MINUTES OF A MEETING OF THE PARISH COUNCIL HELD ON MONDAY 12 FEBRUARY 2018 AT 7.30 PM AT THE VILLAGE HALL

Present: Chairman: Cllr. F A Delderfield.
Cllrs. Mrs C Adams, C L Atkinson, R L Bass, A J Gable, J C Gregan, Mrs A V Heaviside, J V Keyes and B S Marshall.

015.18 MINUTES OF THE PREVIOUS MEETING
The minutes of the Meeting of the Council held on 15 January 2018 were confirmed and signed.

016.18 DISCLOSURES OF INTEREST
The Chairman reminded Members that, in common with other local authorities, this item is placed high on the agenda to give Members the earliest opportunity to declare known interests in items set out for later discussion; notwithstanding that they should also declare interests as soon as they become aware should the need arise throughout the meeting. There were no disclosures.

Members were also reminded to review and update if necessary their interests recorded in the Register of Interests and which they are required to declare under the Localism Act 2011 and the Council's Code of Conduct.

017.18 ADJOURNMENT FOR THE PUBLIC TO SPEAK
One member of the public (Mr Hood) was present and spoke about a recent planning application, to vary a Section 52 Agreement on land off Hall Road, considered by the North Western Planning Committee. He and a number of residents had attended but there was nobody from the Parish Council. After a discussion by the Committee, from which the public were excluded, a decision on the application was deferred. Cllr J V Keyes advised that the application had “gone to the legal department” [later found to be to seek Counsel’s opinion]. The Clerk advised that several parishioners had also spoken to him about their experience of the meeting. The Chairman advised that the notice given to the Parish Council was very short and no-one was available to attend and thanked Mr Hood for his information. (See minute 021.18 below)

018.18 CHAIRMAN’S ANNOUNCEMENTS, REPORTS OF OTHER BODIES AND GENERAL CORRESPONDENCE.
The Clerk reported Maldon District Council news releases on the Housing Infrastructure Fund; The Future of Essex Vision; and Livewell.

019.18 MATTERS ARISING FROM THE MINUTES
Cllr C L Atkinson reported that the trees along the Chase on the Parish Council side do not require attention at present; and the Hall Road residents replanting a tree have carried out a good job. The Clerk reported that requesting a Tree Preservation Order on a Parish Council owned tree will involve submitting an application similar to a planning application; the South Essex Parking Partnership will consider a request for parking restrictions without a public petition and; Mr Banham said he hopes to address the Football Club lease in the next few weeks.

020.18 PLANNING POLICY AND STRATEGY:
Neighbourhood Plan Steering Group: The Steering Group had met on 23 January and formulated its Vision, Roles and Responsibilities (a copy is appended to these minutes) The Group also agreed a list of actions.

Planning Enforcement: The Clerk had recently advised someone how to make a planning enforcement complaint and gave Members details of the process. It was thought that the Parish Magazine my want to publish it.
Renewable and Low Carbon Technologies: Information about a Consultation on the draft Maldon District Renewable and Low Carbon Technologies Supplementary Planning Document was received.

021.18 PLANNING APPLICATIONS
Parish Trigger: A further letter was received from the Chief Executive of the Maldon District Council explaining why it is necessary to remove the parish trigger and to give an assurance that parish council views will be taken into account. Copy letters from other parish councils were also received.
Application MAL/17/00582: Land Opposite 34 Hall Road – The Clerk reported that this application was deferred by the North Western Planning Committee. Further to the comments made in the public session above Members noted that the area which includes that with the Section 52 Agreement has a long planning history and perhaps the Parish Council is better informed about it than the District Council. It was agreed that the Clerk writes to the Chief Executive to explain the background and history and its current importance. A copy of the letter sent is appended to these minutes.
Planning Decisions: The Clerk reported on the latest planning decisions of the Maldon District Council.
Latest Applications: Comments on planning applications received up to week ending 9 February 2018 were as follows:

FUL/MAL/17/01389 Variation of condition 3 (number of caravans), 4 (siting of static caravan) and 12 (approved plans) of Appeal Decision ref: APP/X1545/A/14/2220387 (change of use of part of the land for the stationing of caravans for residential purposes as an extension to an existing gypsy and traveller site; and relocation of existing stable building). Land At Junction Of Captains Wood Road And Maypole Road

The Council recalls the planning history of the site which was previously occupied unlawfully. Enforcement action lead to an application for one pitch (MAL/13/00920) which was allowed on appeal. In determining the appeal the Inspector was very clear about the impact of the development on the countryside and said in the report that: *In order to safeguard the character and appearance of the countryside the number of caravans on the site should be limited to 2, of which no more than one should be a static caravan. For the same reason the static caravan/mobile home shall be sited in accordance with the submitted plans*.

