

# Wroxton & Balscote Parish Councillors' Handbook



## **Overview from Harvey Marcovitch, Chairman of the Parish Council**

Dear Councillor,

Welcome to WBPC..

Thank you for giving up your free time and being willing to serve your community, not for financial gain but for the satisfaction of giving something back to your fellow villagers.

We are grateful to Old Marston Parish Council for allowing us to amend their handbook so that it is relevant to our parish. It is designed to give you an overview of what being a parish councillor entails, to answer any queries and, hopefully to avoid pitfalls.

The work and role of the parish council has changed much over the last few years and continues to evolve as we seek to meet the needs of the local parish in the 21<sup>st</sup> century.

Every one of you has qualities, knowledge, skills and life experience which will make a difference to Wroxton and Balscote, and the PC looks forward to seeing what you will bring.

### **Introduction:**

This handbook has been designed to provide some background information for parish councillors, elected and co-opted, outlining their role and duties. It provides information that can be given to the public to help them better understand the role of the council, councillors, the clerk & the responsible financial officer.

The contents have been collated from several sources, including in-house policies and documents as well as information available online.

This is not a definitive document and should be read in conjunction with the other official documents referred to in this handbook.

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## **The Role of Parish Councils:**

Parish councils have existed in the current format since the 1894 Local Government Act, with many revisions and additions since then. They are the tier of government closest to the community. There were 10,250 parishes in 2018; most have a parish council., defined as a corporate body with a separate legal identity distinct both from councillors, who make up the council, and officers, who are employed by the council. It is governed by its standing orders, financial regulations, code of conduct and policies and procedures.

WBPC is a local authority that makes decisions on behalf of people in the two villages. Cherwell District Council (CDC) and Oxfordshire County Council (OCC) are above it in the hierarchy of local government. Being closest to local residents, the parish council is often the first-place people go with concerns or ideas. For this reason, it is a vital part of the community. It meets in person once every two months, as well as councillors dealing with preliminary or urgent matters on-line at all times.

## **What Decisions Does the Parish Council Make?**

Probably the most common topics that the parish council gets involved with are planning matters (WBPC is a statutory consultee) and issues involving highways. It is true to say that on its own, a parish council has limited powers to make decisions (other than those listed below as *Powers & Duties*), but it does have the ability to negotiate with and influence those organisations that make the final decisions. Those latter organisations know that the parish council gives the best reflection of how a community feels about something, and its views are therefore taken seriously.

## **The Council's Place in Government**

Many people are vague about what the parish council can and can't do. It boils down to three rules which are that the parish council must do what Parliament requires it to do, do only what Parliament states it may do and not do anything unless it has a legal power to act, granted by Parliament. Every action must be supported by the relevant power within the law. This is mainly, but not entirely, found within the Local Government Act 1972. It is a statutory consultee for many other organisations on a wide range of subjects. These include planning, highways, healthcare and police. In this role the parish council can be regarded as being a stakeholder in the matter under

consideration. It also acts as a key information provider and should assist in informing residents on important topics.

Like all parish councils, WBPC functions within a legal framework and can only do what it is authorised to do by statute and must not act beyond its legal powers. To ensure public confidence, all its decisions must be transparent and comply with statutory requirements. Agendas are displayed on public noticeboards and online. It is subject to both an internal and external annual audit. Members of the public are encouraged to attend meetings and inspect the council's written records.

### **Powers and Duties**

A duty is something a local authority should provide or do in law while a power is something it can seek to do, although approval/permission may be needed from another authority before it can do so.

The Parish Council has a number of duties, as listed below. CDC also has numerous statutory duties such as being the local planning authority and collecting household waste, while OCC has statutory duties such as maintaining highways.

<b>Function</b>	<b>Powers &amp; Duties</b>
Allotments	Duty to provide allotments; power to improve & adapt land for allotments, and to let grazing rights
Burial grounds, cemeteries, crematoria	Power to acquire & maintain; Power to provide; Power to agree to maintain monuments & memorials; Power to contribute towards the expenses of cemeteries; Duty to keep cemeteries in good order and repair; Duty to follow the <u>Local Authorities Cemeteries Order 1977.</u>
Bus Shelters	Power to provide and maintain shelters.

