes of the Act	Deputy Chief Executive Officer

