

Council Meeting Agenda



Wednesday, 17 July 2024 at 7pm

**Council Chamber, Civic Centre
Chelmsford**

Membership

The Mayor – Councillor Jeanette Potter
The Deputy Mayor – Councillor Susan Sullivan

and Councillors

C Adutwim, J Armstrong, N Bugbee, V Canning
N B Chambers, D J R Clark, H Clark, P H Clark, P Davey
A E Davidson, C K Davidson, S Davis, J Deakin, S. Dobson, N A
Dudley, D Eley, K Franks, L Foster,
J A Frasca, I D Fuller, M C Goldman, S M Goldman, I S Grundy,
S Hall, J Hawkins, R J Hyland, J Jeapes, A M John, G B R Knight, J
S Lardge, R J Lee, L Mascot, B. Massey, R J Moore, M O'Brien, V
Pappa, G H J Pooley, S Rajesh, J M C Raven, S J Robinson, E J
Sampson, S J Scott, T Sherlock, M Sismey, A B Sosin, J E Sosin, M
S Steel, M Taylor, A Thompson, A G Thorpe-Apps, C R Tron, N M
Walsh, R T Whitehead, P Wilson, and S Young

Local people are welcome to attend this meeting, where your elected
Councillors take decisions affecting YOU and your City.

If you would like to find out more, please telephone Dan Sharma-Bird in the
Democracy Team on Chelmsford (01245) 606523, email dan.sharma-bird@chelmsford.gov.uk, call in at the Civic Centre, or write to the address above.

MEETING OF CHELMSFORD CITY COUNCIL

17 July 2024

AGENDA

1. Apologies for Absence

2. Mayor's Announcements

3. Declarations of Interest

Members are reminded that they must disclose any interests they know they have in items of business on the meeting's agenda and that they must do so at this point on the agenda or as soon as they become aware of the interest. If the interest is a Disclosable Pecuniary Interest they are also obliged to notify the Monitoring Officer within 28 days of the meeting.

4. Minutes

Minutes of meetings on 20 March and 15 May 2024.

5. Public Questions

To receive questions from members of the public in accordance with Council Rules 10.1 to 10.6.

Any member of the public who wishes to submit a question or statement to this meeting should email it to committees@chelmsford.gov.uk 24 hours before the start time of the meeting. All valid questions and statements will be published with the agenda on the website at least six hours before the start time and will be responded to at the meeting. Those who have submitted a valid question or statement will be entitled to put it in person at the meeting.

6. Cabinet Question Time

The Leader and Members of the Cabinet to answer questions submitted by Members of the Council in accordance with Council Rules 10.18 to 10.22.

7. Report from the Cabinet on 9th July 2024

7.1 Proposed changes to the Constitution

To consider the attached report from the Leader of the Council

8. Treasury Outturn 2023/24

To consider the attached report from the Treasury Management and Investment Sub Committee

9. Budget Framework 2025/26

To consider the attached report from the Cabinet Member for Finance

10. Notice of Motion

In accordance with notice duly given, Councillor M Steel to move:

There is continuing concern that there are insufficient medical facilities in Chelmsford to cope with the increase in the City's population and all Political Parties highlighted this in their recent election literature.

Whilst it is the duty of the Integrated Care Boards to deal with the provision of medical services, and in particular GP surgeries, the City Council is currently consulting on the Local Plan to further increase the housing supply which will in turn increase the pressure on these facilities.

Officers from the City Council do regularly engage with the ICB on planning matters and in particular on the major new housing sites to ensure land and buildings are available for medical facilities.

Whilst our Planning Officers are able to negotiate S106 and recommend CIL payments for provision and timing of physical buildings, the real outcome of a surgery being ready to operate, is being delayed because of the complex requirements of setting them up as businesses. It is clear that there is an ever increasing shortfall between new builds and primary care services.

City Council Planning dept can only place obligations on the applicants of new development, hence they are limited to such things as the buildings from which a surgery would operate.

It is noted that City Council planning dept do include healthcare infrastructure requirements in the Local Plan and engage with the ICB on the Infrastructure Delivery Plans that support the Local Plan and that officers are invited to the Healthcare Providers Strategic Estates Group organised by the ICB.

However, these are not resulting in satisfactory outcomes with surgery provision not keeping pace with new occupations.

It is therefore proposed that

The City Council works much more closely with the ICB to create better outcome plans and commitments by:

1. Encourage and assist ICBs to produce strategic plans which address the demands created by major new housing estates
2. Ensure that Local Plan Infrastructure Delivery Plans and major housing estate application, align with such strategic healthcare planning undertaken by the ICB to help drive improvements to primary care delivery outcomes.
3. Encourage ICBs to use such plans to increase their funding requirements on S106 and CIL to ensure that sufficient monies are obtained from developers to cover all of the costs of new healthcare facilities.

CHELMSFORD CITY COUNCIL
MINUTES OF THE MEETING OF THE COUNCIL
held on 20 March 2024 at 7pm

PRESENT:

The Mayor, L A. Mascot
The Deputy Mayor, J A. Deakin

Councillors C Adutwim, J Armstrong, N, Bugbee, D Clark, H Clark, P Clark, P Davey, A E Davidson, C K Davidson, S Davis, S Dobson, N A Dudley, D Eley, K Franks, L Foster, J A Frasca, I D Fuller, M C Goldman, S M Goldman, S Hall, J Hawkins, R J Hyland, B Knight, J Lardge, R J Lee, L Mascot, B. Massey, R J Moore, M O'Brien, V Pappa, G H J Pooley, J A Potter, S Rajesh, J M C Raven, S J Robinson, E Sampson, S J Scott, T Sherlock, M Sismey, A B Sosin, J E Sosin, M S Steel, S Sullivan, A Thompson, A G Thorpe-Apps, C Tron, N M Walsh, R T Whitehead and S Young

1. Apologies for Absence

Apologies for absence had been received from Councillors Canning, Chambers, Grundy, Jeapes, John and Wilson.

2. Declarations of Interest

Members were reminded to declare at the appropriate time any interests that should be disclosed in the business on the meeting's agenda. Cllr Pooley declared a non-registrable interest for Item 4, due to living near the site being discussed.

3. Minutes

The minutes of the meeting held on 21 February 2024 were confirmed as a correct record.

Exclusion of the Public

RESOLVED that the public be excluded from the meeting during the consideration of Item 4 on the agenda as it contained exempt information within Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

4. Chelmer Waterside Development

Public interest statement: It is not in the public interest to release details of this report at present, on the grounds that the report contains information that is commercially sensitive and to place the information in the public realm will be detrimental to the negotiations to be undertaken by the Council.

The Council received a report asking them to consider the alternative delivery options for the development of Chelmer Waterside. The Council received a presentation from the Corporate Property Services Manager, which outlined a brief recent history of the project, the details of the selected developer, the potential methods of sale, which included a Direct Property Sale, a Joint Venture or a Development agreement alongside the key considerations that needed to be taken into account. These included Control, Place Making, Affordable Housing, Financial Risk, Potential Cost to the Council, Benefits and Regeneration.

The Cabinet Member for a Fairer Chelmsford, followed on from the officer presentation and presented the report to Council. They stated that they wanted to complete the development and create a successful development in the City. They informed Council, that a Joint Venture had originally been seen as the best route of sale, but that having considered the alternatives, a Development agreement, was now seen as the best option. The Council heard that this was to ensure that the Council was exposed to less financial risk in comparison to a Joint Venture sale. The Cabinet Member acknowledged the risks involved, as would be expected with any major property development, but stated that they felt this was the best option and would provide the most benefit for the City. They also stated that a phased development path would be used, meaning that problems could be anticipated at the right time.

The Leader of the Conservative Group introduced an amendment to the recommendation which had been submitted in advance and had been accepted as a valid amendment. The amendment sought to add the following wording to the end of the recommendation, *“subject to final Council agreement after receiving new independent valuations of the three sites which comprise the Waterside development and full details of the proposed developer’s current financial situation and ability to fund the entire development.”* In introducing the amendment, they stated that the selection process that had been carried out, had been for a Joint Venture agreement and they did not feel that the Council had actually tendered for a Development agreement and therefore felt that the market should be consulted for interest on the now preferred Development agreement method of sale and they raised the matter as a point of order as they felt any decision would be unconstitutional.

The Council’s Corporate Property Services Manager, stated that the Council had not tendered separately for a Development agreement but had openly marketed the sites. It was also noted that once the preferred developer had been identified the Council had reviewed the position and then asked the preferred developer to consider a Development agreement instead.

The Leader of the Conservative Group also stated that they had concerns a decision on the matter would be open to legal challenge and also felt that much more substantial information was required on the values of the land included and of the financial stability of the preferred developer. They also stated that there had been a general lack of information provided and that was why they had proposed an amendment and they also stated that a direct sale was their group’s preferred method of sale.

In response to the point of order raised, the Council’s Monitoring Officer stated that they were not in a position to provide legal advice on the matter. They did clarify

however that the decision being proposed, was for an agreement in principle and not a final decision and that therefore any issues could still be looked at, along with further due diligence before a final decision was actioned.

Other members of the Council spoke in support of the amendment, stating that further information was required, especially on the viability of the developer, the difference between the December valuation and the offers now received, concerns about the net cost of the development to the Council and that the report was not complete and ready for an important decision to be taken on. Other members spoke against the amendment stating that there were other risks to be considered, rather than just financial ones and that the preferred route of sale would help the Council to minimise those risks and to allow greater control as landowner over the quality of the development that would be built. They also acknowledged that a decision was needed quickly due to the grant from Homes England that could potentially be taken back and the Leader of the Council offered to meet with the Leader of the Opposition and the Cabinet Member before a final decision was taken.

On being put to a vote the amendment was lost and the debate returned to the substantive motion.

The substantive motion was debated, with views shared that the preferred method of sale was not the most beneficial for the Council, concerns about the valuations provided, concerns that the smaller opposition group had not been invited to a meeting, conflicts of interest when it came to planning applications, concerns of the developers being able to influence the planning process too greatly, that the Council would suffer financially from the development and that a decision could be unconstitutional. The Leader of the Opposition agreed to meet with the Leader of the Council, but reiterated their view that a direct sale would be a better route, would generate quicker income for the Council and that the sites should go back out to tender.

The Leader of the Council and the Cabinet Member stated that the preferred option was the best one going forward for the Council and that selling the land without planning permission would lead to a lower valuation than could be achieved. They also stated that it was not easy to make profits on a Brownfield Site but that the preferred option would ensure crucial affordable housing as part of the development. The Council also heard that £13m of funding could be taken back by Government and that members of the Council should support the recommendation as it provided the best option to develop the land in question.

On being put to a vote, a recorded vote was requested by ten members of the Council, which is detailed below.

For the motion: Cllrs Adutwim, Bugbee, D Clark, H Clark, Davey, A Davidson, C Davidson, Dudley, Eley, Franks, Foster, Frascaona, Fuller, M Goldman, S Goldman, Hall, Hawkins, Lardge, Lee, Moore, Pooley, Rajesh, Robinson, Sampson, Sherlock, A Sosin, J Sosin, Thompson, Tron, Walsh and Young.

Against the motion: Cllrs Armstrong, P Clark, Davis, Dobson, Hyland, Knight, Massey, O'Brien, Pappa, Potter, Raven, Scott, Sismey, Steel, Sullivan, Thorpe-Apps, Whitehead.

Abstained: Cllrs Deakin and Mascot.

RESOLVED that the Director of Public Places after consultation with the Cabinet Member for Fairer Chelmsford pursuant to para 3.4.5.46 of the Constitution be authorised to consider, negotiate, and agree terms for the disposal of property interests on the basis described in the report.

The meeting closed at 8.18pm

"Since this meeting the Council has undertaken further due diligence and obtained legal advice. As a result, the Council has decided not to implement the in-principle decision reached and will instead be undertaking a new procurement exercise."

