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North Devon Council
Brynsworthy Environment Centre
Barnstaple
North Devon EX31 3NP

M. Mansell, BSc (Hons),
F.C.P.F.A.
Chief Executive.

EXECUTIVE

A meeting of the Executive will be held in the Barum Room - Brynsworthy Environment Centre on **MONDAY, 4TH MARCH, 2019 at 10.00 am.**

(NOTE: A location plan for the Brynsworthy Environment Centre is attached to the agenda front pages. There are limited car parking spaces in the Visitors parking area. If no spaces are available, please find an alternative space. Please ensure that you enter your name and car registration details in the book in front of the entrance door)

Members of the Executive

Councillor Brailey (Leader)

Councillors Barker, R Cann, Edgell, Jones, Lane, Luggar, Meadlarkin, Moores and Yabsley

AGENDA

1. Apologies for absence
2. To approve as a correct the minutes of the meeting held on 4th February 2019 (attached) (Pages 1 - 20)
3. Leader's announcements
4. Declarations of Interests
(Please complete the enclosed form or telephone the Corporate and Community Services Unit to prepare a form for your signature before the meeting. Interests must be re-declared when the item is called, and Councillors must leave the room if necessary).
5. To agree the agenda between Part A and Part B (Confidential Restricted Information)

PART A

6. **Responses to Consultation: Review of the Off Street Parking Order.** (Pages 21 - 32)
Report by the Parking Manager (attached).

7. **Derelict Ilfracombe Sites.** (Pages 33 - 36)
Report by Acting Growth Manager (attached).
8. **Local Lettings Plan - Lamaton Park, South Molton.** (Pages 37 - 44)
Report by Head of Environmental Health and Housing (attached).
9. **Adoption of the North Devon Coast Areas of Outstanding Natural Beauty (AONB) Management Plan 2019/2024.** (Pages 45 - 48)
Report by Landscape and Countryside Officer (attached).
10. **Business Rates Relief.** (Pages 49 - 108)
Report by Head of Resources (attached).
11. **Rural Settlement List** (Pages 109 - 112)
Report by the Head of Resources (attached).
12. **Approval and Release of Section 106 Public Open Space Funds, Croyde.**
(Pages 113 - 116)
Report by Project, Procurement and Open Space Officer (attached).
13. **Braunton BMX.** (Pages 117 - 120)
Report by the Project, Procurement and Open Space Officer (attached).
14. **Joint Local Development Plan Working Group - Draft Terms of Reference.**
(Pages 121 - 126)
Report by Lead Officer Planning Policy (attached).
15. **Anti-Fraud Corruption and Bribery Policy.** (Pages 127 - 144)
Report by Chief Financial Officer (attached).
16. **Anti-Money Laundering Policy.** (Pages 145 - 154)
Report by the Chief Financial Officer (attached).

PART B (CONFIDENTIAL RESTRICTED INFORMATION)

17. Exclusion of Public and Press and Restriction of Documents

RECOMMENDED:

- (a) That under the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended), as made under the Local Government Act 2000, the public and press be excluded from the meeting as it involves the likely disclosure of

exempt information as defined by Paragraph 3 Part 1 of Schedule 12A of the Act (as amended from time to time), namely information relating to the financial or business affairs of any particular person (including the authority holding that information).

(b) That all documents and reports relating to the item be confirmed as "Not for Publication".

18. **The Lynton Complex** (Pages 155 - 160)
Report by the Estates Officer (attached).

If you have any enquiries about this agenda, please contact Corporate and Community Services, telephone 01271 388253

21.02.19



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The rules that the Council will apply are:

1. The recording must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings. The Council will put signs up at any meeting where we know recording is taking place.
2. The Chairman of the meeting has absolute discretion to stop or suspend recording if, in their opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules.
3. We will ask for recording to stop if the meeting goes into 'part B' where the public is excluded for confidentiality reasons. In such a case, the person filming should leave the room ensuring all recording equipment is switched off.
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5. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view.

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North Devon Council offices at Brynsworth, the full address is:
Brynsworth Environment Centre (BEC), Roundswell,
Barnstaple, Devon, EX31 3NP.

Sat Nav postcode is EX31 3NS.

At the Roundswell roundabout take the exit onto the B3232, after about ½ mile take the first right, BEC is about ½ a mile on the right.

Drive into the site, visitors parking is in front of the main building on the left hand side.

On arrival at the main entrance, please dial 8253 for Corporate and Community Services.



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NORTH DEVON COUNCIL

Minutes of a meeting of Executive held at Barum Room - Brynsworthy Environment Centre on Monday, 4th February, 2019 at 10.00 am

PRESENT: Members:

Councillor Brailey (Leader)

Councillors Barker, R Cann, Edgell, Jones, Lane, Luggar, Meadlarkin, Moores and Yabsley

Officers:

Chief Executive, Head of Operational Services, Head of Corporate and Community Services, Head of Place, Head of Resources, Conservation Officer and Estates Officer

Also Present:

Councillors Edmunds, Leaver, Moore, Patrinos, Spear and Worden

96. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

97. TO APPROVE AS A CORRECT THE MINUTES OF THE MEETING HELD ON 7TH JANUARY 2019 (ATTACHED)

RESOLVED that the minutes of the meeting held on 7th January 2019 (circulated previously) be approved as a correct record and signed by the Chairman.

98. LEADER'S ANNOUNCEMENTS

The Leader reminded the Executive and members of the public of the housekeeping procedure rules.

99. DECLARATIONS OF INTERESTS

There were no declarations of interest announced.

100. QUARTERLY PERFORMANCE AND FINANCIAL MANAGEMENT - QUARTER 3 2018/19

The Executive considered a report by the Leader and Executive Team (circulated previously), the options and/or alternatives and other relevant facts set out in the report regarding the Performance and Financial Management report for Quarter 3 of 2018/19.

The Accountancy Services Manager highlighted the following:

- As at 31st December 2018, the latest forecast net expenditure was £12.239m, which was £0.019m over budget. Details were shown in Appendix 1 and it was anticipated that the small variance could be reduced further throughout the remainder of the financial year.
- The original budget for 2018/19 included a forecast to achieve £0.200m worth of salary vacancy savings. The current position forecasts this would be exceeded and vacancy savings of £0.225m would be achieved.
- The “Recycle more” service changes were introduced on the 5th June 2017; the take up of the new garden waste service had exceeded expectations, 2017/18 saw a total sign up of 17,320. This year’s income was expected to exceed last year’s total by 570 properties.
- Within the overall £0.019m net budget deficit there were various cost pressures and one-off savings. The budget pressures seen within waste and recycling service had not increased any further at the quarter 3 forecast. There had been a significant reduction in the forecast planning fee income of £0.159m due to a reduction in the larger applications received, which was in line with other authorities experiencing the same pressure. However it was forecast there would be additional Business Rates Retention income of £0.200m over and above the budgeted £1.252m Business Rates growth which had resulted in maintaining the net budget deficit at a similar level reported at quarter 2.
- The Business Rate retention scheme was introduced in April 2013 which sees Billing authorities receive a ‘baseline’ funding but in addition they are exposed to the risks and rewards of retaining a proportion of the income collected. This exposure was mitigated by participation in the Devon-wide pool that collates all of the Business Rate growth and decline and returns a share of the impact to each local authority. There had been an estimated one-off additional income from the 100% Business Rates Retention pilot for 2018/19 of £0.750m; this additional income had been earmarked into reserves as detailed in paragraph 4.1.6 of the report to help fund future projects.
- At the 31st December 2018 the total external borrowing was £1.250m.
- The recommended level of general fund balance is 5%-10% of the council’s net revenue budget (£0.611m to £1.222m). The forecast general fund reserve at 31 March 2019 is £1.161m, which is a level of 9.5%.
- “Appendix-2 Movement in Reserves & Balances” detailed the movements to and from earmarked reserves in 2018/19.
- “Appendix-3 Executive Contingency Reserve” detailed the Executive Contingency Reserve movements and commitments.
- “Appendix-4 Capital Programme” detailed the 2018/19 to 2020/21 Capital Programme. The Programme of £12.842m was funded by Capital Receipts (£2.349m), External Grants and Contributions (£8.964m) and Reserves (£1.529m).
- Variations of (£2.254m) proposed to the 2018/19 Capital Programme as detailed in paragraph 4.4.3 of the report.
- The revised Capital Programme for 2018/19 taking into account the budget variations above was £5.529m.

- Actual spend on the 2018/19 Capital Programme, as at 31st December 2018 was £3.128m.
- Variations of £0.045m proposed to the 2019/20 Capital Programme as detailed in paragraph 4.4.6.
- The overall Capital Programme for 2018/19 to 2020/21 was £12.842m and was broken down as follows:
 - 2018/19 £5.529m
 - 2019/20 £6.313m
 - 2020/21 £1.000m
- The proposed release of funds from the 2018/19 Capital Programme as detailed in paragraph 4.4.12 of the report.
- £67,789 investment interest was earned during the three quarter period. The 2018/19 interest receivable budget was £60,000.
- £20,605 interest was paid at an average rate of 2.03% on the PWLB loans during the three quarter period. The 2018/19 interest payable budget was £40,000.
- Non-financial information was contained within paragraphs 5 to 9 in the report. Appendix 5 detailed key performance indicators and Service Plan Action updates.

In response to a question, the Executive were advised of the following:

- In relation to paragraph 4.1.6 of the report, the £0.150m would be placed in the Improvement Programme Reserve.

DECISIONS

- (a) That the actions being taken to ensure that performance is at the desired level be noted;
- (b) That the contributions to/from earmarked reserves be approved as detailed in section 4.2 of the report;
- (c) That the movements on the Executive Contingency Reserve as detailed in section 4.3 of the report be noted;
- (d) That funds be released for the capital schemes as listed in paragraph 4.4.12 of the report;
- (e) That sections dealing with Treasury Management (paragraph 4.5), and Debt Management (paragraphs 4.6 and 4.7) be noted.

RECOMMENDED

- (f) That the variations to the Capital Programme 2018/19 to 2020/21 as detailed in paragraphs 4.4.3 and 4.4.6 be approved.

REASONS FOR DECISIONS/RECOMMENDATION

- (a) To ensure that appropriate action is taken to allow the council to meet its objectives.
- (b) To inform the Executive of actual results compared to the approved Corporate Plan, as well as progress in delivering service within the revenue budget and Capital Programme.

101. MATERIALS RECOVERY FACILITY INFRASTRUCTURE

The Executive considered a report by the Head of Operational Services (circulated previously), the options and/or alternatives and other relevant facts set out in the report regarding the replacement of the Materials Recovery Facility infrastructure.

The Head of Operational Services highlighted the following:

- All recyclable materials collected were brought to Brynsworthy Environment Centre for sorting.
- The existing equipment in the process hall was often at maximum capacity to bale the collected materials. The equipment was old and regularly broke down or needed additional maintenance and was now in need of replacement.
- Some of the equipment was over 10 years old.
- As a direct result of the Recycle More project in 2017, which included the trial of the three-weekly residual collection service, the amount of recycling now collected had increased significantly.
- The Recycle More project had influenced residents to recycle more than ever before resulting in the existing facility used to process the recycled materials not being capable of keeping up with the throughput. The occurrence of breakdowns were approximately twice per week with more major breakdown being monthly. Breakdowns were not restricted to one particular component and there were regular problems with any one of the three existing balers, conveyors and ancillary equipment.
- In 2007/08, baling was introduced. The collection of mixed plastics was introduced in 2014.
- From 2014/15 to 2018/19 the collection of plastics had increased by 103%. The collection of aluminium had increased by 140% and steel had decreased by 34%.
- The existing equipment in the process hall was designed to deal with 6 tonnes. It now handled in excess of 6 tonnes and was unable to cope with the current level of materials that were processed. For the first 9-months of the financial year breakdowns and the recovery of breakdowns had cost the authority £44,264.00 which had not been budgeted for.
- A decision had not yet been taken in relation to the roll out of the three-weekly trial to other areas or district wide. If was extended the problem with the process hall would be further exacerbated. If this decision was not taken there would still be a need for the Council to increase its level of recycling to 50/55%.
- Alternative options available –

(a) Do nothing – purchase second hand equipment, however it was unlikely that all components could be purchased at the same time and get total compatibility with the various pieces of equipment. The pay back period would be less than the purchase of new equipment.

(b) Not process any of the materials ourselves and instead send it to a third party processor. This would avoid the capital costs and reduce staff numbers within the process hall, however there was a limited local market for reprocessing with the nearest being Exeter City Council, or even further away in Bristol. There would be no income stream for the Council.

(c) change the collection methodology and to move away from kerbside sort and collect materials co-mingled. Co-mingled means collecting all of the recycling in a wheeled bin, however glass and food waste would need to be collected separately. Whilst this would mean there would be no capital investment into the plant and equipment there would be a need to replace kerbside sort vehicles with split bodied refuse collection vehicles and introduce a separate collection for food waste. A desktop analysis has been undertaken to assess the viability of this option. Capital costs for a co-mingled service are approximately £1.87m. Whilst there were significant staff savings to be made (approximately £437,000 saving), there was also a significant cost to transporting the co-mingled material to a process plant. No material income would be generated at a loss of £629,000 (based on 2017/18 figures).

- Independent advice had been sought and it was recommended that new plant and equipment along with all of the necessary ancillary equipment was purchased. If approved the process hall could be up and running to capacity by Christmas 2019 with improved reliability and throughput. The equipment would be able to not only cope with existing production but have the capacity to take the material if all the District were to recycle to its maximum ability along with increased trade recycling and also possible external additional business.
- During the period of decommissioning the old equipment and installing the new, Exeter City Council had agreed to process our steel/aluminium and plastics which would see a reduction in the overall income of approximately £12,500. Cardboard would still be moved under the current arrangement along with glass and paper.
- It was recommended that the process hall was configured with a series of new bulk storage bays to hold the separated plastics, steel, aluminium and cardboard. This would be achieved by a bulk storage bay for mixed materials that would be loaded onto floor level conveyors that will then take the individual materials through a series of electro-magnets (to capture steel) and eddie current separators (to separate aluminium). These separated materials can then be forwarded on individually to a twin ram auto banding baler. Overhead gantries with picking stations also need to be included to allow for additional materials to be removed / recycled if we chose to expand the

recycling service in the future, or if there was a market requirement to produce higher grade recycled.

- Presently 4 operatives were required within the process hall to operate the three existing balers, the mechanical loader (Telehandler) and the two fork lift trucks. With the introduction of the new equipment it was envisaged that this number can be reduced to 3, creating a saving of £23,000 pa. This reduction would be managed through the normal vacancy process.
- The resource implications as detailed in paragraph 5.1 of the report. The capital expenditure would be borrowed over a 10 year period. There would be an increase in material income. During 2019/20 there would be a loss of income as a result of the materials being processed by Exeter City Council during the decommissioning of the old and replacement of the new equipment.

In response to questions, the Executive were advised of the following:

- The Government was in the process of consulting on the types of recyclable materials collected. If the Government made the collection of some materials statutory, then it was anticipated that Local Authorities would be offered a financial incentive.
- The new equipment would handle 6 tonnes per hour. Most Local Authorities provided a recycling service and the majority undertook kerbside collections. The value of materials collected fluctuated considerably.
- There had been a reduction in the collection of steel and paper. The collection of plastic, cardboard, steel and aluminium had all increased.
- The recycling rate had reduced when compared to the same quarter last year, however it was explained that this was due to materials being stock piled at the depot. Therefore it was anticipated that the recycling rate would increase.
- The baler for plastics was 10 years old, steel was 7 years old and aluminium 4 years old. Life expectancy for balers was 10 years.
- It was the Council's policy to borrow for the life of the asset.
- The new plant and equipment would last 10 years and have capacity to handle an increase in the recyclable materials collected.

DECISIONS

- (a) That the replacement of the Process Hall recycling plant and equipment to the estimated value of £760,000 (subject to exchange rates) be approved;
- (b) That delegated power be given to the Head of Operational Services in consultation with the Portfolio Holder to award the contract following a procurement process;

RECOMMENDED:

- (c) That the capital programme be varied to the value of £760,000

and to release the funds required.

REASONS FOR DECISIONS/RECOMMENDATION

- (a) The existing Process Hall equipment is beyond its useful life and is unable to cope with the current level of materials that we need to process. Breakdowns and stoppages are now a regular feature adding further pressure to an already over stretched service. For the first 9-months of the financial year breakdowns and the recovery of breakdowns has cost the authority £44,264.00 which has not been budgeted for.

102. REVIEW OF CHARGES AND FEES FOR SERVICES 2019/20

The Executive considered a report by the Head of Resources (circulated previously), the options and/or alternatives and other relevant facts set out in the report regarding the review of Charges and Fees for Services 2019/20.

The Head of Resources highlighted the following:

- This year the guidance was to increase some fees and charges by 3%, although some fees are set by statute and these will be set nationally.
- Other variations to the 3% increase were set out in paragraphs 5.3 to 5.8 in the report.
- Trade Waste charges have been reviewed and simplified to aid the customer's understanding of the charging structure. Zones 1 and 2 have now been combined with a minimum increase of 5%, with schedule 2 and Recycling charges increasing by 10%. The Head of Operational Services had confirmed that with these price increases the service was still commercially competitive. (Appendix 3)
- Land Charges fees have been set to recoup the cost of providing the service, without changing the current fees the land charges service was still budgeted to recover all the costs and break even. (Appendix 4)
- There were minimal changes to the Environment Health fees, as the majority of these were set by statute or set to recover costs. The changes include, amendments to the animal licence fees. With Zoos and Dangerous Wild Animal Licences being under review. (Appendix 5)
- Single Sports pitch hire increased by 14.2%. The significant increase was due to current charges for grass pitch hire being relatively cheap. Block hire had also been introduced but kept at the 18-19 prices to encourage customers to lock themselves into a block booking of at least 11 games. (Appendix 7)
- The Pannier Market fees have been recommended to be increased by 3%. It was proposed that the additional £6,000 received be earmarked to be spent on the Pannier Market. (Appendix 8)
- Garden Waste charges have not been increased for 2 years and it was proposed not to increase the fees for the third year running. This would be reviewed in 2020/21. (Appendix 10).
- The net changes in the charges were expected to result in £88,400 of additional income which have been included within the draft 2019/20 budget.

RECOMMENDED:

- (a) That there be a 3% increase in fees for 2019/20 financial year, for the following services:
- Allotments – Appendix 1
 - Building Control Charges – Appendix 2
 - Cemetery fees – Appendix 6
 - Pannier Market Charges – Appendix 8
 - Bulky Collections – Appendix 9
- (b) That the remaining fees be varied by the elements outlined in paragraphs 5.3 to 5.8 of the report.

REASONS FOR RECOMMENDATIONS

- (a) The change in fees charged for services provided by the Council is in line with the Medium Term Financial Strategy.
- (b) Some fees are set by statute and these will be set nationally.

103. REVENUE BUDGET 2019/20, CAPITAL PROGRAMME AND MEDIUM TERM FINANCIAL STRATEGY 2019-2023

The Executive considered a report by the Chief Financial Officer (circulated previously), the options and/or alternatives and other relevant facts set out in the report regarding the Revenue Budget 2019/20, Capital Programme and Medium Term Financial Strategy 2019-2023.

The Head of Resources highlighted the following:

- Government settlement December 2018. The provisional 2019-20 settlement (including the Rural Services Delivery Grant) was £3.269m (Year 4). In cash terms this was £363,000 less than 2018-19 (10% reduction) in line with the Medium Term Financial Plan. 75% Business Rate Pilot bid for Devon had been unsuccessful. There were no new changes announced for the New Homes Bonus for 2019/20, however potential changes for 2020/21. The Rural Services Delivery Grant matched the 2018/19 level. Council Tax levels for District Councils could be increased by up to 3% or £5 whichever was higher. The referendum in relation to Council Tax levels for Town and Parish Councils had been deferred. The Government had awarded one off funding for Brexit over a 2 year period of £17,500 for 2018/19 and £17,500 for 2019/20. This grant would be placed in an earmarked reserve.
- Government settlement change in funding by class of Authority. The Shire Districts and County Councils had received the largest reduction in funding from 2015/16 to 2019/20.
- Medium Term Financial Plan (2018-22) approved by Council in February 2018 was based on a number of financial assumptions about the future which included funding from Central Government, retained Business Rates income

and future Council Tax levels, cost pressures and savings plans and contributions to and from reserves (e.g. vehicle replacement). The forecast budget gap from 2019/20 to 2021/22, as at February 2018 was outlined.

