

**The Minutes of the Meeting of Detling Parish Council
held on 18th June 2019 at 7.00pm in Detling Village Hall.**

Councillors present: *Bowie
Bryant
Clayton
Coles
Finn*

Also, present: *Parish Clerk, Mrs Sherrie Babington, and Members of the Public.*

The meeting was chaired by Councillor Bowie.

Councillor Bowie opened the meeting and read out a statement regarding the recording and filming during the meeting.

1. Apologies.

Members who cannot attend a meeting shall tender their apologies to the Parish Clerk prior to the meetings, under Section 85(1) of the Local Government Act 1972, the members present must decide whether the reason(s) for a member's absence shall be accepted.

Apologies were received from Parish Councillor Carla Maynard, MBC Councillor Nick de Wiggondene-Shepperd and KCC Councillor Shellina Prendergast.

2. Declaration of Interest.

To receive Declarations of Interest in respect of matters contained in this agenda, in accordance with the provisions of the Localism Act 2011 in respect of members and in accordance with the provisions of the Local Government Act 1972 in respect of officers.

To consider any Dispensation requests received by the Parish Clerk and not previously considered.

There were no Interests declared and no Dispensations were considered.

3. To appoint Committees, Representatives to Outside Bodies and external appointments.

The appointment of committees and representatives to outside bodies were agreed as follows:

Planning Committee

Cllr. Bryant
Cllr. Bowie
Cllr. Coles

Resources Committee - All Councillors

Open Spaces Committee

(Responsible for the PC Open Spaces & Environmental matters)

Cllr. Finn
Cllr. Clayton
Cllr. Maynard
Two Co-opted Residents

Highways Committee

Cllr Finn
 Cllr Bryant
 Cllr Coles
 Cllr Clayton

Finance Representative

Cllr. Maynard

Representatives for Outside Bodies

Village Hall	Cllr. Bowie
Police Liaison/NHW	Cllr. Clayton
Tri Parish / A249 Action Group	Cllr. Bowie
KALC	Cllr. Clayton
Events	All Councillors
KMEP	Cllr Finn

Other Appointments

Internal Auditor - Martin Thomas and Co
 External Auditor - Little John
 Bank - Cooperative
 Solicitor – Gullands
 Insurers – BHIB Insurance

Memberships

KALC (Kent Association of Local Councils)
 ACRK (Action with Communities in Rural Kent)
 CPRE (Campaign for the Protection of Rural England)

4. To approve the 2018/19 Accounts and Annual Return.**Statement of Internal Control.**

The Council considered and approved the Statement of Internal Control for the year ending 31 March 2019. (Proposed by Cllr Bryant, seconded by Cllr Finn and agreed by all present.)
 The Chairman and Clerk signed the Statement on behalf of the Council.

Annual Governance Statement.

The Council considered and approved the Annual Governance Statement for 2018/19. (Proposed by Cllr Bryant, seconded by Cllr Finn and agreed by all present.)
 The Chairman and Clerk signed the Statement on behalf of the Council.

Accounting Statements for 2018/19.

The Council considered and approved the Accounting Statements and supporting documents as provided by the Responsible Financial Officer. (Proposed by Cllr Bryant, seconded by Cllr Finn and agreed by all present.)
 The Chairman and Clerk signed the Statement on behalf of the Council.

Members discussed the Risk Assessment Register and it was agreed that this should be reviewed by a small working group to ensure that it covered all risks of the Parish Council.

Action: Risk Assessment Register to be reviewed.

5. To consider the adoption of the General Power of Competence for Detling Parish Council.

The Clerk circulated the following report to members:

General Power of Competence

BACKGROUND:

- 1.1 Parish (and latterly town) councils are corporate bodies that have accumulated powers through legislation since 1894. Their powers were constrained to specific and appropriate legislation. This means that before undertaking anything, members must be satisfied that a town council has the power (under a specified statute) to undertake that activity.
- 1.2 Town councils have many specific powers (e.g. the provision of open spaces and recreational facilities) in addition to section 137 of the Local Government Act 1972, permitting the expenditure up to certain limits for “purposes not otherwise authorised”. Typically, the expenditure on grants and sponsorship is covered by section 137 of the Local Government Act, 1972.
- 1.3 Despite the wide range of powers, town councils are always at risk of being challenged, especially if they undertake an unusual activity. For example, a recent court ruling pronounced that pre-meeting prayers by a town council was unlawful.
- 1.4 In consequence, the Government included a “general power of competence” in the Localism Act 2011 (Part 1, Chapter 1, ss 1-8). It was brought into force by SI 965 The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012 in April 2012.

LEGISLATIVE BACKGROUND:

- 2.1 The intention of the legislation is that eligible local authorities will no longer have to identify specific powers to undertake an activity. As a result, the risk of legal challenge will be reduced. It is stated in the above Statutory Instrument that

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

- 2.2 Under the new legislation, eligible town councils have “the power to do anything that individuals generally may do” as long as they do not break other laws. It is intended to be the power of first, not last, resort. The eligible council has to ask itself if an individual is allowed to do it. If the answer is “yes”, then a town council is normally permitted to act in the same way.