Mayor

CHELMSFORD CITY COUNCIL

MINUTES OF THE ANNUAL MEETING OF THE COUNCIL

held on 15 May 2024 at 7pm

PRESENT:

The Mayor, L Mascot
The Deputy Mayor, J A Deakin

Councillors C Adutwim, J Armstrong, V Canning, D Clark, H Clark, P Clark, P Davey, A E Davidson, C K Davidson, S Dobson, N A Dudley, D Eley, K Franks, L Foster, I D Fuller, M C Goldman, S M Goldman, I S Grundy, S Hall, J Hawkins, R J Hyland, J Jeapes, A John, B Knight, J Lardge, R J Lee, L Mascot, B. Massey R J Moore, M O'Brien, G H J Pooley, J A Potter, S Rajesh, J M C Raven, S J Robinson, E Sampson, T Sherlock, M Sismey, A B Sosin, J E Sosin, M S Steel, S Sullivan, M Taylor, A Thompson, A G Thorpe-Apps, C Tron, N M Walsh, R T Whitehead, P Wilson, and S Young.

1. Apologies for Absence

Apologies for absence had been received from Councillors Bugbee, Chambers, Davis, Frascona, Pappa and Scott.

2. Mayor's Announcements

The Mayor confirmed that they had attended a total of 396 events in their mayoral term and announced that they had raised in excess of £14,000 raised for their charity, the YMCA. They acknowledged the support of representatives from the YMCA, present at the meeting.

The Mayor also presented a certificate to their cadet, Sargeant Iona Walladge, to thank them for their support throughout their Mayoral year.

3. Election of Mayor and Deputy Mayor

Election of Mayor

On the nomination of Councillor Whitehead, seconded by Councillor A Sosin, it was

RESOLVED that Councillor Potter be elected Mayor of the City of Chelmsford for the ensuing year.

Appointment of Deputy Mayor

On the nomination of the Mayor, seconded by Councillor Whitehead, it was

RESOLVED that Councillor Sullivan be appointed as the Deputy Mayor of the City of Chelmsford for the ensuing year.

4. Declarations of Acceptance of Office

Councillor Potter made the declaration of acceptance of office as Mayor and took the chair.

Councillor Sullivan then made the declaration of acceptance of office as Deputy Mayor.

5. Mayors Consort and Deputy Mayoress

The Mayor introduced to the Council the Mayoress for their year in office, Jackie Galley. The Deputy Mayor introduced the Deputy Mayors Consort, their husband, John Pioli.

The retiring Mayors Consort, Ian Mascot, congratulated the Mayoress, Jackie Galley, and invested them with the Chain of Office.

The retiring Deputy Mayoress, Helen Deakin, congratulated the Deputy Mayors Consort, John Pioli, and invested them with the Badge of Office.

6. Address by the Mayor

The Mayor thanked the Council for electing them and expressed appreciation for the work of Councillor Mascot during their year in office.

7. Retiring Mayor and Retiring Deputy Mayor

Councillor Robinson and Councillor Jeapes then thanked Councillor Mascot for their services as Mayor, highlighting the Mayors dedication to the community.

Councillor Mascot presented [a video reflecting on their time as Mayor](#) and expressed their appreciation for the support given to them by their family, Consort, Ian Mascot and Councillor Deakin as the Deputy Mayor.

8. Mayor's Announcements

The Mayor informed the Council that their Chaplain for the forthcoming year would be the Reverend David Cattle of St Michael and All Angels Church, Galleywood and their Charity for the year would be Chelmsford Farleigh Hospice.

9. Provision of substitutes for the Licensing and Regulatory Committees

The Council considered a report proposing an amendment to the constitution, allowing the appointment of substitutes to the Licensing and Regulatory Committees, following consultation with the Constitution Working Group.

RESOLVED that amendments to the Constitution, enabling the appointment of substitutes to the Licensing and Regulatory Committees, be approved.

10. Leader's Scheme of Delegation

The Council were presented with the Leaders Scheme of Executive Delegation for 2024-2025. The leader highlighted that the scheme remains unchanged from the previous year and that no individual cabinet members have delegation to take decisions.

RESOLVED that the Leaders Scheme of Delegation be noted.

11. Arrangements for and Appointments to City Council Bodies and Outside Bodies

RESOLVED that:

1. In accordance with the Regulations made under the Local Government and Housing Act 1989 the following political groups be noted.

- (a) **Liberal Democrat Group** 33 members Leader: Councillor S J Robinson
Deputy Leader: Councillor M C Goldman

Councillors C Adutwim, N Bugbee, D Clark, H Clark, P Davey, A Davidson, C Davidson, J Deakin, N Dudley, D Eley, L Foster, K Franks, J Frascona, I Fuller, S Goldman, S Hall, J Hawkins, J Lardge, R Lee, L Mascot, R Moore, G Pooley, S Rajesh, E Sampson, T Sherlock, A Sosin, J Sosin, A Thompson, C Tron, N Walsh and S Young

- (b) **Conservative Group** 19 members Leader: Councillor R T Whitehead
Deputy Leader: Councillor A Thorpe Apps

Councillors J Armstrong, V Canning, N Chambers, S Dobson, I Grundy, J Jeapes, A John, B Massey, M O'Brien, V Pappa, J Potter, J Raven, S Scott, M Sismey, M Steel, S Sullivan and P Wilson

- (c) **Chelmsford Independents Group** 3 members Leader: Councillor R Hyland

Councillors P Clark and S Davis

- (d) **Independent Councillors not in a political group**

Councillors B Knight and M Taylor

2. The Leader of the Council's (Councillor Stephen Robinson) appointment of the following councillors to the Cabinet in 2024/25 with the areas of responsibility indicated, be noted:

Leader of The Council	Councillor Stephen Robinson
	Councillor Simon Goldman

Cabinet Deputy for Economic Development and Strategic Projects Cabinet Deputy for Sustainable Transport	Councillor Terry Sherlock
Deputy Leader and Cabinet Member for a Connected Chelmsford	Councillor Marie Goldman
Cabinet Member for a Greener Chelmsford	Councillor Rose Moore
Cabinet Member for an Active Chelmsford	Councillor Natacha Dudley
Cabinet Member for a Safer Chelmsford	Councillor Donna Eley
Cabinet Member for a Fairer Chelmsford	Councillor Lynne Foster
Cabinet Member for Finance	Councillor Chris Davidson

3. The following councillors be appointed as the Cabinet opposition spokespersons 2024/25 with the areas of responsibility shown:

Function	Conservative Group
Leader's Responsibilities Cabinet Deputy for Economic Development and Strategic Projects Cabinet Deputy for Sustainable Transport	Councillor Roy Whitehead Councillor James Raven Councillor Sue Dobson
Deputy Leader and Cabinet Member for a Connected Chelmsford	Councillor Thorpe-Apps
Cabinet Member for a Greener Chelmsford	Councillor James Armstrong
Cabinet Member for an Active Chelmsford	Councillor Julia Jeapes
Cabinet Member for a Safer Chelmsford	Councillor Philip Wilson
Cabinet Member for a Fairer Chelmsford	Councillor Mike Steel
Cabinet Member for Finance	Councillor Roy Whitehead

4. The following allocation, membership and Chairs for Committees and Sub-Committee for the year 2024/2025, be approved.

Body	Seats	Allocation	Membership
Audit and Risk Committee	9	Liberal Democrat – 6	Councillor Nora Walsh (Chair) Councillor Nicola Bugbee Councillor Hazel Clark

		Conservative - 3	<p>Councillor Natacha Dudley Councillor Kieron Franks Councillor Andrew Sosin</p> <p>Councillor James Raven Councillor Malcom Sismey (Vice Chair) Councillor Roy Whitehead</p>
Chelmsford Policy Board	13	<p>Liberal Democrat – 7</p> <p>Conservative – 5</p> <p>Chelmsford Independents Group – 1</p>	<p>Councillor Charlene Adutwim (Chair) Councillor Ian Fuller Councillor Graham Pooley Councillor Andrew Sosin (Vice Chair) Councillor Nora Walsh Councillor Sue Young Councillor Jude Deakin</p> <p>Councillor Julia Jeapes Councillor Bob Massey Councillor Murrough O'Brien Councillor Andrew Thorpe-Apps Councillor Roy Whitehead</p> <p>Councillor Paul Clark</p>
Employment Committee	5	<p>Liberal Democrat – 3</p> <p>Conservative - 2</p>	<p>Councillor Stephen Robinson Councillor Marie Goldman Councillor Rose Moore</p> <p>Councillor Andrew Thorpe-Apps Councillor Roy Whitehead</p>
Governance Committee	7	<p>Liberal Democrat – 5</p> <p>Conservative – 2</p>	<p>Councillor Kieron Franks (Chair) Councillor Ian Fuller Councillor Smita Rajesh (Vice Chair) Councillor Janetta Sosin Councillor Sue Young</p> <p><i>Councillor Donna Eley (SUB)</i></p> <p>Councillor Bob Massey Councillor Mike Steel</p> <p><i>Councillor Roy Whitehead (SUB)</i></p>

			<p>And two independent persons (appointed under section 28(7) of the Localism Act 2011)</p> <p>NOTE – There are also three Parish Council representatives on the Committee</p>
Licensing and Regulatory Committee (Depending on the matters to be considered this Committee will sit as either the Regulatory Committee or as the Licensing Committee)	13	<p>Liberal Democrat – 7</p> <p>Conservative – 5</p> <p>Chelmsford Independents Group - 1</p>	<p>Councillor Richard Lee (Chair)</p> <p>Councillor Dan Clark (Vice Chair)</p> <p>Councillor Hazel Clark</p> <p>Councillor Ann Davidson</p> <p>Councillor Julia Frascona</p> <p>Councillor Joanne Hawkins</p> <p>Councillor Linda Mascot</p> <p><i>Councillor Jennie Lardge (SUB)</i></p> <p><i>Councillor Ashley Thompson (SUB)</i></p> <p>Councillor Nicolette Chambers</p> <p>Councillor Ashley John</p> <p>Councillor Vetri Pappa</p> <p>Councillor Steph Scott</p> <p>Councillor Philip Wilson</p> <p><i>Two Substitutes to follow</i></p> <p>Councillor Steve Davis</p>
Overview and Scrutiny Committee	13	<p>Liberal Democrat – 7</p> <p>Conservative – 5</p> <p>Chelmsford Independents Group – 1</p>	<p>Councillor Ashley Thompson (Vice Chair)</p> <p>Councillor Dan Clark</p> <p>Councillor Hazel Clark</p> <p>Councillor Pete Davey</p> <p>Councillor Jude Deakin</p> <p>Councillor Kieron Franks</p> <p>Councillor Linda Mascot</p> <p>Councillor Julia Jeapes (Chair)</p> <p>Councillor Victoria Canning</p> <p>Councillor Sue Dobson</p> <p>Councillor Mike Steel</p> <p>Councillor Philip Wilson</p> <p>Councillor Steve Davis</p>
Planning Committee	13	Liberal Democrat – 7	<p>Councillor Janetta Sosin (Chair)</p> <p>Councillor Steve Hall</p>

		<p>Conservative – 5</p> <p>Chelmsford Independents Group – 1</p>	<p>Councillor Jennie Lardge Councillor Richard Lee Councillor Graham Pooley Councillor Eleanor Sampson Councillor Chloe Tron</p> <p><i>Councillor Hazel Clark (SUB)</i> <i>Councillor Julia Frascona (SUB)</i> <i>Councillor Nora Walsh (SUB)</i></p> <p>Councillor Jacob Armstrong Councillor Sue Dobson (Vice Chair) Councillor Vetri Pappa Councillor Andrew Thorpe-Apps Councillor Philip Wilson</p> <p><i>Councillor Murrough O'Brien (SUB)</i></p> <p>Councillor Richard Hyland</p>
Treasury Management and Investment Sub-Committee	7	<p>Liberal Democrat – 4</p> <p>Conservative – 2</p> <p>Chelmsford Independents Group – 1</p>	<p>Councillor Chris Davidson (Chair) Councillor Kieron Franks (Vice Chair) Councillor Steve Hall Councillor Andrew Sosin</p> <p>Councillor Malcolm Sismey Councillor Roy Whitehead</p> <p>Councillor Paul Clark</p>

5. Councillor Sherlock be appointed as the Council's representative on the South Essex Parking Partnership with Councillor A Sosin as substitute.
6. The persons named below be appointed as the Council's relevant Champions and Ambassadors.
7. The persons named below be appointed to represent the Council on the outside bodies referred to for the period indicated.

