



**LANCASTER**  
**CITY COUNCIL**

*Promoting City, Coast & Countryside*

# **EXTRAORDINARY COUNCIL MEETING**

**Wednesday, 13 January 2016 –  
6.00 p.m.  
Morecambe Town Hall**

Mark Cullinan,  
Chief Executive,  
Town Hall,  
Dalton Square,  
LANCASTER,  
LA1 1PJ



# LANCASTER CITY COUNCIL

*Promoting City, Coast & Countryside*

Sir/Madam,

You are hereby summoned to attend an extraordinary meeting of the Lancaster City Council to be held in the Town Hall, Morecambe on Wednesday 13 January 2016, commencing at 6pm, for the following purposes:

1. **APOLOGIES FOR ABSENCE**

2. **MINUTES**

To receive as a correct record the Minutes of the Meeting of the City Council held on 16 December, 2015 (previously circulated).

3. **DECLARATIONS OF INTEREST**

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, Members should declare any disclosable pecuniary interests which they have already declared in the Register, at this point in the meeting.

In accordance with Part B Section 2 of the Code Of Conduct, Members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

4. **ITEMS OF URGENT BUSINESS**

5. **ANNOUNCEMENTS**

To receive any announcements which may be submitted by the Mayor or Chief Executive.

## **ITEMS DEFERRED FROM THE MEETING HELD ON 16 DECEMBER 2015**

### **6. EXCLUSION OF THE PRESS AND PUBLIC**

Whilst the following report is a public report, one of the appendices contains information exempt from publication. Should it be necessary to make reference to any of the information in the exempt appendix, Council is recommended to pass the following recommendation:-

“That, in accordance with Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that it could involve the possible disclosure of exempt information as defined in paragraph 5 of Schedule 12A of that Act.”

Members are reminded that, whilst the appendix has been marked as exempt, it is for Council itself to decide whether or not to consider it in private or in public. In making the decision, Members should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and also whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In considering their discretion Members should also be mindful of the advice of Council Officers.

### **7. CONSIDERATION OF OPTIONS FOR THE REGENERATION OF THE CANAL CORRIDOR NORTH SITE (Pages 1 - 53)**

Report of the Chief Executive.

### **8. ALLOCATION OF SEATS TO POLITICAL GROUPS (Pages 54 - 63)**

Report of the Chief Officer (Governance).

### **9. AMENDMENT TO POLLING DISTRICTS IN THE HEYSHAM CENTRAL WARD (Pages 64 - 70)**

Report of the Chief Executive.

### **10. APPOINTMENT TO OUTSIDE BODY (Pages 71 - 73)**

Report of the Chief Officer (Governance).

### **11. LICENSING REGULATORY COMMITTEE - CONSIDERATION OF APPEALS AGAINST WARNINGS (Pages 74 - 101)**

Report of the Chief Executive.

### **12. MEMBERS' ACCESS TO INFORMATION (Pages 102 - 135)**

Report of the Chief Officer (Governance).

13. **CABINET PORTFOLIOS** (Page 136)

Report of the Leader.

14. **MINUTES OF CABINET** (Pages 137 - 150)

To receive the Minutes of Meetings of Cabinet held on 3 November and 1 December 2015.



.....  
Chief Executive

Town Hall,  
Dalton Square,  
LANCASTER,  
LA1 1PJ

Published on 5 January 2016.

**COUNCIL****Consideration of Options for the Regeneration of the  
Canal Corridor North  
13 January 2016****Report of Chief Executive****PURPOSE OF REPORT**

To advise Council of the options open to it in relation to the existing Development Agreement for the Canal Corridor North and the ongoing requirement for regeneration of the site.

**This report is public, but the appended legal advice is exempt from publication by virtue of paragraph 5 of Schedule 12A to the Local Government Act 1972.**

**RECOMMENDATIONS**

That members note the options available to the council contained in this report, and that further consideration of the options be deferred pending the following:

- (1) That confirmation be sought in writing from British Land of their continued commitment to the project and how its financial viability would be secured. That confirmation be sought in writing from the University of Lancaster clarifying how they would propose to support the City Council and British Land in the delivery of this project.
- (2) That a detailed analysis of White Young Green's updated retail need assessment be undertaken and tested against the options contained in this report
- (3) That further legal advice be obtained to give clarity to members on the legal implications linked to the options in this report.

**1.0 Introduction**

- 1.1 The Canal Corridor North is a description given to land between St Leonard's Gate, Moor Lane and the Lancaster Canal, which is one of the key regeneration priorities in the councils adopted Local Development Framework Core Strategy (Plan attached as Appendix 1). The council has two primary interests in the site. First as the Local Planning Authority it is responsible for guiding and regulating development to effect economic regeneration of the area, secondly as land owner of a significant part of the site it holds the land on behalf of the local community, and should use it to assist in the economic regeneration of the district.

- 1.2 The regeneration project for the Canal Corridor North has a long history which will not be known to newer members of the council. The council has had two successive development partners (Centros then British Land) but like many large regeneration schemes around the country, the recent recession and changes to the retail environment have had a considerable impact on progress. To assist new Members a summary of the history of the project is given in the next section of this report.
- 1.3 Critical background information to inform the recommendations in this report has only just been received. Officers have met with British Land accompanied by representatives of the University of Lancaster who are keen to support the scheme as its implementation is important to the university's future. British Land advise that whilst the original proposals for a two anchor store scheme no longer fit with current retail demand, they remain fully committed to working towards the delivery of a scheme with a reduced amount of retailing and a larger food and beverage quarter linked to growing the cultural hub on the site. The council's retail consultants White Young Green have re-examined the retail demand assumptions for retail growth in Lancaster District and its wider catchment.

### **2.0 The history of the regeneration project.**

- 2.1 The City Council adopted the Lancaster Canal Corridor North Development Brief (Appendix 2) in May 2002. This was a Supplementary Planning Guidance Note, which set out detailed guidance for the development of the site, which comprises an area of previously developed land forming the gateway to the commercial heart of the city, and linking the city centre with surrounding residential and industrial areas. The Brief highlighted the need to regenerate the site, and identified a range of potentially acceptable uses, including retail.
- 2.2 The site was in a variety of ownerships, with the major landowners being the Council itself and Mitchell's Brewery. In 2004, the Council was approached by developers Centros Miller, a company specialising in the development of retail led mixed-use developments. It was known that Centros Miller had entered into an exclusivity agreement with Mitchell's, and were preparing to enter into a sale by way of a development agreement. Accordingly, in March 2005, the Council approved the appointment of Centros Miller as its preferred developer for the Canal Corridor site.
- 2.3 In October 2006, the Council entered into a development agreement with Centros Miller, Miller Developments Holdings Limited and DV3 Centros Miller Limited. The agreement was on the basis that the developer would assemble all the land required for the scheme, transfer the entire freehold interest in the site to the Council and then take a long lease of the land back from the Council. The development agreement provided for there to be an "anchor store" of at least 50,000 square feet net lettable. Cabinet approved the Development Agreement on 25<sup>th</sup> July 2006. (Centros Miller restructured as a company and subsequently became Centros).
- 2.4 As a condition of the development agreement, Centros submitted various planning applications for the comprehensive redevelopment of the site, and, following a call-in request made by the Secretary of State, and a local inquiry into the proposals, the applications were refused in December 2009. This decision confirmed the need to regenerate the site, accepted (for the most part) that retail need existed for the proposed development, and confirmed that the transport implications of the proposal could be mitigated to an

acceptable standard. (The retail need came from evidence showing a significant loss of trade from the district and its catchment from shoppers travelling to higher order centres such as Manchester for a better quality shopping experience).

- 2.5 However, the application was refused mainly on built heritage grounds. Following this decision, and in order to deal with matters that had led to the refusal, discussions with Centros, Mitchells and English Heritage continued, and a new boundary to the Lancaster Centre Conservation Area was designated in May 2011, and an Appraisal of Heritage Assets was published in March 2012. In the meantime, in view of the planning position, and also the recession and changes in the retail sector, the plans for the development were effectively put on hold.
- 2.6 The 2006 development agreement had a “long stop” date of October 2011, by which time the conditions in the agreement had to be completed. The main condition was to obtain a suitable planning permission for the development. By January 2011, it was clear that this condition would not be met. However, at the request of Centros and Mitchell’s, the Council in January 2011 agreed to discuss with Centros the extension and amendment of the development agreement.
- 2.7 The discussions with Centros were reported to Cabinet in March 2012. Subsequently, in July 2012, Council approved the variation of the development agreement, and a deed of variation was completed on the 21<sup>st</sup> November 2012. The varied development agreement was between the Council, Centros Lancaster Limited Partnership and British Land Company PLC (their new funding partners). Rather than providing for one anchor store, the varied agreement provided for two or three large retail units performing an anchor role, one of which may be a supermarket.
- 2.8 On the 30<sup>th</sup> November 2012, British Land announced that it had acquired the Canal Corridor North Site, including the former Mitchell’s brewery, and that it had retained Centros as its Development Manager. It subsequently appointed a team of architects and consultants to progress the development.
- 2.9 Clause 2.6.2 of the amended development agreement provides that *“in the event that any of the following events has not occurred by the Interim Conditions Longstop Date, namely submission of a Planning Application by the developer in accordance with part 1 of Schedule 1 and/or satisfaction or waiver by the Developer of paragraph (a) of the Letting Condition in respect of each of the Anchor Stores and /or satisfaction or waiver by the Developer of the Survey Condition save where the same has not been satisfied due to reasonable access to any part of the Site necessary to satisfy the same not being available, then either party shall be entitled prior to satisfaction of the Conditions to determine the agreement by giving notice in writing to such effect to the other”*.
- 2.10 That longstop date was 21<sup>st</sup> November 2014 and that date passed without any planning applications being submitted to the council.

### **3.0 Options available to the City Council.**

- 3.1 With the passing of the date by which planning applications should have been submitted to the council, the council now has to consider how to act. This is a matter of strategic importance to the council and will also reflect on the council’s external reputation with the development industry. It is also now clear that the development of a stronger retail and cultural offer in Lancaster city centre is of key importance to the ongoing development of the University

of Lancaster one of the district's key economic drivers. Certainty about the scheme, and the council's approach to it also impacts on future investment decisions by third parties. Accordingly it requires careful assessment of a wide range of considerations. Some relate to planning policy matters, some relate to economic growth issues, and some relate to the need for commercial certainty in this matter. Officers have sought specialist legal advice to ensure that the council is fully aware of any legal consequences which could arise from either party terminating the Development Agreement. (That advice is provided as Appendix 3 to this report). **As legal advice this appendix is Exempt.**

- 3.2 Members will see that the council is free to give notice to terminate the Development Agreement if it should so wish. However, if the Council wished to continue with British Land, the advice states that any changes to the scheme that were more than minor in nature would raise new procurement issues that would need to be addressed. The council accordingly has a number of options to consider on how to proceed.
- 3.3 As an essential part of considering options officers advise council to first have regard to its emerging new Local Plan for the area. Along with many other considerations the Local Plan must reconsider the allocation of the Canal Corridor North for retail led development. The Planning Inspectorate will want to see evidence of the changing retail need for the area, and if this still supports such a development or a modification to a more mixed range of uses in the post-recession economy, that a revised scheme is deliverable within the plan period.
- 3.4 The council needs to revisit its evidence base for retail need in the district. Although the initial updating of figures has now been completed by the council's consultants White Young Green, some time is now needed to carefully analyse the implications of this new information. If there remains a continuing need for retail development, albeit revised in scale and mixed with other uses then the council should consider whether to continue to allocate this site to meet those needs in its new Local Plan. If there were no continuing retail need the council would have to consider how the site should be treated in the Local Plan for the next plan period.
- 3.5 The 2009 Local Inquiry and subsequent Secretary of State's decision acknowledged that the Canal Corridor North provides the only realistic option for extending Lancaster City centre should need require it. This presents the council with another dilemma. If there were no continuing retail need at this time for further retail/commercial growth would the council be wise to allow the site to be developed for other purposes, or should it seek to safeguard the land in some way should future needs arise, whilst enabling existing uses to remain? If the site were redeveloped for non-retail purposes and a future need arise then the potential threat of out of centre retail might arise. The new Local Plan would have needed to address this issue very carefully.
- 3.6 Council will also have to take into account the impact of the various land ownerships on their options. The council owns almost half of the site within the Canal Corridor North but that ownership mainly consists of open car parking which is an important community asset. It does not own the land and buildings closest to the city centre, the Mitchells Brewery or the Heron Chemical Works. (see 2.8) Even though it can attempt to influence the reuse of land and buildings through the Local Plan process, the council cannot force other landowners to develop their sites for other purposes if they do not want to.
- 3.7 With the complexities of land ownership therefore members need to

acknowledge that allocating the land for other uses is only realistic on a piecemeal basis which understands the land ownership issues. The ability of the site to be brought forward for comprehensive redevelopment is unlikely without a Development Agreement of a similar type to that which currently exists, whatever the form of redevelopment. Another way to achieve a comprehensive development could be through Compulsory Purchase but that would be a very high risk strategy with little prospect of success given all other factors associated with land ownership and economic viability.

3.8 If the council opts to engage in a new master planning exercise it could only realistically concentrate on promoting the regeneration of a number of individual key sites and buildings whilst encouraging the remainder of the private sector land holdings to remain in their current uses. Given the extent of British Land’s ownership a new Development Brief would have little credibility without their support for its contents. This could mean that the Dukes and Grand theatres might pursue their own regeneration schemes, and that attempts could be made to preserve or reuse the Mitchells Brewery and Heron Chemical Works. Council needs to appreciate however that its ability to attract external funding to assist with such an approach may be constrained by the lack of a wider comprehensive project.

**4.0 Details of Consultation**

4.1 The Council’s retail consultants White Young Green have been instructed to provide the council with an updated assessment of retail need for the district. That has only just been received and has yet to be analysed in detail.

**5.0 Options and Options Analysis (including risk assessment)**

|               | <b>Option 1:</b> Continue to work with British Land to promote retail led development addressing procurement issues as appropriate | <b>Option 2:</b> Terminate the Development Agreement and allocate all or part of the site for other non retail uses   | <b>Option 3:</b> Terminate the Development Agreement, but safeguard the site for future retail growth by regenerating existing uses.   |
|---------------|--|---|--|
| Advantages    | Maintains confidence about commercial growth in the City centre, and provides for it in a sustainable location                     | Creates certainty for other investors in the city centre about the extent of the centre and capacity  | Enables certainty for other investors in the city centre in the medium term but doesn’t prevent planned expansion in the future  |
| Disadvantages | Unless there remains clear retail need, development could decant existing uses from the existing centre leaving vacancies          | Potentially removes scope for expanding the centre in the future and reduces confidence that the retail experience will improve. British Land still controls almost half the site and may oppose the Local Plan. The council would lose its car | British Land still control almost half the site and may oppose the Local Plan. Removes confidence that the city’s retail offer will improve. The built form on the site will continue to fall into dereliction including heritage assets |

|       |  |   |  |
|-------|--|---|--|
|       |  | parks if it allocates its own land for other purposes   | without proactive regeneration projects to restore them.   |
| Risks | Predicting retail needs and trends in a post recession environment | Future demand returning could bring pressure for out of centre development<br>Reputational/credibility risks with funders and investors | It may be very difficult to secure funding to undertake interim regeneration of buildings within the site because the investment will be isolated from a comprehensive scheme. |

**6.0 Officer Preferred Option (and comments)**

- 6.1 In the time given to officers to prepare this report for council a view has been obtained from the developer about their commitment to the site, and their vision of what the development could contain in the post recession environment. Initial finding have also been provided by the council’s retail consultants. Both have however been obtained very recently and officers need time to analyse them against the options available to the council.
- 6.2 It would also be necessary for commitment in writing to be obtained from British Land confirming how they would be prepared to proceed and on what terms. Equally commitment from other key parties who could have a major influence on the delivery of the scheme needs to be sought.
- 6.3 Further external legal advice would also be sought in the light of this additional information, to assess the further implications arising from the three options set out above.

**7.0 Conclusion**

- 7.1 This is a very important issue for the City Council to consider. The future of a major regeneration project for the whole district has wide ranging impacts including impacts on the attractiveness of future growth promoted by the new Local Plan, and the ability of the district to retain and attract a new workforce. The viability and vitality of the City Centre is important for all the communities who use it, and for many organisations in the local economy because of its influence in recruitment and attracting investment.

**RELATIONSHIP TO POLICY FRAMEWORK**

The Corporate Plan promotes economic growth as one of its priorities. The Canal Corridor North is a key regeneration project in the adopted Local Development Framework Core Strategy.

**CONCLUSION OF IMPACT ASSESSMENT**

**(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)**

Ensuring that the districts economy is sustainable is a high priority for the council and enables local communities to access a whole range of goods and services locally and in a sustainable location without the need to travel to other districts.

**LEGAL IMPLICATIONS**

Preliminary legal advice is appended to the report, and further advice will be sought in the light of further information received and the emerging options.

**FINANCIAL IMPLICATIONS**

The existing Development Agreement sets out the financial arrangements for the integration of the council's land into the scheme and the returns for the community arising from that in future years. If the Development agreement is terminated those arrangements will cease to exist. There would be no other direct financial implications arising as a result, however.

If the existing Development Agreement is to be amended significantly or a new agreement entered into in relation to any redesigned scheme, then those terms would need to be revisited. This may give rise to new financial terms and implications.

Council should note that for any development proposals to be considered, reasonable assurance is needed regarding their financial viability, to ensure that the Council demonstrates due diligence, and this is provided for in the recommendations.

At a more minor level, there would be some further legal costs incurred in support of the recommendations and these would be funded from within existing budgets.

**OTHER RESOURCE IMPLICATIONS**

**Human Resources:**

This is a mainstream planning policy and development management issue for the council and is resourced through existing service budgets

**Information Services:**

None

**Property:**

How the council proceeds will have an impact on the council's property assets.

**Open Spaces:**

None

**SECTION 151 OFFICER'S COMMENTS**

The s151 Officer has been consulted and has no further comments given that is an interim report with no final decisions being sought.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments at this stage.

**BACKGROUND PAPERS**

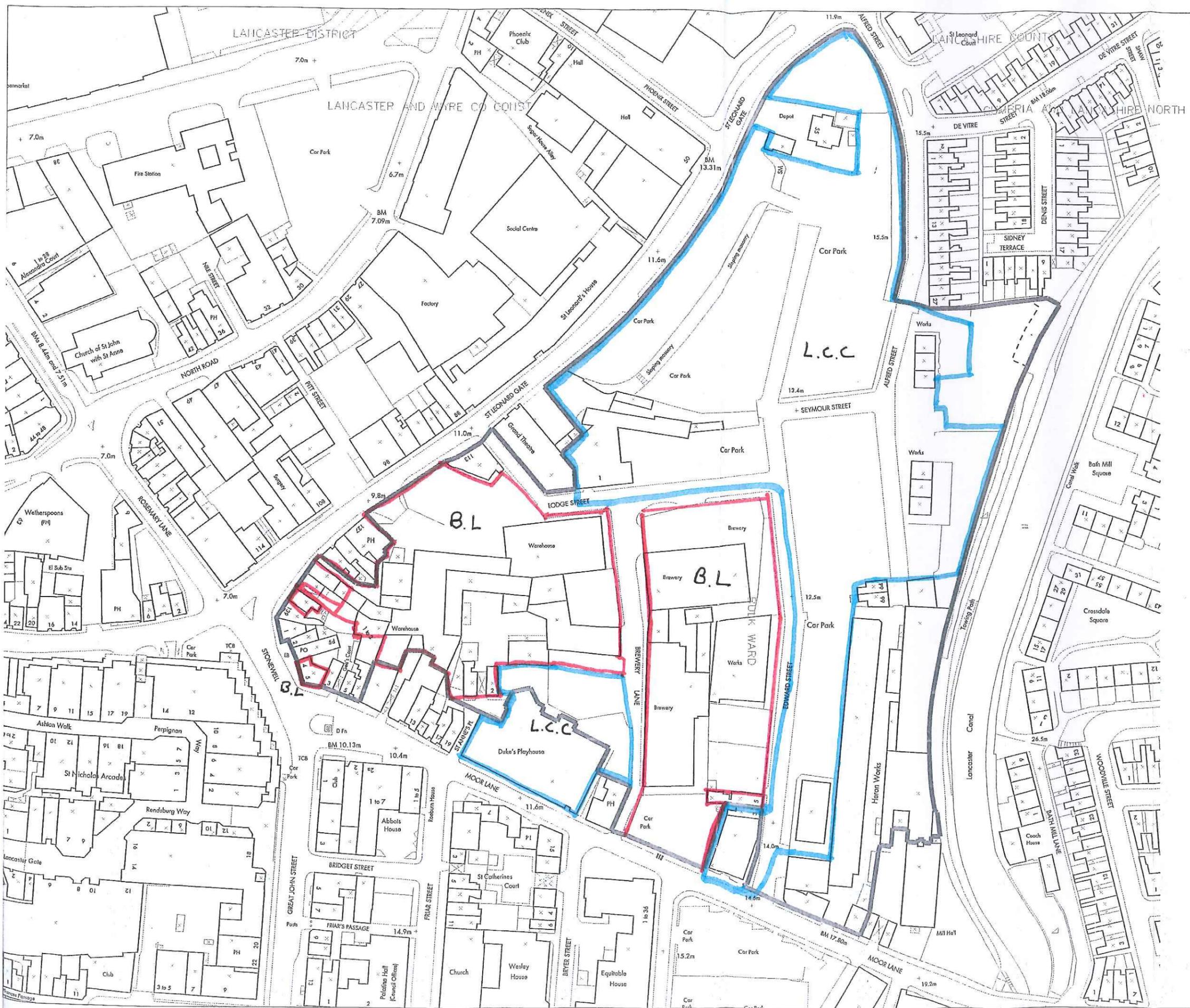
Appendices attached to the report

**Contact Officer:** Andrew Dobson

**Telephone:** 01524 582303

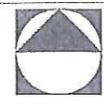
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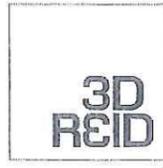
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PROJECT  
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Lancaster District Local Plan  
Supplementary Planning Guidance Note 8  
**Lancaster Canal Corridor - North  
Development Brief**

**Lancaster City Council**  
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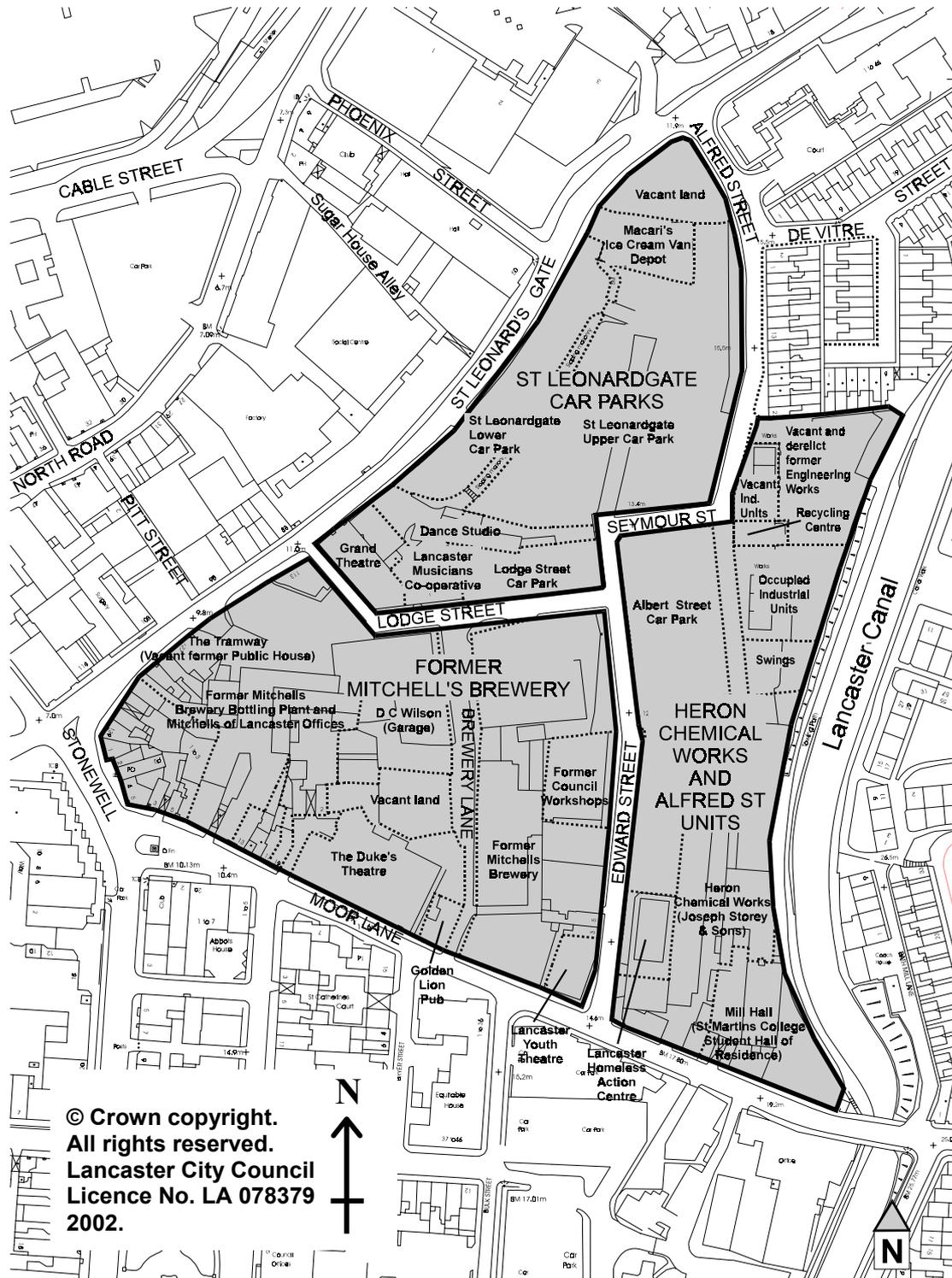


## Notes

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Plan 1; Site Features

# 1. Foreword

## Procedural Background

- 1.1 The Council's Local Plans and Policy Section has prepared this brief pursuant to the Local Plan policies in Appendix 2. The Brief supersedes the earlier draft Brief published in March 2001.
- 1.2 The Council has considered comments received during public consultation and formally approved the revised brief. Separate briefs have been prepared for the Canal Corridor south of Nelson Street and for the Kingsway area.

## Consultations

- 1.3 Both the revised Kingsway Brief and the Canal Corridor North Development Brief were the subject of a consultation exercise in July 2001. A number of themes emerged from the consultation process. These include;
- Representations on behalf of Mitchells of Lancaster and Chelverton Properties, seeking a greater emphasis on convenience retailing on the former Mitchell's Brewery;
  - Representations from the Dukes and Grand Theatres requesting a greater acknowledgement of the importance of the area as a cultural resource;

- Representations from Joseph Storey and Co about the potential impact of new residential development on their operation and access and servicing difficulties;

- 1.4 These and other representations received have been taken into account in this revised brief.

## Status of the Brief

- 1.5 This brief will be used to guide development proposals. Once the Lancaster District Local Plan is adopted, this brief will become formal supplementary planning guidance. Local Plan policy is considered in full in Appendix 2.

## Council Interests in the Area

- 1.6 As a major land and property owner the Council has a significant interest in the area. This brief is concerned only with planning matters. Any land ownership issues should be raised with the Head of Property Services. The Council also operates most car parks. Parking management issues should be raised the Head of Engineering Services. Relevant contact details are set out in Section 11.

## 2. The Scope and Purpose of the Brief

### The Canal Corridor North area

- 2.1 The area to which this Brief relates is shown on Plans 1 & 2. It is the main regeneration opportunity in central Lancaster with several high profile major development sites on previously developed land. It contains key listed buildings and adjoins the City Centre and the Lancaster Canal. The area forms the gateway to the commercial heart of the City and links the City Centre with surrounding residential and industrial areas.
- 2.2 The area contains the former Mitchell's Brewery on Moor Lane, the Dukes and Grand Theatres, the extensive St Leonardgate Car Parks, and the Alfred Street industrial area.
- 2.3 Derelict and under-used buildings and a bleak, open aspect give much of the area a poor appearance not in keeping with the main approach to a historic city. The road network is inadequate with major congestion and a number of narrow 'rat runs', some of which affect residential streets.
- 2.4 The area needs a comprehensive approach linking new commercial development with infrastructure provision. Important listed buildings need to be protected. The relationship between major development in the area and the vitality and viability of the City Centre requires very careful consideration. The integration of major development within a historic city presents a major design challenge. The cultural

importance of the area must be safeguarded. Finally the regeneration of the area must be carried out in close consultation with local people and address their needs and aspirations.

