

Public Document Pack

Gareth Owens LL.B Barrister/Bargyfreithiwr
Chief Officer (Governance)
Prif Swyddog (Llywodraethu)



Contact Officer:
Nicola Gittins on 01352 702345
nicola.gittins@flintshire.gov.uk

To: All Members of the Council

19 January 2022

Dear Sir/Madam

NOTICE OF REMOTE MEETING
FLINTSHIRE COUNTY COUNCIL
TUESDAY, 25 JANUARY, 2022 at 2.00 PM

Yours faithfully

Gareth Owens
Chief Officer (Governance)

Please note: This will be a remote meeting and 'attendance' will be restricted to Council Members.

The meeting will be live streamed onto the Council's website. A recording of the meeting will also be available, shortly after the meeting at <https://flintshire.public-i.tv/core/portal/home>

If you have any queries regarding this, please contact a member of the Democratic Services Team on 01352 702345.

A G E N D A

1 APOLOGIES FOR ABSENCE

Purpose: To receive any apologies.

2 MINUTES (Pages 5 - 16)

Purpose: To confirm as a correct record the minutes of the meeting held on 7th December 2021.

3 DECLARATIONS OF INTEREST

Purpose: To receive any Declarations and advise Members accordingly.

4 CHAIR'S COMMUNICATIONS

Purpose: To receive the communications as circulated.

5 PETITIONS

Purpose: This is an opportunity for Members of Council to submit petitions on behalf of people in their ward. Once received, petitions are passed to the appropriate Chief Officer for action and response.

PRINCIPAL ITEMS OF BUSINESS

6 POLICE AND CRIME COMMISSIONER FOR NORTH WALES

Purpose: The Police & Crime Commissioner (PCC), Mr Andy Dunbobbin, has been invited to the meeting to discuss with the Council the role, impact and operation of the PCC and how the PCC and police and crime plan work with/for Flintshire in partnership.

7 LOCAL GOVERNMENT & ELECTIONS ACT 2021 UPDATE (Pages 17 - 24)

Report of Chief Officer (Governance)

Purpose: To provide an update on implementation of the Local Government & Elections Act 2021.

8 TREASURY MANAGEMENT MID-YEAR REVIEW 2021/22 (Pages 25 - 46)

Report of Corporate Finance Manager

Purpose: To present the draft Treasury Management Mid-Year Review for 2021/22.

ORDINARY ITEMS OF BUSINESS

9 AMENDMENTS TO THE PLANNING CODE OF PRACTICE (Pages 47 - 84)

Report of Chief Officer (Governance)

Purpose: To review the Planning Code of Practice in line with a resolution of the Committee and Council earlier in the year.

10 DECLARATION AND DISPOSAL OF LAND SURPLUS TO REQUIREMENTS (Pages 85 - 88)

Report of Chief Officer (Governance)

Purpose: To agree minor changes to the Constitution to improve transparency and clarity around how land will be declared surplus to requirements.

FOR INFORMATION ONLY

11 PUBLIC QUESTION TIME

Purpose: This item is to receive any Public Questions: none were received by the deadline.

12 QUESTIONS

Purpose: To note the answers to any questions submitted in accordance with County Council Standing Order No. 9.4(A): none were received by the deadline.

13 NOTICE OF MOTION

Purpose: This item is to receive any Notices of Motion: none were received by the deadline.

Please note that there may be a 10 minute adjournment of this meeting if it lasts longer than two hours

Procedural Note on the conduct of meetings

The Chair will open the meeting and introduce themselves.

The meeting will be attended by a number of Councillors. Officers will also be in attendance to present reports, with Democratic Services officers acting as hosts of the meeting.

All attendees are asked to ensure their mobile phones are switched off and that any background noise is kept to a minimum.

All microphones are to be kept muted during the meeting and should only be unmuted when invited to speak by the Chair. When invitees have finished speaking they should go back on mute.

To indicate to speak, Councillors will use the chat facility or use the electronic raise hand function. The chat function may also be used for questions, relevant comments and officer advice and updates.

The Chair will call the speakers, with elected Members addressed as 'Councillor' and officers addressed by their job title e.g. Chief Executive' or name. From time to time, the officer advising the Chair will explain procedural points or suggest alternative wording for proposals, to assist the Committee.

If and when a vote is taken, the Chair will explain that only those who oppose the proposal(s), or who wish to abstain will need to indicate, using the chat function. The officer advising the Chair will indicate whether the proposals are carried.

If a more formal vote is needed, this will be by roll call – where each Councillor will be asked in turn (alphabetically) how s/he wishes to vote.

At County Council and Planning Committee meetings speaker's times are limited. A bell will be sounded to alert that the speaker has one minute remaining.

The meeting will be live streamed onto the Council's website. A recording of the meeting will also be available, shortly after the meeting at <https://flintshire.public-i.tv/core/portal/home>

FLINTSHIRE COUNTY COUNCIL
7TH DECEMBER 2021

Minutes of the meeting of Flintshire County Council held as a remote attendance meeting on Tuesday, 7th December 2021.

PRESENT: Councillor Joe Johnson (Chair)

Councillors: Janet Axworthy, Glyn Banks, Haydn Bateman, Marion Bateman, Sean Bibby, Chris Bithell, Derek Butler, Clive Carver, Geoff Collett, Bob Connah, Dave Cox, Paul Cunningham, Robert Davies, Ron Davies, Adele Davies-Cooke, Chris Dolphin, Rosetta Dolphin, Andy Dunbobbin, Mared Eastwood, Carol Ellis, David Evans, Veronica Gay, George Hardcastle, David Healey, Gladys Healey, Patrick Heesom, Andy Hughes, Dave Hughes, Alasdair Ibbotson, Paul Johnson, Christine Jones, Richard Jones, Tudor Jones, Colin Legg, Brian Lloyd, Richard Lloyd, Mike Lowe, Dave Mackie, Hilary McGuill, Billy Mullin, Ted Palmer, Mike Peers, Vicky Perfect, Neville Phillips, Ian Roberts, Tim Roberts, Kevin Rush, Tony Sharps, Aaron Shotton, Paul Shotton, Ralph Small, Ian Smith, Owen Thomas, Martin White, Andy Williams, David Wisinger and Arnold Woolley.

IN ATTENDANCE:

Chief Executive, Chief Officer (Governance), Chief Officer (Planning, Environment and Economy), Chief Officer (Streetscene and Transportation), Chief Officer (Social Services), Corporate Finance Manager, Head of Internal Audit, Principal Accountant, Head of Democratic Services, Democratic Services Team Leader and Democratic Services Officers.

APOLOGIES FOR ABSENCE:

Councillors: Mike Allport, Bernie Attridge, Sian Braun, Jean Davies, Ian Dunbar, Cindy Hinds, Ray Hughes, Rita Johnson and Michelle Perfect.

57. MINUTES

The minutes of the meeting held on 19th October 2021 were submitted.

RESOLVED:

That the minutes be approved as a correct record.

58. DECLARATIONS OF INTEREST

None were received.

59. CHAIR'S COMMUNICATIONS

The Chair explained that his communications had been emailed to all Members the previous day. He expressed his sorrow, on behalf of the Council, to Councillor Sian Braun whose father had sadly passed away and conveyed condolences.

He also read out a letter from Colin Everett thanking colleagues for the kind words, gifts and cards following his departure.

60. PETITIONS

None were submitted.

61. CAPITAL STRATEGY 2022/23 – 2024/25

The Corporate Finance Manager introduced the report which sought approval of the Council's Capital Strategy. It explained the requirement for the Strategy, its key aims and the contents of each of its sections.

Under the Prudential Code for Capital Finance in Local Authorities (the Prudential Code), authorities were required to set a range of Prudential Indicators (PI's). The Capital Strategy included details of the Council's Prudential Indicators for 2022/23 – 2024/25.

The key aims of the Strategy were to explain the ways in which the Capital Programme was developed and funded, the potential impact it had on the Council's Medium Term Financial Strategy (MTFS) and the way in which it related to the Council's Treasury Management Strategy. The Strategy was an overarching document and referred to other documents such as the Capital Programme, the Treasury Management Strategy and the Minimum Revenue Provision Policy. The Strategy was split into a number of sections which were outlined in the report.

The report had been submitted to Corporate Resources Overview and Scrutiny Committee and Cabinet and no issues had been raised.

The recommendations in the report were moved by Councillor Paul Johnson and seconded by Councillor Mullin.

Councillor Paul Johnson thanked officers for all of the work undertaken on the report which demonstrated the Strategy was well funded, proven and sustainable.

RESOLVED:

- (a) That the Capital Strategy be approved; and
- (b) That the following be approved:
 - The Prudential Indicators for 2022/23 – 2024/25 as detailed within Tables 1, and 4-7 inclusive of the Capital Strategy; and
 - Delegated authority be granted for the Corporate Finance Manager to effect movements between the separately agreed limits within the authorised limit for external debt and the operational boundary for external debt (Table 6 of the Capital Strategy)

62. CAPITAL PROGRAMME 2022/23 – 2024/25

The Corporate Finance Manager and Principal Accountant introduced the report which presented the proposed Capital Programme for the period 2022/23 – 2024/25 for approval, supported by a PowerPoint presentation.

The Council's Capital Programme covered investment in assets for the long term to enable the delivery of high quality and value for money public services. Assets included buildings (such as schools, care homes and day centres), infrastructure (such as highways, IT networks and waste transfer stations) and assets not owned by the Council (such as works to improve and adapt private sector homes). The proposed capital investments outlined within the report were closely aligned to portfolio service business plans and the Council Plan.

The Council had limited capital resources from Welsh Government (WG) to support Council priorities, needs and liabilities. However, it had the powers to fund Capital schemes by borrowing – this was temporary and ultimately, the cost and repayment of any borrowing was charged to the Council's revenue budget. Schemes funded by borrowing were carefully considered due to the long-term impacts on the Council's revenue budget.

The Council Fund Capital Programme was divided into three sections:

1. Statutory / Regulatory – allocations to cover regulatory and statutory works.
2. Retained Assets – allocations to fund infrastructure works necessary to ensure service and business continuity.
3. Investment – allocations to fund works necessary to ensure service and business continuity.

Details of each of the tables within the report were provided, which were part of the presentation, and supported by explanations in the report on each table.

Information was also provided on potential future schemes, which were also detailed in the report.

The report had been submitted to Corporate Resources Overview and Scrutiny Committee.

The recommendations in the report were moved by Councillor Ian Roberts and seconded by Councillor Paul Johnson.

Councillor Roberts welcomed the report and said it was a pleasure to recommend the proposed capital programme for approval, saying it was a collective capital programme for the whole Council. The programme was ambitious and demonstrated that as a Council, there was commitment to caring for the vulnerable. He welcomed the schemes outlined for schools, along with the replacement of Ysgol Croes Atti which would be the first brand new Welsh Medium Primary School in Flintshire to be built as a carbon neutral structure. He commented on the commitment to Theatr Clwyd and the new archive project, and welcomed the spend on Standard Yard Waste Transfer Station which would ensure that the Council could achieve the 70% target set by WG for recycling. He sought support from Members

across the chamber for the extensive range of commitments planned for the whole of the county.

Councillor Peers also welcomed the report which showed commitment to the whole of the county. On school building works, he asked how the backlog of toilet upgrades was being addressed, and whether Estyn was satisfied with the position. The Chief Executive explained that alongside the programme of toilet upgrades, modernisations were also carried out under refurbishment programmes, as well as schools contributing towards upgrades from their own budgets. The backlog of works was often reflected as a Health and Safety issue in Estyn inspections of schools.

On the joint archive facility, Councillor Peers asked if the current archive building in Hawarden would be sold as a capital receipt. The Chief Executive explained that a number of studies were underway to investigate if the current building could be repurposed in the future. He added that if any buildings were sold, the capital receipt would go into the corporate pot for the wider capital programme.

Councillor Peers asked, in relation to Review of Industrial Estates, if business rates were still being paid on a building that had previously been available for lease, but had since become unfit for use. The Chief Executive explained that, where possible, unfit buildings would be repurposed however there was a need to understand the market and then adopt the most appropriate strategy. Where appropriate, unfit buildings would be demolished if they could not be repurposed.

Councillor Richard Jones thanked the Chief Executive and finance colleagues for the movement of £1.2m from retained assets into the statutory / regulatory section, which had been requested at Corporate Resources Overview and Scrutiny Committee.

In response to a question from Councillor Sharps on the County Hall campus in Mold, the Chief Executive explained that master planning had commenced but was not yet complete. When that work was complete, information would be shared with all Members.

In summing up, Councillor Roberts confirmed that there would be full discussion with all Members on the County Hall campus. He thanked WG for the amount of financial resources they had placed directly into school budgets, specifically for school improvements, for which he was grateful. On the current archive facility in Hawarden, he explained that discussions had taken place with the local Member and plans were to redevelop and enhance the current building.

RESOLVED:

- (a) That the allocations and schemes in Table 3 for the Statutory/Regulatory and Retained Assets sections of the Council Fund Capital Programme 2022/23 – 2024/25 be approved;
- (b) That the schemes included in Table 4 for Investment section of the Council Fund Capital Programme 2022/23 – 2024/25 be approved;

- (c) That it be noted that the shortfall in funding of schemes in 2022/23, 2023/24 and 2024/25 in Table 5 at this point in the approval process allows flexibility. Options including a combination of future capital receipts, alternative grants (if available), prudential borrowing or the re-phasing of schemes will be considered during 2022/23, and included in future Capital Programme reports; and
- (d) That the schemes included in Table 6 be approved for the specifically funded section of the Council Fund Capital Programme which will be funded in part through borrowing.

63. LICENSING ACT 2003 DRAFT STATEMENT OF LICENSING POLICY DECEMBER 2021 – DECEMBER 2026

The Chief Officer (Planning, Environment and Economy) introduced the report and explained that this was the fifth Statement of Licensing Policy to be issued which outlined the expectation of the Licensing Authority in relation to applicants. It also detailed what applicants and service users might expect from the Licensing Authority.

Officers had undertaken a review of the current policy, taking into account any relevant changes in legislation, guidance and good practice. The review was undertaken in partnership with other North Wales Local Authorities as part of an ongoing effort to achieve consistency, where possible, across the region.

The proposed Draft Statement of Licensing Policy for the period December 2021 – December 2026 was appended to the report. The final draft showed the changes made by officers prior to consultation in red, and the changes made since the consultation in blue. A summary of the changes was provided in the report.

Two responses had been received in respect of the consultation, from a representative of Public Health Wales, and a representative for Premises Licence Holders. Details of those responses were also appended to the report.

The recommendations in the report were moved by Councillor Sharps and seconded by Councillor Small.

Councillor Sharps expressed his thanks to the Licensing Team for their continued efforts during the pandemic to continue to ensure that customers remained supported. He thanked them for adapting the way in which they worked to ensure service delivery was maintained which was welcomed by all of their clients.

In response to a question from Councillor Bithell, the Licensing Team Leader explained that there was an error in the appendix at 3.19, and clarified that the North Wales Fire and Rescue Service was not required to consult on any conditions it placed in relation to fire safety matters.

RESOLVED:

- (a) That the Draft Statement of Licensing Policy, spanning a five year period up until December 2026, be adopted; and
- (b) Any decision to make changes to the policy during the five year term be delegated to the Licensing Committee.

64. TREASURY MANAGEMENT ANNUAL REPORT

The Corporate Finance Manager introduced the report and explained that the Treasury Management Annual Report was required by the Council's Financial Procedure Rules to be reviewed by the Governance and Audit Committee. It was considered at their meeting on 28th July 2021, and at Cabinet on 21st September 2021.

A summary of the key points on the Annual Report was detailed in the covering report.

The recommendation in the report was moved by Councillor Paul Johnson and seconded by Councillor Chris Dolphin.

Councillor Paul Johnson thanked all officers involved in the preparation of the report, and for presenting it at Governance and Audit Committee and Cabinet. He explained that the major influence on the UK economy in 2020/21 was the Covid-19 pandemic. The Bank of England cut the Bank Rate to 0.1% and the UK Government provided a range of fiscal stimulus measures to support the economy through the unprecedented time. Section 2 of the report provided a full economic and interest rate review for 2020/21.

As Chair of the responsible Committee scrutinising the Treasury Management Strategy and Policies, Councillor Dolphin confirmed that it had been considered by Governance and Audit Committee on 28th July where it was supported.

In response to a question from Councillor Peers, the Corporate Finance Manager explained that North East Wales (NEW) Homes did not have the same access to Public Works Loan Board (PWLB) so the Council borrowed on their behalf and included an additional narrow margin which provided an income stream for the authority. In response to a further question on interest rates, the Corporate Finance Manager said that the quarterly monitoring reports would provide full detailed information. On investment activity, Councillor Peers asked what the return on investments was. The Corporate Finance Manager explained that the aim was to always maximise investment opportunities and that best opportunities were considered at the time.