TYPES OF ACTIVITIES:

- 3.1 Although the Government has given scant guidance on operation of the new power, some new activities covered by the legislation include:

Running a community shop or post office

Lend or invest money

Establish a company or co-operative society to trade and engage in commercial activity

Establishing a company to provide services such as local transport

Providing grants to individuals.

- 3.2 The power is not restricted to use within the township — an eligible town council can use it anywhere.

RESTRICTIONS AND RISKS:

- 4.1 The only real limitation is that the general power of competence cannot be used to circumvent an existing restriction in an existing specific power. The general power of competence is a power; it cannot be used to raise the precept.
- 4.2 Existing duties remain in place, such as having regard to the likely effect on crime/disorder and biodiversity. There are also many existing procedural and financial duties that remain in place for the regulation of governance (e.g. no delegation to a single councillor). Furthermore, councils must comply with relevant existing legislation (e.g. employment law, health and safety, equality legislation and duties relating to data protection and freedom of information).
- 4.3 If another council has a statutory duty to provide a service (e.g. education, social service, highways, footpaths, rights of way), it remains their duty to provide it. Nonetheless, eligible town councils may assist. The eligible town council would need to ask itself whether an individual, private company or community trust could help. If the answer is “yes”, the town council can assist.
- 4.4 Whist councils are encouraged to be innovative; they should be aware of the risks of:

Being challenged

Their trading activities damaging other local enterprises

Damage to the council’s reputation and public money if a project or investment goes wrong.

LOCAL GOVERNMENT ACT 1972 (s137):

- 5.1 Expenditure under the Local Government Act (s137) is limited and has to be budgeted for separately. Expenditure is restricted in that it cannot be used to give money to individuals and the amounts must be commensurate with the benefit. Section 137 is a power of last resort.
- 5.2 A council that is eligible to use the general power of competence can no longer use Section 137 as a power for taking action for the benefit of the area. However, Section 137 (3) which permits the council to contribute to UK charities, public sector funds and public appeals remains in place.

ELIGIBILITY:

- 6.1 The three conditions for eligibility are set out in the Statutory Instrument (paragraph 1.4 above) as follows:
- **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.**

- **Electoral mandate: at the time the resolution is passed, at least two thirds of the council must hold office as a result of being declared elected (i.e. not co-opted).**
- **Qualified clerk: At the time that the resolution is passed, the clerk must hold a recognised professional qualification (e.g. Certificate in Local Council Administration, Certificate of Higher Education in Local Policy) AND pass the 2012 CiLCA module relating to the general power of competence.**

6.2 Having decided at a full meeting of the council that it meets the criteria for eligibility at that particular time, a resolution to this effect must be clearly written in the minutes. The council is then required to revisit that decision and make a new resolution at every 'relevant' annual meeting of the council to confirm that it still meets the criteria (if it does). A 'relevant' annual meeting is the annual meeting of the council after the next ordinary election has taken place.

6.3 In consequence, eligibility remains in place until the 'relevant' annual meeting even if the conditions of the eligibility criteria have changed. If the council loses its qualified clerk or has insufficient elected councillors, it must also record its ineligibility at the next 'relevant' meeting.

6.4 There is no requirement for members to be trained in the general power of competence.

6.5 Detling Parish Council satisfies all the conditions as:

- It has 6 out of 7 councillors elected.
- The Clerk of the Council holds the Certificate in Local Council Administration (CiLCA).
- The Clerk has passed the CiLCA module on the general power of competence.

RECOMMENDATIONS:

- 1. To receive and note the Report.**
- 2. To note the criteria in respect of elected councillors and confirm compliance.**
- 3. To note the requirement for the Clerk to be qualified and confirm compliance.**
- 4. The Parish Council confirms that it meets the criteria set out in the Parish Councils (General Power of Competence) (Prescribed Conditions) order 2012.**

This report was discussed and accepted by members.

The criteria in respect of elected Councillors was discussed and members confirmed the Detling Parish Council had more than two thirds elected Councillors.

Members confirmed that the criteria regarding the Clerks qualifications had been met, as she holds the CiLCA qualification with the General Power of Competence module.

It was therefore proposed by Cllr Bowie that as the Parish Council met all criteria for the General Power of Competence, that this was adopted by Detling Parish Council, this was seconded by Cllr Coles and agreed by all present.

It was agreed that this would be reviewed at the Statutory Annual Parish Council Meeting each year.

6. Items for the next Agenda.

Cllr Bryant informed members that he had spoken to the resident regarding the bus service in the village. He stated that the Arriva bus service sometimes missed the village causing issues for children travelling to school.

This was discussed and Cllr Bryant stated that he would ask the resident to make a note of the times and dates that this occurred to enable this matter to be investigated.

Cllr Finn reported that he had received a response to his letter to Paul Carter regarding the Third Thames Crossing and he circulated this to members.

He asked if the Parish Council wanted him to continue the dialogue regarding this matter. It was agreed that he would follow this up in nine months time.

7. Date of next meeting.

Tuesday 2nd July 2019 in the Meeting Room of Detling Village Hall at 7.00pm.

There being no further business to discuss the meeting was closed to the press and public at 8.05pm.

Signed: _____
Chairman

Dated: _____