- New Homes Bonus changes introduced in 2017.
- New Homes Bonus provisional level of funding to 2019/20. The level of funding for 2018/19 was £1,313,520. The Medium Term Financial Plan assumed £1.3m for 2019/20 therefore there was an additional £146,000. £100,000 from the New Homes Bonus would be placed into a reserve for one off capital projects.
- Business Rates Retention. 100% Business Rate Pilot had been accepted for Devon for 2018/19. The pilot programme was for one year. The estimated additional one-off business rates gain was £0.750m. This gain had been placed into earmarked reserves 2018/19 for future year projects. The Government had invited bids for 2019/20 pilots, however Devon had been unsuccessful and would revert back to the Devon Pool (50% scheme).
- The 2019/20 Business Rate retention forecast was £1.690m. The 2019/20 draft budget (above baseline funding) was £1.502m.
- Local Government Finance funding reforms which included: Spending Review for the period 2020/21; a review of relative needs and resources; Business Rates Retentions pilots, business rates baseline reset, Fair Funding review, New Homes Bonus review, Reforms to Local Government funding would change the level of resources available and have an impact on revenue budget; indicative allocations would be announced during the Autumn 2019.
- Council Tax levels for 2018/19 Band D properties had been increased by £5.16 (equivalent to 2.99%). Rural Councils could increase levels by up to 3% or £5 whichever higher. By increasing the level by 2.99% for 2019/20 would increase NDC's proportion of Council Tax for Band D properties from £178.02 to £183.35 (an increase of £5.33).
- Strategic Grants – it had been recommended that the level of grants be reduced by 8%, which had been included within the draft budget for 2019/20. However, the Council's actual funding settlement had been reduced by 10%. Supporting statements from the organisations in receipt of Strategic Grants were contained within Appendix 2 of the report. It was proposed that the strategic grant for the South Molton Swimming pool be removed in full as the pool was now operated by a commercial organisation 1610 Limited which was a private company limited by guarantee. 1610 ran a number of pools in the South West area and across the country. Parkwood provided a service to the Council for the management of the Leisure Centre and Ilfracombe swimming pool. 1610 did not provide a service on behalf of the Council. The statement of accounts of 1610 had been reviewed for the year ending 31st March 2017 which included £1.5m held within its general fund reserves. Their general reserves were higher than was held by the Council. The reserves had grown by £110,000 in 2016/17. A statement had been included in the accounts from the Chief Executive Officer stating that the company had seen a growth in the core business. The business employed 500 staff and one employee was paid between £90,000 - £99,000. In preparation of the report, the Regeneration Manager had contacted Devon County Council regarding the Exeter Area Rail Project and no justification had been received. However, since the publication of the report an email had been received from Devon County Council to

advise that they still retained half of the strategic grant awarded for 2018/19 and gave no clear indication of how the remaining grant would be spent.

- Draft Revenue Budget 2019/20 - cost pressures and savings; options to balance the budget; how it would be funded.
- Draft Revenue Budget 2019/20 (Appendix 1) – was now predominately funded by taxation. Business rates retention and New Homes Bonus were both at risk of change for 2020/21 onward. It showed a balanced budget and assumed:
 - 2.99% increase in Council Tax (each 1% equates to circa £60,000)
 - Strategic Grants have been reduced at the proposed levels.
 - Parish Grants not reduced by 50% as outlined at the Parish Forum and previously notified to Parish Councils. It was now proposed to be included within the Medium Term Financial Strategy to fully remove the grant in 2020/21.
 - Savings from service reviews which included CCTV and Trade Waste being implemented and delivered.
- Reserves (Appendix 3). General fund balance forecast level at 31 March 2020 was £1.161m (9.3% of the net budget). The recommended level was between 5-10%. Earmarked reserves forecast level at 31 March 2020 was £3.289m. In compliance with the Local Government Act 2003, the Chief Financial Officer assured the Executive of the robustness of the estimates and the adequacy of the proposed financial reserves.
- Medium Term Financial Strategy (2019-2023) was based on a number of financial assumptions about the future which included: funding from Central Government; retained business rates income and future Council Tax levels; cost pressures and savings plans; and contributions to and from reserves (e.g. vehicle replacement). Appendix 4 detailed the modelled financial projections.
- Capital Programme for 2018/19 to 2021/22. 9 business cases for capital funding had been submitted. The gross cost of the business cases was £7,320,000. The net cost to the Council was £3,720,000. The Project Appraisal Group had scored all of the business cases as either “medium” or “high”. The business cases had been submitted for the following projects:
 - Rolling Road. There was an opportunity to provide this service to other Local Authorities provided it did not impact on the core business of the Council.
 - Vehicle Replacement Programme.
 - Material Recovery Facility Infrastructure.
 - HR and Payroll System.
 - Pannier Market Re-roofing works.
 - Contact Centre Telephony software.
 - Digital Transformation Asset and Financial Management System.
 - ICT Office Technology fund.
 - Disabled Facilities Grants.
- The Leisure Centre and Watersports Centre potential capital funding bids had not been included within the draft Capital Programme and would be considered by the Special Executive at its meeting on 26th February 2019.

- The total cost of the projects of £3.720m would be funded by earmarked reserves (£1.764m), Section 106 heritage contribution (£0.050m), existing capital programme (£0.194m) and borrowing need would be increased (£1.712m).
- (£0.592m) borrowing costs had been included within the draft budget for 2019/20. Future year borrowing costs had been included in the Medium Term Financial Plan. The borrowing costs would increase to £0.786m by 2022/23. The business cases generated net annual savings of (£0.030m). Without any further capital receipts in addition to the amount that had been forecast already, it was estimated that borrowing costs could increase to £1.140m in 2028/29 due to additional future year vehicle and ICT replacements.
- Draft Capital Programme (Appendix 5). The total Capital Programme 2018/19 to 2021/22 was £19.968m which would be recommended to Council for approval on 25th February 2019.
- How the total Capital Programme 2018/19 to 2021/22 would be funded.
- Projected underlying need to borrow in accordance with the 10 year Capital Strategy.
- Risks identified that could affect financial plans.
- Timeline – Council at its meeting on 16th January 2019 approved the Council Tax base; the budget and capital programme would be considered by the Executive on 4th February 2019 and Overview and Scrutiny Committee on 12th February 2019; Council on 25th February 2019 to consider the approval of the budget and capital programme and setting of Council Tax; Special Executive on 26th February 2019 and Council on 13th March 2019 to consider the potential Leisure Centre and Watersports Centre capital projects.

RESOLVED that a vote of thanks be given to the Head of Resources and his team.

The Head of Corporate and Community gave advice to the Executive regarding the status of the company 1610 and advised that giving a grant would raise issues of State Aid. 1610 was a commercial organisation that bid for contracts with Local Authorities. The contract was between 1610 and the Swimming Pool trustees. If the Council awarded 1610 a grant, it could have an impact of the funding that Council received. There were various exemptions and de minimis levels that applied. External specialist advice could be sought, however it would cost in the region of £2,000. When the Council entered into a new contract for the Leisure provision, it would include a clause that the Council could not award funding to other competitor organisations.

In response to questions from the Executive and other Members, the Executive were advised of the following:

- The Leader and Head of Resources had met with 1610 prior to taking over the management of the South Molton Swimming pool. It was made very clear that any future grant awarded to 1610 would be subject to the annual budget setting process and was therefore not guaranteed. At that time, the company's financial position was unknown. South Molton Town Council owned the swimming pool land.

- Local Authorities and Rural Services Network were continuing to lobby the Government regarding the inequality of funding for Local Authorities. The Council still received less than the national average of funding.
- There had been a significant reduction in the number of Council employees from around 500 in 2010 to 350 in 2019. The reduction had been carried out in a managed way. All vacant posts were reviewed by the Senior Management Team to assess whether the post was still required or whether it could be delivered in a different way. The Council was now at capacity and therefore there was a need to make ongoing efficiency improvements delivered by the ICT infrastructure. To date the Council had not made any staff redundancies.

Councillor Luggar left the meeting.

- The funding gap in the future year's budget needed to be addresses by achieving savings and efficiencies. Costs for borrowing increased the budget gap. There were various options to consider.
- For every £1 awarded to the AONB, it attracted £3 from the Central Government.
- The Council had a contractual arrangement with Parkwood for leisure provision. The Council would not have a contractual arrangement with 1610.
- The de minimis level had been set at €200,000 over a three year period. There would be a need to review the funding that the Council had received over that period.
- 1610 had been contacted to provide an impact statement if the funding was withdrawn by the Council. An email response had been received which made a general case if funding was reduced however it did not specify what impact it would have.
- If funding was awarded to 1610, then a funding agreement should be put in place to specify the level of service the company should provide.

DECISIONS

- (a) That the latest forecast for Budget 2018-19 and the proposed contributions to earmarked reserves be noted;
- (b) That the Chief Financial Officer's assurance on the adequacy of the reserves and the robustness of the budget in paragraph 5.1.4.5 of the report be noted;
- (c) That the Chief Financial Officer's highlighted areas of risk identified within the budget process set out in paragraphs 5.1.4.6 and 5.3 of the report be noted;
- (d) That the latest Medium Term Financial forecast for 2019-2023 as shown in paragraph 5.1.5 of the report be noted;
- (e) That subject to approval of (i) below, that funds be released for the capital schemes listed in paragraph 5.2.2 of the report.

RECOMMENDED:

- (f) That there be an increase of 2.99% in the level of Council Tax charged by North Devon Council for 2019-20;
- (g) That the actions identified in paragraphs 5.1.2 to 5.1.4 of the report, which were required to ensure a balanced budget be achieved and therefore recommend to Council the approval of 2019-20 General Revenue Account Budget subject to:
 - (i) South Molton Swimming Pool and Exeter Area Rail Project not being awarded a strategic grant;
 - (ii) There being no reduction in the level of strategic grants awarded to the AONB, Biosphere, Go North Devon, Northern Devon Voluntary Service and the Citizens Advice Bureau;
- (h) That the Medium Term Financial Strategy 2019-2023 in paragraph 5.1.5 of the report as part of the Policy Framework be adopted;
- (i) That the Capital Programme 2018-19 to 2021-22 as highlighted in paragraph 5.2 be approved.

REASONS FOR DECISIONS/RECOMMENDATIONS

- (a) The 2018-19 latest forecast is reported to ensure Executive maintain budgetary control for the rest of the financial year.
- (b) To ensure Executive has assurance on the financial standing of the Council and risks associated with the budgetary framework.
- (c) Decisions on the level of Council Tax need to be taken by Executive as part of recommending next year's budgetary framework for adoption by Council.
- (d) To ensure Executive have a savings plan in place to deliver the long-term financial strategy of the Council.
- (e) To ensure Executive control the performance improvement activities of the Council.
- (f) To ensure that future capital investment is available and targeted to the Council's priorities.
- (g) 1610 was a commercial organisation and Exeter Area Rail Project had not provided justification for the award of a

strategic grant by the Council.

104. TREASURY MANAGEMENT STRATEGY STATEMENT 2019/20

The Executive considered a report by the Chief Financial Officer (circulated previously), the options and/or alternatives and other relevant facts set out in the report regarding the Treasury Management Strategy Statement for 2019/20.

The Head of Resources highlighted the following:

- The Council was required to receive and approve three reports each year which included: Prudential and treasury indicators and treasury strategy (first report), Mid Year Treasury Management report (second report) and an Annual Treasury report (third report).
- The Council's investment priorities were security of funds first, portfolio liquidity second and then yield, (return).
- Proposed changes to the Treasury Management Strategy for 2019/20 as detailed in paragraph 5.1 of the report.
- The Council had not engaged in any material commercial investments or non-treasury investments.
- Capital expenditure and net financing need of capital expenditure for 2019/20.
- The Council's underlying need to borrowing as detailed in paragraph 6.2 of the report.
- Borrowing requirements as detailed in paragraph 7 of the report. The underlying need to borrow was increasing in 2019/20 year.
- Investment and borrowing rates. Borrowing rates would continue to be reviewed to avoid incurring higher borrowing costs in the future. It was more cost effective to borrowing internally. Investments were only made on a short term basis.
- The criteria for risk management was largely unchanged from last year.
- The Council would adopt a low risk, immaterial, approach to non-treasury (commercial) investments in line with the investment categories and authorised limits set out in Appendix 2.

RECOMMENDED

That the Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Statement 2019/2020, including the Treasury Management and Prudential Indicators for 2019/20 to 2021/22, be approved.

REASONS FOR RECOMMENDATIONS

- (a) The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (SI 2003/3146) requires the Council to have regard to the Treasury Management Code.
- (b) Under section 3(5) of the Local Government Act 2003 the Council is required to have regard to the Prudential Code when setting limits to the level of its affordable borrowing.

- (c) This Council is also required under the Code to give prior scrutiny to the treasury management reports by the Overview and Scrutiny Committee before they are reported to the full Council.

105. 10 YEAR CAPITAL STRATEGY 2019-2029

The Executive considered a report by the Chief Financial Officer (circulated previously), the options and/or alternatives and other relevant facts set out in the report regarding the 10 Year Capital Strategy 2019-2029.

The Head of Resources highlighted the following:

- In December 2017, the Chartered Institute of Public Finance and Accountancy, (CIPFA), issued revised Prudential and Treasury Management Codes stating that from 2019/20, all local authorities will be required to prepare a Capital Strategy.
- The Strategy was required to provide a high-level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services, an overview of how the associated risk is managed and the implications for future financial sustainability.
- This capital strategy document covers the ten year period from 2019/20 to 2028/29 and will be reviewed annually by Full Council prior to each financial year.
- The Strategy did not include the financial impact of the potential new Leisure Centre or potential addition spend on the Watersports Centre projects.
- Capital Governance arrangements as detailed in paragraph 5.3 of the report.
- The current Medium Term Financial Plan included borrowing costs for the Capital Programme approved earlier on agenda.
- The Capital Strategy for years 2019/20 to 2022/23 (Medium Term) as detailed in paragraph 5.4 of the report.
- The Capital Strategy for years 2023/24 to 2028/29 (Long Term) as detailed in paragraph 5.5 of the report.
- Following the District Council elections in May 2019, there would be a need to undertake a review of the service spend and identify savings to reduce the budget gap (both Revenue and Capital).
- Capital funding and affordability. Projected external borrowing. There was a need to challenge the future projects within the long-term capital expenditure to identify whether they were required or could be delayed. If additional capital receipts were received, there would be a need to use the receipts to reduce the level of borrowing need.
- Risks with the Capital Strategy as detailed in paragraph 5.6 of the report.

RESOLVED that the vote now be taken.

RECOMMENDED

That the Capital Strategy 2019/20 to 2028/29 be approved.

REASONS FOR RECOMMENDATION

- (a) The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (SI 2003/3146) requires the Council to have regard to the Treasury Management Code.
- (b) To ensure Executive has assurance on the financial standing of the Council and risks associated with the capital strategy.
- (c) To ensure Executive have plans in place to deliver the long-term financial strategy of the Council.
- (d) To ensure that future capital investments are available and targeted to the Council's priorities.

Councillor R. Cann left the meeting.

106. URGENT WORKS NOTICE FOR BUNKSLAND FARM, EAST ANSTEY

The Executive considered a report by the Conservation Officer (circulated previously), the options and/or alternatives and other relevant facts set out in the report regarding an urgent works notice for Bunksland Farm, East Anstey.

The Conservation Officer circulated photographs of Bunksland Farm to the Executive which had been provided by the structural engineer.

The Conservation Officer highlighted the following:

- Confirmed that the farm was located within the parish of East Anstey.
- Bunksland Farm was a grade II* listed building dating from the late medieval period. It contained historic fabric and features of considerable significance. The farmhouse was in a very poor condition and had suffered some internal collapse. The ownership of the farm was not confirmed, therefore works required to prevent further deterioration of the building would not be undertaken, unless by a third party.
- North Devon Council had the power to serve an Urgent Works Notice on the building, carry out the works in default, and ultimately reclaim the expenditure when ownership is established.
- The farm had not been registered with the Land Registry and there were no deeds.
- The property had been vacant since 2009.
- The Executors were in the process of trying to register the property with the Land Registry.
- A charge would be placed on the property in order to recover the costs of the Council in undertaking the urgent works.
- The Executors had received a valuation from Stags, who had given an estimation of between £475,000 to £500,000 for the farm and land.

In response to questions, the Head of Corporate and Community advised that in order to speed up the process of marketing the property once the works had been undertaken he suggested that recommendation 2.3 be amended to delete the wording “once ownership of the building is confirmed”. If the property was not registered then the Council could become a mortgagee in possession.

DECISIONS

- (a) That it be noted that the Head of Place is to use his delegated authority to serve an Urgent Works Notice under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 on Bunksland Farm, East Anstey;
- (b) That expenditure of up to £50,000 be approved to be funded from the Executive Contingency Reserve to carry out works subject to confirmation of a grant made to North Devon Council by Historic England to underwrite up to 80% of the unrecoverable costs of carrying out the works specified in the Notice;
- (c) That steps be taken to recover the costs of the Urgent Works Notice and a charge be placed on the property in order to recover the costs of the Council in undertaking the urgent works;
- (d) That delegated authority be given to the Head of Place, in consultation with the Portfolio holder, to agree the details for the expenditure of the capital sum and any grant secured for the project.

REASONS FOR DECISIONS

- (a) Section 54 (1) of the Planning (Listed Buildings and Conservation Areas) Act allows Local Authorities to execute works which appear to them to be urgently necessary for the preservation of a listed building in their area. Section 54(5) of the Act requires the Authority to give the owner not less than seven days notice in writing of the intention to carry out the works, and Section 55 of the Act allows the local authority to recover the expenses of carrying out the works from the owner.
- (b) In the case of Bunksland Farm, the service of an Urgent Works Notice is the most effective means of ensuring that the listed building is stabilised, and further immediate deterioration is prevented, pending the establishment of a long term plan to secure the future of this significant heritage asset.
- (c) Historic England have indicated their willingness to underwrite up to 80% of the unrecoverable costs of serving the Notice and carrying out the works to the building. When the question of

ownership is resolved, NDC may take steps to recover the costs from the owners, and at that stage will need to repay Historic England the corresponding proportion of the grant.

107. CONTINUATION OF MEETING

RESOLVED that it being 1.00 pm that the meeting continue in order for the remaining business to be transacted.

Councillor Yabsley left the meeting.

108. 2, 4 AND 6 WILDER ROAD, ILFRACOMBE

The Executive considered a report by the Estates Officer (circulated previously), the options and/or alternatives and other relevant facts set out in the report regarding the Council's freehold interest in numbers 2, 4 and 6 Wilder Road, Ilfracombe.

The Estates Officer highlighted the following:

- North Devon Council owned the freehold interest in numbers 2, 4 and 6 Wilder Road, Ilfracombe which were let on long leases to Young Devon. The two properties are used as a shared house and hostel accommodation for young people.
- Following a flash flood last year, it was established that there were serious repairs needed to the structure and exterior of numbers 4 and 6, which were suffering significantly from rising damp. The Council faced considerable costs in carrying out repairs.
- The lease arrangements for the three properties. The leases restricted the user to providing accommodation for young persons. The Council had a duty to provide accommodation for young persons. Access to such accommodation was a valuable resource. There was limited control from a freehold perspective. There was a planning restriction on the property.
- Options available to the Council as detailed in paragraphs 4.2, 4.3 and 4.4 of the report.

DECISIONS

- (a) That the Council dispose of numbers 2, 4 and 6 Wilder Road, Ilfracombe to include separate agreement with the Council for housing provision;
- (b) That authority be delegated to the Head of Resources to negotiate/agree a way forward with the tenants, in consultation with Portfolio Holders and Ward Member.

REASONS FOR DECISIONS

- (a) That consideration is given to whether investing in carrying out the repairs to the property is an appropriate use of funding for NDC.

- (b) The current costs of putting the building into repair and ongoing liabilities would be mitigated to NDC if the freehold was passed to the tenants.
- (c) A separate, stand alone management/operational agreement could be put in place with Young Devon, giving NDC, EH&H, more direct access to the accommodation for emergency accommodation provision. A clawback to NDC would also be incorporated.
- (d) Estates Officers have concerns over the future management liabilities NDC may have in continuing to hold the freehold interest in the properties. Both in terms of costs and liability for the occupants.
- (e) As background, these assets have been considered as viable for disposal as surplus assets since 2012. They were included on the initial disposal list in 2013, and a dialogue opened with the sitting tenants, with a view to obtaining valuation advice to agree a disposal figure. The primary reason for this being Estates concern over the occupational leases, minimum levels of return and the ongoing liabilities to NDC in terms of escalating repair costs going forward.
- (f) The assets were withdrawn from the surplus assets lists at EH&H request because of the nature of the accommodation they provided. However, it is our view as Estates Officers, that the lease structures do not provide any substantial security to NDC in prioritising our requirements for Temporary Accommodation needs and this could be secured more effectively by a separate standalone management or operational agreement with Young Devon.
- (g) Furthermore, the anticipated and unknown future repair costs to NDC arising out of the current leases, outweigh the limited benefits to NDC of getting access to the accommodation for our own clients.

109. SERVICE PLANS, FOOD SAFETY AND HEALTH AND SAFETY

The Executive considered a report by the Lead Officer, Food, Health and Safety (circulated previously), the options and/or alternatives and other relevant facts set out in the report regarding the Service Plans for Food Safety and Health and Safety.

The Lead Officer, Food, Health and Safety highlighted the following:

- It was a legal requirement of the Health and Safety Executive and the Food Standards Agency that the service plans were approved by Council.
- The Plans covered a two year period for 2019/21.
- Types of work that Environmental Health undertook.

RECOMMENDED

That the Food Safety Service Plan and Health & Safety Service Plan for 2019/21 be approved.

REASON FOR RECOMMENDATION

By noting and approving the contents of the report, the requirements of the Health & Safety Executive and the Food Standards Agency can be met.

Chairman

The meeting ended at 1.11 pm

NOTE: The above decisions shall not take effect until the five clear working days have elapsed from the date of publication: Tuesday 5 February 2019.



Open/Not for publication

NORTH DEVON COUNCIL

REPORT TO: EXECUTIVE

Date : 4th March 2019

TOPIC: RESPONSES TO CONSULTATION: REVIEW OF THE OFF STREET PARKING ORDER

REPORT BY: PARKING MANAGER

1 INTRODUCTION

- 1.1 Amendments to the North Devon (Off Street Parking Places) Order were recommended at Executive on 3rd December 2018.
- 1.2 The Notice of Proposals was advertised on 13th December 2018 with a closing date of 10th January 2019.
- 1.3 Executive are required to consider all responses from the consultation.

