

# CLIVE PARISH COUNCIL

## SCHEME OF DELEGATION

Adopted: 18.04.19

Reviewed: March 2021, 2022, 2023 (updated), 2024, 2025 (updated)

Next review: March 2026

### Introduction

This document sets out the manner in which Clive Parish Council has delegated powers and responsibilities. This document is one of the three major ways in which the Council regulates its affairs; the others are its Standing Orders, and Financial Regulations.

The power to delegate functions is set out in the Local Government Act 1972, s.101.

The intention of this delegation scheme is to allow the Council to act with all reasonable speed. Decisions should be taken at the most suitable level. Therefore, the Clerk is given powers over the day to day administration of the Council, Committees to decide matters within their Terms of Reference, and matters of major policy should be recommended to the Full Council.

Whilst delegation is necessary, it is the Council's policy that members and the press and public should have the fullest information. Therefore, the Clerk reports all major decisions taken under delegated powers at the next available Council meeting, and where appropriate, publishes additional information on the Parish Council website.

### Proper Officer and Responsible Financial Officer

The Clerk shall be:

- the Proper Officer and carry out the functions as provided by the Local Government Act 1972.
- the Responsible Financial Officer in accordance with the Accounts and Audit Regulations in force at any given time.

### Parish Council Committees

Committees under Clive Parish Council will have their own Terms of Reference which will set out any delegated powers afforded to them by Full Council.

## Delegated Powers and Responsibilities:

### 1. General Delegation

In addition to the responsibilities set out in the Clerk's job description, the Clerk has the delegated authority to undertake the following matters on behalf of the Council:

- Day to day administration of services, together with routine inspections and control.
- Authorisation to call any extraordinary meetings of the Council or any Committee as necessary, having consulted with the Chair of the Council and/or the Chair of the appropriate Committee.
- Authorisation to postpone or cancel any ordinary or extraordinary meetings of the Parish Council, or Committees or Sub-Committees as required, having consulted with the Chair of the Council and/or the Chair of the appropriate Committee.

- Authorisation to respond immediately to any correspondence requiring or requesting information or relating to previous decisions of the Council, but not correspondence requiring an opinion to be taken by the Council or its Committees.
- Handling requests for information under the Freedom of Information Act 2000 and the Data Protection Act 2018, following the Subject Access Request Policy.
- Issuing press releases and statements to the press on the Council's known policies.
- Updating and managing the content of the Council's website.
- Preparing copy for the Council's newsletter following consultation with the Chairman and/or Vice Chairman.
- Periodic review and destruction of Council documents (electronic or hardcopy) according to legal restrictions, the Council's Record Management Policy, and the Data Protection Act 2018, in consultation with the Chairman if deemed necessary.
- Reporting pot holes, incidences of fly-tipping, and other hazards to the Principal Authority following consultation with the Chairman and/or Vice Chairman.
- Taking appropriate actions arising from emergencies in consultation with Chairman/Vice Chairman of the Council as appropriate to the circumstances.

## **2. Annual Meetings**

This Scheme of Delegation also permits the Council to receive and act upon advice from Government and other relevant national bodies in relation to the holding of the Annual Meeting of the Parish (noting such meetings must normally be held before 1 June) and the Annual Meeting of the Parish Council (noting such a meeting must normally be held in May), thereby giving delegated power to the Clerk to make necessary re-arrangements for these meetings in consultation with the Chair.

## **3. Financial Delegation**

In addition to the Clerk/RFO's legal responsibilities with regards to Accounts and Audit Regulations, the Parish Council recognises that there may be situations where it is appropriate for the Clerk/RFO to have further delegated powers in relation to financial matters. Such situations could include, but are not limited to, emergency works required to Parish Council assets, urgent replacement of computing equipment, and critical payment decisions when the Parish Council is unable to meet in a lawfully convened meeting, for example, pandemic, or extreme weather. Such delegated powers are conditional upon the Clerk/RFO identifying a lawful power or authority that would at any rate permit the Parish Council to approve such expenditure under normal circumstances. If in any doubt, the Clerk/RFO will seek guidance from the County Association of Local Councils, the Society of Local Council Clerks, Shropshire Council's Legal Department and other bodies as necessary.