By-laws	Power to make by-laws with regard to pleasure grounds; cycle parks; baths & washhouses, open spaces, burial grounds and mortuaries.
Closed churchyards	Power to maintain.
Common pastureland	Power to provide pasture.
Community centres	Power to provide and equip buildings for use of athletic, social or recreational clubs.
Crime prevention	Powers to install & maintain equipment ; to establish & maintain a scheme to detect or prevent crime.
Drainage	Power to deal with ponds and ditches.
Entertainment and the arts, support of	Provision to provide entertainment & support of the arts.
Highways [powers can be operated only with the approval and permission of OCC Highways Dept.]	Power to maintain footpaths & bridle-ways; power to light roads & public places; provide litter bins; parking places for bicycles, motor-cycles & other vehicles; to enter into agreement as to dedication & widening of highways; power to provide roadside seats and shelters; consent of council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway; power to complain to the highways authority as to unlawful stopping up or obstruction of highway, or unlawful encroachment on roadside wastes; power to provide traffic signs & other objects or devices to warn of

	danger; power to plant trees along roads and lay out grass verges etc., and to maintain them.
Land	Power to acquire land by agreement; Power to appropriate land; Power to dispose of land.
Litter	Provision of bins.
Lotteries	Powers to promote lotteries.
Open spaces	Power to acquire land and maintain open spaces.
Public conveniences	Power to provide public conveniences.
Town and Country Planning	Right to be notified of planning applications.
Tourism	Power to encourage visitors and provide conference and other facilities.
Traffic calming	Power to contribute financially to traffic calming schemes.
Transport	Powers in relation to car-sharing schemes, taxi fare concessions and information about transport; Powers to make grants for bus services.
War memorials	Power to maintain, repair, protect and alter war memorials.
Water supply	Power to utilise wells, springs or streams and to provide facilities for getting water from them.

While the parish council is a statutory body, having powers under a wide variety of Acts (such as the Local Government Act 1972, the Public Health Act 1936, etc.), it is up to each council to choose what is appropriate for the community they serve.

## **The Precept**

The parish council obtains basic funding from the annual precept. It can also raise funds through grants from other organisations and revenue from facility hire charges.

The precept is a tax that parish councils charge to their local electors to meet their budget requirements. Parish councils do not receive any direct funding from central government and rely on the precept plus any other income it may generate from the services or facilities it provides. It is part of the overall council tax which is collected from local electors via their community charge paid to the billing authority, the District Council.

## **How is it Calculated?**

The precept requirement is the difference between the parish council's estimated income and its anticipated spending requirements for the financial year (its budget). The financial year runs from 1st April to 31st March. The parish council needs to agree a budget before it can set its precept, and both must be agreed by the full parish council in January, having been drawn up by the responsible financial officer and clerk.

When calculating the precept, the parish council takes into consideration:

- The current year's spending levels for ongoing services for which it is responsible such as recreation facilities, grass cutting and similar environmental requirements, insurance and administrative costs.
- The costs of any additional spending plans or projects – for example, speed detectors
- Provision for contingencies and reserves
- Levels of anticipated income from services for which it is responsible such as rental income, burial fees and grants.

Currently there is no cap on the amount that parish councils can raise via their precept (district councils and county councils are capped). This is always under review by central government but for now parish councils are expected to demonstrate restraint. A council must be able to explain and justify larger precept increases.

Once a precept has been approved by the parish council, the clerk informs CDC, and it is then added to the residents' community charge

tax bills. CDC collects the precept on behalf of the parish council and pays it in two instalments (in April and September).

## **Meetings**

WBPC has 7 councillors representing all areas of the parish, currently four resident in Balscote and three in Wroxton, supported by the parish clerk who is employed for 7 hours per week. It meets on the first Monday of every other month, alternately in Balscote and in Wroxton Village Halls; all council meetings must be open to the public. Meetings can be recorded but, if doing so, it must be made clear to all present and arrangements made should anyone wish not to be recorded. It hosts the Annual Parish Meeting and encourages residents to make their views known.

## **Specific tasks**

The council owns:

- Wroxton Cemetery
- Stonepit 6

It leases the Sports Ground from Trinity College and subleases it to the sports club, currently at a peppercorn rent together with a contribution to insuring the pavilion. It also leases property to a logging company and a telecoms mast installation company.

It engages with two local contractors to ensure grass cutting, provision and maintenance of a wildflower meadow at the cemetery and general tidying of the environment from time to time (e.g. leaf and gully clearing)

It ensures that the cemetery records are up to date and correctly completed, that its rules are complied with and a regular safety check is done on the cemetery memorials and any issues reported to the council and grave owner.

The PC is not responsible for the village halls but liaises closely with their management committees.