RESOLVED:

That the Treasury Management Annual Report for 2020/21 be approved.

65. REVIEW OF POLITICAL BALANCE

The Chief Officer (Governance) introduced the report and explained that the Council was required under the Political Balance Rules contained in the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 as amended, to review the Council's political balance calculations following the by-election in Penyffordd on 7th October 2021.

The new Councillor in that ward, alongside Councillor Cindy Hinds as the other ward Member, was in the Labour Group, whereas the previous incumbent was a member of the New Independent Group. The calculated entitlement to seats indicated that the Labour Group would gain two places and the New Independent Group would lose two places. It was possible to accommodate those changes without impacting other groups.

The Council's political groups and the number of Members on each was as follows:

Labour	35
Independent Alliance	16
Conservative	6
Liberal Democrats	6
New Independents	3
Independents	3
Non-aligned member	1

The political balance calculation was appended to the report. It was one possible lawful allocation and other possible allocations may exist.

During the review of the Committee structure in 2019, Group Leaders, on behalf of their Members, agreed that it was preferable and beneficial to try and allocate seats in line with Councillors' areas of interest if possible. Where it was possible within the rules, the allocation of seats was therefore influenced by known areas of interest/preference.

The Labour Group's entitlement to an additional seat on the Constitution and Democratic Services Committee was clear from the calculations. The issues arose with the second seat. On this occasion, the apparent entitlement to seats would suggest that the New Independent Group should lose a seat on the Governance and Audit Committee to the Labour Group. However, that seat was occupied by a Councillor with long experience and a keen interest in the work of that Committee. In order to fulfil the aspiration to allocate seats based on interest, it was suggested that the Labour Group should instead be allocated an extra seat on the Education, Culture and Youth Overview and Scrutiny Committee. That would result in that group being slightly "over-represented" on that Committee but it was a possible lawful allocation of seats.

As there was a possible allocation that would comply with both rules iii and iv, the legislation required that the recommended allocation could only be approved if no Councillor voted against it.

The recommendations in the report were moved by Councillor Ian Roberts and seconded by Councillor Peers.

RESOLVED:

- (a) That the seats on Committees be allocated in accordance with political balance as shown in Appendix A; and
- (b) That any changes to nominees be notified to the Democratic Services Manager as soon as possible.

66. GOVERNANCE AND AUDIT COMMITTEE ANNUAL REPORT

The Internal Audit Manager introduced the report and explained that, in accordance with CIPFA's best practice 'Audit Committees – a Practical Guidance for Local Authorities 2018', there was a requirement for the Committee to be held to account by the Council for the work it undertook. To support that, the Committee's Terms of Reference were amended in 2018 to include a requirement for the Committee to prepare a yearly report to the Council on its achievements and to demonstrate its accountability.

The Governance and Audit Committee's Annual Report for 2020/21 was appended to the report and provided the Council with the necessary information to meet the requirement.

A significant part of the Committee's role was to demonstrate its accountability, which should be considered under the following three aspects:

1. Supporting the Council's accountability to the public and stakeholders
2. Supporting accountability within the Council
3. Holding the Governance and Audit Committee to account

The Governance and Audit Committee's Annual Report had been presented and endorsed by the Governance and Audit Committee on 17th November 2021.

The recommendation in the report was moved by Councillor Chris Dolphin and seconded by Councillor Mullin.

Councillor Chris Dolphin thanked officers of the Council for the preparation of the report.

RESOLVED:

That the Governance and Audit Committee's Annual Report for 2020/21 be approved.

67. OVERVIEW AND SCRUTINY ANNUAL REPORT 2020/21

The Head of Democratic Services presented the report and explained that the Overview and Scrutiny Annual Report was drafted on an annual basis by the officer

team, in consultation with the relevant Committee Chairs. The draft was then submitted to the Constitution and Democratic Services Committee for Members' comments before being submitted to Council for formal approval.

The Annual Report provided the Council with assurance that the Overview and Scrutiny function was fulfilling its constitutional role.

The Head of Democratic Services thanked all Members and officers for their involvement in the Overview and Scrutiny process over the last year.

The recommendation in the report was moved by Councillor Phillips and seconded by Councillor Mullin.

Councillor David Healey thanked officers for their work undertaken during the pandemic to ensure that the Overview and Scrutiny process continued. He particularly welcomed the live streaming of all meetings which helped the public to have access to local democracy.

Councillor Marion Bateman thanked officers for the help and support given to her whilst she was Chair of the Council which had been during the pandemic.

RESOLVED:

That the Overview and Scrutiny Annual Report for 2020/21 be received.

68. PUBLIC QUESTION TIME

None were received.

69. QUESTIONS

None were received.

70. QUESTIONS FROM MEMBERS ON COMMITTEE MINUTES

None were received.

71. NOTICE OF MOTION

Councillor Paul Johnson spoke in support of the Labour Group Notice of Motion, which was:

“That this Council supports the calls for the UK Government to reinstate the £20 per week enhancement to Universal Credit and to extend this support to legacy benefits. This Council also expresses its deep regret that the UK government did not apply this uplift to legacy benefits during the pandemic. The Council recognises and welcomes the changes made to Universal Credit in the budget especially to the taper rate but expresses its concerns that this will not impact people unable to work or legacy benefit claimants.

Council calls on the Leader to write to our two local Members of Parliament to invite their support for this motion”.

He provided details of the impact over a 12 month period which was also at a time where the country was experiencing a rise in fuel bills and inflation. He added that in Flintshire, a high percentage of those claiming Universal Credit were people who were in work. A taper rate had been introduced but he said this would not help those who were not in any form of employment.

Councillor Dave Hughes seconded the Notice of Motion.

Councillor Ibbotson supported the Notice of Motion and provided details of his own personal situation in relation to Universal Credit.

Councillor Aaron Shotton also supported the Notice of Motion but felt it would have been more timely prior to the parliamentary debate on Universal Credit in the summer. He added that the MP for Alyn and Deeside supported the sentiments of the motion and he had expressed his concerns to the UK Government when they had proposed to remove the £20 uplift.

Councillors Bithell and Butler also spoke in support of the Notice of Motion. The requisite 10 Members indicated in the chat to request a recorded vote.

The Chief Officer (Governance) read out names in order and the result of the recorded vote is shown below:

For the Notice of Motion:

Councillors: Axworthy; Banks; Haydn Bateman; Marion Bateman; Bibby; Bithell; Butler; Carver; Collett; Cox; Cunningham; Rob Davies; Ron Davies; Davies-Cooke, Chris Dolphin; Rosetta Dolphin; Dunbobbin; Eastwood; Evans; Gay; Hardcastle; David Healey; Gladys Healey; Heesom; Andy Hughes; Dave Hughes; Ibbotson; Joe Johnson; Paul Johnson; Christine Jones; Richard Jones; Tudor Jones; Richard Lloyd; Lowe; Mackie; McGill; Mullin; Palmer; Peers; Vicky Perfect; Phillips; Ian Roberts; Tim Roberts; Rush; Sharps; Aaron Shotton; Paul Shotton; Small; Smith; Owen Thomas, White; Williams; Wisinger and Woolley.

Against the Notice of Motion:

None.

Abstentions:

None.

The Notice of Motion was unanimously supported.

Councillor Woolley submitted the following Notice of Motion:

“That this County Council takes note of and fully supports the aims of the Local Electricity Bill which was submitted to Parliament on 10th June of this year with support of 150 cross-party MPs and organisations such as NALC. The Eden Project, Forum for the Future and Friends of the Earth as well as 43 County and Local

Authorities. Council wishes to urge progress into Enactment form as that could enable:

- 1) producers to sell electricity locally without going through the wholesale market and therefore having more control over the price; or
- 2) local opportunities such as the Milwr Tunnel Scheme to become viable and proceed.

Council thanks the presently 262 MPs of all parties who have signed up to support the Bill and urges all those MPs within the county who have not yet done so to kindly sign up to support the Bill”.

Councillor Woolley spoke in support of his Notice of Motion, providing details of the Parliamentary inquiry earlier in the year on the supply of electricity and the generation of local power. He sought support for Flintshire County Council to be added to the 100+ Councils supporting the bill on its progression through Parliament.

In seconding the Notice of Motion, Councillor Peers said that the option to purchase electricity locally was not available as energy had to first be sold to utility companies for customers to then purchase from those companies.

In response to a question from Councillor Carver, the Chief Officer (Planning, Environment and Economy) explained that there were rules and regulations about the movement of electricity. If Members would like more information he could provide that.

Councillor Ibbotson moved the following amendment to the Notice of Motion, which was seconded by Councillor Bibby:

Line one: omit word "fully" and replace with "cautiously".

Delete the last paragraph and replace with "Council expresses its concern at section 2, paragraph 3 subsection c of the local electricity bill which extends the scheme to projects emitting, at 350g of CO2/KWh, nearly double the amount of carbon emissions as the UK average at 181g/KWh in 2020. Council is further concerned at Section 3, paragraph 4, which would mean that the Council has no authority to prevent ill-advised projects from going ahead. Council is concerned that this bill as drafted could lead to higher carbon emissions and higher air pollution in our communities, and urges MPs supporting this bill in Parliament to amend the bill accordingly."

Councillors Woolley and Peers accepted the amendment and when put to the vote, the Notice of Motion, as amended, was carried.

RESOLVED:

- (a) That the Notice of Motion from the Labour Group be supported; and

- (b) That the Notice of Motion from Councillor Woolley, including the amendment by Councillor Ibbotson, be supported.

72. RECOGNITION OF SERVICE BY THE RETIRING HEAD OF DEMOCRATIC SERVICES

The Chair introduced the item and explained that Robert Robins had served 25 years at Flintshire County Council. Prior to local government reorganisation Robert started his career as a graduate trainee with Delyn Borough Council on 28th January 1985 before moving to Alyn and Deeside District Council then to Flintshire County Council undertaking a number of different roles.

The Chair invited Robert to receive a gift that had been bought with donations given from Members and officers.

Members across the Chamber, and the Chief Executive, paid tribute to Robert and best wishes for his retirement. All commented on how helpful, kind, trustworthy, supportive, polite and encouraging he was, and thanked him for all of the advice given to them over the years and for his friendship. He was a true gentleman and would be missed.

73. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no members of the press or public in attendance.

(The meeting started at 2.00 p. m. and ended at 4.25 p.m.)

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Chair



FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Tuesday 25 th January 2022
Report Subject	Local Government & Elections (Wales) Act 2021-Update
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

The Local Government and Elections (Wales) Bill was passed by the Senedd on 18th November 2020. It received Royal Assent, and became an Act at the end of January 2021.

As explained in previous reports to Council, the Act is a significant piece of legislation which encompasses a number of issues. It is large - It has 170 sections and 14 schedules- which reflects its lengthy gestation period. Some aspects of it reflect what Flintshire, as a best practice authority is already doing. For other parts, your officers will do the necessary work to implement them within the prescribed timescales.

Much of the Act has been brought into effect, although some key provisions will be implemented from 5th May 2022, to correspond with the date of the next Local Government Elections.

An officer working group has been established to ensure the Act is implemented in full. It will report from time to time to the Constitution & Democratic Services Committee and to Council.

RECOMMENDATIONS

1	That Council receives and is assured by this briefing report.
2	That Council notes the constitutional and other implications of the Act, and that these are being worked on by the Local Government & Elections Act 2021 Implementation Working Group of officers, led by the Chief Officer (Governance).

REPORT DETAILS

1.00	IMPLEMENTING THE LOCAL GOVERNMENT & ELECTIONS (WALES) ACT 2021
1.01	The Local Government and Elections (Wales) Act received Royal Assent, and became an Act at the end of January 2021. We gave an undertaking to keep Members apprised of the implementation of this complicated piece of legislation, through reports to Council, Constitution & Democratic Services Committee or Governance & Audit Committee, as considered appropriate.
1.02.	Members will recall that the Act has been/will be implemented in stages. So far 3 different implementation orders have been passed. These which bring the legislation into force on various dates between April 2021 and May 2022. A comprehensive list of the statutory duties that apply to councils is attached at Appendix 1. That appendix also shows our progress on implementing the requirement.
1.03	<p>Relevant elements of the Act have already been implemented in Flintshire, or are being worked on, so that they will be ready for May 2022, when a number of changes will be required.</p> <ul style="list-style-type: none"> • The 2021 elections were administered in accordance with legislative changes (for example, enfranchisement of 16 and 17 year olds). • We have changed the name of the Audit committee and amended its terms of reference as the Governance & Audit Committee. • We have employed our new chief executive with the statutory role of 'chief executive', rather than as 'head of paid service' • We are working on our Corporate self-assessment • We have published 'official' addresses for councillors (we commenced this work in late 2019, primarily as a wellbeing issue) • We have been holding our meetings remotely since 2020 and publishing our notices of meetings and agendas electronically <p>The development of an interim multi-location meetings policy (Constitution & Democratic Services Committee considered this at its meeting on 17th November; the actual policy will be determined by the new Council in the autumn of 2022).</p>
1.04	<p>We are currently working towards</p> <ul style="list-style-type: none"> • Publication of the Constitution and Constitution guide (Members will be aware that we have published our Constitution for several years) • Developing our Public Participation Strategy • Development of our Petitions scheme (to go to Constitution & Democratic Services committee in January 2022). • An interim Multi-location Meetings policy (on the agenda for this meeting as a separate report).
1.05	As Welsh Government publishes further commencement orders, their implications will be assessed and Members are assured that work will commence on implementation. Some aspects of the Act are amorphous: the role of assistants to the executive being a case in point. We, along with

	the rest of the Welsh local government community will need further detail from Welsh Government before we are able to do any work on them.
1.06	<p>Our implementation of the Act is co-ordinated through a team of officers, as follows:</p> <p>Chief Officer (Governance) – chair Head of Democratic Services Internal Audit, Performance and Risk Manager Legal Services Manager Senior Manager Human Resources & Organisational Development Strategic Performance Advisor.</p>

2.00	RESOURCE IMPLICATIONS
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2.01	None.
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3.00	CONSULTATIONS REQUIRED / CARRIED OUT
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3.01	This is an information report and thus not for consultation.
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4.00	RISK MANAGEMENT
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4.01	Not applicable.
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5.00	APPENDICES
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5.01	Local Government & Elections (Wales) Act 2021- List of updates.
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6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
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6.01	<p>Report of the Chief Executive and Chief Officer (Governance) on the Local Government & Elections (Wales) Bill. Council, 28th January 2020 and resultant minute. http://modgov:9070/documents/g4472/Public%20reports%20pack%2028th-Jan-2020%2014.00%20Flintshire%20County%20Council.pdf?T=10</p> <p>Report of the Chief Executive and Chief Officer (Governance) on the local government & Elections (Wales) Bill. Council 26th January 2021 and resultant minute. http://modgov:9070/documents/g4841/Public%20reports%20pack%2026th-Jan-2021%2014.00%20Flintshire%20County%20Council.pdf?T=10</p>
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	<p>Report of the Chief Officer (Governance) to Council 1st April 2021 and resultant minute. http://modgov:9070/documents/g4843/Public%20reports%20pack%2001st-Apr-2021%2014.00%20Flintshire%20County%20Council.pdf?T=10</p> <p>Contact Officer: Gareth Owens , Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk</p>
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7.00	GLOSSARY OF TERMS
7.01	None.

