

SWINFEN AND PACKINGTON PARISH COUNCIL

Ms Jayne Minor
6 Highfield Close
Burntwood
WS7 9AR

E-Mail: jayneminor@talktalk.net

Web Site: www.swinfenandpackington.org.uk

Our Ref: JM

12 July 2023

To: **All Members of the Parish Council**

Dear Councillor

You are hereby summoned to attend the Meeting of the Parish Council to be held in the **Conference Centre, HMP Swinfen on Wednesday 19 July 2023 commencing 6.00 p.m.** at which the business set out below will be transacted.

Yours sincerely

Jayne Minor

Jayne Minor (Ms) CiLCA & FiLCA
Parish Clerk

AGENDA

PUBLIC FORUM

To promote community engagement, the public now has the opportunity to attend and speak at all of the Parish Council's meetings. Please refer to the end of the agenda for details of how to participate in this meeting.

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST AND DISPENSATION**
To receive declarations of any personal or prejudicial interest under consideration on the Agenda in accordance with the Parish Town Councils (Model Code of Conduct) Order 2007.
- 3. MINUTES**
To approve as a correct record the Minutes of the Meeting of the Parish Council held on 17 May 2023 [Minute Nos. 1 - 19] **[ENCLOSURE]**.
- 4. CHAIRMAN'S ANNOUNCEMENTS**

5. **CO-OPTION**

If the vacancy is of a result of the 04 May 2023 Elections, then the Parish Council does not need to publish a notice and can just co-opt. Members are asked to consider co-opting Mr Alastair Perks.

6. **RENOVATION OF THE PARKING AREA OPPOSITE HOPWAS WOODS**

Following a site inspection by Councillor Barnes on 22 May 2023 Members are asked to retrospectively approve the payment to C T Petford in the sum of £16,000 plus VAT.

7. **THE HIGH-SPEED RAIL PLANS**

Members are requested to debate the up-to-date position relating to the High-Speed Rail Plans.

8. **CIL MONIES [FOR INFORMATION PURPOSES ONLY]**

CIL receipts

| | |
|--|-------------------|
| Total amount of CIL received in financial year 2023/24 | £0.00 |
| Total amount of CIL received in financial year 2022/23 | £0.00 |
| Total amount of CIL received in financial year 2021/22 | £26,163.50 |
| Total amount of CIL received in financial year 2020/21 | £8,721.17 |
| Total amount of CIL received in financial year 2019/20 | £410.55 |
| Total amount of CIL received in financial year 2018/19 | £1,037.77 |
| TOTAL RECEIVED | £36,332.99 |

CIL Spent

| | |
|--|-------------------|
| Total amount of CIL spent in financial year 2023/24 so far | £16,000.00 |
| Total amount of CIL spent in financial year 2022/23 | £10,424.50 |
| Total amount of CIL spent in financial year 2021/22 | £4,090.00 |
| Total amount of CIL spent in financial year 2020/21 | £1,930.50 |
| Total amount of CIL spent in financial year 2019/20 | £295.00 |
| Total amount of CIL spent in financial year 2018/19 | £1,037.77 |
| TOTAL SPENT | £33,777.77 |

CIL Unspent

| | |
|----------------------|------------------|
| TOTAL UNSPENT | £2,555.22 |
|----------------------|------------------|

9. **CODE OF CONDUCT**

Members are asked to adopt the Code of Conduct [ENCLOSURE].

10. THE GENERAL POWER OF COMPETENCE

Members are requested to resolve that from 19 July 2023, until the next relevant Annual Meeting of the Council [i.e. May 2027], that having met the conditions of eligibility as defined in the Localism Act 2011 and SI 965 The Parish Councils [General Power of Competence [Prescribed Conditions] Order 2012], adopting the General Power of Competence [ENCLOSURE].

11. BOTANY BAY SIGNAGE

Members are asked to consider whether or not the wording "Botany Bay" could be included on the existing signage [ENCLOSURE].

12. EXCLUSION OF THE PRESS AND PUBLIC

The Chairman will move:

That under the Public Bodies (Admissions to Meetings) Act 1960 (Section 2) (and as expended by Section 100 of the Local Government Act 1972), the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information.

13. PARISH CLERK'S SALARY

Members are requested to approve the payment of the Parish Clerk's June and July 2023 salary [PINK ENCLOSURE].