It liaises with Earthline, the owners of Wroxton quarry and with Wroxton Sports Club.

Residents are kept informed of the council's activities by way of the

- Website
- Notice Boards
- e-mails

It is consulted on planning applications that will eventually be decided by CDC but does not have the right to speak at the planning meetings. It is also consulted by OCC Highways on works within the parish. The councillors and clerk may attend various workshops and consultation meetings with other authorities in order to be made aware of proposals and legislation that may affect the community.

### **The Parish Council as an Employer**

Further information is covered under the sections on The Role of the Parish Clerk and Role of The Responsible Financial Officer. However, Section 112 of the Local Government Act 1972 states that a council can take on employees that will help it to fulfil its statutory functions.

As an employer, the council has a duty of care to its staff, who are encouraged to undertake training to enable the council to achieve its aims and objectives.

The numbers of members of staff required will depend on the size of the council, and its assets. Like many relatively small parish councils with few assets WBPC is adequately managed with just one member of staff, the parish clerk. Larger councils might also employ, for example

- Financial assistants,
- Caretakers,
- Gardeners,
- grounds staff,
- markets managers,
- village hall/events manager, etc.

Employment Law, human resources, PAYE, national insurance and pensions can be a minefield for even knowledgeable councillors and clerk. To find out more about this subject area please refer to reference reading at the back of this book.

## **Becoming a Parish Councillor**

If you've never been to a parish council meeting, you may be forgiven for thinking that parish councillors are a group of (probably older) people who meet now and then to discuss budgets and parish precepts, making decisions that have little impact on the community they serve. If, however, something 'big' has happened – such as a contentious planning application – you will know that people in the community need support and guidance and it is the parish council that people turn to. Residents can contact the Clerk and/or go to a parish council meeting to make their concerns known. If members of the public contact the Clerk, they will make the parish council aware who will attend to concerns and, if appropriate, pass them on to the planning authority, often consulting with the District Councillor. Although it is always a good plan that individuals give their views to the planning authority directly via their planning process on the Cherwell District Council website.

By becoming a parish councillor, you become someone your community will look to for help, guidance and support - a community leader with the power to influence decisions for the benefit of the people you serve. Seeing your community change for the better, as a result of decisions you have helped make, is something that can give you a sense of achievement and pride. As a new councillor, you can bring fresh enthusiasm and new ideas. You will show care for your community and a willingness to learn. You can stand as a parish councillor if:

- (a) You are a British subject.
- (b) are 18 years of age, and
- (c) are either on the local list of electors or during the whole of the preceding twelve months:
  - (i) have occupied land as owner or tenant or
  - (ii) had a principal place of work there, or
  - (iii) resided in or within three miles of it.

**Process:** Before you can be accepted as a candidate you must have a proposer and a seconder who appear on the electoral register for the parish.

**Elections:** Ordinary elections are held every four years, usually coinciding with elections for the district or county councils.

**Casual vacancy (By-election, Co-option):** In the event of a casual vacancy, the parish council must give public notice (Section 87(2) of the Local Government Act 1972). The notice must be displayed in a conspicuous place within the parish. An election to fill the vacancy, will be held if ten electors of the parish (via the Clerk) write to CDC Democratic Services asking for one to be held. The notice must be displayed for 14 days (excluding Saturdays, Sundays and bank holidays). If no request for an election is made, then the parish council must fill the vacancy by co-option as soon as practicable after the expiry of the 14 days referred to above.

If an election has been requested, the vacancy must be filled by election, and the parish council cannot fill it by co-option, even if there are insufficient candidates. Where the casual vacancy occurs within six months before the day on which the councillor whose office is vacant would have retired, an election to fill the vacancy shall not be held. The candidate wishing to stand for co-option must meet the same criteria for being a councillor as those standing in an election. To co-opt a councillor the parish council puts a notice in prominent places, within the parish, inviting anyone interested to write giving reasons why he or she would like to be co-opted. The letters are then reported to the council, who either co-opt directly or invite applicants to an interview. Voting for a new councillor is by show of hands unless the parish council has adopted Standing Orders which allow another form of voting. Where there is more than one candidate the names are published in alphabetical order and a vote taken. Councillors have only one vote each. The first candidate to receive an absolute majority is declared elected. Should no single candidate receive a majority on the first vote, the person with the lowest number of votes is eliminated. Voting takes place on the remainder, one vote per councillor until one person receives an absolute majority.