The Council notes that the application is for six caravans plus buildings which is totally unacceptable whereas the current permission is for two caravans on the site. The Council considers that development over the Planning Inspectorate's clear limit would result in an unwelcome intensifying effect in an area of rural character. The location is outside the settlement development limits, and at a dangerous junction and any intensification of traffic would be unacceptable. Moreover the Maldon District does not have a deficit of traveller site provision. The proposal is contrary to the policies of Approved Maldon District Local Development Plan. The Council recommends refusal.

FUL/MAL/18/00001 Removal and decommissioning of redundant oil tank within garden. Retain bund walls, remove high level timber structure/screening and replace

with matching masonry to lower level, cover with mono pitch roof. Covert interior to living space with multifunction use 12 Foster Road – The Council has no objections provided there is no overlooking of neighbouring properties and the development is conditioned solely for use with the main dwelling.

HOUSE/MAL/18/00050 3 bay garage and non habitable room in roof space. The Dell 18 Maldon Road - The Council has no objections provided there is no overlooking of neighbouring properties and the development is conditioned solely for use with the main dwelling.

HOUSE/MAL/18/00039 Loft Conversion. Ground floor rear extension. Erection of garden room and garden shed. Various alterations. Copper Beeches Beacon Hill – The Council has no comment.

LDE/MAL/18/00024 Claim for a Lawful Development Certificate for the existing building on agricultural land. Plot Adjacent To Land On The South East Side Of Captains Wood Road The Council is aware of the building which it considers not to be a residence.

FUL/MAL/18/00056 Variation to design of design of shed/barn as approved under planning permission FUL/MAL/14/00941 including stable, tack room and log store. Land North Of Poplar Grove Chase - The Council has no comment as the proposed variation is unclear.

COUPA/MAL/18/00135 Notification for prior approval for a proposed change of use from storage or distribution buildings (Class B8) and any land within its curtilage to dwelling houses (Class C3). Agricultural Barns Adjacent 31 Plains Road -

The site is outside of the settlement development limits and the proposal would be inappropriate in this location and detrimental to the identity and tranquillity of the area; in any event the design, construction and condition of the existing buildings make them wholly inappropriate for re-use as envisaged under the 2014 T & C Planning Order No 564 They are also in an unsustainable location and contrary to policies to policies S1, S3, S8 and D1. The location also unsuitable in terms of access, being on a bend and opposite a junction and contrary to policy T2.

The Council notes that the existing buildings are now described as being used for storage or distribution and not agricultural purposes following the approval of a lawful development certificate under MAL/17/00547. This application included a statutory declaration by the applicant saying: *Since the purchase of my property known as Land adjacent to 31 Plains Road, Great Totham, Maldon, Essex, CM9 8DT in August 2003, I have continued to use the building for commercial storage, notably for kitchen equipment and hardware, metal loading frames and commercial records of the business to this present day.* However the evidence contained in three previous planning applications contradict this statement.

MAL/12/01056 The applicant's planning statement for MAL/12/01056, relating to the non-compliance of occupancy of the dwelling on the site at 31 Plains Road, cited the non-use of the barns for agriculture as evidence to support the certificate of lawfulness of the non-agricultural occupancy and describes the position thus: *The new dwelling no. 31 Plains Road was constructed pursuant of MAL/382/91, where this, barns and some land has been sold off from Lawn Farm at some point. The buildings are disused apart from one that is used for domestic storage and there are*

only 6 hectares of disused land where a small section of this is leased out. There are no farm animals kept on the land. The application was withdrawn.

MAL/13/00125 The same position is contained in the planning statement for the approved similar application MAL/13/00125 received by the District Council on 1 February 2013. Thus in 2012/13, on the evidence of the applicant, the buildings were clearly not used for either agriculture or commercial storage but disused, apart from one storing some domestic items.