14. DATE AND TIME FOR NEXT PARISH COUNCIL MEETING

Wednesday 13 September 2023

Wednesday 08 November 2023

Wednesday 17 January 2024

Wednesday 27 March 2024

Wednesday 15 May 2024

All meetings will commence at 6pm

PUBLIC FORUM

15 minutes will be set aside at the beginning of this meeting for you to raise issues relevant to the remit of the meeting. You will have up to 3 minutes and can raise more than one issue. However, the Chairman has the option to extend the time allowed to you if they think it is appropriate. So that the Members at the meeting can be properly briefed in order to enable them to provide a considered response to your question, please advise the Town Clerk of the question[s] you wish to ask the Parish Council at least five working days before the meeting. The Chairman of the meeting has the right to reject any representations that he/she considers not to be appropriate for the meeting. The public forum session will usually be the first item on the agenda and normally will last up to 15 minutes. In some instances, it may not be possible at the meeting to provide an answer. Where that is the case, a written response will be sent to your stated address. While audio and video recordings of this meeting are entirely legal, as a matter of courtesy to Parish Council members who work for this Parish and this Council on a voluntary basis, we would be grateful if you would let the Clerk or the Chairman know beforehand.

**MINUTES OF THE SWINFEN AND PACKINGTON PARISH COUNCIL ANNUAL MEETING
HELD AT PACKINGTON HAYES, PACKINGTON ON
WEDNESDAY 17 MAY 2023 COMMENCING AT 6.46 PM**

PRESENT

Councillor Barnes in the Chair
Councillors Armstrong, Dyott and Loescher

In attendance:

Ms J Minor, Parish Clerk
Mr A Perks

PARISH FORUM

No members of the public were present.

1. ELECTION OF CHAIRMAN OF THE PARISH COUNCIL FOR THE ENSUING YEAR

RESOLVED That Councillor Richard Barnes be elected Chairman of the Parish Council for the ensuing year.

2. APOLOGIES FOR ABSENCE

Councillors Mrs Phillips and Mrs Pope.

3. DECLARATIONS OF INTEREST

None declared.

4. MINUTES

RESOLVED That the Minutes of the Meeting of the Parish Council held on 22 March 2023 [Minute Nos. 61-76] as circulated, be approved as a correct record.

5. CHAIRMAN'S ANNOUNCEMENTS

Renovation of the parking area [lay-by] opposite Hopwas Woods

Councillor Barnes confirmed that the renovation works had started and at the meeting held on 10 May 2023, BBV/HS2 had agreed to fund the new signage. Taking into account BBV/HS2 generous offer, Councillor Barnes felt that a local historian should be engaged.

Packington Hall

Councillor Barnes informed Members that there was still a number of properties for sale on this development.

6. THE HIGH-SPEED RAIL PLANS

Councillor Barnes and Councillor Loescher gave Members an update following their meeting with representatives from BBV/HS2 on 10 May 2023 commencing at 2pm. Upon their arrival at the meeting, they had learnt that a directorate from London had attended the meeting at 1pm and representatives from BBV/HS2 had been told that a lot of the works would no longer take place. At the meeting BBV/HS2 had given an assurance that the "pot holes" around the roundabout outside Whittington Barracks would be made good by BBV/HS2. Councillor Loescher informed Members that he had seen this week people surveying the trees along the heart of England way however he was not aware of any intended works.

7. CIL MONIES

RESOLVED That the CIL unspent to date totalling £18,555.22 be noted.

8. RISK ASSESSMENT

RESOLVED That the Risk Assessment in respect of the Parish Council's bus shelters and public notice boards be received and noted.

9. STATEMENT OF ACCOUNTS FOR THE YEAR ENDED 31 MARCH 2023

9.1 Certificate of Exemption – AGAR 2022/23 Form 2

RESOLVED That the Certificate of Exemption – AGAR 2022/23 Form 2 for the year ended 31 March 2023 be approved and that the Chairman be authorised to sign the document.

9.2 Annual Internal Audit Report 2022/23

RESOLVED That the Annual Internal Audit Report 2022/23 for the year ended 31 March 2023 completed by Mr B Cooper be received and noted.

9.3 Section 1 – Annual Governance Statement 2022/23

RESOLVED That the Section 1 – Annual Governance Statement 2022/23 for the year ended 31 March 2023 be approved and that the Chairman be authorised to sign the document.