### The Purpose of the Brief

- 2.5 Lancaster City Council's Corporate Plan identifies the Council's priorities as achieving a thriving economy, a healthy environment and a safe and attractive quality of life. These themes are developed in the Council's District Regeneration Strategy. The Strategy identifies central Lancaster as having growth potential and defines the supply of business land and property supply and improving transport as priorities. Medium term actions identified include, the identification of new retail sites and further development which exploits the commercial potential of the City. These themes are also reflected in the Lancaster District Local Plan (Deposit draft as modified) and the Lancaster City Centre Strategy. (see Appendix 2).
- 2.6 The Development Brief seeks to assist the achievement of these important corporate priorities by guiding the regeneration of this important area and setting out the main land use, design, access and infrastructure requirements. It is intended to provide certainty for the local community, potential developers and site owners;

## Key Objectives

2.7 The Council wishes to achieve the following key objectives in the area

- An attractive entrance to the City Centre forming natural extension to the City Centre and a 'seamless join' between the commercial and employment centre of Lancaster and surrounding residential areas;
- Sensitive integration of new buildings within the existing historic fabric, using of high quality designs, local styles and materials and re-using stone and architectural features from cleared buildings where possible;
- Landmark high quality, mixed-use developments on major sites;
- The accommodation of any new retail development close to Lancaster City Centre with the best possible pedestrian links;
- A significant element of residential development with a mixture of tenure types including new student housing and affordable housing;
- The retention of the employment role of the area;
- All new buildings, car parks, footpaths and open spaces to be fully accessible to people with limited mobility and other disabilities;
- The implementation of the Lancaster City Centre road improvements and pedestrian, cycle and public transport access;

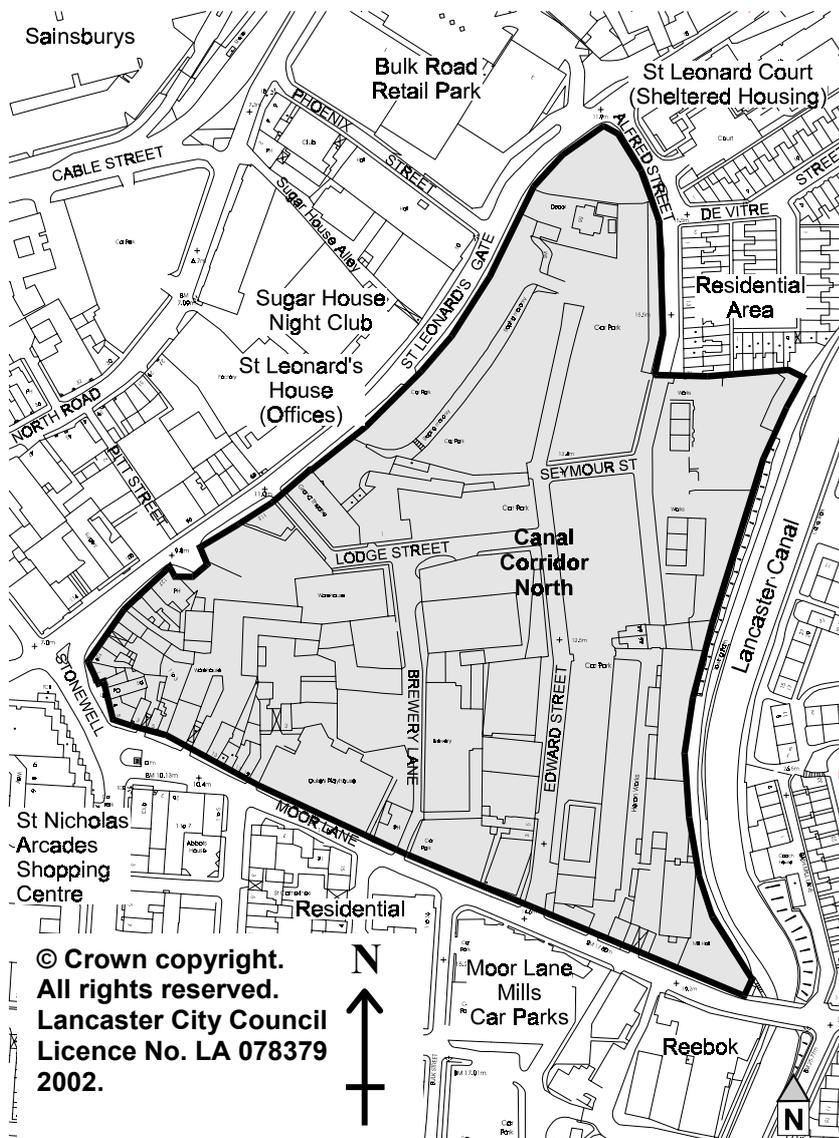
- The removal of through traffic from Alfred Street and Bulk Road and the creation of a 'Home Zone';
- New and improved pedestrian and cycle routes including better linkages to Shaw Street Bridge, the creation of linkages between the Canal and River frontage and enhancements to the Canal and Canal Towpath opening up views of City;
- Significant new publicly available recreational open space including a landscaped walkway from Kingsway to the City Centre incorporating public art;
- The re-reinforcement and enhancement of the area's cultural facilities in line with the City Centre Strategy;
- Retained and enhanced of City Centre shopper and visitor parking;
- In the longer term, the redevelopment of other previously used sites and long-stay commuter car parks;
- Extensive public involvement in the development of the proposals;

## Key Concerns

2.8 The area is large, high profile, sensitive and complex. The Council's main concerns when examining development proposals and developing solutions will focus on the following key issues:

- The need for new retail development and whether a sequential approach has been followed to site selection;

- The impact of any commercial proposals, particularly retailing and leisure, on Lancaster City centre and other shopping centres in the District and the development of strong linkages with the City Centre.
- The demand for transport, its impact on the local road network and the provision made for traffic management, public transport enhancements, pedestrians and cyclists;
- The accessibility of any development to people with disabilities;
- The impact of development proposals on the area's listed buildings and Conservation areas and approaches to the City Centre;
- The safeguarding of the area's cultural heritage;
- The impact of development on existing and proposed residential areas;

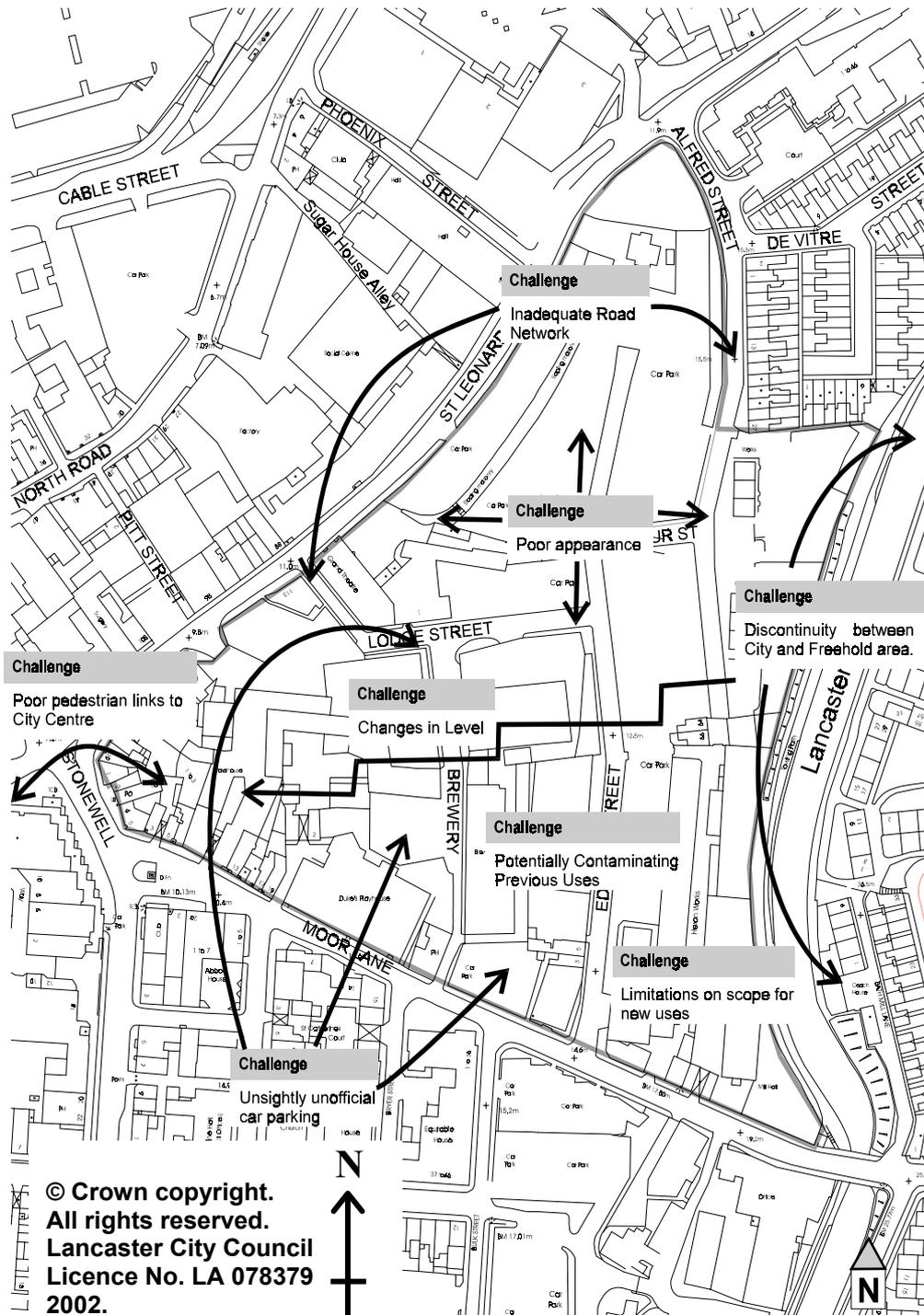


Plan 2; The Site and its Surroundings

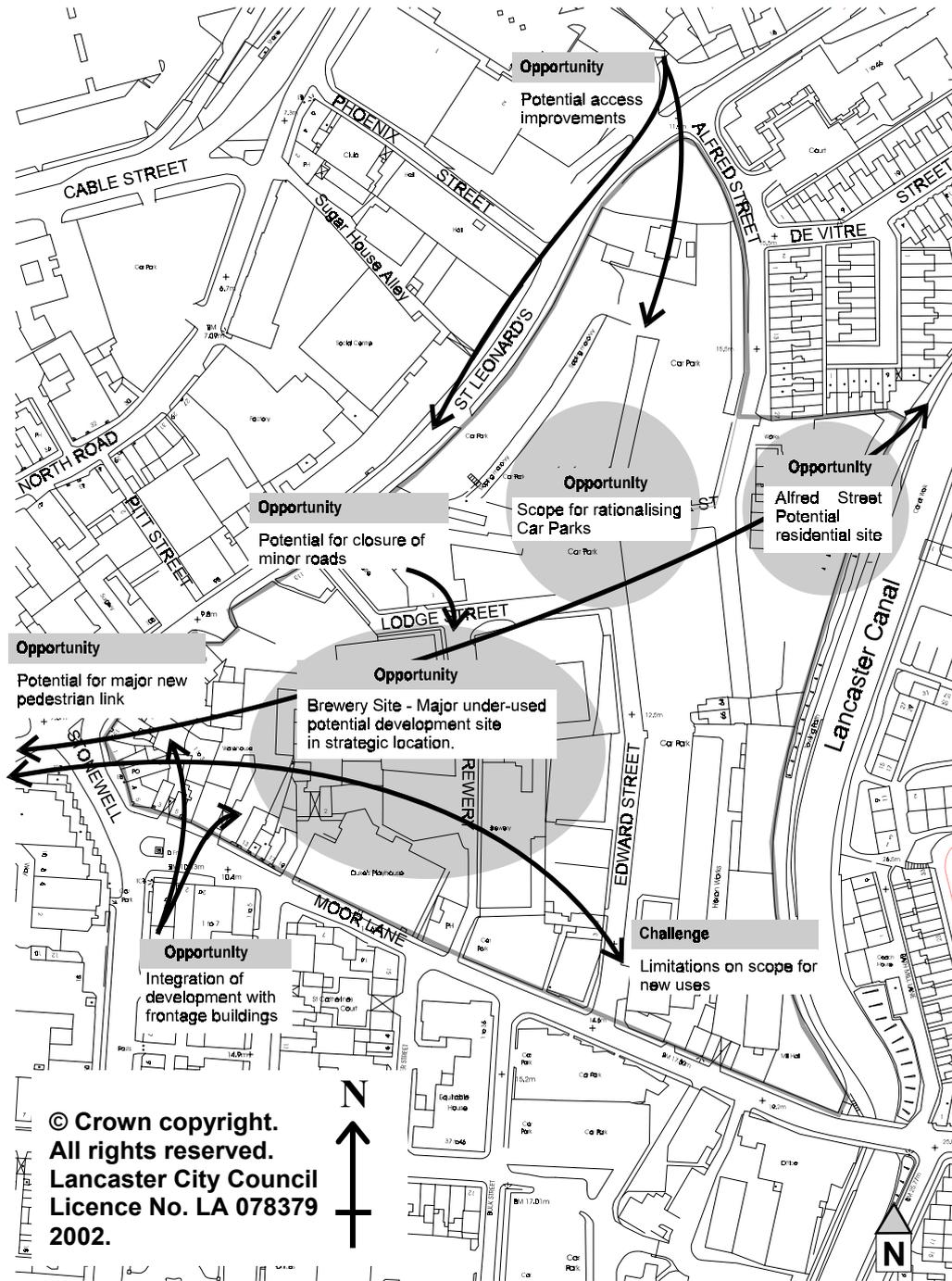
### 3. SWOT Analysis

3.1 An analysis of the strengths and weaknesses of the area is presented in Appendix 3. The

key challenges and opportunities are illustrated on Plans 3 and 4.



Plan 2; Key Challenges



Plan 3; Key Opportunities

## 4. Cross Cutting Themes

- 4.1 The Brief divides the area into three component areas, the Brewery, the Canalside and the Car Parks and these are considered in detail later in the brief. A number of important themes apply to the whole area and necessitate a comprehensive approach to the area. These are set out below.

### Infrastructure Requirements

- 4.2 Contributions to off site transport improvements would be required under Local Plan Policy T15. Policy T9 requires that the development maximise opportunities for public transport. The Local Plan proposes a car park access road and new bus lanes on the northern approaches to the City Centre. There is a clear relationship between major development in the Brewery area, which could generate traffic, create increased stress on residents in the Alfred Street area and contribute to congestion, which obstructs public transport.

- 4.3 It is possible that a very intensive development proposal or a proposal that would generate significant movements from the south might require limited highway works over and above those proposed in the Local Plan.

### Cultural and Entertainment Facilities

- 4.4 The District's Cultural industries, many of which are located in the City Gateway area, are one of its strengths. The Dukes Theatre is a live performance venue, produces

six plays annually and is an independent cinema. The eighteenth century Grand Theatre on St Leonardgate is also an important facilities. The Sugar House on the other side of St Leonardgate is a night club and music venue run by Lancaster University Students Union. These facilities give a strong cultural and entertainment 'feel' to the northern Canal Corridor area which is an essential part of its character. They also form an key element of the Cultural Quarter proposed in the City Centre Strategy.

### Pedestrian and Public Transport Access

- 4.5 Most of the area is within walking distance of the Primary Bus Corridor, which runs through Lancaster City Centre. Buses also run along Moor Lane and Derwent Road to reach the Ridge Estate and Lancaster Moor areas. The canal towpath provides an important pedestrian and potentially a cycle route. A Pelican crossing close to the Stonewell Post Office gives access from the Brewery area to the St Nicholas Arcades shopping centre, the Church Street/Cheapside area and the City's new bus station.

- 4.6 Improvements to the pedestrian network could include;
- A significantly improved link between the Brewery site and the St Nicholas Centre;
  - A pedestrian and cycle route linking the Canal Towpath with the Lune River frontage.

## Road Proposals

- 4.7 The road network in the canal corridor area is made up of narrow streets with sharp bends. Alfred Street, the main approach to the area from the north, is fronted directly onto its footway by terraced houses as well as a major complex of sheltered accommodation (St Leonard's House). Bulk Road is also predominantly residential. These suffer considerably from traffic accessing the car parks and 'rat-running' to avoid the central one-way system.
- 4.8 The District Local Plan contains proposals for a new link road between Bulk Road, St Leonardgate and Edward Street. This would provide a direct access to the car parks from the north, remove 'rat running' traffic from Alfred Street and allow for the creation of a bus lane on North Road.

## Services

- 4.9 The area is affected by a number of underground services, which may affect the layout and/or the constructional details of development. If changes to the local road network are proposed it should also be borne in mind that services may lie under streets such as Edward Street and Lodge Street. It will be important for prospective developers to be aware of the constraints set by these and other services before planning the details of development proposals. Potential developers are strongly advised to contact the relevant service providers at an early stage.

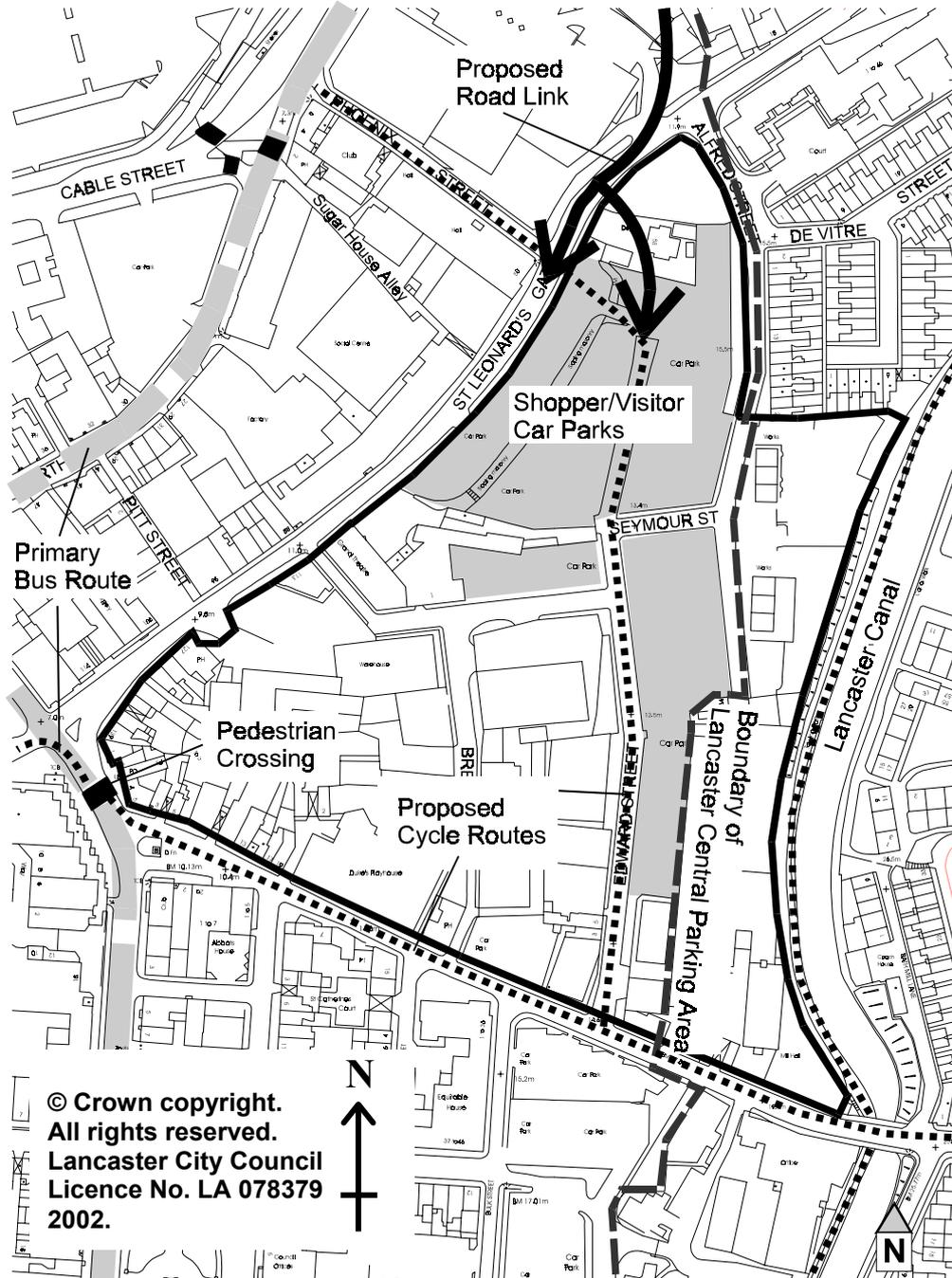
## The Lancaster Canal

- 4.10 The dominant feature of the area is the Lancaster Canal. The Canal is a wildlife site, a tourism resource and growing in importance as a leisure waterway. It has recently been connected to the national canal network via the Ribble Link and British Waterways have ambitions to restore the northern section of the Canal to Kendal. British Waterways have indicated that there is likely to be increased demand for canal moorings in Lancaster City Centre.
- 4.11 It also provides a traffic free walking (and potentially cycling) route to the countryside north and south of the city.

## Conservation Issues

- 4.12 The Canal Corridor lies partially within the Lancaster City Centre Conservation Area. The current Conservation Area boundary includes the built frontages of Moor Lane and St Leonardgate and the Grand Theatre. The Council is required to review its Conservation Areas from time to time. The current boundary of the City Centre Conservation Area was largely determined by now abandoned proposals for a City Centre Access Road. Following the abandonment of the road scheme and other changes, there is a need for a review of conservation issues in the area. The Council will undertake a formal review looking at the following issues;
- The eastern boundary of the Lancaster City Centre Conservation Area;
  - The scope for amalgamating Conservation Areas and simplifying the structure;

- The possibility of a Canalside Conservation Area; reflecting the increasing importance of more recent townscapes;
- The scope for additional conservation areas



Plan 4; Transport Issues

**Sustainability**

4.13 The Council's Regeneration Strategy and the Local Plan

are both founded on the principles of Sustainable Development. The City

Gateway will contribute to the objectives of Sustainable Development in the following ways;

- Minimising the demand for travel by promoting mixed use development and trip linkages with the City Centre;
- Promoting development close to a major public transport hub;
- Improving pedestrian linkages including making greater use of the Canal as a walking and cycling route;
- Recycling a significant quantity of previously used Land;
- Creating new greenspace and public areas;
- Improving the quality of life in existing residential areas with Home Zones and new pedestrian links;
- Encouraging energy efficient house types and high density layouts;

### **Social Inclusion**

- 4.14 The Council intends to progress the development of the area in a way which maximises the involvement of local people and which reflects local concerns as much as possible. This could mean involving local residents in the nature and detailed design of

proposed improvements and hopefully engendering a sense of ownership in the outcome.

The Council will continue to consult widely as the proposals are developed and involve many different bodies in the process. The Alfred Street/Bulk Road Home Zone will offer opportunities for 'Planning for Real'.

### **Community Safety**

- 4.15 The Council is wholly committed to enhancing community safety and minimising crime and the fear of crime. The proposals in this Brief will further this objective in the following ways;

- By removing dereliction and unattractive and intimidating environments;
- By improving the appearance and security of car parks;
- By limiting and better managing late night uses;
- By raising the profile of the area as a residential area;
- By better managing traffic and introducing appropriate traffic calming;
- By adopting the principles of 'Secured by Design' in new development;
- By avoiding the use of excessive or intimidating security measures;

## 5. Acceptable Uses

- 5.1 A number of different potential uses may be acceptable on the site, providing they comply with the relevant Local Plan policies and are part of an appropriate mix of uses. These are set out below in general terms. The sections on the individual sites set out below contain more details on the appropriate levels.

### Housing

- 5.2 There has been significant new residential development in and around Lancaster City Centre in recent years. The Council will continue its established role of promoting the Urban Renaissance with the inclusion of houses within mixed use developments in the area. The Canal Corridor and Stonewell sites are identified in the Local Plan as Housing Opportunity Sites.

### Business and Industry

- 5.3 B1 office development could form part of a mixed-use schemes in the area. Office uses may be particularly suitable for the re-use of listed buildings. The Council also sees a role for small workshop type uses. The Council would not wish to see the intensification or expansion of uses which would have significant adverse impacts on the amenities of residents. B8 Storage and Distribution uses and B2 General Industrial Uses, other than limited development associated with existing enterprises, are not likely to be acceptable within the area.

### Retail

- 5.4 The 1998 Lancaster and Morecambe shopping study indicates some capacity for both convenience and comparison retailing. Although a significant quantity of new retailing has been completed within the District since the completion of the study, there may be scope for retailing within a mixed-use scheme.
- 5.5 In line with national planning guidance and local planning policy, proposals would have to demonstrate need and that a sequential approach has been followed to site selection. This means that developers will have to demonstrate that there is a need for the type of retailing proposed which cannot be accommodated within the City Centre. Major retail schemes will need to provide an up-to-date demonstration that there is sufficient capacity within Lancaster and Morecambe for the scale of development proposed. Considerable attention would need to be paid to pedestrian linkages between any retail development and Lancaster's Primary Shopping Area. Retail proposals should be fully accessible to foot, cycle and public transport and which maximise the potential for people to move between the City Centre and new retail floorspace.
- 5.6 Retail development will not be acceptable in parts of the area which are remote from the City Centre and public Transport or have inadequate pedestrian links to the City Centre.

## **Cultural Uses**

- 5.7 As noted above, the area's cultural facilities are an essential part of its and the City's character and should be retained and reinforced as part of the development of the area.

## **Leisure Uses**

- 5.8 Leisure or community leisure uses, such as health and fitness centres are amongst the fastest growing development sectors in the country. The area could provide a suitable location for such uses.

5.10

## **Late Night Uses**

- 5.9 The Council is concerned at the concentration of late night activities at the northern end of Lancaster city centre and will adopt a cautious approach to any proposal containing a significant element of such uses. Where they are permitted, such uses will be required to incorporate sound-proofing and meet the Council's detailed requirements as licencing authority to eliminate late night disorder and anti-social behaviour.

## 6. Site 1 - The former Mitchells Brewery and Bottling Plant

### Description

- 6.1 The closure of Mitchell's Brewery leaves a substantial area of vacant land and buildings close to Lancaster City Centre. The site is divided by Brewery Lane. East of Brewery Lane is the Brewery itself. West of the lane is the former Bottling Plant.
- 6.2 The Brewery site consists of a 0.56 ha rectangular site. It is around 120m north to south and around 50m east to west. It is almost level. It contains a substantial 2-3 storey stone brick and slate 19th Century brewery building including two enclosed courtyards and a conspicuous red-brick brewery tower several more recent buildings, hard standing areas and areas in use for car parking as well as two vacant houses on Edward Street. The site also contains a landscaping strip along Edward Street with some mature trees.
- 6.3 The Bottling Plant, also known as the Stonewell site, is the nearest part of the area to the City Centre. It is an irregular 0.41 ha site containing yards and industrial buildings of varying ages, temporary car parks and a functioning garage. The frontages of the site to Moor Lane and St Leonardgate contain many listed and historic buildings including the Duke's Theatre. These frontages are part of the Lancaster City Centre Conservation Area. Listed Buildings and Key Townscape Features are described in Appendix 1.

### Ownerships

- 6.4 The main ownership in this area is believed to be Mitchells of Lancaster. Other interests include the Council, a number of different ownerships on the Moor Lane and St Leonardgate frontages, the Duke's Theatre and the garage on Brewery Lane.

### Principles of Development

- 6.5 The City Centre Strategy proposes a comprehensive mixed-use development of considerable quality making use of this major development opportunity. Options could be considered included the closure of Brewery Lane and the upgrading of surrounding car parks. The Council may be prepared to assist suitable and properly justified comprehensive development proposals by assisting with road closures, using compulsory purchase as a last resort if required for site assembly and taking a flexible approach to the use of its own car parks. The following principles should be applied to development proposals for the Brewery site including the Bottling Plant:
- A comprehensive development of the whole site incorporating the Brewery and Bottling Plant;
  - A high density of development which makes efficient use of this previously used edge of centre site;

- A mixture of uses including a residential element to create variety and vitality;
- The incorporation, where practical of the under-used frontage properties on St Leonardgate, Stonewell and Moor Lane, including Swan Yard and the former Tramway pub and adjacent buildings in particular;
- The safeguarding of the Duke’s Theatre and its role as a key element of the City’s cultural quarter;
- A pedestrian and cycle friendly environment with new public spaces, safe, direct walking and cycle routes between the site and the St Nicholas Centre and Church Street areas, to the surrounding car parks, to the Canal Towpath and Shaw Street Bridge;
- Provision for any necessary road improvements and traffic management measures;
- Consideration of the potential of neighbouring under-used sites and car parks such as Lodge Street and Albert Street to be incorporated within the development.
- The location of any new retail floorspace at the western end of the site linked to strong linkages to the City Centre;

**Uses**

6.6 A number of different potential uses may be acceptable on the site, providing they comply with the relevant Local Plan policies and are part of an appropriate mix of uses. Proposals should aim to bring about a comprehensive redevelopment

of the site. Alternatively, the City Council may consider proposals for partial redevelopment provided these could be satisfactorily integrated into an overall scheme. Proposals for partial redevelopment that would prejudice the comprehensive development of the site will not be permitted.