### **The Role of the Parish Councillor:**

To be a parish councillor requires time and commitment. A councillor may spend a couple of hours a week on parish business, and this may be greater for the chairman and the responsible financial officer. Being a parish councillor is an unpaid role but reimbursement of out-of-pocket expenses is permitted if agreed by the council in advance. There is provision for a chairman's allowance, set by the council, which can be used to fulfil the duties of that office but this has never been claimed by a WBPC chairman.

Councillors are summoned to attend all council meetings. If unable to attend, they need to send apologies before the meeting, which must be approved by the council. The Local Government Act 1972 states that when a council member fails to attend any meeting for six consecutive months from the date of their last attendance, **they cease to be a member of the authority**, unless the council accepts a reason for the failure to attend.

**Main purpose:** Representing the views of all residents within your parish.

**Secondary purposes:** As part of the parish council, you will have responsibility for running local services and potentially much more. You will help decide on how much to raise through the precept in order to deliver the council's services. You will help influence and shape the long-term development for the parish. As part of the planning process, you will comment on planning applications. You will hope to improve the quality of life and the environment in the local area. You will work to identify issues which are important to the lives of the residents you represent and will work to bring about improvements through local projects, lobbying other service providers and working in partnership with other parishes and agencies.

***No member of the council should promise to do something, or agree to do anything, which they have not been delegated to do by the council.***

## **The Role of the Parish Clerk**

The parish clerk is the council's proper officer. This means that the clerk is not a secretary, simply taking the minutes at meetings, dealing with correspondence and archiving documents. The clerk's responsibility is to carry out the decisions of the parish council within a framework dictated by legislation and good practice. He or she provides advice concerning the laws of governance and administrative support to the council. Answerable only to the parish council as a whole, the clerk takes action to implement council decisions and acts as its finance administrator under the direction of the responsible financial officer.

The council may delegate, under LGA72 s111, certain powers and duties to the clerk to help with the smooth running of a council's affairs. These will form part of the clerk's job specification.

## **Specific Responsibilities**

1. To ensure that statutory and other provisions governing or affecting the running of the council are observed.
2. To receive the council's accounts and prepare records for audit purposes and VAT.
3. To ensure that the council's obligations for risk assessment are properly met.
4. To prepare agendas for meetings of the council and committees.
5. To attend such meetings and prepare minutes for approval.
6. To receive correspondence and documents on behalf of the council, to deal with the correspondence or documents or bring such items to the attention of the council.
7. To issue correspondence as a result of instructions of council policy.
8. To receive and report on invoices for goods and services to be paid for by the council and to ensure such accounts are met.
9. To issue invoices on behalf of the council for goods and services and to ensure payment is received.
10. To study reports and other data on activities of the council and on matters bearing on those activities. Where appropriate, to discuss such matters with administrators and specialists in particular fields and to produce reports for circulation and discussion by the council.
11. To draw up on his/her own initiative or as a result of suggestions by councillors, proposals for consideration by the council and to advise on practicability and likely effects of specific courses of action.
12. To monitor the implemented policies of the council to ensure they are achieving the desired result and where appropriate to suggest modifications.
13. To act as a representative of the council.
14. To issue notices and prepare agendas and minutes for the Annual Meeting of the Parish; to attend the annual meeting and implement decisions made that are agreed by the council.
15. To attend training courses/seminars on the work and role of the clerk as required by council.
16. To be CILCA qualified (Certificate in Local Council Administration)
17. To continue to acquire the necessary professional knowledge required for the efficient management of the affairs of the council: membership of SLCC is advised.

18. To attend Conferences of NALC, SLCC, OALC and other relevant bodies, as a representative of the council.
19. To ensure the council is General Data Protection Regulations compliant.
20. To allocate burial plots in accordance with the Council's Cemetery Policy.

### **Emergency Powers**

The clerk can have powers (set out in Standing Orders) delegated to them to manage emergency repairs and to raise payments. These would be itemised on the next agenda as 'retrospective payments' and presented with the invoice/ authorisation.

### **The Clerk's Relationship with Councillors**

The smooth running of the parish council depends upon a harmonious and positive relationship between the clerk and councillors. It is essential that each party understands the role of the other and that, as far as possible, their respective roles do not overlap. A councillor should not undertake tasks which are properly those of the clerk except in an emergency and only then with the authority of the council. In the same way, it is incorrect for the clerk to usurp the role of the councillors by, for example, seeking to impose his/her views on policy issues. The clerk should not forget that he/she is the employee of the council and that the councillors may sometimes make decisions with which he/she does not agree.

