



You are hereby summoned to attend the meeting of Extraordinary Meeting of Caistor Town Council which will be held on Thursday 3 August 2023 commencing at 7:00pm at the Caistor Town Hall.

The business to be dealt with at the meeting is listed in the agenda.

Members of the public may make representations, answer questions and give evidence at a meeting which they are entitled to attend in respect of the business on the agenda. This must be done in the Public Questions item, and members of the Public cannot interrupt the business of the meeting at other times, unless Standing Orders are suspended by the Chair of the Council.

This council supports the rights of anyone to record this meeting but advises that anyone so recording cannot disrupt the meeting, by means of the recording, and expresses the hope that the person (or persons) carrying out the recording have obtained the necessary legal advice, for themselves, to ensure they understand the rights of anyone present who does not wish to be filmed or recorded.

Jon Wright
Chairman
27/07/2023

AGENDA

- 1 To receive declaration of interests and requests for dispensations and to consider granting dispensation(s)
- 2 To resolve to accept apologies for absence and reasons given in accordance with Local Government Act 1972 s85(1)
- 3 Public Participation (10 minutes max). Individual members of the public are permitted to address the council for up to 5 minutes each
- 4 To review and approve the draft minutes from full council 13th July meeting
- 5 To receive an update from Caistor and District Community Trust Ltd regarding the development of 2-4 Market Place
- 6 To understand and discuss the implications of drawing down the £750,000 loan from the Dept of Levelling up; agree what actions should be taken to ensure due diligence has been transparently completed; and agree next steps



Minutes of the Caistor Town Council held at 6:45pm at the Caistor Town Hall on 13 July 2023

Present: Cllr J. Wright, Cllr S. Davey, Cllr P. Richardson, Cllr J. Bowman, Cllr R. Lyus, Cllr M. Galligan,
Cllr S. Hodson, Cllr J. Hughes, Cllr A. Somerscales, Cllr J. Cox, Cllr L. Milner, Cllr A. Clark,
Cllr P. Morris,

In Attendance: Michelle Moss, District Cllr Lawrence, District Cllr Bierley,
Members of public present: 6

- 1. To receive apologies for absence & reasons given - Ref: 2095**
County Cllr Smith had sent apologies.
- 2. To receive declaration of interests and requests for dispensations and to consider granting dispensation(s) - Ref: 2096**
Interests were declared as follows: Cllr Davey agenda items 9a, 10c, 10d; Cllr Wight agenda items 12a and 12b; Cllr Cox 12d; Cllr Lyus 10c.
- 3. Public Session (10 minutes, during which the meeting is suspended) - Ref: 2097**
One resident raised concerns about the out of hours and antisocial use of the sports field car park on North Kelsey Rd and asked for the council to take action. It was agreed to add it to the next agenda for a discussion. One resident noted how attractive the town looked with the flowers, flags and bunting and thanked CTC and Caistor in Bloom for making the town look so appealing.
One resident raised the issue of pigeon muck on the play area equipment at South Street park. It was agreed to add the issue to the agenda for discussion at the next council meeting.
- 4. Chairmans Report - Ref: 2098**
Cllr Wright noted that he had attended 2 WLDC civic events - WLDC stand at Lincolnshire show and the flag raising ceremony for the armed forces at Guild Hall .
- 5. To approve the draft minutes of 8th June 2023 - Ref: 2099**
RESOLVED that the draft minutes of the meeting held on 8th June 2023 be approved as a true record of the meeting and signed by the Chair
Proposed: Cllr J. Bowman Seconder: Cllr M. Galligan All in favour
- 6. Finance - Ref: 2100**
 - a) To approve the Accounting Statements for period ending 30/06/2023 - Ref: 2101**
The accounting statements had been circulated to all councillors prior to the meeting.
RESOLVED to approve the accounting statements for the period ending 30.06.23 as a true record.
Proposed: Cllr J. Bowman Seconder: Cllr M. Galligan All in favour
 - b) To approve the Schedule of Payments - Ref: 2102**
The schedule of payments had been circulated to all councillors prior to the meeting.
RESOLVED to approve the schedule of payments which totalled £9257.21
Proposed: Cllr J. Bowman Seconder: Cllr M. Galligan All in favour
- 7. Reports from External bodies:- - Ref: 2103**
 - a) Lincolnshire Police - Ref: 2104**
No report received.
 - b) West Lindsey District Council. - Ref: 2105**
District Councillor Beirley's report had been circulated to councillors prior to the meeting. District Councillor Bierley thanked the council for supporting the Age UK outreach bus which is visiting Caistor on 28th July.
 - c) Lincolnshire County Council - Ref: 2106**