MAL/17/00069 The application form for MAL/17/00069 for the change of use of three agricultural buildings to three dwellings asked the following questions under section 4:

> *If the building was not in use on 20th March 2013, what date was it last in use?* The applicant did not answer the question.
> *What was the use of the building on 20th March 2013 or the last use before that date?* The applicant answered *AGRICULTURAL.*

The current application, in relation to similar questions about Class B8 use on or before 19th March 2014 ticks the yes box. This demonstrates the change of use from agricultural to storage as between 1 February 2013 and 19 March 2014 which is contrary to the statutory declaration made for MAL/17/00547 and the planning statements for MAL/12/ 01056 & 13/00125. The Council recommends refusal.

RES/MAL/17/01474 Reserved matters application for the approval of appearance, landscaping, layout and scale on approved planning application OUT/MAL/15/00267 allowed on appeal APP/X1545/W/15/313309 (Outline planning application with some matters reserved for the residential development of 14 dwellings, garages and associated works) Land East Of Malone Cottage Maypole Road Wickham Bishops.

Wickham Bishops Parish Council had sent a copy of their response to the above application which is near to the boundary with this parish. Although we had not been formally consulted by the District Council it was agreed to comment as follows:

Great Totham Parish Council was not formally consulted on this application and realises that the consultation period for this application has expired. However, the Council notes that the application is not yet determined, and as the site is close to the parish boundaries, makes following comments: The Council is aware of the response made by Wickham Bishops Parish Council and fully supports it. In addition to the points made the Council would like to see greater attention paid to road safety including safer walking to school and elsewhere. The Council recommends refusal.

022.18 FINANCE:
Confirmation of Payments: Payments were confirmed for:

Amount (£)	Payee	Service
390.00	R & G Mann	Hedge Cutting
50.00	Great Totham Gardening Club	Donation for upkeep of flower beds

687.00	Great Totham Village Hall	£440 Hire of Hall for meetings 2017/18 £247 Hire of Hall for Neighbourhood Plan Steering Group.
444.00	C R Potter	Salary/allowance

Local Service Fund: Information was received about the Essex County Council's Local Service Fund which could pay for, say, employing a handyman. It was thought that the Council could work up a bid for the next round for employing such a person. Members agreed to think about and suggest on-going jobs which need to be carried out for inclusion.

023.18 AMENITIES

Report of the Chairman of the Committee: Cllr C L Atkinson reported that he is to seek a quotation to cut back the trees and undergrowth overhanging the verge at the Colchester Road end of the Totham Hill Recreation Ground. The Council's hedge cutting contractor is unable to carry out the work. Cllr Atkinsons's report was received and adopted.

Dog waste bins: It was agreed that the Council will purchase some new dog waste bins. The District Council will charge for emptying for the first year. A replacement bin for the Totham Hill Recreation Ground will also be purchased.

Annual Playground Inspections: The Clerk reported that the Annual Inspections will be carried out in April for £56 per site.

024.18 HIGHWAYS AND TRANSPORTATION

Localism Rangers Work: Displace road signs will be reported at Hall Road, Church Road and Maypole Road.

Local Highways Panel: Minutes from the Local Highways Panel were received.

025.18 COMMUNITY POLICING, SAFETY AND REGULATION

Speedwatch Report: Cllr C L Atkinson reported that two checks were carried out since the last meeting one of which reported 20 vehicles exceeding the speed limit in one hour.

Maldon District Council Enforcement Team: Sites were identified for possible Tru- Cam speed checks speed enforcement work. The following locations were considered as places where speed offences occur. The four sites already approved for Speedwatch at Maldon Road (2 sites), Prince of Wales Road and Walden House Road; and Chapel Road, Mill Road, Colchester Road, Kelvedon Road, near the Spinney, and Maldon Road near the Bull. It was noted that parts of Kelvedon and Maypole Roads are checked by the Wickham Bishops Speedwatch Group.

Heroes Award: Information about the Police, Fire and Crimes Commissioner's Community Heroes awards was received.

Data Protection Act: The Clerk reported forthcoming changes to the Data Protection Act and he will find out about the implications for the Council.

026.18 MEETINGS FOR 2018/19

A schedule of meetings for 2018/19 was agreed. A copy is appended to these minutes.

027.18 ANY URGENT BUSINESS AND FUTURE AGENDA ITEMS

There was no urgent business.

The meeting closed at 8.35 pm.