This Scheme of Delegation notes that:

- a) It is lawful for the Clerk/RFO to spend against specific items in the Parish Council's budget e.g. for contractors, hall hire, Clerk/RFO's salary, all of which having been identified in the budget when setting the precept.
- b) The Clerk has delegated authority to make routine expenditure (office stationary, postage, printer cartridges, etc.) in accordance with Financial Regulation 5 (Procurement).
- c) When unforeseen circumstances arise, the Clerk/RFO, in conjunction with the Chairman of the Council or Chairman of the appropriate Committee, has delegated authority to spend up to a

limited amount (£500) in accordance with Financial Regulations 5 (Procurement) and 6 (Banking and payments).

- d) In accordance with the aforementioned Financial Regulations, all payments above £500 would ordinarily require the approval of the Full Council at an ordinary meeting. In circumstances where this is not possible, e.g. Parish Council meetings are unable to take place, the Clerk/RFO will liaise with all councillors via email to gain their approval (by majority) before making any spending decisions.
- e) Once approval has been obtained from the Chairman, or where necessary Councillors, the Clerk/RFO and bank signatories will use the Parish Council's online banking to make arrangements for such payments.
- f) Where delegated authority has been used to make spending decisions outside of ordinary Council/Committee meetings, details of any such payments (other than routine expenditure mentioned in point b) will be published on the Parish Council website in the interests of transparency. Such payment decisions will also be ratified by the Parish Council at the next ordinary meeting and duly minuted.

## **4. Planning Delegation – Applications and appeals**

As Clive Parish Council usually only meets 10 times a year, there are times where a planning application or appeal notification is received that will not allow enough time for the Council to meet and agree on a response before the deadline for consultee comments. There may also be occasions where Parish Council meetings have been prevented from taking place (see section 3. Financial Delegation, for examples). In these circumstances the following policy will apply:

1. Clerk receives the application/appeal notification via email, and the application/appeal link is emailed to all councillors.
2. The Clerk contacts the Planning Authority to request an extension of the consultation deadline.
3. If an extension is not possible, Councillors will consider the application, taking into account any material considerations (see below) and the Council's Planning Protocol, and will share their comments via email using "reply all".
4. Councillors must declare any pecuniary interests to the clerk as they would at a normal Council meeting, and if they have an interest, they must not take part in the discussions.
5. The clerk will determine the deadline for receiving initial comments based on the consultation deadline, and taking into account time to call an extra-ordinary meeting if this is deemed necessary.
6. If there is disagreement between the councillors, or if a councillor feels the application should be determined at a meeting, a site visit can be arranged and an extra-ordinary meeting is called in accordance with the Council's existing Standing Orders.
7. Clerk will have delegated power to draft a response based on the comments received, and will share this with all councillors via email.
8. Clerk will determine the deadline for amends to the response based on the consultation deadline.
9. Once approved, the clerk will have delegated power to submit this response via the Shropshire Council Planning Portal (or the Planning Inspectorate for appeals) before the consultation deadline.
10. Councillors reserve the right to respond to the planning application as individuals, but they must make it clear that this is their personal opinion, and not that of the Parish Council.
11. Clerk will include an agenda item at the next Council meeting to ratify the council's decision on the application (support/object/make representation) with a summary of the response.

### **MATERIAL CONSIDERATIONS:**

A material consideration is a matter that should be taken into account in deciding a planning application or on an appeal against a planning decision.