Animosity can arise between a councillor and the clerk because of the failure of the councillor in question to understand that the clerk's loyalty and responsibility is to the council as a whole and not to individual councillors. Such a situation could arise, for example, where a councillor wishes to be provided with information by the clerk in order to further a personal matter in which the council is not involved. A clerk should resist any request of this nature and should instead obtain the support of the council.

### **The Responsible Financial Officer**

In many PCs the clerk is also responsible financial officer although, at present, that is not the case at WBPC where a councillor with financial skills takes on the task.

## **Specific Responsibilities**

1. To bank regularly all money received by the council.
2. To ensure that all money due to the council is billed and collected promptly.
3. To control all forms of payments: direct debits, debit card payments, cheques and electronic payments.
4. To verify suppliers' invoices prior to certification for payment.
5. To manage cash flow and control investments and bank transfers.
6. To prepare monthly bank reconciliations in accordance with the Accounts and Audit Regulations.
7. To update the bank mandates, as required.
8. To be familiar with the council's computerised accounting system.
9. To prepare regular financial reports for the council. These reports will cover budget monitoring, fund balances, receipts to date, and payment of accounts.
10. To prepare the annual budget for approval by the council.
11. To submit the precept to CDC and to supply any breakdown requested.
12. To handle the overall management of payroll, including the local government pension scheme. To ensure prompt payment of PAYE and national insurance to HMRC. To ensure prompt payment of sums due to the pension authority monthly
13. To take overall responsibility for submitting regular VAT returns.
14. To prepare and balance final accounts in accordance with the accounts and audit regulations, and report thereon to the council.
15. To produce accounts and records for external audit in accordance with the accounts and audit regulations.
16. To arrange regular internal audits in accordance with the accounts and audit regulations.
17. To ensure correct financial systems are in place and to monitor compliance with the council's financial regulations.
18. To manage insurance risk in consultation with the chairman. To process claims as necessary. To report annually to the council on insurance risk covered.
19. To maintain the council's register of property and assets.

## **Code of Conduct**

WBPC has a duty to promote and maintain high standards of conduct by its members, in accordance with the Localism Act 2011.

Parish councillors are bound by the same code of conduct as are all local councillors. A newly elected councillor has to sign an

undertaking, as part of their written declaration of acceptance of office, that they will observe the parish council's code of conduct.

The code of conduct sets out the rules governing the behaviour of councillors in local authorities across the country. Prospective candidates are advised to read the code before standing for election so that they are aware of what will apply to them.

It is based on the Nolan's seven principles of public life:

- **Selflessness** – You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.
- **Objectivity** – In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **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 must be as open as possible about your actions and those of your council and must be prepared to give reasons for those actions.
- **Honesty and integrity** – You must not place yourself in situations where your honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.
- **Leadership** – You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

In accordance with the public trust placed in councillors, a councillor shall on all occasions:

- Act with integrity and honesty
- Act lawfully
- Treat all persons fairly and with respect; and
- Lead by example and act in a way that secures public confidence in the role of councillor.
- Impartially exercise their responsibilities in the interests of the local community
- Not improperly seek to confer an advantage, or disadvantage, on any person
- Avoid conflicts of interest

- Exercise reasonable care and diligence; and
- Ensure that public resources are used prudently in accordance with the local authority's requirements and in the public interest.

### **Register of Interests**

In the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464). A signed declaration and undertaking must be received by the clerk before a newly elected member can carry out any duties as a councillor. In addition, all councillors must complete a register of interests within 28 days of the election, which anyone can lawfully ask to see.

Prospective candidates are advised to be aware of what will apply to them and be sure that they are willing to complete the requirements for the register of interests.

If a matter comes before the parish council in which a councillor has a personal or prejudicial interest, this must be declared before the item is discussed and, if necessary, the councillor will take no part in the discussion or remove themselves from the meeting. Depending on the nature of the personal or prejudicial interest, the councillor may not be permitted to vote on the item.

### **Standing Orders**

The parish council operates in accordance with its standing orders (which deal with financial, legal and contractual requirements) and the other formal policies and procedures laid down from time to time. These enable the council to take a consistent and properly regulated approach to regular or important activities and issues. The standing orders, policies and procedures are reviewed on an annual basis or if legislation changes.

### **Agendas**

Procedural matters such as organising meetings, agendas etc are dealt with in standing orders. However, a parish councillor can request that an item be added to the agenda of a meeting; this is done by the clerk provided it does not conflict with standing orders. The final decision whether an item appears on the agenda rests with the clerk.