These are draft minutes and have not been formally approved and adopted



It was noted that County Cllr Smith is meeting with Richard Fenwick, Head of Highways Asset and Local Management Services in the forthcoming week and asked for any major issues to be shared in advance of the meeting.

d) Community Groups - Ref: 2107

Caistor Goes representative noted that Part in the Park is taking place this Saturday.
Community cinema representative noted that Fablemans was showing 29th July.

e) Town Hall Management Committee - Ref: 2108

Town Hall representative noted that both an AGM and Ordinary meeting had taken place and that the finances are in good health.

District Cllr Lawrence left the meeting.

8. To receive reports from Committee's and working groups, and agree any associated action - Ref: 2109

a) Personnel and Finance Committee - Ref: 2110

It was noted that the committee are next due to meet 25th July.

b) Estates Committee (including approve budget for play area repairs) - Ref: 2111

The estates committee had met on 4th July and the draft minutes had been circulated to all councillors prior to the meeting. It was noted that the revised terms and conditions for the allotments had been approved by the committee and would be shared with the plot holders. Feedback had been received from some of the allotment holders requesting that plot 11 is let out rather than set aside for composting.

Thanks were passed to Cllr Hodson for all the work he has undertaken improving the play areas and for fixing the broken fencing to the sports field car park so promptly.

RESOLVED:

1 - to ratify the £2000 budget allocated to remedial work on the play areas.

2 - To re-imburse Cllr Hodson for the cost of parts to fix the play area equipment.

Proposed: Cllr J. Wright Seconder: Cllr J. Bowman All in favour

c) Economic Development & Market Working Group - Ref: 2112

No meeting held.

ci) To review the recent issue with the Market Place electric supply and agree next steps - Ref: 2113

Cllr Bowman noted that there had been a recent issue with the electric supply when a market stall holder had left a badly wired extension plugged into the feeder pillar. The issue has now been resolved and steps taken to ensure future prevention. The Market T&C's have been revised to include safe use of CTC electricity. Cllr Bowman suggested a further change to remove the requirement for commercial grade wiring and protection. Cllr Davey asked for each stall holder to complete and submit a risk assessment with their market stall application.

cii) To approve the final draft market terms and conditions and market trader application form - Ref: 2114

RESOLVED to accept the revised market terms and conditions with the revisions suggested by Cllrs Davey and Bowman as part of agenda item 8ci.

Cllr Bowman to implement the revised terms and conditions.

Proposed: Cllr J. Wright Seconder: Cllr M. Galligan All in favour

9 Clerks Report & Parish Matters - Ref: 2115

a) To receive an update on the cricket club lease and agree next actions - Ref: 2116

Cllrs Wright and Clark and the clerk had met with representatives from the cricket club and a report had been circulated to councillors prior to the meeting. It was noted that/comments included: Legal advice had not previously been sought in relation to the lease and CTC have been quoted iro £3000 - £4000; a lease would give CCC sole access, allow for easier access to funding streams and additional security, whereas a licence permits CTC to allow other users; a 25/35 year lease is a very long commitment; the current rent is far too low

These are draft minutes and have not been formally approved and adopted



for a lease agreement where CTC are responsible for maintenance, weed, bug and vermin control.
RESOLVED that the request for a lease is refused, the cricket club licence remains in place and is renewed in line with all the other club licences which expire in March 2024.

Proposed: Cllr J. Bowman Seconder: Cllr A. Clark 1 abstained

b) To review recent damage at the sports field and agree what action to take - Ref: 2117

It was noted that: Cllr Hodson had replaced the missing fencing at the sports field car park; that some of the other parts of the fence around the car park are damaged; Cllr Hodson offered to repair the rest of the damaged car park fence for the cost of materials; there are several gaps in the hedge line to the sports field.