Equality, Diversity and Inclusion Champions

Councillor Charlene Adutwim
Councillor Ann Davidson
Councillor Jude Deakin

Armed Forces Champion

Councillor Jude Deakin

Climate & Ecology Ambassador

Councillor Terry Sherlock

Health and Wellbeing Ambassador

Councillor Ann Davidson

Body	Term of Office	No. of Representatives	Representative(s)
Chelmer and Blackwater Navigation Advisory Board	1 year	1	Councillor Richard Lee
Chelmsford Age Concern	1 year	1	Councillor Ann Davidson
Chelmsford Business Improvement District	1 year	1	Councillor Simon Goldman
Chelmsford CAB Trustee Board	1 year	2	Councillors Hazel Clark and Smita Rajesh
Chelmsford Council for Voluntary Service	1 year	1	Councillor Sue Young
Chelmsford Cultural Development Trust	1 year	1	Councillor Julia Frascona
Chelmsford Educational Foundation	3 years commencing May 2023	2	Councillor Julia Frascona and Sue Young
Chelmsford Fairtrade	1 year	1	Councillor Natacha Dudley
Chelmsford Local Highways Panel	1 year	2	Councillor Kieron Franks Councillor Steph Scott
Chelmsford YMCA	1 year	1	Councillor Jude Deakin
Danbury Lakes Country Park Forum	1 year	2	Councillor Richard Hyland
Essex Countywide Traveller Unit Joint Committee	No fixed term	1	Councillor Janetta Sosin

Essex Police, Fire and Crime Panel	1 year	1	Councillor Donna Eley
Essex Waste Partnership Member Board	1 year	1	Councillor Donna Eley
Flood Partnership Board	1 year	1	Councillor Rose Moore
Galleywood Heritage Centre	2 years commencing May 2023	1	Councillor Richard Hyland
King Edward VI Grammar School Historic Foundation Governors	3 years commencing 1st July 2023	2	Councillor Andrew Sosin and Mrs Myra Merchant
Local Government Association – Assembly and Conference - Delegate	1 year	1	Councillor Stephen Robinson
Local Government Association – District Councils Network	1 year	1	Councillor Stephen Robinson
Marsh Farm Country Park Forum	1 year	1	Councillor Terry Sherlock
Mid and South Essex ICS – Mid Essex Locality representative	1 year	1	Councillor Ann Davidson
One Chelmsford Partnership Strategic Board	1 year	1	Councillor Stephen Robinson (Substitute – Councillor Natacha Dudley)
PATROL (Parking and Traffic Regulations Outside London) Adjudication joint Committee.	1 year	1	Councillor Terry Sherlock
Springfield United Charities	4 years commencing May 2023	3	Councillors Ian Fuller and Chloe Tron and Mr R Stevens

Tech Ambassadors	1 year	2	Councillors Marie Goldman and Nora Walsh	
The Barge Susan Trust	2 years commencing May 2023	1	Mrs F B Mountain	

Bradwell Local Community Liaison Council	1 year	1	Director of Public Places or representative	Director of Public Places or representative
Essex Society for Archaeology and History	1 year	1	Director of Connected Chelmsford or representative	Director of Connected Chelmsford or representative

8. Part 3.2.3 of the Constitution be amended to reflect the changes to the number of places on the bodies referred to in Schedule C;
9. The Legal and Democratic Services Manager, after consulting the relevant Group Leaders, be authorised to:
 - (a) make appointments to an Employment Appeals Committee should the need for that Committee arise;
 - (b) make appointments to or approve other changes to the representation of other non-Executive bodies that become necessary during the municipal year, provided that the political balance of those bodies continues to be observed;
10. The Legal and Democratic Services Manager, after consulting the political Groups, be authorised to finalise, amend or add to the appointments to Outside Bodies and to make any changes to them during the municipal year.

The meeting closed at 8:03pm

Mayor



Chelmsford City Council

17 July 2024

Report from the Cabinet

Report by: Leader of the Council

Officer contact:

Dan Sharma-Bird, 01245 606523, dan.sharma-bird@chelmsford.gov.uk

Purpose

To inform Council of the decision of the Cabinet on 9 July 2024.

Recommendations:

That the recommendation of the Cabinet on Agenda Item 7.1 be approved.

1. Proposed Changes to the Constitution

RESOLVED that the proposed changes be recommended to Council, with the below changes as agreed by Cabinet to the Terms of Reference for the Constitution Working Group;

- Remove the word 'any' in the first sentence of the Functions/Purpose and add "This does not prevent Council adopting changes to the constitution that have not been reviewed by the Constitutional working group."

Background papers:

None

Appendices:

Appendix 1 – Report to Cabinet on 9th July

Corporate Implications

As set out in the original report to the Cabinet



Chelmsford City Council Cabinet

9 July 2024

Proposed Changes to the Constitution

Report by:

Leader of the Council

Officer Contact:

Lorraine Browne, Legal & Democratic Services Manager and Monitoring Officer, 01245 606560, lorraine.browne@chelmsford.gov.uk

Purpose

To consider proposed changes to the constitution in relating to working groups and planning related matters as set out in the report.

Options

1. Recommend the proposed changes to Council.
2. Do not recommend to Council that proposed changes are made.

Preferred option and reasons

The preferred option is Option 1.

Recommendations

It is recommended that:

1. Cabinet recommends to Council that the proposed changes set out in the report are made to the constitution.
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1. Background

- 1.1. The Council's Constitution is reviewed regularly and at least annually to ensure that it remains complete, up to date and reflects current practice and legislation. Reviews are normally initiated by officers although can be requested by members. Any recommendations are submitted in the first instance to the Constitutional Working Group. Its recommendations are then passed to the Governance Committee, the Cabinet (where appropriate) and finally Full Council.
- 1.2. The proposed changes to the constitution arising from the latest reviews concern working groups and planning related changes. The Constitutional Working Group and Governance Committee have been consulted upon these changes. Changes relating to working groups are set out briefly below and in detail within Appendices 1 & 2 and planning related changes in Appendices 3 & 4. Cabinet is asked to consider these in advance of July Council:
 - The removal of the Civic Centre Panel from the Constitution as it has not met for some time.
 - Clarifying the arrangements for appointing a Chair to the Community Funding Panel
 - The addition of the Constitutional Working Group. Draft terms of reference can be found at Appendix 2.
 - The adoption of the model planning code which has been produced by Lawyers in Local Government. This can be found at Appendix 3.
 - Appendix 4 sets out two minor amendments to the planning code to retain the City Council's current approach to unopposed planning applications from officers/members and a decision contrary to officer recommendation.
 - Appendix 4 sets out consequential amendments arising from the adoption of the planning code to clarify speaker time limits at committee and new material.
 - Finally Appendix 4 sets out a clarification in relation to the timeframe for member call in.
- 1.3. The Planning Committee was also consulted in relation to proposed changes to planning related changes.

2. Conclusion

- 2.1. Cabinet is asked to consider whether to recommend the amendments to the Constitution set out in Appendices 1-4 before consideration by Full Council.

List of appendices:

Appendix 1 – Proposed changes to constitution in relation to working groups

Appendix 2 - Terms of Reference for Constitution Working Group

Appendix 3 – LLG Model Planning Code

Appendix 4 – Two minor changes to the planning code and consequential amendments to the constitution arising from adoption of the code.

Background papers:

None

Corporate Implications

Legal/Constitutional: These are set out in the report.

Financial: None

Potential impact on climate change and the environment: None

Personnel: None

Risk Management: None

Equality and Diversity: None

Health and Safety: None

Digital: None

Other: None

Consultees:

Constitution Working Group. Planning Committee have also been consulted upon the planning related changes to the constitution.

Relevant Policies and Strategies:

LLG Model Planning Code (updated January 2024)

Appendix 1 Cabinet (July 2024) Proposed changes to constitution – working groups

Agenda item	Current version	Proposed version (with changes highlighted)
<p style="text-align: center;">1. Working Groups</p> <p>A review of working groups has been undertaken. As a general approach it is recommended that standing working groups which operate in the long term and are still in operation are included in the constitution. It is not proposed to include other working groups that may arise from time to time.</p> <p>As a result of this review, it is proposed to add the Constitution working group to the constitution, remove the Civic Centre Panel and include arrangements for a chair of the Community Funding Panel to clarify cabinet member consultation in relation to delegations.</p>	<p>Constitution working group not currently included in constitution</p> <p>Civic centre panel TOR can be found at 3.2.4 under advisory panels for Cabinet</p> <p>Community Funding Panel</p>	<p>Suggest draft TOR attached at Appendix 2 are added after Mayoral working group at 3.2.4 as an advisory panel for Council functions</p> <p>Suggest that the Panel and TOR are deleted from the constitution</p> <p>Suggest add to the TOR that there will be a chair of the panel and that a Cabinet Member will be appointed by the Leader of the Council</p>

Constitutional Working Group			
Membership: Seven Members including the Leader of the Council and Chair of Governance Committee			
Quorum	Other attendees	Politically Balanced	Frequency of meetings
3	Monitoring Officer, Democratic Services officer	Yes (by convention see para 4.2.8A.1)	as necessary
Functions/Purpose		Delegations	
The Constitutional working group will meet as necessary to review any proposed changes to the constitution where member consultation is required. The working group may also act as a consultative group for matters arising from the Governance Committee where it would be helpful for informal member consultation to take place prior to public consideration. This does not prevent Council adopting changes to the constitution that have not been reviewed by the Constitutional working group.		Minor changes – see 2.16.3 of constitution	
Procedures	Constitution		
Codes	Part 5.1 – Code of Conduct for Councillors		

Commented [LB1]: Suggested deletion by Cabinet

Commented [LB2]: Suggested addition by Cabinet



The Members Planning Code of Good Practice

Background

The Members' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges concerning local planning authorities and the members' conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time. The drafting of the Model Code was subject to consultation and comment from a number of local authorities through the machinery of LLG as well as with the Local Government Ombudsman and from firms of solicitors or counsel. LLG then worked with the Local Government Association to publish the Code as part of a suite of guidance.

The Model Planning Code and Protocol was first published in 2003, was refreshed in 2007. Following the Localism Act 2011's introduction of the new law on members' conduct, the clarification in the law on bias and predetermination in that Act and in the courts¹ and commentary from the Committee on Standards in Public Life in better defining the Nolan Principles, it was reviewed and updated in 2014.

In 2017, the UK Supreme Court stated that the Code and Protocol "*offers sound practical advice*"².

The Model Council Planning Code and Protocol has thus now become a central plank of the guidance used by local authorities to give their members and others advice and to direct the business of the planning decisions to ensure fairness and legality. Many councils have incorporated it into their constitutional documents and a number have turned its provisions into standing orders to provide binding rules of procedure. The ability to do this was confirmed by the Court of Appeal in 2023³.

As we approach ten years since that last update, we have looked again at the Code and Protocol for use by local authorities. In doing this we would wish to thank Bevan Brittan and in particular Philip McCourt, together with Sharon Bridgalsingh, Director of Law and Governance at Milton Keynes City Council.