## **Financial Regulations**

Financial regulations govern the financial process of parish council and may only be amended or varied by a council resolution. The parish council is responsible in law for ensuring that its financial management is adequate and effective and that it has a sound system of financial control which facilitates the effective exercise of the council's functions, including arrangements for the management of risk and for the prevention and detection of fraud and corruption. The financial regulations are designed to demonstrate how the council meets these responsibilities.

## **The Freedom of Information Act**

The Freedom of Information Act gives an individual or group the right to ask for all relevant information the parish council holds on any subject requested. Unless there is good reason, information must be provided within 20 working days. An individual can also ask for all the personal information held on them. Everyone can make a written request for information – there is no restriction on age, nationality, or where the person lives. Any information can be asked for, but some information might be withheld to protect various interests which are allowed for by the Act. If this is the case, then we will tell the applicant why we have withheld information. If the request is for information about the individual, then the request will be handled under the General Data Protection Regulation. (See also section on e-mails).

## **General Data Protection Regulation (GDPR)**

The Data Protection Act 1998 was superseded by the Data Protection Act 2018 (DPA 2018) on 23 May 2018. The DPA 2018 supplements the EU General Data Protection Regulation (GDPR), which came into effect on 25 May 2018. The GDPR regulates the collection, storage, and use of personal data significantly more strictly.

In addition to other changes, it enhances the rights of people whose data is held (known as data subjects in the Data Protection Act 1998) and gives them more control over what happens to their data.

The eight data protection principles which were in the 1998 legislation have been replaced by six in the new regulation, as follows:

*Personal information should be:*

- *processed lawfully, fairly and in a transparent manner*
- *collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes*
- *adequate, relevant, and limited to what is necessary*
- *accurate and, where necessary, kept up to date*
- *retained only for as long as necessary*
- *processed in an appropriate manner to maintain security.*

Any organisation, including councils, who holds personal data, whether on an electoral register or village hall booking system, must register with the Information Commissioners Office (ICO).

## **Committees**

The parish council may form committees and/or working groups which can include residents or specialists to help work on specific projects. This enables a specific topic, or council facility or service, to be researched further or managed more efficiently without taking up already limited full council meeting time. Each committee has its own terms of reference setting out its area of operation and functions.

Because WBPC is a small council, rather than working through formal committees, individual councillors are given primary responsibility (often working as a group of 2-3 persons) for particular areas of work, such as highways, cemetery management, liaison with the local quarrying company, liaising with the Sports Club etc.

## **Planning**

The PC is consulted by the relevant planning authority (usually CDC) on all planning applications within the parish boundaries. Any views expressed by the parish council will be considered by the planning authority before a decision is made, providing the points made are relevant to the determination of a planning application.

The final decision is made by the planning authority, not the parish council.

The PC will only comment on what are known as “material considerations”. Issues such as boundary disputes between neighbours or loss of private views cannot be considered.

## **Do Parish Councils Grant Planning Permission?**

Parish councils are not planning authorities, rather a statutory consultee in the planning process.

- This means that it has the right to be informed of planning applications within the parish.
- It cannot approve or reject planning applications.
- It can only comment on planning applications in the same way that individuals can comment.
- Consequently, the length of time taken to determine a planning application is governed by the local planning authority not the parish council, although it can request extra time to comment.
- The decision whether this is granted rests solely with the planning authority and its own deadlines for decision making.

## **How Do Parish Councils Comment on Planning Applications?**

- Parish councillors agree to comment on planning applications after appropriate discussion, taking into account the opinions of residents who might be affected
- The comments agreed by councillors meeting are submitted via the CDC Planning Portal by the parish clerk.
- The process is the same as that of an individual wishing to comment on a planning application.

## **What is Meant to ‘Call In’ a Planning Application?**

In most cases, planning applications are decided by a planning officer employed by CDC. However certain applications are determined instead by the CDC planning committee, which consists of elected councillors. These are usually major applications. Any planning application can be ‘called-in’ to the planning committee

If a consultee, of which WBPC is one, believe that an application is not straightforward, it may recommend an application be ‘called in’. In general it will do this by alerting the local CDC councillor (who frequently attends WBPC meetings as an observer).

The reason(s) for asking for an application to be 'called in' must be on planning grounds. Any CDC councillor can 'call in' an application, however, it requires five other city councillors to support the request.