2 RECOMMENDATIONS

- 2.1 Executive to approve all amendments to the Off Street Parking Order as outlined in the Executive report dated 3rd December 2018, excepting the recommendation requested for withdrawal as stated in 2.5.
- 2.2 Executive to note that no objections were received regarding the amendments to the North Devon (Off Street Parking Places) Order for **Braunton Parish Council, Combe Martin Parish Council, Instow Parish Council, North Devon District Council and South Molton Town Council.**
- 2.3 Executive to incorporate into the Off Street Parking Order the change to presentation of information in the Order as recommended by **Combe Martin Parish Council**, as detailed in 4.6.
- 2.4 Executive to note that 59 Objections were received regarding recommendations from **Lynton and Lynmouth Town Council** and that Lynton and Lynmouth Town Council have considered each objection at meetings held on 9th January 2019 and 31st January 2019.

- 2.5 Executive to approve Lynton and Lynton Town Council's request to withdraw the original recommendation for the amendment to the North Devon (Off Street Parking Places) Order to add condition to **Lower Lyndale car park, N17** '*Means maximum stay in car park during the day is 4 hours*'. As detailed in 4.11 – 4.14.
- 2.6 Executive to refuse Lynton and Lynmouth Town Council's request to remove the original recommendation to withdraw Guest house permit £3.50 from the North Devon (Off Street Parking Places) Order. As detailed in 4.15 – 4.20.

3 REASONS FOR RECOMMENDATIONS

- 3.1 To approve the changes to the Off Street Parking Order with consideration of the responses following consultation.

4 REPORT

- 4.1 No objections were received for changes proposed to the North Devon (Off Street Parking Places) Order for **Braunton Parish Council**.
- 4.2 No objections were received for changes proposed to the North Devon (Off Street Parking Places) Order for **Instow Parish Council**.
- 4.3 No objections were received for changes proposed to the North Devon (Off Street Parking Places) Order for **South Molton Town Council**.
- 4.4 No objections were received for changes proposed to the North Devon (Off Street Parking Places) Order for **North Devon Council**.
- 4.5 No objections were received for changes proposed to the North Devon (Off Street Parking Places) Order for **Combe Martin Parish Council**.

- North Devon Council parking team have now taken on responsibility for cash collections for car parks in Lynton and Lynmouth. This has released the Civil Enforcement Officer from cash duties to concentrate on Enforcement. Lynmouth car parks has seen a considerable improvement from September 2018 to January 2019. 123 PCN's compared to 30 for the same period in 2017.
- The Parking Manager has approached Devon County Council to discuss the on street parking measures, which have a negative impact on the availability of car parking spaces during the summer months in Lynmouth.

4.13 Due to the above reasons the Parking Manager recommends that Executive agree to Lynton and Lynmouth Town Council's request to withdraw the original recommendations to have a maximum stay of 4 hours in Lower Lyndale car park.

4.14 The North Devon (Off Street Parking Places) Order will again be reviewed in autumn 2019 and the issue of congestion in Lynmouth will be considered again. Summer 2019 data will identify any effects of the improved enforcement. The extra time for review will also take into consideration any alternative solutions offered by the parking sub-committee and discussions with Devon County Council.

4.15 In response to the objections received Lynton and Lynmouth Town Council have requested withdrawal of the recommendation to remove the guesthouse permit £3.50 from the North Devon (Off Street Parking Places) Order.

4.16 Minutes from Lynton and Lynmouth Town Council Full Council meeting held on 31st January 2019 state

".. after much discussion it was felt there were two options; either to leave exactly as it is, or to completely do away with these permits. It was RESOLVED As a temporary measure, retain the permit as is, and review it with North Devon Council Car Park Manager before next year".

4.17 The Parking Manger is concerned that the review requested by Lynton and Lynmouth Town Council of the guest house permit will not resolve current issues and will result in the same recommendation being made to Executive in the next Off Street Parking Order review in December 2019.

4.18 The Guest house permit is usable in North Devon Council owned car parks which are managed under delegated powers by Lynton and Lynmouth Town Council.

4.19 Executive are advised:

- The all-day parking tariff in Lynton and Lynmouth is already reasonable at £5.00, and has not been increased as part of this review.
- The introduction of new pay and display machines in 2017 now provides 'carry over.' A person arriving at 4pm to check into their accommodation receives parking until 4pm the following day for a £5 fee.
- The concessionary permit granted to guesthouses is not available in any other area within North Devon Council owned car parks.
- The North Devon Council 4 day permit, £12.10, can be used in a number of NDC car parks across North Devon including those in Lynton and Lynmouth.
- The North Devon Council 7 day permit, £20.80, can be used in a number of NDC car parks across North Devon, including those in Lynton and Lynmouth.
- This review also recommended to Executive, and was approved on 3rd December 2018, to include Lynton and Lynmouth car parks in the North Devon Council weekly Tourist Rover permit, £42, which provides parking in almost all NDC car parks across North Devon.
- Visitors may also purchase 4 day (£13.00) and 7 day (£20.00) for use in car parks in Lynton and Lynmouth area.
- The Parking Manager is concerned regarding the practice that guesthouse permits are issued by the guesthouses themselves and not Lynton and Lynmouth Town Council.
- The Parking Manager is concerned that in August 2018 NDC Civil Enforcement Officers patrolling Lynton and Lynmouth car parks found irregularities with the use of guesthouse permits. Examples were found of photocopied permits and permits written in pencil being displayed. The Parking Manager is concerned that the associated payment for those parking sessions to Lynton and Lynmouth Town Council were not received.
- Whilst the Parking Manager recognises that the offer of cheaper parking is an incentive to gain guests. North Devon Council should not be seen to be favouring one business type over another. Businesses may choose to offer refunds on presentation of customers' pay and display tickets or use AdverTicket to display advertising, discounts or vouchers on the reverse of a pay and display ticket.

4.20 Due to the above reasons, and without any supporting reasons offered in the minutes provided by Lynton and Lynmouth Town Council, it is the Parking Manager's professional opinion that Executive do not agree to Lynton and Lynmouth Town Council's request to withdraw their original recommendation.

4.21 Lynton and Lynmouth Town Council have requested that all other recommendations for amendments to the North Devon (Off Street Parking Places Order) approved by Executive on 3rd December 2018 be retained.

5 RESOURCE IMPLICATIONS

5.1 No resource requirements for signage changes and advertising the Order, as will be met within current budget.

6 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
Part 3	Delegated	Yes
Annex 4		

7 STATEMENT OF CONFIDENTIALITY

7.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

8 BACKGROUND PAPERS

8.1 The following background papers were used in the preparation of this report:

- Email from Combe Martin Parish clerk 18th December 2018
- Lynton and Lynmouth Town Council minutes 9th January 2019
- Lynton and Lynmouth Town Council minutes 31st January 2019

The background papers are available for inspection and kept by the author of the report.

9 STATEMENT OF INTERNAL ADVICE

9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Councillor Brailey

Author: Parking Manager

Date: 6th February 2018

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Appendix 1

Analysis of objections to changes to the North Devon (Off Street Parking Places) Order provided by the Parking Manager to Lynton and Lynmouth Town Council for response.

All associated correspondence received until midnight on 10th January 2019 also provided.

59 items of correspondence were received during the consultation period.

Proposal regarding increasing charges

From:

£1.00 for 1 hour

£2.00 for 2 hours

£3.00 for 3 hours

£4.00 for 4 hours

All day £5.00

To

£1.00 for 1 hour

£2.20 for 2 hours

£3.30 for 3 hours

£4.40 for 4 hours

All day £5.00

ISSUE RAISED	REFERENCED BY NUMBER OF OBJECTORS
Could deter visitors	25
Could affect trading / businesses	25
Could lead to a shortage of on street parking places	24
Could reduce overall spaces for overnight parking.	19
Is currently an incentive for visitors	1
No public consultation	19
Could increase congestion	1
Could increase congestion around the school	1

Proposal regarding removing N38 ‘means a pay and display ticket purchased in any Lynton and Lynmouth Car park is transferable between any Lynton and Lynmouth car park’

ISSUE RAISED	REFERENCED BY NUMBER OF OBJECTORS
Could deter visitors	34
Could affect trading / businesses	33
Could lead to a shortage of on street parking places	31
Could reduce overall spaces for overnight parking.	19
Is currently an incentive for visitors	1
No public consultation	19
Could increase congestion	1
Could increase congestion around school	1

Proposal regarding withdrawing of the Guesthouses and Hotels only Visitors Permit (£3.50)

ISSUE RAISED	REFERENCED BY NUMBER OF OBJECTORS
Could deter visitors	41
Could affect trading / businesses	41
Could create a shortage of on street parking places	40
Could reduce overall spaces for overnight	19
Is an incentive / welcome gesture for guests	2
No consultation	19
Could increase congestion	1
Could increase congestion around school	1

Proposal to add condition N17 ‘means maximum stay in car park during the day is 4 hours.’

ISSUE RAISED	REFERENCED BY NUMBER OF OBJECTORS
Could deter visitors	33
Could affect trading / businesses	38
Could create a shortage of on street parking places	34
Could reduce overall spaces for overnight	19
Could overcrowd Upper Lyndale / not enough spaces	4
Could confuse visitors	4
Could cause difficulties carrying bags / luggage from Upper Lyndale	2
No consultation	19
Could increase congestion	1
Could increase congestion around school	1

Objections were received with regards to removing the residents permit from Lower Lyndale. However, this was not placed before Executive as a separate proposal nor advertised for public consultation.

ISSUE RAISED	REFERENCED BY NUMBER OF OBJECTORS
Could create a shortage of on street parking places.	1
Not enough parking spaces on Upper Lyndale.	3
Electric car cable will not be able to reach person's residence from Upper Lyndale car park	1

1 Item of correspondence did not state which particular recommendation(s) they were referring to.

ISSUE RAISED	REFERENCED BY NUMBER OF OBJECTORS
Detrimental to visitors	1
Could increase on street parking	1
Reduces flexibility and access to long stay parking	1

4 Items of correspondence stated they objected but gave neither the proposal they were objecting to nor any issues or concerns that would be caused by the proposals.

REPORT TO: EXECUTIVE COMMITTEE

PORTFOLIO HOLDERS: LOCAL PLAN AND REGENERATION

Date: 4 March 2019

TOPIC: DERELICT ILFRACOMBE SITES

REPORT BY: HEAD OF PLACE / ECONOMIC REGENERATION MANAGER

1 INTRODUCTION

- 1.1 Two sites in Ilfracombe, Golden Coast and Montebello, have been derelict for over ten years. Both have been marketed recently and have attracted interest but potential developers have not been able to take proposals forward because of viability issues.
- 1.2 The two sites blight the areas surrounding them and are both in prominent positions. They have different but significant constraints on development and are likely to remain in their current state if the Council does not intervene.

2 RECOMMENDATIONS

2.1 That officers:

- explore the potential for compulsory purchase of the Golden Coast and the Montebello sites in Ilfracombe;
- continue negotiation with the site owners if willing, whilst the potential for compulsory purchase is explored;
- bring a further report to the Executive Committee, once the potential for CPO has been explored, with a recommendation on the making of Compulsory Purchase Orders on the Golden Coast and Montebello sites.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The two derelict sites at Golden Coast and Montebello in Ilfracombe are having an adverse impact on the town's environment and economy, and an impact on the wellbeing of the local community.
- 3.2 Without intervention from the Council both sites are likely to remain in their current state.

3.3 A compulsory purchase may be the last resort to ensure proposals are progressed, after over ten years of trying to facilitate development through other means, without success.

4 REPORT

4.1 Golden Coast Site

4.2 The site of the former Golden Coast amusement arcade lies in a prominent position on the Ilfracombe seafront. The Planning Service has served several Section 215¹ notices over the years requiring the hoardings to be replaced/repainted to keep the site as tidy as possible.

4.3 The present owners acquired the site in 2007, and it remains derelict.

4.4 Pre planning discussions have taken place relating to an ambitious proposal incorporating Runnymede Gardens and the existing car park, to develop a large scale development with a hotel, retail, and restaurant uses with two levels of underground car parking. This proposal has not been pursued and the site has been on the market since January 2018 at an asking price of £500,000.

More recently informal discussions have been held at the Ilfracombe Regeneration Board on plans for a hotel requiring only the site. This has not been followed by any discussion with the Council informally, or a request made for a pre-application meeting. The plans discussed showed some detail but were largely generic.

4.5 The Golden Coast site has flood issues relating to the Wilder Brook. JBA Consultants produced a report in 2016 that estimated the cost of mitigation at £1.8m (with a 60% optimism bias). The Environment Agency has confirmed that any developer of the site would be required to cover the cost of flood mitigation. There is a further constraint in the form of a sewer running across the centre of the site, which would need to be redirected if the site were developed.

4.6 There has been some interest in the site but not at the current asking price. The site had an historic planning consent for 23 flatted units.

4.7 A masterplan has recently been prepared for the seafront. The area of the Golden Coast site has been left out, in order to keep future options open.

4.8 Montebello

4.9 The site of the former Montebello Hotel in Fore Street has been derelict since a fire destroyed the hotel approximately 12 years ago. The site's owners, who acquired the hotel, live outside the area, but have been in contact over that period, and a hoarding was replaced at the Council's expense to keep the site safe and make this

¹ s215 of the Town & Country Planning Act 1990 provides a local planning authority with the power, in certain circumstances, to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area. back to back agreement in place before acquisition could transfer this liability to any partner/purchaser.

busy tourist route more attractive. Fore Street is one of Ilfracombe's most popular streets, with hotels and restaurants on the route from the High Street to the Harbour.

- 4.10 Webbers are currently marketing the site at an asking price of £600,000 and a prospective buyer has been in pre-application discussions with NDC Planning. The purchaser is struggling with viability issues.
- 4.11 There are questions around the stability of the rear retaining wall of the site which is several stories in height. This could be a risk to the Council if the site were acquired, but a back to back agreement in place before acquisition could transfer this liability to any partner/purchaser.
- 4.12 The difficulty with both sites is that their original purchase price has meant unrealistic expectations of value in the current market and with their existing constraints. The recommendation is that the Council explore the potential to use their CPO powers to bring both back into active economic use. External legal advice suggests that the preferred way forward would be to procure a development partner and work with them through the CPO process, potentially with the development partners covering the costs.
- 4.13 Compulsory Purchase Orders – Process
- 4.14 The steps in the CPO process in outline are:
- (a) notify the Owner that the Council intends to use its statutory powers to compulsorily acquire the Property;
 - (b) make an in-principle resolution to commence the CPO process, citing relevant policies and a wish to identify a development partner;
 - (c) identify a development partner (following the Council's usual procurement procedures); and
 - (d) negotiate a development agreement with its preferred development partner, such agreement to include the submission of a planning application for the redevelopment of the Property within a specified timescale, and a full indemnity in respect of all costs in connection with the CPO process, including compensation).
- 4.15 CPO is intended to be a last resort. However, the government recognises that the CPO process often needs to be run in parallel with negotiations (due to the length of time the CPO process can take). Running the CPO process in parallel with negotiations also underlines that the Council is serious about making a CPO if negotiations fail, and strengthens the Council's position in those negotiations.

5 RESOURCE IMPLICATIONS

- 5.1 Office time from within existing Economic Development, Legal and Planning Services time budgets.

6. CONSTITUTIONAL CONTEXT

Article and paragraph	Appendix and paragraph	Referred or delegated power?	A key decision?
Article 7.12	Appendix 4, para 17	no	no

7 STATEMENT OF CONFIDENTIALITY

- 7.1 The report is not considered to contain confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

8 BACKGROUND PAPERS

- 8.1 JBA Consulting – Flood Risk Assessment Options – Wilder Road 2015

9 STATEMENT OF INTERNAL ADVICE

- 9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Councillor Barker / Councillor Yabsley

Author: Sally Nelson

Date: 14 February 2019

References:

REPORT TO: EXECUTIVE

Date: 4th MARCH 2019

TOPIC: LOCAL LETTINGS PLAN – LAMATON PARK, SOUTH MOLTON

REPORT BY: JEREMY MANN – HEAD OF ENVIRONMENTAL HEALTH & HOUSING

1. INTRODUCTION

- 1.1 North Devon Homes has re-developed Lamaton Park with Care and Support Specialised Housing (CASSH) funding in conjunction with Housing England and the Ministry of Health.
- 1.2 The aim is to provide long-term housing solutions, which can be adapted flexibly as occupiers needs change, for individuals who do not require residential care, but would benefit from a home which is adapted to suit their needs.
- 1.3 The development replaces a 1970's scheme offering 20 ground floor bedsits with shared bathing facilities, where it had become increasingly difficult to attract suitable residents.
- 1.4 The new development will provide 28 flats at affordable rent levels and 5 flats/bungalows for shared ownership, arranged over 3 blocks, one of which includes a community hub.
- 1.5 A Local Lettings Plan will assist with initial lettings of the new affordable rented properties by ensuring new occupants meet scheme requirements in accordance with planning, funding and management requirements. The 5 affordable shared ownership properties will be advertised and allocated through Help to Buy South West in accordance with the Section 106 requirements.

2. RECOMMENDATIONS

- 2.1 Approve the Local Lettings Plan (Appendix 1) for initial lettings of properties at Lamaton Park, South Molton.

3. REASONS FOR RECOMMENDATIONS

- 3.1 This development would benefit from sensitive allocation to enable a sustainable community to be created in accordance with planning, funding and to avoid potential management issues.

4. REPORT

- 4.1 Lamaton Park was a 1970's older persons' accommodation scheme consisting of 20 ground floor bed-sits with shared bathing facilities, a small common room and originally an on-site warden.
- 4.2 Demand for this type of shared accommodation has changed over the years and it became increasingly difficult to attract suitable residents.
- 4.3 Funding for warden services has changed and there has not been an on-site warden for many years, although assessment and delivery of support services have continued where an assessed need.
- 4.4 North Devon Homes has re-developed Lamaton Park with Care and Support Specialised Housing (CASSH) funding in conjunction with Housing England and the Ministry of Health.
- 4.5 The new housing aims to provide a long-term housing solution, which can be adapted flexibly as homeowners needs change, rather than for a temporary stay. Homes are for individuals who do not require residential care, but who would benefit from a home which is adapted to suit their individual needs.
- 4.6 The new development will be ready for occupation in August/September 2019.
- 4.7 The development will provide 33 units of accommodation, 28 at affordable rent level and 5 shared ownership.
- 4.8 The properties are arranged over 3 blocks, 1 x three storey and 2 x two storey (with lifts), and one of which includes a community hub.
- 4.9 The breakdown is as follows:

Affordable Rent:

21 x 2B3P Flats (63 person max occupancy)
7 x 1B2P Flats (14 persons max occupancy)
77 person max rented occupancy.

Shared Ownership:

3 x 2B3P Flats (9 persons max occupancy)
2 x 2B3P Bungalows (6 persons max occupancy).
15 persons max shared ownership occupancy

- 4.10 The allocation of the shared ownership properties will be through Help to Buy South West in accordance with the Section 106 agreement.
- 4.11 The allocation of the affordable rented properties will be through Devon Home Choice (DHC) – a choice based letting scheme that covers the whole of Devon.
- 4.12 DHC is a partnership between the 10 Devon local authorities and housing associations working in Devon. The aims of DHC are to provide:
- Choice for people seeking housing and the ability to move within Devon
 - Common scheme across Devon that is transparent, easy to understand and accessible to all.

Under DHC there is a common:

- Application form
 - Housing register
 - Approach to assessing housing need and awarding priority
 - Approach to advertising available properties.
- 4.13 Section 4.7 of the DHC policy outlines labelling of properties and specifically mentions local lettings plan from 4.7.4 to 4.7.10 as detailed below:
- 4.13.1 4.7.4 There may also be occasions where ‘local letting policies’ need to be applied by Devon Home Choice partners.
- 4.13.2 4.7.5 Local letting policies may include a system to ensure a mix of household types. Where agreements have been reached adverts will clearly state how such schemes will be allocated and the applicants eligible to bid.
- 4.13.3 4.7.6 Local letting policies may be introduced where a new estate has been built in order to help create a new community. Alternatively, a local letting policy may be required where there are issues that have occurred within an established community, and action is required to assist that community to become sustainable.
- 4.13.4 4.7.7 The decision to undertake a local letting policy will be made by the partners involved including the local authority’s housing department.
- 4.13.5 4.7.8 Whilst being designed to reflect local needs, local letting policies will still be compatible with the aim of meeting housing need in Devon as well as the requirements of relevant ‘Codes of Guidance.’
- 4.13.6 4.7.9 The use of local letting policies should not lead to vulnerable households being disadvantaged but lead to increased tenancy sustainability.
- 4.13.7 4.7.10 Further information can be obtained from the relevant local authority.

5. RESOURCE IMPLICATIONS

5.1 None.

6. CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
Annexe 3 Part 4	Delegated	Yes

7. STATEMENT OF CONFIDENTIALITY

7.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

8. BACKGROUND PAPERS

8.1 The following background papers were used in the preparation of this report:

- Devon Home Choice Policy
- Local Lettings Plan (Appendix 1)
- Care and Support Specialised Housing Fund Guide and Phase 2 Bidding Prospectus (<https://www.gov.uk/guidance/capital-funding-guide/5-department-of-health-programmes>)
- Section 106 relating to Lamaton Park dated 27th April 2017

9. STATEMENT OF INTERNAL ADVICE

9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member(s): Councillor Brian Moores and Councillor Dick Jones
 Author: Trudy Robinson (Housing Service Manager)
 Date: 8th February 2019
 Reference: Executive report – Local Lettings Plan Lamaton Park March 2019

Lamaton Park Local Lettings Plan

Between North Devon Council and North Devon Homes relating to the development at Lamaton Park, South Molton

Aim of the redevelopment of the Lamaton Park site

Lamaton Park was re-developed with funding from the CASSH (Care and Support Specialised Housing) fund in conjunction with Housing England and the Ministry of Health. It aims to provide a long-term housing solution, which can be adapted flexibly as occupiers needs change, rather than for a temporary stay. Homes are for individuals who do not require residential care, but who would benefit from a home which is adapted to suit their individual needs.