**Housing**

6.7 The Council sees potential for new residential development or residential conversions in the context of a mixed-use scheme for this site. The listed buildings and the upper floors of the Stonewell/Moor Lane frontage offer the scope for conversion to flats. Residential development on the site would have to take into account factors such as the potential impact of uses such as the Dukes and Grand Theatre and the Sugar House on the amenities of proposed residents.

6.8 In view of the proximity of the sites to the city centre and to public transport, the Council is willing to consider proposals on the site which increase residential densities by reducing the on site provision made for car parking. The Council will encourage sustainable high density terraced and flatted house types with minimal car parking.

**Business and Industry**

6.9 Given poor access to the area for HGVs and the prospect of greater residential development in the area, neither the continuation of B2 use nor the introduction of B8 uses would be desirable. Some existing light industrial uses and workshops in the area contribute to its character.

Their inclusion or relocation within a mixed-use development, subject to safeguards to protect residential amenity, would be desirable.

- 6.10 There is no reason why B1 business use could not form part of a mixed-use scheme. Proposals for employment uses would be considered against the criteria set out in Policies EC6 and EC14 of the District Local Plan.

### **Retail**

- 6.11 The Brewery site is an edge of centre site for the purposes of PPG6. Any proposed retail development would have to meet the requirements set out in Paragraph 5.5 above. New retail development should be linked directly to Lancaster's existing shopping area.

- 6.12 Major developments incorporating elements of convenience or other retail development affecting this site will have to address the following issues in addition to general retail policy requirements;

- A full Transport Impact Assessment which addresses the need for major improvements to road, public transport, pedestrian and cycle access to cater for the numbers of people likely to be attracted by the proposal and the need to cater for movements from all directions without further exacerbating traffic and the impact of traffic on the central one-way system;
- Measures to encourage access by non-car-borne modes including good pedestrian routes to the

store from bus stops and surrounding residential areas, secure cycle parking and links to the District Cycle Network and strong linkages with the City Centre to encourage trip linkages;

- The creation of strong linkages to the City Centre. Possibilities could include major improvements to the pedestrian crossing or the investigation of the feasibility of a level pedestrian bridge across Stonewell linking into the St Nicholas Centre. A large retail unit on the Brewery site could be linked with the City Centre via an arcade of smaller shops
- The design challenge of integrating a new development into historic street frontages with an intimate and varied character. This should include the incorporation and enhancement of existing under-used frontage properties with particular attention being paid to listed buildings such as the former Tramway. Development proposals should seek to achieve a predominantly two storey built frontage of variable height along Moor Lane. Particular attention should be paid to the setting of listed buildings such as the Grand Theatre. Long straight frontages of uniform height and proportion should be avoided.

### **Restaurants and Public Houses**

- 6.13 The Brewery site is fronted by a theatre which contains a bar

and two public houses, the Golden Lion and the Tramway. The latter has been closed for a considerable time. Such could contribute to the diversity of uses in the area. However the impacts on existing and proposed residents and on community safety require very careful consideration. New food and drink uses having an adverse impact on residential properties on Moor Lane or Stonewell are unlikely to be acceptable. There may be some scope to mitigate impacts with limits on the type of food and drink use proposed (a restaurant or café may be

acceptable where a pub or hot food takeaway would not). There may also be controls on hours of opening, requirements for sound insulation and fume ventilation. The bringing back into use of the Tramway Pub could have benefits.

- 6.14 As noted above, the area's cultural facilities are an essential part of its and the City's character and should be retained and reinforced as part of the development of the area. The Grand Theatre and Duke's Theatre are major elements of the City's cultural life.

## 7. Site 2 -The Alfred Street Workshops and the Heron Chemical Works

### Description

7.1 East of Alfred Street is a row of six small industrial units with a derelict former industrial site behind adjoining the Lancaster Canal. The northern three units are now unoccupied and together with land to the rear form a potential development site

7.2 The southern units are occupied by a car repair business and a pet supplies business. There is also a waste recycling point adjacent to the units. These units adjoin the Heron Chemical Works – a functioning chemical plant manufacturing fire retardants. There are some children's swings between the units and the chemical works. In front of the chemical works is a centre for the homeless and a further car park whilst to the rear is a student hall of residence which lies within the Moor Lane Mills Conservation Area.

### Principles of Development

7.3 The following principles should apply to developments in these areas;

- The creation of a Home Zone in the Alfred Street/De Vitre Street and Bulk Road areas following the completion of the proposed road improvements. This could include the restriction of traffic to residents only and the removal of through traffic, new surfacing and landscaping, a review of parking provision, improved pedestrian and cycle

provision and linkages to Shaw Street Bridge and the creation of new public open space and children's play facilities. Details will be worked up in consultation with local residents.

- A major review of the role of the Canal, to include better linkages to surrounding areas, the opening up of views over the city, enhancements to the Shaw Street bridge, a landscaping strategy and measures to secure better quality development and boundary treatment on sites adjoining the Canal.
- In the shorter term, the redevelopment of the Alfred Street north site for residential purposes having regard to any technical limitations imposed by the canal retaining wall;
- The phasing of residential development to ensure that such development does not take place close to industrial uses which could adversely effect its amenity;
- The relocation of the Recycling Point to the area currently occupied by the swings and the creation of a new public open space separating the new housing from the remaining industrial area incorporating a pedestrian link to the Canal towpath.
- Consideration of the scope for rationalising the design and appearance car parks and the existing road

network whilst retaining the overall quantity of car parking;

- Implementation of the relevant elements of the Lancaster Cycling Strategy and the creation of new pedestrian and cycle links between the Lancaster Canal and the City Centre and a footpath/cycle link between the canal and Phoenix Street via a new connection to the proposed new housing at Alfred Street.
- Improvements to the appearance of, and access arrangements for, the Heron Chemical Works in connection with proposed road improvements.

### Ownership

- 7.4 The units and the land to the rear are currently owned by the City Council as is the Homeless Action Centre. The Chemical Works is believed to be owned by Joseph Storey and Co who are believed to be owned by Banner Chemicals Limited Group. The Halls of Residence are linked to St Martin's College. Another interest in this area is British Waterways as the eastern boundary of the site is formed by a canal embankment.

### Uses

#### Housing

- 7.5 The site lies within the Canal Corridor Housing Opportunity Site and the northern end of this site has some potential for residential development. This must be accompanied by measures to provide effective screening from the Heron Chemical Works and the remaining industrial units. The west facing orientation of the

site offers the opportunity to maximise light penetration and may also offer the opportunity to design in solar panels.

### Employment

- 7.6 The Heron Chemical Works and the two businesses in the remaining Alfred Street units are functioning uses and local employers. They are however uses which place limitations on the uses of adjoining land. Their appearance, the traffic including heavy goods vehicle traffic generated by them and other impacts limits the scope for new residential development in close proximity to them. There is, at present, no intention to relocate these businesses. In the event of the cessation or relocation of these uses in the longer term however the Council would favour the residential redevelopment of the area subject to the identification and remediation of any contamination.

### Open Space

- 7.7 There is a need for clear separation between existing industrial and proposed residential areas as well as the need to relocate the poorly located children's play area. is also a wider shortage of public open space in the area. The relocation of the recycling point could also allow for the creation of an open space and buffer strip which could also accommodate a pedestrian and cycle link to the canal towpath. The completion of the car park access road and the redesign of car parking that would follow from it could allow for the creation of further public open space as well as the possibility of the creation of 'home zones' on nearby streets.

**Retail and Commercial**

7.8 This area is relatively remote from the City Centre and the Primary Bus Corridor and has a residential emphasis. The Council would not wish to

encourage retail, commercial leisure, food and drink uses and other uses likely to attract a lot of people.

## 8. Site 3 - St Leonardgate Car Parks

| <b>Description</b>   | <b>Principles of Development</b>   |
|--|--|
| <p>8.1 The area between St Leonardgate and the Canal currently comprises a number of long-stay surface car parks on different levels and of variable quality. Some of the car parks are not marked out and the overall impression of a large expanse of tarmac is not an inviting one. Upper St Leonardgate is also used by coach and lorry drivers. Whilst the area is not visually attractive, it performs an important function as City Centre car parking for shoppers and visitors. Before the area was cleared in the 1960s, it was an area of densely packed terraced houses.</p> | <p>8.4 The following principles apply;</p> <ul style="list-style-type: none"> <li>• The retention and enhancement of a significant quantity of city centre shopper and visitor related car parking on the site with the subdivision of car parking into visually contained areas by the use of tree and shrub planting;</li> <li>• The retention and enhancement of the Grand Theatre as a cultural resource and a historic building;</li> <li>• The completion of a car park access road;</li> <li>• The creation of a network of pedestrian and cycle routes linking the Brewery area Phoenix Street and the Canal Towpath;</li> </ul> |
| <p>8.2 The site also contains a number of the District's cultural facilities. The Grade II Listed Grand Theatre is more than two hundred years old and is owned and operated by the Lancaster Footlights Club. Other arts facilities in the area include the Lancaster Musicians Co-Operative who operate a recording studio, equipment hire and rehearsal space in a former industrial building in Lodge Street and the Ludus Dance Studio.</p>   | <b>Ownerships</b>  |
| <p>8.3 Other uses in the area include Macari's Ice Cream who have a depot at the north end of St Leonardgate and a small landscaped area on the corner of St Leonardgate and Alfred Street. There is also a landscaping strip comprising a number of trees separating Alfred Street from the St Leonardgate Car Park.</p>  | <p>8.5 The car parks are in Council ownership. Other interests in the area are believed to be Macari's Ice Cream, the Grand Theatre, Ludus Dance Studio and the Lancaster Musician's Co-operative.</p>   |

**Uses**

**Cultural Facilities**

8.6 The concentration of cultural facilities around the Grand Theatre is an important element in the Cultural Quarter being proposed through the City Centre Strategy. The Grand Theatre is also an important Listed Building which derives much of its importance from the continuation of its historic use. The Council will encourage the development of this important cultural facility and will resist development proposals which would adversely effect it.

**Car Parking**

8.7 Car parking in this area is vital to the vitality and viability of the City Centre. The Council will ensure that the overall stock of shopper/visitor parking will be maintained and that the quality of parking will be improved. The Strategy also aims to improve access to car parks. Development of, and provision of pedestrian linkages through the Brewery Quarter will create

better links between this area and the City Centre.

8.8 As noted above, the Council will take a flexible approach to development affecting car parks provided that the importance of the car parks to the City Centre as a whole is taken into account. Development proposals affecting car parks in this area will be considered if equivalent replacement provision is provided. The possibility also exists of building over car parks or introducing multi-level parking although the basic operational needs of the car parks must take precedence. If this were to be permitted, the management, lighting and security measures provided in the car parks would require very careful consideration.

**Open Space**

8.9 If the proposed road results in the loss of the landscaped area on the corner of St Leonardgate and Alfred Street, compensatory open space provision will be provided.

## 9. Phasing and Implementation

- 9.1 Development proposals in this area will be designed and implemented by the Private Sector guided by the provisions of the Local Plan, the City Centre Strategy and the provisions of this Brief. The role of the Council as planning authority will be to assess development proposals against these criteria and negotiate with potential developers to achieve the objectives of this brief. There are a number of factors which will influence the phasing of development. These are;
- The need to co-ordinate new development with the provision of infrastructure;
  - The need to relate development of the site with the development of the Kingsway site;
  - The need for any new retail development to follow a sequential approach to site selection;
  - The need to avoid conflicts between new residential development and industrial uses;
  - The need for site assembly including land assembly, relocations of existing uses and road closure processes;
  - The need to minimise disruption to Lancaster City Centre whilst work is in progress.
- 9.2 Phases which could proceed at an early date might include residential development in the Alfred Street area.
- 9.3 Development of the Brewery site is constrained by existing uses, by fragmented ownership and by the need for road improvements. Development of these two sites is seen as a medium term prospect and could not take place in advance of the construction of a Car Park Access Road.
- 9.4 Longer term development could include measures such as the provision of new open space and further residential development of former industrial sites.
- 9.5 The phasing of development and the co-ordination of new development and infrastructure provision is essential.
- 9.6 Where suitable proposals emerge, the Council may be able to assist in terms of supporting appropriate road closure proposals and taking a flexible attitude to suitable development proposals affecting car parks subject to suitable replacement provision being made. As a last resort, the Council may consider using its compulsory purchase powers to assist in the implementation of suitable schemes.
- 9.7 The area also lies within the Lancaster SRB area. The SRB programme has limited funds available to support suitable projects which promote physical regeneration and mixed-use development. Other initiatives are the District Cultural Strategy and the Local Transport Plan which proposes various measures to support public transport, walking and cycling.

## Appendix 1: Listed Buildings and Key Townscape Features

### Listed Buildings

#### 17-19 Moor Lane

Grade II - House, now shop. Late Seventeenth Century with Nineteenth and twentieth Century alterations;

#### Dukes Theatre – Moor Lane

Grade II - Former Parish Church (1796) converted and extended in 1971.

#### Moor Lane Mills North

Grade II – Former worsted factory (c1800) subsequently used as cotton mill and substantially extended in the 1880s converted into student accommodation in 1988-9.

#### Tramway Hotel (127 St Leonardgate)

Grade II – 3 storey House now vacant public house, late eighteenth century.

#### 129-31 St Leonardgate

Grade II – pair of 3 storey houses now vacant shops, late eighteenth century.

#### Grand Theatre – St Leonardgate

Grade II – Theatre (1782) with subsequent extensions and alterations

### Key Townscape Features

- Golden Lion Pub – Moor Lane
- 13 Moor Lane
- 9 Moor Lane
- 1-5 Stonewell
- 133-139 St Leonardgate
- 113 St Leonardgate

## Appendix 2: Relevant Local Plan Policies and Supplementary Planning Guidance

The adopted Local Plan for the area is the Lancaster Local Plan, adopted in 1989. This is now somewhat dated. It will be replaced by the Lancaster District Local Plan. The Local Plan is at an advanced stage of preparation with modifications published on 23<sup>rd</sup> February 2001. The relevant policies are the following (relevant modification numbers are listed in brackets).

### Housing Policies

Policy H2 (7) identifies the following sites as Housing Opportunity Sites;

- Canal Corridor (120 Units),
- Stonewell (70 Units).

Paragraph 2.3.24 (7) states that there may be scope for car-free housing on Housing Opportunity Sites.

Policy H9 (15) seeks to ensure that 20% of housing completions on the sites are affordable.

Policy H11 (17) seeks to ensure that new housing development reflects local distinctiveness.

Policy H12 (18) is concerned with sustainable development and density considerations in new housing.

Policy H20 identifies the Stonewell/St Leonardgate frontage as a priority area for the residential conversion of upper floors.

Policy H21 and Appendix 2 set out criteria for flatted development.

The Council has also produced a Residential Design Code as

Supplementary Planning Guidance to the Plan. This provides guidance on the design and layout of new housing with a particular emphasis on achieving local distinctiveness.

### Employment Policies

Policy EC14 deals with proposals for employment development outside employment areas.

Policy EC16 deals with proposals for new office development.

Policy EC17 (35) identifies the Kingsway site as an employment opportunity site and sets out criteria for new development proposals

### Shopping Policies

Policy S1A (36) sets out criteria for retail development outside existing centres.

Policy S17 (48) sets out criteria for food and drink uses outside shopping centres.

### Transport Policies

Policy T1A (55) restricts development that would have a harmful effect on the ease of use of a pedestrian, cycle or public transport route.

Policy T5 identifies a Primary Bus Route running along Thurnham Street, Great John Street, North Road and Parliament Street.

Policy T7 (62) identifies the possibility of a Park and Ride site on the Kingsway site.

Policy T9 (64) requires major development to maximise opportunities for using public transport.

Policies T10 and T11 (65) safeguard land between Back Caton Road, St Leonardgate and Edward Street for road construction.

Policy T13 (67) identifies the following as Shopper/Visitor Parking;

- St Leonardgate (Upper and Lower),
- Albert Street,
- Lodge Street, and,

states that these will not be developed unless replacement provision is made.

Policy T15 (70) defines a Central Parking Area including most of the Canal Corridor areas with the exception of the Canalside site on Alfred Street. Within this area new non-residential development will only be permitted where no car parking is provided and states that where a development would increase the demand for travel, the Council will seek a commuted sum for transport improvements.

Policy T16 (71) states that outside the Central Parking area, non-residential schemes must meet County Car Parking standards and allows for the payment of a commuted sum towards transport improvements in lieu of on-site provision.

Policy T16A (72) requires major development proposals to be accompanied by Green Travel Plans.

Policy T24 (Pre-Inquiry Change 121) seeks to ensure that development adjacent to the Strategic Cycle Network provides cycle links to that network.

## Environmental Policies

Policy E7 (Pre-Inquiry Change 130-134) deals with pollution and contamination issues.

Policy E14 identifies and safeguards the Lancaster Canal as a County Biological Heritage Site.

Policy E27 identifies the following the Lancaster Canal as a Green Corridor to be protected and enhanced with new woodland, landscaping and access improvements.

Policies E29-E40 deal with Listed Buildings and Conservation Areas.

Policies E41-E43 deal with archaeology issues.

## Recreation Policies

Policy R9 identifies the following Lancaster Canal as an Informal Recreation Area within which the Council will seek to improve recreational opportunities.

Policy R11 and Local Plan Appendix 1 set out the Council's requirements for open space and children's playspace provision in new housing development.

Policy R21 safeguards land for the expansion of the Duke's Theatre.

## The Lancaster City Centre Strategy

The Draft Lancaster City Centre Strategy (SPG 6) published in April 2001 as identifies the Canal Corridor and Northern approaches to the City Centre as priority areas. The Strategy seeks to:

- Significantly improve the appearance of the northern approaches to the City Centre;

- Improve the relationship between Lancaster City Centre and surrounding residential areas with an attractive and varied townscape and a mixture of tenure types;
- Make a significant contribution to meeting the District's housing target by making efficient use of previously used sites to provide a mixture of uses and tenure types including new student housing;
- Achieve a varied townscape with a series of distinct 'quarters' with individual distinctive characteristics building on existing strengths;
- Develop a 'cultural quarter' incorporating the Duke's Theatre, Church Street, the new Cinema and the restaurants and galleries on Sun Street;
- Create better pedestrian and cycle linkages between the City Centre the Kingsway area, surrounding residential areas and with the canal and riverside;
- Soften the harshness of the environment with new tree planting, landscaping and open space.
- Develop better road links to the north and remove through traffic from residential streets;
- Rationalise and improve the appearance of the car parks in the area, maintain the supply of shopper and visitor parking and manage car parks to favour short stay shopper parking over long-stay employment parking.

## Appendix 3: Area Analysis

### Strengths

The key strengths of the area are the following:

- Proximity to the City Centre with its shops, employment opportunities, cultural and leisure facilities and public transport links.
- A substantial resident population within walking distance.
- A number of attractive historic buildings including Bridge Houses and the frontages of St Leonardgate and Moorgate.
- Prominent sites at the entrance to Lancaster City Centre;
- Proximity to the Lancaster Canal, the River Lune and Green Ayre Park which are both attractive visual features and walking and existing and potential cycle route to many parts of Lancaster.
- A mixture of different uses which contribute to its character;
- A vibrant cultural life with the Dukes Theatre and other arts facilities in the area.
- It can be accessed from the north without negotiating Lancaster's central one-way system and contains major car parks.
- Finally, it is a major resource of previously used land and buildings with significant potential for more intensive use.

### Challenges

The key challenges facing the area are the following:

- A poor visual appearance with many vacant and under-used buildings, large expanses of tarmac and a sense of discontinuity between the City Centre and the Freehold and Ridge areas.
- A number of listed buildings some of which are of Grade II\* quality which are not currently in use;
- Areas which suffer greatly from the environmental impact of traffic as well as major barriers to pedestrian movement;
- No public amenity spaces other than the swings on Alfred Street that cannot reasonably be argued to be of amenity value and major roads separating the area from Green Ayre Park.
- A number of changes in level, stepping down from the canal to the Stonewell area and the River;
- Some potentially contaminative uses;
- Some uses such as the Chemical Works, the Alfred Street units and the Recycling Point place limitations on the scope for new uses;
- The road network is congested, predominantly narrow, contains a number of sharp bends and passes very close to residential property in places. Some potential development sites are also divided by minor

roads such as Lodge Street and Brewery Lane.

- A high incidence of unofficial and uncontrolled parking both on areas of derelict land and on road verges;
- Parts of the area have little 'presence' from the City Centre, from the northern approaches and from the Lancaster Canal;
- Pedestrian linkages to the City Centre and to the Caton Road employment area are inadequate.

## Opportunities

There are a number of major opportunities which include the following

- The former Brewery which occupies a strategic location adjacent to the City Centre and is the key to developing better linkages;
- The opportunity to use road closure and compulsory purchase powers as a last resort if necessary to create a substantial development site;
- The major opportunity offered by the Kingsway site
- The road proposals set out in the Local Plan which offer the opportunity to improve the local road network, remove traffic from residential roads and review the role of some local roads;
- The scope for rationalising of car parking;
- The Alfred Street area which offers a potential residential development opportunity;

- The opportunity to create a better living environment for existing residential areas;
- The opportunity exists to combine development of the Stonewell/Bottling Plant site with the residential conversion of upper floors of the frontage uses.
- The opportunity to achieve a better relationship between the Heron Chemical Works and its surroundings;

## Threats

- The danger that in the event of no development taking place, much of the area will fall further into dereliction and produce an area where people do not feel comfortable;
- The threat to the cultural heritage of the City posed by the continued neglect of important listed buildings;
- The danger of piecemeal development taking place in an incremental way without addressing important urban design and infrastructure issues;
- The danger of a pattern of development or roads which is excessively car dominated and exacerbates the degree of separation between the Freehold area and the City Centre;
- The danger of excessive, unsuitable or unjustified commercial or retail development which could have a detrimental effect on Lancaster City Centre;
- The danger of designs which are out of character with the intimate and varied frontages of Moor Lane and St Leonardgate;

- The danger of a development of uniform character or use which lacks variety and vitality;
- The danger of losing the area's cultural assets;

The danger of losing the opportunity to improve pedestrian links.

## Appendix 3: Contact Addresses

British Telecom Regional  
Headquarters  
Telecommunications House  
91 London Road Manchester  
M60 1HG

Environment Agency Planning  
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Fax 01772 627730

Lancashire County Council  
Environmental Services  
Guild House  
Cross Street  
Preston PR1 8RD  
Tel 01772 264634  
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Lancaster City Council  
Economic Development  
Palatine Hall  
Dalton Square  
Lancaster LA1 1PW  
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Fax 01524 582166

Lancaster City Council  
Engineering Services  
Morecambe Town Hall  
Morecambe LA4 5AF  
Tel 01524 582517  
Fax 01524 582602

Lancaster City Council  
Planning - Development  
Control  
Palatine Hall  
Dalton Square  
Lancaster LA1 1PW  
Tel 01524 582381  
Fax 01524 582323

Lancaster City Council  
Planning Policy  
Palatine Hall  
Dalton Square  
Lancaster LA1 1PW  
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North West Water Planning  
Liaison  
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Great Sankey  
Warrington WA5 3LW  
Tel 01925 234000  
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Stagecoach Cumberland  
Second Floor Broadacre  
House  
16-20 Lowther Street  
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Cumbria CA3 8DA  
Tel 01228 597222  
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Transco  
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Spa Road  
Bolton BL1 4SR  
Tel 01204 546808  
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**COUNCIL****Proportional Representation (PR):  
Method of Calculation  
13 January 2016****Report of Chief Officer (Governance)****PURPOSE OF REPORT**

To enable Council to consider the current method of calculating PR and to make amendments to the membership of committees which were not completed at the meeting on 16 December 2015.

**This report is public**

**RECOMMENDATIONS**

- (1) That Council considers the method of calculating PR for committees and panels, which is currently based on groupings of council as set out in Appendix A of the report considered by Council on 16 December 2015 (the report is attached for information).
- (2) That Council approves the following changes to Committees: that Councillor Sherlock be removed from the Budget and Performance Panel, that Councillor Cozler be removed from the Audit Committee and that Councillor Joan Jackson be appointed to the Chief Executive Recruitment Committee, in place of Councillor Gardiner, for the reasons set out in paragraph 3.0, below.

**1.0 Introduction**

- 1.1 The method by which Lancaster City Council calculates PR for its Committees and Panels has been in place since 2006 and was shown at Appendix A of the report which went to Council on 16 December 2015. That report is attached again for Members' information and also shows the current position regarding PR and the PR balance for Member bodies of up to 20 Councillors.

**2.0 Proposal Details**

- 2.1 The Mayor noted at the meeting on 16 December 2016 that the Leader of the Conservative Group had expressed a wish for Council to review the arrangements, and this report has been drafted to enable Members to consider the matter.
- 2.2 Councillor Williamson's suggestion is to calculate all the 7 member

committees (Audit, Personnel, Council Business, Appeals and Standards) as one group of 35 seats, as shown below:

35 seats :- 60 Councillors = 0.58

|                  |                         |           |
|------------------|-------------------------|-----------|
| Labour           | 29 seats x 0.58 = 16.86 | 17        |
| Conservative     | 19 seats x 0.58 = 11.02 | 11        |
| Green            | 9 seats x 0.58 = 5.22   | 5         |
| Independent      | 3 seats x 0.58 = 1.74   | 2         |
| Free Independent | 1 seat x 0.58 = 0.58    | 0         |
|                  | <b>Total</b>            | <b>35</b> |

- 2.3 No change would be made to the Overview and Scrutiny grouping, leaving the Planning and Highways Regulatory, Licensing Act and Licensing Regulatory Committees to be calculated as one group of 39 seats:

39 seats :- 60 Councillors = 0.65

|                  |                         |           |
|------------------|-------------------------|-----------|
| Labour           | 29 seats x 0.65 = 18.85 | 19        |
| Conservative     | 19 seats x 0.65 = 12.35 | 12        |
| Green            | 9 seats x 0.65 = 5.85   | 6         |
| Independent      | 3 seats x 0.65 = 1.95   | 2         |
| Free Independent | 1 seat x 0.65           | 0         |
|                  | <b>Total</b>            | <b>39</b> |

- 2.4 In comparison to the current calculation for these 74 places, the total number of seats for each political group would change as follows:

|              | <b>Currently</b> | <b>Suggested Change</b> |
|--------------|------------------|-------------------------|
| Labour       | 37               | 36                      |
| Conservative | 23               | 23                      |
| Green        | 11               | 11                      |
| Independent  | 2                | 4                       |
| Free Inde    | 1                | 0                       |
|              | <hr/> 74         | <hr/> 74                |

The Free Independent Member of Council would lose his place on the Licensing Act Committee.

### 3.0 Adjustments following the December meeting

- 3.1 At the meeting on 16 December, using the current calculation, adjustments were required as a result of the Carnforth and Millhead Ward by-election, whereby the Labour group gave a place to the Conservative Group on two bodies. Councillor Sykes was appointed to the Budget and Performance Panel and Councillor Askew to the Audit Committee. However, the Labour Group was not asked which two Members it wished to remove from those bodies. The Labour Group Administrator has informed Democratic Services that Councillor Sherlock is to be removed from the Budget and Performance Panel and Councillor Cozler from the Audit Committee.

3.2 At the same meeting, Councillor Gardiner advised Council that he was not a member of the Chief Executive Recruitment Committee. The Conservative Group Administrator has informed Democratic Services that Councillor Joan Jackson is their nomination for the Conservative vacancy on that Committee.

**4.0 Conclusion**

4.1 Council is asked to consider the information in this report regarding the method of calculation of PR, and, if the method of calculation remains the same, to approve the adjustments in 3.1 and 3.2 above, which were omitted from the meeting in December. If Council is minded to change the method of calculation, either by adopting the suggestion in Paragraph 2, or some other suggestion, adjustments to appointments will need to be calculated and made at the meeting.

**CONCLUSION OF IMPACT ASSESSMENT  
(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None as a result of this report.