Appendix A – Local Government & Elections (Wales) Act 2021- Update

Date of Implementation	Elements of the Act	Progress Status RAG	Comments
1 April 2021	<ul style="list-style-type: none"> ▪ Performance & Self-Assessment (sections 89- 91) 	A	Model approach for Self-Assessment has been agreed and initial work has been carried out in preparation of first iteration this year.
	<ul style="list-style-type: none"> ▪ Change of name of Audit Committee to Governance & Audit Committee (section 115) 	G	
	<ul style="list-style-type: none"> ▪ Mergers and restructuring of principal areas (Part 7) 		We will respond as/when the powers under these sections are exercised
	<ul style="list-style-type: none"> ▪ Information Sharing (Section 159) 		
	<ul style="list-style-type: none"> ▪ Directions under section 48 of the 2013 Act (section 164) 		
	<ul style="list-style-type: none"> ▪ Initial review of Electoral Arrangements (Schedule 1) 		
	<ul style="list-style-type: none"> ▪ Consequential Amendments to Renaming of Principal Council Audit Committees (Schedule 10) 	G	
	<ul style="list-style-type: none"> ▪ Transition Committees of Merging councils and restructuring councils (Schedule 11) 		We will respond as/when the powers under these sections are exercised
<ul style="list-style-type: none"> ▪ Restraints on Transactions and recruitment etc. by Merging and Restructuring councils (Schedule 12) 			
1 May 2021	<ul style="list-style-type: none"> ▪ Remote attendance (enabling us to continue 'screen based' meetings originally permitted under emergency regulations) (section 47) 	G	
	<ul style="list-style-type: none"> ▪ Electronic Notices of Meetings (again enabling us to continue with something originally permitted under emergency regulations) (section 49) 	G	
	<ul style="list-style-type: none"> ▪ Schedule 4 (Notice of local Authority Meetings, Access to Documents and Attendance at Meetings). 	G	

Appendix A – Local Government & Elections (Wales) Act 2021- Update

Date of Implementation	Elements of the Act	Progress Status RAG	Comments
1 November 2021	<ul style="list-style-type: none"> ▪ The general power of competence for principal Councils. 	G	
17 November 2021	<ul style="list-style-type: none"> ▪ Qualification requirements to stand as a candidates at local elections (section 19) 	G	
	<ul style="list-style-type: none"> ▪ Restating some of the disqualification regime which applies to local government elections (section 20). 	G	
	<ul style="list-style-type: none"> ▪ Addition of a new category which disqualifies individuals who are subject to the notification requirements of, or an order under Parts 2 of the Sexual Offences Act 2003 (section 20). 	G	
1 April 2022	<ul style="list-style-type: none"> ▪ Annual reports by Community Councils (section 52) 		For information only
5 May 2022 Principal Councils	<ul style="list-style-type: none"> ▪ Public participation duty including duty to prepare a public participation strategy (sections 39-41) 	A	
	<ul style="list-style-type: none"> ▪ Duty to establish a petitions scheme (section 42) 	A	
	<ul style="list-style-type: none"> ▪ Duty to publish official addresses (section 43) 	G	
	<ul style="list-style-type: none"> ▪ Duty to have regard to any guidance issued by the Welsh Ministers under Chapter 2 of Part 3 (section 44) 	G	
	<ul style="list-style-type: none"> ▪ Duty to publish a constitution and constitution guide (section 45) 	A	The national model constitution is being revised and a model plain language guide is being prepared by Lawyers in Local Government and the WLGA.
	<ul style="list-style-type: none"> ▪ Duty to make arrangements to enable the electronic broadcasting of meetings (section 46) 	G	
	<ul style="list-style-type: none"> ▪ Appointment of a Chief Executive (section 54) 	G	

Appendix A – Local Government & Elections (Wales) Act 2021- Update

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Date of Implementation	Elements of the Act	Progress Status RAG	Comments
	<ul style="list-style-type: none"> ▪ Reconsideration of remuneration following direction by the Welsh Ministers (section 56) 		
	<ul style="list-style-type: none"> ▪ Appointment of assistants to executive (section 57) 		We will respond as/when the powers under these sections are exercised
	<ul style="list-style-type: none"> ▪ Job sharing (section 58) 		
	<ul style="list-style-type: none"> ▪ Duty of political Group Leaders in relation to standards of conduct (section 62) 	A	Under development jointly by Group Leaders and the Standards Committee.
	<ul style="list-style-type: none"> ▪ Duty of Standards Committee to make annual report (section 63) 	A	Under development jointly by Group Leaders and the Standards Committee.
	<ul style="list-style-type: none"> ▪ Making information available to Overview and Scrutiny Committees (section 65) 	A	
	<ul style="list-style-type: none"> ▪ Power to require authorities to appoint joint Overview and Scrutiny 	A	
5 May 2022 Committees (section 66)	<ul style="list-style-type: none"> ▪ Panel Performance Assessment (Sections 92 and 93) 	A	
	<ul style="list-style-type: none"> ▪ Governance and Audit committees Memberships and Proceedings (Chapter 2 of part 6). 	A	<ul style="list-style-type: none"> ▪ Name and TOR of the then Audit Committee has been completed. ▪ Recruitment for a lay member is currently in progress

Progress Status Criteria

RAG	Criteria
R	Not Started / Not confident the action will be completed on time
A	In progress and will be completed on time
G	Completed

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FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Tuesday 25 th January 2022
Report Subject	Treasury Management Mid-Year Report 2021/22
Report Author	Corporate Finance Manager

EXECUTIVE SUMMARY

This report presents the Treasury Management Mid-Year Report 2021/22 for approval.

A summary of the key points are set out in the report.

At a meeting of the Governance and Audit Committee on 17th November 2021 Members reviewed the Mid-Year report and recommended it to Cabinet.

Cabinet received the Mid-Year report on 18th January 2022 and recommended to Council for approval.

RECOMMENDATIONS

1	Council approves the Treasury Management Mid-Year Report 2021/22.
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REPORT DETAILS

1.0	EXPLAINING THE MID YEAR REPORT
1.01	On 16th February 2021, the Council approved the Treasury Management Strategy 2021/22, following the recommendation of the Cabinet and consideration by the Audit Committee.
1.02	<p>The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to Cabinet, and for execution and administration of treasury management decisions to the Corporate Finance Manager, who acts in accordance with the Council's Treasury Management Policy Statement, Strategy and Practices.</p> <p>The Council has nominated Governance and Audit Committee to be responsible for ensuring effective scrutiny of Treasury Management Strategy and Policies.</p>
1.03	<p>The Treasury Management Mid-Year Report for 2021/22 is attached as Appendix 1. The Mid-Year Report reviews the activities and performance of the treasury management operations during the period 1st April to 30th September 2021.</p> <p>As required by the Council's Financial Procedure Rules, this Mid-Year Report was reviewed by the Governance and Audit Committee on 17th November 2021 and Cabinet on 18th January 2022. The Governance and Audit Committee had no matters to draw to the Cabinet's or Council's attention</p>
1.04	<p><u>Summary of Key Points</u></p> <p>The economic recovery from the coronavirus pandemic continued to dominate the first half of the financial year.</p> <p>The Bank of England have maintained the base rate at 0.1% since March this year, and the potential use of negative interest rates has not been ruled out.</p> <p>In the light of recent meetings of the Monetary Policy Committee, the Council's treasury advisor Arlingclose expects the Bank Rate to rise slightly in the short-term but continue to remain relatively low in the longer-term.</p>
1.05	One PWLB loan of £0.582m was taken out during the period and was on-lent to NEW Homes, the Council's wholly owned subsidiary, to fund the building of affordable homes in Flintshire. The Council continues to regularly review the position on its long-term borrowing requirement in conjunction with Arlingclose. Short term borrowing was undertaken as necessary in accordance with the 2021/22 borrowing strategy. The average interest rate for short-term borrowing undertaken in the period was 0.09%. Section 4 provides more information on borrowing and debt management during the period.

1.06	Interest rates on investments have been very low throughout the period, the average rate of return for the period being 0.013%. Section 5 of the report provides more information on the Council's investments.
1.07	The treasury function has operated fully within the limits detailed in the Treasury Management Strategy 2021/22.
1.08	<u>Treasury management advisory services – tender</u> In September 2021 Arlingclose Ltd were reappointed as the Council's advisors for a period of 3 years, following a competitive tendering exercise. This period can be extended a further 2 years as per the contract terms to September 2026.

2.00	RESOURCE IMPLICATIONS
2.01	Financial implications are addressed in the report; no other resource implications directly as a result of this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	Arlingclose Ltd, being the Council's treasury management advisors.

4.00	RISK MANAGEMENT
4.01	Risk Management directly addressed within the report and appendices including identification of risks and measures to mitigate likelihood and impact of risks identified.

5.00	APPENDICES
5.01	Appendix 1 - Treasury Management Mid-Year Report 2021/22

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	Contact Officer: Chris Taylor - Strategic Finance Manager Telephone: 01352 703309 E-mail: Christopher.taylor@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Authorised Limit: A statutory limit that sets the maximum level of external debt for the Council.

Balances and Reserves: Accumulated sums that are held, either for specific future costs or commitments (known as earmarked) or generally held to meet unforeseen or emergency expenditure.

Bank Rate: The official interest rate set by the Bank of England's Monetary Policy Committee and what is generally termed at the "base rate".

Basis Point: A unit of measure used in finance to describe the percentage change in the value or rate of a financial instrument. One basis point is equivalent to 0.01% (1/100th of a percent). In most cases, it refers to changes in interest rates and bond yields. For example, if interest rates rise by 25 basis points, it means that rates have risen by 0.25% percentage points.

Bond: A certificate of debt issued by a company, government, or other institution. The bond holder receives interest at a rate stated at the time of issue of the bond. The price of a bond may vary during its life.

Capital Expenditure: Expenditure on the acquisition, creation or enhancement of capital assets.

Capital Financing Requirement (CFR): The Council's underlying need to borrow for capital purposes representing the cumulative capital expenditure of the local authority that has not been financed.

Certificates of Deposits (CD's): A savings certificate entitling the bearer to receive interest. A CD bears a maturity date, a specified fixed interest rate and can be issued in any denomination. CDs are generally issued by commercial banks. The term of a CD generally ranges from one month to five years.

Consumer Price Index (CPI): The UK's main measure of inflation (along with Retail Price Index or 'RPI') The Monetary Policy Committee of the Bank of England set the Bank Rate in order to try and keep CPI at or close to the target set by the Government. The calculation of CPI includes many items of normal household expenditure but excludes some items such as mortgage interest payments and Council Tax.

Corporate Bonds: Corporate bonds are bonds issued by companies. The term is often used to cover all bonds other than those issued by governments in their own currencies and includes issues by companies, supranational organisations and government agencies.

Cost of Carry: The "cost of carry" is the difference between what is paid to borrow compared to the interest which could be earned. For example, if one takes out borrowing at 5% and invests the money at 1.5%, there is a cost of carry of 3.5%.

Counterparty List: List of approved financial institutions with which the Council can place investments.

Credit Rating: Formal opinion by a registered rating agency of a counterparty's future ability to meet its financial liabilities; these are opinions only and not guarantees.

Debt Management Office (DMO): The DMO is an Executive Agency of Her Majesty's Treasury and provides direct access for local authorities into a government deposit facility known as the Debt Management Account Deposit Facility (DMADF). All deposits are guaranteed by HM Government and therefore have the equivalent of a sovereign credit rating.

Federal Reserve: The US central bank, the equivalent of the Bank of England. (Often referred to as "the Fed").

Financial Instruments: Financial instruments are tradable assets of any kind. They can be cash, evidence of an ownership interest in an entity, or a contractual right to receive or deliver cash or another financial instrument

Gilts: Gilts are bonds issued by the UK Government. They take their name from 'gilt-edged'. They are deemed to be very secure as the investor expects to receive the full face value of the bond to be repaid on maturity.

IFRS: International Financial Reporting Standards.

LIBID: The London Interbank Bid Rate (LIBID) is the rate bid by banks on Eurocurrency deposits (i.e. the rate at which a bank is willing to borrow from other banks).

LIBOR: The London Interbank Offered Rate (LIBOR) is the rate of interest that banks charge to lend money to each other. The British Bankers' Association (BBA) work with a small group of large banks to set the LIBOR rate each day. The wholesale markets allow banks who need money to borrow from those with surplus amounts. The banks with surplus amounts of money are keen to lend so that they can generate interest which it would not otherwise receive.

LOBO: Stands for Lender Option Borrower Option. The underlying loan facility is typically very long-term - for example 40 to 60 years - and the interest rate is fixed. However, in the LOBO facility the lender has the option to call on the facilities at pre-determined future dates. On these call dates, the lender can propose or impose a new fixed rate for the remaining term of the facility and the borrower has the 'option' to either accept the new imposed fixed rate or repay the loan facility.

Low Volatility Net Asset Value Money Market Funds (LVNAV MMFs): refers to highly liquid money market funds which aim to maintain the level of their worth by investing in very secure instruments.

Maturity: The date when an investment or borrowing is repaid.

Maturity Structure / Profile: A table or graph showing the amount (or percentage) of debt or investments maturing over a time period.

Minimum Revenue Provision (MRP): An annual provision that the Council is statutorily required to set aside and charge to the Revenue Account for the repayment of debt associated with expenditure incurred on capital assets.

Monetary Policy Committee (MPC): Government Body that sets the Bank Rate. Its primary target is to keep inflation within 1% of a central target of 2%. Its secondary target is to support the Government in maintaining high and stable levels of growth and employment.

Money Market Funds (MMF): Pooled funds which invest in a range of short term assets providing high credit quality and high liquidity.

Non Specified Investment: Investments which fall outside the WG Guidance for Specified investments (below).

Operational Boundary: This linked directly to the Council's estimates of the CFR and estimates of other day to day cash flow requirements. This indicator is based on the same estimates as the Authorised Limit reflecting the most likely prudent but not worst case scenario but without the additional headroom included within the Authorised Limit.

Premiums and Discounts: In the context of local authority borrowing, (a) the premium is the penalty arising when a loan is redeemed prior to its maturity date and (b) the discount is the gain arising when a loan is redeemed prior to its maturity date.

Prudential Code: Developed by CIPFA and introduced in April 2004 as a professional code of practice to support local authority capital investment planning within a clear, affordable, prudent and sustainable framework and in accordance with good professional practice.

Prudential Indicators: Indicators determined by the local authority to define its capital expenditure and asset management framework. They are designed to support and record local decision making in a manner that is publicly accountable; they are not intended to be comparative performance indicators

Public Works Loans Board (PWLB): The PWLB is a statutory body operating within the United Kingdom Debt Management Office, an Executive Agency of HM Treasury. The PWLB's function is to lend money from the National Loans Fund to local authorities and other prescribed bodies, and to collect the repayments.

Quantitative Easing (QE): In relation to the UK, it is the process used by the Bank of England to directly increase the quantity of money in the economy. It does not involve printing more banknotes. Instead, the Bank buys assets from private sector institutions – that could be insurance companies, pension funds, banks or non-financial firms – and credits the seller's bank account. So the seller has more money in their bank account, while their bank holds a corresponding claim against the Bank of England (known as reserves). The end result is more money out in the wider economy.

Retail Price Index (RPI): A monthly index demonstrating the movement in the cost of living as it tracks the prices of goods and services including mortgage interest and rent.

Revenue Expenditure: Expenditure to meet the continuing cost of delivery of services including salaries and wages, the purchase of materials and capital financing charges.

Specified Investments: Term used in the Welsh Assembly Guidance for Local Authority Investments. Investments that offer high security and high liquidity, in sterling and for no more than one year. UK government, local authorities and bodies that have a high credit rating.

Supported Borrowing: Borrowing for which the costs are supported by the government or third party.

Supranational Bonds: Instruments issued by supranational organisations created by governments through international treaties (often called multilateral development banks). The bonds carry an AAA rating in their own right. Examples of supranational organisations are the European Investment Bank, the International Bank for Reconstruction and Development.

Temporary Borrowing: Borrowing to cover peaks and troughs of cash flow, not to fund capital spending.

Term Deposits: Deposits of cash with terms attached relating to maturity and rate of return (Interest).

Treasury Bills (T-Bills): Treasury Bills are short term Government debt instruments and, just like temporary loans used by local authorities, are a means to manage cash flow. They are issued by the Debt Management Office and are an eligible sovereign instrument, meaning that they have an AAA-rating.

Treasury Management Code: CIPFA's Code of Practice for Treasury Management in the Public Services, initially brought in 2003, subsequently updated in 2009 and 2011.

Treasury Management Practices (TMP): Treasury Management Practices set out the manner in which the Council will seek to achieve its policies and objectives and prescribe how it will manage and control these activities.

Unsupported Borrowing: Borrowing which is self-financed by the local authority. This is also sometimes referred to as Prudential Borrowing.

Yield: The measure of the return on an investment instrument.

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FLINTSHIRE COUNTY COUNCIL

TREASURY MANAGEMENT

MID YEAR REPORT 2021/22

1.00 PURPOSE OF REPORT

- 1.01 To provide Members with a mid-year update on matters relating to the Council's Treasury Management function.

2.00 BACKGROUND

- 2.01 Treasury management comprises the management of the Council's cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.
- 2.02 The Council's primary objectives for the investment of its surplus funds are to protect the principal sums invested from loss, and to ensure adequate liquidity so that funds are available for expenditure when needed. The generation of investment income to support the provision of local authority services is an important, but secondary, objective.
- 2.03 The Council's policy is to appoint external consultants to provide advice on its treasury management function. In September 2021 Arlingclose Ltd were reappointed as the Council's advisors for a period of 3 years, following a competitive tendering exercise. This period can be extended a further 2 years as per the contract terms to September 2026.
- 2.04 The Council has adopted the 2017 edition of the CIPFA Treasury Management in the Public Services: Code of Practice, which requires the Council to approve a treasury management strategy before the start of each financial year, a mid-year report, and an annual report after the end of each financial year.
- 2.05 In addition, the Welsh Government (WG) issues guidance on local authority investments that requires the Council to approve an investment strategy before the start of each financial year. WG updated this guidance in November 2019 and it came into force on 1st April 2020.
- 2.06 This report fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to both the CIPFA Code and the WG Guidance.
- 2.07 The Council approved the 2021/22 Treasury Management Strategy at its meeting on 16th February 2021.

3.00 ECONOMIC & INTEREST RATE REVIEW APRIL – OCTOBER 2021.

Provided by Arlingclose Ltd, the Council's treasury management advisors.