This refresh will help in having clarified some of the points concerning consistency and reasoning in decision making and underscores the potential impact of social media interactions upon proceedings.

The successful operation of the planning system relies on mutual trust and understanding of Member and officer roles. It also relies on the important legal principle that a decision-maker must not only ask themselves the right question, but to obtain the relevant information to enable them to answer it correctly and to be able and willing to understand it and then take it properly.

¹ R (Island Farm Development Ltd) v. Bridgend County BC [2006] EWHC 2189 (Admin), [2007] LGR 60, approved R (Lewis) v. Redcar & Cleveland BC [2008] EWCA Civ 746, [2009] 1 WLR 83

² Para 62, Dover District Council (Appellant) v CPRE Kent (Respondent) [2017] UKSC 79

³ The Spitalfields Historic Building Trust, R (On the Application Of) v London Borough of Tower Hamlets [2023] EWCA Civ 917



into account when making their decision. All of this requires Members and their officers ensuring that they act in a way which that is fair and impartial and is clearly seen to be so.

In reproducing the Model Council Planning Code and Protocol in 2023, we are seeking to endorse and ensure that those principles continue to be upheld.

LLG
January 2024



Introduction

The aim of this code of good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Authority's Code of Conduct first, which must be always be complied with. This is both the rules on disclosable pecuniary interests (and other interests if included in your authority's code) and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning and development control. If you do not abide by this Members' Planning Code, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- **Do** be aware that, like the Authority's Code of Conduct, this Planning Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your monitoring officer or their staff advising at the meeting.



2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest as required by your members Code of Conduct.
- **Do take into account when approaching a decision that** the Principle of integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that “*Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships*”. It is therefore advisable that you:
 - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
 - **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that the Members' Code of Conduct may place additional limitations on you in representing that proposal
 - **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
 - you should send the notification no later than submission of that application where you can;
 - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

3. Fettering Discretion in the Planning Process

(natural justice, predisposition and predetermination)

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to

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make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.

- **Do** keep at the front of your mind that, when you come to make the decision, you
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice and the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:
 - the proposal does not substantially effect the well being or financial standing of the consultee body;
 - you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- **Do** explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.*)
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member (*where this is granted by the authority's standing orders or by the consent from the Chair and Committee*) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
 - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the seating area for members of the Committee for the duration



of that item; and

- ensure that your actions are recorded in accordance with the Authority's committee procedures.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the [*relevant Development Control Manager*] to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - follow the rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the [*relevant Development Control Manager*] any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file [a proforma has been supplied to you for this purpose].

In addition in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to express an intention to vote one way or

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another or such a firm point of view that it amounts to the same thing.

- **Do** remember that your overriding duty is to the whole community not just to the people in your [ward][division][particular interest or area] and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the [*relevant Development Control Manager*] at the earliest opportunity.
- **Do** promptly refer to the [*relevant Development Control Manager*] any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind);
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion of others in your role as a [Ward][Division] Member.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will be seen to have fettered your discretion on the grounds of bias.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should normally disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Do** be aware of the power of social media posts or re-posting and be careful to not to give

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the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.

- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the [Ward][Division] Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the [*relevant Development Control Manager*] about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Don't** participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.

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- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter. (Where a matter is deferred and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again).
- **Do** have recorded the reasons for Committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded (it will help to take advice from officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of

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the meeting, it may be helpful to request a short adjournment for these purposes). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

11. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus

assist you in carrying out your role properly and effectively.

- **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

LLG

January 2024

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Bevan Brittan 

LLG would like to thank Sharon Bridglalsingh, Director of Law and Governance at Milton Keynes City Council.

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Planning related proposed changes to constitution 2024 - Appendix 4

Item proposed for change	Current version	Proposed version (with additions highlighted in yellow and deletions in pink)
<p>1. Planning Code – consider whether to adopt the LLG model planning code which is recognised good practice and been subject to judicial approval. Recommended to adopt the code with two clarifications to maintain existing Council approach – these are set out in the proposed version</p>	<p>Council existing planning code can be found at 5.2 of published constitution</p> <p>1. Applications by members/officers</p> <p>3.4.7.21 (e) currently provides that planning proposals from councillors/officers are referred to planning committee where an “adverse representation or comment” is made (and not in all cases) :-</p> <p>proposals, except for applications for certificates of lawfulness, identified as being submitted by or on behalf of City Councillors or employees where an adverse representation or comment has been received, unless the Monitoring Officer has notified the Director of Sustainable Communities Services in writing that they are satisfied that the delegation may be exercised in the case concerned;</p>	<p>It is suggested that the Council adopts the LLG planning code but makes two clarifications so as to retain its existing approach.:-</p> <p>1. Applications by members/officers</p> <p>Add to Section 2 of the new code “the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers where an adverse representation or comment has been made – as per officer delegations set out in 3.4.7.21(e) of the council’s constitution”;</p>

	<p>2. Decisions contrary to officer recommendation</p> <p>contrary to officer recommendation are currently dealt with at 5.2.7. of the current planning code –</p> <p>DECISIONS CONTRARY TO OFFICER RECOMMENDATION</p> <p>5.2.7.1 If the Planning Committee wants to make a decision contrary to the officer's recommendation the material planning reasons for doing so shall be clearly stated, agreed and minuted. The application should be deferred to the next meeting of the Committee for consideration of appropriate conditions and reasons and the implications of such a decision clearly explained in the report back.</p> <p>5.2.7.2 Only those Members of the Committee present at both meetings can vote on the reason for the decision. Exceptionally, the Committee may decide that circumstances prevent it from deferring the decision but its reasons must be clearly stated and recorded in the minutes. The Committee may be asked to nominate a 'member witness' at any subsequent appeal hearing in order to justify their decision.</p>	<p>2. Decisions contrary to the officer recommendation</p> <p>Propose to adopt the new code but clarify in final bullet at para 10 decision making (so as to retain the existing approach). Propose to delete the pink highlight and replace with the yellow highlight from model code. (note – para 10 already provides that a councillor must attend the original and deferred meeting to be able to vote)</p> <p>Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded (it will help to take advice from officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of the meeting, it may be helpful to request a short adjournment for these purposes (where the planning committee is minded to make a decision contrary to officer recommendation the item will normally be deferred to the next meeting for consideration of appropriate conditions and reasons together with implications of such a decision clearly explained in the report back)). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.</p>
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<p>2. If adopt the model code then changes are proposed to retain and update speaker time limits. This is proposed to add a new rule in the cabinet and committee procedure rules at 4.2.25.5 to cover this. A clarification has also been added to demonstrate that speakers cannot add new material at the meeting.</p>	<p>Speaker time limits are currently dealt with in the planning code. 4.2.25 sets out rules that are specific to certain committees, including Planning Committee at 4.2.25.3 & 4. It is proposed to add rules for speaker time limits at the new 4.2.25.5.</p>	<p>Planning Committee</p> <p>4.2.25.5 <i>In addition to any requirement to give notice of any questions or comments the following time limits will apply to any speakers at the committee:-</i></p> <p><i>Ward councillor(s) or cabinet member(s) – 5 minutes</i> <i>One lead Parish tier councillor speaking on behalf of a parish tier council – 5 minutes</i> <i>Any other public speakers – 2 minutes</i></p> <p><i>Nothing in this rule entitles a speaker to submit new material or documents at this point in the planning process.</i></p>
<p>3. 3.4.7.21 (a) – review of member call in</p> <p>To clarify the timeframe within which ward members can call in an item to Planning Committee and how to manage</p>	<p>3.4.7.21 Referral to the Planning Committee of:</p> <p>a) proposals where a representation has been received before the end of the 21-day consultation period that is contrary to</p>	<p>It is proposed that 3.4.7.21(a) is replaced with :-</p> <p>3.4.7.21 Referral to the Planning Committee of:</p> <p>a) proposals where a representation has been received before the end of the consultation expiry date that is contrary to the recommendation</p>

<p>an extension of time for representations (eg by Parish tier Council).</p>	<p>the recommendation of the appropriate officer and a City Councillor(s) for the ward or wards in which the proposal is intended to take place has requested that the case should be reported to Members for determination:</p>	<p>of the appropriate officer, and a City Councillor(s) for the ward or wards in which the proposal is intended to take place has notified officers on or before the consultation expiry date that they wish the case to be reported to Members for determination;</p>
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Appendix 1 Cabinet (July 2024) Proposed changes to constitution – working groups

Agenda item	Current version	Proposed version (with changes highlighted)
<p>1. Working Groups</p> <p>A review of working groups has been undertaken. As a general approach it is recommended that standing working groups which operate in the long term and are still in operation are included in the constitution. It is not proposed to include other working groups that may arise from time to time.</p> <p>As a result of this review, it is proposed to add the Constitution working group to the constitution, remove the Civic Centre Panel and include arrangements for a chair of the Community Funding Panel to clarify cabinet member consultation in relation to delegations.</p>	<p>Constitution working group not currently included in constitution</p> <p>Civic centre panel TOR can be found at 3.2.4 under advisory panels for Cabinet</p> <p>Community Funding Panel</p>	<p>Suggest draft TOR attached at Appendix 2 are added after Mayoral working group at 3.2.4 as an advisory panel for Council functions</p> <p>Suggest that the Panel and TOR are deleted from the constitution</p> <p>Suggest add to the TOR that there will be a chair of the panel and that a Cabinet Member will be appointed by the Leader of the Council</p>

Constitutional Working Group			
Membership: Seven Members including the Leader of the Council and Chair of Governance Committee			
Quorum 3	Other attendees Monitoring Officer, Democratic Services officer	Politically Balanced Yes (by convention see para 4.2.8A.1)	Frequency of meetings as necessary
Functions/Purpose		Delegations	
The Constitutional working group will meet as necessary to review any proposed changes to the constitution where member consultation is required. The working group may also act as a consultative group for matters arising from the Governance Committee where it would be helpful for informal member consultation to take place prior to public consideration.		Minor changes – see 2.16.3 of constitution	
Procedures	Constitution		
Codes	Part 5.1 – Code of Conduct for Councillors		



The Members Planning Code of Good Practice

Background

The Members' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges concerning local planning authorities and the members' conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time. The drafting of the Model Code was subject to consultation and comment from a number of local authorities through the machinery of LLG as well as with the Local Government Ombudsman and from firms of solicitors or counsel. LLG then worked with the Local Government Association to publish the Code as part of a suite of guidance.

The Model Planning Code and Protocol was first published in 2003, was refreshed in 2007. Following the Localism Act 2011's introduction of the new law on members' conduct, the clarification in the law on bias and predetermination in that Act and in the courts¹ and commentary from the Committee on Standards in Public Life in better defining the Nolan Principles, it was reviewed and updated in 2014.

In 2017, the UK Supreme Court stated that the Code and Protocol "*offers sound practical advice*"².

The Model Council Planning Code and Protocol has thus now become a central plank of the guidance used by local authorities to give their members and others advice and to direct the business of the planning decisions to ensure fairness and legality. Many councils have incorporated it into their constitutional documents and a number have turned its provisions into standing orders to provide binding rules of procedure. The ability to do this was confirmed by the Court of Appeal in 2023³.

As we approach ten years since that last update, we have looked again at the Code and Protocol for use by local authorities. In doing this we would wish to thank Bevan Brittan and in particular Philip McCourt, together with Sharon Bridgalsingh, Director of Law and Governance at Milton Keynes City Council.

This refresh will help in having clarified some of the points concerning consistency and reasoning in decision making and underscores the potential impact of social media interactions upon proceedings.

The successful operation of the planning system relies on mutual trust and understanding of Member and officer roles. It also relies on the important legal principle that a decision-maker must not only ask themselves the right question, but to obtain the relevant information to enable them to answer it correctly and to be able and willing to understand it and then take it properly.