**LEGAL IMPLICATIONS**

The rules regarding Political Balance are set out in Section 15 of the Local Government and Housing Act, 1989 and Part 4 of the Local Government (Committees and Political Groups) Regulations 1990.

**FINANCIAL IMPLICATIONS**

None as a direct result of this report.

**OTHER RESOURCE IMPLICATIONS**

**Human Resources, Information Services, Property and Open Spaces:** None.

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments.

**BACKGROUND PAPERS**

**Contact Officer:** Debbie Chambers  
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**E-mail:** dchambers@lancaster.gov.uk  
**Ref:**

**COUNCIL**

## **Allocation of Seats to Political Groups 16 December 2015**

### **Report of Chief Executive**

#### **PURPOSE OF REPORT**

To advise Council of the calculations relating to the allocation of seats in accordance with the Local Government and Housing Act 1989 and the Council's agreed protocol, following the recent by-election in Carnforth and Millhead Ward.

This report is public

#### **RECOMMENDATIONS**

- (1) That in accordance with Section 15 of the Local Government and Housing Act, 1989 and Part 4 of the Local Government (Committees and Political Groups) Regulations, 1990, the City Council approves the calculations and allocation of seats set out in Appendices B and C of the report.**
- (2) That the adjustments required to the Grouping of committees, detailed in paragraph 2.3 of the report, be approved.**

#### **1.0 Introduction**

- 1.1 As Members are aware, a by-election was held in the Carnforth and Millhead Ward on 26 November 2015 and a Conservative Member, Councillor George Askew, was elected. This causes a change to the number of Councillors and requires a report on the recalculation of the proportional representation arrangements to the first available Council meeting in accordance with the Local Government and Housing Act 1989.
- 1.2 Members are requested to approve the calculation in order to enable adjustments to be made to appointments to committees to reflect the revised make-up of the Council.

#### **2.0 Adjustments Required to Committees**

- 2.1 Following the by-election, the Council now has its full complement of 60 Members, with the PR balance exactly the same as it was following the elections in May 2015, as shown below:-

|                  |             |
|------------------|-------------|
| Labour           | 29          |
| Conservatives    | 19          |
| Green            | 9           |
| Independent      | 2           |
| Free Independent | 1           |
|                  | <hr/> <hr/> |
|                  | 60          |

- 2.2 Since the composition of the Council has reverted to the position before the report put to the last meeting of Council, the changes to numbers on Committees made at the last Council meeting on 21 October need to be reversed.
- 2.3 On 21 October, the calculation based on 18 Conservative Members required the Conservative group to pass one seat on the Overview and Scrutiny grouping of Committees, and one seat on the Regulatory and Standing Committees of Council grouping, to the Labour Group. The Conservative group passed a seat on the Budget and Performance Panel and a seat on the Audit Committee to the Labour Group. Consequently, the Labour group now need to pass a seat on the Budget and Performance Panel and a seat on the Audit Committee back to the Conservative group.
- 2.4 It should be noted that there are no adjustments required to the Council's other standing committees and panels (Appeals, Council Business and Standards Committee and the Appraisal Panel) which are all seven Member bodies with no change to the PR calculation.
- 2.5 Council has established an ad hoc Committee to deal with the recruitment of a new Chief Executive. This is a PR Committee of 20 Members. The PR calculation for the Committee is still 10:6:3:1:0. No adjustments to membership are required.
- 2.6 Various appendices give full details of the calculations: **Appendix A** shows the methodology of Council's agreed calculation of PR; the revised calculations in relation to numbers from 1 to 20 are attached at **Appendix B**; **Appendix C** gives the grouping calculations used in this report, and **Appendix D** shows the current list of committee Members.

### 3.0 Conclusion

- 3.1 Members are requested to approve the calculations and the adjustments required as set out in paragraph 2.3 of this report, in order to enable the required changes to appointments to be made at this meeting.

**CONCLUSION OF IMPACT ASSESSMENT**  
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

There are no direct implications as a result of this report.

**FINANCIAL IMPLICATIONS**

There are no financial implications as a direct result of this report.

**LEGAL IMPLICATIONS**

This report has been prepared in accordance with the provisions of Section 15 of the Local Government and Housing Act, 1989 and Part 4 of the Local Government (Committees and Political Groups) Regulations 1990.

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments.

**BACKGROUND PAPERS**

**Contact Officer:** Debbie Chambers  
**Telephone:** 01524 582057  
**E-mail:** dchambers@lancaster.gov.uk

**METHOD OF CALCULATION**

- 1 The following is provided as a reminder for Members of the method used to calculate proportional representation (PR) at Lancaster City Council:-
- 2 At its meeting on 11<sup>th</sup> May 2006 Council agreed the following protocol and groupings for the calculation of PR on the Council's Cabinet\*, Overview & Scrutiny and Committees:
  - (i) the calculation be undertaken using 4 decimal places;
  - (ii) the allocation of a final seat to a Group with the same residual be to the largest under-represented Group provided that this does not result in the largest over-representation; and
  - (iii) In the event that the foregoing rules do not resolve the situation, either because of a tie, or because the allocation would result in the largest over-representation, the seat be allocated by drawing lots under the supervision of the Mayor.
  - (iv) the calculation should be undertaken in relation to the following groupings:
    - Overview and Scrutiny (2 x 9)
    - Regulatory and other timetabled Committees (1 x 20(Planning)\*, 1 x 15 (Licensing Act), 1 x 9 (Licensing Regulatory) and 2 x 7 (Personnel and Audit)
    - Remaining Standing and Joint Committees to be calculated separately and individually.

*\*The Cabinet is no longer a PR Cabinet, and the composition of the Planning Committee has since reduced to 15 Members.*

## Appendix B

## PR CALCULATION

|    |   | Labour | Conservative | Green | Independent | Free Independent |
|----|---|--------|--------------|-------|-------------|------------------|
| 1  | = | 1      | 0            | 0     | 0           | 0                |
| 2  | = | 1      | 1            | 0     | 0           | 0                |
| 3  | = | 2      | 1            | 0     | 0           | 0                |
| 4  | = | 2      | 1            | 1     | 0           | 0                |
| 5  | = | 2      | 2            | 1     | 0           | 0                |
| 6  | = | 3      | 2            | 1     | 0           | 0                |
| 7  | = | 4      | 2            | 1     | 0           | 0                |
| 8  | = | 4      | 3            | 1     | 0           | 0                |
| 9  | = | 4      | 3            | 2     | 0           | 0                |
| 10 | = | 5      | 3            | 2     | 0           | 0                |
| 11 | = | 5      | 4            | 2     | 0           | 0                |
| 12 | = | 6      | 4            | 2     | 0           | 0                |
| 13 | = | 6      | 4            | 2     | 1           | 0                |
| 14 | = | 7      | 4            | 2     | 1           | 0                |
| 15 | = | 7      | 5            | 2     | 1           | 0                |
| 16 | = | 8      | 5            | 2     | 1           | 0                |
| 17 | = | 8      | 5            | 3     | 1           | 0                |
| 18 | = | 8*     | 5*           | 3*    | 1           | 0                |
| 19 | = | 9      | 6            | 3     | 1           | 0                |
| 20 | = | 10     | 6            | 3     | 1           | 0                |

|                  |           |
|------------------|-----------|
| Labour           | 29        |
| Conservative     | 19        |
| Green            | 9         |
| Independent      | 2         |
| Free Independent | 1         |
| <b>TOTAL</b>     | <b>60</b> |

As at 27 November 2015

## COMMITTEE GROUPING CALCULATIONS

### 1 OVERVIEW AND SCRUTINY GROUPING

The PR Calculation for a single 9 Member Committee is 4:3:2:0:0 and the grouping of Overview & Scrutiny Committee and Budget & Performance Panel is as follows:-

$9 + 9 = 18$  (-:- 60) = 0.3 seats per Member.

|    |          |   |     |   |                 |
|----|----------|---|-----|---|-----------------|
| L  | 29 x 0.3 | = | 8.7 | = | 9               |
| C  | 19 x 0.3 | = | 5.7 | = | 6               |
| G  | 9 x 0.3  | = | 2.7 | = | 3               |
| I  | 2 x 0.3  | = | 0.6 | = | 1               |
| FI | 1 x 0.3  | = | 0.3 | = | <u>0</u>        |
|    |          |   |     | = | 19 <sup>1</sup> |

### 2 REGULATORY AND STANDING COMMITTEES OF COUNCIL GROUPING

The PR calculation for 15 Member Committees (Planning and Highways Regulatory and Licensing Act) is 7:5:2:1:0. The 9 Member Licensing Regulatory Committee is 4:3:2:0 and the 7 Member Committee calculation (for Personnel and Audit) is 4:2:1:0:0. The total seats to be allocated for the grouping comprising Planning and Highways Regulatory, Licensing Act, Licensing Regulatory, Personnel and Audit Committees is:-

$15 + 15 + 9 + 7 + 7 = 53$  (-:- 60) = 0.8833 seats per Member.

|    |    |          |   |         |   |    |
|----|----|----------|---|---------|---|----|
| L  | 29 | x 0.8833 | = | 25.6157 | = | 25 |
| C  | 18 | x 0.8833 | = | 16.7827 | = | 17 |
| G  | 9  | x 0.8833 | = | 7.9497  | = | 8  |
| I  | 2  | x 0.8833 | = | 1.7666  | = | 2  |
| FI | 1  | x 0.8833 | = | 0.8833  | = | 1  |

**53**

### 3 OTHER COMMITTEES/PANELS

Remaining Standing Committees currently constituted with a PR of 7 are the Appeals, Council Business and Standards Committees. The PR calculation for these is 4:2:1:0:0.

The Appraisal Panel is a member panel of seven members appointed on a PR basis, although not a formal Committee of Council. The PR calculation for

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<sup>1</sup> Since only 18 places were available, the groups with the same residual (Labour, Conservative and Green) were tied for the last two places in May 2015 (minute 16). The Labour group withdrew from the draw to resolve the three way tie and Council noted that this would give the Labour Group four places, the Conservative Group three places and the Green Group one place on each body with two seats (one Green and one Independent) to be determined. The Green and Independent Groups agreed that the Green Group would take its final place on the Budget and Performance Panel and the Independent Group would take its place on the Overview and Scrutiny Committee.

the Panel is 4:2:1:0:0.

Council has established an ad hoc Committee to deal with the recruitment of a new Chief Executive. This is a PR Committee of 20 Members. The PR calculation for the Committee is 10:6:3:1:0.

**COUNCIL****Amendment to Polling Districts in the  
Heysham Central Ward  
13 January 2016****Report of Chief Executive****PURPOSE OF REPORT**

To agree amendments to the polling districts in the Heysham Central Ward which were affected by the polling district review in 2015.

**This report is public**

**RECOMMENDATIONS**

**That the polling districts in the Heysham Central Ward be amended as outlined in the report.**

**1.0 Introduction**

- 1.1 In England, it is the duty of the council in each district to divide its area into polling districts for the purpose of UK Parliamentary elections and to keep those districts under review. Councils must devise a polling district scheme with a view to giving all electors such reasonable facilities for voting as are practicable in the circumstances.
- 1.2 Section 17 of the Electoral Registration and Administration Act 2013 introduced a duty on local authorities to carry out and complete a review of polling districts and polling places between 01 October 2013 and 31 January 2015. The deadline for responses to the consultation was 19 September 2014 and all Councillors received information relevant to their own ward to allow them to participate in the consultation.
- 1.3 On 17 December 2014 Council delegated consideration of the review to a specially convened meeting of the Council Business Committee, which took place on 29 January 2015. At that meeting, an issue was raised which had not been received as part of the consultation process concerning the polling districts within the Heysham Central Ward. As the outcome of the review had to be published by 31 January 2015, there was not sufficient time to consider the issue and it was resolved that officers would raise the suggested amendments with the Returning Officer. Section 17 of the 2013 Act provides that, notwithstanding the scheduled full review, a relevant authority may carry out a review of some or all of the polling districts or polling places in its area at any time. The polling districts in the Heysham Central ward have therefore

been the subject of a further review.

- 1.4 Heysham Central Ward was affected by changes made by the Local Government Boundary Commission for England during its boundary review of the district in 2012/13. Parts of the ward were lost to Heysham North whilst parts of Heysham South were moved into Heysham Central. Heysham Central is made up of two polling districts – HECA and HECB.
- 1.5 For the elections that took place in May 2015, which were the first elections to be run on the new boundaries, all electors voted at Heysham Mossgate School, which was reasonably central to the ward and was sited within the HECB polling district. Prior to the boundary changes, electors in the HECA polling district would have voted at St John’s Church Hall, but this is now located within the Heysham North Ward and was not used for the May 2015 elections.

## **2.0 Proposal Details**

- 2.1 It is proposed that the polling districts be amended to allow more even distribution of the electors, and allow them to vote at two different polling stations. Heysham Road would be used as a dividing line so that the electors on the seaward side of Heysham Road would vote at a new polling station at Heysham Library and would form HECA, whilst those on the non-seaward side would continue to vote at Mossgate Primary School forming HECB.
- 2.2 A list of streets in each proposed polling district is attached at Appendix A.

## **3.0 Details of Consultation**

- 3.1 The consultation on the review for Heysham Central started on 21 September 2015 and the deadline for responses was 30 October 2015. All Councillors were notified of the proposals, as were Members of Parliament, County Councillors and Parish Council and Meeting clerks.
- 3.2 In addition, a notice of the review was published on the Council’s Website, and displayed on the notice boards at both Lancaster and Morecambe Town Halls.
- 3.3 A press release was also circulate and the consultation was reported on in the local media.

## **4.0 Responses to Consultation**

- 4.1 Only one written response was received. A copy of the response is attached at Appendix B for members’ information.
- 4.2 The response was in favour of the changes within the ward, as the old Heysham Library was a popular polling station for residents living on the coastal side of Heysham Road. The old library building has since been demolished and replaced with a new library on one level, making it easily accessible for voters.

## **5.0 Returning Officers Response**

- 5.1 The Returning Officer has no further comments on the proposals that have

been made in Appendix A to this report.

**6.0 Conclusion**

- 6.1 Council is asked to consider and agree to the amendments to the polling districts contained within the Heysham Central Ward (as shown in Appendix A).
- 6.2 On conclusion of the review, the Council is required to publish details of the actual designations of polling districts and polling places agreed as a result of the review, together with details of where the results of the review have been published. This will be done by way of press release and details of the new polling districts will be published on the Council's website and on the notice boards at Lancaster and Morecambe Town Halls.

**CONCLUSION OF IMPACT ASSESSMENT**  
**(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None.

**LEGAL IMPLICATIONS**

The Council may carry out a review of a polling district at any time.

**FINANCIAL IMPLICATIONS**

There are no financial implications as a direct result of this report. The fees for polling stations used in elections are only paid for by the City Council in the case of City Council and Parish Council elections which generally occur on the same day – the fees for polling stations and associated costs will be built into the budget for the next election which is due in 2019. Polling station fees for Parish Council by-elections are charged to the Parish Council.

**OTHER RESOURCE IMPLICATIONS**

**Human Resources:**  
None.

**Information Services:**  
The GIS officer has been advised of the proposed changes and will amend the City Council's records once the proposals have been agreed.

**Property:**  
None.

**Open Spaces:**  
None.

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments.

**BACKGROUND PAPERS**

None.

**Contact Officer:** Lisa Vines

**Telephone:** 01524 582070

**E-mail:** lvines@lancaster.gov.uk

**Ref:**

| Street               | Electors | Current PD | New PD |
|----------------------|----------|------------|--------|
| Bailey Lane          | 37       | HECB       | HECA   |
| Barrows Lane         | 9        | HECB       | HECA   |
| Caroline Close       | 3        | HECB       | HECA   |
| Carr Lane            | 24       | HECB       | HECA   |
| Craiglands Avenue    | 16       | HECA       | HECA   |
| Crimewell Lane       | 27       | HECB       | HECA   |
| Drewton Avenue       | 9        | HECA       | HECA   |
| Duke Street          | 8        | HECB       | HECA   |
| Eardley Road         | 63       | HECB       | HECA   |
| Ferncliffe Drive     | 18       | HECA       | HECA   |
| Hesketh Road         | 11       | HECB       | HECA   |
| Heysham Avenue       | 29       | HECB       | HECA   |
| Heysham Road (evens) | 178      | HECB       | HECA   |
| Knowlys Avenue       | 37       | HECB       | HECA   |
| Knowlys Crescent     | 12       | HECB       | HECA   |
| Knowlys Drive        | 22       | HECB       | HECA   |
| Knowlys Grove        | 31       | HECB       | HECA   |
| Knowlys Road         | 69       | HECB       | HECA   |
| Lees Court           | 6        | HECB       | HECA   |
| Longlands Avenue     | 59       | HECB       | HECA   |
| Longlands Crescent   | 46       | HECB       | HECA   |
| Longlands Lane       | 80       | HECB       | HECA   |
| Main Street          | 56       | HECB       | HECA   |
| Penrith Avenue       | 31       | HECB       | HECA   |
| Royds Avenue         | 38       | HECA       | HECA   |
| Royds Grove          | 10       | HECB       | HECA   |
| Salem Mews           | 8        | HECB       | HECA   |
| Seawell Avenue       | 5        | HECA       | HECA   |
| Seawell Gardens      | 4        | HECA       | HECA   |
| Shortlands Drive     | 22       | HECB       | HECA   |
| St Marys Road        | 13       | HECB       | HECA   |
| St Patricks Walk     | 39       | HECB       | HECA   |
| Strawberry Mews      | 14       | HECB       | HECA   |
| The Cliffs           | 41       | HECA       | HECA   |
| Twemlow Parade       | 64       | HECA       | HECA   |
| Twemlow Parade       | 93       | HECB       | HECA   |
| Whinnysty Lane       | 9        | HECA       | HECA   |
| Wilson Grove         | 37       | HECB       | HECA   |
| Woborrow Road        | 69       | HECB       | HECA   |

Current Elector totals: HECA 1025  
HECB 2464

New Elector totals: HECA 1347  
HECB 2142

|                          |     |      |      |
|--------------------------|-----|------|------|
| Arncliffe Road           | 28  | HECB | HECB |
| Ashcroft                 | 24  | HECB | HECB |
| Birchtree Avenue         | 14  | HECA | HECB |
| Blackberry Hall Crescent | 4   | HECB | HECB |
| Bleasdale Grove          | 32  | HECB | HECB |
| Boscombe Avenue          | 33  | HECA | HECB |
| Bowland Road             | 182 | HECB | HECB |
| Burnsall Avenue          | 29  | HECB | HECB |
| Crofters Fold            | 64  | HECB | HECB |
| Crookleigh Place         | 10  | HECA | HECB |
| Crossdale Avenue         | 12  | HECA | HECB |
| Deancroft Avenue         | 14  | HECA | HECB |
| Draycombe Drive          | 52  | HECA | HECB |
| Fairfield Road           | 89  | HECA | HECB |
| Furness Road (part)      | 2   | HECA | HECB |
| Grizedale Place          | 21  | HECB | HECB |
| Hale Carr Grove          | 51  | HECB | HECB |
| Hale Carr Lane           | 68  | HECB | HECB |
| Harrison Crescent        | 16  | HECA | HECB |
| Hawksworth Grove         | 47  | HECA | HECB |
| Haydock Grove            | 29  | HECA | HECB |
| Heysham Road (odds)      | 147 | HECA | HECB |
| Kingsdale Avenue         | 0   | HECB | HECB |
| Kingsway                 | 102 | HECB | HECB |
| Kingsway Court           | 39  | HECB | HECB |
| Linton Avenue            | 6   | HECB | HECB |
| Littledale Avenue        | 40  | HECB | HECB |
| Mallowdale Avenue        | 46  | HECB | HECB |
| Meadowcroft Grove        | 20  | HECA | HECB |
| Norland Drive            | 71  | HECB | HECB |
| Norton Drive             | 12  | HECA | HECB |
| Norton Grove             | 13  | HECA | HECB |
| Norton Place             | 19  | HECA | HECB |
| Norton Road              | 105 | HECA | HECB |
| Oxcliffe Avenue          | 60  | HECA | HECB |
| Oxcliffe Grove           | 39  | HECB | HECB |
| Oxcliffe Road            | 45  | HECA | HECB |
| Oxcliffe Road            | 58  | HECB | HECB |
| Parklands Grove          | 6   | HECA | HECB |
| Roeburndale Crescent     | 20  | HECB | HECB |
| Rylstone Drive           | 106 | HECB | HECB |
| Stansey Avenue           | 22  | HECB | HECB |
| Sugham Lane (part)       | 19  | HECB | HECB |
| Tibicar Drive East       | 51  | HECB | HECB |
| Tibicar Drive West       | 41  | HECB | HECB |
| Tranmere Avenue          | 33  | HECB | HECB |
| Tranmere Crescent        | 119 | HECB | HECB |
| Westboro` Close          | 6   | HECB | HECB |
| Willacy Parade           | 31  | HECA | HECB |



Vines, Lisa

APPENDIX B.

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**From:** Vines, Lisa on behalf of elections  
**Sent:** 24 September 2015 09:58  
**To:** Vines, Lisa  
**Subject:** FW: Heysham Central Ward Polling District Review  
**Attachments:** Heysham Central Street Report with changes.pdf; 230915\_final consultation letter.pdf

[REDACTED]  
**Sent:** 23 September 2015 22:18

**To:** elections

**Subject:** Heysham Central Ward Polling District Review

Whilst supporting this review I am also interested to hear the view of others.

The former Heysham Library was a popular Polling Station for residents living on the coastal side of Heysham Road. After the library was demolished I received comments from elderly residents who said they would not be voting as they were unable to walk up the hill on Sugham Lane after visiting the Polling Station at Mossgate School.

The new library would therefore seem to be appropriate replacement.

[REDACTED]

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**COUNCIL**

**Appointment to Outside Body  
13 January 2016**

**Report of Chief Officer (Governance)**

**PURPOSE OF REPORT**

To enable Council to consider an appointment to the King's Own Royal Regiment Museum Trust.

**This report is public**

**RECOMMENDATIONS**

- (1) **That the request from the Chairman of Trustees of the King's Own Royal Regiment Museum for the Council's Veterans' Champion to be appointed as an ex officio member of the Trust be approved.**

**1.0 Introduction**

- 1.1 The Council has received a request from Lieutenant Colonel Christopher Warren, Chairman of Trustees of the King's Own Royal Regiment Museum for the Council's Veterans' Champion, currently Councillor Liz Scott, to be appointed as an ex officio trustee.
- 1.2 A copy of the letter from Lieutenant Colonel Warren is appended to this report.

**2.0 Proposal**

- 2.1 When considering requests from outside bodies for a member representative, Council generally considers whether to make a nomination from full Council, or whether the nomination should be made by virtue of role or position; for example a Champion. In this case, the Chairman of the Trust has specifically requested that the Veterans' Champion for the time being should, ex officio, be a member of the Trust. On that basis Council is recommended to approve the request.

**CONCLUSION OF IMPACT ASSESSMENT**

**(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

There are no direct implications arising from this report.

**LEGAL IMPLICATIONS**

There are no legal implications as a result of this report.

**FINANCIAL IMPLICATIONS**

Members of outside bodies are entitled to travel expenses. Costs resulting from this appointment can be met from democratic representation budgets.

**OTHER RESOURCE IMPLICATIONS**

**Human Resources:**

None

**Information Services:**

None

**Property:**

None

**Open Spaces:**

None

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer in her capacity as Chief Officer (Governance)

**BACKGROUND PAPERS**

None

**Contact Officer:** Mrs S Taylor

**Telephone:** 01524 582025

**E-mail:** STaylor@lancaster.gov.uk

**Ref:**



## King's Own Royal Regiment Museum

Market Square, Lancaster, LA1 1HT

Telephone: (01524) 555619

Email: kingsownmuseum@iname.com

Website: www.kingsownmuseum.plus.com

Chairman of Trustees: Lieutenant Colonel Christopher Warren

Registered Charity Number 272109

30<sup>th</sup> November 2015

Mrs Sarah Taylor  
Chief Officer (Governance)  
Lancaster City Council  
Town Hall  
Lancaster LA1 1PJ

Dear Mrs Taylor,

I am writing in my capacity as Chairman of the Trustees to request the Council to appoint the Veterans' Champion, the post being presently held by Councillor Liz Scott, to be an ex officio Trustee of The King's Own Royal Regiment Museum.

The Trustees met on Saturday 7<sup>th</sup> November 2015 and it was their unanimous decision that such a request be made. The King's Own and the Museum have also received enormous encouragement and support from the City along with our many friends and supporters. The Veterans' Champion would be a most appropriate appointment to represent the City.

The task is not onerous. The Trustees meet formally at the Museum once a year always on the Saturday afternoon before Remembrance Sunday. All other business is conducted, as necessary, electronically or by telephone. The Museum continues to offer much. Many enquiries from veterans and their dependants are answered. In 2014/2015 alone 1985 such enquiries were handled. Acquisitions are still forthcoming. In 2016 the Museum will mount a major exhibition to mark the 100<sup>th</sup> Anniversary of The Battle of the Somme particularly concentrating on the contribution of local men and women.

I should be grateful if the Council give this request their consideration.

Yours sincerely,

Christopher Warren

The museum is funded by voluntary donations and with the support of Lancaster City and Lancashire County Councils.  
The museum receives no funding from the Regiment, the Army or the Ministry of Defence.

**Vice President:** Col JG de Cordova OBE

**Trustees:** Lieutenant Colonel C Warren ♦ Major S Laidler ♦ Lt Col PE Dew ♦ Major SG Firth MBE  
Mr J Hardy ♦ Major PEM Oglethorpe ♦ Major D Parsonage ♦ Mr P Thompson ♦ Major JRK Welsh

**COUNCIL**

**Licensing Regulatory Committee - Consideration  
of Appeals against Warnings  
13 January 2016**

**Report of the Chief Executive**

**PURPOSE OF REPORT**

To enable Council to review the implications of a decision of the Licensing Regulatory Committee.

**This report is public**

**RECOMMENDATIONS**

- (1) **That in view of the inconsistency across the Council that will arise from the decision of the Licensing Regulatory Committee to consider appeals from hackney carriage and private hire drivers and private hire operators against informal warning letters, Council consider whether it wishes to request that arrangements across all the enforcement functions of the Council be reviewed to introduce a similar right of appeal, or whether it wishes to request the Licensing Regulatory Committee to reconsider its decision.**

**1.0 Introduction**

- 1.1 At its meeting on the 26<sup>th</sup> November 2015, the Licensing Regulatory Committee considered a report on the status and implications of written warnings issued by officers to hackney carriage and private hire drivers and private hire operators. A copy of the report and its appendices are at Annex 1 to this report. The relevant minute of the 26<sup>th</sup> November is at Annex 2.
- 1.2 This report relates to the second part of the minute and to the information set out in paragraphs 2. 5 to 2.10 of the report to the Committee.
- 1.3 The Committee had requested a report on a proposal from one of its members that *“A suspected offender in receipt of a warning letter shall have the right to request within 21 days of receipt of the warning letter, an appeal hearing before the Licensing Regulatory Committee to ask for the warning letter to be withdrawn.”*
- 1.4 Warning letters constitute informal enforcement action, and are issued by officers in respect of minor infringements to draw attention to conduct or action that is unacceptable and to offer guidance to prevent any recurrence. In this

respect, warning letters issued by licensing enforcement officers are no different from those issued by other enforcement officers across the Council.

- 1.5 The officer recommendation was that the proposal should not be taken forward. A number of reasons for this recommendation were set out in paragraphs 2.6 to 2.10 of the report, the main reason being that if the Committee were to consider appeals against warnings issued by officers, this would make the process for taxi licensing different from that which applies to warnings across the whole range of the Council's functions. For example, for planning, the Planning and Highways Regulatory Committee has no involvement with warnings, and in areas such as food safety, health and safety, and benefit fraud, which are executive functions, there is no member involvement with informal (or indeed formal) enforcement action. That is the case in local authority enforcement generally.
- 1.6 At the meeting, the Chief Executive indicated that should the Committee proceed with the proposal, he would refer the matter to full Council because any such decision would make the taxi licensing enforcement procedures different from those adopted throughout the rest of the Council.
- 1.7 Whilst the Committee did not approve the proposal as set out in paragraph 1.3 above, it resolved that "a suspected offender in receipt of a warning letter shall have the right to request within 21 days of receipt of the warning letter, an appeal hearing before the Licensing Regulatory Committee to ask for the warning letter to be withdrawn. If in the opinion of the Licensing Regulatory Committee, the appeal was vexatious, this shall be recorded and the warning letter which was the subject of the appeal shall remain available for reference in a subsequent report to the Licensing Regulatory Committee for 5 years from the date of the appeal hearing."
- 1.8 This decision would therefore still introduce a right of appeal to the Committee against warnings issued to hackney carriage and private hire drivers and private hire operators. No such right of appeal applies in respect of other warning letters issued by officers across the other functions of the Council, including warning letters in respect of other matters within the terms of reference of the Licensing Regulatory Committee. The Chief Executive has, therefore, referred the matter to full Council for consideration, given that the Licensing Regulatory Committee is a Committee of Council.