Economic background: The economic recovery from coronavirus pandemic continued to dominate the first half of the financial year. By the end of the period over 48 million people in the UK had received their first dose of a COVID-19 vaccine and almost 45 million their second dose.

The Bank of England (BoE) held Bank Rate at 0.1% throughout the period and maintained its Quantitative Easing programme at £895 billion, unchanged since the November 2020 meeting. In its September 2021 policy announcement, the BoE noted it now expected the UK economy to grow at a slower pace than was predicted in August, as the pace of the global recovery had shown signs of slowing and there were concerns inflationary pressures may be more persistent. Within the announcement, Bank expectations for GDP growth for the third (calendar) quarter were revised down to 2.1% (from 2.9%), in part reflecting tighter supply conditions. The path of CPI inflation is now expected to rise slightly above 4% in the last three months of 2021, due to higher energy prices and core goods inflation. While the Monetary Policy Committee meeting ended with policy rates unchanged, the tone was more hawkish.

Government initiatives continued to support the economy over the quarter but came to an end on 30th September 2021, with businesses required to either take back the 1.6 million workers on the furlough scheme or make them redundant.

The latest labour market data showed that in the three months to July 2021 the unemployment rate fell to 4.6%. The employment rate increased, and economic activity rates decreased, suggesting an improving labour market picture. Latest data showed growth in average total pay (including bonuses) and regular pay (excluding bonuses) among employees was 8.3% and 6.3% respectively over the period. However, part of the robust growth figures is due to a base effect from a decline in average pay in the spring of last year associated with the furlough scheme.

Annual CPI inflation rose to 3.2% in August, exceeding expectations for 2.9%, with the largest upward contribution coming from restaurants and hotels. The Bank of England now expects inflation to exceed 4% by the end of the calendar year owing largely to developments in energy and goods prices. The Office of National Statistics' (ONS') preferred measure of CPIH which includes owner-occupied housing was 3.0% year/year, marginally higher than expectations for 2.7%.

The easing of restrictions boosted activity in the second quarter of calendar year, helping push GDP up by 5.5% q/q (final estimate vs 4.8% q/q initial estimate). Household consumption was the largest contributor. Within the sector breakdown production contributed 1.0% q/q, construction 3.8% q/q and services 6.5% q/q, taking all of these close to their pre-pandemic levels.

The US economy grew by 6.3% in Q1 2021 (Jan-Mar) and then by an even stronger

6.6% in Q2 as the recovery continued. The Federal Reserve maintained its main interest rate at between 0% and 0.25% over the period but in its most recent meeting made suggestion that monetary policy may start to be tightened soon.

The European Central Bank maintained its base rate at 0%, deposit rate at -0.5%, and asset purchase scheme at €1.85 trillion.

Financial markets: Monetary and fiscal stimulus together with rising economic growth and the ongoing vaccine rollout programmes continued to support equity markets over most of the period, albeit with a bumpy ride towards the end. The Dow Jones hit another record high while the UK-focused FTSE 250 index continued making gains over pre-pandemic levels. The more internationally focused FTSE 100 saw more modest gains over the period and remains below its pre-crisis peak. Inflation worries continued during the period. Declines in bond yields in the first quarter of the financial year suggested bond markets were expecting any general price increases to be less severe, or more transitory, than was previously thought. However, an increase in gas prices in the UK and EU, supply shortages and a dearth of HGV and lorry drivers with companies willing to pay more to secure their services, has caused problems for a range of industries and, in some instance, lead to higher prices.

The 5-year UK benchmark gilt yield began the financial year at 0.36% before declining to 0.33% by the end of June 2021 and then climbing to 0.64% on 30th September. Over the same period the 10 year gilt yield fell from 0.80% to 0.71% before rising to 1.03% and the 20-year yield declined from 1.31% to 1.21% and then increased to 1.37%.

The Sterling Overnight Rate (SONIA) averaged 0.05% over the quarter.

Credit review: Credit default swap spreads were flat over most of period and are broadly in line with their pre-pandemic levels. In late September spreads rose by a few basis points due to concerns around Chinese property developer Evergrande defaulting but are now falling back. The gap in spreads between UK ring-fenced and non-ring-fenced entities continued to narrow, but Santander UK remained an outlier compared to the other ring-fenced/retail banks. At the end of the period Santander UK was trading the highest at 53bps and Lloyds Banks Plc the lowest at 32bps. The other ring-fenced banks were trading between 37-39bps and Nationwide Building Society was 39bps.

Over the period Fitch and Moody's upwardly revised to stable the outlook on a number of UK banks and building societies on our counterparty list, recognising their improved capital positions compared to last year and better economic growth prospects in the UK.

Fitch also revised the outlooks for Nordea, Svenska Handelsbanken and

Handelsbanken plc to stable from negative. The rating agency considered the improved economic prospects in the Nordic region to have reduced the baseline downside risks it previously assigned to the lenders.

The successful vaccine rollout programme is credit positive for the financial services sector in general and the improved economic outlook has meant some institutions have been able to reduce provisions for bad loans. While there is still uncertainty around the full extent of the losses banks and building societies will suffer due to the pandemic-related economic slowdown, the sector is in a generally better position now compared to earlier this year and 2020.

At the end of the period Arlingclose had completed its full review of its credit advice on unsecured deposits. The outcome of this review included the addition of NatWest Markets plc to the counterparty list together with the removal of the suspension of Handelsbanken plc. In addition, the maximum duration for all recommended counterparties was extended to 100 days.

As ever, the institutions and durations on the Authority's counterparty list recommended by treasury management advisors Arlingclose remain under constant review.

Outlook for the remainder of 2021/22

Arlingclose expects Bank Rate to rise in Q2 2022. We believe this is driven as much by the Bank of England's desire to move from emergency levels as by fears of inflationary pressure.

Investors have priced in multiple rises in Bank Rate to 1% by 2024. While Arlingclose believes Bank Rate will rise, it is by a lesser extent than expected by markets.

The global economy continues to recover from the pandemic but has entered a more challenging phase. The resurgence of demand has led to the expected rise in inflationary pressure, but disrupted factors of supply are amplifying the effects, increasing the likelihood of lower growth rates ahead. This is particularly apparent in the UK due to the impact of Brexit.

While Q2 UK GDP expanded more quickly than initially thought, the 'pingdemic' and more latterly supply disruption will leave Q3 GDP broadly stagnant. The outlook also appears weaker. Household spending, the driver of the recovery to date, is under pressure from a combination of retail energy price rises, the end of government support programmes and soon, tax rises. Government spending, the other driver of recovery, will slow considerably as the economy is taken off life

support.

Inflation rose to 3.2% in August. A combination of factors will drive this to over 4% in the near term. While the transitory factors affecting inflation, including the low base effect of 2020, are expected to unwind over time, the MPC has recently communicated fears that these transitory factors will feed longer-term inflation expectations that require tighter monetary policy to control. This has driven interest rate expectations substantially higher.

The supply imbalances are apparent in the labour market. While wage growth is currently elevated due to compositional and base factors, stories abound of higher wages for certain sectors, driving inflation expectations. It is uncertain whether a broad-based increase in wages is possible given the pressures on businesses.

Government bond yields increased sharply following the September FOMC and MPC minutes, in which both central banks communicated a lower tolerance for higher inflation than previously thought. The MPC in particular has doubled down on these signals in spite of softer economic data. Bond investors expect higher near-term interest rates but are also clearly uncertain about central bank policy.

The MPC appears to be playing both sides, but has made clear its intentions to tighten policy, possibly driven by a desire to move away from emergency levels. While the economic outlook will be challenging, the signals from policymakers suggest Bank Rate will rise unless data indicates a more severe slowdown.

	Dec 21	Mar 22	Jun 22	Sept 22	Dec 22	Mar 23	Jun 23	Sept 23	Dec 23	Mar 24	Jun 24	Sept 24	Dec 24
Upside Risk (%)	0.00	0.15	0.00	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25
Interest Rate (%)	0.10	0.10	0.25	0.25	0.25	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
Downside Risk (%)	0.00	0.00	0.15	0.15	0.15	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40

4.00 BORROWING REQUIREMENTS AND DEBT MANAGEMENT

4.01 PWLB (Public Works Loans Board) Certainty Rate Update.

The Authority submitted its application to WG along with the 2021-22 Capital Forecast Return to access this reduced rate for a further 12 months from 1st April 2021.

4.02 The long term borrowing outstanding at 30th September 2021 totals £288.2 million.

4.03 Loans with the Public Works Loans Board are in the form of fixed rate (£264.2m). £18.95m is variable in the form of LOBOs (Lender’s Option, Borrower’s Option) and £5.0m are interest free loans from government. The Council’s average long term borrowing rate is currently 4.61%.

	Balance 01/04/2021 £m	Debt Maturing £m	New Debt £m	Balance 30/09/2021 £m
Long Term Borrowing	283.87	(1.27)	0.58	283.18
Government Loans	5.14	(0.24)	0.10	5.00
TOTAL BORROWING	289.01	(1.51)	0.68	288.18
Other Long Term Liabilities *	3.93	0.00	0.00	3.93
TOTAL EXTERNAL DEBT	292.94	(1.51)	0.68	292.11
Increase/ (Decrease) in Borrowing £m				(0.83)

* relates to finance leases in respect of Deeside Leisure Centre and Jade Jones Pavilion

4.04 During the period April – September 2021, the following loan was taken out –

Start date	Maturity Date	Amount	Rate	Loan Type
30 th Apr 2021	30 th Apr 2061	£582k	2.15%	Annuity

This loan has been lent on to New Homes, the Council’s wholly owned subsidiary, to fund the building of affordable homes in Flintshire.

Affordability (interest costs charged on new loans) and the “cost of carry” (costs associated with new long term loans) remain important influences on the Council’s borrowing strategy alongside the consideration that, for any borrowing undertaken ahead of need, the proceeds would have to be invested in the money markets at rates of interest significantly lower than the cost of long term borrowing.

4.05 Internal Borrowing and Short Term Borrowing

Given the significant cuts to local government funding putting pressure on Council finances, the borrowing strategy is to minimise debt interest payments without compromising the longer-term stability of the portfolio. With short-term interest rates currently lower than long-term rates, it has been more cost effective in the

short-term to use internal resources, and to borrow short-term rather than long-term.

The differential between the cost of new longer-term debt and the return generated on the Council's temporary investment returns was significant at around 1.78%.

The use of internal resources in lieu of borrowing has therefore continued to be used over the period as the most cost effective means of funding capital expenditure. This has lowered overall treasury risk by reducing both external debt and temporary investments.

Short term borrowing was undertaken as necessary. The total short term borrowing as at 30th September 2021 was £17m with an average rate of 0.02%.

The Council's capital expenditure plans will continue to be monitored throughout 2021/22 to inform and assess the Council's long term borrowing need. This is to ensure that the Council does not commit to long term borrowing too early and refinance unnecessarily which will be costly and have significant revenue implications. The continued use of short-term borrowing will assist with such. This will be balanced against securing low long term interest rates currently being forecast and assessing the affordability of long-term borrowing in the short term against the savings made over the life of the loan.

4.06 Lender's Option Borrower's Option Loans (LOBOs)

The Authority holds £18.95m of LOBO loans where the lender has the option to propose an increase in the interest rate at set dates, following which the Authority has the option to either accept the new rate or to repay the loan at no additional cost. The option to change the terms on £18.95m of the Council's LOBOs was not exercised by the lender. The Authority acknowledges there is an element of refinancing risk even though in the current interest rate environment lenders are unlikely to exercise their options.

4.07 Debt Rescheduling

The premium charge for early repayment of PWLB debt remained relatively expensive for the loans in the Authority's portfolio and therefore unattractive for debt rescheduling activity. No rescheduling activity was undertaken as a consequence.

The Corporate Finance Manager, in conjunction with the Council's treasury advisors, will continue to review any potential opportunities for restructuring the Council's debt in order to take advantage of potential savings as interest rates change and to enhance the balance of the long term portfolio (amend the maturity profile and/or the balance of volatility).

4.08 Borrowing Update

Local authorities can borrow from the PWLB provided they can confirm they are not planning to purchase 'investment assets primarily for yield' in the current or next two financial years, with confirmation of the purpose of capital expenditure from the Section 151 / Section 95 Officer. Authorities that are purchasing or intending to purchase investment assets primarily for yield will not be able to access the PWLB except to refinance existing loans or externalise internal borrowing.

Acceptable use of PWLB borrowing includes service delivery, housing, regeneration, preventative action, refinancing and treasury management.

Competitive market alternatives may be available for authorities with or without access to the PWLB. However, the financial strength of the individual authority and borrowing purpose will be scrutinised by commercial lenders. Further changes to the CIPFA Prudential Code expected in December 2021 are likely to prohibit borrowing for the primary purpose of commercial return even where the source of borrowing is not the PWLB.

The Authority is not planning to purchase any investment assets primarily for yield within the next three years and so is able to fully access the PWLB

Revised PWLB Guidance. HM Treasury published further guidance on PWLB borrowing in August 2021 providing additional detail and clarifications predominantly around the definition of an 'investment asset primarily for yield'. The principal aspects of the new guidance are:

- Capital expenditure incurred or committed to before 26th November 2020 is allowable even for an 'investment asset primarily for yield'.
- Capital plans should be submitted by local authorities via a DELTA return. These open for the new financial year on 1st March and remain open all year. Returns must be updated if there is a change of more than 10%.
- An asset held primarily to generate yield that serves no direct policy purpose should not be categorised as service delivery.
- Further detail on how local authorities purchasing investment assets primarily for yield can access the PWLB for the purposes of refinancing existing loans or externalising internal borrowing.
- Additional detail on the sanctions which can be imposed for inappropriate use of the PWLB loan. These can include a request to cancel projects, restrictions to accessing the PLWB and requests for information on further plans.

Changes to PWLB Terms and Conditions from 8th September 2021. The settlement time for a PWLB loan has been extended from two working days

(T+2) to five working days (T+5). In a move to protect the PWLB against negative interest rates, the minimum interest rate for PWLB loans has also been set at 0.01% and the interest charged on late repayments will be the higher of Bank of England Base Rate or 0.1%.

Municipal Bonds Agency (MBA): The MBA is working to deliver a new short-term loan solution, available in the first instance to principal local authorities in England, allowing them access to short-dated, low rate, flexible debt. The minimum loan size is expected to be £25 million. Importantly, local authorities will borrow in their own name and will not cross guarantee any other authorities.

If the Authority intends future borrowing through the MBA, it will first ensure that it has thoroughly scrutinised the legal terms and conditions of the arrangement and is satisfied with them.

UK Infrastructure Bank: £4bn has been earmarked for on-lending to local authorities by the UK Infrastructure Bank which is wholly owned and backed by HM Treasury. The availability of this lending to local authorities, for which there will be a bidding process, is yet to commence. Loans will be available for qualifying projects at gilt yields plus 0.6%, which is 0.2% lower than the PWLB certainty rate.

5.0 INTERIM INVESTMENT AND PERFORMANCE REPORT

- 5.01 The maximum investments the Authority had on deposit at any one time totalled £68.1m. The average investment balance for the period was £45.9m and the average rate of return was 0.013%, generating investment income of £2.8k.
- 5.02 Up to 30th September, investments were made in the Debt Management Office Deposit Account, banks, other local authorities and money market funds
- 5.03 The average of long and short-term borrowing was £325.3m generating interest payable of £6.664m, in line with budget forecasts to date.

	Investments		Long Term Borrowing		Short Term Borrowing	
	Interest received £k	Interest rate %	Interest paid £k	Interest rate %	Interest paid £k	Interest rate %
2021/22 Apr – Sept	2.8	0.01	6,664	4.61	16	0.09
2020/21 Apr – Sept	10.9	0.05	6,629	4.70	171	0.92
Difference	-8.1		35		-155	

Year-end projections are as follows:

	Investments		Long Term Borrowing		Short Term Borrowing	
	Interest received £k	Interest rate %	Interest paid £k	Interest rate %	Interest paid £k	Interest rate %
2021/22 est	4.3	0.01	13,276	4.61	62	0.11
2020/21 act	12.3	0.03	13,252	4.61	206	0.56
Difference	(8.0)		24		(144)	

5.04 Credit Risk (security)

Counterparty credit quality was assessed and monitored with reference to credit ratings (the Authority's minimum long-term counterparty rating for institutions defined as having "high credit quality" is A- across rating agencies Fitch, S&P and Moody's); credit default swap prices, financial statements, information on potential government support and reports in the quality financial press.

5.05 Liquidity

In keeping with the WG's Guidance on Investments, the Council maintained a sufficient level of liquidity through the use of money market funds.

5.06 Yield

The Council sought to optimise returns commensurate with its objectives of security and liquidity. The Council's investment yield is outlined in 5.01.