Great Totham Neighbourhood Plan

Roles and Responsibilities

NP Steering Team

Lead development & delivery of the plan from Concept to Final Approval

Project Management and meeting agreed timing

Consult with and obtain regular agreement with Parish Council on direction and progress

Maintain community buy-in

Maintain the website and communication process

Provide direction and support to working groups

Parish Council

Support the steering team in development of the plan

Attend steering team meetings

Support specific working group meetings

Financial accounting and control supporting Project Management

Working Groups

In depth knowledge and expertise in subject matter

Information gathering

Detailed development of the plan in line with the vision and principles

Gap analysis and gap closure proposals

Plan development

Vision Draft

Our vision is for Great Totham to continue to thrive, meeting the changing needs of the community whilst preserving the distinctive character, landscape and setting of the village that has evolved over thousands of years of history.

Principles – Draft

Although deciding where new housing and new employment should go is an important part of the plan it is about much more than this. The plan is for the Parish as a whole and looks at a wide range of issues

Achieving high quality and appropriate development, which fits well with the location and meets local housing needs. Establish a village design statement, which guides development appearance and style including density and retention of rural features

Preserve and enhance the village green spaces, make imaginative use of the Parish Council land stock.

Protecting open space within the village as well as surrounding countryside including the landscape, views and habitats

Enabling opportunities within the Parish for the growth of local businesses and tourism

Recognition of local transport requirements and enable improvements in traffic management including the maintenance of public rights of way and footpaths

Facilitating the natural development of local schools to meet the needs of the catchment area and improved community facilities including access to health care.

Working Groups – Initial Proposal

HOMES AND HOUSING

Type and mix, Affordable and social housing, Design (Village Design Statement?), Effective land usage, travellers.

ENVIRONMENT:

Heritage and history, Conservation and protection, Archaeology, Listed/Historic buildings, Landscape, views, woodland, hedgerows, wildlife, open spaces (and footpaths), solar farms, wind turbines, water and sewage, power and fuel supplies, mobile phone signal, broadband, education.
(Assuming we need one, Environmental Impact Report in here)

ECONOMY AND EMPLOYMENT:

Shops, tourism, holiday lets, pubs, use of redundant farm buildings, home working, self-employed, other employment.

GETTING AROUND:

Roads, public transport, commuting, road safety - speed limits, traffic calming, pavements as opposed to footpaths, parking, access to railways,

WELL BEING AND LEISURE:

Community groups and societies, meeting places, recreation grounds, walking, riding, cycling, access to medical facilities,

GREAT TOTHAM PARISH COUNCIL

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Website www.essexinfo.net/great-totham-parish-council

Date: 20 February 2018 **Your Ref:**

Dear Fiona,

MLA/MAL/17/00582 Application to the part relinquishing of Section 52 Agreement (MAL/408/084) dated 10/10/1984 relating to land at the rear of Seagers and Millways. Land Opposite 34 Hall Road

The Council has asked me to write to you about its concerns over the District Council's consideration of the above planning application, and to make you aware of the background to the present Section 52 Agreement. The application was on the agenda for the North Western Planning Committee Meeting of 5 February and one of our parishioners who attended the meeting informed us that a decision on the application has been deferred

We were invited to attend the meeting by a letter received on 31 January as we had commented on the application but at short notice we were unable to find anyone to attend due to other commitments. I looked for the report and Committee agenda on the District Council's website but neither were to be found on-line at the time. Councillor David Sismay said the report had been in place but appears to have disappeared and asked for it to be reinstated, which indeed it was. Several of our parishioners from Seagers and Hall Road attended the meeting and described their experience as "chaotic"

After finding the Committee report we noted that it recommends that the District Council voluntarily agrees the application and varies the Section 52 Agreement but no sound reasons for doing so are clearly stated. There is mention of a possible future cost if the case goes to a Land Tribunal and reference to testing the original purpose of the S 52 Agreement if the Council tried to enforce it.