Purpose of the Local Lettings Plan

This Local Lettings Plan is designed to assist in the initial lettings of the 28 new affordable rented properties in the South Molton. There are 5 new shared ownership properties which will be advertised and allocated through Help to Buy South West in accordance with the Section 106 agreement.

This document will be used to prepare the advert for promoting the development under the choice based lettings plan, and assisting with the final selection of successful applicants.

The letting policy must support requirements of the grant allocated to this re-development, the Care and Support Specialised Housing grant - CASSH

Breakdown of property types

There will be 33 units of accommodation, 28 of which are offered at affordable rent levels and 5 shared ownership.

Specifically, the accommodation is broken down as follows

Affordable Rent:

21 x 2B3P Flats (63 person max occupancy)

7 x 1B2P Flats (14 persons max occupancy)

77 person max rented occupancy

Shared Ownership:

3 x 2B3P Flats (9 persons max occupancy)

2 x 2B3P Bungalows (6 persons max occupancy).

Objectives of the Local Lettings Plan

The objectives of the plan are:

- To achieve a balanced and sustainable community
- Achieve lettings within the scope and spirit of the grant funding (Care and Support Specialised Housing - CASSH)
- The fund is aimed at specialised housing designed specifically with older people in mind (55+), with access to personal care and/or support and with the flexibility to increase the level of care and/or support within the same home as individual needs change.
- To free up social housing in North Devon through downsizing
- To ensure applicants with a local connection to North Devon are prioritised over applicants without such a local connection

This will be achieved by applying the following criteria:

- lettings to be made to persons over 55 (in dual households, at least one member to be over 55) with a care and/or support need
- To help achieve a balanced community we will allow under occupation which supports customer choice. Preference will be given to those applying who meet the bed space OR have a greater care need for more space.
- Priority will be given to downsizing applicants freeing up social housing in North Devon
- Priority will be given to applicants (or an applicant's dependent, spouse or bona fide partner) with a local connection to North Devon by either of the following criteria:
 - Residence. Local connection is defined as having been resident in North Devon for a minimum continuous period of 5 years. Local connection for service personnel will be considered in accordance with the Devon Home Choice policy.
 - Work in Devon:
 - To have had employment in North Devon for a continuous period of at least 5 years.

Agenda Item 8

- To have employment in North Devon agricultural related activity, the emergency services, as a professional healthcare or social worker or as a qualified primary or secondary school teacher
- The Local Government Association guidelines define work as employment other than of a casual nature. For the purpose of this plan this will be defined as having had permanent work with a minimum of a 16-hour contract per week without a break in the period of employment for more than three months.
- Strong and established links with North Devon by reason of birth or family* and in addition still have a parent or guardian living in North Devon despite having moved away from North Devon.

* Family connections to North Devon. The Local Government Association guidelines define this as immediate family members (parents, siblings and non-dependent children) who have themselves lived in the area for 5 years.

Cascade - If there are no applicants with local connection to North Devon the cascade shall immediately be expanded to applicants who meet the local connection criteria to Devon.

Allocation process

- The 5 new shared ownership properties will be advertised and the allocation managed through Help to Buy South West in accordance with the Section 106 agreement.
- The 28 new Affordable Rented properties will be advertised on Devon Home Choice and allocations will follow the criteria detailed above.
- Applicants seeking accommodation need to demonstrate they have managed their current tenancies satisfactorily to date.
- The adverts will illustrate the property types available for letting, together with a brief summary of the local lettings plan as detailed in this document. The standard information with regard to property attributes and rent levels will also be included in the advert. The labeling of the property will be agreed between North Devon Homes and North Devon Council.
- Applicants will be permitted to bid for the properties in line with the Devon Home Choice procedure.
- Upon closure of the bidding process applicants will appear on the short-list in band and date order. The final selection of

applicants to be verified for the vacancies will be based on their application band (housing need), the length of time they have been in the band and the households ability to meet the overall aims and objectives of this lettings plan. This may require some applicants to be considered before others irrespective of their relevant banding and dates, to ensure compliance with the local lettings plan.

Future lettings

Future lettings will be let in line with Devon Home Choice policy and reflecting the CASHH grant conditions, planning consent restrictions, including the Section 106 agreement dated 27th April 2017.

References:

1. Care and Support Specialised Housing Fund
<https://www.gov.uk/guidance/capital-funding-guide/5-department-of-health-programmes>
2. CASHH Phase 2 Bidding Prospectus
3. NDH Affordable Housing Statement – Lamaton Park
4. NDH S106 Heads of Terms
5. NDH Statement of Community Involvement

February 2019



NORTH DEVON COUNCIL

REPORT TO: EXECUTIVE

Date: 04th March 2019

TOPIC: ADOPTION OF THE NORTH DEVON COAST AREAS OF OUTSTANDING NATURAL BEAUTY (AONB) - MANAGEMENT PLAN 2019-2024

REPORT BY: LANDSCAPE & COUNTRYSIDE OFFICER

1 INTRODUCTION

- 1.1 The purpose of this report is to seek formal adoption of the statutory North Devon Coast AONB Management Plan 2019-2024.
- 1.2 The Countryside and Rights of Way (CRoW) Act 2000, Sections 89-90, require local authorities to review adopted and published management plans at intervals of not more than five years.
- 1.3 The Management Plan was adopted in January 2014 and its 5 year action plan is nearing completion. In the years since its adoption, priorities have changed and new issues are influencing the AONB.
- 1.4 At the request of relevant local authorities (North Devon Council, Torridge District Council and Devon County Council), the North Devon AONB Partnership has undertaken the 5 year statutory review of the current management plan on their behalf.

2 RECOMMENDATIONS

- 2.1 That the Management Plan 2014 -2019 for the North Devon Coast Areas of Outstanding Natural Beauty be approved and adopted.

3 REASONS FOR RECOMMENDATIONS

- 3.1 To fulfil the Council's statutory duty to formally adopt a Management Plan for the North Devon Coast Area of Outstanding Natural Beauty.

4 REPORT

- 4.1 The Countryside and Rights of Way (CRoW) Act 2000, Section 89, created a statutory responsibility on local authorities to prepare and publish a plan that formulates their policy for the management of their AONB and for carrying out of their functions in relation to it.
- 4.2 In the case of the North Devon Coast AONB this responsibility is shared between North Devon Council, Torridge District Council and Devon County Council.

- 4.3 Section 90 requires local authorities thereafter to review adopted and published AONB plans at intervals not more than five years.
- 4.4 The purpose of the management plan is;
- To provide a statutory plan that sets out the objectives and policies for the designated AONB
 - To identify the special qualities of the area that contribute to its natural beauty
 - To inform and influence the determination of planning applications and appeals as the plan is a 'material consideration' in the planning system
 - To inform public bodies how they can demonstrate compliance with their statutory duty to "have regard to" the AONB designation
 - To inform and engage local people, visitors and organisations with the AONB's purpose 'to conserve and enhance' through their actions to deliver the Management Plan objectives; and
 - To guide the work of the AONB Partnership and other local actors and organisations
- 4.5 It should be noted that the plan belongs to the all of the relevant local authorities and will be delivered by all partners and not just the AONB unit.
- 4.6 The plan will be of interest to the communities, parishes, residents, businesses, landowners and farmers, agencies, authorities, utilities, organisations and amenity groups operating within, or with an interest in, the area. In this sense, it is a shared strategy that has been influenced by, and will continue to be developed through extensive consultation and partnership working.
- 4.7 There will also be a separate Annual Delivery Plan produced by the AONB Partnership each year that reports on progress against the management plan and which sets more specific objectives for the following year.

5 RESOURCE IMPLICATIONS

There are no additional costs to North Devon Council other than the already identified core costs of the North Devon AONB covered by the Council's existing grant contribution of £16770 per year to the service. Costs of implementing the plan will involve contributions from a wide range of sources and the plan aims to offer added value to local partners.

6 CONSTITUTIONAL CONTEXT

Article and paragraph	Appendix and paragraph	Referred or delegated power?	A key decision?	In the Forward Plan?
	Appendix 4, Paragraph 17	No	No	No

7 STATEMENT OF CONFIDENTIALITY

This report contains no confidential under the provisions of Schedule 12A of 1972 Act.

8 BACKGROUND PAPERS

The Draft North Devon Coast AONB Management Plan 2019 is available at <https://www.northdevon-aonb.org.uk/about/management-plan-2019-2024>

9 STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Councillor Cann

Author: Andrew Jones Date: 15th February 2014

Reference: AONB Management Plan 2019-24

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REPORT TO: EXECUTIVE
Date: 4 MARCH 2019
TOPIC: BUSINESS RATES RELIEF
REPORT BY: HEAD OF RESOURCES

1 INTRODUCTION

- 1.1 Section 47 of the Local Government Finance Act (LGFA)1988 enables the Council to exercise discretion to award rate relief in respect of properties occupied by charities and other not for profit organisations. It also allows billing authorities to grant locally determined discretionary business rate discounts in any circumstances provided it is in the interests of the local taxpayers to do so.
- 1.2 North Devon Council's policy for the granting of Discretionary Non-Domestic Rates Relief was approved by Executive on 2 October 2017 and adopted with effect from 1 April 2017.
- 1.3 In the 2018 Autumn Budget, the Chancellor announced a new business rate relief scheme for retail properties with a rateable value below £51,000.
- 1.4 The Chancellor also announced an extension of one year to the business rates relief for local newspaper office space.
- 1.5 To amend the Discretionary Business Rate Relief scheme for Year 3 (2019/2020)
- 1.6 This report incorporates the new, amended and extended reliefs into our current policy to be effective from 1 April 2019.

2 RECOMMENDATIONS

- 2.1 That Executive adopts the revised policy for the granting of Discretionary Non-Domestic Rates Relief attached Appendix 1 and Appendices A-K with effect from 1 April 2019.

3 REASONS FOR RECOMMENDATIONS

- 3.1 It is good practice for the Council to have readily understood guidelines for deciding whether or not to grant relief and for determining the amount of relief. It is also desirable that any criteria by which an individual case is judged should be made public to help interested individuals and bodies
- 3.2 In order to stimulate local business growth and retain local businesses and jobs within North Devon, it is proposed the Council applies available powers to offer the extension to Local Newspaper Relief, the new Retail Discount and the amended Discretionary Business Rate Relief Scheme to businesses when it is evident that this would be a real benefit to local taxpayers to do so. The purpose of this new

policy is to attract, develop and retain businesses within the District, encouraging them to expand, create jobs and provide economic value to the area.

- 3.3 To incorporate the new business rate reliefs announced in the Autumn Budget and the amendment to the Discretionary Business Rate Relief Scheme in to the policy for the granting of Discretionary Non-Domestic Rates Relief.

4 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
Part 3 Annex 4	Delegated	Yes

5 REPORT

- 5.1 In the 2018 Autumn Budget, the Chancellor announced a new business rate relief scheme for retail properties with a rateable value below £51,000 and an extension of one year to the business rates relief for local newspaper office space. Both are prescribed by Central Government and are to be applied to qualifying businesses. Section 31 (Local Government Act 2003) grants are to be made available to Council's adopting the recommended approach.

- 5.2 The new measures announced in the Autumn Budget are as follows;

Retail Discount (Appendix J). The Government recognises that changing consumer behaviour presents a significant challenge for retailers in our town centres and has taken action to help the high street evolve with a new relief scheme for retail properties with a rateable value below £51,000. This is a temporary relief for 2019-2020 and 2020-2021 awarding a one third discount. Awards of this relief are to be made in accordance with Central Government guidelines and any amount granted will be reimbursed to the Council by a section 31 grant.

Local Newspaper Relief (Appendix F). This was a temporary relief for 2017-2018 and 2018-2019, awarding a grant of £1,500 in line with the eligibility criteria set out in guidance produced by Central Government. The relief has been extended for a further year, 2019/2020. Any amount granted will be reimbursed to the Council by a section 31 grant.

- 5.3 **Discretionary Business Rate Relief Scheme (Appendix I).** North Devon Council's existing policy for the Discretionary Business Rate Relief Scheme for Year 3 (2019/2020) was to award relief on a case by case basis. A review has identified that this approach is unlikely to award all of the share of the fund allocated by Central Government.

The proposal is that the amount of relief awarded for Year 3 (2019/2020) is amended from a case by case basis to a formula based award at 40% of the relief granted in 2018/2019. Therefore ensuring the Council's funding from Central Government is allocated and we maximise the help we are able to give to ratepayers.

- 5.4 North Devon Council's existing policy for the granting of Discretionary Non-Domestic Rates Relief previously approved in October 2017 has been amended to incorporate the measures announced in the Autumn Budget and the revised Discretionary Business Rate Relief Scheme. **No other changes have been made.**

6 RESOURCE IMPLICATIONS

- 6.1 There is a cost to the taxpayers of North Devon Council.
- 6.2 The reliefs announced in the Autumn Budget will be reimbursed by a section 31 grant.
- 6.3 The Discretionary Business Rate Relief Scheme should be cost neutral and the government will only reimburse the local authority up to the annual limit set.
- 6.4 There are no additional human resource implications.

7 STATEMENT OF CONFIDENTIALITY

- 7.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

8 BACKGROUND PAPERS

- 8.1 The background papers are available for inspection and kept by the author of the report.

9 STATEMENT OF INTERNAL ADVICE

- 9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Cllr R Edgell & Cllr G Lane

Author: Angela McCoy Date: 29 January 2019

Reference: Section 47 of the Local Government Finance Act (LGFA)1988

Section 69 of the Localism Act 2011

Section 31 of the Local Government Act 2003

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**North Devon Council
Policy for the granting of
Discretionary Non-Domestic Rate Relief**

Version Control

<i>Version</i>	<i>Version date</i>	<i>Revised by</i>	<i>Description</i>
1	August 2017	LM	Policy
2	September 2017	DA	Sign Off
3	September 2017	LM	Amendments JD
4	January 2019	LM	Full Revision of Policy

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1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the Council's area.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Likewise, certain premises situated within a rural settlement area will be eligible for mandatory relief. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 In addition to the above, Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 1.4 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief and reductions to ratepayers, subject to certain criteria being met. In the case of the new reliefs, some guidance has been issued by Central Government outlining actions expected to be taken by local authorities. This policy includes Government guidance where appropriate but also looks to target discretionary relief in line with the Council's priorities.
- 1.5 This document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for the granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and awards;
 - European Union requirements including provisions for State Aid; and
 - The Council's Scheme of Delegation.
- 1.6 Where organisations apply for relief they will be granted (or not granted) relief or reductions in line with the following policy.

2.0 Mandatory Relief - Legislative Background

Charity Relief

- 2.1 The powers relating to the granting of mandatory¹ and discretionary relief are given to the Council under the Local Government Finance Act 1988². Charities and Trustees for Charities are only liable to pay one fifth of the Non-Domestic Rates that would otherwise be payable where property is occupied and used wholly or mainly for charitable purposes. This amounts to mandatory relief of 80%. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. The provision has been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs). Full details of the mandatory provisions are given later within this policy.
- 2.2 In the case of charity shops, the premises must meet the criteria laid down by section 64 (10) of the Local Government Finance Act 1988 which states that the premises are to be treated as used for charitable purposes at any time it is wholly or mainly used for the sale of goods donated to the charity and the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity.
- 2.3 The Council has discretion to grant relief of up to a further 20% for these mandatory cases under its discretionary provisions.

Rural Rate Relief

- 2.4 From 1st April 1998, under powers originally granted to the Council by the Local Government and Rating Act 1997³, certain types of business in rural settlements, with a population below 3000 may qualify for mandatory rate relief of 50 per cent. Businesses that qualify for this relief are the sole general store and the sole post office in the settlement, provided it has a Rateable Value of up to £8500; any food shop with a Rateable Value of up to £8500; and the sole pub and the sole petrol station in the settlement provided it has a Rateable Value of up to £12500.
- 2.5 From 1st April 2017 and each year thereafter, Central Government has indicated that it wants all authorities to give 100% relief to premises that receive mandatory rural rate relief. The legislation enabling this will not be forthcoming until 2018 and therefore it has indicated that where the additional 50% is granted, a section 31 grant will be made available to the Council. This is dealt with further within this policy and the Council will automatically grant the additional 50% discretionary relief where appropriate.
- 2.6 Where businesses in rural settlements have a Rateable Value of up to £16,500 **and** are not in receipt of mandatory relief, the Council may decide to give up to 100 per cent discretionary relief if it is satisfied

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

³ LGFA 1988, s.47, as amended by Sch. 1 to the Local Government and Rating Act 1997

that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.

3.0 Discretionary Relief – Legislative Background

Introduction

- 3.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to 'top' up cases where ratepayers already receive mandatory relief.
- 3.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 3.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 3.4 Unlike mandatory relief, ratepayers are obliged to apply to the Council. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information and evidence as required in order to determine whether relief should be awarded.
- 3.5 The Council is obliged to consider carefully every application on its merits, taking into account the contribution that the organisation makes to the amenities within the authority's area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made.
- 3.6 Granting of the relief falls broadly into the following categories:
 - a. Discretionary Relief – Charities who already receive mandatory relief;
 - b. Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes of recreation;
 - c. Discretionary Relief – Rural Rate Relief - premises that already receive mandatory relief;
 - d. Discretionary Relief – Rural Rate Relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
 - e. Discretionary Relief – Granted under the Localism Act 2011 provisions;
 - f. Local Newspaper Relief (from 1st April 2017 for a period of three years);
 - g. Local Public House Relief (from 1st April 2017 for a two-year period);
 - h. Supporting Small Businesses Relief (from 1st April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge (calculated in accordance with the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016));
 - i. Discretionary Business Rates Relief Scheme (from 1st April 2017 for a period of up to four years);
 - j. Retail Discount Relief (from 1st April 2019 for a period of two years); and
 - k. Hardship Relief (Section 49).

- 3.7 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

The Council's general approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- a. The awarding of relief will be in line with the Council's vision and values - The organisation will need to demonstrate how its use of business property contribute to the Council's priorities.
 - b. Be equitable and balance the wider interests of the community with the resources made available by the Council Tax payer;
 - c. Be clear and transparent;
 - d. Set out, as far as possible, objective criteria rather than subjective judgements for the award of Discretionary Relief;
 - e. Offer stability to those organisations receiving relief;
 - f. Any award should support business, charities, organisations and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
 - g. The award should help and encourage business, charities, organisations, groups and communities to become self-reliant;
 - h. Awarding discretionary relief should not distort competition or significantly change the provision of services within the Council's area;
 - i. Local organisations will be given priority over national organisations. Favourable consideration will be given to organisations providing services exclusively for North Devon residents. It is unlikely that the Council will support a national charity head office, for example. However, where a national charity has a branch in North Devon that provides services **exclusively** for North Devon residents this will be considered favourably;
 - j. Where requested, the organisation will need to supply the Council with clear evidence of **all** financial affairs (normally two full years) including, and most importantly, the amounts of monies raised, used and invested locally. Consideration will be made to details of any action taken by the organisation to limit their need for financial support from North Devon Council, for example by self-help or applications for grant aid;
 - k. To enable appropriate organisations to start, develop or continue their activities, which deliver outcomes to the community and that also relate to the priorities of the Council, which without granting discretionary relief they would be unable to do;
 - l. To assist the Council in delivering services which could not be provided otherwise;
 - m. The decision whether to award Discretionary Charity Relief in respect of occupation of business rates properties is quite separate from grant determinations. However, North Devon will have regard to grant decisions (in particular where Council Grants have been reduced recently) when making discretionary rate relief decisions;
 - n. If an organisation is in receipt of a grant from the Council, this will be considered favourably. However, a decision to award grants does not mean that the Council is bound to award discretionary relief, either in full or in part;

- o. Where an organisation has recently lost grant funding or had a grant award reduced, this will be taken into account when considering the organisation's finances as above; and
 - p. To ensure that the financial impact of awarding discretionary business rate relief is justified in terms of the local outcomes achieved by the organisation receiving it;
- 3.9 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then this will be provided **after** applying any Government funded relief, where possible and subject to the requirements of individual reliefs.
- 3.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

The Council's approach to granting Government led Discretionary Relief schemes

- 3.11 Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988 and guidance is often provided. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, in the main, involve a cost to the Council. Since the change to the funding for Non-Domestic Rating in April 2013, the effect of the relief is complex.
- 4.2 Any amounts granted prior to 1st April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. For any amounts granted for similar cases after 1st April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share.
- 4.3 Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas
- 4.4 The financial effects of discretionary reliefs covered by this policy are as follows. It should be noted that it is the Government's intention for authorities to move to 75% Business Rates Retention from 1st April 2020:

Appendix	Relief Type	Granted after 1 st April 2019
	Charity Relief	
A	Discretionary relief granted to Mandatory Relief recipients	40% borne by the Council
B	Non-profit Making Organisations including Sports Clubs and societies	40% borne by the Council
	Rural Rate Relief	
C	50% Discretionary relief granted to Mandatory Rural Relief recipients	Section 31 Grant
D	Other premises within a rural settlement under £16500 RV	40% borne by the Council
	Localism	
E	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	Local Newspaper Relief	
F	Discretionary Relief granted to local newspapers meeting the criteria (From 1 st April 2017 for a period of three years until 31 st March 2020.)	Section 31 Grant
	Public House Relief	
G	Discretionary Relief granted to public houses meeting the criteria (From 1 st April 2017 for a period of two years). The relief will not continue into 2019	Section 31 Grant

Appendix	Relief Type	Granted after 1 st April 2019
	Supporting Small Business Relief	
H	Supporting Small Businesses Relief (from 1 st April 2017 for a period of up to five years if conditions are met)	Section 31 Grant
	Discretionary Business Rates Relief Scheme	
I	Discretionary Business Rates Relief Scheme (from 1 st April 2017 for a period of up to four years)	Section 31 Grant up to a maximum level set by Central Government. Once the maximum has been reached any additional amount is borne 40% by the Council
	Retail Discount Scheme	
J	The Retail Discount Scheme (from 1 st April 2019 for a period of up to 2 years)	Section 31 Grant
	S49 Hardship Relief	
K	Partial or full relief for cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers	40% borne by the Council

5.0 Discretionary Relief - EU State Aid requirements

- 5.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.
- 5.2 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.
- 5.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)⁴. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three-year period (consisting of the current financial year and the two previous financial years).
- 5.4 Where the relief to any one business is greater than the De Minimis level, then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government (DCLG) for advice and then referred back to the Council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.
- 5.5 In all cases, where discretionary relief is to be granted or where liability is to be reduced, when making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case.