Ultra-low short-dated cash rates which have been a feature since March 2020 when Bank Rate was cut to 0.1% have resulted in the return on sterling low volatility net asset value money market funds (LVNAV MMFs) being close to zero even after some managers have temporarily waived or lowered their fees. At this stage net negative returns are not the central case of most MMF managers over the short-term, and fee cuts or waivers should result in MMF net yields having a floor of zero, but the possibility cannot be ruled out.

Deposit rates with the Debt Management Account Deposit Facility (DMADF) are also largely around zero.

6.00 **COMPLIANCE**

6.01 The Council can confirm that it has complied with its Prudential Indicators for the period April to September 2021. These were approved on 16th February 2021 as

part of the Council's 2021/22 Treasury Management Strategy.

6.02 In compliance with the requirements of the CIPFA Code of Practice this report provides Members with a summary report of the treasury management activity during the period April – September 2021. None of the Prudential Indicators have been breached and a prudent approach has been taken in relation to investment activity with priority being given to security and liquidity over yield.

7.00 OTHER ITEMS

7.01 Other treasury management related activity that took place during April – September 2021 includes:

- The Treasury Management Annual Report 2020/21 was reported to Governance and Audit Committee on 28th July 2021, Cabinet on 21st September 2021 and will be reported to Council on 7th December 2021.
- The Quarter 1 Treasury Management update was reported to the Governance and Audit Committee.

7.02 Revisions to CIPFA Codes

In February 2021 CIPFA launched two consultations on changes to its Prudential Code and Treasury Management Code of Practice. These followed the Public Accounts Committee's recommendation that the prudential framework should be further tightened following continued borrowing by some authorities for investment purposes. In June, CIPFA provided feedback from this consultation.

In September CIPFA issued the revised Codes and Guidance Notes in draft form and opened the latest consultation process on their proposed changes. The changes include:

- Clarification that (a) local authorities must not borrow to invest primarily for financial return (b) it is not prudent for authorities to make any investment or spending decision that will increase the Capital Financing Requirement, and so may lead to new borrowing, unless directly and primarily related to the functions of the authority.
- Categorising investments as those (a) for treasury management purposes, (b) for service purposes and (c) for commercial purposes.
- Defining acceptable reasons to borrow money: (i) financing capital expenditure primarily related to delivering a local authority's functions, (ii) temporary management of cash flow within the context of a balanced budget, (iii) securing affordability by removing exposure to future interest rate rises and (iv) refinancing current borrowing, including replacing internal borrowing.

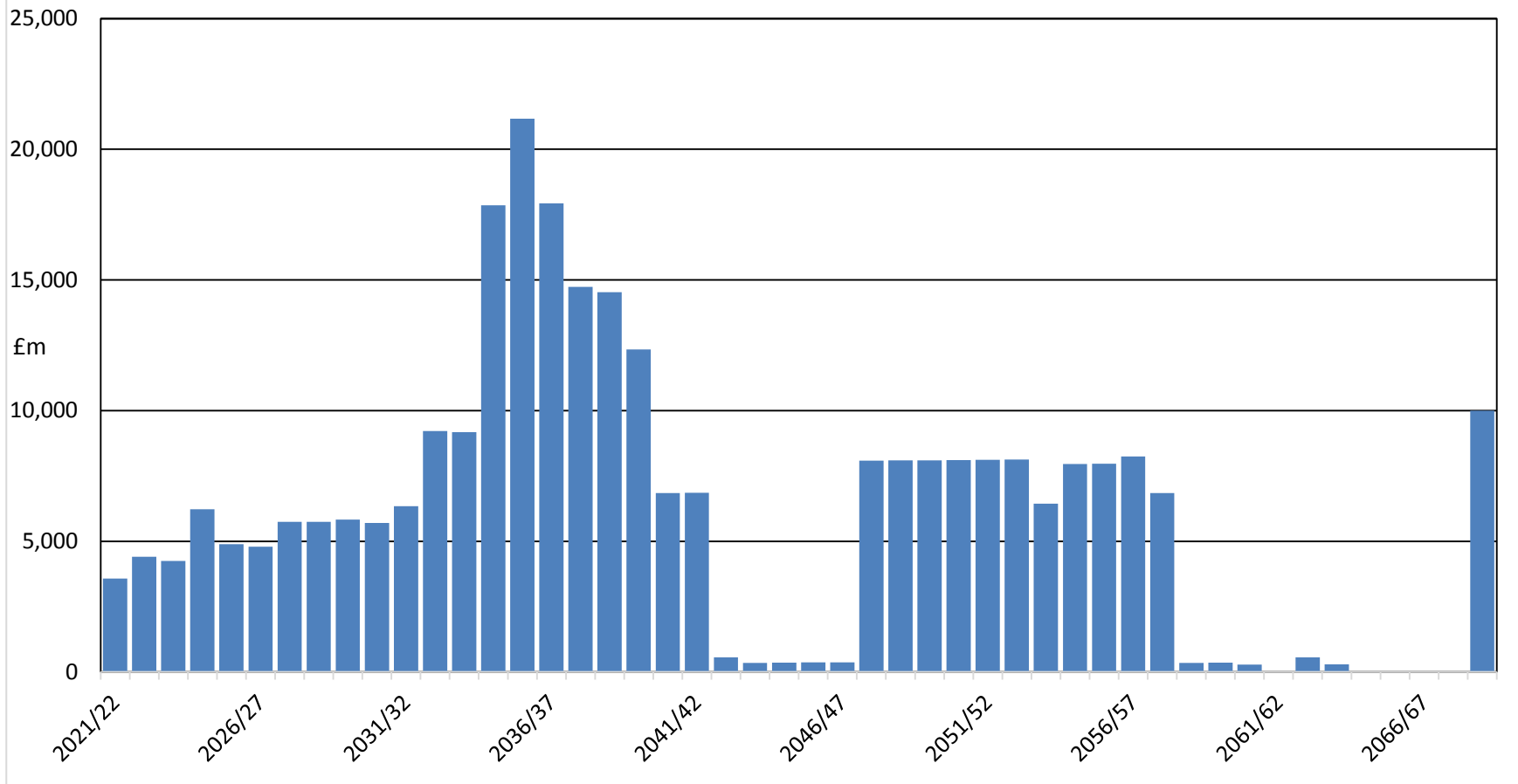
- For service and commercial investments, in addition to assessments of affordability and prudence, an assessment of proportionality in respect of the authority's overall financial capacity (i.e. whether plausible losses could be absorbed in budgets or reserves without unmanageable detriment to local services).
- Prudential Indicators
 - New indicator for net income from commercial and service investments to the budgeted net revenue stream.
 - Inclusion of the liability benchmark as a mandatory treasury management prudential indicator. CIPFA recommends this is presented as a chart of four balances – existing loan debt outstanding, loans CFR, net loans requirement and liability benchmark – over at least 10 years and ideally cover the authority's full debt maturity profile.
 - Excluding investment income from the definition of financing costs.
- Incorporating Environmental, Social and Governance (ESG) issues as a consideration within TMP 1 Risk Management.
- Additional focus on the knowledge and skills of officers and elected Members involved in decision making

8.00 CONCLUSION

8.01 In compliance with the requirements of the CIPFA Code of Practice this report provides Members with a summary report of the treasury management activity during the first half of 2021/22.

8.02 As indicated in this report none of the prudential indicators have been breached and a prudent approach has been taken in relation to investment activity with priority being given to security and liquidity over yield.

Debt Maturity Profile - Sept 2021





FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Tuesday 25 th January 2022
Report Subject	Amendments to the Planning Code of Practice
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

In April 2021 Council updated the Protocol for Meeting Contractors (the Protocol) as part of the review of the Council's Constitution. The parts of the Protocol relating to dealings with contractors/developers and other third parties who might be bidding for, or seeking, a contract with the Council were amended. Council resolved that the parts of the Protocol dealing with contact with developers be moved to the Planning Code of Practice (PCoP) to avoid duplication.

The Committee resolved that the parts of the Protocol for Meetings with Contractors that provided advice in respect of Developers should be contained in the PCoP and that the PCoP be updated accordingly.

At the Council meeting in April 2021, which approved the updated Protocol, Members also requested that advice be added to the PCoP around the pre-application consultation process.

The Planning Strategy Group (PSG) considered the above proposed changes to the PCoP on the 13 May and again on the 10 June 2021. Members of the PSG meeting requested a number of additional alterations to the PCoP that they felt would be of assistance to Members involved in the planning process.

On the 5 of July 2021 the Standards Committee proposed some further additional amendments. The Constitution and Democratic Services Committee considered the proposed amended PCoP on the 30 September 2021 and approved the proposed amended PCoP subject to some further alterations.

RECOMMENDATIONS

1	That the Committee approve the alterations to the PCoP as identified in tracked changes in Appendix 1 of this report.
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REPORT DETAILS

1.00	EXPLAINING THE AMENDMENTS TO THE PLANNING CODE OF PRACTICE
1.01	<p>Currently the PCoP requires members of the Planning Committee to declare, at the beginning of a Planning Committee meeting, if they have been contacted by applicants or developers on four or more occasions. However, there is no further advice within the PCoP in respect of such contact. It is therefore appropriate that the PCoP is updated to provide Members with advice about what to do in such circumstances and what the implications of such contact might mean in respect of their participation at the meeting. Paragraph 5.3 accordingly suggests amendments.</p>
1.02	<p>In April this year, when Council approved amendments to the Protocol, Members requested that further guidance and advice be specifically provided in the PCoP for members of the Planning Committee who are consulted pursuant to pre-application consultation requirements, under Section 61Z of the Town and Country Planning Act 1990 and Part 1A of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012. Broadly speaking, these requirements are about consulting with landowners, and others who are likely to be directly impacted by a proposed development, and the provisions include a specific requirement to consult with local Councillors and Community Councils. Within the current PCoP there is no specific reference to this process and the proposed alterations at paragraph 8 of the PCoP are intended to provide that clarity.</p>
1.03	<p>At the meeting of PSG on 13th May last, Members considered proposed changes to the PCoP to deal with the matters referred to at paragraphs 1.01 to 1.02 above and also considered that further amendments were appropriate in order to provide additional clarity. Members resolved that a further report should be taken to the meeting of PSG on the 10 June to deal with these additional matters and the additional proposed alterations to the PCoP are identified in tracked changes in the appendix to this report.</p>
1.04	<p>On the 5th of July 2021 the Standards Committee considered and approved the proposed alterations and in addition proposed some additional amendments for consistency and accuracy (e.g. retaining a single reference to ‘Chair’ throughout the document (as opposed to interchanging between Chair and Chairperson) and those amendments are also shown in tracked changes in appendix 1 to this report.</p> <p>On the 30th of September 2021 the Constitution and Democratic Services Committee considered the proposed amended PCoP and approved the proposed amended PCoP subject to some further alterations which are shown in tracked changes at appendix 1 to this report. Those additional amendments are summarised below:</p> <ul style="list-style-type: none"> a) the Public Complaints Procedure be included in Section 15 b) a section be included to explain that written submissions from the applicant, the person for the application and the person against the

	<p>application are able to be provided in advance of Planning Committee in case the person cannot attend the meeting, has IT issues etc.</p> <p>c) some minor tweaks to wording.</p>
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2.00	RESOURCE IMPLICATIONS
2.01	None associated with this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	Planning Strategy Group, the Standards Committee and the Constitution and Democratic Services Committee have been consulted and suggested amendments. The PCoP is part of the Council's Constitution and which therefore needs to be considered and approved by Council.

4.00	RISK MANAGEMENT
4.01	Not applicable.

5.00	APPENDICES
5.01	<p>Appendix 1 - The Planning Code of Practice with proposed alterations shown as tracked.</p> <p>Appendix 2 – A clean copy of the Planning Code of Practice.</p>

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>No relevant background documents other than the previous reports to the Committee, PSG and Standards Committee on PCoP and the Protocol and the report to Council on the Protocol.</p> <p>Contact Officer: Matthew Georgiou, Deputy Monitoring Officer Telephone: 01352 702330 E-mail: matthew.georgiou@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	None.

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SECTION 23

23. PLANNING CODE OF PRACTICE

HOW WE DEAL WITH PLANNING APPLICATIONS AND OTHER PLANNING ISSUES

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15. COMPLAINTS

1. **INTRODUCTION**

1.1 The Planning system involves taking decisions about the use and development of land in the wider public interest having regard to the Development Plan, national Planning Guidance and other material considerations. Planning can be contentious because its decisions affect the daily lives of individuals, landowners and developers.

1.2 It is important therefore that the process is open and transparent. In other words the system should not only be fair but it should be seen to be fair. The Nolan Committee's report on Standards in Public Life gave close consideration to these issues and its recommendations feature significantly in the Local Government Association's revised 2002 guidance for Members and Officers in dealing with planning matters. Members are advised to read the LGA guidance as it provides useful background to the Code of Practice.

1.32 This Code of Practice provides guidance to elected Members, officers and developers on the planning process. It is supplementary to the Flintshire Member and Officer Codes of Conduct and the Protocol on Member/officer relations all of which are contained in the Council Constitution.

1.43 Whilst the principles set out in this document apply primarily to the manner in which individual planning applications should be dealt with, they also apply to the decision-making process relating to any aspect of the planning function.

2. **ROLE OF MEMBERS AND OFFICERS**

2.1 **General**

2.1.1 Members and officers have different but complementary roles. Both serve the public but Members are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not individual Members, and Members instructions may only be given to officers through a decision of the Council, its Cabinet or a Committee.

2.1.2 It is important that a good relationship exists between Members and officers and that this is based on mutual trust and understanding of each other's positions. This relationship and trust must never be abused or compromised.

2.2 **Role of Officers**

2.2.1 The officer's function is to advise and assist Members in the formulation of planning policies, in the determination of planning applications and, deciding whether or not to take enforcement action for breaches of planning control. Officers should:-

- Provide impartial and professional advice.
- Make sure that all accurate information necessary for the decision to be made is given.
- Provide a clear and accurate analysis of the issues.
- Set applications and enforcement issues against the broader Development Plan policies and all other material considerations.
- Give a clear recommendation based on the above requirements.
- Carry out the decisions made by Members in committee or through the delegated authority of the Chief Officer, Planning ~~and~~ Environment and Economy—~~□~~ Update Members on new legislation and guidance.
- Provide appropriate training and briefings for Members.

2.3 **Role of Members**

2.3.1 The full Council is responsible for setting the Council's formal planning policy framework through the Development Plan(s). As a general principle there is an expectation that Members will uphold the Council's planning policies.

2.3.2 When Members come to make a decision they must:-

- Be clear as to whether or not they have an interest which needs to be declared if not already done so or seek advice from the legal officer if unsure.
- Act fairly and openly.
- Approach each application with an open mind.
- Carefully weigh up all relevant issues.
- Determine each application on its own merits.
- Avoid giving the impression that the Member has made her / his mind up prior to the application being determined.
- Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

2.3.3 Where a planning application relates to a Member's ward the views of the local Member are important to the Chief Officer, Planning, ~~&~~ Environment and Economy, and to the Chair and Members of the ~~Planning and Development Control Committee~~ Planning Committee. Ward Members should not become too closely identified with special interest groups if they wish to vote in the ~~Planning and Development Control Committee~~ Planning Committee. Whilst Members have a responsibility to their constituents their overriding duty is to the whole County and therefore need to consider proposed developments in the interests of the wider community.

2.3.4 Members should not decide how to vote on any application at any formal political group meeting. Political group meetings should never dictate how Members should vote on a planning issue.

2.4 **Member / Officer Contact**

- 2.4.1 The officer / Member relationship is extremely important for good decision making and an effective planning service. The mutual understanding of their respective roles and respect for each other's position is vital for good relations.
- 2.4.2 In making enquiries regarding individual applications Members should make contact with the Case Officer or Line Manager and make an appointment if necessary. [Where assistance is requested the Case Officer or Line Manager will respond in a timely manner.](#) Whilst Members may wish to seek advice or information from the Chief Officer, Planning, ~~and~~ Environment and Economy or the Development Manager, Members should in the first instance seek information from the Case Officer. Information can be sought and provided by e-mail.
- 2.4.3 Officers will provide every reasonable help to Members in the carrying out of their duties. Meetings between officers and Members may sometimes be helpful, but are only likely to be of value if prior arrangements have been made. This allows the officer to have all relevant documents available at the meeting. Prior arrangements may be made by telephoning the relevant Officer or the Planning Services Reception staff [or by email](#). Members rooms can be utilised and suitable rooms can be made available by mutual agreement if privacy is required [or a virtual meeting may be arranged where all parties agree](#).
- 2.4.4 It is acknowledged that Members and officers may well have differing views on a proposal but Members should on no account interfere with or put pressure on officers to make a particular recommendation.