Material considerations can include (but are not limited to):

- Overlooking/loss of privacy
- Loss of light or overshadowing
- Parking
- Highway safety
- Traffic
- Noise
- Effect on listed building and conservation area
- Layout and density of building
- Design, appearance, and materials
- Government policy
- Disabled persons' access
- Proposals in the Development Plan
- Previous planning decisions (including appeal decisions)
- Nature conservation

### **What is NOT a Material Consideration?**

When commenting on an application you should be aware that the following areas are **not** considerations:

- Nobody has a right to a view from their property. Shropshire Council can't control the effects of new development on the outlook from an existing property, except in the general case of residential amenity
- impact on the valuation of property
- the cost of a development is not a material consideration, and Shropshire Council has no jurisdiction to protect developers from expensive projects
- loss of trade or increased competition
- a personal interest or a civil dispute
- generally speaking, personal circumstances are not a material planning consideration

## **5. Planning Delegation – Breach of Planning Control**

In addition to normal planning applications and appeals, there may also be times when the Parish Council becomes aware of an alleged breach of planning control. Under normal circumstances councillors and/or the Clerk will encourage residents to submit reports confidentially through the Planning Enforcement website, and if deemed necessary the clerk will add the matter to the agenda for discussion at the next Council meeting under a confidential agenda item. In certain circumstances though, it may be necessary for the Council to submit an urgent report to the Planning Enforcement team in between meetings e.g., if serious, irreversible harm is being caused by the works/alleged breach, or it poses a safety risk to members of the public. In these cases, the following policy will apply:

1. Clerk will email all councillors to share all known information about the alleged breach of planning control and will encourage councillors to share any additional information and photographs with the rest of the Council. The clerk will determine the deadline for receiving initial comments.
2. Councillors must declare any pecuniary interests to the clerk as they would at a normal Council meeting, and if they have an interest, they must not take part in the discussions.
3. Councillors will consider the available information and will share their comments via email using "reply all".
4. If there is disagreement between the councillors, or if a councillor feels the matter should be determined at a meeting, an extra-ordinary meeting can be called in accordance with the Council's existing Standing Orders.

5. If the consensus is that the situation is sufficiently urgent that it should not wait until the next Council meeting, then the Clerk will have delegated power to draft a report based on the comments received and will share this with all councillors via email.
6. The enforcement report will be amended as needed based on councillor feedback, but if approved by a majority of councillors via email, the clerk will have delegated power to submit the report via the Shropshire Council Planning Enforcement website as soon as possible.
7. As residents, councillors reserve the right to submit their own enforcement reports, but they must make it clear that this is based on their personal opinion, and not that of the Parish Council.
8. Clerk will include a confidential agenda item at the next Council meeting to ratify the council's decision to submit the enforcement report with a summary of the concerns raised.

## **6. Consultation Delegation**

There may be occasions where Parish Council meetings have been prevented from taking place (see section 3. Financial Delegation, for examples). If meetings are prevented from taking place over an extended period of time, then there may be consultations to which the Council would be unable to respond. In these circumstances the following policy will apply:

1. Clerk receives notification of the consultation via email, and this is forwarded to all councillors, including any links to consultation documents and surveys.
2. The Clerk contacts the body holding the consultation to request an extension of the consultation deadline.
3. If an extension is not possible, Councillors will consider the consultation documentation, and will share their comments via email using "reply all".
4. Councillors must declare any pecuniary interests to the clerk as they would at a normal Council meeting and if they have an interest, they must not take part in the discussions.
5. The clerk will determine the deadline for receiving initial comments based on the consultation deadline.
6. Clerk will have delegated power to draft a response to the consultation based on the comments received and will share this draft with all councillors via email.
7. Clerk will determine the deadline for amends to the response based on the consultation deadline.
8. If a majority of councillors approve the response (via email) the clerk will have delegated power to submit this response before the consultation deadline.
9. Councillors reserve the right to respond to the consultation as individuals, but they must make it clear that this is their personal opinion, and not that of the Parish Council.
10. Clerk will publish the Council's response to the consultation on the Parish Council website in the interests of transparency.
11. Clerk will include an agenda item at the next Council meeting to ratify the council's response to the consultation.

## **7. Review of this Scheme of Delegation**

This Scheme of Delegation will be reviewed at least annually, but may be updated more often as a result of changes in legislation or advice from Government or other relevant national bodies, e.g. NALC.