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

6.0 Administration of Discretionary Relief

- 6.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief and reduction. This is essentially laid down by legislation⁵

Applications and Evidence

- 6.2 All reliefs must be applied for. Application forms are available both in hard copy and/ or electronic format. The relevant application forms are available from the Council. The Council will specify how applications are to be received and this may vary from time to time.
- 6.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts (normally the last two years), financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.
- 6.4 Applications should initially be made to the Revenues and Benefits Service and will be determined in accordance with Section 7 of this policy.
- 6.5 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties. Applications will be accepted from ratepayers only.**

Granting of relief

- 6.6 In all cases, the Council will notify the ratepayer of decisions made.
- 6.7 Where an application is successful, then the following will be notified to them in writing:
- The amount of relief granted and the date from which it has been granted;
 - If relief has been granted for a specified period, the date on which it will end. (It should be noted that reliefs are granted for the period specified in the appropriate appendix and may vary from a day to a full financial year);
 - The new chargeable amount;
 - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.

⁵ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- 6.8 Where relief is not granted, then the following information is provided, again in writing:
- An explanation of the decision within the context of the Council's statutory duty; and
 - An explanation of the appeal rights.
- 6.9 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision.
- 6.10 A decision to award discretionary relief and how much relief is given is normally only applicable to the financial year for which the application is made. However, the Council reserves the right to grant relief for any other period as appropriate.
- 6.11 A fresh application for discretionary relief will be necessary for each financial year **or** at such time-period as the Council determines.

Variation of a decision

- 6.12 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge (excluding rateable value increases) or a change in the Council's decision which increases the award – this will apply from a date determined by the Council as appropriate;
 - Where the amount is to increase for any other reason, it will take effect at the expiry of a financial year unless it is granted for a fixed period;
 - Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and
 - Where the amount is to be reduced for any other reason, it will take effect from a date determined by the Council as appropriate;
- 6.13 A decision may be revoked at any time however; a one-year period of notice will be given, and the change will take effect at the expiry of a financial year unless relief has been awarded for a fixed period.

7.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 7.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 7.2 The Council's scheme of delegation allows for the Head of Resources to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature will be subject to consultation with the relevant executive or committee prior to final determination.
- 7.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Reviews

- 7.4 The policy for granting relief will be reviewed annually or where there is a substantial change to the legislation or funding rules. At such time, a revised policy will be brought before the relevant committee of the Council.

Appeals

- 7.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Head of Resources. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 7.6 Where the ratepayer wishes to appeal the decision of the Head of Resources, the case will be considered by the Executive Member for Resources whose decision on behalf of the Council will be final.
- 7.7 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

8.0 Reporting changes in circumstances

- 8.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible or in any event within 21 days of the change. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 8.2 Where a change of circumstances is reported, the relief will, if appropriate, be revised or cancelled as appropriate. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

9.0 Fraud

- 9.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

Appendix A

Discretionary Relief - Mandatory Relief recipients

Discretionary Relief – Mandatory Relief recipients

General Explanation

- A.1 S43 of the Local Government Finance Act 1988 allows mandatory relief (80%) to be granted on premises if the ratepayer is a charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes. No charge is made in respect of unoccupied premises where it appears that *when next in use* it will be used wholly or mainly for those purposes.
- A.2 The legislation has been amended by the Local Government Act 2003 (effective from 1st April 2004) to include registered⁶ Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

Charity registration

- A.3 Charities are defined within the legislation as being an institution⁷ or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- A.4 The question as to whether an organisation is a charity may be resolved in the majority of cases by reference to the register of charities maintained by the Charity Commissioners under s.4 of the Charities Act 1960. Entry in the register is conclusive evidence. By definition, under the Non-Domestic Rating legislation, there is no actual need for an organisation to be a registered charity to receive the relief and this has been supported by litigation⁸, however in all cases the organisation must fall within the following categories:
- trusts for the relief of poverty;
 - trusts for the advancement of religion;
 - trusts for the advancement of education; and
 - trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.
- A.5 Certain organisations are exempted from registration generally and are not required to make formal application to the Charity Commissioners these are:
- the Church Commissioners and any institution administered by them;
 - any registered society within the meaning of the Friendly Societies Acts of 1896 to 1974;
 - units of the Boy Scouts Association or the Girl Guides Association; and
 - voluntary schools within the meaning of the Education Acts of 1944 to 1980.
- A.6 The Council will consider charitable organisations, registered or not, for mandatory relief.

⁶ Registered with HMRC as a CASC

⁷ S67(10) Local Government Finance Act 1988

⁸ Income Tax Special Commissioners v Pemsell (1891)

Use of Premises - wholly or mainly used

- A.7 Irrespective of whether an organisation is registered as a charity or not, the premises **must** be wholly or mainly used for charitable purposes. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection, but on occasions the Council has had to question the actual use to which the premises are to be put. In some cases, it will be necessary for the Council to inspect any premises fully.
- A.8 Guidance from the Ministry of Housing, Communities and Local Government (MHCLG) has stated that in the case of 'mainly', at least 51% must be used for charitable purposes whether of that charity or of that and other charities
- A.9 The following part of this section gives details on typical uses where relief may be given plus additional criteria that have to be satisfied. The list is not exhaustive but gives clear guidance on premises for which mandatory relief can be granted *and therefore* premises which may be equally considered for discretionary rate relief.

Offices, administration and similar premises

- A.10 Premises used for administration of the Charity include:
- Offices;
 - Meeting Rooms; and
 - Conference Rooms.

Charity shops

- A.11 Charity shops are required to meet additional legislative criteria if they are to receive mandatory relief. Section 64 (10) of the Local Government Finance Act 1988 provides that a property is to be treated as being wholly or mainly used for charitable purposes at any time if, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.
- A.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by an officer of the Council when an application is received

Granting of Mandatory Relief - the Council's Policy

- A.13 Where the criteria for awarding mandatory relief are met, the rate charges shall be calculated in accordance with the legislation reducing the liability of ratepayers for each day that the criteria are met.

Charity Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.

- A.14 The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case-by-case basis.
- A.15 In determining the application, the following matters will be taken in to consideration:
1. How the charity supports and links into the Council’s corporate vision and priorities;
 2. The purpose of the charity and the specific activity carried out within the premises for which the relief is requested; and
 3. Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity. The Council is keen to ensure that the organisation provides significant benefit to local residents of North Devon.
- A16 The Council is keen to support businesses that have a critical role to play in the local economy and to assist the Council in meeting the Corporate aims and values.
- A.17 In the case of registered Community Amateur Sports Clubs, the key criteria in determining the application will be:
1. The ratepayer occupies the whole hereditament;
 2. Relief cannot be granted in respect of premises that are occupied by the Council or precepting authority;
 3. How the CASC supports and links into the Council’s corporate vision and priorities;
 4. The membership and fee structure, and whether the CASC is accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
 5. Membership numbers and the number and percentage of these members that are local residents;
 6. If the CASC has due regard to equality issues and if it actively encourages members from under-represented groups, for example black and minority ethnic residents, people over 50 and people with disabilities;
 7. Whether facilities are available to the wider community regardless of ability; and
 8. If the CASC runs a bar or food provision: the level of income from this activity and how this money is used; and whether the CASC operates at a local or national level and where appropriate, the local and national funding streams and financial position of the CASC.
- A.18 The Council wishes to support and enable appropriate businesses to start, develop and continue with their operations that deliver outcomes directly related to the Council’s aims and vision. In the main, this will be done through other means rather than granting discretionary relief. There may be occasions where applications are made for such relief or where a package of measures, including discretionary relief, are appropriate in supporting businesses. This would need to be in accordance with any limitations in respect of state aid.

Appendix B

Discretionary Relief - Non-Profit Making Organisations including Recreation

Discretionary Relief - Non-Profit Making Organisations including Recreation

General explanation

Non-Profit

- B.1 The legislation⁹ allows the Council to grant discretionary relief where the property is not an *excepted* one and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.
- B.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- B.3 A number of issues arise from the term 'not established or conducted for profit'. This requires the Council to make enquiries as to the overall purpose of the organisation although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation then it does not necessarily mean that the organisation was established or conducted for profit.¹⁰

Recreation Clubs

- B.4 Ideally all recreation clubs should be encouraged to apply for Community Amateur sports Club (CASC) status, which would automatically entitle them to 80% relief. The relief granted to CASCs is covered earlier within this policy.
- B.5 Recreation clubs can also apply to the Charity Commissioners for registration as a Charity (thereby falling under the mandatory provisions for 80% relief) where they meet the following conditions:
- The promotion of community participation in healthy recreation and by the provision of facilities for the playing of particular sports; and
 - The advancement of the physical education of young people not undergoing formal education.
- B.6 Where sports clubs do not meet the CASC requirement, and are not registered charities, discretionary relief can be granted (0-100%) where the property is not an *excepted* one, it is wholly or mainly used for purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

⁹ S47 Local Government Finance Act 1988

Access to clubs

- B.7 Guidance issued by the MHCLG also requires the Council to consider access to clubs within the community before granting discretionary relief.
- B.8 Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.
- B.9 Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and unemployed.
- B.10 In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.
- B.11 The Council also asks the following question to help establish the level of access 'Does the organisation actively encourage membership from particular groups in the community e.g. young people, women, older age groups, persons with disability, ethnic minorities' etc.?'

Provision of facilities

- B.12 Clubs which provide training or education are encouraged, as are those who provide schemes for particular groups to develop their skills e.g. young people, the disabled, retired people.
- B.13 A number of organisations run a bar. The mere existence of a bar will not in itself be a reason for not granting relief. However, the Council focuses on the main purpose of the organisation. The Council is encouraged to examine the balance between playing and non-playing members.
- B.14 Within this area, the Council also considers whether the facilities provided relieve the Council of the need to do so or enhance and supplement those that it does provide.

Discretionary Relief - Non-Profit Organisations including Recreation - the Council's Policy

- B.15 The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. In determining the application, the following matters will be taken in to consideration (The list is not exhaustive):
- How the organisation supports and links into the Council's corporate vision and priorities;
 - Whether the facilities provided include education and/or training for members as a whole or for special groups;

- The extent to which the facilities provided reduce the demand for Council services or produce savings;
- Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
- If covered by a membership scheme, membership numbers and the number and percentage of these members that are local residents; and
- If the organisation has due regard to equality issues and if its facilities are used by all members of the community, for example black and minority ethnic residents, people over 50 and people with disabilities.

B.16 The Council will also require additional financial information including:

- If the organisation runs a bar or food provision, the level of income from this activity and how this money is used.; and
- Whether the organisation operates at a local or national level and where appropriate, the local and national funding streams and financial position of the organisation.

Appendix C

Discretionary Relief - Rural Rate Relief - Mandatory Relief recipients

Discretionary Relief - Rural Rate Relief - Mandatory Relief recipients

What are the qualifying criteria for Mandatory Relief?

- C.1 For a Post Office or General Store to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2010);
 - The property must be used as a Post Office or a General Store (see below for definition), or both;
 - The property must be the only Post Office or the only General Store within the Rural Settlement.
- C.2 For a Public House or Petrol Filling Station to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £12,500 from 1 April 2010);
 - The property must be used as a Public House (see below for definition) or a Petrol Filling Station (see below for definition); and
 - The property must be the only Public House or the only Petrol Filling Station within the Rural Settlement.
- C.3 For a village food shop to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 from 1 April 2010); and
 - The property must be used as a shop selling mainly food (see below for definition).

What rural settlements exist within the North Devon District Council's area?

- C.4 The following are deemed to be rural settlements within the Council's area. The boundary of each settlement is the same as the Parish boundary, except where otherwise defined.

Arlington; Ashford; Atherington;

Berrynarbor; Bishops Nympton; Bishops Tawton; Bittadon; Bratton Fleming; Brayford; Brendon; Burrington

Challacombe; Chittlehamholt; Chittlehampton; Chulmleigh; Combe Martin; Countisbury

East & West Buckland; East Anstey; East Down; East Worlington

Filleigh;

George Nympton; Georgeham; Goodleigh

Heanton Punchardon; Horwood

Instow;

Kentisbury; Kings Nympton; Knowstone

Landkey; Lovacott; Lincombe & Lee; Loxhore; Lynton & Lynmouth

Mariansleigh; Martinhoe; Marwood; Meshaw; Molland; Mortehoe

Newton Tracey; North Molton;

Parracombe;
Queens Nympton;
Rackenford; Romansleigh; Rose Ash
Satterleigh & Warkleigh; Shirwell; Stoke Rivers; Swimbridge
Tawstock; Trentishoe; Twitchen;
West Anstey; West Down; West Pilton; Westleigh; Witheridge.

What is the definition of a General Store?

- C.5 For the purposes of Rural Rate Relief, 'General Store' means a business or trade, which wholly or mainly sells by retail both food (other than confectionery) for human consumption and general household goods. Where there are two or more General Stores within the same Rural Settlement, none can qualify for Mandatory Relief on that basis, although if one of them functions as a Post Office or a Food Shop relief may be claimed independently on that ground. However, both a General Store and a Post Office in the same Rural Settlement will qualify for Mandatory Relief, provided that, they both meet the criteria. Although a General Store or a Post Office may not meet the criteria for Mandatory Relief, they may still be eligible to apply for Discretionary Relief.

What is the definition of a Public House?

- C.6 For the purposes of Rural Rate Relief, 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises must be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.

What is the definition of a Petrol Filling Station?

- C.7 For the purposes of Rural Rate Relief, 'Petrol Filling Station' means premises where petrol or other automotive fuels are sold retail to the general public for fuelling motor vehicles intended or adapted for use on roads.

What is the definition of a Food Shop?

- C.8 For the purpose of Rural Rate Relief, 'Food Shop' means a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and catering – in this context catering means any supply of food for consumption on the premises on which it is supplied and any supply of hot food for consumption off the premises). This definition may also include shops, which sell mainly household foods, and which may partly also sell hot take away food or food consumed on the premises. But shops whose main business is a restaurant, tearoom, take-away, or confectionery sales are not food shops and so will not qualify for mandatory relief.

What are the qualifying criteria for Discretionary Relief?

- C.9 The Council may grant up to 50% Discretionary Relief in respect of any property which qualifies for 50% Mandatory Relief and the Council may also grant up to 100% Discretionary Relief to any rural business which does not meet the mandatory provisions. It should be noted that for 2017 onwards Central Government has requested that Council grant 50% discretionary relief to all ratepayers who receive 50% mandatory rural rate relief.

Rural Rate Relief - Mandatory Relief recipients, the Council's Policy for granting discretionary relief.

- C.10 As Central Government has requested and fully funds any additional relief granted to ratepayers who receive mandatory rural rate relief, the Council will automatically grant the additional 50% until such time as primarily legislation is changed.

Appendix D

Discretionary Relief - Premises within Rural Settlements

Discretionary Relief – Premises within Rural Settlements

- D.1 In addition to having the ability to grant discretionary relief to those in receipt of mandatory relief, the Local Government and Rating Act 1997 allows discretionary relief of up to 100% to be granted where the rateable value is £16,500 or less and:
- a. Property is used for purposes which are of benefit to the local community; and
 - b. It would be reasonable for the billing authority to award relief, having regards to the Council's Council Taxpayers.
- D.2 As with most discretionary relief, part of the cost, is met by Central Government and the balance from local sources.
- D.3 The main criteria for granting discretionary relief in respect of rural rate relief is that premises are used to benefit the local community.

Benefit to the local community

- D.4 Whilst each application for the relief will be considered on its own merits, there are certain factors which weigh heavily in the decision-making process. It is this Council's belief that the spirit of the legislation is to assist businesses and amenities, which contribute significantly to the quality of life of the people who have their main home in the Rural Settlement.
- D.5 To be successful for consideration, a business must show that its existence is a significant benefit to the local community with the majority of local residents directly benefiting from services or facilities provided by that business

Rural Rate Relief – the Council's Policy for granting discretionary relief.

- D.6 The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief up to a maximum of 100%.
- D.7 In determining the application the following matters will be taken in to consideration:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
 - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
 - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
 - The business is considered by the Council to be essential to the community and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement;

-
- The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the Council;

Appendix E

Discretionary Relief - Localism Act 2011

Discretionary Relief – Localism Act 2011

General explanation

- E.1 Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988. These provisions allow all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Tax payers of its area.
- E.2 The provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Tax payers. An example where the Council has granted relief in the past are where premises were affected by flooding.

Discretionary Relief – Localism – the Council’s Policy

- E.3 Applications will be considered from any ratepayer who wishes to apply. However, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council’s discretionary relief policy.
- E.4 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, non-profit making organisations etc.) may apply. When considering an application for rate relief the following factors will be taken into account:
- a. That relief is for a temporary period;
 - b. The significance of potential loss of employment in the area;
 - c. Opportunities for new business growth, expansion and employment within the area;
 - d. The positive effects on business cash flow and evidence of positive impact on future viability;
 - e. Sufficient evidence of likelihood of recovery of the applicant’s business;
 - f. The capacity of NDC intervention to secure further investment and retained and/or new employment opportunities;
 - g. Reassurance of duration of retained employment and continued production/operation in the area;
 - h. Uniqueness of service/commodity being provided within the community/district;
 - i. What proactive measures the business/organisation is taking to reduce overheads, etc.;
 - j. Measures being taken to reduce their rate liability, for example occupying smaller premises, letting out parts of the building, etc.;
 - k. Consideration will also be given to rate deferral, reprofiling of instalments, arrangements as an alternative method of support;
 - l. Cost of funding relief and the constraints on NDC’s finances;
 - m. It is in the interests of council tax payers as a whole to give relief;
 - n. Giving rate relief to a business/organisation must be balanced against whether this creates unfair market conditions to the detriment of others;

-
- o. It should also be recognised that one of the main overheads of any business is Non-Domestic Rates and therefore it is reasonable to expect that businesses have made provision to pay this;
 - p. Businesses can appeal against the rateable value or where there is a material change can apply to the Valuation Office Agency to have the rateable value reassessed NDC would expect businesses to use this mechanism first; and
 - q. Payment record history will be taken into account.
- E.5 Relief will be withdrawn/ cancelled if:
- a. the conditions or circumstances on the basis of on which the relief was granted change or fail to materialise, or the information submitted as part of the application proves to be misleading;
 - b. the applicant ceases to be the ratepayer; or
 - c. business/organisation ceases to trade (in case of occupied rates) or downscales operations and workforce in contravention of any agreement; or
 - d. the use of the property changes
- E.6 A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements as specified within section 5 of this policy.

Appendix F

Local Newspaper Relief

General Explanation

- F.1 This is a temporary relief from 2017-18 to 2019- 2020 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- F.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

Eligibility criteria

- F.3 The scheme will provide a £1,500 relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament, for three years from 1 April 2017.

Local Newspapers

- F.4 The relief is to be specifically for local newspapers and by that, the Council means what would be considered a "traditional local newspaper." The relief will not be available to magazines.

Office Space

- F.5 The hereditament **must** be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

Amount of Relief

- F.6 The amount of relief is limited to a maximum of one discount per newspaper title (e.g. per newspaper name) **AND** per hereditament. As with all discretionary rate relief, any grant will be subject to State Aid limits as defined within section 5 of this policy.

Local Newspaper Relief - the Council's policy for granting discretionary relief.

- F.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix G

Supporting Small Businesses Relief

General Explanation

- G.1 Central Government has increased the thresholds for Small Business Rate Relief from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. They have also allowed rural rate relief to be granted up to 100% using S47 of the Local Government Finance Act 1988 as a top up to the mandatory level of 50%, albeit that the rateable value limits have not been changes in respect of rural hereditaments (see section D of this policy). Unfortunately, despite these changes, some small businesses and businesses in rural areas may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1st April 2017.
- G.2 The transitional relief scheme (provided under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265) does not provide support in respect of changes in reliefs. Therefore, those ratepayers who have lost some or all of their small business or rural rate relief may face large percentage increases in bills from 1 April 2017.
- G.3 In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or rural rate relief due to the revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.
- G.4 The relief is known as the 'Supporting Small Businesses Scheme'

Who is eligible for the relief and how much relief will be available?