### **Valid Reasons for Comment on a Planning Application**

CDC, as the local planning authority, must take decisions on behalf of the whole community. It must make decisions openly, fairly and with sound judgement. Objections can only be considered on 'material planning considerations' (see *list below*). Whilst views of local residents are always considered, local opposition or support on its own is not a reason for refusing or granting permission.

Statements of planning policy are issued by government and set out material planning considerations that the local planning authority must take into account when reaching planning decisions.

The local planning authority must also consider other government policies issued in technical documents and ministerial statements.

Previous planning decision, including those that were considered on planning appeal must also be considered and taken into account.

Set out below are the 'material planning considerations' that CDC can consider when determining applications:

- Parking and servicing in relation to traffic flow for deliveries.
- Access and highway safety, including access for emergency vehicles.
- Traffic generation – increased traffic movements arising from the proposed development.
- Overlooking and loss of privacy.
- Overshadowing.
- Privacy/overbearing nature of the proposal.
- Design and appearance.
- Visual impact.
- Daylight/sunlight.
- Layout and density of buildings (over-development).
- Noise, nuisance and disturbance from the scheme.
- Loss of trees.
- Loss of ecological habitat.
- Flood risk.
- Loss of public visual amenity – not the same as loss of private individual's view.
- Risk of increased crime.
- Economic impact.

- Planning history/related decisions.
- Conservation area matters

### **Irrelevant Reasons for Objection**

The following is a list of issues that cannot normally be considered:

- Speculation over an applicant's motives or future use
- The identity, personal history or conduct of the applicant
- Loss of view or value to private individual property.
- Private rights of way.
- Land ownership.
- Age, health, status, background and work patterns of those objecting or supporting.
- Disruption during the building phase.
- Time taken to carry out the work.
- Damage to property.
- Possible change in property value.
- Competition (Business).
- Potential profit for the applicant arising from the application.
- Private covenants or agreements
- Boundary disputes
- Capacity of private drains/sewers.
- Religious or moral issues - such as betting shops and amusement arcades
- The fact that the applicant does not own the land to which the application relates
- The fact that an objector is a tenant of land where the development is proposed.
- The fact that the development has already been carried out and the applicant is seeking to regularise the situation. (People can carry out development at their own risk before getting planning permission)
- “Better” site or “better” use.

NB: The examples listed above are definitive but not comprehensive and are a guide to assist in the preparation of letters or statements of support or opposition.

### **Other Matters: Concerns and Issues**

The person making a planning application must provide enough information for the application to be determined. They do not have to provide every single detail before an application can be approved because certain matters can be resolved by way of conditions included as part of the permission. Because of this, certain issues may

not be considered as ‘objections’ but it is entirely reasonable to raise concerns on such issues and to ask to be kept informed before they are approved. These include:

- The proposed type and colour of the materials to be used.
- The exact nature of any proposed planting or boundary treatment.

In commenting on a planning application, greater attention is likely to be taken if the reasons given are clear, concise and relevant.

## **Delegated authority**

No member of the council should misrepresent or do something or make a promise ‘in the name of the council’, which they have not been authorised to do by the council. The clerk, through his/her job specification, has the delegated authority on behalf of the council to represent the council in negotiation with other bodies.

In exceptional circumstances a councillor may be given delegated authority to act on the council’s behalf if there is a change in current legislation to permit this (as was the case with temporary Covid legislation, for example).

*[Councillors should be aware that their direct or indirect involvement can later affect their position in council due to predetermination. Most importantly, if a councillor acts without delegated authority, he/she could be held financially responsible and surcharged in the event of the council incurring expenditure it had not previously budgeted for or agreed to].*

## **Representing the Council**

It is of paramount importance that councillors represent both the council and themselves in the correct manner to ensure that neither are misquoted or misrepresented and views belonging to one or the other are not confused in conversations or meetings.

## **Emails**

As a parish councillor you will be issued with a council email address, usually in the format of cllr[your name]@gmail.com. This is to keep your parish council work separate from your personal business. ALL council business should be handled through your council email address. This separates and protects you, as a private individual and as a councillor. It also separates and protects the parish council from any confusion that may arise from data protection and freedom of information requests. If you use your personal email address for council business and a freedom of information request is made it means that ALL your emails (private as well as council related) would have to be provided.

## **Councillor as a Representative**

When attending meetings of groups and organisations, councillors do so as representatives of the parish council and should only put forward views agreed by council, and not their own personal views. Councillors should abide by the democratic decisions of the council once made. If you are attending a meeting as the parish council representative, but feel you have questions or an objection which you would like to express as an individual then your status must be clearly communicated to the meeting you are attending.