9.4 Section 2 – Accounting Statements 2022/23

RESOLVED That the Section 2 – Accounting Statements 2022/23 for the year ended 31 March 2023 be approved and that the Chairman be authorised to sign the document.

Members were reminded that as the Parish Council's total gross income for the year 2022/23 or total gross annual expenditure, for the year 2022/23 did not exceed £25,000 then the Parish Council would be submitting the Certificate of Exemption – AGAR 2022/23 Form 2 only to the external auditors [Mazars].

10. ANNUAL INTERNAL AUDIT REPORT 2022/23

RESOLVED That the Annual Internal Audit Report 2022/23 for the year ended 31 March 2023 be received and noted. That the Internal Auditor's invoice in the sum of £60 be paid [**cheque number 100685**].

11. WEBSTE

RESOLVED That the Parish Council's annual website hosting and annual domain renewal be renewed [£100] [**cheque number 100683**].

12. PARISH COUNCIL'S INSURANCE

RESOLVED That the Parish Council's insurance be renewed [£475.34] [**cheque number 100684**].

13. CO-OPTION OF MR ALASTAIR PERKS

When asked by Councillor Barnes, Mr Perks indicated that he still wished to be co-opted onto the Parish Council. The Parish Clerk stated that she would contact the Electoral Office at Lichfield District Council.

14. PLANNING APPLICATION 23/00239/FUL – SWINFEN HALL HOTEL, THE DRIVE – RETENTION OF TEMPORARY MARQUEE

Members were informed that the application had been refused on 27 April 2023 for the following reasons:

1. The development would comprise inappropriate development within the Green Belt that would cause harm by definition, moderate harm to openness and minor to moderate harm to visual amenity. No very special circumstances have been put forward which clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm to the heritage assets and neighbouring amenity. The proposed development is therefore considered contrary to Lichfield Development Management Policy NR2 (Development in the Green Belt) and Government Guidance contained in the National Planning Policy Framework 2021.

2. The proposal would be an incongruous form of development that would cause harm to the Grade II*listed Swinfen Hall and Grade II listed walled garden, by virtue of its design, scale and massing, contrary to the requirements of Core Policies 3 (Delivering Sustainable Development) and 14 (Our Built and Historic Environment), Policy BE2 (Heritage Assets) of the Local Plan Allocations, Policy BE1 (High Quality Development) of the Lichfield Local Plan Strategy 2015, and section 16 of the National Planning Policy Framework. Furthermore, there are no demonstrable public benefits of the proposal that would outweigh the harm to the setting of the listed building. 3 The proposal, by virtue of the noise generated and associated disturbance, would result in an unacceptable impact on the amenity of neighbouring residents, contrary to the requirements of Core Policy

3. (Delivering Sustainable Development) and Policy BE1 (High Quality Development) of the Lichfield Local Plan Strategy 2015 and the National Planning Policy Framework.

15. BOTANY BAY SIGNAGE

The Parish Clerk circulated a photograph of the Levett Road street name plate. It was **AGREED** that this would be an agenda item for 19 July 2023 to see how the wording "Botany Bay" could be included on the existing signage.

16. PLANNING APPLICATION 21/01570/FULM – SWINFEN HALL HOTEL, THE DRIVE - VARIOUS RENOVATION WORKS INCLUDING THE CONVERSION OF STAFF ACCOMMODATION AND OUTDOOR BOTHIES TO CREATE 9 NEW HOTEL ROOMS, 2 HOLIDAY COTTAGES AND THE CONSTRUCTION OF 12 NO. LAKESIDE CHALETS, DEMOLITION OF AGRICULTURAL STRUCTURES, ERECTION OF 1 NO. TWO STOREY HOTEL BLOCK COMPRISING 12 HOTEL ROOMS, 1 NO. TWO STOREY HOTEL BLOCK COMPRISING 7 HOTEL ROOMS, AND A HOTEL LEISURE COMPLEX COMPRISING SPA WITH TREATMENT ROOMS, GYM, INDOOR/OUTDOOR POOL FACILITIES AND RESTAURANT, EXTENSION OF CAR PARK, ERECTION OF AN ENTRANCE GATE AND ALL ASSOCIATED WORKS AND LANDSCAPING ACROSS THE SITE.