RESOLVED:

- 1 - to reimburse Cllr Hodson for the cost of materials used in fixing the damaged fencing
- 2 - to accept Cllr Hodson's offer to repair the rest of the damaged fence and would be reimbursed for the cost of materials estimated at £120 + VAT.

Proposed: Cllr J. Wright Seconder: Cllr S. Davey All in favour

c) Review Tracking Report - Ref: 2118

The report was circulated in advance of the meeting.

2-4 Market Place - It was noted that: the PWLB have still not yet approved the loan extension; the clerk chases their response at least once a week; the clerk suggested undertaking a very straightforward public consultation to ensure residents are still supportive of the loan given they were not specifically consulted on taking out the loan and the implications; councillors responded noting that consultations took place 2-3 years ago and very few residents turned up; and it would have a detrimental impact on the project if the residents were not supportive of the loan.

Cllr Bowman provided an update from the community group - 4 tenders were received, 1 is being taken forward and there will be a final meeting with them on 20th July with a view to building starting at the end of August to hopefully meet the build deadlines set by the funders. The Big lottery funding is still being offered but they expect all other funding to be in place for it to go ahead, but will allow a small shortfall.

Councillors asked for an update at the next CTC meeting.

RESOLVED rather than a consultation to share on social media and CTC website an overview of what CTC are doing to support the development of 2-4 Market Place.

Cemetery railings - The contractor is still planning to start first week in August.

Trim trail repair - Watermans have struggled to get the correct grade of pole and have asked the clerk to source the correct graded pole and then they will fit it. The pole has been sourced and is on order. The total cost will be £10 more than Watermans sourcing and fitting.

Proposed: Cllr L. Milner Seconder: Cllr M. Galligan Majority vote

d) To consider the HSTF report and agree any action - Ref: 2119

It was noted that the clerk does not have capacity to take this project on at the moment, but it is an important project for the town.

RESOLVED that Cllrs Bowman, Wright and Milner will form a working group made up of residents to take the project forward without the need for support from the clerk.

Proposed: Cllr J. Bowman Seconder: Cllr L. Milner All in favour

10 Correspondence Received - Ref: 2120

a) LCC litter picking equipment offer - Ref: 2121

RESOLVED to accept the offer of litter picking kits and ask for 50 kits with Cllr Galligan organising where they will be kept.

Proposed: Cllr M. Galligan Seconder: Cllr J. Bowman All in favour

b) Under 12 football team request to use Caistor football pitch for their practice and home matches - Ref: 2122

It was noted that the request has come from a team in Grimsby; that they are looking to play practice and home matches in Caistor; that there are likely to be scheduling conflicts with current teams using the pitches.

RESOLVED to regretfully refuse the request.



Proposed: Cllr P. Morris Seconder: Cllr J. Wright Majority vote

c) Request from Caistor Twinning association for a gift for their next visit - Ref: 2123

RESOLVED to support the request and grant Caistor Twinning Association £100 to purchase a gift to take to Savigne-i'Eveque.

Proposed: Cllr P. Morris Seconder: Cllr J. Bowman 2 abstained

d) Grammar school 11+ dates reminder about parking - Ref: 2124

RESOLVED that Councillor Bowman would organise the support for the parking on the required dates.

Proposed: Cllr J. Bowman Seconder: Cllr J. Wright 1 abstained

11 To note any planning decisions - Ref: 2125

Cllr Morris left the meeting.

a) Number: 146494. Condition Discharge. Request for confirmation of compliance with conditions 2 (materials), 3 (sample panel) and 4 (eaves and verge details) of planning permission 144440 granted 18 August 2022. Nettleton House, Nettleton Road, Caistor
Decision: Condition discharged - Ref: 2126

Noted.

b) Number: 146422. Condition Discharge. Request for confirmation of compliance with conditions 3 (joinery details), 5 (details of rainwater goods) and 6 (details of roof light) of listed building consent 136430 granted 30 August 2017. 17, South Street, Caistor.
Decision: Condition discharged - Ref: 2127

Noted.

c) Number: 146210. Full Planning. Planning application for installation of solar PV panels. Land at Top House Farm, 23, Grimsby Road, Caistor.
Decision: Granted time limit plus conditions - Ref: 2128

Noted.