## **Examples**

1. WBPC decides to support a planning application. You choose to attend the planning committee at CDC because you, don't like the planning proposal and strongly object to its design. If you decide to voice an objection to the application, it must be as an individual. However, given that you may be known as a councillor, you must make it abundantly clear you are not speaking for WBPC.
  
2. WBPC has asked you to attend a community meeting as its representative, simply to gather information on what is happening and to see if any agenda items might affect the parish. The meeting goes off track and begins discussing an item which is not relevant to WBPC but which you are interested in and have knowledge about. If you engage in the discussion you must make the meeting clearly aware that you are expressing personal view and not those of the parish council.

3. Neighbourhood or police meeting: you attend the meeting because you live in the parish and have an issue you wish to raise. You are not the council's representative at the meeting. You may raise your points as a resident but not offer any opinions or decisions of WBPC otherwise this would be confusing to others at the meeting.

## **Media Relations**

Effective media relations are an important factor in establishing a good relationship between the parish council and the community so it is important for the parish council to present information about its activities and aspirations in a consistent way.

The community in this context includes all residents and elected representatives, businesses, schools, shops, places of worship, statutory agencies, voluntary organisations, groups and associations.

The media is more than the local newspaper but includes broadcast media (radio and television), a wide range of printed media (e.g. newspapers, free sheets, community newspapers, magazines, leaflets and posters) and social media generally.

Different media respond more readily to certain factors. For example, newspapers are more likely to print a general interest story if supplied with a photograph, radio items tend to be quite brief with a short 'sound bite', and television producers will want moving pictures to illustrate a story.

## **Contacting the Media**

The general principle is that the chairman, in association with the clerk, will act as the press officer. Any official contact with the media concerning the parish council's policies will be initiated through them.

Press releases and statements will be prepared by the clerk and/or chairman (in association with other members as appropriate) and will normally be restricted to matters that have been debated and agreed by the parish council.

If a member or employee receives an approach or enquiry from the media about any matter relating to the parish council, it should be

referred to the chairman or clerk without commenting further. They will decide the format and content of any response.

Nothing in these guidelines is to be interpreted as preventing, or attempting to prevent, a member from expressing a personal opinion through the media, for example by writing to a newspaper or posting an item on an internet site. Members must make it clear that any views expressed are personal, if they deviate from a PC determination (or a PC decision not to comment). Members should take care not to misrepresent and/or bring the parish council into disrepute and must bear in mind their responsibilities under the Local Government Code of Conduct.

All press releases and other materials are to be kept for reference.

### **Talking to the Media**

In response to a parish council press release:

- a) Any enquiry from the media is to be referred to the clerk and chairman.
- b) No-one else should offer any comment without prior discussion, except to confirm basic matters of fact (dates of events, spelling of names, etc.)

### **Training**

The parish clerk and parish councillors are encouraged to attend training on topics relevant to their work for WBPC. Attendance at such courses is helpful to keep up to date with new legislation and other developments affecting the work and duties of the parish council. Training events are provided by various organisations, such as the Oxfordshire Association of Local Councils (OALC) and Society of Local Council Clerks (SLCC) and are funded by the parish council. For simplicity, contact between the OALC and WBPC is restricted to the clerk, who will circulate the OALC Newsletter and book training events.

### **Asset of Community Value (ACV)**

An ACV is land or buildings nominated by a parish council, or certain local voluntary or community groups (but not an individual), which the

council decides meets the requirements to be listed as an asset of community value.

An ACV and the Community Right to Bid offers an opportunity for communities to keep such buildings in public use and ensure they remain as a social hub.

It is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.

If the nomination is accepted, local groups will be given time to come up with a bid for the asset when it is sold. Through the Community Right to Bid, communities have the opportunity to 'stop the clock' on the sale of valued community assets, but only for up to six months.

If a property being sold with a potential change of use is included on the planning authorities list of ACVs, and a community interest group 'expresses interest' during an initial six-week period, then the six-month window of opportunity applies to give communities time to create a business plan and gather the necessary finances to bid for the asset.

## **References and further reading**

There are many informative and helpful publications available from NALC, OALC, SLCC, etc.

The Good Councillor's series include:

- The Good Councillor's Guide,
- Being a Good Employer,
- Finance and Transparency, to name just a few.

Charles Arnold-Baker, Local Council Administration is seen as the 'bible' of law and procedures however it is rather expensive.