Fiona Marshall
Chief Executive
Maldon District Council
Prices Road
Maldon, Essex
CM9 5DL

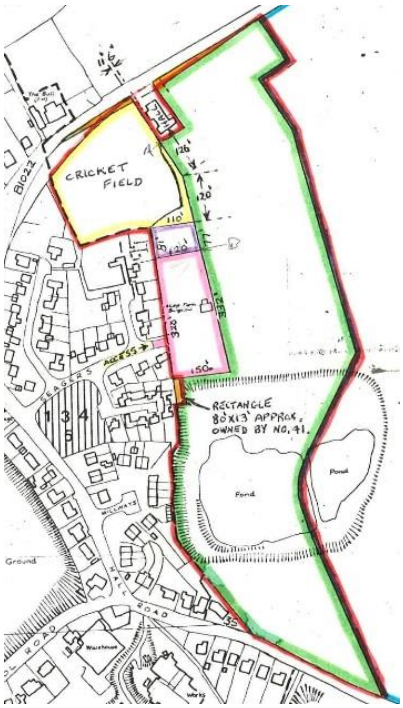
The former is laudable on the one hand but surely not a planning issue and the latter did not appear to be an issue with the Inspector in determining MAL/16/00289 who noted that the land is bound by the 1984 Section 52 Agreement.

The Committee report also mentions that, after research, the reason for the Section 52 agreement is not documented; and paragraph 3.1.2 seems to infer that its removal is simply a matter of process.

In order to clarify and understand the position it is necessary to examine the background to the case: The modern development limits for the three main settlements of Great Totham were set in 1981 following extensive consultation including with parishioners and the Parish Council, and published as part of the Great Totham District Plan. They followed the old Village Development Limits set in 1968 by Essex County Council based on population targets.

The new Development Boundaries included matters of physical boundaries, landscape setting and the character of the Village. At Great Totham South part of the boundary was tightly drawn from Maldon Road to Hall Road around the developing Seagers estate and the earlier built Millways and bungalows in Hall Road to prevent any further spread of housing development to the east. The Great Totham District Plan was approved for publication in January 1981 with the foreword: *The Maldon District Council will have regard to the contents of the Approved Plan as a basis for the control of future development*.

The Seagers development was built on land forming part of Ally's Farm and abutted the Village Cricket Ground (then privately owned) on its west and partly on its east sides. The Farm, Cricket Ground and the surrounding open land outside of the development boundary was under single ownership.



In October 1981 the landowner submitted an outline planning application (MAL/889/81), upon which the Parish Council was consulted, for a further 0.52 Hectare of land containing old farm buildings, at the rear of the already completed parts of Seagers and abutting the remaining eastern part of the Cricket Field boundary. The application site abutted but was outside of the newly approved development boundary and, in return for planning permission, the applicant offered to pass the ownership of the Cricket Field to the Parish Council as a planning gain.

After careful consideration the Parish Council agreed to support the application subject to the layout of the new houses sealing off the whole estate from any further development. The disadvantages of this development would be outweighed by the advantages of public ownership of the Cricket Field. It could be argued that had the proposal been made during the Plan consultation period it would have been incorporated.

The Parish Council entered into discussion with the Maldon District Council. For the application to succeed the Great Totham Plan needed amendment and Parishioners were consulted on the proposal to modify the Plan through the Annual Parish Assembly and public sessions at Parish Council meetings over a year and finally tested through a referendum of registered electors in Great Totham. This produced a response from 38.32%

of registered electors of whom 437 agreed with the proposed change and planning gain and 314 were against.

The development limits were revised in detail and the application was approved subject to the remaining area of land being protected by the Section 52 Agreement, which the landowner voluntarily entered in to and which remains in force.

In considering the robustness of the Development Limits it is important to note that although the Great Totham District Plan of 1981 is now of course superseded the development limits for this part of Great Totham have stood the test of time to become part of the Settlement Boundary in the current Local Development Plan. During this time the boundary has been scrutinised and subjected to public examination and approval through the Maldon District Local Plan and its Review, the Maldon District Replacement Local Plan as well as the current Local Development Plan. The current settlement boundary is identical to that for which the agreement not to develop outside of it was made on 10 October 1984.

In reflecting the above background account and messages from our parishioners the Parish Council made the comments, attached to this letter, on the application now under consideration, an edited version of which appears in the North Western Planning Committee report.

With regard to the application MAL/16/00289, allowed on appeal, the Maldon District Local Development Plan had not been approved so the Planning Inspector tested against the Maldon District Replacement Local Plan (2005). He records that he gave only limited weight to the emerging LDP which sets out the extensive future housing supply plans; thus his conclusions were that the housing mix proposed would help meet the housing needs of the District.