Councillor Dyott referred to the above planning application and in particular the chalets and referred to the planning permission which was granted for the above development in accordance with the application, plans and drawings listed and subject to compliance with the legal agreement dated 18 May 2022. He referred to condition no. 2. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject and the access.

17. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED That under the Public Bodies (Admissions to Meetings) Act 1960 (Section 2) (and as expended by Section 100 of the Local Government Act 1972), the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information.

18. PARISH CLERK'S SALARY

RESOLVED (1) That cheques be drawn in respect of the Parish Clerk's April 2023 [cheque number 100676] and May 2023 [cheque number 100678] salary, HMRC – April, May, June, July, August and September 2023 [cheque number 100681], Staffordshire Pension Fund - April 2023 [cheque number 100677] and Staffordshire Pension Fund - May 2023 [cheque number 100680].

(2) That in relation to 7.3 of the Parish Clerk's Contract of Employment an annual sum of £156 [£3 per week] [cheque number 100679] be paid to the Parish Clerk in reimbursement of use of space, lighting, heating and electricity.

19. DATE AND TIME FOR NEXT PARISH COUNCIL MEETING

RESOLVED That:
Wednesday 19 July 2023
Wednesday 13 September 2023
Wednesday 08 November 2023
Wednesday 17 January 2024

Wednesday 27 March 2024
Wednesday 15 May 2024

All meetings will commence at 6.00 pm.

[The Meeting closed at 7.29 pm]

Signed

Dated

SWINFEN AND PACKINGTON PARISH COUNCIL CODE OF CONDUCT

1. INTRODUCTION

In accordance with the Localism Act 2011, section 27 Swinfen and Packington Parish Council has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members¹ whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council. The Code of Conduct does not apply to what members do in their private and personal lives².

Conduct in public life

When acting in your capacity as a member of Swinfen and Packington Parish Council you must promote and support high standards of conduct. You shall have regard to the following principles:

Selflessness

You should act solely in terms of the public interest and should not seek to gain financial or other material benefits for yourself, your family, your friends, organisations or groups.

Integrity

You should not place yourself under any situation where your integrity may be questioned, you should not behave improperly and should avoid the appearance of such behaviour.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit.

Accountability

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

Openness

You should be as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

Honesty

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

1 For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

2 When in engaging in political activities such as canvassing for re-election members are not acting in their official capacity, and for the purposes of this Code of Conduct, such political activities are considered part of a member's private and personal life.

Leadership

You must promote and maintain high standards of conduct by supporting these principles through leadership and by example and should act in a way that secures or preserves the confidence of others. You must have due regard to the impartiality and integrity of the authority's statutory officers and its other officers.³

3. MEMBER OBLIGATIONS

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

Registration of interests

Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register with the Monitoring Officer of Lichfield District Council the interests which fall within the categories set out in Appendices A and B.

6. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.
7. A member shall register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.
8. If the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected to you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of

³ Members may express themselves robustly in representing their or their constituents' views, although where a member engages in a sustained or systematic challenge of an officer which is unfounded or in any way unreasonable, such conduct would fall within the scope of this code.

Interests, or to be entered into any copy of the register that is made available to the public.^{4 5}

Declaration of interests at meetings

9. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only must declare the nature of the interest at the meeting if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
10. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
11. Where a matter arises at a meeting which relates to an interest in Appendix B the member shall not vote on the matter. He/she may speak on the matter only if members of the public are not allowed to speak at the meeting.
12. A member only must declare an interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.
13. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate (other than an interest in Appendix A), the member shall disclose the nature of the interest and not vote on the matter. He/she may speak on the matter only if members of public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Dispensations

14. On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if the member has an interest in Appendices A and B if the Council considers that:
 - (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;

⁴ Instead the Register of Interests may state that a member has an interest the detail of which are withheld under section 32(2) of the Localism Act 2011.

⁵ If the member is required to disclose such an interest in a meeting, the member need not disclose the interest, but merely the fact that the member has a disclosable pecuniary interest in the matter concerned.

- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) granting the dispensation is in the interests of persons living in the authority's area,
- (d) it is otherwise appropriate to grant a dispensation.

Allegations of a failure to comply with the Code of Conduct.

15. All complaints alleging a failure to comply with the Code of Conduct will be considered in accordance with a procedure agreed by the Council.