3. **TRAINING**

- 3.1 All members of the Council are required to have received core planning training covering planning policies, procedures, law and this Code.
- 3.2 Other training will be arranged by officers in consultation with members in the form of additional sessions, seminars and workshops on topical issues and to keep members up to date on new procedures, advice and guidance.
- 3.3 Members of the Planning ~~& Development Control~~ Committee [\(including substitute members\)](#) are required at all times between ordinary County Council elections to attend at least 75% of the planning training topics covered during their membership of the Committee.
- 3.4 Attendance at planning training will be monitored and reported to the Planning Strategy Group who may grant an exception to the requirements of paragraph 3.3 where there is good reason for a member temporarily failing to meet this requirement.

4. REGISTRATION AND DECLARATION OF INTERESTS

4.1 Code of Conduct

4.1.1 Members should follow scrupulously the County Council's **Members' Code of Conduct** in relation to registration and declaration of interests and, if an interest is declared, in deciding whether the Member should participate in the consideration of an application. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct. If a Member considers he/she may have a personal interest they should consult the Monitoring Officer, [Deputy Monitoring Officer](#) or a Senior Officer of Legal & Democratic Services for advice on their position ideally in advance of the meeting.

4.2 Personal Interests

4.2.1 The principles about the disclosure of interests should be applied, not only to formal meetings, but also to any of a Member's dealings with Council officers, or with other Members. Where a Member has a personal interest, as defined by the Code, it must always be declared. It does not necessarily follow that the Member is debarred from participation in the discussion. The responsibility for declaring an interest lies with the Member, but the Monitoring Officer is there to advise. If there is any doubt in a Member's mind, he / she should seek early advice from the Monitoring Officer, [Deputy Monitoring Officer](#) or other Senior Officer of Legal & Democratic Services on their position. Members should err on the side of declaring an interest when they are not sure.

4.2.2 Members who have substantial property, professional or other interests relating to the planning function which would prevent them from voting on a regular basis, should avoid serving on the ~~Planning and Development Control Committee~~ [Planning Committee](#).

4.2.3 Where a Local Member has decided he / she has a personal interest making it inappropriate for that Member to be involved in the processing and determination of a planning application in his / her ward such a Member may arrange for another Member to act as local Member instead to represent constituents' views. In such a situation the local Member should inform the Monitoring Officer and the Chief Officer, Planning, ~~and Environment~~ [and Economy](#) of the arrangement made and take no further part in the processing and determination of the planning application other than referring any representations or communications received to the Member who is acting as local Member.

4.3 Declaration

4.3.1 When declaring an interest at committee, this should be done at the beginning of the meeting [or at the point in the meeting where the interest becomes](#)

[apparent to the relevant Member](#). Members should be clear and specific in identifying the item on the agenda in which they have an interest, and the nature of that interest.

4.4 **Predetermination**

4.4.1 A Member has predetermined a planning application where the Member shows (e.g. in local press) he/she has made their mind up on the merits of the application prior to it being considered at committee. A predisposition is where a Member has an inclination or preliminary view on the merits of the application.

4.4.2 A Member who has predetermined the merits of a planning application in advance of it being considered at committee should not be a Member of the committee that considers that application. A Member of the committee may have a predisposition or a preliminary view. If in doubt a Committee Member should seek advice prior to the Committee meeting from either the Monitoring Officer or the Solicitor who attends committee meetings.

4.4.3 Those Members who do not sit on the ~~Planning & Development Control~~ Committee may predetermine their stance on an application but should respect the fact that Planning Committee Members cannot do the same.

4.5 **Register**

4.5.1 A register of Members' interests is maintained by the Council's Monitoring Officer. It is available for public inspection. Each Member has a responsibility to provide the Monitoring Officer with up to date written details of relevant interests.

4.6 **Dual Community / Town and County Council Membership**

4.6.1 Membership of a Town / Community Council which has expressed a view on a planning matter does not in itself mean that the Member cannot take part in the determination of the matter when it comes before the ~~Planning and Development Control Committee~~ Planning Committee provided that the Member has kept an open mind and not committed himself / herself to a final view on the matter until all the arguments for and against have been aired at committee. The Member can enter into discussion and ask questions, but should make clear that a view in favour or against the proposal is on the basis of knowledge and information known at that time.

4.6.2 Where an application submitted by a Community or Town Council is being considered then a Member of that Council may not vote on the proposal to determine the application unless the Member has obtained dispensation from the Standards Committee.

4.7 **Cabinet Members who also sit as members of the Planning Committee**

Where a Member of the Planning Committee is also a Cabinet Member, there are likely to be occasions where an application for planning permission is being considered by the Planning Committee that also relates to a Cabinet Members' Portfolio. For example, there may be a planning application for a new school and the Cabinet Member responsible for Education may also sit as a Member of the Planning Committee. This does not give rise to a personal and prejudicial interest, as the Councillor is acting as a County Councillor both as a Cabinet Member and as a Planning Committee Member. However, it may be the case that if the planning application is very closely related to a specific decision made by a Cabinet Member they may be perceived to have predetermined their stance. If a Member is unsure of their position in this regard they should contact the Monitoring Officer, [Deputy Monitoring Officer](#) or a Senior Officer of Legal Services for advice on their position, ideally in advance of the meeting.

5. **LOBBYING**

5.1 Lobbying is a part of the political process and it is quite common for applicants or other interested parties to wish to discuss a proposed development with Members before a planning application is determined. [Welsh Government guidance on pre-application planning consultations encourages developers to speak to local councillors in order to understand the local context and their concerns as well as to explain any proposed development.](#) This can help Members' understanding of the issues and concerns associated with an application. Officers should be made [aware](#) of any lobbying correspondence Members receive.

5.2 However, Members of the ~~Planning & Development Control~~ Committee are under an obligation to determine matters on their merits [and in a manner that is seen to be impartial.](#) That means that they should not take a firm view on a planning matter before receiving and reading the officer's report or receiving any new information reported to the committee [nor create the impression that they favour one outcome or another.](#) Whilst Members of the committee may form an initial view or opinion, and indicate their view that an application is contrary to policy, they should not openly declare which way they intend to vote in advance of the ~~Planning and Development Control Committee~~ [Planning Committee](#) meeting [nor suggest that they support either the applicant or any objector\(s\).](#) To avoid compromising their position before they have received all the relevant information, committee Members are advised that they should:-

- > **Refer** applicants / developers who approach them for planning or procedural advice to the appropriate Planning Officer.
- > **Avoid** making it known in advance whether they support or oppose the proposal.
- > **Avoid** campaigning actively in support of a particular outcome.
- > **Direct** lobbyists or objectors to the appropriate Planning Officer, who will include reference to their opinions where relevant in their report.

- 5.3 ~~Members should declare at the appropriate part of~~ Prior to the committee meeting any member who has significant contact with applicants and objectors must without delay seek advice from the Monitoring Officer or Deputy Monitoring Officer on whether there is a risk that the member's impartiality might be seen as compromised. Significant contact is where a Member has been contacted on four or more occasions by the applicant or the same objector (either orally or in writing). Officers might advise a member that they should only speak but not vote on an application in order to protect the impartiality of the decision making process.
- 5.4 Members must advise the Ward Member and adjoining ward members as a courtesy in cases where they are seeking to be involved in a development proposal or enforcement issue outside of their own Ward. It is accepted that where a planning application has a significant effect on another ward the Member(s) for that ward is entitled to become involved in the development proposal.
- 5.5 Members of the Planning ~~& Development Control~~ Committee must avoid organising support for or against a planning application. Where such a Member does organise support for or against a planning application then that Member ~~must~~ must not participate in the decision-making on that application when it is considered by the Planning Committee ~~stand down from the Planning and Development Control Committee~~ Planning Committee on such a planning application. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring Officer, Deputy Monitoring Officer or other Senior Officer in Legal & Democratic Services ideally in advance of the meeting.
- 5.6 If a Planning ~~& Development Control~~ Committee Member expresses support for, or opposition to, a proposal before the matter is formally considered at the relevant meeting, whether or not there has been lobbying, he / she could have some difficulty in being able to claim to retain an open mind on the issue and to be prepared to determine the application on its merits. If such a Member does express an opinion, then it should make it clear that it is a preliminary opinion and that he / she will only be in a position to take a final decision when all the evidence and arguments have been considered.
- 5.7 Where a member of the committee has not complied with 5.2, 5.5 or 5.6 above and has predetermined the merits of the application, they must not participate in the decision-making on that application.
- 5.8 If a Member becomes a new member of the Planning Committee it is possible that they may have made clear their position on a particular application prior to becoming a member of the Planning Committee. If that application is subsequently before the Planning Committee for determination they must not participate in the decision-making on that application. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring

Officer, Deputy Monitoring Officer or other Senior Officer in Legal & Democratic Services ideally in advance of the meeting.

6. **APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS**

- 6.1 Planning applications submitted by or on behalf of Members, or officers involved in the planning application process, or the close relatives* of Members or such officers and where the officer or Member knows of the application shall be decided by the Planning ~~and Development Control~~ Committee and not by the Chief Officer, Planning & Environment and Economy under delegated powers.

[* Close relative is defined as spouse, partner, parent, child or sibling].

- 6.2 A Member affected by clause 6.1 shall declare the personal and prejudicial interest at any meeting of the ~~Planning and Development Control Committee~~ Planning Committee to determine the application, take no part in the decision and leave the meeting place unless granted a dispensation by the Standards Committee.

- 6.3 The affected officer shall take no part in the processing of the application and its determination.

7. **APPLICATIONS SUBMITTED BY THE COUNCIL**

- 7.1 It is important that the Council is seen to be treating applications for its own development (or a development involving the Council and another party) on an equal footing with all other applications as well as actually doing so.

- 7.2 Subject to any legislative restrictions all such proposals will be subject to the same administration processes, including consultation, as private applications with consideration being made in accordance with policy and any other material planning considerations and in accordance with the Council's scheme of delegation for all planning applications as set out in the Council's constitution.

8. **PRE-APPLICATION AND ENFORCEMENT DISCUSSIONS AND PRE-APPLICATION CONSULTATIONS**

- 8.1 Pre-application meetings between officers and potential applicants and negotiations regarding breaches of planning control are encouraged. The aim of such meetings is to ensure beneficial development and to resolve matters that might otherwise lead to the refusal of planning permission. Such discussions will normally take place at officer level and Members should refer requests for such advice to the officers. If Members become involved in such discussions they should make it clear that their views are personal and provisional. To avoid such meetings being misunderstood:-

> **It will be made clear** prior to and at such meetings that only personal and

provisional views based upon the Development Plan and other material considerations can be given and no commitments can be made which would bind or otherwise compromise the ~~Planning & Development Control~~ Committee or any member of this committee.

- > **A note** of the discussion will be taken and placed on file and made available for public inspection once an application has been made.
- > **Where** exceptionally meetings are to involve Members the meetings will be arranged by and attended by officers and the adjoining ward member will be invited to attend.

8.2 Pre-application Consultation (PACs) requirements are different from the meetings referred to at paragraph 8.1 above. They are statutory requirements that have been introduced to require developers to consult on certain development proposals, prior to submitting a planning application. Members are usually consulted directly by the developers as part of these requirements. Planning officers are not required to be consulted as there is no requirement as part of the PAC process to consult the local planning authority. However, depending on the size of the proposal other officers within the Council may be consulted, such as the Council's Highway Engineers. If Members are requested to attend any meetings as part of this process it is still recommended that they contact a planning officer and that the advice at paragraph 8.1 above is followed. The advice at paragraph 5 above equally applies where developers contact Members as part of the PAC process and Officers should be made aware of any correspondence Members receive. Further advice about the PAC process can be found on the gov.wales website.

9. **PLANNING COMMITTEE SITE VISITS**

9.1 **Purpose**

- 9.1.1 ~~Planning and Development Control Committee~~ Planning Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises held for the benefit of Members where a proposed development may be difficult to visualise from the plans and supporting material. They may be necessary for careful consideration of relationships to adjoining property or the general character of the area due to the scale or design of the development.

9.2 **Request for a Site Visit**

- 9.2.1 A request for a site visit is normally made by the local Ward Member in response to being consulted on the proposed development. The request must be in writing (e.g. e-mail) and should clearly indicate the planning reasons for the visit which will appear on the agenda for site visits. Site visits can be costly and cause delay so it is important that they are only held where necessary and prior to committee. Site visits are held pursuant to a decision of the Chair of the

~~Planning and Development Control Committee~~Planning Committee or pursuant to a request from a local Member including another Ward Member consulted because the application significantly affects the other ward. All local Members will be advised when a site visit has been arranged.

- 9.2.2 Examples where a site visit would not normally be appropriate include where;
- purely policy matters or issues of principle are at issue
 - the Member wishes to consider boundary or neighbour disputes
 - issues of competition
 - loss of property values
 - any other issues which are not material planning considerations
 - where Members have already visited the site within the last 12 months, except in exceptional circumstances

Where no planning reason is given for the site visit or the reason for the site visit is any of the above the Chair should not convene the site visit.

9.3 **Format and Conduct at the Site Visit**

9.3.1 Members of the ~~Planning and Development Control Committee~~Planning Committee and the Local Ward Member(s) will be notified in advance of any visit. Such visits are not formal meetings of the Committee and there is no right of public attendance at the visit itself. If the public in lobbying Members on their way to or from a site visit seek to present documentation they should be advised to send it to the Planning Department instead

9.3.2 Advance notice of the site visit will also be sent to the applicant or agent requesting that access to the site for Members/officers be provided at the specified time/date and pointing out that the applicant/agent will not be allowed to participate in the site visit. Any Member with a personal and prejudicial interest must not take part in the site visit.

9.3.3 The Chair will invite the Planning Officer to briefly outline the proposal and point out the key issues raised by the application and of any vantage points from which the site should be viewed then the local ward Member (and adjoining ward Member in the exceptional circumstances that they are also present) will be invited to speak, followed by other Members of the Committee who may ask questions and seek clarification from officers who will respond. Any statement or discussion concerning the principles and policies applicable to the development should not be allowed by the ~~Chairman~~Chair.

9.3.4 Although site visits are not part of the formal committee consideration of the application, the Code of Conduct still applies to site visits and Members should have regard to the guidance on declarations of personal interest.

- 9.3.5 A file record will be kept of those attending the site visit, together with a brief note of any points raised.
- 9.3.6 For the avoidance of doubt references in this section to Local Member(s) includes adjacent ward Members where the application significantly affects their ward.
- 9.3.7 Occasionally the applicant/agent/owner of the site to be visited may not permit Members and officers onto the site. There may be good reason for this, for example, if someone was injured they could have a claim against the landowner. Where access is refused to one or more of the elected Members, the ~~Chairman~~Chair will be advised that none of the Members and officers should enter onto the land. In such circumstances the site should be viewed from the nearest public land such as the public highway.
- 9.3.8. In summary site visits are:- >
- Fact finding exercise.**
- > **Not part** of the formal committee meeting and therefore public rights of attendance do not apply.
 - > **To enable** officers to point out relevant features.
 - > **To enable** questions to be asked on site for clarification. However, discussions on the application will only take place at the subsequent committee.

10. PROCEDURE AT PLANNING COMMITTEE & DEVELOPMENT CONTROL COMMITTEE

- 10.1 The majority of planning applications are determined by the Chief Officer, Planning, ~~& Environment~~ and Economy under the Council's delegation scheme. This is necessary to ensure that most decisions are made in a timely manner. Whilst Members have a right to request that applications, affecting their ward be determined by the ~~Planning and Development Control Committee~~ Planning Committee such requests should be justified by clearly identifying in writing why a committee decision is required. This is generally done on the return notification form sent out to Members.
- 10.2 Officers will produce written reports on all planning applications reported to committee. In respect of each proposal the report will include, amongst other matters;
- description of the proposal
 - description of the site
 - responses to consultations and officer observations thereon.

- summary of objections and / or support received
- relevant site history
- relevant Development Plan policies
- relevant planning guidance where appropriate
- any other material planning consideration
- an appraisal by the Case Officer which will include the relevant views of other consulted officers within the Planning Division
- a clear recommendation
- brief details of the substance of any conditions to be imposed or;
- full details of reasons for refusal.

10.3 Late observations received by 5.00 p.m. the day before a committee meeting will be summarised and reported separately and circulated to Members immediately prior to the start of the meeting.

10.4 The Planning Officer will briefly introduce each item highlighting the key issues for Members consideration.

10.5 Where an application is being reported to committee, the Chair will allow oral representations to be made in accordance with the protocol on public speaking prior to the committee debating the application.

10.6 Where written submissions are received from the applicant, or any other person intending to speak in accordance with the protocol on public speaking, if any such person is unable to attend their written submissions will be read out by an officer on their behalf.

~~40.6~~10.7 Where a Member seeks and obtains a majority for a deferment for a specific purpose then there will be no further debate on that matter until such time as the proposal is re-presented.

~~40.7~~10.8 Members who read out at committee, or refer to, communications they have received should provide an advance copy to officers

11. DECISIONS CONTRARY TO OFFICER RECOMMENDATION

11.1 From time to time members of the Planning ~~& Development Control~~ Committee will disagree with the professional advice given by the Chief Officer, Planning ~~& Environment~~ and Economy. The committee's decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. If Members propose to make a decision contrary to the officer recommendation (whether for approval or refusal), the proposer should set out clearly the reasons for doing so. The ~~Chairperson~~Chair will ensure that the officer is given the opportunity to explain the implications of the contrary decision, before a vote is taken.