- G.5 The Supporting Small Businesses relief will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their small business or rural rate relief and, as a result, are facing large increases in their bills.
- G.6 To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited **to the greater of:**
- a. a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation (unlike the transitional relief scheme under the Chargeable Amount regulations). For the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief; **or**
 - b. a cash value of £600 per year (£50 per month).
- G.7 This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.

- G.8 In the first year of the scheme, this means all ratepayers losing some or all of their small business rate relief or rural rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter. This means that ratepayers who in 2016/17 paid nothing under small business rate relief and are losing all of their entitlement to relief (i.e. moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5.
- G.9 The Government has also decided that those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme.
- G.10 Ratepayers will remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme (this would be the charge payable as their true rates payable or the charge calculated under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016).
- G.11 A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme, **but** eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- G.12 The rules for state aid (as detailed in section 5 of this policy) shall apply when considering Supporting Small Businesses Relief.

Recalculation of relief

- G.13 The amount of relief awarded under the Supporting Small Businesses relief scheme will be recalculated in the event of a change of circumstances including the following:
- This could include, for example, a backdated change to the rateable value or the hereditament; or
 - The awarding of another relief.
- G.14 The Council will, in effect, calculate the award on a daily basis taking into account the above, and the relief will be re-calculated if the rateable value changes.

Other Reliefs

- G.15 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. Likewise, the same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill found under the Supporting Small Business scheme.
- G.16 In accordance with Central Government guidelines, all other discretionary reliefs, will be considered **after** the application of Supporting Small Businesses relief.

Supporting Small Businesses Relief - the Council's policy for granting discretionary relief.

G.17 The Council has decided to grant relief strictly in accordance with Central Government guidelines

Appendix H

Public House Relief

General Explanation

- H.1 This is a temporary relief for 2017-18 and 2018-19 **only** and the Government is not changing the legislation around the reliefs available to premises. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988) to grant £1000 relief in line with the eligibility criteria set out in guidance to be produced by Central Government
- H.2 Central Government guidelines have been issued and it has been established that any amount granted will be reimbursed by a section 31 grant.

Eligibility criteria

- H.3 The Council's policy, in line with Central Government requirements, will provide a relief of £1,000 relief for two years only (1st April 2017 to 31st March 2019) for all eligible public houses who have a rateable value of less than £100,000 on 1st April 2017.
- H.4 The definition of a 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises **must** be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.
- H.5 It will be for the Council to decide whether any premises falls within the definition give in the above paragraph. No relief shall be given where the premises are unoccupied.

Other Reliefs

- H.6 Public House relief will be granted after applying any other mandatory reliefs and reductions

Public House Relief - the Council's policy for granting discretionary relief.

- H.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix I

Discretionary Business Rate Relief Scheme

General Explanation

- I.1 In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need.
- I.2 Every authority within England is to be provided with a share of a £300 million fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988.
- I.3 Government also believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies.
- I.4 The funding is not provided equally over the four-year period but in the following approximate proportions:
- Year 1 (2017/18) 58%
- Year 2 (2018/19) 28%
- Year 3 (2019/20) 12%
- Year 4 (2020/21) 2%
- I.5 Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003. The Government has decided that any underspend **cannot** be 'vired' from one year to the next.
- I.6 A key criteria of reimbursement will be that all Billing Authorities will consult with major precepting authorities when formulating their schemes.
- I.7 The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table

Amount of discretionary fund awarded (£000s) - North Devon District Council			
2017-18	2018-19	2019-20	2020-21
251	122	50	7

Consultation

- I.8 The Council has consulted with the major preceptors in relation to this scheme and has taken their comments into account when determining the eligibility criteria. This is an essential part of the Discretionary Business Rates Relief Scheme and is in line with the grant determination issued by the Ministry of Housing, Communities and Local Government (MHCLG) No.31/3071.
- I.9 The grant determination states that a condition of the fund is that consultation is undertaken with 'relevant authorities'. Relevant authorities for the purposes of this scheme means:
- a. Any major precepting authority; and
 - b. Any combined authority.
- I.10 In the case of North Devon District Council the major precepting authorities have been consulted namely:
- a. Devon County Council
 - b. Police and Crime Commissioner for Devon and Cornwall; and
 - c. Devon and Somerset Fire and Rescue Service.

State Aid

- I.11 The rules relating to State Aid (as defined within section 5 of this policy) apply. The Council will ensure full compliance in this area to ensure that relief can be given to the most deserving ratepayers.

Decisions by the Council

- I.12 Decisions by the Council are made directly in line with the Scheme of Delegation as outlined within section 7 of this policy. Any decision to award relief under this scheme will follow the core principles of the Council's discretionary relief policy as defined by section 3.8.
- I.13 It should be noted that whilst the funding from Central Government for Discretionary Business Rate Relief Scheme is limited, the decision of the Council whether to award any relief under this scheme **will not take account** of the level of any funding.

Discretionary Business Rate Relief Scheme- the Council's policy for granting discretionary relief.

- I.14 The scheme is designed to assist ratepayers who have suffered increases in their rate liability as a result of the 2017 revaluation.
- I.15 In assessing any potential entitlement to an award under this scheme, the Council will compare the following:
- i. The rate liability of the ratepayer as 31 March 2017 after any reliefs and reductions; and

- ii. The rate liability of the ratepayer at 1 April 2017 taking into account any transitional relief, relief or reductions.

I.16 There are two parts to the scheme in which ratepayers will be considered:

- Part A – Formula based for financial years 2017/18, 2018/19 & 2019/20; and
- Part B – From 2017 and for the year 2020/21 on a case by case basis.

Part A – Formula based criteria (2017/18 to 2019/20)

- A Relief will be awarded where the calculation in I.15 above would result in an increase of more than 2%.
- B Relief will be awarded where the calculation in I.15 above results in an increase of at least £50.00 per annum. Relief will be paid up to a maximum of £2,000;
- C Relief will only be granted to premises that are liable for occupied rates. No relief will be awarded to unoccupied premises;
- D Relief will only be granted where the rateable value is less than £200,000;
- E Relief will only be granted to ratepayers who were in occupation at 31 March 2017 and in occupation on 1 April 2017 and for each day subsequent;
- F Ratepayers taking up occupation after 1 April 2017 will not be eligible for relief on the basis that new ratepayers would not have suffered from increases as a result of revaluation;
- G Relief will be targeted to local businesses and not those businesses that are national or multinational in nature. Local businesses are, for the purpose of this scheme, those which have premises wholly or predominately in the Devon area;
- H Relief may be awarded for more than one premises as long as all other criteria are met;
- I Relief under Part A will not be awarded where:
 - mandatory relief has been granted
 - the ratepayer is a public body
 - the ratepayer has been granted a reduction under S44a of the Local Government Finance Act 1988;
- J Additional discretionary relief will not be awarded for rateable value increases after 1 April 2017;
- K Relief will not be awarded for premises which are wholly or mainly used for:
 - i. Financial services e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers etc.;
 - ii. Medical services e.g. hospitals, doctors, dentists etc.; and
 - iii. Professional services e.g. accountants, estate agents, tax advisers, insurance agents etc.; and
- L Relief will not be awarded to any educational establishments.

Part B – Case by case basis

Where any ratepayer can demonstrate that they have experienced financial difficulties as a result of revaluation the council will consider these on a case by case basis. The Council will take into account:

- the amount of the increase in rate liability due to the revaluation;
- the amount of rates in relation to other business expenses and income of the business;
- the amount of reserves held by the business; and
- the ability of the business to pay the increase.

Applications for relief under this scheme

- I.17 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application

Amount of Relief

- I.18 The amount of relief under Part A is tapered and will be calculated as follows:

2017/18

Award = Increase in rate liability calculated in I.15 LESS 2%. For the avoidance of doubt, relief will only be awarded where the ratepayer has an increase of at least 2%. The award will reduce the increase down to 2% with the proviso that the maximum award will be £2,000 and no award will be made if the increase would be less than £50.

2018/19

Award = 2017/18 award x 50% (for clarity this will be half of the relief awarded in 2017/18)

2019/20

Award = 2018/19 award x 40% (for clarity this will be forty per cent of the relief awarded in 2018/19)

- I.19 For 2017/18, 2018/19 and 2019/20 most of the funding will be given under part A but part of this will be retained to be used under part B (on a case by case basis). For 2020/21 all of the funding will be granted under part B.

Variation and amendment of relief under the scheme

- I.20 As with all reliefs, the amount of relief awarded under the Discretionary Businesses Rates relief scheme will be recalculated in the event of a change of circumstances. In effect, relief is calculated on a daily basis in line with the ratepayer's liability on that day. This will include, for example, a backdated change to the rateable value of the hereditament. This change of circumstances could arise during the year in question or during a later year.
- I.21 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria or rules for

calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

Appendix J

Retail Discount

General Explanation

- J.1 The Government announced on 29 October 2018 that it will provide a business rates Retail Discount scheme for occupied retail properties with a rateable value of less than £51,000 in each of the years 2019-20 and 2020-21.
- J.2 The value of discount should be one third of the bill and must be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied.
- J.3 Where an authority applies a locally funded relief, under section 47 this must be applied after the Retail Discount.
- J.4 As this is a measure for 2019-20 and 2020-21 only, the Government is not changing the legislation around the reliefs available to properties. Instead the Government will, in line with the eligibility criteria defined by them, reimburse any authorities that use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief.
- J.5 It is for the Council to adopt a local scheme and determine in each individual case when to grant relief under section 47.

Who is eligible for the relief?

- J.6 Properties that will benefit from the relief will be occupied hereditaments with a rateable value of less than £51,000, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments. The Government consider shops, restaurants, cafes and drinking establishments to mean:

i. Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/ caravan show rooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

ii. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- Tool hire
- Car hire

iii. Hereditaments that are being used for the sale of food and/ or drink to visiting members of the public:

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

J.7 To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

Hereditaments that are not likely to receive relief under the scheme

J.8 The list below sets out the types of uses that the Government does **not** consider to be retail use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

i. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, bureaux de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/

- financial advisers, tutors)
- Post office sorting offices

ii. Hereditaments that are not reasonably accessible to visiting members of the public

- Generally speaking, Government also does not consider other assembly or leisure uses beyond those listed to be retail uses for the purpose of the discount. For example, cinemas, theatres and museums are outside the scope of the scheme, as are nightclubs and music venues. Hereditaments used for sport or physical recreation (e.g. gyms) are also outside the scope of the discount. Where there is doubt, the Council will exercise discretion.

How much relief will be available?

- J.9 The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a chargeable day for particular hereditament in the financial year 2019-20:
- J.10 Amount of relief to be granted = $V / 3$ where V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs.

Retail Discount - the Council's policy for granting discretionary relief.

- J.11 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix K

Section 49 - Hardship Relief

Section 49 – Hardship Relief

General explanation

- K.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.

Section 49 Hardship Relief – the Council's Policy

- K.2 The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. Head of Resources will consider applications. Application forms are available from the Council.
- K.3 In making decisions on whether to award the relief the Council takes into account the following criteria (not listed in any priority):
- Any reduction or remission of rates on the grounds of hardship should be the exception rather than the rule;
 - Any reduction of the rates must be shown to be significant to the future viability of the business;
 - The business must continue to trade;
 - Cash flow forecasts for a minimum of the next twelve months must be provided together with a comprehensive Business Plan incorporating a brief history of the business;
 - The test of "hardship" is not strictly confined to financial hardship and that this, in itself, is not a deciding factor;
 - The loss of the business would reduce amenities of an area if it is the sole provider of a service in the area;
 - Details of any state aid, grants or subsidies either from central or local government over the previous three years;
 - The loss of the business would worsen the employment prospects in the area;
 - The interests of the Council Tax payers of the area would be best served by awarding the relief;
 - The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial hardship;
 - The business provides employment to local residents in an area where employment opportunities are limited;
 - Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the business;
 - Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation; and
 - The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application.



REPORT TO: EXECUTIVE
Date: 4 MARCH 2019
TOPIC: RURAL SETTLEMENT LIST
REPORT BY: HEAD OF RESOURCES

1 INTRODUCTION

1.1 The report seeks to designate, for the purposes of Rural Rate Relief, the rural settlements listed in the appendix to this report for the financial year commencing 1 April 2019.

2 RECOMMENDATIONS

2.1 That Members approve, for the purposes of Rural Rate Relief, the rural settlements listed in the appendix to this report.

3 REASONS FOR RECOMMENDATIONS

3.1 To be eligible for Rural Rate Relief the business must be located in a qualifying rural settlement, which has a population of no more than 3,000 and falls wholly or partly in an area designated for the purpose of the Rate Relief Scheme. The Authority is required to compile a list of rural settlement areas for the purposes of the scheme.

4 REPORT

4.1 Schedule 1 of Part 1 of the Local Government Finance Act 1997 made provision for the allowance of mandatory and/or discretionary relief from Non-Domestic Rates for certain properties situated within designated rural areas.

4.2 Rural Settlements are settlements with a population of less than 3,000 within the boundaries of a rural area as set out under the provision of the Housing Act 1996.

4.3 The Rural Rate Relief Scheme helps qualifying small general stores, post offices, food shops, public houses and petrol stations. It is intended to safeguard rural communities and preserve the future of village life by supporting the service they provide to local people.

To qualify for relief, properties must be situated within a designated rural settlement area of less than 3,000 people.

4.4 The Authority is required to compile a list of rural settlement areas for the purposes of the scheme.

4.5 The appendix to this report lists the qualifying Rural Settlements with a population of fewer than 3,000. This list has remained unchanged for many years.

5 RESOURCE IMPLICATIONS

5.1 There are no additional human resource implications

6 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
Part 3 Annexe 4	Delegated power	Yes

7 STATEMENT OF CONFIDENTIALITY

7.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

8 BACKGROUND PAPERS

8.1 The background papers are available for inspection and kept by the author of the report.

9 STATEMENT OF INTERNAL ADVICE

9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Cllr R Edgell & Cllr G Lane
Author: Angela McCoy Date: 29 January 2019
Reference: Rural Settlement List 2019-20

NORTH DEVON DISTRICT COUNCIL

**LIST OF RURAL SETTLEMENTS UNDER SECTION 42B
OF THE LOCAL GOVERNMENT FINANCE ACT 1988
AS AT 31 DECEMBER 2018**

This is a list of Rural Settlements, prepared in accordance with the Non-Domestic Rating (Rural Settlements) England Order 1997, No 2792, to be used for the purposes of the Rural Rate Relief Scheme.

The boundary of each settlement is the same as the Parish boundary, except where otherwise defined.

ARLINGTON	ASHFORD
ATHERINGTON	
BERRYNARBOR	BISHOPS NYMPTON
BISHOPS TAWTON	BITTADON
BRATTON FLEMING	BRAYFORD
BRENDON	BURRINGTON
CHALLACOMBE	CHITTLEHAMHOLT
CHITTLEHAMPTON	CHULMLEIGH
COMBE MARTIN	COUNTISBURY
EAST & WEST BUCKLAND	EAST ANSTEY
EAST DOWN	EAST WORLINGTON
FILLEIGH	
GEORGE NYMPTON	GEORGEHAM
GOODLEIGH	
HEANTON PUNCHARDON	HORWOOD
INSTOW	

KENTISBURY

KINGS NYMPTON

KNOWSTONE

LANDKEY

LOVACOTT

LINCOMBE & LEE

LOXHORE

LYNTON & LYNMOUTH

MARIANSLEIGH

MARTINHOE

MARWOOD

MESHAW

MOLLAND

MORTEHOE

NEWTON TRACEY

NORTH MOLTON

PARRACOMBE

PILTON WEST

QUEENS NYMPTON

RACKENFORD

ROMANSLEIGH

ROSE ASH

SATTERLEIGH & WARKLEIGH

SHIRWELL

STOKE RIVERS

SWIMBRIDGE

TAWSTOCK

TRENTISHOE

TWITCHEN

WEST ANSTEY

WEST DOWN

WESTLEIGH

WITHERIDGE



REPORT TO: EXECUTIVE

Date: 4 March 2019

TOPIC: APPROVAL & RELEASE OF S106 PUBLIC OPEN SPACE FUNDS CROYDE

REPORT BY: PROJECT PROCUREMENT & OPEN SPACE OFFICER

1 INTRODUCTION

1.1 This report seeks to allocate S106 public open space funds towards play equipment in Croyde.

2 RECOMMENDATIONS

2.1 That Executive allocates:

2.1.1 £40,000 of S106 Public Open Space Funds to Georgeham Parish Council towards the cost of Croyde Play Area.

2.2 Subject to approval of 2.1 above, that Executive recommends Council vary the capital programme by £40,000 and that funds be released, subject to a Funding Agreement upon such terms and conditions as may be agreed Head of Corporate and Community Services

3 REASONS FOR RECOMMENDATIONS

3.1 To allocate funds in line with the requirement of S106 agreements.

3.2 To protect and enhance public open space, including land and buildings.

4 REPORT

4.1 Croyde Play Area

In June 2018, Executive allocated £9,015.12 towards the replacement of Croyde play area.

Georgeham Parish Council worked alongside the community and play area contractor to develop bespoke play area with a sea theme. The park provides a range of equipment, including a community shelter, basket swing, balance beam, monkey swing, firemans pole, log steps and a slide, den making frame, along with safety surfacing and footpath access to the site.

This contribution would provide match funding to a project that has delivered an entire replacement play area in Croyde. The project took place with a loan from the Public Works Loan Board. Allocation of this contribution would assist with partially repaying the loans board contribution.

This S106 contribution is specifically for this project, and included within the S106 agreement noted in 5.1.

Georgeham Parish Council were responsible for the delivery of the scheme and its future maintenance of the scheme.

This project is different to other similar projects that the Council has funded in that the scheme has already occurred. A section 106 contribution can only be sought where it meets statutory tests including that it is required in order to make a development acceptable. In this particular case, because the project for which the contribution was sought has already been provided, there is a risk of the developer seeking a repayment. That risk will have to be passed to the Parish Council as part of the funding agreement.

5 RESOURCE IMPLICATIONS

5.1 Croyde Play Area, Croyde parish Council

Financial: The total project cost is £80,288

That £40,000 be funded from the S106 capital budget from the following sources:

Development Description	Application Number	Amount
Land off Croyde Road, Croyde	60700	£40,000
	Total	£40,000

The remaining project funding is noted below:

- S106 allocation - £9,015.12 (previously allocated)
- Public Work Loans Board - £10,000 (£50,000 less £40,000 contribution noted above)
- Parish Council funds - £13,823
- TAP fund - £2,000
- Devon Council Councillor Grant, Cllr Caroline Chugg - £5,000
- NDC Councillor Grant, Cllr Pat Barker - £450

That any over spend be met by the Parish Council.

6 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
4.5.2, Part 3 annex 4	Delegated	No

7 STATEMENT OF CONFIDENTIALITY

7.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

8 BACKGROUND PAPERS

8.1 The background papers are available for inspection and kept by the author of the report.

9 STATEMENT OF INTERNAL ADVICE

9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Councillor Jones & Moores, Health & Wellbeing

Author: L. Wheeler

Date: 7 February 2019

Reference: I:\Projects\Open Space & S106\Reports\Executive reports\Executive 2019\March 2019\Croyde Play\Executive March S106 Croyde 2019.doc

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REPORT TO: EXECUTIVE

Date: 4 March 2019

TOPIC: BRAUNTON BMX

REPORT BY: PROJECT, PROCUREMENT & OPEN SPACE OFFICER

1 INTRODUCTION

- 1.1 This report seeks to secure a delivery solution for a BMX Track at Velator.
- 1.2 There has been demand for a BMX track for a number of years in and around Braunton and Heanton Punchardon. Securing a suitable site had been one of the main barriers over the years and this has taken significant time to identify and resolve.
- 1.3 With a site and outline planning consent in place, trustees from the now folded Braunton BMX Club have approached the authority to deliver the procurement and construction of the project. Trustees from the club have sought to transfer ownership of this land to the district council.

2 RECOMMENDATIONS

- 2.1 That Executive accepts the freehold transfer of the land at Velator, identified on the annexed plan, at nil value and adopt it for use as a BMX track, from Trustees of the BMX Club.
- 2.2 Pursuant to Executive decisions on 6/6/2016 and 5/2/18, that Executive re-assign the allocation of S106 public open space funds previously allocated to Braunton BMX Club, totalling £75,616.18 for use by the authority in delivering a BMX pump track, which already forms part of the approved capital programme.
- 2.3 That Executive recommends that Council vary the capital programme by a further £25,000 from Investing in Devon external funding (£25,000), and that the full project funds be released.
- 2.4 That NDC procures and manages the project and maintains the facility thereafter.

3 REASONS FOR RECOMMENDATIONS

- 3.1 To support delivery of a community facility and allocate funds in line S106 agreements.