### **2.0 Proposal Details**

- 2.1 Accordingly, Council is requested to consider the decision of the Licensing Regulatory Committee, and its implications in view of the inconsistency that would arise between taxi licensing enforcement and enforcement across the whole range of the Council's other functions.

### **3.0 Options and Options Analysis (including risk assessment)**

- 3.1 If Council is of the view that the inconsistency arising from this decision is inappropriate, it would be open to Council to request the Licensing Regulatory Committee to review its decision and to report back to Council. Alternatively, Council could request that arrangements across all the enforcement functions of the Council be reviewed to introduce a similar right of appeal, to ensure consistency. A third option would be for Council to simply note and accept the inconsistency.

3.2 If Council were minded to request that arrangements across the Council be brought into line with the decision of the Licensing Regulatory Committee, it would be necessary for officers to review the enforcement policies and arrangements across the Council, and make recommendations for an appeal process in respect of both executive and non-executive functions where warning letters are routinely issued.

**4.0 Conclusion**

4.1 Council's views are sought.

**CONCLUSION OF IMPACT ASSESSMENT  
(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

Enforcement action is generally taken to ensure public health and safety and public amenity. Warning letters are an informal and preliminary part of that process, and when formal action is taken, whether by way of notice, order, or suspension or revocation of licence, there is generally a statutory right of appeal to the courts. Likewise, when the enforcement action leads to prosecution, the matter is heard in a court of law. The right to a fair hearing under human rights legislation is therefore protected.

**LEGAL IMPLICATIONS**

There is no legal requirement to provide a right of appeal to elected members against an informal warning.

**FINANCIAL IMPLICATIONS**

The option of reviewing enforcement arrangements across the Council and implementing an approach consistent with the Licensing Regulatory Committee's decision would have considerable resource implications in terms of officer and member time. Whilst at this stage it is not possible to quantify the actual cost, the concept does raise concerns regarding value for money (see also the s151 Officer's comments below).

Should Council decide on that option, once the review was complete the financial implications of adopting a consistent approach would need to be considered by Council, to be taken account of in its final decision-making.

**OTHER RESOURCE IMPLICATIONS**

**Human Resources:**

As set out above

**Information Services:**

None

**Property:**

None

**Open Spaces:**

None

**SECTION 151 OFFICER'S COMMENTS**

The s151 Officer would advise Council to consider carefully the value for money to be gained in reviewing and introducing appeals processes for any informal enforcement action. Generally it is understood that the Council is seeking to streamline its processes and be more efficient, not least in response to the financial challenges it faces. It is unclear as to how tying up resources with a view to introducing appeals for informal enforcement action fits with that aim. This concern applies to the original decision of the Licensing Regulatory Committee; the widening of that principle to other areas of enforcement action would clearly heighten those concerns.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has assisted the Chief executive with the preparation of this report and her comments are therefore incorporated.

**BACKGROUND PAPERS**

None

**Contact Officer:** Mrs S Taylor

**Telephone:** 01524 582025

**E-mail:** STaylor@lancaster.gov.uk

**Ref:**

**LICENSING REGULATORY COMMITTEE**

**Written Warnings – Hackney Carriage and Private Hire  
Drivers and Private Hire Operators  
26<sup>th</sup> November 2015**

**Report of the Chief Officer (Governance)**

**PURPOSE OF REPORT**

To enable Members to consider a referral from the previous meeting.

**This report is public**

**RECOMMENDATION**

- (1) That a new paragraph 7 be included in the Licensing Enforcement Policy, as follows, with subsequent paragraphs re-numbered:

**7 *Warning letters (Hackney carriage and private hire drivers and private hire operators)***

*A warning letter will remain on file for an indefinite period but it will not normally be referred to in any subsequent report to the Licensing Regulatory Committee if a period of 3 years has lapsed since it was issued and no other warning letter was issued within that period, unless there are exceptional circumstances.*

*For example, if a warning letter was issued in June 2013 and then no further warning letters are issued until August 2016, the warning letter issued in 2013 would not be referred to.*

*However, if a warning letter was issued in 2013, a further warning letter in 2014 and then a warning letter in 2015, all 3 warning letters would be referred to in any subsequent report to the Licensing Regulatory Committee to show a pattern of behaviour. If a person uses previous good character as a defence before the Committee, and refers to an earlier period during which one or more warning letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration.”*

**1.0 Introduction**

- 1.1 At its meeting on the 15<sup>th</sup> October 2015, the Committee considered a report on the status and implications of a written warning issued to a hackney carriage or private hire driver or private hire operator. A copy of the report and the minute is at Appendix 1. This report enables members to consider the two proposals tabled at the meeting and referred to in the minute.
- 1.2 A copy of the current Licensing Enforcement Policy is at Appendix 2 for ease of reference.

## **2.0 Proposal Details**

- 2.1 The first proposal was that the following (based on the content of paragraph 1.8 in the report of the 15<sup>th</sup> October) be appended to paragraph 6.1(c) of the Licensing Enforcement Policy:

*“A warning letter will remain on file for an indefinite period but it will not normally be referred to in any subsequent report to the Licensing Regulatory Committee if a period of 3 years has lapsed since it was issued and no other warning letter was issued within that period.*

*For example, if a warning letter was issued in June 2010 and then no further warning letters are issued until August 2013, the warning letter issued in 2010 would not be referred to.*

*However, if a warning letter was issued in 2010, a further warning letter in 2011 and then a warning letter in 2012, all 3 warning letters would be referred to in any subsequent report to the Licensing Regulatory Committee to show a pattern of behaviour. If a person uses previous good character as a defence before the Committee, and refers to an earlier period during which one or more warning letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration.”*

- 2.2 The above wording reflects the current practice with regard to warnings issued by officers, and there is no reason why it should not be included in the Enforcement Policy, although it might be clearer if it were to form a new paragraph 7, with subsequent paragraphs in the Policy being renumbered. As the wording is based on advice given in 2012, it might also be clearer to update the years used in the text – for example June 2013, August 2016 etc.
- 2.3 However, it is noted that, whilst the wording is based on that in paragraph 1.8 of the October report, the words “unless there are exceptional circumstances” have been omitted from the end of the proposed first paragraph as set out above. Officers would recommend that those words be included to ensure that, where appropriate, all relevant information can be presented to Members to determine whether a driver or operator is a fit and proper person to continue to hold a licence. This reflects the advice recently given to licensing authorities by Baroness Kramer, Minister of State for Transport: “In the interests of public safety and the reputation of the licensed trade, I encourage you to use all the tools available to ensure that all licensed drivers have undergone a thorough vetting process, their conduct is monitored once licensed, and all available information is fully considered when making licensing decisions.”
- 2.4 As worded, the reference to warning letters would cover letters issued by officers, and also letters issued following consideration of a matter by the

Committee where the licence has not been suspended or revoked, but nonetheless a warning has been given by the Committee. Members are asked to consider whether they wish the three year restriction to apply to both.

- 2.5 The second proposal was that *“A suspected offender in receipt of a warning letter shall have the right to request within 21 days of receipt of the warning letter, an appeal hearing before the Licensing Regulatory Committee to ask for the warning letter to be withdrawn.”*
- 2.6 If members were to consider an appeal against a warning issued by an officer, this would make the process for taxi licensing different from that which applies to warnings across the whole range of the Council’s enforcement functions. For example for planning, the Planning and Highways Regulatory Committee has no involvement with warnings, and in areas such as food safety, health and safety, and benefit fraud, which are executive functions, there is no member involvement with informal (or indeed formal) enforcement action. The current practice reflects that in local authority enforcement generally.
- 2.7 On average, licensing officers issue about three warning letters to hackney carriage and private hire drivers and private hire operators each month, although this figure may be exceeded on occasions, especially if at any time there is a significant enforcement issue in a particular location. As Members will be aware, many of the Committee’s meetings are already lengthy, and to deal with an appeal would require thorough consideration of any evidence. Even two or three appeals at each meeting would increase the workload of the Committee significantly, and it is possible that additional meetings would be required. There would be consequent increased demands on staff resources in terms of preparing reports, publishing agendas, and attending meetings and preparing minutes. This would mean that there would be less time for staff to undertake other responsibilities. Further, time spent on the supervision of drivers is, by law, not recoverable through the licence fees and so the additional cost in staff resources could not be re-charged through the licence fees but would have to be borne by the council taxpayers.
- 2.8 Many warning are issued following complaints from members of the public. It is likely that the majority of these complainants would not be willing to attend Committee. Indeed that is sometimes why a matter is dealt with by way of warning only. Without the complainant being present to give evidence about the incident that led to the warning, it is more likely, if hearing only from the licence holder complained of, that the Committee would be minded to allow an appeal against a warning, and officers are concerned that this would mean that members of the public would lose confidence in the system.
- 2.9 Officers would also have concerns that if the Committee considered an appeal against a warning, and the driver/operator subsequently appeared before the Committee for another reason, any decision on that occasion might be open to legal challenge on the grounds that members had taken account of the earlier appeal or had not considered the second matter with an open mind.
- 2.10 For all these reasons, officers would recommend that this second proposal should not be taken forward. Should the Committee decide otherwise, the Chief Executive has indicated that he will refer the matter to full Council because any such decision would make the taxi licensing enforcement procedures different from those adopted throughout the rest of the Council.

**3.0 Conclusion**

3.1 Officers would support the first proposal, with the clarification referred to in paragraph 2.3 above, and as set out in recommendation 1. However, for the reasons set out in the report, officers would advise against the second proposal.

**CONCLUSION OF IMPACT ASSESSMENT  
(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

The purpose of licensing is to protect public safety, and it is important therefore that when a decision is taken under the “fit and proper person” test, all relevant information is available to the decision maker. Under the current enforcement policy, decisions to suspend or revoke licences are taken by the Committee and there is a right of appeal to the Magistrates. This complies with human rights legislation.

**LEGAL IMPLICATIONS**

The legal implications are set out in the report.

**FINANCIAL IMPLICATIONS**

As set out in the report for the second proposal, the referral to the Committee of appeals against warnings would place an additional burden on officer time through report writing, agenda preparation, minute writing and the servicing of meetings. The input required for each report and hearing would vary, and so it is impossible to quantify the notional cost. As this would be met from existing staff resources there would be no direct financial cost as such, but, rather, less time for officers to undertake other duties, and the cost of officer time could not be recharged through the licence fees because it would generally relate to driver enforcement.

**OTHER RESOURCE IMPLICATIONS**

**Human Resources:**

None

**Information Services:**

None

**Property:**

None

**Open Spaces:**

None

**SECTION 151 OFFICER’S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer in her capacity as Chief Officer (Governance).

**BACKGROUND PAPERS**

None

**Contact Officer:** Mrs S Taylor

**Telephone:** 01524 582025

**E-mail:** STaylor@lancaster.gov.uk

**Ref:**

**LICENSING REGULATORY COMMITTEE**

**The Status and Implications of a Written Warning –  
Hackney Carriage and Private Hire Driver and Private Hire  
Operator  
15<sup>th</sup> October 2015**

**Report of Licensing Manager**

**PURPOSE OF REPORT**

To inform members of the implication and status of a written warning issued to a hackney carriage or private hire driver or private hire operator.

The report is public

**RECOMMENDATIONS**

The Committee is requested to note the report.

**1.0 Introduction**

- 1.1 This report has been prepared following a request from some members of LRC as a result of a complaint made by a hackney carriage driver at the recent taxi surgery.
- 1.2 Members asked that a report be prepared setting out the status and implications of warnings issued to hackney carriage and private hire drivers and private hire operators.
- 1.3 Licensing, regulatory and enforcement functions exist to protect the general public from harm across areas ranging from food safety to houses in multiple occupation, to licensed premises for entertainment. Safety is one of the principles of licensing which informs legislation. The safety of the public should be the uppermost concern of any licensing and enforcement regime: when determining policy, setting standards and deciding how they will be enforced. This is nowhere more important than in taxi licensing where sometimes vulnerable people are unaccompanied in a car with a stranger.
- 1.4 For the purpose of ensuring that enforcement is carried out in a transparent and consistent manner this Committee has adopted an enforcement policy, a copy of which is attached at Appendix 1 to this report.
- 1.5 The enforcement policy quite clearly sets out the options available to an authorised officer and the issuing of a warning letter is set out in the policy under paragraph 6 and, as indicated in the policy, this is considered to be informal action and at the lower end of the options available.

- 1.6 The policy sets out that the circumstances in which informal action may be appropriate including:-
- a) Where it is considered that informal action will achieve compliance based on the offender's past history.
  - b) Where confidence in the management of the licensed activity or the licensee is high.
  - c) Where the consequences of non-compliance will not pose a significant risk to the physical, financial or emotional well-being of the public, or is of a minor technical nature.
  - d) Where it is considered that informal action will be more effective than formal.
- 1.7 The use of warning letters is common across all the Council's regulatory functions, for example environmental health, planning and housing, as well as licensing, and indeed across all local authorities.
- 1.8 In March 2012, the following advice was given in a licensing newsletter: "Under the current procedure, a warning will remain on your file for an indefinite period; however it will not normally be referred to in any subsequent report to the Licensing Regulatory Committee if a period of 3 years has lapsed since it was issued and no other warning was issued within that period, unless there are exceptional circumstances. For example if a warning was issued in June 2010 and then no further warnings are issued until August 2013, the warning issued in 2010 would not be referred to. However, if a warning was issued in 2010, a further warning in 2011 and then a warning in 2012, all 3 warnings would be referred to in any subsequent report to the Licensing Regulatory Committee to show a pattern of behaviour. If a person uses previous good character as a defence before the Committee, and refers to an earlier period during which warnings had been issued but omitted from the report, those warnings would then be disclosed to members for their consideration" This procedure is still adhered to.
- 1.9 It is appropriate that relevant warnings and for that matter, any other relevant information available should be considered by members when making a decision in relation to whether a person is a fit and proper person to be granted or to continue to hold a licence. Case law has prescribed that an incident cannot be looked at in isolation, as the "fit and proper person" test is multi-faceted. In exercising their function of determining whether or not to revoke or suspend a licence, Members should consider what weight they should attach to any previous warnings or any additional information. Any driver or operator aggrieved by any decision made by the Licensing Regulatory Committee to suspend or revoke a licence would have a right to appeal to the magistrate's court.
- 1.10 It should be noted that the Rotherham report criticised licensing officers for not submitting previous relevant complaints and warnings to the panel before decisions were made in relation to whether a driver was a fit and proper person to continue to hold a licence.

#### **Conclusion**

- 2.1 The 'fit and proper person' test is multi-faceted. It includes things like moral character, risk of bad behaviour, health, driving ability, appreciation of the duties and obligations that the law and the council licence conditions impose.
- 2.2 Case law and more recently the Rotherham report has prescribed that all information available should be considered by members when determining whether a driver is a fit and proper person to continue to hold a driver's licence.
- 2.3 Warning letters are issued by officers in line with the Council's enforcement policy and are considered to be informal action. They are held on file and would only be referred to in accordance with paragraph 1.8 above should any further infringements occur.
- 2.4 The report is for noting.

|  |   |
|--|---|
| <b>CONCLUSION OF IMPACT ASSESSMENT</b><br>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)<br>It is important that effective enforcement is carried out in line with the enforcement policy to ensure that members of the public including those that are vulnerable are protected and to ensure that members of the public can have confidence in the licensing regime and the Council. |   |
| <b>FINANCIAL IMPLICATIONS</b><br>There are no financial implication  |   |
| <b>LEGAL IMPLICATIONS</b><br>The Council is responsible for ensuring that the legislation in relation to hackney carriage and private hire licensing is enforced.  |   |
| <b>BACKGROUND PAPERS</b><br>None   | <b>Contact Officer:</b> Wendy Peck<br><b>Telephone:</b> 01524 582317<br><b>E-mail:</b> wpeck@lancaster.gov.uk<br><b>Ref:</b> WP |

**Resolved:**

That the application to renew a Sex Shop Licence in respect of Sin-Til-Late, Morecambe be renewed as applied for.

**42 THE STATUS AND IMPLICATIONS OF A WRITTEN WARNING - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER AND PRIVATE HIRE OPERATOR**

The Committee received the report of the Licensing Manager to inform Members of the implication and status of a written warning issued to a hackney carriage or private hire driver or private hire operator. The report had been prepared following a request from some members of the Committee as a result of complaint made by a hackney carriage driver at the recent taxi surgery.

It was reported that the Committee had adopted an enforcement policy to ensure that enforcement was carried out in a transparent and consistent manner.

Members were advised that the issuing of a warning letter was considered to be informal action and at the lower end of the options available. The use of warning letters was common across all the Council's regulatory functions. The advice given in a licensing newsletter for the trade regarding the implications of a warning letter was set out in the report.

It was reported that case law, and more recently the Rotherham report, had prescribed that all information available should be considered by Members when determining whether a driver was a fit and proper person to continue to hold a driver's licence. Any driver or operator aggrieved by a decision of the Licensing Regulatory Committee had a right of appeal to the Magistrates' Court.

It was proposed by Councillor Mace and seconded by Councillor Edwards:

"That the following (based on the content of paragraph 1.8 in the report) be appended to paragraph 6.1(c) of the Licensing Enforcement Policy:

*~~"Under the current procedure, A warning letter will remain on file for an indefinite period; however-but it will not normally be referred to in any subsequent report to the Licensing Regulatory Committee if a period of 3 years has lapsed since it was issued and no other warning letter was issued within that period. unless there are exceptional circumstances.~~*

*For example, if a warning letter was issued in June 2010 and then no further warning letters are issued until August 2013, the warning letter issued in 2010 would not be referred to.*

*However, if a warning letter was issued in 2010, a further warning letter in 2011 and then a warning letter in 2012, all 3 warning letters would be referred to in any subsequent report to the Licensing Regulatory Committee to show a pattern of behaviour. If a person uses previous good character as a defence before the Committee, and refers to an earlier period during which one or more warnings letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration."*

It was then proposed by Councillor Gardiner and seconded by Councillor Metcalfe that the following words be additionally appended to paragraph 6.1(c) of the Licensing Enforcement Policy:

*"A suspected offender in receipt of a warning letter shall have the right to request within 21 days of receipt of the warning letter, an appeal hearing before the Licensing Regulatory Committee to ask for the warning letter to be withdrawn."*

Officers advised that both proposals should be deferred and should be the subject of a report to the following meeting of the Committee to allow officers to give due consideration to them.

Councillor Mace accepted the advice of officers and withdrew his proposal.

Councillors Gardiner and Metcalfe requested that Members vote on whether to consider Councillor Gardiner's proposal at the meeting. Upon being put to the vote, 3 Members voted in favour of considering the proposal at the meeting and 5 against, with 1 abstention, whereupon the Chairman declared the proposal to be lost.

Councillor Mace then proposed that a report be presented to the next meeting of the Licensing Regulatory Committee that considered the implications of the two proposals tabled by himself and Councillor Gardiner. The proposal was seconded by Councillor Edwards.

Upon being put to the vote, Members voted unanimously in favour of the proposition, whereupon the Chairman declared the proposal to be carried.

**Resolved:**

That a report be presented to the next meeting of the Licensing Regulatory Committee that considers the implications of the two proposals tabled by Councillors Mace and Gardiner.

***Councillor Redfern left the meeting at this point.***

**43 MULTI-AGENCY VEHICLE INSPECTION OPERATION**

The Committee received the report of the Licensing Manager to inform Members of the outcomes of a recent multi-agency vehicle inspection operation.

Members were advised that licensing officers had carried out a multi-agency vehicle inspection operation with officers from the Lancashire Constabulary and the Vehicle and Operators Services Agency (VOSA) on 15<sup>th</sup> and 16<sup>th</sup> September 2015 at Salt Ayre Leisure Centre.

During the two days, 259 vehicles had been inspected. Of the 259 vehicles inspected, 32 defect notices had been issued. Seven of those had been issued in relation to hackney carriage vehicles and 25 in relation to private hire vehicles. In addition, seven vehicles had been suspended with immediate effect. Two of the vehicles had been hackney carriage vehicles and the other five were private hire vehicles.



# **LANCASTER CITY COUNCIL**

## **GOVERNANCE - LICENSING**

### **LICENSING ENFORCEMENT POLICY**

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## LANCASTER CITY COUNCIL

### LICENSING ENFORCEMENT POLICY

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#### 1 BACKGROUND

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- 1.1 The purpose of this document is to set out the general principles that the Council's Licensing Service will apply when undertaking licensing enforcement work. Enforcement does not only mean deciding whether to prosecute an alleged offender. Rather, it includes a wide range of issues including communicating effectively, acting fairly and acting consistently when using statutory enforcement powers. It includes undertaking inspections of licensed premises, vehicles and activities and giving advice to enable licensees to meet minimum legal standards as well as higher standards and good practice.

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#### 2 POLICY STATEMENT

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- 2.1 This Policy was written having regard to the Government's "concordat on Good Enforcement" which Lancaster City Council formally adopted. Officers will therefore have regard to and implement the 4 principles of enforcement set out in the Policy.
- 2.2 Where there is specific guidance on enforcement action, for example, statutory guidance, or Codes of Practice and guidance issued for example by the Better Regulation Delivery Office or the Local Government Association (formerly Local Authorities Co-ordinators of Regulatory Services (LACORS)), these will be followed.
- 2.3 The Council fully acknowledges and endorses the rights of individuals and will ensure that all enforcement action is taken in strict accordance with the Police and Criminal Evidence Act 1984, the Criminal Procedures and Investigation Act 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and other relevant legislation and guidance.
- 2.4 The Council recognises that the particular interests of different consumers within the District will need to be taken account of to ensure that legislation is enforced fairly. Interpreters will be used where there is difficulty in understanding the English language. Where possible, translated advisory leaflets will be made available. Any visits that are required out of hours will be undertaken as necessary.
- 2.5 All enforcement action will be based on risk to health and safety and in accordance with this policy. Any departure from this policy will be justified to the Legal Services Manager or the Licensing Manager. The reasons for any departure will be fully documented and retained on the relevant file.

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#### 3 PRINCIPLES OF ENFORCEMENT

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- 3.1 The Council believes in firm but fair enforcement of licensing law and the relevant byelaws or licence conditions. Underlying this belief are the principles of **proportionality** in applying the law and securing compliance, **consistency** of approach, **transparency** about how the Licensing Service operates and what those regulated may expect from the Service and **targeting** of enforcement action.
- 3.2 **PROPORTIONALITY**

Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties (duty holders) expect that action taken by enforcement authorities to achieve compliance should be proportionate to any risks to public health and safety and the seriousness of any breach.

### 3.3 **CONSISTENCY**

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends. There is a right to expect consistency from an enforcing authority whether they are: responding to requests for service, issuing advice, using statutory notices, or deciding to prosecute.

### 3.4 **TRANSPARENCY**

Transparency means helping duty holders and individuals to understand what is expected of them and what they should expect from the enforcing authorities. It also means making it clear to duty holders and individuals, not only what they have to do, but also, where relevant, what they do not. This means distinguishing between statutory requirements and recommendations or advice that is desirable, but not compulsory.

### 3.5 **TARGETING**

Targeting means making sure that enforcement is targeted primarily on those situations where activities give rise to the most serious risks, or where the hazards are least well controlled. The Licensing Service will ensure that action is focused on the duty holders who are responsible for the risk and who are best placed to control it.

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## **4 STATUTORY OBLIGATIONS**

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- 4.1 The Licensing service administers a wide range of licences and permits which may be mandatory, where the local authority must license particular activities, or adoptive where the Council has elected to control certain businesses, activities or individuals through the issue of licences and the imposition of licence conditions.
- 4.2 The main purpose of licensing enforcement is to:
- a) Secure the health, safety and welfare of members of the public who either make use of the licensed activity or who are affected by it in some way.
  - b) Deal immediately with serious risks.
  - c) Promote and achieve sustained compliance with the law.

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## **5 ENFORCEMENT OPTIONS**

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- 5.1 External agencies including Lancashire Police, Lancashire Fire and Rescue Service, Lancashire County Council also have an interest in the enforcement of licensing legislation. Where there is a shared enforcement role, the Council's Licensing service will liaise with the appropriate body to ensure effective co-ordination. Protocols will be established between the enforcement agencies to ensure clarity in their respective roles.
- 5.2 Enforcement officers must seek to secure compliance with the law. Most of the time this will be conducted informally, by offering information, advice and support, both verbally and in writing. They may also use formal mechanisms, as set out in law,

including the service of notices, suspension of vehicle licences, or ultimately prosecution.

5.3 In arriving at a decision, the Licensing Service will consider:

- a) The seriousness of the offence;
- b) The individual or duty holder's past history;
- c) Confidence in management;
- d) The requirements of the legislation;
- e) The consequences of non-compliance; and
- f) The likely effectiveness of the various enforcement options.

5.4 Where enforcement is being considered, the Licensing service can choose one or more of the following options:

- a) Take no action;
- b) Take informal action;
- c) Take statutory action;
- d) Use formal cautions;
- e) Prosecution.

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## 6 INFORMAL ACTION

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6.1 Informal action will include the following:-

- a) offering advice
- b) verbal warnings and requests for action
- c) the use of warning letters setting out the potential consequences of any future non-compliance.

6.2 The circumstances in which informal action may be appropriate include:-

- a) Where it is considered that informal action will achieve compliance based on the offender's past history.
- b) Where confidence in the management of the licensed activity or the licensee is high.
- c) Where the consequences of non-compliance will not pose a significant risk to the physical, financial or emotional well-being of the public, or is of a minor technical nature.
- d) Where it is considered that informal action will be more effective than formal action.

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## 7 STATUTORY ACTION AND DECISION MAKING PROCESSES

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7.1 Such action may involve the suspension, revocation or the refusal to grant or vary a licence.

7.2 In certain circumstances, authority to suspend the licence of hackney carriage/private hire vehicles, hackney carriage/private hire drivers and private hire operators may be delegated to authorised officers (See Appendix 1). The criteria for the suspension of such licences is as follows:-

- a) Hackney Carriage/Private Hire Vehicles

A licensed hackney carriage or private hire vehicle may be suspended if an authorised officer is not satisfied as to the vehicle's fitness (Sections 60 & 68 Local Government (Miscellaneous Provisions) Act 1976).

b) Hackney Carriage/Private Hire Drivers

A licence may be suspended by an authorised officer, if since the grant of a licence the driver has been convicted of an offence involving dishonesty, indecency or violence, or for any other reasonable cause (Section 61, Local Government (Miscellaneous Provisions) Act 1976). In these circumstances, consideration will also be given whether the interests of public safety require the suspension to take immediate effect.

c) Private Hire Operators

A licence may be suspended by an authorised officer, in the event of there being any offence under, or non-compliance with the private hire legislation, or for any other reasonable cause. (Section 62 Local Government (Miscellaneous Provisions) Act 1976)

7.3 However, in the majority of cases involving drivers' and operators' licences any consideration to suspend, revoke or refuse to grant/renew a licence will normally be dealt with by the Council's Licensing Regulatory Committee under established procedures. Similarly, the Licensing Act Sub-Committees and Gambling Act Sub-Committees will normally deal with contentious matters associated with premises licences issued under the Licensing Act 2003 and the Gambling Act 2005 respectively.

7.4 Any person aggrieved by a decision taken to suspend, revoke or refuse to grant/vary a licence has a right of appeal to the Magistrates' Court.

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**8 FORMAL CAUTIONS**

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8.1 Enforcement Officers will consider issuing a formal caution as an alternative to prosecution. Where there is a criminal offence, but the public interest does not require a prosecution, a formal caution may be an appropriate course of action. The Ministry of Justice Guidance on Simple Cautions for Adult Offenders (November 2013) states that the purpose of a formal caution is to:

- a) Offer a proportionate response to low level offending where the offender has admitted the offence;
- b) Deliver swift, simple and effective justice that carries a deterrent effect;
- c) Record an individual's criminal conduct for possible reference in future criminal proceedings or in criminal record or other similar checks;
- d) Reduce the likelihood of re-offending
- e) Increase the amount of time officers spend dealing with more serious crime and reduce the amount of time completing paperwork and attending court, whilst simultaneously reducing the burden on the courts

8.2 The use of formal cautions will be in accordance with the Ministry of Justice Guidance referred to above.. The following conditions must be fulfilled before a caution is administered:

- a) There must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of a conviction;
- b) The suspected offender must admit the offence; and

- c) The suspected offender must understand the significance of a formal caution and give an informed consent to being cautioned.