¹ R (Island Farm Development Ltd) v. Bridgend County BC [2006] EWHC 2189 (Admin), [2007] LGR 60, approved R (Lewis) v. Redcar & Cleveland BC [2008] EWCA Civ 746, [2009] 1 WLR 83

² Para 62, Dover District Council (Appellant) v CPRE Kent (Respondent) [2017] UKSC 79

³ The Spitalfields Historic Building Trust, R (On the Application Of) v London Borough of Tower Hamlets [2023] EWCA Civ 917



into account when making their decision. All of this requires Members and their officers ensuring that they act in a way which that is fair and impartial and is clearly seen to be so.

In reproducing the Model Council Planning Code and Protocol in 2023, we are seeking to endorse and ensure that those principles continue to be upheld.

LLG
January 2024



Introduction

The aim of this code of good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Authority's Code of Conduct first, which must be always be complied with. This is both the rules on disclosable pecuniary interests (and other interests if included in your authority's code) and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning and development control. If you do not abide by this Members' Planning Code, you may put:
 - the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- **Do** be aware that, like the Authority's Code of Conduct, this Planning Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your monitoring officer or their staff advising at the meeting.



2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest as required by your members Code of Conduct.
- **Do take into account when approaching a decision that** the Principle of integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that “*Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships*”. It is therefore advisable that you:
 - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
 - **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that the Members' Code of Conduct may place additional limitations on you in representing that proposal
 - **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
 - you should send the notification no later than submission of that application where you can;
 - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

3. Fettering Discretion in the Planning Process

(natural justice, predisposition and predetermination)

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to

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make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.

- **Do** keep at the front of your mind that, when you come to make the decision, you
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice and the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:
 - the proposal does not substantially effect the well being or financial standing of the consultee body;
 - you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- **Do** explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.*)
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member (*where this is granted by the authority's standing orders or by the consent from the Chair and Committee*) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
 - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the seating area for members of the Committee for the duration



of that item; and

- ensure that your actions are recorded in accordance with the Authority's committee procedures.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the [*relevant Development Control Manager*] to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - follow the rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the [*relevant Development Control Manager*] any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file [a proforma has been supplied to you for this purpose].

In addition in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to express an intention to vote one way or

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another or such a firm point of view that it amounts to the same thing.

- **Do** remember that your overriding duty is to the whole community not just to the people in your [ward][division][particular interest or area] and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the [*relevant Development Control Manager*] at the earliest opportunity.
- **Do** promptly refer to the [*relevant Development Control Manager*] any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind);
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion of others in your role as a [Ward][Division] Member.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will be seen to have fettered your discretion on the grounds of bias.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should normally disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Do** be aware of the power of social media posts or re-posting and be careful to not to give

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the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.

- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the [Ward][Division] Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the [*relevant Development Control Manager*] about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Don't** participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.

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- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter. (Where a matter is deferred and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again).
- **Do** have recorded the reasons for Committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded (it will help to take advice from officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of

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the meeting, it may be helpful to request a short adjournment for these purposes). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

11. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus

assist you in carrying out your role properly and effectively.

- **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

LLG

January 2024

Acknowledgements

LLG would like to thank Philip McCourt, Legal Director at Bevan Brittan.

Bevan Brittan 

LLG would like to thank Sharon Bridglalsingh, Director of Law and Governance at Milton Keynes City Council.

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Planning related proposed changes to constitution 2024 - Appendix 4

Item proposed for change	Current version	Proposed version (with additions highlighted in yellow and deletions in pink)
<p>1. Planning Code – consider whether to adopt the LLG model planning code which is recognised good practice and been subject to judicial approval. Recommended to adopt the code with two clarifications to maintain existing Council approach – these are set out in the proposed version</p>	<p>Council existing planning code can be found at 5.2 of published constitution</p> <p>1. Applications by members/officers</p> <p>3.4.7.21 (e) currently provides that planning proposals from councillors/officers are referred to planning committee where an “adverse representation or comment” is made (and not in all cases) :-</p> <p>proposals, except for applications for certificates of lawfulness, identified as being submitted by or on behalf of City Councillors or employees where an adverse representation or comment has been received, unless the Monitoring Officer has notified the Director of Sustainable Communities Services in writing that they are satisfied that the delegation may be exercised in the case concerned;</p>	<p>It is suggested that the Council adopts the LLG planning code but makes two clarifications so as to retain its existing approach.:-</p> <p>1. Applications by members/officers</p> <p>Add to Section 2 of the new code “the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers where an adverse representation or comment has been made – as per officer delegations set out in 3.4.7.21(e) of the council’s constitution”;</p>

	<p>2. Decisions contrary to officer recommendation</p> <p>contrary to officer recommendation are currently dealt with at 5.2.7. of the current planning code –</p> <p>DECISIONS CONTRARY TO OFFICER RECOMMENDATION</p> <p>5.2.7.1 If the Planning Committee wants to make a decision contrary to the officer's recommendation the material planning reasons for doing so shall be clearly stated, agreed and minuted. The application should be deferred to the next meeting of the Committee for consideration of appropriate conditions and reasons and the implications of such a decision clearly explained in the report back.</p> <p>5.2.7.2 Only those Members of the Committee present at both meetings can vote on the reason for the decision. Exceptionally, the Committee may decide that circumstances prevent it from deferring the decision but its reasons must be clearly stated and recorded in the minutes. The Committee may be asked to nominate a 'member witness' at any subsequent appeal hearing in order to justify their decision.</p>	<p>2. Decisions contrary to the officer recommendation</p> <p>Propose to adopt the new code but clarify in final bullet at para 10 decision making (so as to retain the existing approach). Propose to delete the pink highlight and replace with the yellow highlight from model code. (note – para 10 already provides that a councillor must attend the original and deferred meeting to be able to vote)</p> <p>Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded (it will help to take advice from officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of the meeting, it may be helpful to request a short adjournment for these purposes (where the planning committee is minded to make a decision contrary to officer recommendation the item will normally be deferred to the next meeting for consideration of appropriate conditions and reasons together with implications of such a decision clearly explained in the report back)). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.</p>
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<p>2. If adopt the model code then changes are proposed to retain and update speaker time limits. This is proposed to add a new rule in the cabinet and committee procedure rules at 4.2.25.5 to cover this. A clarification has also been added to demonstrate that speakers cannot add new material at the meeting.</p>	<p>Speaker time limits are currently dealt with in the planning code. 4.2.25 sets out rules that are specific to certain committees, including Planning Committee at 4.2.25.3 & 4. It is proposed to add rules for speaker time limits at the new 4.2.25.5.</p>	<p>Planning Committee</p> <p>4.2.25.5 <i>In addition to any requirement to give notice of any questions or comments the following time limits will apply to any speakers at the committee:-</i></p> <p><i>Ward councillor(s) or cabinet member(s) – 5 minutes</i> <i>One lead Parish tier councillor speaking on behalf of a parish tier council – 5 minutes</i> <i>Any other public speakers – 2 minutes</i></p> <p><i>Nothing in this rule entitles a speaker to submit new material or documents at this point in the planning process.</i></p>
<p>3. 3.4.7.21 (a) – review of member call in</p> <p>To clarify the timeframe within which ward members can call in an item to Planning Committee and how to manage</p>	<p>3.4.7.21 Referral to the Planning Committee of:</p> <p>a) proposals where a representation has been received before the end of the 21-day consultation period that is contrary to</p>	<p>It is proposed that 3.4.7.21(a) is replaced with :-</p> <p>3.4.7.21 Referral to the Planning Committee of:</p> <p>a) proposals where a representation has been received before the end of the consultation expiry date that is contrary to the recommendation</p>

<p>an extension of time for representations (eg by Parish tier Council).</p>	<p>the recommendation of the appropriate officer and a City Councillor(s) for the ward or wards in which the proposal is intended to take place has requested that the case should be reported to Members for determination:</p>	<p>of the appropriate officer, and a City Councillor(s) for the ward or wards in which the proposal is intended to take place has notified officers on or before the consultation expiry date that they wish the case to be reported to Members for determination;</p>
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Chelmsford City Council

17 July 2024

Report from Treasury Management and Investment Sub Committee

Report by: Chair of Treasury Management and Investment Sub Committee

Officer contact:

Jan Decena, Democratic Services Officer, tel: 01245 606260, email:
jan.decena@chelmsford.gov.uk

Purpose

For Council to approve the treasury management outturn report from Treasury Management and Investment Sub Committee which is scheduled to meet on 16th July 2024.

Recommendations:

That the recommendations of the Treasury Management and Investment Sub Committee in relation to the Treasury Management outturn report made at its meeting on 16th July are approved by Council.

1. Treasury Management outturn report 2023/24

The draft outturn report to Treasury Management and Investment Sub Committee is provided. This asks the committee to approve the Treasury Management outturn report 2023/24. The Chair of the Sub Committee will provide a verbal update to Council in relation to the final version of the outturn report which Council is asked to approve.

Any amendments to the draft treasury outturn report would be circulated to members before the Full Council meeting on the 17th July 2024.

Background papers:

None

Appendices:

Treasury Management Outturn Report 2023/24

Corporate Implications

As set out in the original reports to the Treasury Management Investment Committee

Treasury Management and Investment Sub-Committee

16th July 2024

Treasury Management Outturn Report 2023/24

Report by:

ACCOUNTANCY SERVICES MANAGER (Section 151 officer)

Officer Contact:

Phil Reeves, Accountancy Services Manager, phil.reeves@chelmsford.gov.uk, 01245 606562

Purpose

Under statute and the CIPFA Code of Practice on Treasury Management (“the Code”), Members are required to receive a report on the Treasury Management activities that took place in 2023/24.

Recommendations

Recommend the Treasury Management Outturn Report 2023/24 to Full Council.

1. Introduction

- 1.1. The CIPFA Code of Practice for Treasury Management sets out the requirements for oversight by the Council of its treasury management operations. As part of the Code, the Council is required to receive an annual report on the performance of the treasury management function which highlights the effects of decisions taken and the circumstances of any non-compliance with the Code and the Council’s Treasury Management Strategy.

2. Background

2.1. The Council can expect to have cash to invest, arising from its revenue and capital balances, and collection of local taxes. This cash can be usefully invested to produce a return to help support services or internally borrowed to fund the capital programme. The activities around the management of this cash and borrowing are known as 'Treasury Management'.

2.2. Treasury Management is defined by the Chartered Institute of Public Finance and Accountancy (CIPFA) as:

"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks"

2.3. This report fulfils the Authority's legal obligation under the Local Government Act 2003 to have regard to both the CIPFA Code and the DLUHC Guidance.

2.4. The Council's investment priorities as required by Government regulations are in order of priority:

- (a) The security of Capital
- (b) The liquidity of its investments; and
- When these are satisfied
- (c) Yield

DLUHC and CIPFA both advise that absolute certainty of security of capital and liquidity does not have to be achieved before seeking yield from investments. An appropriate balance of all three should be sought and that balance is determined by the Council in its Treasury Strategy.

2.5. The operation of Treasury Management is not without risk and the Council could suffer losses if one of its counterparties had financial difficulties.

2.6. The Council formally reviews its investment holdings in the following ways:

- Treasury Management Strategy report in February
- Treasury Outturn report in July
- A half-year update in November
- Treasury Management sub-committee to monitor Treasury Activity during the financial year.