- 11.2 In cases where the ~~Planning and Development Control Committee~~ Planning Committee decides for good and valid reasons to depart from the Chief Officer, Planning ~~& Environment~~ and Economy's recommendation, the committee must always define the reasons for rejecting the officer's recommendation and those reasons must be recorded in the minutes of the meeting.
- 11.3 In the case of conditions which the committee has resolved to add or amend the precise wording is delegated to the Chief Officer, Planning ~~& Environment~~ and Economy and, if appropriate, in consultation with the Chair of committee.
- 11.4 In cases of refusal the reasons shall be clearly stated and agreed by Members. There may be occasions when officers need to clarify the reasons for refusal either at the meeting itself or by a report to a subsequent meeting.
- 11.5 A legal advisor present at the committee meeting may subsequently prevent a decision notice being issued until a report by the Chief Officer Governance has been considered at the subsequent committee meeting. The reason for this report may be concerns of a legal nature or that at the committee meeting the Chief Officer, Planning ~~and Environment~~ and Economy indicated the proposed decision represents a significant departure from planning policy and the legal officer subsequently agreed.

12. PLANNING APPEALS

- 12.1 There are a wide variety of different factual situations relating to appeals. There can be appeals against non-determination or against a refusal made under officers' delegated powers or by the ~~Planning & Development Control Committee~~, either in accordance with the officer recommendation or contrary to the officer recommendation. Appeals can be heard by way of written representations, informal hearing or at an inquiry. The appeal may relate to a major or a minor planning proposal, a development that has attracted a lot of interest from Members and the public or a proposal that is of limited interest. Because of the range of circumstances, the way the Council responds to an appeal will be individual to the circumstances of that appeal. The following principles will guide the Council's response to each specific appeal.
- 12.2 The Council recognises the importance of complying with the timescales within the appeal process as a failure to meet these timescales can lead to an award of costs against the Council.
- 12.3 The Council will adopt a team approach to appeals whereby Members and officers work together in the best interest of the Council, irrespective of how the decision appealed against was arrived at.
- 12.4 The decision whether an appeal is determined by way of written representations, informal hearing or public inquiry is a matter for the Planning Inspectorate but the Council is given the opportunity of making representations as to the appropriate format. The Chief Officer, Planning ~~& Environment~~ and

Economy will make representations on behalf of the Council as to its preferred format where possible following consultation with the local Member(s).

12.5 In the case of Informal Hearings and inquiries, the Chief Officer, ~~Planning & Environment~~ Environment and Economy will determine who shall present the case on behalf of the Council following consultation with the Chair and Vice Chair of the ~~Planning and Development Control Committee~~ Planning Committee.

12.6 Where the decision appealed against was made by officers under delegated powers or was pursuant to an officer recommendation, the case will normally be presented by the Council's officers.

12.7 Where the decision was made by Members contrary to officer recommendation, attendance by one or more Members would assist the Council's case and relevant Members will be approached by the Chief Officer, ~~Planning & Environment~~ and Economy to ascertain their availability. Officers will assist any such Member in preparing for the appeal.

~~12.7~~

12.8 External legal representation and/or consultants will be engaged where the Chief Officer, ~~Planning & Environment~~ and Economy, following consultation with the Local Member(s) and the Chair and Vice Chair of the Planning Committee, believes this to be appropriate in all the circumstances. One relevant circumstance is the need for Planning Officers who are members of The Royal Town Planning Institute to comply with its Code of Professional Conduct and not make statements purporting to be their own which are contrary to their bona fide professional opinion.

~~12.8~~

13. **PLANNING OBLIGATIONS**

13.1 The ~~Planning and Development Control Committee~~ Planning Committee may, when considering the merits of an individual planning application, consider any planning obligation which has been raised with the applicant or agent but should form a view solely on the basis of the contents of the application and should take into account offered planning obligations only to the extent that they are necessary to make a proposal acceptable in land use planning terms.

13.2 Members should avoid becoming involved in discussions with applicants, prospective applicants, their agents, landowners or other interested parties regarding benefits, which may be offered to the Council, or benefits which the Council itself wishes to obtain.

14. **REGULAR REVIEW OF DECISIONS**

- 14.1 As part of the aim to continually improve the quality of planning decisions Members will have the opportunity to revisit a sample of implemented planning decisions. Such reviews will be a positive step to improve the quality and consistency of decision-making, not only strengthening public confidence in the planning system but also assist with the review of planning policy.
- 14.2 Such a review will take place annually and briefing notes will be prepared for each case. The Planning Strategy Group will formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

15. **COMPLAINTS**

- 15.1 Any issues or concern arising from this Code of Practice can be raised with the ~~Chairperson~~Chair of the ~~Planning and Development Control Committee~~Planning Committee, the Monitoring Officer, the Chief Officer, Planning, ~~&~~ Environment and Economy or the Legal Officer present at committee. (The Council also has a formal complaints system in operation, which can be used if necessary)

-15.2 Where members of the public are concerned about any matters arising from this Code of Practice such concerns can be raised under the Public Complaints Procedure via the following link: <https://www.flintshire.gov.uk/en/Resident/Contact-Us/Concerns-and-Complaints.aspx>

SECTION 23

23. PLANNING CODE OF PRACTICE

HOW WE DEAL WITH PLANNING APPLICATIONS AND OTHER PLANNING ISSUES

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13. PLANNING OBLIGATIONS
14. REGULAR REVIEW OF DECISIONS
15. COMPLAINTS

1. **INTRODUCTION**

- 1.1 The Planning system involves taking decisions about the use and development of land in the wider public interest having regard to the Development Plan, national Planning Guidance and other material considerations. Planning can be contentious because its decisions affect the daily lives of individuals, landowners and developers.
- 1.2 It is important therefore that the process is open and transparent. In other words the system should not only be fair but it should be seen to be fair. The Nolan Committee's report on Standards in Public Life gave close consideration to these issues and its recommendations feature significantly in the Local Government Association's revised 2002 guidance for Members and Officers in dealing with planning matters. Members are advised to read the LGA guidance as it provides useful background to the Code of Practice.
- 1.3 This Code of Practice provides guidance to elected Members, officers and developers on the planning process. It is supplementary to the Flintshire Member and Officer Codes of Conduct and the Protocol on Member/officer relations all of which are contained in the Council Constitution.
- 1.4 Whilst the principles set out in this document apply primarily to the manner in which individual planning applications should be dealt with, they also apply to the decision-making process relating to any aspect of the planning function.

2. **ROLE OF MEMBERS AND OFFICERS**

2.1 **General**

- 2.1.1 Members and officers have different but complementary roles. Both serve the public but Members are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not individual Members, and Members instructions may only be given to officers through a decision of the Council, its Cabinet or a Committee.
- 2.1.2 It is important that a good relationship exists between Members and officers and that this is based on mutual trust and understanding of each other's positions. This relationship and trust must never be abused or compromised.

2.2 **Role of Officers**

- 2.2.1 The officer's function is to advise and assist Members in the formulation of planning policies, in the determination of planning applications and, deciding whether or not to take enforcement action for breaches of planning control. Officers should:-

- Provide impartial and professional advice.
- Make sure that all accurate information necessary for the decision to be made is given.
- Provide a clear and accurate analysis of the issues.
- Set applications and enforcement issues against the broader Development Plan policies and all other material considerations.
- Give a clear recommendation based on the above requirements.
- Carry out the decisions made by Members in committee or through the delegated authority of the Chief Officer, Planning Environment and Economy Update Members on new legislation and guidance.
- Provide appropriate training and briefings for Members.

2.3 **Role of Members**

2.3.1 The full Council is responsible for setting the Council's formal planning policy framework through the Development Plan(s). As a general principle there is an expectation that Members will uphold the Council's planning policies.

2.3.2 When Members come to make a decision they must:-

- Be clear as to whether or not they have an interest which needs to be declared if not already done so or seek advice from the legal officer if unsure.
- Act fairly and openly.
- Approach each application with an open mind.
- Carefully weigh up all relevant issues.
- Determine each application on its own merits.
- Avoid giving the impression that the Member has made her / his mind up prior to the application being determined.
- Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

2.3.3 Where a planning application relates to a Member's ward the views of the local Member are important to the Chief Officer, Planning, Environment and Economy, and to the Chair and Members of the Planning Committee. Ward Members should not become too closely identified with special interest groups if they wish to vote in the Planning Committee. Whilst Members have a responsibility to their constituents their overriding duty is to the whole County and therefore need to consider proposed developments in the interests of the wider community.

2.3.4 Members should not decide how to vote on any application at any formal political group meeting. Political group meetings should never dictate how Members should vote on a planning issue.

2.4 **Member / Officer Contact**

- 2.4.1 The officer / Member relationship is extremely important for good decision making and an effective planning service. The mutual understanding of their respective roles and respect for each other's position is vital for good relations.
- 2.4.2 In making enquiries regarding individual applications Members should make contact with the Case Officer or Line Manager and make an appointment if necessary. Where an assistance is requested the Case Officer or Line Manager will respond in a timely manner. Whilst Members may wish to seek advice or information from the Chief Officer, Planning, Environment and Economy or the Development Manager, Members should in the first instance seek information from the Case Officer. Information can be sought and provided by e-mail.
- 2.4.3 Officers will provide every reasonable help to Members in the carrying out of their duties. Meetings between officers and Members may sometimes be helpful, but are only likely to be of value if prior arrangements have been made. This allows the officer to have all relevant documents available at the meeting. Prior arrangements may be made by telephoning the relevant Officer or the Planning Services Reception staff or by email. Members rooms can be utilised and suitable rooms can be made available by mutual agreement if privacy is required or a virtual meeting may be arranged where all parties agree.
- 2.4.4 It is acknowledged that Members and officers may well have differing views on a proposal but Members should on no account interfere with or put pressure on officers to make a particular recommendation.

3. TRAINING

- 3.1 All members of the Council are required to have received core planning training covering planning policies, procedures, law and this Code.
- 3.2 Other training will be arranged by officers in consultation with members in the form of additional sessions, seminars and workshops on topical issues and to keep members up to date on new procedures, advice and guidance.
- 3.3 Members of the Planning Committee are required at all times between ordinary County Council elections to attend at least 75% of the planning training topics covered during their membership of the Committee.
- 3.4 Attendance at planning training will be monitored and reported to the Planning Strategy Group who may grant an exception to the requirements of paragraph 3.3 where there is good reason for a member temporarily failing to meet this requirement.

4. REGISTRATION AND DECLARATION OF INTERESTS

4.1 Code of Conduct

4.1.1 Members should follow scrupulously the County Council's **Members' Code of Conduct** in relation to registration and declaration of interests and, if an interest is declared, in deciding whether the Member should participate in the consideration of an application. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct. If a Member considers he/she may have a personal interest they should consult the Monitoring Officer, Deputy Monitoring Officer or a Senior Officer of Legal & Democratic Services for advice on their position ideally in advance of the meeting.

4.2 **Personal Interests**

4.2.1 The principles about the disclosure of interests should be applied, not only to formal meetings, but also to any of a Member's dealings with Council officers, or with other Members. Where a Member has a personal interest, as defined by the Code, it must always be declared. It does not necessarily follow that the Member is debarred from participation in the discussion. The responsibility for declaring an interest lies with the Member, but the Monitoring Officer is there to advise. If there is any doubt in a Member's mind, he / she should seek early advice from the Monitoring Officer, Deputy Monitoring Officer or other Senior Officer of Legal & Democratic Services on their position. Members should err on the side of declaring an interest when they are not sure.

4.2.2 Members who have substantial property, professional or other interests relating to the planning function which would prevent them from voting on a regular basis, should avoid serving on the Planning Committee.

4.2.3 Where a Local Member has decided he / she has a personal interest making it inappropriate for that Member to be involved in the processing and determination of a planning application in his / her ward such a Member may arrange for another Member to act as local Member instead to represent constituents' views. In such a situation the local Member should inform the Monitoring Officer and the Chief Officer, Planning, Environment and Economy of the arrangement made and take no further part in the processing and determination of the planning application other than referring any representations or communications received to the Member who is acting as local Member.

4.3 **Declaration**

4.3.1 When declaring an interest at committee, this should be done at the beginning of the meeting or at the point in the meeting where the interest becomes apparent to the relevant Member. Members should be clear and specific in identifying the item on the agenda in which they have an interest, and the nature of that interest.

4.4 **Predetermination**

- 4.4.1 A Member has predetermined a planning application where the Member shows (e.g. in local press) he/she has made their mind up on the merits of the application prior to it being considered at committee. A predisposition is where a Member has an inclination or preliminary view on the merits of the application.
- 4.4.2. A Member who has predetermined the merits of a planning application in advance of it being considered at committee should not be a Member of the committee that considers that application. A Member of the committee may have a predisposition or a preliminary view. If in doubt a Committee Member should seek advice prior to the Committee meeting from either the Monitoring Officer or the Solicitor who attends committee meetings.
- 4.4.3 Those Members who do not sit on the Planning Committee may predetermine their stance on an application but should respect the fact that Planning Committee Members cannot do the same.

4.5 **Register**

- 4.5.1 A register of Members' interests is maintained by the Council's Monitoring Officer. It is available for public inspection. Each Member has a responsibility to provide the Monitoring Officer with up to date written details of relevant interests.

4.6 **Dual Community / Town and County Council Membership**

- 4.6.1 Membership of a Town / Community Council which has expressed a view on a planning matter does not in itself mean that the Member cannot take part in the determination of the matter when it comes before the Planning Committee provided that the Member has kept an open mind and not committed himself / herself to a final view on the matter until all the arguments for and against have been aired at committee. The Member can enter into discussion and ask questions, but should make clear that a view in favour or against the proposal is on the basis of knowledge and information known at that time.
- 4.6.2 Where an application submitted by a Community or Town Council is being considered then a Member of that Council may not vote on the proposal to determine the application unless the Member has obtained dispensation from the Standards Committee.

4.7 **Cabinet Members who also sit as members of the Planning Committee**

Where a Member of the Planning Committee is also a Cabinet Member, there are likely to be occasions where an application for planning permission is being considered by the Planning Committee that also relates to a Cabinet Members' Portfolio. For example, there may be a planning application for a new school and the Cabinet Member responsible for Education may also sit as a Member of the Planning Committee. This does not give rise to a personal and prejudicial interest, as the Councillor is acting as a County Councillor both as a Cabinet

Member and as a Planning Committee Member. However, it may be the case that if the planning application is very closely related to a specific decision made by a Cabinet Member they may be perceived to have predetermined their stance. If a Member is unsure of their position in this regard they should contact the Monitoring Officer, Deputy Monitoring Officer or a Senior Officer of Legal Services for advice on their position, ideally in advance of the meeting.

5. **LOBBYING**

5.1 Lobbying is a part of the political process and it is quite common for applicants or other interested parties to wish to discuss a proposed development with Members before a planning application is determined. Welsh Government guidance on pre-application planning consultations encourages developers to speak to local councillors in order to understand the local context and their concerns as well as to explain any proposed development. This can help Members' understanding of the issues and concerns associated with an application. Officers should be made aware of any lobbying correspondence Members receive.

5.2 However, Members of the Planning Committee are under an obligation to determine matters on their merits and in a manner that is seen to be impartial. That means that they should not take a firm view on a planning matter before receiving and reading the officer's report or receiving any new information reported to the committee nor create the impression that they favour one outcome or another. Whilst Members of the committee may form an initial view or opinion, and indicate their view that an application is contrary to policy, they should not openly declare which way they intend to vote in advance of the Planning Committee meeting nor suggest that they support either the applicant or any objector(s). To avoid compromising their position before they have received all the relevant information, committee Members are advised that they should:-

- > **Refer** applicants / developers who approach them for planning or procedural advice to the appropriate Planning Officer.
- > **Avoid** making it known in advance whether they support or oppose the proposal.
- > **Avoid** campaigning actively in support of a particular outcome.
- > **Direct** lobbyists or objectors to the appropriate Planning Officer, who will include reference to their opinions where relevant in their report.

5.3 Prior to the committee meeting any member who has significant contact with applicants and objectors must without delay seek advice from the Monitoring Officer or Deputy Monitoring Officer on whether there is a risk that the member's impartiality might be seen as compromised. Significant contact is where a Member has been contacted on four or more occasions by the applicant or the same objector (either orally or in writing). Officers might advise a member that they should only speak but not vote on an application in order to protect the impartiality of the decision making process.