8.3 Before proceeding with a formal caution, the enforcement officer must discuss the proposed action with their line manager. Where a formal caution is refused, the officer must re-consider all the evidence, which may result in a prosecution or other action being taken. Where formal cautions are accepted, they must be registered with Legal Services.

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## 9 PROSECUTION

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9.1 The following circumstances may warrant prosecution:

- a) The offence involves a flagrant breach of the law such that public health, safety or well being is or has been put at risk; or
- b) The offence involves a failure by the offender to correct an identified serious potential risk, having been given a reasonable opportunity to comply with the lawful requirements of an authorised officer; or
- c) The offence involves a failure to comply in full or in part with the requirements of a statutory notice; or
- d) There is a history of similar offences on the part of the alleged offender; or
- e) The obstruction or assault of an authorised officer; or
- f) False or misleading information is provided to an authorised officer.

9.2 The officer must be satisfied, before a prosecution proceeds, that there is relevant, admissible, substantial and reliable evidence that the offence was committed by the accused. There must be a realistic prospect of conviction. A bare prima facie case is not enough. If there is insufficient evidence, other formal action such as a formal caution will not be an alternative.

9.3 The officer and their manager must decide whether it is in the public interest to undertake a prosecution, following the guidance in the current Code for Crown Prosecutors. The 2013 edition of the Code indicates that prosecutors should consider each of the following questions:

- a) How serious is the offence committed?
- b) What is the level of culpability of the suspect?
- c) What are the circumstances of and harm caused to the victim?
- d) Was the suspect under the age of 18 at the time of the offence?
- e) What is the impact on the community?
- f) Is prosecution a proportionate response?
- g) Do sources of information need protecting?

The Code provides that these questions are not exhaustive, and that not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.

9.4 Once a decision to prosecute has been made, the procedure should be implemented without undue delay. The requirements of PACE and CPIA will be adhered to.

9.5 The criterion for deciding whether to prosecute or issue a formal caution is shown at Appendix 2.

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10 **LEGISLATION**

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- 10.1 The legislation under which authorised officers have the authority to act is shown at Appendix 3.

## APPENDIX 1

## AUTHORITY FOR OFFICERS TO ACT

| DECISION MAKING AREA  | OFFICERS AUTHORISED TO ACT   | OFFICERS WHO MUST BE CONSULTED FOR AUTHORITY TO ACT   |
|---|--|---|
| Informal action and formal letters  | Chief Officer (Governance)<br>Legal Services Manager<br>Licensing Manager<br><br>Licensing Enforcement Officer   |   |
| Statutory Action<br><br>a) Suspension of hackney carriage/private hire vehicle licence<br><br><br><br><br><br><br><br><br><br>b) Suspension of hackney carriage/private hire drivers licence<br><br><br><br><br><br><br><br><br><br>c) Suspension of private hire operators licence | Chief Officer (Governance)<br>Legal Services Manager<br>Licensing Manager<br>Licensing Enforcement Officer<br><br><br>Chief Officer (Governance)<br>Legal Services Manager<br>Licensing Manager<br><br><br>Chief Officer (Governance)<br>Legal Services Manager<br>Licensing Manager | Licensing Manager<br><br><br><br><br><br><br><br><br><br>Chief Officer (Governance) or Legal Services Manager<br><br><br><br><br><br><br><br><br><br>Chief Officer (Governance) or Legal Services Manager |
| Formal Caution  | Chief Officer (Governance)<br><br>Legal Services Manager<br>Licensing Manager  | Chief Officer (Governance) or Legal Services Manager  |
| Prosecution   | Chief Officer (Governance)<br>Legal Services Manager   | Chief Officer (Governance) or Legal Services Manager  |

**APPENDIX 2**

**DECISION WHETHER TO PROSECUTE OR ISSUE A FORMAL CAUTION**

| <b>CRITERION</b>   | <b>PROSECUTE</b> | <b>OFFER CAUTION</b> |
|--|------------------|----------------------|
| Is the offence serious?  | <b>Yes</b>       | <b>No</b>            |
| Is the offender old or infirm?                                   | <b>No</b>        | <b>Yes</b>           |
| Has the offender a previous history of offending?                | <b>Yes</b>       | <b>No/Unknown</b>    |
| Is the offending willing to prevent a recurrence of the problem? | <b>No</b>        | <b>Yes</b>           |
| Would a prosecution be in the public interest?                   | <b>Yes</b>       | <b>No</b>            |
| Is the case likely to establish a legal precedent?               | <b>Yes</b>       | <b>No</b>            |
| Has the offender offered a reasonable explanation?               | <b>No</b>        | <b>Yes</b>           |
| <b>TOTAL</b>   |                  |                      |

**Note:**

Ring the appropriate response to each criterion and then total the number of rings in each column.

The decision will be based on the total number of rings.

Recommendation of Investigating Officer:    Formal Caution

Prosecution\*

Signed: .....

Date: .....

Decision of Licensing Manager :                    Agree

Disagree\*

Signed: .....

Date: .....

Decision of Legal Services Manager            Agree

Disagree\*

Signed: .....

Date: .....

**\*Delete as appropriate**

**APPENDIX 3**

**RELEVANT LEGISLATION**

Animal Boarding Establishments Act 1963  
Breeding of Dogs Acts 1973 and 1991  
Breeding and Sale of Dogs (Welfare) Act 1999  
Caravan Sites and Control of Development Act 1960  
Dangerous Wild Animals Act 1976  
Gambling Act 2005  
Game Act 1831

Game Licences Act 1860  
Health Act 2006  
House to House Collections Act 1939  
Hypnotism Act 1952  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982

Pet Animals Act 1951  
Pet Animals (Amendment) Act 1983  
Police, Factories etc (Miscellaneous Provisions) Act 1916  
Public Health Act 1936  
Riding Establishments Acts 1964 and 1970  
Scrap Metal Dealers Act 2013  
Town Police Clauses Act 1847  
Transport Act 1985  
Vehicles (Crime) Act 2001  
Zoo Licensing Act 1981

Please note that the above list is not exhaustive and may be amended from time to time.

**Minute 50 of the Licensing Regulatory Committee 26 November 2015**

The Committee received the report of the Chief Officer (Governance) to enable Members to consider a referral from the previous meeting.

It was reported that at its meeting on 15<sup>th</sup> October 2015, the Committee had requested that a report be presented to the next Committee meeting that considered the implications of two proposals tabled by two Members at that meeting.

The first proposal contained in the report was that the following be appended to paragraph 6.1(c) of the Licensing Enforcement Policy:

*“A warning letter will remain on file for an indefinite period but it will not normally be referred to in any subsequent report to the Licensing Regulatory Committee if a period of 3 years has lapsed since it was issued and no other warning letter was issued within that period.*

*For example, if a warning letter was issued in June 2010 and then no further warning letters are issued until August 2013, the warning letter issued in 2010 would not be referred to.*

*However, if a warning letter was issued in 2010, a further warning letter in 2011 and then a warning letter in 2012, all 3 warning letters would be referred to in any subsequent report to the Licensing Regulatory Committee to show a pattern of behaviour. If a person uses previous good character as a defence before the Committee, and refers to an earlier period during which one or more warning letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration.”*

The report indicated that officers supported the proposal, subject to the addition of the words “unless there are exceptional circumstances” at the end of the first paragraph. Officers also recommended that the dates in the second paragraph be updated, and that the new words would be clearer if they were to form a new paragraph 7 in the Enforcement Policy.

The second proposal was that:

*“A suspected offender in receipt of a warning letter shall have the right to request, within 21 days of receipt of the warning letter, an appeal hearing before the Licensing Regulatory Committee to ask for the warning letter to be withdrawn.”*

It was reported that if Members were to consider an appeal against a warning issued by an officer, this would make the process for taxi licensing different from that which applied to warnings across the whole range of the Council’s enforcement functions.

Members were advised that Licensing Officers issued an average of three warning letters to hackney carriage and private hire drivers, and private hire operators each month. This figure could be exceeded on occasions.

To deal with an appeal would require thorough consideration of evidence, and increase the workload of the Committee significantly. It was possible that additional meetings would be required. There would be an increase in demands on staff resources in terms of preparing reports, publishing agendas, and attending meetings and preparing minutes. This would mean that there would be less time for staff to undertake other responsibilities. Further, the time spent on supervision of drivers was, by law, not recoverable through licence fees, and

consequently the additional cost in staff resources could not be re-charged through the licence fees, but would have to be borne by the council taxpayers.

It was reported that many warnings were issued following complaints from members of the public, who might not be willing to attend Committee, which was why a matter was dealt with by way of warning only. Without the complainant being present to give evidence about the incident that led to the warning, it was more likely that the Committee would be minded to allow an appeal against a warning. Members of the public could therefore lose confidence in the system.

Officers were concerned that if the Committee considered an appeal against a warning, and the driver/operator subsequently appeared before the Committee for another reason, any decision on that occasion might be open to legal challenge on the grounds that Members had taken account of the earlier appeal or had not considered the second matter with an open mind.

It was therefore recommended that the second proposal should not be taken forward. Should the Committee decide otherwise, the Chief Executive would refer the matter to full Council because any such decision would make the taxi licensing enforcement procedures different from those adopted throughout the rest of the Council.

It was proposed by Councillor Mace and seconded by Councillor Guilding:

“That a new paragraph 7 be included in the Licensing Enforcement Policy, as follows, with subsequent paragraphs renumbered:

7.0 *Warning Letters (Hackney Carriage and Private Hire Drivers and Private Hire Operators)*

7.1 *A warning letter will remain on file for an indefinite period, but it will not be referred to in any subsequent report to the Licensing Regulatory Committee if a period of 3 years has lapsed since it was issued and no other warning letter was issued within that period.*

*For example, if a warning letter was issued in June 2013 and then no further warning letters are issued until August 2016, the warning letter issued in 2013 would not be referred to.*

*However, if a warning letter was issued in 2013, a further warning letter in 2014, and then a warning letter in 2015, all 3 warning letters would be referred to in any subsequent report to the Licensing Regulatory Committee to show a pattern of behaviour. If a person uses previous good character as a defence before the Committee, and refers to an earlier period during which one or more warning letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration.*

7.2 *A suspected offender in receipt of a warning letter shall have the right to request, within 21 days of receipt of the warning letter, an appeal hearing before the Licensing Regulatory Committee to ask for the warning letter to be withdrawn. If, in the opinion, of the Licensing Regulatory Committee, the appeal was vexatious, this shall be recorded and the warning letter, which was the subject of the appeal, shall remain available for reference in a subsequent report of the Licensing Regulatory Committee for 5 years from the date of the appeal hearing.”*

It was then proposed by Councillor Hamilton-Cox and seconded by Councillor Novell, by way of amendment, that the words 'normally' and 'unless there are exceptional circumstances' be reinstated in the first paragraph in paragraph 7.1, as set out in the officer recommendation. After a lengthy debate, the amendment was accepted by Councillors Mace and Guilding as a friendly amendment.

Upon being put to the vote, 8 Members voted in favour of the proposition and 1 against, whereupon the Chairman declared the proposal to be carried.

**Resolved:**

That a new paragraph 7 be included in the Licensing Enforcement Policy, as follows, with subsequent paragraphs renumbered:

7.0 Warning Letters (Hackney Carriage and Private Hire Drivers and Private Hire Operators)

7.1 A warning letter will remain on file for an indefinite period, but it will not normally be referred to in any subsequent report to the Licensing Regulatory Committee if a period of 3 years has lapsed since it was issued and no other warning letter was issued within that period, unless there are exceptional circumstances.

For example, if a warning letter was issued in June 2013 and then no further warning letters are issued until August 2016, the warning letter issued in 2013 would not be referred to.

However, if a warning letter was issued in 2013, a further warning letter in 2014, and then a warning letter in 2015, all 3 warning letters would be referred to in any subsequent report to the Licensing Regulatory Committee to show a pattern of behaviour. If a person uses previous good character as a defence before the Committee, and refers to an earlier period during which one or more warning letters had been issued but omitted from the report, those warning letters would then be disclosed to Members for their consideration.

7.2 A suspected offender in receipt of a warning letter shall have the right to request, within 21 days of receipt of the warning letter, an appeal hearing before the Licensing Regulatory Committee to ask for the warning letter to be withdrawn. If, in the opinion, of the Licensing Regulatory Committee, the appeal was vexatious, this shall be recorded and the warning letter, which was the subject of the appeal, shall remain available for reference in a subsequent report of the Licensing Regulatory Committee for 5 years from the date of the appeal hearing.

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| <b>COUNCIL</b> |
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## Members' Access to Information 13 January 2016

### Report of the Chief Officer (Governance)

|                          |
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| <b>PURPOSE OF REPORT</b> |
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| To enable Council to consider amendments to the Constitution in accordance with its resolution of the 21 <sup>st</sup> October 2015. |
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| <b>This report is public</b> |
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#### RECOMMENDATIONS

**(1) That the amendments to the Constitution, in Article 2, the Access to Information Procedure Rules, the Cabinet Procedure Rules, the Licensing Regulatory Committee Procedure Rules (Public Speaking) and the Protocol on Member/Officer Relations, as appended to this report, be approved.**

#### **1.0 Introduction**

- 1.1 At its meeting on the 21<sup>st</sup> October 2015, Council considered a motion on notice concerning members' access to exempt information. A copy of the motion and the officer briefing note that accompanied it is at Appendix 1 to this report.
- 1.2 In proposing the motion, Councillor Hamilton-Cox recognised the issues identified in the officer briefing note regarding personal data and members' disclosable pecuniary, or other, interests, and asked that these issues be included in the further report
- 1.3 The motion was carried, and this report is now presented to Council, as requested.

#### **2.0 Proposal Details**

- 2.1 Draft amendments have been made to the Constitution, in Article 2, the Access to Information Procedure Rules, the Cabinet Procedure Rules, the Licensing Regulatory Committee Procedure Rules (Public Speaking) and the Protocol on Member/Officer Relations, and these documents are at Appendix 2, with the amendments tracked for ease of reference.
- 2.2 The amendments reflect the Council resolution, making provision for members to attend meetings from which the public are excluded and to have access to agendas, background papers and minutes that contain exempt information, except where the information relates to individual employees of

the Council other than the Chief Executive or Chief Officers, or to individual members of the public.

2.3 However, as recommended in the officer briefing note, the amendments also apply an exception where the information relates to an individual member of the Council. Officers are of the view that it would not be appropriate for members to attend meetings of the Standards Committee or to have access to information reported to the Standards Committee, where the meeting or information relates to conduct complaints about individual members. The Standards Committee generally reports to Council when it wishes to make other members aware of the outcome of a particular complaint.

2.4 Also, as suggested in the officer briefing note, the amendments have been drafted to apply an exception where a member has a disclosable pecuniary interest or an "other" interest to which paragraph 12(1) of Section 2 of part B of the Code of Conduct applies. Officers would advise that it would not be appropriate for a member who has an interest which would preclude participation in the making of a decision, to attend a meeting or have access to exempt information relating to that decision.

**3.0 Details of Consultation**

3.1 The proposed amendments reflect the resolution of Council, and there has been no further consultation.

**4.0 Options and Options Analysis (including risk assessment)**

4.1 Council is recommended to approve the draft amendments as presented in Appendix 2. However, whilst those amendments have been drafted to reflect the wishes of Council as set out in the resolution of the 21<sup>st</sup> October, it would be open to be open to Council to make or request officers to make further or different amendments to the Constitution.

|   |
|---|
| <p><b>CONCLUSION OF IMPACT ASSESSMENT</b><br/> <b>(including Health &amp; Safety, Equality &amp; Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b></p> <p>None directly arising from this report.</p>                 |
| <p><b>LEGAL IMPLICATIONS</b></p> <p>The proposed amendments extend members' statutory rights of access to information, but there is no legal reason why the Constitution should not provide members with enhanced rights of access to information</p> |
| <p><b>FINANCIAL IMPLICATIONS</b></p> <p>None directly arising from this report.</p>   |
| <p><b>OTHER RESOURCE IMPLICATIONS</b></p> <p><b>Human Resources:</b><br/>None</p> <p><b>Information Services:</b><br/>None</p>  |

**Property:**

None

**Open Spaces:**

None

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer.

**BACKGROUND PAPERS**

None

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**Ref:**

Appendix 1

Notice of Motion

*This council notes the presumption of openness expressed in the council's constitution and that reasonable access to information underpins the ability of members to fulfil their duties effectively.*

*Council also notes the decision by officers following annual council to 'tighten up' on access to information, and that this represents, without reference to full council, a reduction in the scope of members' access to information prevailing in the previous administration (and before).*

*Council further notes the commentary by the monitoring officer in an email to Cllr Brookes dated 31st August (which was copied to the leader and chair of Overview and Scrutiny) that:*

*'...The legislation and the common law set out "rights" to information – rights which cannot be reduced. However, my understanding is that if the Council wishes to make exempt Cabinet information available to B&PP members or indeed to all members, it can amend the constitution to allow this – there is nothing to stop it giving members access which goes beyond their legal rights. However, in widening access to such information Council would of course have to recognise that there would be a greater risk of it being passed on, resulting in possible breaches of confidentiality and of the Data Protection Act, and possible prejudice to the Council's own business and financial interests.'*

*Weighing this commentary in the balance, this council resolves that:*

- 1) All members should be able to attend all meetings of cabinet and committees for all agenda items as of right, except those involving exempt agenda items concerning individual employees of the council (other than chief officers and the chief executive) or individual members of the public;*
- 2) All members should have access to all exempt papers as of right, with the exception of those exempt papers which deal with individual employees of the council (other than chief officers and the chief executive) or individual members of the public;*
- 3) All members should have access to both exempt and confidential information on matters concerning their wards, as of right.*
- 4) And that rights to access for members to exempt or confidential information carry proportionate responsibilities about its use.*

*Council requests that officers bring forward a report which enables the principles on access to information identified in resolutions 1-4 to be incorporated into the constitution and that the report is submitted to December full council for final decision by members.*

*Proposed by Cllr Tim Hamilton-Cox. Seconded by Cllrs Dave Brookes and Caroline Jackson.*

Officer Briefing Note

As a matter of law, an elected member who is not a member of a particular elected member body, for example Cabinet or a Committee, has only the same rights as a member of the public

to access exempt or confidential reports or background papers, or to attend a meeting of that body.

There are some exceptions, in that elected members are by law entitled to access information falling within paragraph 3 of Schedule 12A to the Local Government Act 1972 (information relating to the financial or business affairs of any particular person), except to the extent that the information relates to any terms proposed by or to the authority in the course of negotiations for a contract, and within paragraph 6 (information which reveals that the authority proposes to give a notice under which requirements are placed on a person, or to make an order or direction under any enactment).

The Local Authorities (Executive Arrangements) (Meetings and Access to Information (England) Regulations 2012 give additional rights to members of an Overview and Scrutiny Committee to have access to Cabinet papers, but the right to exempt information applies only where the information is relevant to an action or decision that the member is reviewing or scrutinising, or to any review contained in any programme of work of an Overview and Scrutiny Committee.

Further, under the common law “need to know”, a member is permitted to access exempt or confidential information if the member is able to demonstrate that sight of the relevant document is necessary to enable the member to carry out his/her duties as a member.

The case of *R v Hackney London Borough Council ex parte Gamper* in 1985, applied the “need to know” principle to attendance at meetings. Previously it had been thought that a member had only the same right to attend a meeting as a member of the public. However, in the Hackney case, the court took the view that there was no logical distinction between access to documents and access to meetings.

Generally, these legal principles have been applied to access to agendas and attendance at meetings within the City Council. Members and substitute members of this Council’s Overview and Scrutiny Committee have had access to Cabinet exempt reports and are permitted to attend meetings of Cabinet during consideration of exempt information.

However, over the last year or so of the last Council, it came to light that Budget and Performance Panel members and substitutes had, as a matter of custom, also been allowed to access exempt Cabinet reports and to remain in the Cabinet meeting during the consideration of exempt items. Officers looked at the terms of reference of the Budget and Performance Panel, and felt that because, unlike the Overview and Scrutiny Committee, its remit was not to scrutinise and call in Cabinet decisions, members of the Budget and Performance Panel did not have a need to routinely see exempt Cabinet papers in the same way that Overview and Scrutiny members did. Officers took the view that the best time to regularise the position was after the election when the “mod.gov” system access entitlements were being set up for all members. This was the only change that was made at that time.

As referred to in the text of the motion above, there is no reason why the Council’s Constitution should not be amended to permit members to have a wider entitlement to access to information and attendance at meetings than is provided for at law. However, it is important to recognise that information is not lightly designated as “exempt” or “confidential”, and that the purpose of such designation is generally to limit the circulation of information relating to individuals, which is protected under the Data Protection Act 1998, to prevent the Council from being liable for claims of breach of confidence, or to prevent commercial or financial or legal prejudice to the Council itself or to any third party. For example, in any case where a financial or legal settlement were being negotiated, the Council’s bargaining position could be weakened if confidential information were inadvertently disclosed. Any widening of the legal rights would need to take these issues and risks into account.

Indeed it is noted that the motion is expressed not to apply to reports relating to individual officers below the level of Chief Officer (examples would be disciplinary appeals to Personnel Committee) or relating to members of the public (examples would be consideration of individual licensing applications by the Licensing Regulatory Committee). The Motion appears to recognise that in these situations it would be inappropriate for information to be passed to a wider audience within the Council. Council might also wish to consider whether Standards Committee reports about individual members should be excluded in the same way as reports relating to individual officers.

It is noted that the motion states that, "*all members should have access to both exempt and confidential information on matters concerning their wards, as of right.*" The Protocol on Member/Officer Relations in Part 7 of the Constitution contains at paragraph 10 provisions about the involvement of ward councillors. Paragraph 10.2 states that "if an individual contacts the Council about a general Council service, for example ...taxi licensing or a housing benefit or council tax issue, such contact is unlikely to be a ward issue, as the address of the individual is unlikely to be significant to the particular contact or complaint. In these circumstances officer will not generally involve the ward councillor." Further, paragraph 10.4 provides that "in no circumstances will correspondence from an individual, or from a third party representing an individual, be disclosed to a ward councillor if it is marked confidential or contains personal data. If ..... there is a need for the ward councillor to know of the issue.... then the relevant individual's consent will first be obtained."

On this basis, and in order to ensure the proper protection of personal data, officers would recommend that members' rights to exempt or confidential information on matters concerning their wards should be restricted to property matters or matters relating to a specific location within the ward, and should not extend to personal data about any ward resident.

Another issue that Council may wish to consider is whether there should be specific provision to prevent members from accessing exempt information in situations where they have a disclosable pecuniary interest or other interest in the matter. The Code of Conduct would generally require members to withdraw from a meeting in these circumstances

With those provisos, and on the basis that Council is aware of the risks as referred to above, there is no reason why the Constitution should not be amended to widen members' access to exempt and confidential information. Draft amendments could be put forward to the December meeting of Council, as requested in the motion.

#### Monitoring Officer Comments

The briefing note has been prepared by the Monitoring Officer

#### Section 151 Comments

The Section 151 Officer has been consulted and has no further comments.

## Article 2 - Members of the Council

### DEVELOPING ROLES FOR COUNCILLORS

#### 2.01 Composition and Eligibility

- (a) **Composition.** The Council will comprise 60 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the district or those living or working there will be eligible to hold the office of councillor.

#### 2.02 Election and Terms of Office of Councillors

**Election and terms.** The regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

#### 2.03 Roles and Functions of all Councillors

- (a) **Key Roles.** All councillors will:

- (i) Collectively decide Council Policy and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the ward and represent the ward as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

- (b) **Rights and Duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are set out in this Constitution or are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in

confidence to anyone other than a councillor or officer entitled to know it. To do so would be viewed as a prima facie breach of the Code of Conduct.

- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

**2.04 Conduct**

Councillors will at all times observe the Members' Code of Conduct and other Protocols set out in Part 7 of this Constitution.

**2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 8 of this Constitution, which is available for public inspection.

**2.06 Register of Interests**

The Council maintains a register of the interests of Councillors in accordance with the Localism Act 2011 and the Council's Code of Conduct.

The register is open to public inspection at Lancaster Town Hall and is published on the Council's website.

## **Part 4, Section 2**

### **Access to Information Procedure Rules**

#### **1. SCOPE**

With the exception of Rules 10.01 and 10.02, Rules 1 to 11 apply to all meetings of Council and its Committees, Cabinet and its Committees, Overview and Scrutiny meetings (including formally constituted Task Groups) and Area Forums. Rules 10.1 and 10.2 apply to all meetings of the Cabinet and its committees.

#### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

#### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

#### **4. NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at Lancaster Town Hall and Morecambe Town Hall.

#### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will publish copies of the agenda and reports open to the public on its website and make them available for inspection at Lancaster and Morecambe Town Halls at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be published and open to inspection from the time when the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Officer (Governance) shall make each such report available to the public as soon as the report is completed and sent to councillors.

#### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda, reports and background papers which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

#### **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, for all meetings of the Council, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

**8. BACKGROUND PAPERS**

**8.01 List of Background Papers**

Every report will include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the writer of the report:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and, in respect of Cabinet reports, the advice of a political advisor.

**8.02 Public Inspection of background papers**

Background papers will remain available for public inspection for four years after the date of the meeting. Background papers for meetings of the Cabinet and its committees will be published on the Council's website when the agenda is published and copies will be made available at Lancaster Town Hall and Morecambe Town Hall.

**9. SUMMARY OF THE PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at Lancaster Town Hall and Morecambe Town Hall.

**10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

**10.01 Notice of Private Meetings of the Executive**

When the public are to be excluded from a meeting, or part of a meeting of the Cabinet or its committees a notice of intention to hold a meeting in private will be published on the Council's website at least 28 clear days before the date of the private meeting. The notice will also be made available at Lancaster and Morecambe Town Halls.

The notice will state the reasons why the meeting is to be held in private and how to make representations about holding the meeting in public.

At least five days before the meeting a further notice will be published of the intention to hold a private meeting. This notice will include a statement of the reasons why the meeting is to be held in private, details of any representations made about holding the meeting in public, and the response to those representations.

## 10.02 Urgent Private Meetings of the Executive

If the urgency of a decision makes compliance with rule 10.01 impracticable, the decision maker or decision making body will seek agreement from the Chairman of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. In the absence of the Chairman of the Overview and Scrutiny Committee, the Mayor shall be asked for their agreement and, in their absence, the Deputy Mayor. If agreement is granted, a notice will be published on the Council's website and made available at the two Town Halls setting out why the meeting is urgent and cannot reasonably be deferred.

## 10.03 Confidential Information – requirement to exclude public

Subject to Rules 10.01 and 10.02 above, the public must be excluded from any meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

## 10.04 Exempt Information – discretion to exclude public

Subject to Rules 10.01 and 10.02 above, the public may be excluded from any meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

In determining whether information is to be treated as exempt, Members will consider the extent to which, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Convention for the Protection of Human Rights establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

## 10.05 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure, and information the public disclosure of which is prohibited by Court Order, or by virtue of any enactment.