3.2 To provide a solution to the delivery of the BMX track construction.

4 REPORT

- 4.1 For a number of years Braunton BMX club has been working to secure a site, planning permission and the relevant funding package to deliver a BMX track in Braunton. Having previously failed to find a suitable self-contained site, a development at Velator offered the club land for a BMX facility. Planning permission was granted to provide a BMX track as part of a wider development at Velator in 2015, application 58119.
- 4.2 The total funding secured to date for the construction is £100,616.18 with funding from, S106 already approved (£75,616.18), and Investing in Devon (£25,000). This report seeks to re-assign the £75,616.18 awarded to the club to allow the authority to deliver the project and vary the capital programme to accommodate the external funds secured. No S106 funds have been paid to the club and the authority still holds the funds within its accounts.
- 4.3 Although the above funding has been secured, in recent months the club has faced a number of challenges in terms of project delivery and as a result has not been in a position to proceed with the project.
- 4.4 With these difficulties identified, the club has now folded but the trustees remain owners of the land at Velator. The Trustees have written to the district council with a view to transferring the freehold of the identified site at Velator, to the Council, at nil cost. The club trustees have also requested the Council procure and project manage the construction of this community facility.
- 4.5 Following the request from the trustees, Officers wanted to establish whether there was still a high demand for the facility before presenting the request to Executive. During November and December 2018, we undertook a consultation exercise to fully understand the requirement and support for this proposed project.
- 4.6 The survey was published online and the Communication Team actively encouraged responses. We received a very high level of interest with 309 people completing the survey, with 84% in favour of the track at Velator, with the majority of support for an informal facility rather than a formal regional facility. Filtering the results from Braunton area, 235 responses were received, with 191 in favour of track at Velator.
- 4.7 The BMX track would be a publically accessible facility. There is no requirement for a lease or license and no restrictions on use.
- 4.8 Officers have liaised with Braunton and Heanton Punchardon ward members throughout this period and kept them informed of developments via email. During discussions, members requested the views of The Police in regard to the potential of anti-social behaviour at the site. A response was received from Braunton's Police Community Support Officer (PCSO), which was supportive, saying that it was a "much needed facility." Although the PCSO could not rule out antisocial behaviour, he did say that if the track was built it would form part of their patrols. He stated that

CCTV would help to minimise anti-social behaviour, but NDC officers have advised CCTV is not included in their plans or budget.

4.9 If the council does agree to build a track, it would be responsible for the future maintenance of the facility. The pump track will have minimal maintenance, and the surrounding landscaping can be added to the grounds maintenance contract with grass cutting, litter picks and safety inspections which can be absorbed within existing budgets.

4.10 In conclusion this report seeks to formalise a request from the remaining trustees of Braunton BMX Club to transfer land to NDC to deliver a facility for the community.

5 RESOURCE IMPLICATIONS

5.1 Financial

The estimated project cost, prior to tender, is: £100,000

This is funded by:

£75,616.18 – S106 Public Open Space funds (already part of approved budget)

£25,000 – Devon County Council, Investing in Devon (included within this report).

The funding deadline for this contribution is 31 December 2019.

5.2 Staff

To be delivered by Economic Development, Parks, Leisure & Culture team with Estates and Legal Services.

6 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
4.5.2 Part 3 Annex 4	Delegated	no

7 STATEMENT OF CONFIDENTIALITY

7.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

8 BACKGROUND PAPERS

8.1 The background papers are available for inspection and kept by the author of the report.

9 STATEMENT OF INTERNAL ADVICE

9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Councillors Jones & Moores, Health & Wellbeing

Author: L. Wheeler

Date: 12 February 2019

Reference: I:\Projects\Open Space & S106\Reports\Executive reports\Executive 2019\March 2019\Braunton BMX\BMX Executive March 2019 v2.doc



Open

REPORT TO: Executive
Date: 4th March 2019
TOPIC: Joint Local Plan Working Group draft Terms of Reference
REPORT BY: Lead Officer Planning Policy

1 INTRODUCTION

- 1.1 The Working Group has been meeting since 2008, its principal purpose being to support the delivery of the North Devon and Torridge Local Plan through joint working arrangements on an informal partnership basis. The rationale for using a working group results from a need:
- a) for early stage discussions within a closed environment to enable meaningful and confidential discussions between the Councils on policy options and implications prior to progress in respect of policy development;
 - b) to fit within the framework of both Councils' established constituted structures; and
 - c) for flexible meeting arrangements to support effective progression of work streams associated with the preparation of the Local Plan and associated documents.
- 1.2 In July 2008 Executive agreed to form a LDF joint working group with Torridge DC and to appoint three members to it. The North Devon and Torridge Local Plan Working Group (Working Group) has requested a review of its Terms of Reference, however there are currently no formal Terms of Reference agreed by the Councils.
- 1.3 It is considered appropriate that Terms of Reference are formally defined for the Working Group. Draft Terms of Reference will need to be formalised through endorsement by each Council.

2 RECOMMENDATIONS

- 2.1 That Executive:
- a) endorses the draft Terms of Reference (Appendix 1) for the Joint Local Plan Working Group;
 - b) considers how best to keep the wider Membership informed of progress by the Working Group.

3 REASONS FOR RECOMMENDATIONS

- 3.1 To formalise the Terms of Reference for future operation of the Joint Local Plan Working Group.

- 3.2 To keep all Members informed in progress with joint planning policy documents and to facilitate transparency for all Members.

4 REPORT

- 4.1 The Working Group operates currently without any delegated powers so no formal decisions are taken. There are no reporting arrangements to other Committees. The reports and minutes of the Working Group are not made public.
- 4.2 Its principal task has remained the facilitation and promotion of efficient joint working on planning policy documents that affect North Devon and Torridge District Councils. Moving forward the primary roles of the Working Group are considered to be unaltered, although in practice the range and scope of its work will expand as the Councils secure the implementation of the Local Plan, monitor its delivery and then move to undertake its review.
- 4.3 Within the scope of the above, it is considered that the Working Group should continue to focus on the following range of activities:
- a) to have oversight of the delivery of Development Plan Documents (DPDs) set out in the North Devon and Torridge Local Development Scheme, which would embrace any future review of the Local Plan;
 - b) to support the drafting of DPD and Supplementary Planning Documents (SPDs) and consider subsequent consultation responses to inform the decision making of the respective Councils;
 - c) to consider outcomes from policy performance monitoring and the need to undertake any resultant actions, on such matters as the maintenance of housing delivery rates and a joint five year land supply to required levels; and
 - d) as considered appropriate, to respond on a joint basis to external consultations, such as from neighbouring local planning authorities or the Ministry of Housing Communities and Local Government.
- 4.4 In order to achieve the above, materials/documentation will be presented to the Working Group, which will include (but not exclusively): draft policy wording; policy options (including site allocations); monitoring and delivery performance; and preparation and consideration of evidence to support particular courses of action.
- 4.5 It is necessary for the Terms of Reference to define the number and representation of the participants of the Working Group.
- a) The original arrangements for the Working Group (in 2008) authorised 3 members from each Council. However, in practice this was increased to 4 members representing each Council a number of years ago. The number of participants from each authority needs to be agreed and formalised.
 - b) Currently the North Devon Council membership of the Working Group includes Executive lead member appointments for Planning, Regeneration, Housing and the Environment. There are potential benefits and opportunities arising from the lead members informing policy development relating to other strategies within their portfolios. However, some Members have enquired recently whether the Working Group could have cross-party representation. Delivering both could have potential

implications for the appropriate number of participants from each authority. It is recommended that the Working Group includes at least the North Devon lead members for Planning, Regeneration and the Environment. Torridge is expected to identify its equivalent lead members.

- c) At the last meeting of the Working Group, it was agreed that Devon County Council should be invited to attend on an informal basis; it is appropriate that the nature the County's participation in the Working Group is set out in the Terms of Reference.

- 4.6 The Working Group considered the draft Terms of Reference on 5 February 2019, which were amended to incorporate their recommendations:
 - a) Other Members from the District Councils be invited to attend the Working Group on an informal basis and to listen to discussions.
 - b) Relevant Ward Members will be invited to attend the Working Group when agenda items relate to a specific area within their ward.
- 4.7 The Working Group also discussed how best to summarise items of discussion and how to facilitate transparency for all Members. Keeping all Members informed, which included inviting them to attend on an informal basis, needs to be balanced with the benefits of early stage discussions on policy options and implications within a closed environment which has enabled frank, meaningful and confidential discussions between the Councils prior to progress of policy development.
- 4.8 Draft Terms of Reference have been prepared, which are set out in Appendix 1 to this report. In addition to determining the scope and membership of the Working Group, it is considered appropriate to establish that the Terms of Reference will be subject to periodic review to ensure that the nature the membership group best serves its role in respect of supporting the plan making process

5 RESOURCE IMPLICATIONS

- 5.1 Drafting and preparing evidence to inform planning policy documents, as set out in paragraph 4.3, forms a central part of the Planning Policy team's workload. There are no additional cost implications, apart from use of meeting rooms and recording minutes of meetings.

6 SUSTAINABILITY IMPLICATIONS

- 6.1 There are no direct sustainability implications arising from this report.

7 EQUALITY AND HUMAN RIGHTS

- 7.1 There are no Equality and Diversity Impact Assessment implications arising from this report..

8 CONSTITUTIONAL CONTEXT

Article and paragraph	Appendix and paragraph	Referred or delegated power?	A key decision?	In the Forward Plan?
Article 9, Paragraph 9.2.2		Referred	No	No

9 STATEMENT OF CONFIDENTIALITY

9.1 This report contains no confidential information.

10 BACKGROUND PAPERS

10.1 The following background papers have been used in the preparation of this report:

- National Planning Policy Framework (2018)
- Town & Country Planning (Local Planning) (England) Regulations 2012
- North Devon and Torridge District Council's Local Development Scheme (April 2015)
- North Devon and Torridge Local plan 2011 – 2031 (2018)

10.2 Background papers will be available for inspection and will be kept by the author of the report.

11 STATEMENT OF INTERNAL ADVICE

11.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Councillor Jeremy Yabsley

Author: Andrew Austen

Date: 4th March 2019

Reference: Executive 4 March 2019 (Jt LP working group)

APPENDIX 1 – North Devon and Torrridge Local Plan Working Group – Terms of Reference

The North Devon and Torrridge Local Plan Working Group, is a group of elected members who meet periodically to facilitate and promote efficient joint working on planning documents that affect North Devon and Torrridge District Councils.

Scope and role of the Working Group

- 1) to have oversight of the joint delivery of development plan documents set out in the North Devon and Torrridge Local Development Scheme, which would embrace any future review of the Local Plan;
- 2) to support the drafting of Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs) and consider subsequent consultation outcomes to inform the decision making structures of the respective Councils;
- 3) to consider outcomes from policy performance monitoring and the need to undertake any resultant actions, on such matters as the maintenance of housing delivery rates and a joint five year land supply to required levels; and
- 4) as considered appropriate, to respond on a joint basis to external consultations, such as from neighbouring local planning authorities or the Ministry of Housing Communities and Local Government.

Membership

- 5) The Working Group will comprise 8 Members; 4 from North Devon Council and 4 from Torrridge District Council.
- 6) The Working Group membership will include at least from North Devon Council: Lead Members for Planning, Regeneration and the Environment; and from Torrridge, the Lead Members for Planning, Economy and the Environment.
- 7) The Chairman will be appointed annually and should alternate between the two district councils unless otherwise agreed by the Working Group as a whole.

Attendance

- 8) Officers and Members from Devon County Council are invited to attend the Working Group on an informal basis through the participation of the Locality Member for northern Devon.
- 9) Other Members from the District Councils are invited to attend the Working Group on an informal basis and to listen to discussions.
- 10) Relevant Ward Members will be invited to attend the Working Group when agenda items relate to a specific area within their ward.

Authority

- 11) The Working Group is advisory and has no delegated decision making powers.

The operation of the Working Group

- 12) Meetings will generally be held on an ad-hoc basis and arranged as and when required with the agreement of the Chairman of the Working Group.
- 13) Meetings will be held in private in view of the informal status of the Working Group.
- 14) Materials will be circulated to the Working Group on a confidential basis.
- 15) Members will receive agendas in an electronic format at least five working days prior a Working Group meeting.

Agenda Item 14

- 16) Minutes and action notes will be recorded for all meetings.
- 17) The Working Group will be supported by Officers in the Planning Services of North Devon Council and Torrington District Council.

Terms of Reference review

- 18) The Working Group will review its terms of reference periodically, at least once every 4 years.



Open

NORTH DEVON COUNCIL

REPORT TO: EXECUTIVE
Date: 4 March 2019
TOPIC: ANTI-FRAUD, CORRUPTION AND BRIBERY POLICY
REPORT BY: CHIEF FINANCIAL OFFICER

1. INTRODUCTION

1.1 The Anti Fraud, Corruption and Bribery Policy is due for review and this report seeks a recommendation from Executive to Council to adopt the revised policy.

2. RECOMMENDATIONS

2.1 That Executive notes the Council's zero tolerance to fraud corruption and bribery and approves the updated Anti-Fraud, Corruption and Bribery Policy.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The policy provides a clear statement of the Council's position and response to fraud, corruption and bribery activity.
- 3.2 The policy provides the mechanisms for detecting and reporting suspected fraud, corruption and bribery activity.

4. CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
Part 3 annexe 4	Delegated	No

5. REPORT

- 5.1 The Fraud Act 2006, which came into force on 15 January 2007, introduced the general offence of fraud and the ways it could be committed.
- 5.2 On 1 July 2011 the Bribery Act 2010 came into force. This Act replaced and consolidated a number of earlier Prevention of Corruption Acts 1889 to 1916.
- 5.3 The policy attached incorporates the provisions required of the Bribery Act and therefore brings together a single policy for dealing with suspected fraud, corruption and bribery.
- 5.4 There have been a small number of updates but no significant changes to the Council's Anti-Fraud, Corruption and Bribery policy, which is now recommended for adoption.
- 5.5 The draft document was reviewed and recommended by the Audit Committee on 8 January 2019.

6. RESOURCE IMPLICATIONS

- 6.1 There are no resource implications resulting from this report.
- 6.2 Any publicity will be met from existing resources.

7. STATEMENT OF INTERNAL ADVICE

- 7.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

8. STATEMENT OF CONFIDENTIALITY

- 8.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

9. BACKGROUND PAPERS

- 9.1 The background papers are available for inspection and kept by the author of the report.

Executive Members: Councillor Glyn Lane and Councillor Richard Edgell

Author: Jon Triggs, Head of Resources

Date: 12 February 2019



NORTH DEVON COUNCIL

**ANTI-FRAUD, CORRUPTION and BRIBERY
POLICY and STRATEGY**

Version	4	Date	December 2018
Approved by Audit Committee	8 January 2019	Next Review	2021

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1. INTRODUCTION

- 1.1 This document sets out the non-tolerance position held by North Devon Council (the “Council”) on fraud, corruption and bribery.
- 1.2 The objectives of an Anti-Fraud, Corruption and Bribery Policy and Strategy are to:
 - Provide a clear statement of the Council’s position on fraud, corruption and bribery;
 - Minimise the risk to the Council’s good name and assets;
 - Promote a culture of integrity and accountability in Members, officers and all those with whom the council does business;
 - Enhance existing procedures aimed at preventing, discouraging and detecting fraud, corruption and bribery; and
 - Raise awareness of the risk of fraud, corruption and bribery being perpetrated against the Council.
- 1.3 The council is committed to discouraging, preventing and detecting fraud, corruption and bribery where attempted on, or from within, the Council’s organisation.
- 1.4 The policy applies to all staff and Members of the Council. It should be noted that ‘Members’ include both elected and co-opted members who may be appointed from time to time to sit on panels or committees. Likewise ‘staff’ includes all full and part-time staff and permanent, temporary and agency staff.
- 1.5 The Council expects Members and staff at all levels to be aware of the standards of conduct expected of them and the procedures designed to reduce the risk of fraud, corruption and bribery occurring.
- 1.6 Members and staff are responsible for their own conduct and compliance with this strategy is required to comply with their respective codes of conduct.
- 1.7 There is an expectation and requirement that individuals, suppliers and organisations associated in whatever way with the council will act with integrity, and that Members and staff will lead by example in these matters.
- 1.8 The policy and strategy is designed to protect the Council through:
 - Encouraging prevention;
 - Promoting detection; and
 - Identifying clear pathways for investigation
- 1.9 To combat fraud and corruption the Council’s strategy is based on a series of comprehensive procedures. These cover:

- Risk management (section 3);
- External scrutiny (section 4);
- Reporting and action (section 5);
- Prevention and controls (section 6);
- Detection and investigation; (section 7);
- Reporting process (section 8);
- Sanctions and redress (section 9);
- Training (section 10) and
- Publicity (section 11)

1.10 There is an inter-relationship between the strategy and other existing Council policy documents. These include:

- Financial Procedure Rules;
- Contract Procedure Rules;
- Hospitality Registers;
- Codes of Conduct for members and officers (see Constitution);
- The Disciplinary Procedure; and
- Whistle-blowing Code of Practice.

1.11 Whilst the general principles outlined in this strategy apply to all areas of the Council's operations, it should be noted that more specific procedures are already in place in respect of the prevention, detection and investigation of benefit fraud.

2. DEFINITION OF FRAUD, CORRUPTION and BRIBERY

2.1 The Council is committed to an efficient and effective Anti-Fraud, Corruption and Bribery Policy designed on prevention, facilitating its detection and identifying means of investigation and remedial measures.

2.2 The Fraud Act 2006 came into force on 15 January 2007 and introduces a general offence of fraud, which may be committed in three ways (see sections 2-4 of the Act):

(a) **Fraud by false representation**

A person is guilty of an offence if he/she dishonestly makes a false representation with the intention of making a gain or causing a loss or risk of loss to another.

A representation is false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. Representation means any representation as to fact or law, including a representation as to a person's state of mind. A representation may be expressed or implied, and can be stated in words or communicated by conduct; so it could be written, spoken or posted by electronic means.

(b) **Fraud by failing to disclose information**

A person commits an offence under this heading if they dishonestly fail to disclose to another person information which he/she is under a legal duty to disclose, and they intend, by failing to disclose the information to make a gain for themselves or another, or to cause a loss to another or, expose another to a risk of loss.

(c) **Fraud by abuse of position**

A person commits an offence if he/she occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuses that position and intends, by means of abuse of that position, to make a gain for themselves or another, or to cause the loss to another or to expose another to a risk of loss.

2.3 There is some overlap with existing offences such as theft, and forgery and counterfeiting, but the Fraud Act sets out to outlaw activities which previously may not have been the subject of criminal sanction.

2.4 The Serious Fraud Office has defined “fraud” as “abuse of position, or false representation, or prejudicing someone’s rights for personal gain.”

CORRUPTION

2.5 The concept of ‘corruption’ is not now a legal one, and the expression is not used or defined in current legislation. In general, however, it is commonly understood to mean the abuse of entrusted power for personal gain.

BRIBERY

2.6 Bribery is not specifically defined within UK law. Black’s Law Dictionary defines it as the offering, giving, receiving or soliciting of any item of value to influence the actions of an official or other person in charge of a public or legal duty.

2.7 The Bribery Act 2010, which came into force on 1 July 2011, replaced and expanded upon earlier legislation. The Act does not attempt a specific definition of bribery but instead sets out a number of scenarios where offences will arise.

2.8 By their very nature, offences of bribery will often involve or occur within public sector organisations.

SECTION 1

2.9 A person commits an offence in the following cases:

Case 1 is where the person offers, promises or gives a financial advantage to another person, and intends the advantage to induce a person to perform improperly a relevant function or activity or to reward such improper performance.

Case 2 is where the person offering, promising or giving the financial or other advantage to another person knows or believes that the acceptance of the advantage itself constitutes the improper performance of a relevant function or activity.

SECTION 2

2.10 A person is guilty of an offence in the following cases:

Case 3 is where a person requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity is performed improperly

Case 4 is where a person requests, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself constitutes the improper performance by that person of a relevant function or activity.

Case 5 is where a person requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance, whether by that person or another, of a relevant function or activity

Case 6 is where, in anticipation of or in consequence of a person requesting, agreeing to receive or accepting financial or other advantage, a relevant function is performed improperly by that person, or by another person at that person's request or with that person's assent or acquiescence

SECTION 6

2.11 This section of the Act deals specifically with bribery of foreign public officials who are involved with decision making in publicly funded business transactions. An offence could be committed in much the same manner as in Sections 1 and 2 above, except that the inducements will be aimed at the improper performance of the functions of the foreign public official.

IMPROPER PERFORMANCE

- 2.12 Improper performance is essentially defined as performance which breaches a relevant expectation that a person will act in good faith, impartially, or in accordance with a position of trust. A failure to perform a function or activity may constitute improper performance where the failure itself is a breach of a relevant expectation.

3. RISK AREAS

- 3.1 Risk, in the context of fraud, corruption and bribery is the vulnerability to which an organisation may be exposed. It combines the probability of occurrence and the corresponding impact usually in monetary terms. Whilst in theory it is desirable to eliminate risk, in practice the aim is to minimise the probability and to reduce the size of any consequential losses. Preventative controls and the creation of the right type of corporate culture tend to reduce the likelihood occurring while detective controls and effective contingency planning can reduce the size of any losses.
- 3.2 Areas, which most commonly encounter fraud, include those involving the handling of any asset of an attractive and portable nature. The high risk areas include, but are not limited to:

• Cash / cheques	• Housing and council tax benefits and discounts
• Car loans	• Loans and investments
• Income	• Payroll
• Contracts / procurement	• Grants
• Payments	• Stores
• Travel and expense claims	• Credit cards
• Recruitment	• Sickness and working elsewhere
• Time sheets / working hours	• Overtime claims

- 3.3 Areas where corrupt practices or bribery may be found may include, but are not limited to:

• Award of permission, planning consents and licenses	• Canvassing for appointments
• Hospitality	• Interests of Members and Officers
• Secondary employment of staff, which may influence their work at the authority	• Tendering and award of contracts
• Settlement of contractors' final accounts and claims	• Disposal of assets
• Disposal of assets	• Award of grants and benefits

4. EXTERNAL SCRUTINY

4.1 The Council is aware of the high level of external scrutiny of its affairs by a variety of bodies and including:

- Local tax payers;
- Pressure groups;
- Service users;
- Local press;
- The Council's external auditors
- Government Departments and Agencies;
- HM Revenue and Customs;
- Local Government Ombudsman.