APPENDIX A

Interests defined by regulations made under section 30(3) of the Localism Act 2011 and described in the table below.

| SUBJECT | DESCRIPTION |
|--|--|
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain. |
| Sponsorship | <p>Any payment or provision of any other financial benefit (other than from the Council) made to the member during the 12 month period ending on the latest date referred to in paragraph 6 of the Code of Conduct for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p> |
| Contracts | <p>Any contract made between the member or between his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a body in which such a person is a partner in a firm, a director or an incorporated body or holds the beneficial interest in securities*) and the Council:</p> <p>(a) under which the goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> |
| Land | Any beneficial interest in land which is within the area of the Council. |
| Licences | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer. |
| Corporate Tenancies | <p>Any tenancy where (to the member's knowledge:</p> <p>(a) the landlord is the Council; and</p> <p>(b) the tenant is a body in which the member, or his/her spouse or civil partner with whom the member is living as if they were spouses/civil partners has a beneficial interest.</p> |
| Securities | <p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to the members knowledge) has a place of business or land in the area of the Council; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> |

*'Securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

APPENDIX B

An interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body, other than another local authority:
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which the member of the Council is a member or in a position of general control or management;

- (iii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.

**SWINFEN AND PACKINGTON PARISH COUNCIL
ADOPTED 19 JULY 2023**

THE GENERAL POWER OF COMPETENCE

1. Legislative background to the power

Parish and town councils are corporate bodies their powers have accumulated through legislation since 1894. Their powers being constrained to specific and appropriate legislation until 2008 when they could, if eligible, exercise the Power of Well-being 2008 Order made under S.1(2) of Local Government Act 2000 for the benefit of their community.

The Localism Act 2011, Chapter 1 of Part 1, Sections 1-8 has provided local authorities with a general power of competence, a radical new power with wide ranging possibilities. The broader general power of competence replaces the power of well-being.

The general power of competence was brought into force by SI 961, The Localism Act 2011 (Consequential Amendments) Order 2012 on 28 March 2012.

2. What does the power allow councils to do?

The power is a central part of the Governments move towards the decentralisation of powers down to the lowest practical level of local government. The Explanatory Memorandum to The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012 No. 965 says that

"The Government's intention in providing eligible parish councils with the general power of competence is to better enable them to take on their enhanced role and allow them to do the things they have previously been unable to do under their existing powers"

The Government hoped that this new power would give local councils confidence in the legal capacity to act for their communities. The idea being that councils will use this power to work with others to provide cost-effective services and facilities in new ways to meet the needs of local communities.

The General Power of Competence, Localism Act 2011 S.1(1) gives local authorities, including eligible local councils, "the power to do anything that individuals generally may do" as long as they do not break other laws. It is intended to be a power of first, not last, resort.

The council has to ask itself if an individual is allowed to do it, if the answer is yes then a council is normally permitted to act in the same way.

For example, a council could:

- Lend or invest money
- Establish a company or co-operative society to trade and engage in commercial activity
- Run a community shop or post office
- Establish a company to provide services such as local transport
- Provide grants to individuals

The power is not restricted to use within the parish it can be used anywhere.

3. Risks and restrictions limiting the general power of competence

The general power of competence is a power; it cannot be used to raise the precept. The council can seek other sources of funding such as Community Infrastructure Levy (CIL), sponsorship, commercial activity and agreements with other authorities. Councils can receive income as a consequence of using the power, they could lend money to support a local activity and earn interest on the loan, they could purchase shares in a struggling local enterprise.

However, to use this power the council must have the support of the local community. While councils are being encouraged to be innovative they should be aware of the risk of:

- Being challenged
- Their trading activities damaging other competing local enterprises
- Damage to the councils reputation and public money if a project goes wrong

Existing duties remain in place, such as having regard to the likely effect on crime and disorder, biodiversity and the duty to provide allotments.

Existing financial and procedural duties remain in place for regulating governance for example - no delegation to a single councillor.

Councils must continue to comply with relevant existing legislation - employment law, Health and Safety legislation, equality legislation and duties related to data protection and freedom of information.

If a council wishes to trade it must set up a company or co-operative society and abide by company law. The council can charge for services provided under the power.^{1,2}

If the council wishes to invest in a local business which it hopes will support the local economy it should follow Government advice³. If it wishes to support a community enterprise, an economic development grant might be a sensible option.