However he qualified his approval by saying in his report:

My attention has been drawn to a Section 52 Planning Agreement dating from 1984 which places a covenant on the appeal land, preventing the erection of permanent buildings or structures on it. Procedures for the modification or discharge of planning obligations are set out in the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992. No such application or appeal is before me and, therefore, the land would be bound by the 1984 irrespective of my decision. It would be for the decision maker in any subsequent application or appeal to determine whether the requirements of the 1984 Agreement remain valid.

The Parish Council had drawn it to his attention and provided a copy of the Agreement. With regard to the last sentence, the District Council is now the decision maker and the requirements of the 1984 Agreement remain valid since its terms continue to uphold the present Settlement Boundary shown in Map 10 of the Approved Maldon Local Development Plan.

I hope this letter helps to clarify the position and assists Members in making their decision.

Yours sincerely

Clive Potter
Clerk to the Council

Parish Council Comments on:

MLA/MAL/17/00582 Application to the part relinquishing of Section 52 Agreement (MAL/408/084) dated 10/10/1984 relating to land at the rear of Seagers and Millways. Land Opposite 34 Hall Road

"The Council strongly objects to any relinquishment, in part or otherwise, of this Section 52 Agreement.

The agreement was entered into by both parties (The Maldon District Council and the then landowners) willingly following a contentious application (initially MAL/889/81) to further develop the Seagers estate by placing six additional dwellings on land abutting Seagers but outside of the development limits defined in the Great Totham Plan. The landowner modified the application to include the transfer of ownership of the Cricket Field, also abutting Seagers, to the Great Totham Parish Council as a planning gain; and to covenant *not to erect or permit to be erected, or apply for planning permission to erect, any permanent buildings or structures at any time* on a defined band of land from Maldon Road to Hall Road.

For the application to succeed the Great Totham Plan needed amendment and Parishioners were consulted on the proposal to modify the Plan through the Annual Parish Assembly and public sessions at Parish Council meetings over a year and finally tested through a referendum of registered electors in Great Totham. This produced a response from 38.32% of registered electors of whom 437 agreed with the proposed change and planning gain and 314 were against.

To agree to now relinquish in part the agreement, made under the seal of the Maldon District Council, would appear to ignore the valid democratic process of a referendum and its outcome and betray those parishioners who took part in it. Some of those who participated in the referendum attended the last Parish Council meeting and asked at what level a decision on this application will be made and the Council requests that it is considered by Committee.

There is also the question of what enforcement action is being taken against the present landowner who has infringed the Agreement by applying for permission to erect."

GREAT TOTHAM PARISH COUNCIL

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SCHEDULE OF MEETINGS & OTHER DATES 2018/2019

2018		2018	
Mon 12 March	Annual Parish Meeting	Mon 12 November	Council
Mon 12 March	Council	Tue 20 November	Planning Committee*
Sun 8 April	Clean up Day	Mon 17 December	Council
Mon 9 April	Council		
Tue 17 April	Planning Committee*	**2019**	
Mon 14 May	Council (Annual)	Mon 14 Jan	Council
Tue 22 May	Planning Committee*	Mon 11 Feb	Council
Mon 18 June	Council	Mon 11 March	Annual Parish Meeting
Mon 16 July	Council	Mon 19 March	Planning Committee*
Mon 13 August	Council	Sun 7 April	Clean up Day
Mon 10 September	Council	Mon 15 April	Council
Mon 8 October	Council	Thurs 2 May	Parish Council Election
Tue 16 October	Planning Committee*	Mon 13 May	Council (Annual)
Sun 11 November	Remembrance Service		
Sun 11 November	1918 Commemoration		

1. All Council and Committee meetings and the Annual Parish Meeting start at 7.30pm (Council follows the Annual Parish Meeting).

2. * Whilst most planning applications are considered at Council meetings, Planning Committee meetings are scheduled to consider applications received with consultation time limits falling outside of the Council meeting cycle. These meetings will only take place if required and confirmed by agenda/notice.

3. Amenities Committee meetings will be arranged as required and advertised on the notice boards.

4. Meetings are normally held at the Village Hall and are open to the public unless, by resolution, the Council decides otherwise. Time is set aside at the beginning of each meeting for the public to speak about the business of the Council.

5. Any changes to time or venue are stated on the meeting notice.

12 February 2018