The review of the year's activities is set out in the following appendices:

Appendix A – Economic Environment Update

Appendix B – Borrowing and Actual Investment Activity compared to the Approved 2023/24 Strategy

3. Summary of Review

- 3.1. During the financial year, there were no breaches of the Treasury Management Strategy.
- 3.2. The economic environment for the financial year was marked by high inflation and rising interest rates.
- 3.3. The Council's investment holdings on the 31st of March 2024 were £25.8m compared to £41.5m on 31st March 2023. Of the £25.8m, there were long term holdings in external fund of £15.3m, leaving £10.5m in money market deposits or short duration funds.
- 3.4. Projections of year end cash made during January and February identified a significant risk of insufficient liquid investments in the last few weeks of March. As sufficient liquidity is a key requirement to enable the Council to function, officers undertook £5m of short-term borrowing, maturing early in the new financial year. The borrowing was within approved parameters.
- 3.5. Notice was given during 2023 to withdraw from the CCLA property fund with the maturity date of 4th June. The valuation of the fund on the 31st May was £6.04m. A realised gain of £1.04m was achieved on the 4th June when the Council's investment was repaid.
- 3.6. Interest earnings from investments for the year were £2.88m, which was £1.59m more than the budget, predominantly due to larger average cash balances. Higher interest rates also contributed to increased returns. The Bank of England base rate increased from 4.25% to 5.25% in the year.
- 3.7. The overall return on investments for 2023/24 was 5.2% compared to 4.3% in the previous year. The budget had assumed 4.2%.
- 3.8. The Council held investments in 4 pooled funds at the end of 2023/24 generated total income returns of £757k, a return of 4.96%. Capital values were marginally higher than previous year and it can be expected that over the next couple of years capital values will recover as the interest rate environment changes.

4. Conclusion

- 4.1. It should be noted that the Council's Treasury Management has operated within approved parameters, has resulted in no realised losses, and delivered income of £2.88m which has helped to offset financial cost pressures.

List of appendices:

Appendix A – Economic Environment Update

Appendix B – Borrowing and Actual Investment Activity compared to the Approved 2023/24 Strategy

Background papers:

None

Corporate Implications

Legal/Constitutional: None

Financial: As detailed in report.

Potential impact on climate change and the environment: Any fund managers will be required to consider ESG (Environmental, Social and Governance) factors in their investment process. All the fund managers would be expected to have signed up to the UN Principles for Responsible Investment (PRI). PRI argues that active participation in ESG and exercising shareholder rights on this basis can help to improve the performance of companies which may otherwise not address such concerns and so being an engaged corporate stakeholder is a more effective way to bring about change in corporate behaviour on ethical issues.

Further requirements from those identified above are not practical given the limited ability to directly influence any immediate change in the financial markets.

Contribution toward achieving a net zero carbon position by 2030: None.

Personnel: None

Risk Management: All treasury management activity requires a careful consideration of risk and reward.

Equality and Diversity: None

Health and Safety: None

Digital: None

Other: None

Consultees: None

Relevant Policies and Strategies:

Treasury Management Strategy 2023/24

Appendix A – Economic Environment Update

Introduction

The interplay of various economic factors including interest rate expectations, property prices and economic growth all affect the performance of the Council's investments.

Economic factors

Against a backdrop of stubborn inflationary pressures, the Russian invasion of Ukraine, and war in the Middle East; UK interest rates throughout 2023/24 have continued to be volatile right across the duration periods.

The Bank of England (BoE), in their March 2024 meeting, left interest rates at 5.25% for the fifth time in a row. The Bank's recent communications suggest the MPC is gaining confidence that inflation will fall sustainably back to the 2.0% target.

The UK economy has started to recover from a shallow recession in the second half of 2023. Recent data suggests an improvement in the economy with GDP growth of 0.6% in the quarter to March 2024 following declines of 0.3% and 0.1% in the previous quarter.

Unemployment was 4.3% in January to March 2024 with estimated job vacancies in UK at 898,000 and annual growth in employees' average regular earnings of 6% in January to March 2024. With utility prices falling in April 2024, the CPI measure of inflation was at 2.3% in April declining from 3.2% in March. This was above the Bank of England target of 2% for CPI.

The Council benefitted from higher interest rates with its liquid cash held in money market funds that trend to match closely the base rate.

Stock market prices influence the unrealised value of the Council's fund investments. Equity markets started the financial year with volatility but settled somewhat. Towards the end of the calendar year there was optimism in most financial markets, which rallied as investors believed that interest rates were nearing their peak in the US. Plus, European Central Bank signalling that there would be no further rate hikes. The first quarter of 2024 saw strong performance for risk assets driven primarily by global economic data.

Interest rate cuts driven by lower inflation, were expected in the first half of 2024. From the Council's perspective, the cuts would improve the unrealised value of the Council's funds. However, the cuts have been slower to materialise than expected. A recovery in the non-property fund values is likely, but income from these funds may fall slightly depending on the mix of shares and bonds they are holding.

Property capital markets have been subdued with low volumes of transactions, resulting in lack of observable prices causing the market to be cautious. Property valuations are falling as investors look for higher yields to compensate for the higher risks to the property sector. Office accommodation has been the most troubled sector

in a challenging market due to a combination of changing working practices and more stringent environmental standards adding to landlord costs. Valuations are likely to remain under pressure.

Other factors

The mandatory statutory override for local authorities to reverse out all unrealised fair value movements resulting from pooled investments funds ends 31st March 2025 unless further extension is granted.

Local authority activity in the money markets appears much reduced. This has had the impact of reducing availability of funds to borrow (if needed) and increasing interest paid by local authorities.

Appendix B – Borrowing and Actual Investment Activity compared to the Approved Strategy for 2023/24

External borrowing

1. The Council has the freedom to borrow in the following circumstances:

- Short-term borrowing to manage liquidity.
- Long-term borrowing only to fund capital expenditure if no other capital resources exist e.g. the Council has spent its capital receipts or expects to do so imminently.

2. The Council borrowed £5m externally towards the end of 2023/24 to ensure there was sufficient year end liquidity to meet Council operational needs. The loan rate was 5.6% and was borrowed from another local authority. The period of the loan was 16th February to 2nd April, has now been repaid.

This was within the authorised borrowing limit set out in the capital strategy, as shown below

	2022/23 limit	2023/24 limit	2024/25 limit	2025/26 limit
Authorised limit – total external debt	£40m	£50m	£65m	£65m
Operational boundary – total external debt	£0.5m	£11.0m	£33.0m	£35.0m

3. Finance leases are deemed by Government to be a type of borrowing in the Council's Accounts and Treasury reporting must identify that the Council has borrowed money when they are used. At 31st March 2024, the Council had outstanding finance lease liabilities of £1,272K, used to acquire vehicles and equipment to deliver existing services.

4. Liability Benchmark:

This indicator is a tool to help establish whether the Council is likely to be a long-term borrower or long-term investor and so aids long-term planning. The liability benchmark is a calculation of the cumulative amount of external borrowing the Council must hold to fund its capital plans while keeping treasury investments at the minimum level required to manage day-to-day cash flow.

Ref.	Liability Benchmark	31/03/23 Actual (£m)	31/03/24 Actual (£m)	31/03/25 Forecast (£m)	31/03/26 Forecast (£m)	31/03/27 Forecast (£m)
1	Capital Financing Requirement (CFR)	35	38	56	63	69
2	Less: Balance sheet resources	76	59	18	15	11
3	Net loans requirement (Negative shows surplus cash/ Positive are external borrowing requirement)	-41	-21	38	48	58
4	Plus: Liquidity allowance.			5	5	5
5	Liability benchmark (Total forecast external borrowing) (Negative shows net surplus cash/ Positive are external borrowing requirement)	-41	-21 Broadly £25.8m investment less £5m external loan	43 Forecast-Externally borrowed	53 Forecast - Externally borrowed	63 Forecast - Externally borrowed

The Liability benchmark was a new prudential indicator introduced for 2023/24.

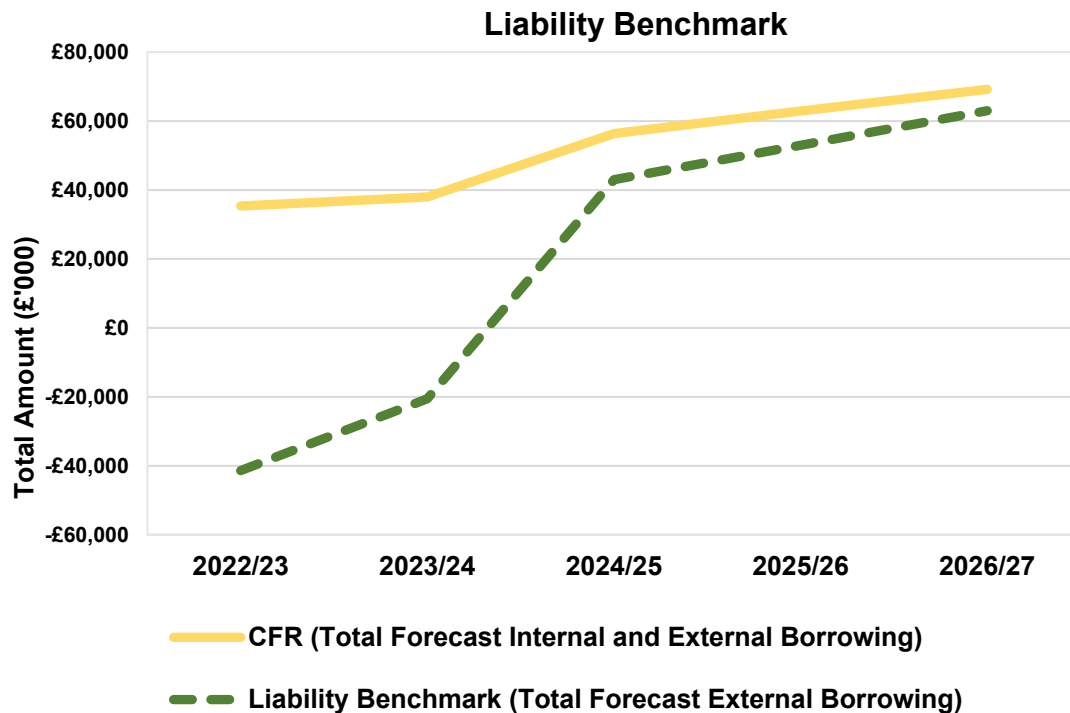
The table above shows

Ref/row 1 our capital financing requirement, being total external and internal borrowing needed to fund the capital programme. At 31/03/24 the capital programme needed £38m of borrowing.

Ref 3 is a forecast of net external borrowing expected/required. A positive figure means external borrowing is forecast to be required, however, further allowance must be made to ensure the Council has a minimum level of liquidity cash available (row 4).

Ref /row 5 shows the forecasts identify total year end external borrowing of £43m for 2024/25 and £53m for 2025/26.

The liability benchmark is shown graphically on the next page.



Investments

5. Officers with appropriate knowledge and training invest the Council's cash balances. Link Treasury Services were used as advisers on treasury management to help inform the decision-making process.

6. The Council's cash is invested in the following priority order, in accordance with statutory guidance:

- i) Security – protecting the capital sum invested from loss
- ii) Liquidity – ensuring the funds invested are available for expenditure when needed
- iii) Yield – subject to achieving proper security and liquidity, to pursue a yield on investments to support service provision

The regulations and CIPFA both advise that absolute certainty of security of capital and liquidity does not have to be achieved before seeking yield from investments. An appropriate balance of all three should be sought and that balance is determined by the Council in its Treasury Strategy.

7. The Council uses cash-flow planning in order to manage its in-house investments. This allows officers to separate in-house funds in to two categories:

- Shorter term, lower yielding investments – these investments are invested for relatively short durations, normally 3-6 months, in order to ensure that the maturity profile of investments matches the peaks and troughs in the Council's

liquidity needs – particularly for the final 2 months of the year where council tax income falls significantly due to the 10 monthly instalments most residents choose to pay in.

- Longer term, higher yielding investments – these are investments of ‘core cash’ or also known as ‘balance sheet resources’ which the Council does not require for operational purposes within the short to medium term. Core cash comes from the Council having for example reserves, such as the General revenue balance. These core cash balances can be invested for a year or more in appropriate counterparties in-order-to generate higher yields without causing liquidity issues.