If another authority has a statutory duty to provide a service (e.g. education) it remains their duty to provide it but your council may assist. The council needs to ask itself whether an individual, private company or community trust could help, if the answer is yes then the council can assist. An appropriate delivery body may need to be set up.

If the action the council wishes to take is also covered by a specific power then any restrictions that apply to the overlapping power remain in place. So if existing legislation requires the council to ask permission before acting, then it must do so. For example, the council asks permission of the Highways Authority before doing work on roadside verges.

¹ <http://www.communities.gov.uk/documents/localgovernment/pdf/133628.pdf>

² <http://www.communities.gov.uk/documents/localgovernment/pdf/323153.pdf>

³ <http://www.communities.gov.uk/documents/localgovernment/pdf/1501971.pdf>

4. How does the general power of competence relate to S.137 expenditure?

Monies that can be spent under S.137, Local Government Act 1972 are limited and have to be budgeted for separately, they are restricted in that they cannot be used to give money to individuals and expenditure must be commensurate with the benefit. S.137 is a power of last resort. A council that is eligible to use the general power of competence can no longer use S.137 as a power for taking action for the benefit of the area or its community except S.137(3) which permits the council to contribute to UK charities, public sector funds and public appeals remains in place.

The general power of competence is a very broad ranging power, far wider than any power that has previously been available to town and parish councils, wider than S.137 and the power of well-being.

5. How to become eligible to use the power of general competence

The conditions for eligibility are set out in the Statutory Instrument, Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012⁴. They are:

1. Resolution

The council must resolve at a meeting that it meets the criteria for eligibility relating to the electoral mandate and relevant training of the clerk. The resolution can be passed at any meeting of the council but a further resolution must be passed at every subsequent "relevant annual meeting" for the council to be able to continue to exercise the power. A "relevant annual meeting" is the annual meeting that takes place in a year of ordinary elections, once every four years.

2. Electoral Mandate

At the time the resolution is passed, at least two thirds of the members of the council must hold office as a result of being declared elected. This means they should have stood for election, whether at an ordinary or by election, even if unopposed, rather than co-opted or appointed. If two thirds is not a whole number then it must be rounded up. For example, if the total number of councillors is 8, then two thirds is approximately 5.3, then the number of councillors that must be elected is 6.

3. Qualified Clerk

At the time the resolution is passed the clerk must hold the certificate in Local Council Administration, the Certificate of Higher Education in Local Policy, the Certificate of Higher Education in Local Council Administration or the first level of the foundation degree in Community Engagement and Governance (or successor qualifications) awarded by the University of Gloucestershire. The clerk must also have completed training in the exercise of this power as part of one of these qualifications or as separate exercise.

If the council loses its qualified clerk or has insufficient elected councillors then it must record its ineligibility at the next 'relevant' annual meeting of the council (after the ordinary election). If it has already started an activity it can finish that but not start anything new.

4. There is no requirement for elected Members to be trained in the general power of competence.

⁴ <http://www.legislation.gov.uk/ukdsi/2012/9780111519868/body>

5. Swinfen and Packington Parish Council satisfies all the conditions as:

- All 6 out of 6 councillors are elected
- The Clerk of the Council holds the Certificate in Local Council Administration

4. **RECOMMENDATION**

It is recommended that the Members consider this report and pass the following Resolution:

"The Parish Council resolves from 19 July 2023, until the next relevant Annual Meeting of the Council (i.e. May 2027), that having met the conditions of eligibility as defined in the Localism Act 2011 and SI 965 The Parish Councils (General Power of Competence)(Prescribed Conditions) Order 2012, to adopt the General Power of Competence."

References/web links

Localism Act 2011

www.legislation.gov.uk/ukpga/2011/20/contents/enacted

Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012

<http://www.legislation.gov.uk/ukdsi/2012/9780111519868/body>

Localism Act 2011: Explanatory Notes

<http://www.legislation.gov.uk/ukpga/2011/20/notes/division/5/1/1>

Charging guidance

<http://www.communities.gov.uk/documents/localgovernment/pdf/151291.pdf>

A street sign for 'LEVETT ROAD' is mounted on two wooden posts. The sign is white with a black border and the text 'LEVETT ROAD' in black, serif, all-caps font. The sign is positioned in a grassy area with a large tree and dense foliage in the background. The foreground shows a paved road surface.

LEVETT ROAD