## 10.06 Meaning of exempt information

Exempt information means information falling within the following categories.

| Category  | Qualification  |
|---|--|
| <p>1 Information relating to any individual</p>                               | <p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"> <li>(a) Where disclosure is prohibited by statute, or</li> <li>(b) Where disclosure might involve providing personal information about individuals, or</li> <li>(c) Where disclosure might breach a duty of confidentiality, and</li> <li>(d) In all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.</li> </ul> |
| <p>2. Information which is likely to reveal the identity of an individual</p> | <p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"> <li>(a) Where disclosure is prohibited by statute, or</li> <li>(b) Where disclosure might involve providing personal information about individuals, or</li> <li>(c) Where disclosure might breach a duty of confidentiality, and</li> <li>(d) In all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.</li> </ul> |

| Category   | Qualification   |
|--|---|
| <p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p><i>(‘Financial or business affairs’ includes contemplated, as well as past or current, activities)</i></p> <p><i>This category will include commercial and contractual interests)</i></p>   | <p>Information is not exempt if it is required to be registered by law under:</p> <ul style="list-style-type: none"> <li>• The Companies Act 1985</li> <li>• The Friendly Societies Act 1974</li> <li>• The Friendly Societies Act 1992</li> <li>• The Industrial and Provident Societies Acts 1965 to 1978</li> <li>• The Building Societies Act 1986 (recorded in the public file of any building society, within the meaning of the Act)</li> <li>• The Charities Act 1993</li> </ul> <p>Information is only exempt if and for so long as:</p> <ol style="list-style-type: none"> <li>(a) Disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods, services whether the advantage would arise as against the Council or as against other persons, or</li> <li>(b) Disclosure would prejudice the efficiency and effectiveness of the use of Council resources, or</li> <li>(c) Disclosure of trade secrets and other information would or would likely prejudice the commercial interests of any person, including the Council, and</li> <li>(d) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ol> |
| <p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.</p> <p><i>(‘Labour relations matters’ are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute)</i></p> | <p>Information is only exempt if and for so long as its disclosure to the public:</p> <ol style="list-style-type: none"> <li>(a) Would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</li> <li>(b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ol>  |

| Category   | Qualification   |
|--|---|
| 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings  | Information is only exempt: <ul style="list-style-type: none"> <li>(a) Where a claim of legal professional privilege could be maintained in legal proceedings, e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; and</li> <li>(b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ul>   |
| 6. Information which reveals that the authority proposes: <ul style="list-style-type: none"> <li>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person, or</li> <li>(b) To make an order or direction under any enactment</li> </ul> | Information is exempt only if and so long as: <ul style="list-style-type: none"> <li>(a) Disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made; and</li> <li>(b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ul>  |
| 7. Any action to be taken in connection with the prevention, investigation or prosecution of crime.  | Information is only exempt if its disclosure would, or would likely to, prejudice: <ul style="list-style-type: none"> <li>(a) Criminal investigations and proceedings, or</li> <li>(b) The apprehension or prosecution of offenders, or</li> <li>(c) The administration of justice, or</li> <li>(d) The assessment or collection of any tax or duty or of any imposition of a similar nature, or</li> <li>(e) Regulatory enforcement, or</li> <li>(f) Any civil proceedings, or</li> <li>(g) Health and safety, or</li> <li>(h) Information obtained from confidential sources, and</li> <li>(i) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</li> </ul> |

### 10.7 Members of the Council

Members of the Council may attend any meeting during the discussion of confidential or exempt information, save where the item of business relates to an individual officer (other than the Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to attend has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct, in the item of business.

### 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "exempt from publication", together with the category of information likely to be disclosed. However, Members of the Council will have access to such reports, save where the item of business relates to an individual officer (other than the

Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to exercise the right of access has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct, in the item of business.

## 12. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a Key Decision may not be taken unless:

- (a) a Notice (called here a Key Decision Notice) has been published in connection with the matter in question at least 28 clear days before the date when the decision is to be taken; and
- (b) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 7 (notice of and summons to meetings).

## 13. KEY DECISION NOTICE

### 13.1 Content of the Key Decision Notice

A Key Decision Notice will contain details of

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name, title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which or the period within which the decision will be taken;
- (d) a list of the documents submitted to the decision taker for consideration in relation to the matter and how to obtain copies of such documents
- (e) a statement that other documents may be taken into account by the decision taker and how to obtain copies of any such documents.

## 14. GENERAL EXCEPTION – URGENT BUSINESS

14.01 Subject to Rule 16, where a matter which is a Key Decision requires an urgent decision and the required 28 days notice has not been given, the decision may still be taken if:

- (a) The Chairman of the Overview and Scrutiny Committee, or, if there is no such person, each member of the Overview and Scrutiny Committee, has been informed by notice in writing of the matter about which the decision is to be made;
- (b) a Key Decision Notice has been published and made available for inspection by the public; and
- (c) five clear days have elapsed following the day on which the Key Decision Notice was published and made available.

## 15. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor will suffice, or, in the absence of the Mayor, the agreement of the Deputy Mayor.

## 16. REPORT TO COUNCIL

### 16.01 Report to Council when the key decision procedure is not followed

If an executive decision has been made and was not treated as a key decision, and the Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, the Overview and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and if the Cabinet is of the opinion that the decision was not a key decision, the reasons for that opinion. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any three members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### 16.02 Quarterly reports on special urgency decisions

In any event the leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 17. RECORD OF DECISIONS

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, any alternative options considered and rejected at that meeting and any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision.

## 18 MEETINGS OF THE CABINET AND ITS COMMITTEES RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet will meet in public for all its decisions, except for decisions based on those parts of any document that contain exempt or confidential information. In such cases Rules 10.01 and 10.02 will apply.

## 19. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

### 19.01 Material relating to business to be transacted at a public meeting of Cabinet

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business to be transacted at a public meeting, and any such document must be available for inspection for at least five clear days before the meeting

## 19.02 Other Material relating to business transacted

All members of the Council will be entitled to inspect any document which is in the possession or under the control of Cabinet and contains material relating to any business transacted at a private meeting of Cabinet, or any decision made by an individual Cabinet member or an officer, within 24 hours after the meeting concludes or after the decision has been made.

## 19.03 Exceptions

Regulation 16(6) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012 provides However, that a document is not required to be available for inspection under Rules 19.01 or 19.02 if it contains exempt information as set out in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of contract negotiations), or paragraph 6 of Schedule 12A.. However, Council has resolved that all members of the Council should have access to all exempt reports, background papers and minutes, save where the report, background paper, or minute relates to an individual officer (other than the Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to access the information has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct.

~~Further, a~~ document is not required to be available for inspection if advice provided by a political adviser or assistant would be disclosed.

## 19.04 Nature of Rights

These rights of a member are additional to any other right they may have in statute or at common law.

## 20. OVERVIEW AND SCRUTINY'S ACCESS TO DOCUMENTS

20.01 Regulation 17 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012 provides that wWithin 10 clear days of so requesting, a member of the Overview and Scrutiny Committee (including task groups) or Budget and Performance Panel will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

- (i) any business that has been transacted at a meeting of a decision-making body of the Council
- (ii) any decision that has been made by an individual Cabinet Member in accordance with executive arrangements or
- (iii) any decision that has been made by an officer of the Council in accordance with executive arrangements

except for documents, or parts of documents, which contain

- (a) advice provided by a political adviser or
- (b) exempt or confidential information, unless that information is relevant to
  - (i) an action or decision that the Member is reviewing or scrutinising; or
  - (ii) any review contained in the work programme of the Overview and Scrutiny Committee or Budget and Performance Panel.

However, Council has resolved that all members of the Council should have access to all exempt reports, background papers and minutes, save where the report, background paper, or minute relates to an individual officer (other than the Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to exercise the right has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct.

Overview and Scrutiny will not be entitled to any document which is in draft form.

Where the Cabinet determines that a member of an Overview and Scrutiny committee is not entitled to a copy of a document or part of a document for a reason set out in (a) or (b) above, it will provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

## Part 4, Section 4 Cabinet Procedure Rules

### 1. HOW THE CABINET OPERATES

#### 1. How the Executive Operates

##### 1.1 Who may make Executive Decisions

The Leader determines the arrangements for the discharge of executive functions. The arrangements may provide for executive functions to be discharged by:

- i) The Leader;
- ii) Cabinet as a whole;
- iii) Individual Cabinet Members;
- iv) a committee of the Cabinet;
- v) Officers of the Council;
- vi) if and when established - joint arrangements with other local authorities; or
- vii) another local authority;

##### 1.2 Delegation by the Leader

- (a) At the annual meeting of the Council, the Leader will present to the Council the names of the people appointed to the Cabinet by the Leader (including the name of the Deputy Leader), and their portfolios.
- (b) At the annual meeting of the Council or as soon as practicable thereafter, the Leader will present to the Council a written record of :
  - (i) The detailed remits of the portfolios of the Cabinet Members.
  - (ii) Any delegations made by the Leader in respect of the discharge of the Council's executive functions. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:
    - The extent of authority of the Cabinet as a whole
    - The extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
    - the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
    - the nature and extent of any delegation of Executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and

- the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

and these shall then be included in the Council's Constitution.

### 1.3 Sub-Delegation of Executive functions

(a) Where the Leader delegates an executive function to the Cabinet, then unless the Leader directs otherwise, the Cabinet may delegate further to a committee of the Cabinet, a joint arrangement or to a Council officer.

(b) Where the Leader delegates an executive function to a committee of the Cabinet or to an individual member of the Executive then unless the leader directs otherwise, a committee of the Executive or an individual member of the Executive may delegate further to a Council officer.

(c) Even where executive functions have been delegated under (a) or (b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.

### 1.4 The Executive's Scheme of Delegation

- (a) Subject to (b) below the Executive's Scheme of Delegation will be reported to Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Officer (Governance) and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The Chief Officer (Governance) will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when the Leader has served it on its chair.

### 1.5 Conflicts of Interest

- (a) Where the Leader or any Member(s) of the Cabinet and its Committees have a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet or its Committees has a conflict of interest, this may be dealt with by way of dispensations granted by the Standards Committee.
- (c) If the exercise of an Executive function has been delegated to an Officer and should a conflict of interest arise, then the function will be exercised in the first instance by the person by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 7 Section 2 of this Constitution.

## 1.6 Cabinet Meetings – When and Where?

The Cabinet will meet monthly, alternating between Lancaster Town Hall and Morecambe Town Hall on dates and at times to be agreed by Leader, to be confirmed by Full Council on an annual basis. The Leader may agree to hold additional meetings as required. In determining the time for the meeting, regard should be had to maximising the accessibility of the public.

## 1.7 Meetings of the Cabinet

All decision-making meetings of the Cabinet will be in public except for that part of an item of business where exempt or confidential information is to be discussed.

## 1.8 Quorum

The quorum for a meeting of the Cabinet shall be four Members of the Cabinet. For meetings of Cabinet Committees, a quorum will be 40% (rounded up) or 3, whichever is the greater.

## 1.9 How are Decisions to be taken by the Cabinet?

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4, Section 2 of this Constitution.
- (b) Where executive decisions are delegated to a Committee of the Cabinet, the Rules for taking decisions shall be the same as those applying to the Cabinet.

## 1.10 Urgent Decisions

- (a) When an executive decision which is the responsibility of the Cabinet is needed prior to the next scheduled meeting, the procedures set out in the Access to Information Rules 15 and 16 must be followed (Part 4 Section 2).
- (b) Decisions taken under this procedure must be reported into the next scheduled meeting of Cabinet.

## 1.11 Agendas

All Cabinet agendas and those of its Committees will be available to all Members of the Council. Cabinet members will take responsibility and ownership of Cabinet reports in their portfolio area of responsibility. Cabinet agenda should not include information reports.

## 2. CONDUCT OF THE CABINET AND ITS COMMITTEES

### 2.1 Charing Meetings

- (a) The Leader of the Cabinet will preside. In the absence of the Leader, the Deputy Leader, will preside. In both the Leader and Deputy Leader's absence, then a person will be appointed to preside by those present.
- (b) The Leader will preside at any meeting of a Committee of the Cabinet at which they are present, or may appoint another person to do so. In the absence of the Cabinet Committee's Chairman, then a person will be appointed to preside by those present.

## 2.2 Who may attend to observe?

Any member of the public and any Member of the Council may attend any Cabinet meeting or a meeting of its Committees. All decision making meetings of the Cabinet and its Committees will be in public. Members of the public will be excluded for that part of an item of business where exempt or confidential information is to be discussed. A Member of the Council will not be excluded whilst exempt or confidential information is being discussed, provided that the information does not concern an individual employee (other than the Chief Executive or a Chief Officer), or an individual member of the public, and provided that the Member does not have a disclosable pecuniary interest or an interest which would fall within paragraph 12(1) of Section 2 of Part B of the Council's Code of Conduct.

## 2.3 Business of the Meeting

At each meeting of the Cabinet the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declaration of interests, if any;
- (c) urgent business agreed by the Leader, or in the absence of the Leader, by the Deputy Leader or Chairman of the meeting.
- (d) matters set out in the agenda for the meeting for decision including registered members of the public speaking and registered ward members
- (e) consideration of reports from Cabinet Committees;
- (f) consideration of reports from Overview and Scrutiny;
- (g) matters referred to the Cabinet (whether by Overview and Scrutiny or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedures Rules set out in this Constitution; and
- (h) reports from the Chief Executive or Chief Officers.

## 2.4 Consultation

All reports to Cabinet from any Member of the Cabinet or an Officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and Overview and Scrutiny and the outcome of that consultation. Reports about other matters will set out the details and outcome of any consultation undertaken as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Cabinet Agenda Items

The Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee or any member or officer in respect of that matter.

Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered and that Councillor may, at the discretion of the Leader, be invited to attend the meeting, and with the consent of the Cabinet, to speak.

Furthermore, the Chief Executive, Monitoring Officer and/or the Chief Financial Officer (the Council's Section 151 Officer) may include an item for consideration on the Agenda of a Cabinet meeting and the Monitoring Officer/Chief Financial Officer may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the Agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the Agenda may also require that a meeting be convened at which the matter will be considered.

## 2.6 Right of Members to Address Cabinet

Where an Overview and Scrutiny meeting submits a report to Cabinet, a nominee of that meeting may and will normally present the report to Cabinet. Any Member, at the discretion of the Chairman of Cabinet, may address Cabinet on Ward matters where this is relevant to a report on the Agenda, subject to giving three days notice and a five minute time limit.

## 2.7 Rights of the Public to Speak at Cabinet

- (a) Members of the public are permitted to speak on issues included on the Cabinet Agenda, with questions/comments from the public prior to the commencement of each item.
- (b) Notice of the wish to speak must be registered with Democratic Services in writing or by telephone before 12 Noon on the Thursday before Cabinet meets.
- (c) It is the responsibility of the person wishing to speak to find out the appropriate date that Cabinet will consider the item of business that they wish to speak on. This information can be obtained from Democratic Services. Late requests to speak at Cabinet will not be considered.
- (d) Any request to speak must include the person's name, address and contact telephone number, together with details on the item they wish to speak on. A written version of their speech or questions must be supplied in advance (unless there are special circumstances).
- (e) Persons who have registered to speak should be in attendance 30 minutes prior to the commencement of the meeting to enable a list of speakers present to be passed to the Chairman. Any latecomers who have not confirmed their intention to speak on the morning of the meeting will only be allowed to speak at the discretion of the Chairman.
- (f) Democratic Services, having received notice from persons wishing to speak will re-order the agenda to enable items with public participation to be considered first.
- (g) There will be a maximum of ten speakers per Cabinet meeting on a first come first served basis with a maximum of five minutes per speaker.
- (h) There will be a maximum of three speakers on each item of business, but if there are less than ten speakers in total to speak at Cabinet then a maximum of four people will be allowed

to speak on a particular item of business on a first come first served basis, at the discretion of the Chairman.

- (i) Any group of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking as part of the registration process. The Chief Officer (Governance) to be authorised to ask speakers to consolidate their views if there are more than three persons in the group.
- (j) Speakers must be prepared to respond to questions from Cabinet Members at the meeting if necessary.

## 2.8 Access to Information

The rules that determine how the Cabinet will conduct its meetings in respect of the following are set out in the Access to Information Procedure Rules in Section 2 of Part 4 of this Constitution:

- Key Decisions and Key Decision notices
- Exempt and Confidential Business
- Agendas, Reports, Minutes and Background Papers

The rules relating to urgent business procedures are set out in Part 4, Section 7.

## 2.9 Cabinet Liaison Groups

- (a) Cabinet Liaison Groups are not an essential body but may be created to take forward business. However, they are purely consultative and not decision-making. They will be chaired by a member of Cabinet and there is no restriction on size although the group must be limited to what is manageable and effective for their purpose. They may be time limited or of longer standing, again depending on their purpose.
- (b) The participants in the Group will be by invitation of the Chairman and can be made up from any or all of the following:
  - Other members of Cabinet
  - Other members of Council not on Cabinet
  - Others from outside the Council
  - Council officers
- (c) *Terms of Reference:* Their Terms of Reference are to share information about a particular topic, e.g. e-government and develop effective consultation and communication links with community groups and other bodies with an interest in the subject area. In this way, individual Cabinet members will have a wider information and advisory platform to inform executive decision-making and policy effectiveness.
- (d) Specific outcomes from their meetings may generate requests for pieces of work to be undertaken by officers or partner bodies. Alternatively, it could be a request to Overview and Scrutiny to set up a Task Group to undertake a specific piece of work. There could also be specific reports to Cabinet, Committees of Cabinet, individual Cabinet members, or other Committees of Council recommending action for determination.
- (e) Each Liaison Group will have their terms of reference and expected outputs approved by Cabinet before they meet.

## Part 4, Section 8 Licensing Regulatory Committee Procedure Rules

1. **RIGHTS OF THE PUBLIC TO SPEAK AT LICENSING REGULATORY COMMITTEE**
  - (a) Members of the public are permitted to speak on issues included on the Licensing Regulatory Committee agenda prior to the commencement of each item. This does not apply to items relating to individual licence applicants or licence holders (see below)
  - (b) Notice of the wish to speak must be registered with Governance (Democratic Services) in writing, by email or by telephone before 12 noon on the third working day before the Committee meets. As the Committee generally meets on Thursday, this will normally be the Monday before the meeting.
  - (c) It is the responsibility of the person wishing to speak to find out the appropriate date that the Committee will consider the item of business that they wish to speak on. This information can be obtained from Governance (Democratic Services). Late requests to speak at Committee will not be considered.
  - (d) Any request to speak must include the person's name, address and contact telephone number, together with details on the item they wish to speak on. Subject to (q) below, a written version of their speech must be supplied to the Chief Officer (Governance) in advance, not later than 48 hours before the meeting, who shall not accept the request to speak as valid unless satisfied that the speech is proper to be presented..
  - (e) Persons who have registered to speak should be in attendance 15 minutes prior to the commencement of the meeting to enable a list of speakers present to be passed to the Chairman. Any latecomers who have not confirmed their intention to speak in accordance with this requirement will only be allowed to speak at the discretion of the Chairman.
  - (f) Governance (Democratic Services), having received notice from persons wishing to speak will re-order the agenda to enable items with public participation to be considered early in the meeting, although this will be balanced with the needs of individuals who are attending to make representations on exempt /confidential items.
  - (g) There will be a maximum of three speakers on each item of business and a maximum of five minutes per speaker.
  - (h) Any group of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking as part of the registration process. Only one representative of any trade association will be permitted to speak on any item of business.
  - (i) Speakers must be prepared to respond to questions from Committee Members at the meeting if necessary. However, there will be no debate

between a speaker and Members of the Committee on the matters raised by the speaker.

- (j) Once the public speakers have spoken on an item of business, the Committee will debate the item and make a decision, and there will be no further contributions from the public during this process.

#### **Procedure for Individual Applications/Licences**

- (k) Where an item on the agenda of the Licensing Regulatory Committee relates to an individual licence holder or licence applicant, the individual will be entitled to attend the meeting and make oral representations to the Committee, and may be represented by a solicitor or barrister or any other representative, and may call witnesses. The press and public will generally be excluded because the matter will relate to exempt or confidential information. Where the matter relates to exempt or confidential information, a Member of the Council who is not sitting as a member of the Committee will also be excluded from the meeting.
- (l) The Licensing Manager or her representative will present the report, and will call oral evidence if appropriate. The individual applicant/licence holder will have the opportunity to question the officer(s) and any witnesses. Members of the Committee will then have the opportunity to question the officer(s) and any witnesses.
- (m) The individual applicant/licence holder and/or their representative may then make oral representations to the Committee and may call any witnesses. The Licensing Manager or her representative will have the opportunity to question the individual and any witnesses. Members of the Committee will then have the opportunity to question the individual and any witnesses.
- (n) The Licensing Manager or her representative will have the opportunity to sum up, and the individual applicant/licence holder will have the opportunity to sum up.
- (o) The Committee will then make its decision in private, advised by the Committee's legal adviser and democratic support officer, and the decision will then be announced to those who have participated in the item.
- (p) If appropriate, arrangements may be made in advance of the meeting for the Committee to inspect any vehicle that the item relates to.
- (q) If an individual licensing application does not contain exempt or confidential information, and is therefore considered in public, members of the public will have a right to speak before consideration of the item. The provisions set out in (a) to (i) above will apply except that, in the case of such individual applications, there will be no requirement for the submission in advance of a written version of what is to be said. Once any members of the public have spoken, the procedure for consideration of the application will be as set out in (l) to (o) above.

## **Part 7, Section 6**

### **Protocol on Member/Officer Relations**

#### **1. INTRODUCTION**

- 1.1 The purpose of this protocol is to guide Members and Officers in their relations with one another, to define their respective roles and to provide guidance for dealing with particular issues that may most commonly arise or cause concern.
- 1.2 However, given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or exhaustive. It is hoped that the general approach set out in the protocol will serve as a guide in dealing with other issues that may not be specifically covered.
- 1.3 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

#### **2. ROLE OF MEMBERS AND OFFICERS**

- 2.1 Both Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and Cabinet, and the various Committees.
- 2.2 The Council's Constitution sets out the clear distinction between the roles of Members and Officers. Members will perform roles on the Cabinet, and on the Regulatory and Overview and Scrutiny and other Committees, in addition to sitting as members of the full Council. They may also represent the Council on outside bodies. Officers are employed by and serve the whole Council, and are accountable to the Chief Executive. They provide support to the executive, scrutiny and regulatory functions of the Council, providing impartial advice and implementing the decisions of the Council, the Cabinet and Committees. They may also make decisions under powers delegated to them.
- 2.3 Members should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.
- 2.4 Officers are responsible for advising on and implementing policies, and for the delivery of services in the manner that they consider is most appropriate given their managerial and professional expertise. Members would not be expected to be involved in the detail of implementation, but can expect reports on progress, and in certain circumstances, at Overview and Scrutiny meetings, can require Chief Officers to account for their decisions.
- 2.5 It is appropriate, however, for Members to propose initiatives and ideas about how things can be done better. It is essential that existing ways of doing things are challenged and reviewed. This needs to be done in a professional and constructive environment. The Constitution sets out the procedures for both the Cabinet and Overview and Scrutiny to review existing policies and bring forward new policy initiatives. The procedural rules also set out the process for Officer involvement with the Cabinet, the Regulatory Committees and the Overview and Scrutiny.

- 2.6 Mutual respect between Members and Officers is essential to good local government. It is important in all dealings between Members and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.
- 2.7 The general obligations in the Members' Code of Conduct include a requirement to treat others with respect, and not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the authority. There is also a requirement for Members in making decisions to have regard to any advice provided by the Council's Section 151 Officer and the Monitoring Officer. Any allegation by an officer that a Member has failed to comply with the Code of Conduct will be dealt with under the Standards Committee's procedure for dealing with Code of Conduct complaints. As with any such complaint, the first stage will be for the Monitoring Officer to seek to resolve the matter informally.

### 3. OFFICER ADVICE TO GROUPS OF MEMBERS

- 3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's monthly Notice of Forthcoming Key Decisions will identify the Key Decisions that the Cabinet will be considering. Individual Members and/or groups of Members may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Chief Executive or Service Heads, or otherwise with the approval of the Chief Executive and any information provided to the group will not as a matter of routine be passed on to other groups. However, briefing information provided to a political group, whether or not it contains confidential information, may, at the written request of that group, be passed on by the relevant officer to other groups also.
- 3.2 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.
  - (b) Similarly, where Officers provide information and advice to a group of Members meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, Overview and Scrutiny or other Committee meeting when the matter in question is considered.
- 3.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Members, unless specifically asked to do so.
- 3.4 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Members should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

### 4. OFFICER/MEMBER RELATIONSHIPS

- 4.1 It is clearly important that there should be a close working relationship between Cabinet members and Committee members, including their Chairmen, and the relevant Chief Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with other Members.
- 4.2 Whilst the Cabinet Leader and Committee Chairmen will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it his/her duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Similarly, a Member will also be fully responsible for that part of any report submitted in his/her name. Any issues arising between a Member and an Officer in this area should be referred to the Chief Executive for his resolution. Where individual Members wish to place an item on a Cabinet agenda, they should notify the Chief Executive in accordance with Part 4 Section 4 of the Constitution.
- 4.3 In relation to action between meetings, it is important to remember that the Council's Constitution allows not only for decisions (relating to the discharge of any of the Council's functions) to be taken by the Cabinet, other Committees of Council or an Officer, but also allows for an individual Cabinet Member to take a non-key decision.
- 4.4 It must be remembered that Officers within a Service are accountable to their Chief Officer and ultimately to the Chief Executive, and that whilst Officers should always seek to assist any Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Head. Officers should also refer to Part 3 (Responsibility for Functions) and Part 7, Section 1 (Officers' Code of Conduct) in the Council's Constitution for clarification about the bounds of their responsibility.

## 5. **UNDUE PRESSURE**

- 5.1 A Member should not apply undue pressure on an Officer to do anything which he/she is not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.
- 5.2 Similarly, an Officer must not seek to influence an individual Member to make a decision in his/her favour, nor raise personal matters relating to his/her job, nor make claims or allegations about other employees, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive immediately.

## 6. **CRITICISM / COMPLAINTS**

- 6.1 It is important that there should be mutual courtesy between members and officers.
- 6.2 Members and officers should not criticise or undermine respect for each other at Council meetings or at any other meeting they attend in their capacity as a Member or officer, or in any other public forum.
- 6.3 Members should not raise matters relating to the conduct or capability of an individual officer or officers collectively at meetings or in any other public forum. Any such complaints should be made to the Chief Executive.

## 7. **SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

- 7.1 Previously, the only basis on which the Council could lawfully provide support services (e.g. stationery, typing, printing, e-mail, internet, photocopying, transport, etc.) to Members was to

assist them in discharging their role as Members of the Council. However the current Code of Conduct does allow limited private use of Council resources by Members provided that when using or authorising the use by others of the resources they must -

- (i) act in accordance with the Authority's reasonable requirements; and
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)

Any uncertainty about compliance with these requirements should be referred to the Council's Monitoring Officer for determination.

7.2 The Democratic Support Section in Governance should be the first point of contact in all aspects relating to Member support.

## 8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

8.1 Members are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the ~~Service Head, Chief Officer or~~ Service Manager or other nominated representative. If Members wish to visit officers, they should contact the Chief Officer or Service Manager to make arrangements whenever possible.

8.2 With respect to the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law. Council has also resolved to extend Members' statutory rights with regard to exempt information.

8.3 Under Section 100F of the Local Government Act 1972, any Member may inspect any document in the possession or control of the Council which contains material relating to any business to be transacted at a meeting of the Council, Cabinet, a Committee or Sub-Committee. This right applies irrespective of whether the Member is a member of the relevant committee, and extends not only to reports but also to background papers.

However, the statutory right does not apply if a document discloses "exempt" information as defined in—Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (the financial and business affairs of any particular person), except to the extent that it relates to any terms proposed by or to the authority in the course of negotiations for a contract, or within paragraph 6 (that the authority proposes to give a notice or order under any enactment, by virtue of which conditions or requirements are imposed on a person). These exceptions mean that a Member's right of access to information under the Local Government Act 1972 is slightly wider than the public right under that Act.

Further details, including information about the ~~particular statutory~~ rights of Overview and Scrutiny members, are set out in the Access to Information Procedure Rules in Part 4, Section 2, of the Constitution.

Council has, however, resolved to extend a Member's rights as set out above. All Members are permitted to have access to exempt Cabinet, Committee and Sub-Committee reports, background papers and minutes and to attend meetings during the discussion of exempt information, save where the report, document, minute or meeting relates to an individual officer (other than the Chief Executive or a Chief Officer), an individual Member of the Council, or an individual third party, or where the Member seeking to exercise the right has a disclosable

pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct, in the item of business.

8.4 The common law right of Members with regard to other documents is much broader and is based on the principle that any ———member has a prima facie right to inspect council documents so far as his/her access to the —documents is reasonably necessary to enable the member to carry out his/her duties as a ———member. This is referred to as the “need to know” principle. If a Member is a member of ———Cabinet or a committee, then he/she has the right to inspect documents relating to the business of Cabinet or the committee. If a Member is not a member of the relevant ———Committee, then he/she has to demonstrate why sight of the document is necessary to —enable the performance of his/her duties as a member. This could be by reference to the role —as ward Member. Members have no right to a “roving commission” to examine documents —of the Council. Mere curiosity is not sufficient. If the Member’s motive for seeing —the —documents is indirect, improper or ulterior, then there would be no right of access at common law. Generally ward members will be deemed to have a “need to know” in relation to matters arising in their ward. Where information relating to a ward matter would be exempt if it were the subject of a report to Council, Cabinet or a Committee, it will be made available to a ward member on request, except where the information relates to an individual third party or where the ward member has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct.