4.2 The adoption of a formal anti-fraud, corruption and bribery strategy will provide a degree of assurance to those external bodies and individuals interested in the Council's functions and activities.

5. REPORTING AND ACTION

5.1 Members and officers are positively encouraged to report or, raise any concerns they may have regarding actual or suspected fraud, corruption or bribery whether it relates to dishonest behaviour by members, staff or others.

5.2 Staff should normally raise their concerns with their Line Manager, or Head of Service who will ensure that such concerns will be treated seriously, in confidence and properly investigated. If necessary a route via the Chief Executive, Chief Finance Officer, Monitoring Officer and Internal Audit is also possible.

5.3 Members should raise their concerns with the Chief Executive, Monitoring Officer or Chief Finance Officer.

5.4 The Council has a separate policy and procedure the ***Council's Whistleblowing Policy 2019***, which is a further route where Members and staff can bring areas of concern to the attention of management.

5.5 If a "tip off" is received from a member of the public by any member or officer it must be reported to the Chief Finance Officer.

5.6 Once a manager has been made aware of a suspected or alleged incident of fraud, corruption or bribery they must act promptly, impartially and adopt defined procedures.

5.6.1 Protection of the identity of individual(s) – both those reporting the incident and those suspected

5.6.2 Record accurately and secure all evidence received

5.6.3 Ensure that evidence is sound and adequately supported

- 5.6.4 Notify the Chief Finance Officer, Monitoring Officer or Chief Executive
- 5.6.5 Implement the Council's ***Disciplinary Procedure*** where appropriate.
- 5.7 The Chief Executive, Monitoring Officer or Chief Finance Officer shall make complaint to the Council's Ethics Committee in the event of allegations of fraud, corruption or bribery against a Member.
- 5.8 Where investigation reveals evidence of suspected criminal activity with regard to fraud, corruption or bribery the Chief Finance Officer in consultation with the Chief Executive and Monitoring Officer may refer the matter to the police or other relevant enforcement authority. Contact with the police or other enforcement authority will be co-ordinated by the Chief Finance Officer.
- 5.9 If a case involves action against any individual this will be agreed between the Chief Executive, Chief Finance Officer and Monitoring Officer. The Council will use all reasonable endeavours to recover money or assets misappropriated.
- 5.10 Any member or officer raising malicious allegations knowing them to be unfounded will, in the case of a member, reported be to the ***Ethics Committee*** or, in the case of an officer, be dealt with via the ***Council's Disciplinary Procedure***.

6. PREVENTION AND CONTROLS

- 6.1 The Council's Chief Finance Officer appointed under S.151 of the Local Government Act 1972 has the responsibility for the proper administration of the Council's financial affairs. This includes all aspects of the arrangements for the anti-fraud, corruption and bribery. The Chief Finance Officer will on a risk basis make informed judgements about the levels of budgetary investment in work to counter fraud, corruption and bribery.
- 6.2 It is the responsibility of the Chief Finance Officer to maintain an effective system of internal audit.
- 6.3 The Audit Committee is responsible for measuring the adequacy of the Council's risk management framework and the associated control environment. It is also charged with ensuring that Council's arrangements for Corporate Governance are robust and comply with best practice.
- 6.4 The Council is audited externally, which includes a review of the Council's arrangements for preventing and detecting fraud, corruption and bribery.

- 6.5 Other means of preventing fraud, corruption and bribery occurring include the following:
- (i) The Council's Recruitment and Selection process requires that written references should be obtained when recruiting staff externally so as to prevent those with any history of dishonesty being employed in positions of trust. There is also a requirement for DBS disclosures for specific posts.
 - (ii) Officers are required to follow the Officer Code of Conduct as set out in the Council's Constitution and the standards set by professional bodies or qualifications, and additionally their conduct is expected to be of the highest possible standard.
 - (iii) The Members Code of Conduct, as set out in the Council's Constitution, specifies the recommended standards of conduct for Members.
 - (iv) ***The Council's Whistleblowing Policy 2019*** protects persons with genuine concerns which they wish to report but feel that they cannot follow "normal" channels.
 - (v) ***Contracts Procedure Rules and Financial Procedure Rules*** as set out in the Council's Constitution prescribe the processes to be followed to ensure adequate financial controls are in place.
 - (vi) Access to Information Rules provide for member decisions to be made in an open and accountable manner.
- 6.6 Chief Officers, Heads of Service and all Managers have responsibility for ensuring that sound financial controls exist within their areas of responsibility and that staff are suitably supervised to ensure that the controls are adhered to. Individual officers and members are responsible for observing these rules and procedures.

7. DETECTION AND INVESTIGATION

- 7.1 Preventative systems, particularly internal control systems, within the Council have been designed to provide indicators of any fraudulent activity. Generally, they should be sufficient in themselves to deter fraud.
- 7.2 It is often the alertness of members, employees and the public to such indicators that enable detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may be in progress.

- 7.3 Other methods of detection will be employed, on a risk basis, by those officers of the Council authorised to do so e.g. internal audit.
- 7.4 These methods will include analytical techniques and the sharing of information, within data protection rules, with other agencies both locally and nationally. Examples of bodies involved in sharing such intelligence and data are the Audit Commission, National Fraud Initiative and Benefits Agency.
- 7.5 Where it is considered that further investigation may be required the position must be discussed with the Chief Finance Officer and/or the Monitoring Officer. It will be these officers' decision as to whether full investigation is required and, if so, by whom (see below).
- 7.6 If a member or a member of the public raises the concern then the manager receiving the concern must immediately report the concern to the Chief Finance Officer or (in his absence) the Monitoring Officer. Either of these officers will undertake initial enquiries to ascertain whether further investigation is needed and, if so, the format it will take. The enquiries will be dealt with promptly, impartially and confidentially.

Subsequent Steps

- 7.7 Once the initial assessments of the situation are completed and the Chief Finance Officer or Monitoring Officer aware of the concerns and the results of the initial enquiries then they will decide whether a full investigation is necessary. If so, then the Chief Finance Officer or Monitoring Officer may choose one or more of the following avenues:-
- initially assess whether there is a need for any employee to be suspended in accordance with the **Council's disciplinary procedure**
 - if a member is involved to decide whether the **Ethics Committee** should be informed;
 - identify a course of action ie. whether, the matter will be investigated by:
 - management
 - audit
 - through the disciplinary process; or
 - be referred to the Police; or
 - be referred to External Audit; or
 - be subject to an independent inquiry; or
 - other.
 - if relevant, identify the reporting process; and

- bring the matter to the attention of the Leader of the Council when fraud or corruption is evident and, if appropriate, to the Chairman of Overview and Scrutiny Committee.
- 7.8 Depending on the nature and anticipated extent of the allegations, the Internal Audit service will normally work closely with senior management and other agencies such as the police and ensure that all allegations and evidence is properly investigated and reported upon.
- 7.9 There is a duty to report all frauds over £10,000 to the external auditors. The Chief Finance Officer or Monitoring Officer will carry this out, at the earliest opportunity.
- 7.10 The experts at investigating fraud are the Police, who may also advise on the likely outcome of any intended prosecution. The Chief Finance Officer or Monitoring Officer following discussion with the investigator and the Chief Executive will make initial contact with the Police. It is the policy of the Police to welcome early notification of suspected fraud.
- 7.11 If the Police decide that formal investigation is necessary, all staff should co-operate fully with any subsequent requests or recommendations. All contact with the Police following their initial involvement will usually be via the Chief Finance Officer or Chief Executive or Monitoring Officer.
- 7.12 The Authority will normally wish the police or other enforcement authority to independently prosecute offenders where financial impropriety is discovered. The Council will also reserve the right to undertake civil action when appropriate.
- 7.13 Where the Police decide to formally investigate, this may prejudice any internal disciplinary procedures; the way forward in these circumstances should be discussed with the Police to ensure a mutually acceptable procedure is followed.
- 7.14 Officers or members may use the ***Council's Whistleblowing Policy 2019*** to raise any concerns they may have in confidence and anonymously should they so wish.

8 REPORTING PROCESS

Interim Report

- 8.1 As soon as any initial 'detection' stage of an investigation within the control of the Council has been completed, an interim confidential report, which may be verbal, but is more likely to be in a written format, should be made by the Investigator to the Chief Finance Officer and/or Monitoring Officer. The Interim Report should set out:-

- the findings to date;
- the interim conclusions drawn from those findings; and
- should seek approval either to:

- (a) continue the investigation if this is appropriate;
- (b) refer the matter to the Police or External Auditor; or
- (c) discontinue the investigation due to insufficient evidence.

8.2 If it is decided to continue the investigation then any changes to the reporting arrangements or the planned action should be confirmed.

Final Report

8.3 This report will supersede all other reports and be the definitive document on which management (in a disciplinary situation) and, possibly, the Police or External Auditor (in the event that the matter has not been referred to them earlier) will base their decisions.

8.4 The format of the Final Report will not always be the same as each case is unique, but will frequently set out:-

- how the investigations arose;
- who the suspects are/were;
- their position in the Council and their responsibilities;
- how the investigation was undertaken;
- the facts and evidence which were identified; and
- summary of findings and recommendations, both regarding the fraud or corruption itself and any additional work required on the system weaknesses identified during the investigation.

Outcomes

8.5 Likely outcomes following any Council, Police or External Auditor investigation under this procedure are:-

- Criminal Prosecution;
- Civil Action;
- Implementation of Disciplinary Proceedings (under Disciplinary Procedure);
- Action by the Ethics Committee
- Exonerate person(s) concerned; or
- Take no further action.

Confidentiality

8.6 All proceedings under this procedure shall, as far as possible, remain confidential.

Defamation

- 8.7 All reports must be substantiated by relevant evidence and avoid contents that could be considered to be defamatory in the event of the report being made public.
- 8.8 Defamatory statements are those which comprise imputations likely to lower a person in the estimation of right-thinking persons, or which injure a person's reputation by exposing them to hatred, contempt or ridicule, or are intended to make a person be shunned or avoided.

9 SANCTIONS and REDRESS

- 9.1 The ***Council's Disciplinary Procedures*** will be used where the outcome of the investigation indicates the improper behaviour of staff.
- 9.2 Sanctions recommended by the ***Ethics Committee*** for members would follow a breach of the Members Code of Conduct
- 9.3 For both staff and Members in cases where financial impropriety is discovered, the Council will normally wish the police and Crown Prosecution Service to assess the evidence and make the decision to prosecute or not.
- 9.4 The Council will always seek to recover any losses incurred as a result of fraud, corruption or bribery, wherever this is practical, including use of civil law if appropriate. Losses will be calculated using a professional statistical methodology for making accurate estimates, building in a proper level of independent valuation as required.
- 9.5 The Insurance Unit should be informed of any losses at the earliest possible stage, together with details of the position appertaining and any anticipated recovery action. However, the Chief Finance Officer must approve any claim upon the Council's insurance.
- 9.6 Acceptance of any offered settlement of any loss from a person under investigation should only be accepted upon the following terms:
- the Council reserve the right to take any further action it may wish in respect of the situation;
 - acceptance relates only to losses identified at the time of any acceptance;
 - the Council reserves the right to seek recovery of further losses which may be revealed at a later date.

10 TRAINING

- 10.1 The Council recognises that the continuing success of its Anti Fraud, Corruption and Bribery Strategy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of staff throughout the organisation.
- 10.2 To facilitate this, the Council supports the concept of induction and training, including for staff involved in internal control systems to ensure that their responsibilities and duties are regularly highlighted and reinforced.
- 10.3 The possibility of disciplinary action against staff, who wilfully ignore such training and guidance is clear.
- 10.4 Investigation of fraud and corruption centres on the Council's Internal Audit Service. It is, therefore, apparent that staff involved in this work should also be properly and regularly trained in all aspects of it. The training plans of audit staff should therefore reflect this requirement.

11 PUBLICITY

- 11.1 Methods of publication of this strategy will be sought with the clear goal of ensuring that all staff and Members are aware of the zero tolerance culture and targeting those officers in areas of high risk of fraud loss. Some examples of where this will be achieved are via:
 - The Council's website;
 - Externally through the Council's publications;
 - The Council's intranet;
 - Staff and Members' newsletters
 - Promoted through team meetings
 - Notice boards
 - Occasional reminders to staff and Members

12 POLICY REVIEW

- 12.1 The council has in place a clear network of systems and procedures to assist in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation.
- 12.2 To this end, the Council maintains a continuous overview of such arrangements; through, in particular, its Chief Finance Officer, and its Internal and External Auditors.

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NORTH DEVON COUNCIL

REPORT TO: EXECUTIVE
Date: 4 March 2019
TOPIC: ANTI-MONEY LAUNDERING POLICY
REPORT BY: CHIEF FINANCIAL OFFICER

1. INTRODUCTION

1.1 The Anti Money Laundering Policy is due for review and this report seeks a recommendation from Executive to Council to adopt the revised policy.

2. RECOMMENDATIONS

2.1 That Executive notes the Council's zero tolerance to money laundering and approves the updated Anti-Money Laundering Policy.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The policy provides a clear statement of the Council's position and response to money laundering activity.
- 3.2 The policy provides the mechanisms for detecting and reporting suspected money laundering activity.

4. CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
Part 3 annexe 4	Delegated	No

5. REPORT

- 5.1 There is wider ranging legislation relating to money laundering.
- The Terrorism Act 2000, as amended
 - The Proceeds of Crime Act 2002, as amended
 - The Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
- 5.2 Unlike suspected cases of fraud, corruption and bribery the Council does not investigate money laundering. Instead the Council has a duty to report to the National Crime Agency (NCA) areas of suspected money laundering activity.
- 5.3 The Council's Chief Finance Officer is the Council's Money Laundering Reporting Officer (MLRO) responsible for submitting reports.
- 5.4 There have been a small number of updates but no significant changes to the Council's Anti-money laundering policy, which is now recommended for adoption.
- 5.5 The draft document was reviewed and recommended by the Audit Committee on 8 January 2019.

6. RESOURCE IMPLICATIONS

- 6.1 There are no resource implications resulting from this report.
- 6.2 Any publicity will be met from existing resources.

7. STATEMENT OF INTERNAL ADVICE

- 7.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

8. STATEMENT OF CONFIDENTIALITY

- 8.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

9. BACKGROUND PAPERS

- 9.1 The background papers are available for inspection and kept by the author of the report.

Executive Members: Councillor Glyn Lane and Councillor Richard Edgell

Author: Jon Triggs, Head of Resources

Date: 12 February 2019



NORTH DEVON COUNCIL

ANTI-MONEY LAUNDERING POLICY AND PROCEDURE

Version	4	Date	December 2018
Approved by Audit Committee	8 January 2019	Next Review	2021

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POLICY AND PROCEDURE

1. INTRODUCTION

- 1.1 The Council already has high standards of conduct when ensuring it is not used by third parties for the purposes of money laundering. This policy, however, sets out procedures to be followed to enable the Council to comply with its legal obligations. The policy applies to all employees and members of the Council.
- 1.2 The policy needs to be considered in conjunction with the ***Whistleblowing Policy*** and the ***Anti-Fraud, Corruption and Bribery Strategy***.

2. LEGISLATION RELATING TO MONEY LAUNDERING

- 2.1 Requirements of the UK anti-money laundering regime are set out in:
- The Terrorism Act 2000, as amended
 - The Proceeds of Crime Act 2002, as amended
 - The Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
- 2.2 Not all of the provisions of the legislation set out above relate to local authorities. Solicitors and accountants employed by local authorities can in certain circumstances, where the services provided amount to a 'regulated activity,' have greater responsibilities than other employees in relation to money laundering activities, and must exercise 'customer due diligence' and 'enhanced due diligence' where the circumstances dictate. It is not intended to go into any detail of these in this policy and guidance, as those persons should have knowledge of their position.

3. WHAT IS MONEY LAUNDERING?

- 3.1 When the proceeds of crime are converted into assets which appear to have a legitimate source the "dirty" money is said to be laundered. The criminal has converted the proceeds of crime into either an asset such as a house or business or a legitimate investment or the money has passed through a number of transactions making it very difficult to track.
- 3.2 When the Council (i.e. any of its employees or members) is accepting or dealing with money or other assets, therefore, there is a risk that such money or assets could come from a criminal source. In the

majority of cases this is unlikely, but everyone should bear in mind that they could contravene the law if they become aware of or suspect criminal activity/property and continue to be involved in the matter without reporting their concerns.

4. RECOGNISING MONEY LAUNDERING

4.1 Possible indicators of money laundering may involve:-

- Cash based businesses which are more likely to be able to add criminal funds to legitimate business takings;
- Large cash receipts generally;
- A person who is reluctant to supply evidence of identity or address;
- Large overpayments of fees or money on account;
- Cancelled transactions without good reason, requiring a repayment;
- Requests to forward balances on to third parties;
- Information received about an individual which may reveal criminality or association with criminality;
- The use of over complicated financial systems or funds received from third parties;
- A buyer's or seller's financial profile not "fitting" the transaction they are undertaking;
- Unexplained use of an out of area solicitor/agent in relation to a property transaction.

4.2 This list is not exhaustive but simply gives examples of when employees (or members) should consider whether their suspicions should be aroused.

4.3 Such circumstances should suggest to the employee/member that they should be asking themselves questions such as e.g.

Would I expect this individual to have this amount of cash; why do they wish to pay in cash; why is this person offering to pay more than the going rate for this item/service, etc.

5. REPORTING

5.1 If an employee/member suspects money laundering then they must report their suspicions to the Chief Finance Officer who is the Council's Money Laundering Reporting Officer (MLRO).

5.2 They will need to supply as much information as possible to the Chief Finance Officer as to the individual or company etc. concerned, i.e. names, addresses, and previous addresses if relevant, any bank account details if known, evidence of identification, reasons for suspicions. If any other employees/members have been involved with

the transaction the names of these persons should also be passed to the Chief Finance Officer.

5.3 In the event that the Chief Finance Officer is not available then any disclosure must be made to the Monitoring Officer or Chief Executive.

5.4 No discussion with colleagues should take place regarding disclosure. Disclosures should be kept confidential. It is important to ensure that the person(s) suspected of money laundering is not “tipped-off” regarding the disclosure.

5.5 Failure to report a suspected case of money laundering or concealing the same is a criminal offence punishable on summary conviction with up to 6 months imprisonment and/or a fine, or on indictment with up to 5 years imprisonment or a fine or both.

6. TIPPING OFF

6.1 Once a disclosure has been made or an individual suspects that a disclosure has been made to the Chief Finance Officer it is an offence for anyone to “tip off” the suspected money launderer. This is because such “tipping off” could prejudice any investigation to be undertaken. Penalties for this criminal offence are up to 6 months imprisonment or a fine or both if the matter is dealt with as a summary offence or up to 5 years prison or a fine or both if dealt with on indictment.

6.2 Employees should also be aware that failure to comply with the procedures set out herein may lead to disciplinary action being taken against them.

7. AFTER DISCLOSURE

7.1 Employees/members making a disclosure report to the Chief Finance Officer as the Money Laundering Reporting Officer of the Council, will be informed if a report is made to the National Crime Agency (NCA).

7.2 NCA is the body responsible for handling investigations and generally dealing with money laundering, as set out in the legislation.

7.3 No transactions can be completed where it is believed that money laundering is involved until clearance has been received from NCA, or seven days have elapsed since the disclosure was made to them and no instructions have been received. Employees must always check the position with the Chief Finance Officer before taking any action.

8. TERRORISM ACT 2000

- 8.1 For the sake of completeness, mention is included of the above Act under which there are similar provisions for anyone becoming aware or suspicious of money laundering activity allied to terrorism to report the same.

Meaning of Terrorism

- 8.2 Terrorism is defined as:

- (a) the use or threat of serious violence against a person or persons; or
- (b) serious damage to property; or
- (c) an act which endangers a person's life; or
- (d) the creation of a risk to the health or safety of the public; or
- (e) action designed seriously to interfere with or seriously disrupt an electronic system

in order to influence government; intimidate the public; or to advance a political, religious or ideological cause.

- 8.3 Terrorist property is money or other assets likely to be used for the purposes of terrorism, proceeds of acts carried out for the purpose of terrorism or, more mundanely, it covers money set aside by terrorists for non-violent purposes e.g. for paying rent.

Offences under S15-18 of the Act

- 8.4 The relevant offences in relation to the above are in respect of:-

- (a) fundraising;
- (b) using or possessing terrorist funds; and
- (c) entering into a funding arrangement with a proscribed terrorist organisation.

- 8.5 There is a need to report any suspicion which arises at work that someone is laundering terrorist money or dealing with it in any of the ways set out above.

- 8.6 Failure to do so could mean committing an offence under section 18 by becoming concerned in a terrorist arrangement or of concealing it.

Reporting

- 8.7 Anyone becoming aware or suspicious of any transactions having potential terrorist connotations should report the matter to the Chief Finance Officer who will in turn report the same to the police. In the absence of the Chief Finance Officer a report should be made to the Monitoring Officer or Chief Executive.

Disclosure of Information

- 8.8 It is an offence to prejudice an investigation by informing anyone of the disclosure or by tampering with evidence. A person found guilty of an offence is liable on summary conviction to imprisonment not exceeding 3 months and/or a fine not exceeding level 5 (currently £5,000), or on indictment to a maximum of 2 years imprisonment or a fine or both.
- 8.9 Failure to adhere to this policy could result in disciplinary action.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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