8. During 2023/24 the Council’s investment portfolio decreased from £41.5m to a closing balance of £25.8m. The movement is mainly due spend on the capital programme.

Compliance with Treasury Management Strategy

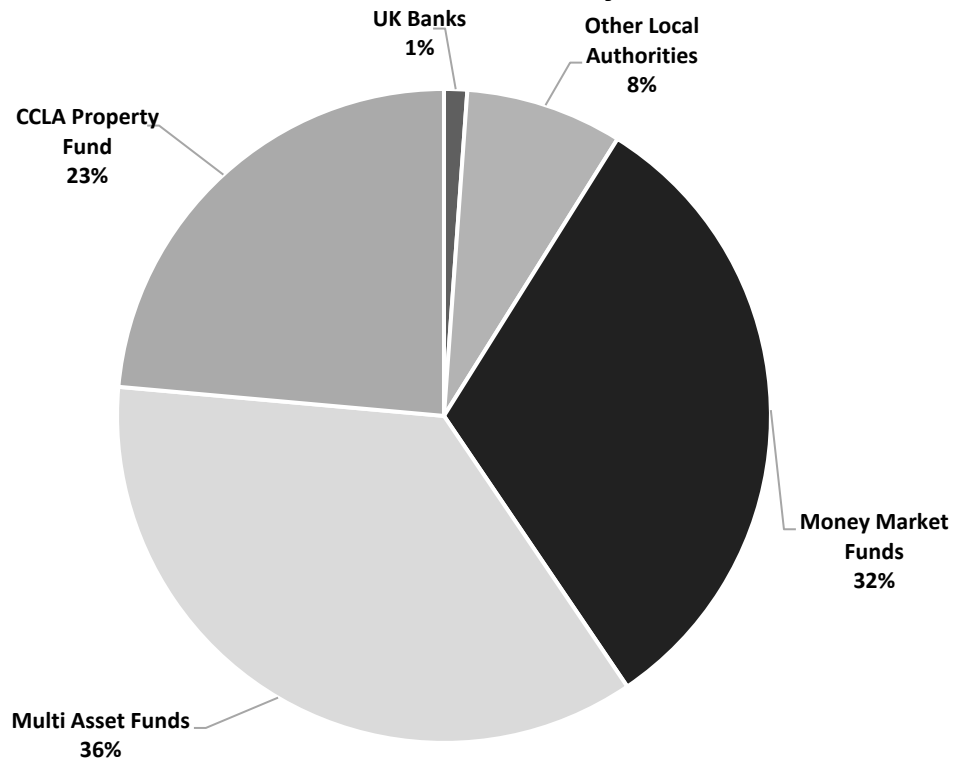
9. A summary of the approved treasury management strategy, together with actual outcomes is presented below:

- | | |
|---|--|
| a. To ensure that there are no breaches of the approved counterparty limits or durations | No breach occurred. |
| b. To maintain a target balance of £3m of short notice funds to manage liquidity | The Council held balances within target of available cash within 35 days parameters. |
| c. To maintain long term investments within set limit of £20m | Long term investments holding were within parameters |

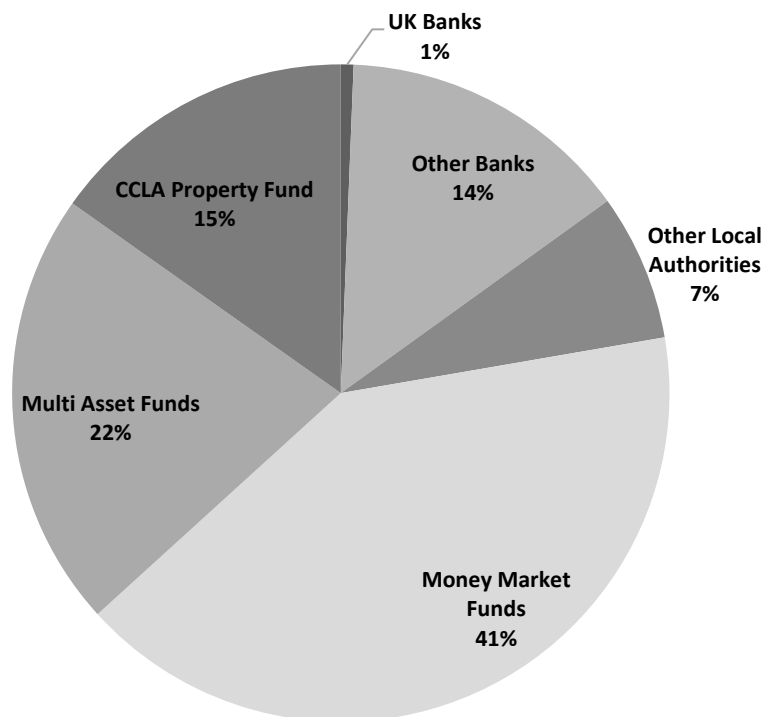
The total bail in risk (direct and pooled) moved by 9% from 78% to 69% mostly due to year end cash movements and the portfolio shrinking in overall value.

Exposure	2021/22	2022/23	2023/24
Bail In Risk -Direct investment	44%	15%	1%
Bail In Risk – Pooled Fund Managers and Money Market Funds	33%	63%	68%
Exempt from Bail In (including CCLA property)	23%	22%	31%
Total	<u>100%</u>	<u>100%</u>	<u>100%</u>

Investment at 31/03/24 By Sector



Investment at 31/03/23 By Sector



Counter Party

Money Market Funds & Long-Term Funds

	Credit Rating (Fitch)	Sum Invested (31/03/2024)	Limits 2023/24
Black Rock Money Market Fund	AAAmf	£10,090	£6,000,000
Insight Money Market Fund	AAAmf	£42,960	£6,000,000
Federated Money Market Fund	AAAmf	£6,000,000	£6,000,000
Deutsche Money Market Fund	AAAmf	£36,030	£6,000,000
Invesco Money Market Fund	AAAmf	£19,790	£6,000,000
BNP Paribas Money Market Fund	AAAmf	£2,031,770	£6,000,000
CCLA Property Fund	N/A	£6,072,000	£8,000,000
Aegon Multi Asset Fund	N/A	£3,318,480	Total of £10,000,000
Ninety-One Multi Asset Fund	N/A	£2,972,050	
CCLA Multi Asset Fund	N/A	£2,953,210	

Banks & Building Societies

Natwest	A+	£294,400	£3,000,000
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Local Authorities

Derby City Council	N/A	£2,000,000	£10,000,000
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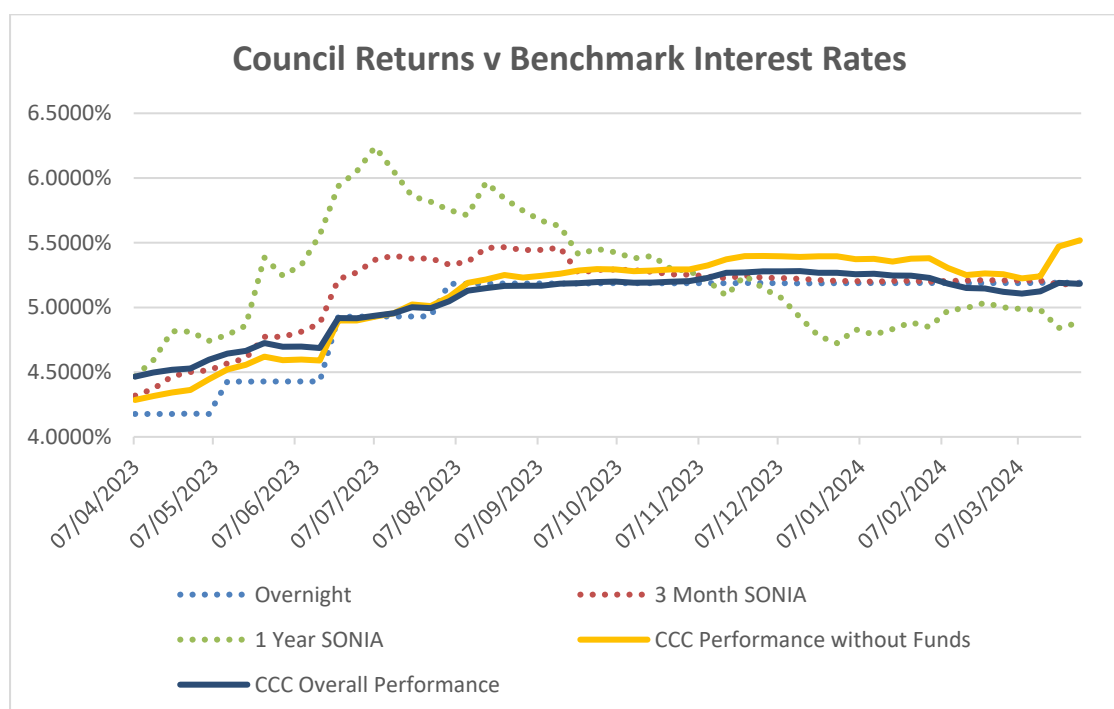
Total Investments

£25,750,780

Return on investments

10. UK Interest rates has been at their highest levels since 2008 and they began the year at 4.25% and ended at 5.25%. The budgeted average return was 4.2%.

The below table highlights Sterling Overnight Rate (SONIA) as a comparison against the returns the City Council generated.



The Council earned a total of £2,883k in investment income during the 2023/24 financial year, which was £1,593k additional income over the £1,290k budget. This was mainly due to higher-than-average cash balances but also partly due to higher interest rates.

	Market investments (excluding CCLA and Multi Asset Funds)	Multi Asset Funds Income & CCLA Property Fund Yield (Based on April 2023 Valuation)	All Investments Income Yield
	Year ending 31/03/2024		
Average yield	5.52%	4.96%	5.18%

The yields above have used the opening balance for the year for calculations purposes.

10.1 Funds

The City Council held funds in 3 Multi-Asset Funds during the financial year and also maintained its investment in the CCLA Property Fund. The total balance invested makes up part of the Council's core cash that it is expected to hold for the long term.

Income returns on the 4 funds are outlined below along with the closing capital value of the fund, initial investment value and unrealised gain or loss.

Fund	Initial Investment Value £	1/04/2023 Investment Value £	31/03/2024 Investment Value £	Unrealised +Gain/(Loss) (since inception) £	Income Return (Based on 1 st April 2023 Valuation)
CCLA Property Fund	5,000,000	6,318,537	6,072,074	1,072,074	5.03%
CCLA DIF	3,100,000	2,814,794	2,953,210	(146,790)	3.50%
Aegon DIF	3,600,000	3,147,286	3,318,477	(281,523)	6.48%
Ninety One DIF	3,300,000	2,984,782	2,972,055	(327,945)	4.56%

Total Income from the 4 funds above during 2023/24 was £756,650.

The unrealised gain on all the fund assets during the financial year 2023/24 was £50k. The valuation of the funds has been affected by the higher interest rates and global economy. These remain long term investments where valuations would be expected to pick up over the next few years as interest rates stabilise. The fund portfolio has a net overall unrealised gain of £316K when comparing to initial investment value. However, since year end the CCLA property fund has been repaid and a gain of £1.041m realised.

The valuation of the Council's investment in the CCLA Property Fund decreased by £246k in the year, leaving the Council's unrealised gain at £1,072k on its initial investment. The Fund has a minimum 180-day redemption period and the Council served notice at the end of November 2023 with redemption to be on the 4th June 2024. As noted, the investment has now been repaid.

The valuations of the Council's investment in the 3 Multi Asset Funds also changed throughout the year, with an overall increase in value across the 3 of £297k but with the unrealised loss to £756k on its initial investment at year end. These investments are seen as medium to long term investments over a 3-to-5-year period and so capital values will fluctuate up and down during this investment horizon.