- 8.5 A Member has the same rights of access to information under the Freedom of Information Act 2000 as any member of the public. A request must be in writing and describe specifically the information requested. The exemptions set out in the Act would be applied whoever is requesting the information. Once information has been made available in response to a Freedom of Information request, it becomes public.
- 8.6 From a procedural point of view, if a Member makes a request for information that is not routine, the request should be made to the relevant ~~Service Head~~Chief Officer, who will consider first —whether all the information would be made available as a matter of course to a member of —the public making a similar request. If so, the information will be provided to the Member.
- 8.7 If the request is such that the information would not automatically be provided to a member of the public, the Chief Officer for the service will consider whether the information can be provided under the arrangements set out above in paragraphs 8.3 and 8.4. ~~Section 100F of the Local Government Act 1972 or under the common law “need to know”.~~ The Chief Officer should consult with the Monitoring Officer. The final determination as to whether there is a “need to know” will be made by the Monitoring Officer. The Overview and Scrutiny Committee may hold the Monitoring Officer to account in accordance with Rule 14 of the Overview and Scrutiny Procedure Rules.
- 8.8 If ~~neither Section 100F nor the “need to know” are met~~the information cannot be made available under paragraphs 8.3 or 8.4 above., then the request will be dealt with as a Freedom of Information Act request, but without the need for the Member to make a specific FOI request. The FOI request will be dealt with in the normal way with advice from Legal Services. This may result in the information being provided in part, with an exemption applying to the remainder, or the request being refused in its entirety as a result of an exemption. The Member will be informed that the request has been considered under the Freedom of Information Act and that there is a right of internal review which will be carried out by the Monitoring Officer. Following such a review, the Member will be advised of the right to pursue the matter with the Information Commissioner.

- 8.9 Any information provided under the Freedom of Information Act can be made public by the Member. Exempt information provided under paragraph 8.3 above and information provided under the "need to know" will be provided with the caveat that it is provided to the Member in his/her capacity as Member, and is only to be used for the —purpose of exercising his/her functions, and should not be made public. Members should take particular care with exempt or confidential information, and should not use the information in any way which might cause the Council to breach the Data Protection Act 1998 or any duty of confidentiality, or which might prejudice the Council's financial or legal position or cause damage to its reputation.
- 8.10 The Code of Conduct provides that a Member must not disclose information given to the Member in confidence by anyone, or information which the Member believes, or ought reasonably to be aware, is of a confidential nature except where
- the Member has the consent of a person authorised to give it;
  - the Member is required by law to do so;
  - the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the authority. These are set out in Part 7 Section 3 of the Constitution.

## 9. CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

## 10. INVOLVEMENT OF WARD COUNCILLORS

- 10.1 Whenever a public meeting is organised either by the Council or where the Council has been invited to attend, to consider a local issue, all the Members representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. In addition, whenever significant Council organised events or works or other activity are taking place in a locality, all the Members representing the ward or wards should as a matter of course be notified.
- 10.2 If an individual contacts the Council about a general Council service, for example leisure, food safety, taxi licensing or a housing benefit or council tax issue, such contact is unlikely to be a ward issue, as the address of the individual is unlikely to be significant to the particular contact or complaint. In these circumstances, officers will not generally involve the ward councillor.
- 10.3 If an individual contacts the Council about a location related issues, for example, noise from particular premises, difficulties with refuse collection in a particular street, an overhanging tree, or uneven access to council housing accommodation, then, unless the issue is 'de minimis' and can be resolved at once, the ward councillors will be advised of the problem and what action is being or has been taken to resolve it. It should be possible to do this on a general

basis and without revealing the identity of the individual who has raised the issue. The details of the individual will not be passed on to ward councillors without the individual's consent.

- 10.4 In no circumstances will correspondence from an individual, or from a third party representing an individual, be disclosed to a ward councillor if it is marked confidential or contains personal data. If, in these circumstances, an officer is of the view that a ward councillor's involvement would be valuable or that there is a need for the ward councillor to know of the issue, and it is not possible to do so in general terms without disclosing confidential or personal information, then the relevant individual's consent will first be obtained.
- 10.5 If an individual has sought assistance from one ward councillor in a multi-member ward, and an officer is in contact with that ward councillor who is acting on the individual's behalf, information about the issue will not be shared with another ward councillor without the consent of the individual or the ward councillor who first raised the issue.

## 11. MEETINGS WITH THIRD PARTIES

- 11.1 On occasions, Members may be approached by individuals or companies who have proposals affecting the area or functions of the Council, and which they wish to discuss with Members. Members are reminded that, as individual Members, they cannot commit the Council to any contract or other agreement or course of action. Members are advised to make this clear to any third party with which they may have contact. Should Members be asked to attend a meeting with third parties, they are recommended to arrange for the meeting to take place at Council offices and with a relevant officer present. This will enable the officer to explain to the third party the proper decision making process, and will protect Members against any subsequent claim by the third party. Normal routine activities are not intended to be subject to this recommendation.
- 11.2 More detailed guidance about meetings relating to planning issues is set out in the Protocol on Planning in Part 7 Section 5 of the Constitution

## 12. MEDIA RELATIONS

- 12.1 The Council has agreed Press and Media Guidelines which set out the Council's procedures for dealing with the press and media. The guidelines are subject to review from time to time, and can be found in Part 7 Section 7 of the Constitution.

## 13. ARBITRATION

- 13.1 The Protocol is intended to act as a guide for both Members and Officers. The relevant Chief Officer should deal with difficulties that arise in the first instance with the Member(s) concerned. The Monitoring Officer and then the Chief Executive should then consider any continuing difficulties.
- 13.2 Serious difficulties or breakdowns in relations that cannot be resolved through the above route should be referred to the Standards Committee for determination in accordance with the protocol. This will be very much a last resort. Every effort should be made to resolve difficulties at any early stage.

## 14. REVIEW OF PROTOCOL

- 14.1 The protocol is intended to provide Members and Officers with guidelines to determine their roles and their relations with each other.

- 14.2 It is intended to be a “live” document and will be reviewed from time to time to reflect changing circumstances. The Standards Committee is the lead Committee.
- 14.3 Members or Officers with queries about the Protocol should contact the Council’s Monitoring Officer.

## COUNCIL

### Cabinet Portfolios 13 January 2016

#### Report of the Leader

##### PURPOSE OF REPORT

To report to Council a change of responsibility in Cabinet portfolios, in accordance with Rule 1.2 of the Cabinet Procedure Rules

**This report is public**

##### RECOMMENDATIONS

**(1) That the report be noted**

##### **1.0 Introduction**

1.1 Any changes to Cabinet Members' portfolios must be reported to Council in accordance with Rule 1.2 of the Cabinet Procedure Rules.

1.2 This report sets out a change to the allocation of responsibility for Rural Areas.

##### **2.0 Proposal Details**

2.1 Councillor Bryning's portfolio now includes special responsibility for Rural Areas. This responsibility was previously included in Councillor Hanson's portfolio.

2.2 The full list of current portfolios is attached for information.

##### **3.0 Conclusion**

3.1 This report is submitted in accordance with Rule 1.2 of the Cabinet Procedure Rules and is for noting.

**CABINET**

6.00 P.M.

3RD NOVEMBER 2015

**PRESENT:-** Councillors Eileen Blamire (Chairman), Janice Hanson (Vice-Chairman), Abbott Bryning, Darren Clifford, Karen Leytham, Richard Newman-Thompson, Margaret Pattison and David Smith

Also Present:

Councillor Caroline Jackson (Minute 44)

Officers in attendance:-

|               |   |
|---------------|---|
| Mark Cullinan | Chief Executive                                   |
| Sarah Taylor  | Chief Officer (Governance) and Monitoring Officer |
| Mark Davies   | Chief Officer (Environment)                       |
| Andrew Dobson | Chief Officer (Regeneration and Planning)         |
| Andrew Clarke | Financial Services Manager                        |
| Liz Bateson   | Principal Democratic Support Officer              |

**40 MINUTES**

The minutes of the meeting held on Tuesday 6<sup>th</sup> October 2015 were approved as a correct record.

**41 ITEMS OF URGENT BUSINESS AUTHORISED BY THE LEADER**

The Chairman advised that there were no items of urgent business.

**42 DECLARATIONS OF INTEREST**

No declarations were made at this point.

**43 PUBLIC SPEAKING**

Members were advised that there had been no requests to speak at the meeting in accordance with Cabinet's agreed procedure.

**44 CALL-IN REFERRAL REPORT FROM OVERVIEW AND SCRUTINY**

Cabinet received a report from the Overview and Scrutiny Committee to advise Cabinet of the outcome of the call-in of the Cabinet decision with regard to the Storey – Tasting Garden (Cabinet Minute 37) and to request Cabinet to consider the recommendation of the Overview and Scrutiny Committee in relation to this matter. The report was presented by Councillor Jackson, a nominee of the Overview and Scrutiny Committee and signatory to the Call-in.

The recommendation of the Overview and Scrutiny Committee was as follows:-

(1) *That Cabinet considers approving the following decision:*

*Consider that restoration of the artwork is not a high priority for the Council, but nevertheless a minimal amount of officer time will be provided to clarify the governance issues necessary to enable the Friends group to apply for major grant funding to restore the artwork as the lead partner with the Council. This funding would need to include a reasonable sum to cover appropriate project management of the restoration, plus insurance and future maintenance costs of the artwork to minimise any future liability on the Council's budget. Following the clarification of governance issues and clear permission to proceed, the Friends group to be given 12 months to raise the necessary funds. If fundraising is unsuccessful in this timescale, the Council to revert to the alternative masterplan option of improving the gardens without restoring the artwork.*

Councillor Newman-Thompson proposed, seconded by Councillor Blamire:

“That the recommendation, as set out in the referral report from the Overview and Scrutiny Committee, be approved with a report back to Cabinet in twelve months if the Friends fail to secure the necessary funding.”

**Resolved unanimously:**

- (1) That restoration of the artwork is not a high priority for the Council, but nevertheless a minimal amount of officer time will be provided to clarify the governance issues necessary to enable the Friends group to apply for major grant funding to restore the artwork as the lead partner with the Council. This funding would need to include a reasonable sum to cover appropriate project management of the restoration, plus insurance and future maintenance costs of the artwork to minimise any future liability on the Council's budget. Following the clarification of governance issues and clear permission to proceed, the Friends group to be given 12 months to raise the necessary funds. If fundraising is unsuccessful in this timescale, the Council to revert to the alternative masterplan option of improving the gardens without restoring the artwork and this will be reported back to Cabinet.

**Officer responsible for effecting the decision:**

Chief Officer (Environment)

**Reasons for making the decision:**

The decision enables the Friends group to have the opportunity to raise the necessary funds to restore the artwork in order that the Tasting Garden can be enjoyed by our citizens and complement the wider business plan of the Storey Institute and allows for a report back to Cabinet in a year's time if the fundraising efforts are not successful.

The decision also makes clear the level of officer support to be allocated.

**45 MANAGEMENT OF ARTS INVESTMENTS**

**(Cabinet Member with Special Responsibility Councillor Clifford)**

Cabinet received a report from the Chief Officer (Regeneration & Planning) which provided an up to date position regarding Arts commissioning and options for consideration in terms of support for Arts in the district.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

|               | <b>Option 1:</b> Arts commissioning is not undertaken at the present time - current arts investment arrangements continue  | <b>Option 2:</b> Arts commissioning is undertaken and initial work begins as soon as possible  |
|---------------|--|--|
| Advantages    | <p>Current arrangements deliver a good return and value for money for the Council</p> <p>Current arrangements are robust and well managed</p> <p>Current arrangements are consistent with criteria agreed as part of the Arts Commissioning Framework</p> <p>Less uncertainty created for Arts organisations with current SLA's</p> <p>No additional costs are incurred to meet resource requirements</p> <p>Allows time for funding and sectoral issues to stabilise</p> <p>No statutory requirement for the Council to introduce commissioning</p> | <p>Provides a refresh of current investments</p> <p>Additional information may be obtained from consultation/engagement with Arts sector and audiences</p> <p>Potentially new initiatives can be supported within the overall budget</p> <p>Provides longer term planning opportunities for successful delivery partners</p> <p>Provides a robust framework in which to secure continuous improvement and VFM, in accordance with statutory requirements</p> |
| Disadvantages | <p>Flexibility to invest in new initiatives is limited to any other budgets that may be available from time to time.</p> <p>Does not address potential gaps in service provision</p>   | <p>Insufficient internal capacity at present, therefore additional costs will be needed to provide the resources required to develop and deliver Arts commissioning (subject to redirection away from other council priorities)</p> <p>The Council's investment may (or may not) be distributed differently creating uncertainty and risks for organisations with existing SLA's</p>   |
| Risks         | Risk of underperformance – very low and managed as part of the   | Other priority areas of work may be affected as impact on  |

|  |                                   |   |
|--|-----------------------------------|---|
|  | monitoring and evaluation process | managerial time is inevitable<br><br>Risk of underperformance – would be managed as part of the monitoring and evaluation process |
|--|-----------------------------------|---|

The Officer preferred Option was Option 1, which provides a good return on the Council's investment in the Arts, avoids creating further instability in the Arts sector at a time when many changes are taking place and is manageable within existing staff resources.

The Council has invested in Arts in the district for many years and as a result of this and additional investment particularly by Lancashire County Council and the Arts Council, the district has a strong and growing arts and creative industries economy. This offer is an important part of the district's "Place Offer" to those who wish to live and work here, to visitors, both local and from further afield, and it also makes an important contribution to quality of life for local communities.

The Council's financial position is however under review as are the positions of other public sector funders to the arts, and it is difficult to justify investing in a commissioning strategy at this time until the future of these arrangements is determined.

Councillor Clifford proposed, seconded by Councillor Hanson:-

"That the recommendations, as set out in the report, be approved."

Councillors then voted:-

***Resolved unanimously:***

- (1) That the City Council's existing Arts investment framework continues, subject to annual budget processes, until such a time as Cabinet determines that it wishes to take an alternative approach.
- (2) That, to ensure value for money and provide consistency, the commissioning criteria outlined in the Commissioning Framework and agreed by Cabinet in December 2012, as well as any relevant performance measures, be used as the basis of evaluation for the City Council's investment in the Arts.

**Officer responsible for effecting the decision:**

Chief Officer (Regeneration & Planning)  
Chief Officer (Resources)

**Reasons for making the decision:**

Investment in the Arts supports the City Council's Corporate Priority of Sustainable Economic Growth, contributing to the delivery of the corporate outcome "*The attractiveness and offer of the district, as a place to visit or invest in, will be improved.*"

SLA's were working well and it would be remiss to go down a route which would take away the City Council's commitment to that process.

**46 CORPORATE PERFORMANCE AND FINANCIAL MONITORING 2015/16 - QUARTER 2**

**(Cabinet Member with Special Responsibility Councillor Newman-Thompson)**

Cabinet received a joint report from the Chief Officer (Governance) and Chief Officer (Resources) which presented the corporate financial monitoring report for Quarter 2 of the 2015/16 monitoring cycle and provided an update on improvements being made in corporate performance management, monitoring and reporting and the effective use of business intelligence to inform decision-making.

No options were presented as the report was for comments and noting.

Councillor Newman-Thompson proposed, seconded by Councillor Clifford:-

"That the report be noted."

Councillors then voted:-

***Resolved unanimously:***

- (1) That the report be noted.

**Officers responsible for effecting the decision:**

Chief Officer (Governance)  
Chief Officer (Resources)

**Reasons for making the decision:**

The City Council's Performance Management Framework requires the regular reporting of operational, as well as financial performance.

**47 URGENT BUSINESS REPORT**

**(Cabinet Member with Special Responsibility Councillor Blamire)**

Cabinet received a report from the Chief Officer (Governance) to advise Members of actions taken by the Chief Executive, in consultation with the relevant Cabinet Members with regard to the City Council acting as an accountable body in connection with the Coastal Revival Fund.

Councillor Clifford proposed, seconded by Councillor Hanson:-

"That the recommendation, as set out in the report, be approved."

Councillors then voted:-

***Resolved unanimously:***

- (1) That the actions taken by the Chief Executive, in consultation with the relevant Cabinet Members in accordance with the Scheme of Delegation, in respect of the following, be noted:-
- (1) *That the City Council agrees to act as the Accountable Body for the Venus and Cupid Arts Trust Coastal Revival Fund application.*
  - (2) *That a letter from the Chief Executive agreeing to act as the accountable body for the funding is written and sent to the Venus and Cupid Arts Trust at the earliest opportunity.*
  - (3) *That consultation is undertaken with a view to waiving call-in, in accordance with Overview and Scrutiny procedure rule 17, to enable the decision to be implemented immediately.*

**Officer responsible for effecting the decision:**

Chief Officer (Governance)

**Reasons for making the decision:**

The decision fulfils the requirements of the City Council's Constitution in advising Cabinet of urgent decisions taken by the Chief Executive in accordance with the City Council's Scheme of Delegation.

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Chairman

(The meeting ended at 6.25 p.m.)

**Any queries regarding these Minutes, please contact  
Liz Bateson, Democratic Services - telephone (01524) 582047 or email  
ebateson@lancaster.gov.uk**

**MINUTES PUBLISHED ON THURSDAY 5<sup>TH</sup> NOVEMBER, 2015.**

**EFFECTIVE DATE FOR IMPLEMENTING THE DECISIONS CONTAINED IN THESE MINUTES:  
FRIDAY 13<sup>TH</sup> NOVEMBER, 2015.**

**CABINET**

**6.00 P.M.**

**1ST DECEMBER 2015**

**PRESENT:-** Councillors Eileen Blamire (Chairman), Janice Hanson (Vice-Chairman),  
Abbott Bryning, Karen Leytham, Richard Newman-Thompson,  
Margaret Pattison and David Smith

Apologies:-  
Councillor Darren Clifford

Officers in attendance:-

|                 |   |
|-----------------|---|
| Mark Cullinan   | Chief Executive                                   |
| Nadine Muschamp | Chief Officer (Resources) and Section 151 Officer |
| Sarah Taylor    | Chief Officer (Governance) and Monitoring Officer |
| Mark Davies     | Chief Officer (Environment)                       |
| Andrew Dobson   | Chief Officer (Regeneration and Planning)         |
| Liz Bateson     | Principal Democratic Support Officer              |

**48 MINUTES**

The minutes of the meeting held on Tuesday 3<sup>rd</sup> November 2015 were approved as a correct record.

**49 ITEMS OF URGENT BUSINESS AUTHORISED BY THE LEADER**

The Chairman advised that there were no items of urgent business.

**50 DECLARATIONS OF INTEREST**

No declarations were made at this point.

**51 PUBLIC SPEAKING**

Members were advised that there had been no requests to speak at the meeting in accordance with Cabinet's agreed procedure.

**52 ADOPTION OF THE LOCAL LIST CRITERIA**

**(Cabinet Member with Special Responsibility Councillor Hanson)**

Cabinet received a report from the Chief Officer (Regeneration & Planning) which sought Cabinet's approval for the adoption of the Council's Local List Selection Criteria document and put in place arrangements for decision making.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

|               | <b>Option 1:</b> To approve the adoption of the Local List Selection Criteria document  | <b>Option 2:</b> To not approve the adoption of the Local List Selection Criteria document   |
|---------------|---|--|
| Advantages    | The adoption of the Local List Selection Criteria document complies with guidance set out by Historic England in <i>Good Practice Guide For Local Heritage Listing</i> , which states that local planning authorities should identify heritage assets valued by the local community. The local list will inform Development Management in their day-to-day work. It will also have wider informative value of the importance and role of locally distinctive heritage assets to the public. | There are no advantages to not approving the Local List Selection Criteria.  |
| Disadvantages | There are no disadvantages to the local list selection criteria document as the process is designed to act as an informative measure for the council and the public.  | This would have significant consequences of the future management of non-designated heritage assets as it would mean that an opportunity to recognise the locally significant heritage value of individual assets by means of their inclusion on a local list is not realised. When determining planning proposals reference can be made to the inclusion on this local list. This can assist in ensuring that they are preserved and enhanced for future generations. |
| Risks         | There are no risks associated with this option.   | There is the potential risk that if not locally listed the development of assets with historic interest will not contribute positively to its identity and character through good design.  |

Option was the preferred option for the reasons given above. The compilation of a list of local heritage assets will be beneficial to the council and community as it will identify historic assets which crucially contribute to the local identity of the district which are worth preserving for future generations.

Officers have responded to comments made during the public consultation period and have, subsequently, clarified the proposed selection criteria for assets to be added to the

local list. This has led to the development of a tier system for selection, which needs to be adopted to facilitate the establishment of the list.

The adoption of the local list complies with guidance in the NPPF because the local list will identify the significance of heritage assets and enable a balanced judgment to be made by Development Management in the scale of harm or loss to the significance of non-designated heritage assets.

The local list will assist Development Management in their day-to-day applications, inform the local community on their local heritage and positively contribute to the sustainability of the district's built heritage.

Councillor Hanson proposed, seconded by Councillor Smith:-

"That the recommendations, as set out in the report, be approved."

Councillors then voted:-

***Resolved unanimously:***

- (1) That the adoption of the local list selection criteria document, appended to the report, which will be used for the compilation of a list of non-designated heritage assets (Local List) in the Lancaster district, be approved.
- (2) That delegated powers be granted to the Chief Officer (Regeneration and Planning) to use the adopted criteria to make decisions on whether to add buildings or structures to the local list.
- (3) That provision be made to enable owners of buildings or structures added to the Local List to appeal against their designation to the Appeals Committee.

**Officer responsible for effecting the decision:**

Chief Officer (Regeneration & Planning)

**Reasons for making the decision:**

The adoption of the local list criteria could increase community involvement in the identification of distinctive local historic buildings or structures, thereby leading to an increased awareness of heritage assets, their role in planning decisions and the contribution they make to the built environment. This could lead to the increased re-use of buildings as they are recognised as historically important and, therefore, make a contribution to the sustainable development of communities.

**53 RYELANDS PARK / GREAVES PARK MASTERPLANS 2015-2025**

**(Cabinet Member with Special Responsibility Councillor Smith)**

Cabinet received a report from the Chief Officer (Environment) which sought approval for the Ryelands Park and Greaves Park Master Plans 2015-2025.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

|               | <b>Option 1:</b> Approve the master plans for delivery   | <b>Option 2:</b> Continue without master plans  |
|---------------|--|---|
| Advantages    | <p>The master plans help focus current and future resources on areas and attractions that will enhance the park.</p> <p>The plans will also help support applications to external funders to preserve and enhance the park</p> | <p>The opportunities to preserve and enhance the park through additional funding support would be very much reduced.</p> <p>There would be no clear guidance to the development of the park. This can be particularly difficult when considering new opportunities.</p> |
| Disadvantages |  | Less potential for external funding opportunities   |
| Risks         | Funding for development is not secured. If the volunteer groups disband it would be difficult for the council to obtain funding from external sources.   | The park may slip into decline without proper forward planning  |

The preferred option was option 1. The parks are very popular and well used. It is important to have a plan for the future to ensure they remain popular. The plans will help support applications to external funders to preserve and enhance the park. The ongoing maintenance requirements for the proposed adventure play area and BMX pump track at Ryelands Park should be noted.

Councillor Leytham proposed, seconded by Councillor Smith:-

“That the recommendations, as set out in the report, be approved.”

Councillors then voted:-

***Resolved unanimously:***

- (1) That the master plans for Ryelands Park and Greaves Park 2015-2025 be approved.
- (2) That decisions relating to the delivery of the master plans be delegated to the Chief Officer (Environment), in line with financial regulations, and the previous decision of Cabinet relating to Accountable Body Authorisation for Community Groups (4<sup>th</sup> August 2015, Minute 13).
- (3) That Cabinet notes the ongoing efforts of volunteers in Ryelands and Greaves Park and many other Parks and areas of open space in the District and expresses thanks for the ongoing contribution they make.

**Officer responsible for effecting the decision:**

Chief Officer (Environment)

**Reasons for making the decision:**

The decision is consistent with the Council's Clean, Green and Safe Places priority. The master plans will assist in allocating current and future resources within the parks, to both preserve the parks and enhance their assets.

**54 OLDER PEOPLE'S CABINET LIAISON GROUP**

The Chairman advised the meeting that this item had been withdrawn from the agenda.

**55 PEER CHALLENGE ACTION PLAN****(Cabinet Member with Special Responsibility Councillor Blamire)**

Cabinet received a report from the Chief Executive to approve the draft Action Plan following the Local Government Association (LGA) Corporate Peer Challenge undertaken in June 2015.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

The options for Cabinet are

- a) to agree an action plan and for officers to take it forward, or:
- b) not to agree an action plan.

The aim of the Peer Challenge was to drive forward improvement, therefore if the issues raised by the final report are not addressed, the Council will miss an opportunity to tackle areas that can be improved in a targeted way. For this reason, the officer preferred option is a).

Councillor Blamire proposed, seconded by Councillor Hanson:-

"That the recommendation, as set out in the report, be approved."

Councillors then voted:-

***Resolved unanimously:***

- (1) That the Action Plan developed to address the points raised by the LGA Peer Challenge be approved.

**Officer responsible for effecting the decision:**

Chief Executive

**Reasons for making the decision:**

The LGA Peer Challenge highlighted some areas for improvement and development and the Action Plan has been drawn up to tackle those areas.

**56 CORPORATE PLAN 2015 - 18 HALF YEARLY PERFORMANCE****(Cabinet Member with Special Responsibility Councillor Blamire)**

Cabinet received a report from the Chief Officer (Governance) which provided an update on progress towards the delivery of the 2015-2018 Corporate Plan as at 30th September 2015. As the report was primarily for noting, no options were provided.

Councillor Blamire proposed, seconded by Councillor Pattison:-

“That the report be noted.”

Councillors then voted:-

***Resolved unanimously:***

(1) That the report be noted.

**Officer responsible for effecting the decision:**

Chief Officer (Governance)

**Reasons for making the decision:**

The report is a requirement of the Council's Performance Management Framework in support of the delivery of key priorities and outcomes as set out in the overall policy framework.

**57 BUDGET AND POLICY FRAMEWORK UPDATE 2016-20****(Cabinet Member with Special Responsibility Councillor Newman-Thompson)**

Cabinet received a report from the Chief Officer (Resources) which provided an update on the Council's financial position to help inform development of Cabinet's corporate planning and budget proposals.

Given that the report was primarily for information, no specific options were put forward.

Budget work was progressing as planned but as more Government announcements were made, the scope for change and uncertainty had increased. Whatever the position, ahead of its next formal meeting Cabinet needed to make the most of the time available to it, by progressing its prioritisation and consideration of budget and planning options.

Focus must be on setting a four-year plan. For General Fund in particular, this is the only way in which reasonable planning can be achieved for the Council's reserves and balances. Various savings proposals will have up-front costs, risks and lead-in times attached – balances are a key tool with which these can be managed. If the current year's forecast underspending proved accurate, the budgeted £1M use of balances would reduce by £608K, falling to £392K in 2015/16. This would result in balances reaching £4.233M by 31 March 2016. If advice on the minimum level (currently set at £1M) remains unchanged, then £3.233M of balances would be available to help achieve

a sustainable budget over the coming years. Cabinet would expect this to be used wisely over four years.

Councillor Newman-Thompson proposed, seconded by Councillor Bryning:-

“That the recommendations, as set out in the report, be approved.”

Councillors then voted:-

***Resolved unanimously:***

- (1) That the draft budgetary position for current and future years as set out in the report as an interim update, be approved.
- (2) That the update be referred on to December Council for information.
- (3) That for the next Cabinet meeting in January, Cabinet determines its draft corporate planning and associated budget proposals to balance the General Fund budget to 2020, drawing on information from the report, the budget options currently being collated by Officers, and Government’s announcements regarding the Spending Review and the Settlement.
- (4) That the proposals referred to in 3) above be published at the earliest opportunity, to allow feedback and due consultation.
- (5) That Cabinet notes the working principle regarding surplus balances outlined at section 3.3.3, drawing on existing approved financial strategy.

**Officers responsible for effecting the decision:**

Chief Executive  
Chief Officer (Resources)

**Reasons for making the decision:**

This is an interim update as the Chancellor’s Autumn statement has not provided greater clarity on the financial position affecting the council. The financial situation will become clearer when details of the local government settlement are received within the next few weeks. Cabinet will as a result need to consider its draft budget proposals on 19<sup>th</sup> January 2016 and present these to the Budget and Performance Panel on 26<sup>th</sup> January 2016. Other briefings can be provided at the same time. This is essential to allow due consultation with elected members, stakeholders and to help manage community expectations. Inevitably deadlines are tight but this is unavoidable given the timing of the Government funding announcements and the statutory deadline (11 March 2016) for setting the budget. The decision to note the working principle regarding balances in the report leads into considering carefully the use of estimated available balances to help balance the budget over the next four years.

Chairman

(The meeting ended at 6.20 p.m.)

**Any queries regarding these Minutes, please contact  
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ebateson@lancaster.gov.uk**

**MINUTES PUBLISHED ON FRIDAY 4TH DECEMBER, 2015.**

**EFFECTIVE DATE FOR IMPLEMENTING THE DECISIONS CONTAINED IN THESE MINUTES:  
MONDAY 14TH DECEMBER, 2015.**