- 5.4 Members must advise the Ward Member and adjoining ward members as a courtesy in cases where they are seeking to be involved in a development proposal or enforcement issue outside of their own Ward. It is accepted that where a planning application has a significant effect on another ward the Member(s) for that ward is entitled to become involved in the development proposal.
- 5.5 Members of the Planning Committee must avoid organising support for or against a planning application. Where such a Member does organise support for or against a planning application then that Member must not participate in the decision-making on that application when it is considered by the Planning Committee. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring Officer, Deputy Monitoring Officer or other Senior Officer in Legal & Democratic Services ideally in advance of the meeting.
- 5.6 If a Planning Committee Member expresses support for, or opposition to a proposal before the matter is formally considered at the relevant meeting, whether or not there has been lobbying, he / she could have some difficulty in being able to claim to retain an open mind on the issue and to be prepared to determine the application on its merits. If such a Member does express an opinion, then it should make it clear that it is a preliminary opinion and that he / she will only be in a position to take a final decision when all the evidence and arguments have been considered.
- 5.7 Where a member of the committee has not complied with 5.2, 5.5 or 5.6 above and has predetermined the merits of the application, they must not participate in the decision-making on that application.
- 5.8 If a Member becomes a new member of the Planning Committee it is possible that they may have made clear their position on a particular application prior to becoming a member of the Planning Committee. If that application is subsequently before the Planning Committee for determination they must not participate in the decision-making on that application. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring Officer, Deputy Monitoring Officer or other Senior Officer in Legal & Democratic Services ideally in advance of the meeting.

6. **APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS**

- 6.1 Planning applications submitted by or on behalf of Members, or officers involved in the planning application process, or the close relatives* of Members or such officers and where the officer or Member knows of the application shall be decided by the Planning Committee and not by the Chief Officer, Planning Environment and Economy under delegated powers.

[* Close relative is defined as spouse, partner, parent, child or sibling].

6.2 A Member affected by clause 6.1 shall declare the personal and prejudicial interest at any meeting of the Planning Committee to determine the application, take no part in the decision and leave the meeting place unless granted a dispensation by the Standards Committee.

6.3 The affected officer shall take no part in the processing of the application and its determination.

7. **APPLICATIONS SUBMITTED BY THE COUNCIL**

7.1 It is important that the Council is seen to be treating applications for its own development (or a development involving the Council and another party) on an equal footing with all other applications as well as actually doing so.

7.2 Subject to any legislative restrictions all such proposals will be subject to the same administration processes, including consultation, as private applications with consideration being made in accordance with policy and any other material planning considerations and in accordance with the Council's scheme of delegation for all planning applications as set out in the Council's constitution.

8. **PRE-APPLICATION AND ENFORCEMENT DISCUSSIONS AND PRE-APPLICATION CONSULTATIONS**

8.1 Pre-application meetings between officers and potential applicants and negotiations regarding breaches of planning control are encouraged. The aim of such meetings is to ensure beneficial development and to resolve matters that might otherwise lead to the refusal of planning permission. Such discussions will normally take place at officer level and Members should refer requests for such advice to the officers. If Members become involved in such discussions they should make it clear that their views are personal and provisional. To avoid such meetings being misunderstood:-

> **It will be made clear** prior to and at such meetings that only personal and provisional views based upon the Development Plan and other material considerations can be given and no commitments can be made which would bind or otherwise compromise the Planning Committee or any member of this committee.

> **A note** of the discussion will be taken and placed on file and made available for public inspection once an application has been made.

> **Where** exceptionally meetings are to involve Members the meetings will be arranged by and attended by officers and the adjoining ward member will be invited to attend.

8.2 Pre-application Consultation (PACs) requirements are different from the meetings referred to at paragraph 8.1 above. They are statutory requirements

that have been introduced to require developers to consult on certain development proposals, prior to submitting a planning application. Members are usually consulted directly by the developers as part of these requirements. Planning officers are not required to be consulted as there is no requirement as part of the PAC process to consult the local planning authority. However, depending on the size of the proposal other officers within the Council may be consulted, such as the Council's Highway Engineers. If Members are requested to attend any meetings as part of this process it is still recommended that they contact a planning officer and that the advice at paragraph 8.1 above is followed. The advice at paragraph 5 above equally applies where developers contact Members as part of the PAC process and Officers should be made aware of any correspondence Members receive. Further advice about the PAC process can be found on the gov.wales website.

9. **PLANNING COMMITTEE SITE VISITS**

9.1 **Purpose**

9.1.1 Planning Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises held for the benefit of Members where a proposed development may be difficult to visualise from the plans and supporting material. They may be necessary for careful consideration of relationships to adjoining property or the general character of the area due to the scale or design of the development.

9.2 **Request for a Site Visit**

9.2.1 A request for a site visit is normally made by the local Ward Member in response to being consulted on the proposed development. The request must be in writing (e.g. e-mail) and should clearly indicate the planning reasons for the visit which will appear on the agenda for site visits. Site visits can be costly and cause delay so it is important that they are only held where necessary and prior to committee. Site visits are held pursuant to a decision of the Chair of the Planning Committee or pursuant to a request from a local Member including another Ward Member consulted because the application significantly affects the other ward. All local Members will be advised when a site visit has been arranged.

9.2.2 Examples where a site visit would not normally be appropriate include where;

- purely policy matters or issues of principle are at issue
- the Member wishes to consider boundary or neighbour disputes
- issues of competition
- loss of property values
- any other issues which are not material planning considerations where Members have already visited the site within the last 12 months,

except in exceptional circumstances

Where no planning reason is given for the site visit or the reason for the site visit is any of the above the Chair should not convene the site visit.

9.3 **Format and Conduct at the Site Visit**

- 9.3.1 Members of the Planning Committee and the Local Ward Member(s) will be notified in advance of any visit. Such visits are not formal meetings of the Committee and there is no right of public attendance at the visit itself. If the public in lobbying Members on their way to or from a site visit seek to present documentation they should be advised to send it to the Planning Department instead
- 9.3.2 Advance notice of the site visit will also be sent to the applicant or agent requesting that access to the site for Members/officers be provided at the specified time/date and pointing out that the applicant/agent will not be allowed to participate in the site visit. Any Member with a personal and prejudicial interest must not take part in the site visit.
- 9.3.3 The Chair will invite the Planning Officer to briefly outline the proposal and point out the key issues raised by the application and of any vantage points from which the site should be viewed then the local ward Member (and adjoining ward Member in the exceptional circumstances that they are also present) will be invited to speak, followed by other Members of the Committee who may ask questions and seek clarification from officers who will respond. Any statement or discussion concerning the principles and policies applicable to the development should not be allowed by the Chair.
- 9.3.4 Although site visits are not part of the formal committee consideration of the application, the Code of Conduct still applies to site visits and Members should have regard to the guidance on declarations of personal interest.
- 9.3.5 A file record will be kept of those attending the site visit, together with a brief note of any points raised.
- 9.3.6 For the avoidance of doubt references in this section to Local Member(s) includes adjacent ward Members where the application significantly affects their ward.
- 9.3.7 Occasionally the applicant/agent/owner of the site to be visited may not permit Members and officers onto the site. There may be good reason for this, for example, if someone was injured they could have a claim against the landowner. Where access is refused to one or more of the elected Members, the Chair will be advised that none of the Members and officers should enter onto the land. In such circumstances the site should be viewed from the nearest public land such as the public highway.

9.3.8. In summary site visits are:- >

Fact finding exercise.

- > **Not part** of the formal committee meeting and therefore public rights of attendance do not apply.
- > **To enable** officers to point out relevant features.
- > **To enable** questions to be asked on site for clarification. However, discussions on the application will only take place at the subsequent committee.

10. **PROCEDURE AT PLANNING COMMITTEE**

- 10.1 The majority of planning applications are determined by the Chief Officer, Planning, Environment and Economy under the Council's delegation scheme. This is necessary to ensure that most decisions are made in a timely manner. Whilst Members have a right to request that applications, affecting their ward be determined by the Planning Committee such requests should be justified by clearly identifying in writing why a committee decision is required. This is generally done on the return notification form sent out to Members.
- 10.2 Officers will produce written reports on all planning applications reported to committee. In respect of each proposal the report will include, amongst other matters;
- description of the proposal
 - description of the site
 - responses to consultations and officer observations thereon.
 - summary of objections and / or support received
 - relevant site history
 - relevant Development Plan policies
 - relevant planning guidance where appropriate
 - any other material planning consideration
 - an appraisal by the Case Officer which will include the relevant views of other consulted officers within the Planning Division
 - a clear recommendation
 - brief details of the substance of any conditions to be imposed or;
 - full details of reasons for refusal.
- 10.3 Late observations received by 5.00 p.m. the day before a committee meeting will be summarised and reported separately and circulated to Members immediately prior to the start of the meeting.
- 10.4 The Planning Officer will briefly introduce each item highlighting the key issues for Members consideration.
- 10.5 Where an application is being reported to committee, the Chair will allow oral representations to be made in accordance with the protocol on public speaking prior to the committee debating the application.

- 10.6 Where written submissions are received from the applicant or any other person intending to speak in accordance with the protocol on public speaking and any such person is unable to attend, their written submissions will be read out by an officer on their behalf.
- 10.7 Where a Member seeks and obtains a majority for a deferment for a specific purpose then there will be no further debate on that matter until such time as the proposal is re-presented.
- 10.8 Members who read out at committee, or refer to, communications they have received should provide an advance copy to officers

11. **DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

- 11.1 From time to time members of the Planning Committee will disagree with the professional advice given by the Chief Officer, Planning Environment and Economy. The committee's decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. If Members propose to make a decision contrary to the officer recommendation (whether for approval or refusal), the proposer should set out clearly the reasons for doing so. The Chair will ensure that the officer is given the opportunity to explain the implications of the contrary decision, before a vote is taken.
- 11.2 In cases where the Planning Committee decides for good and valid reasons to depart from the Chief Officer, Planning Environment and Economy's recommendation, the committee must always define the reasons for rejecting the officer's recommendation and those reasons must be recorded in the minutes of the meeting.
- 11.3 In the case of conditions which the committee has resolved to add or amend the precise wording is delegated to the Chief Officer, Planning Environment and Economy and, if appropriate, in consultation with the Chair of committee.
- 11.4 In cases of refusal the reasons shall be clearly stated and agreed by Members. There may be occasions when officers need to clarify the reasons for refusal either at the meeting itself or by a report to a subsequent meeting.
- 11.5 A legal advisor present at the committee meeting may subsequently prevent a decision notice being issued until a report by the Chief Officer Governance has been considered at the subsequent committee meeting. The reason for this report may be concerns of a legal nature or that at the committee meeting the Chief Officer, Planning Environment and Economy indicated the proposed decision represents a significant departure from planning policy and the legal officer subsequently agreed.

12. **PLANNING APPEALS**

- 12.1 There are a wide variety of different factual situations relating to appeals. There can be appeals against non-determination or against a refusal made under officers' delegated powers or by the Planning Committee, either in accordance with the officer recommendation or contrary to the officer recommendation. Appeals can be heard by way of written representations, informal hearing or at an inquiry. The appeal may relate to a major or a minor planning proposal, a development that has attracted a lot of interest from Members and the public or a proposal that is of limited interest. Because of the range of circumstances, the way the Council responds to an appeal will be individual to the circumstances of that appeal. The following principles will guide the Council's response to each specific appeal.
- 12.2 The Council recognises the importance of complying with the timescales within the appeal process as a failure to meet these timescales can lead to an award of costs against the Council.
- 12.3 The Council will adopt a team approach to appeals whereby Members and officers work together in the best interest of the Council, irrespective of how the decision appealed against was arrived at.
- 12.4 The decision whether an appeal is determined by way of written representations, informal hearing or public inquiry is a matter for the Planning Inspectorate but the Council is given the opportunity of making representations as to the appropriate format. The Chief Officer, Planning Environment and Economy will make representations on behalf of the Council as to its preferred format where possible following consultation with the local Member(s).
- 12.5 In the case of Informal Hearings and Inquiries, the Chief Officer, Planning, Environment and Economy will determine who shall present the case on behalf of the Council following consultation with the Chair and Vice Chair of the Planning Committee.
- 12.6 Where the decision appealed against was made by officers under delegated powers or was pursuant to an officer recommendation, the case will normally be presented by the Council's officers.
- 12.7 Where the decision was made by Members contrary to officer recommendation, attendance by one or more Members would assist the Council's case and relevant Members will be approached by the Chief Officer, Planning Environment and Economy to ascertain their availability. Officers will assist any such Member in preparing for the appeal.
- 12.8 External legal representation and/or consultants will be engaged where the Chief Officer, Planning, Environment and Economy following consultation with the Local Member(s) and the Chair and Vice Chair of the Planning Committee, believes this to be appropriate in all the circumstances. One relevant circumstance is the need for Planning Officers who are members of The Royal

Town Planning Institute to comply with its Code of Professional Conduct and not make statements purporting to be their own which are contrary to their bona fide professional opinion.

13. **PLANNING OBLIGATIONS**

- 13.1 The Planning Committee may, when considering the merits of an individual planning application, consider any planning obligation which has been raised with the applicant or agent but should form a view solely on the basis of the contents of the application and should take into account offered planning obligations only to the extent that they are necessary to make a proposal acceptable in land use planning terms.
- 13.2 Members should avoid becoming involved in discussions with applicants, prospective applicants, their agents, landowners or other interested parties regarding benefits, which may be offered to the Council, or benefits which the Council itself wishes to obtain.

14. **REGULAR REVIEW OF DECISIONS**

- 14.1 As part of the aim to continually improve the quality of planning decisions Members will have the opportunity to revisit a sample of implemented planning decisions. Such reviews will be a positive step to improve the quality and consistency of decision-making, not only strengthening public confidence in the planning system but also assist with the review of planning policy.
- 14.2 Such a review will take place annually and briefing notes will be prepared for each case. The Planning Strategy Group will formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

15. **COMPLAINTS**

- 15.1 Any issues or concern arising from this Code of Practice can be raised with the Chair of the Planning Committee, the Monitoring Officer, the Chief Officer, Planning Environment and Economy or the Legal Officer present at committee. (The Council also has a formal complaints system in operation, which can be used if necessary).
- 15.2 Where members of the public are concerned about any matters arising from this Code of Practice such concerns can be raised under the Public Complaints Procedure via the following link:
<https://www.flintshire.gov.uk/en/Resident/Contact-Us/Concerns-and-Complaints.aspx>



FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Tuesday 25 th January 2022
Report Subject	Declaration and Disposal of Land Surplus to Requirements
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

From time to time the Council will decide that it no longer requires a piece of land, and will categorise it as “surplus to requirements”. Such land is sold generating receipts that fund the capital programme.

It is important that the decision making process for doing this includes consultation with the relevant parties, especially where the property currently forms part of the education estate.

The process is not currently documented and it is proposed that a short process be included within the Constitution for clarity and transparency.

RECOMMENDATIONS

1	That the proposed process for declaring and disposing of land that is surplus to requirements be included within the Constitution.
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REPORT DETAILS

1.00	EXPLAINING THE PROCESS FOR DECLARING LAND SURPLUS TO REQUIREMENTS
1.01	The Council will, from time to time, find that it no longer has a use for a particular piece of land, in which case it is declared “surplus to requirements”. Such land, when sold, generates capital receipts that fund the Council’s capital programme. However, it is important that in reaching the decision to sell land that the relevant parties are consulted especially where the land forms part of the education estate (possibly part of a school campus).

1.02	The process for deciding whether land is surplus to requirements is not currently documented. For the sake of greater clarity and transparency it is proposed that the process should be documented and included within the Constitution. It will be included as part of the delegated authority that previously pertained to the Chief Officer (Housing and Assets) and which will, in future, be delegated to the new post of Corporate Manager, Capital Programmes and Assets.
1.03	<p>The proposed process for declaring land surplus to requirements is as follows:</p> <p><u>Declaration that Land/Property is Surplus to Requirements</u></p> <p>It is for the service occupying the land/property to formally declare it surplus via the following process:</p> <ul style="list-style-type: none"> • The relevant Chief Officer and Portfolio Member to complete a delegated report. In instances where the asset concerned were/are occupied by a school then the report must state that the school's Governing Body has been consulted and confirm the outcome of that consultation within the report. • The proposal must be supported by the Capital and Asset Programme Board. • The asset will then transfer to the Valuation and Estates service. A revenue budget to cover any residual running costs for the first twelve months shall also be transferred the sum agreed in advance and noted within the report.
1.04	Once declared as surplus the land will be available for sale at a time judged to be most opportune by the Valuation and Estates Service, taking into account such factors as demand, land values etc. The Constitution already contains a separate approval process to actually authorise the sale of a particular piece of land that includes the Council's valuer, consultation with local Member(s) and approval by Cabinet (for land above a certain value). That process was reviewed and approved by this Committee within the last few years to strengthen consultation with the local Member(s).

2.00	RESOURCE IMPLICATIONS
2.01	None arising from issues within this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	Not required.

4.00	RISK MANAGEMENT
4.01	Not applicable at this stage.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>None</p> <p>Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	None.

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