The income generating performance of the CCLA Diversified Investment Fund (DIF) was disappointing and the fund manager has merged this fund with larger one to improve returns, officers are monitoring the position.

Conclusion

The Council has operated within its Treasury Management Framework. This has enabled the Council to safeguard its financial assets and produce a good level of return relative to the prevailing market interest rates and other local authorities (as measured by Links benchmarking).



Chelmsford City Council

17th July 2024

Budget Framework 2025/26

Report by:
Cabinet Member for Finance

Officer Contact:

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01245 606562

Purpose

The purpose of this report is to provide the framework to manage the Council's 2025/26 budget process. The approach recommended is a change from previous years. It still retains that Full Council sets and approves the Council's budget in February each year.

Recommendations

That Council approves that:

- i. an Annual Financial Review report, which will include both revenue and capital budgets, will be made to Cabinet in October. The report includes a review of finances for the current year and future years. This is a change to the existing constitutional reporting arrangements for the Medium-Term Strategy which requires approval by Council, usually in July.
- ii. the proposed new arrangements will be subject to a review in 2025/26 undertaken by the s151 officer and Cabinet Member for Finance after consultation with opposition groups.

1. Introduction

1.1 The budget process enables the development of a financial plan to support delivery of the Council's priorities as set out in "Our Chelmsford; Our Plan".

1.2 The process normally requires the following reports and decisions:

	Timing	Audit and Risk	Cabinet	Council	Treasury Management & Investment Subcommittee (TMISC)
1) Medium Term Financial Strategy, including budget guidelines	July		✓	✓	
2) Mid-Year review of current year capital & revenue budgets	November		✓		
3) Council tax setting and Budget Report for following financial year	January & February		✓	✓	
4) Capital and Investment strategies (Including capital prudential indicators)	January & February		✓	✓	Only the Investment strategy goes TMISC
5) Outturn capital, including approving funding of previous capital expenditure	June and July	✓	✓	✓	
6) Outturn revenue	June	✓			
7) Treasury Management reports (outturn, strategy, and mid-year review)	Throughout the year		✓	✓	✓
8) Statement of Accounts. (timing depends on external audit)	Draft published end of May	✓			
9) Any in-year increases in Capital or Revenue budgets over £200k	Ad-hoc		✓		
10) Any in-year increases in Capital or Revenue budgets over £1m	Ad-hoc			✓	

1.3 The number and nature of the reports taken to Cabinet, committees or Council is based on either regulatory requirements or historic convention.

1.4 It is proposed to change the timing and recipients of some of the financial reports. A review of the impact of the changes would take place after the production of the 2025/26 budget, to determine if the process is more effective. These changes differ from the current requirements in the constitution and the changes therefore need to be considered by Council.

2. Proposed Changes

2.1 The Medium-Term Financial Strategy (forecast) & Budget Guidelines report made to July Council, plus the two reports made to November Cabinet (the Mid-Year review of in-year revenue spend and income plus the Capital Update report) should be combined into a new single report to October Cabinet. The report will be a comprehensive view of current-year and financial outlook. The proposal is that this will be called an Annual Financial Review.

2.2 The Annual Financial Review made in October will under the normal Council rules be available to Overview and Scrutiny to consider and challenge if the committee wishes.

2.3 The Council Tax-setting and Budget Report for the following financial year are required by statute to go to Cabinet and then Council. It is recommended, given the recent history of Government funding announcements, to have these meetings as late as possible. This may mean in practice that the Cabinet should take place on the last available date in January or early February.

2.4 Regulations and best practice require the financial outturn reports for Capital and Revenue to be made to Audit and Risk committee. However, the Capital Outturn and Update report has also historically gone to July Cabinet then Full Council. This is to approve the resources used to fund the previous year's capital expenditure. It is now recommended that the decision to determine what resources are used to fund capital expenditure at year-end is formally delegated to the s151 officer. This delegation is constrained by previous Full Council decisions on borrowing limits, so excessive borrowing remains prevented by Full Council.

2.5 No changes are proposed to any other delegations or reporting lines. So, the Council's existing budget delegations for capital and revenue will remain limited in the following ways:

Virements

- i. Up to and including £25,000 – by Directors who must inform Financial Services
- ii. Over £25,000 and up to £200,000 – by Directors, subject to prior consultation with the Section 151 Officer, the relevant Service Cabinet Member, and the Cabinet Member with responsibility for finance
- iii. Over £200,000 and up to £1,000,000 – by Cabinet report
- iv. More than £1,000,000 – by Full Council

- v. Allocation of approved centrally held budgets to Services can be undertaken by the Section 151 Officer.

Supplementary Estimate

- i. Up to and including £200,000 – by Directors, subject to prior consultation with the Section 151 Officer, the relevant Service Cabinet Member and the Cabinet member with responsibility for finance.
- ii. Over £200,000 and up to £1,000,000 – by Cabinet report
- iii. More than £1,000,000 – by Full Council

Note that a virement is a transfer of some or all of an approved budget to a different budget and a supplementary estimate is an approval to increase an approved budget to fund additional expenditures.

2.6 No changes are proposed to how Prudential indicators are set by Full Council. These place limits on borrowing and investment decisions. Changes to the legally mandated indicators are a decision for Council, so ad-hoc reports to the Council will be made as needed (whenever there are material changes to any binding indicators such as overall debt). Cabinet will receive details on prudential indicators in October in the Annual Financial review report and in January in the Capital, Investment and Treasury Strategies.

2.7 The new proposed reporting arrangements are set out below in table form.

	Timing	Audit and Risk	Cabinet	Council	TMISC
1) Annual Financial Review Current Year and future capital and revenue projections. Approval of changes to capital and revenue under delegations.	July and November October		✓	✗	
2) Council tax setting and Budget Report	January & February		✓	✓	
3) Capital and Investment strategies	January & February		✓	✓	
4) Outturn capital and revenue reports. For review only.	June and July	✓		✗	
5) Treasury Management reports (outturn, strategy, and mid-year review)	Throughout the year		✓	✓	✓
6) Audited Statement of Accounts	TBA	✓			
7) Any in year increases in Capital or Revenue budgets over £200k	Ad-hoc and unchanged		✓		
8) Any in year increases in Capital or Revenue budgets over £1m	Ad-hoc and unchanged			✓	

3. Why Are Changes needed.

3.1 The complexity of Council finances has increased over the years, the main issues being:

- The Capital programme is now more complex to plan financially. It has become increasingly difficult for the Council to generate capital receipts as the simpler disposals have been made, so funding the programme is more reliant on CIL, borrowing and external grants.
- The approval of the capital financing at the end of the financial year by Full Council in July adds no value. The application of resources is a technical matter undertaken by officers within the borrowing limits approved in the budget by Council. The focus of Council should be on the overall borrowing limits and scrutinising affordability of capital plans.
- Given the increasing reliance of the Council on income generated by charges, there would be a more robust financial forecast of future years if two cycles of monitoring in the current financial year had been taken.
- The budget guidelines approved by Council in July are used by services to draw up the budget for the following year. In practice, parameters such as inflation will only be finalised in the February Council Tax-setting meeting as significant changes do occur between June (when the MTFS is written) and January when the budget reports are finalised.

3.2 Pay awards (staff costs are circa £40m per year). It has been increasingly difficult to predict what level of provision to allow for in financial plans, due to:

- National Living wage (minimum wage). The announcements of increases by Government are usually made in the Autumn and have effect from the 1st April in the following year. Recent experience has shown there are clearer indications on what the National Living Wage will increase by in the following year.
- The City Council has local pay agreements, but the annual national negotiations of local government pay do influence local negotiations. However, the timing of national negotiations is variable and drawn-out, making estimates less than robust.

It should be noted in the previous 2 years the Council's budget provision for pay in its budgets has been significantly below the actual level needed.

3.3 Energy cost information arrives in late May, which, given publication deadlines for the MTFS report, does not provide much time to update forecasts. There should be less volatility in prices going forward given longer-term purchasing agreements, however it remains an area of significant risk of cost variation.

3.4 As previously reported, Homelessness costs have been the Council's largest recent financial problem. A later report on the finances will enable officers to undertake more monitoring of costs and improve the accuracy of the forecast.

3.5 Government funding. The Council may at some point in future get a 3- or 4-year funding arrangement. Until that happens, the most reliable indications on annual funding have been provided by Government in the late summer and early autumn.

3.6 The Council's Accountancy Team has, by implementing new technology and improved working practices, reduced in size by about 30% over the last 10 years. This excludes merging the section 151 officer into the Accountancy Manager role. In this context, an increasing amount of staff resource is now needed to produce the Council's statutory accounts and this is a significant contributor to the need to move the financial forecasts to October. It is unrealistic and unnecessary to deliver the current format of accounts within the timescales set. For 2023/24, it is understood only 40% of districts have met the deadline, including the City Council. Adding to this unrealistic statutory resource requirement, the Audit sector for local government nationally has collapsed. Most audits have not yet started for 2022/23 and in many cases for 2021/22. This lack of audit has created additional workloads, as officers are now being asked questions about pre-2022/23 accounts. The audit period now lasts 2 years rather than the planned 6-week period. Auditors have also required complex changes to previous years' accounts simply because 18 months later they have the benefit of hindsight and can see if estimates made in the accounts are "inaccurate".

4. Budget Next Steps (Actions)

4.1 If the approach outlined in this report is approved by Cabinet, then.

- Annual Financial Review report will be made to Cabinet in October. A forecast of budget, borrowing and budget shortfalls will be available to members in the October report.
- The Annual Financial Review report will identify any decisions regarding extra in-year spending that Cabinet and Council may need to take.
- A high-level financial strategy will be included in the October budget report.
- Officers will work in consultation with Cabinet members to develop a balanced and sustainable budget for 2025/26.
- The s151 officer will assess the robustness of the budget proposals and reserves in 2025/26 budget report made to January Cabinet and February Council.
- A review of the new reporting arrangements will be undertaken by the s151 officer and Cabinet Member for Finance. There will be consultation with opposition groups and any proposals to amend the constitution will be made via the appropriate route.

5. Conclusion

5.1 There is a need to amend the budget process to reflect the environment the Council now finds itself operating in.

5.2 The proposals move some decisions to Cabinet as they are not matters requiring full Council attention.

5.3 The proposals ensure budget information remains transparent and is published at a time when robust information can be made available for members.

List of appendices: None

Background papers: None

Corporate Implications

Legal/Constitutional: The Council is required to set a balanced budget. The Medium-Term Financial Strategy sets out the framework for this to be achieved. Full Council may approve the recommendations in the report. Any further changes to the constitution following the proposed review would be subject to further consultation and decision at a later stage.

Financial: A robust financial strategy is essential in the delivery of the Council's objectives over the medium term, ensuring decisions are taken with due regard to their financial consequences. Medium-term financial planning is a key element in determining the organisation's future resilience.

Potential impact on climate change and the environment: This will be considered as part of the detailed budget setting process.

Contribution toward achieving a net zero carbon position by 2030: As above.

Personnel: The financial strategy, and the development of detailed budget proposals, is supported by the Council's values and behaviour framework, which promotes a culture of responsibility and accountability.

Risk Management: Due regard to the Council's Principal Risk Register should be had when considering its budget plans, financial forecasts, and level of reserves. The production of, and adherence to, the Strategy mitigates the risk of financial failure. Challenges to the Council's financial position are reflected in the Principal Risk Register, while the financial impact of other risks are considered within the Principal Risk Register as appropriate.

Equality and Diversity: Equality Impact Assessments will be considered as part of the detailed budget setting process rather than at the strategic level, to enable comprehensive assessments to be undertaken where necessary.

Health and Safety: None

Digital: None

Other: None

Consultees:

Cabinet Members, Chief Executive and Directors, Monitoring Officer

Relevant Policies and Strategies:

Our Chelmsford: Our Plan