12 To review the planning applications received and agree a response - Ref: 2129

Cllr Wright left the room. Cllr Bowman assumed the Chair.

a) PROPOSAL: Planning application for conversion and extension of windmill site to form 1no. dwelling being variation of conditions 2, 9 & 10 of planning permission 144661 granted 10 June 2022 - increased number of glazed panels
NUMBER: 146704

RESOLVED - no comments or objections

Proposed: Cllr J. Bowman Seconder: Cllr A. Somerscales All in favour

b) PROPOSAL: Listed building consent for conversion and extension of windmill site to form 1no. dwelling being variation of conditions 2, 6 & 7 of Listed Building Consent 144662 granted 10 June 2022 - increased number of glazed panels.
NUMBER: 146782

RESOLVED - no comments or objections.

Proposed: Cllr J. Bowman Seconder: Cllr A. Somerscales All in favour

c) PROPOSAL: Planning application to erect 5no. residential log cabins for independent service users
NUMBER: 146620
TYPE: Full Planning Application

LOCATION: Land at Top House Farm, 23, Grimsby Road, Caistor - Ref: 2132

Cllr Wright returned to the room and resumed the Chair.

Noted: this application has already been refused by WLDC.

d) (County Matter) PLANNING REFERENCE: PL/0040/23
DEVELOPMENT: For the phased extraction of sand and gravel with restoration to low-level acid grassland, lowland heath, gorse and woodland, including ancillary activities, associated infrastructure

These are draft minutes and have not been formally approved and adopted



and new access from North Kelsey Road

It was noted: there are concerns about silicosis as it is close to 2 buildings; there is a designated footpath through the area which will be closed for at least 3 years and is not being re-routed; the mining is planned for 7 years; there will be a HGV impact; extraction rights were introduced before the footpath was designated; the site has been a sand extraction site since 1901 but has been dormant; LCC will undertake inspections to ensure it is back filled appropriately.

RESOLVED to ask for the footpath to be re-routed for the duration of the mining but not to raise any further objections to the application.

Proposed: Cllr J. Wright Seconder: Cllr A. Clark Majority vote

13 Date of next meeting - Ref: 2134

August 10th 2023, 6:45pm

Meeting closed at 8:07pm



Public works loan to support 2-4 Market Place

August 2023



Summary of loan (based on interest rates @July 2023)

- £750,000 loan from Public Works Loan Board (PWLB) repayable over 50 years
- Annual repayments of £55,575 per year reducing by approx. £406 each year until the loan is repaid. Payments are due every 6 months.
- Total amount repayable over 50 years - £1,774,518.55
- CTC give the £750,000 to the Caistor and District Community Trust Ltd (CDCT).
- CTC propose to have a loan agreement with CDCT which mirrors the loan agreement CTC have with PWLB, i.e. CDCT pay CTC £1,774.518 in 6 monthly instalments over 50 years.



CTC is on the hook for the loan

- If CDCT break the loan agreement with CTC, CTC is still liable and have to pay PWLB the full payments for 50 years or a lump sum for the outstanding loan amount.
- If CTC do not have the money to pay our debt, the town council will be considered bankrupt.
- Even if CTC is bankrupt and cannot pay the loan back to PWLB, the government will tax Caistor residents via their council tax to meet the loan repayments.
- The building will be worth iro £800,000 when complete. Other organisations that have granted or lent money to CDCT have secured first charge over the property in the event of the project failing. This means CTC is likely to receive nothing if the project fails.



Budget implications

NALC/LALC have stated: 'CTC must review future reserve levels which need to be held and the impact that must have on precept and other projects over the short, medium and longer term'

- Current cash position for CTC
 - £50,000 in general reserves
 - £67,800 in allocated reserves
- Our current reserve position is around the minimum recommended
- CTC will need to 'ring fence' enough money to make the loan payment for at least 1 year – i.e. £56,000.
- This can only be done by raising the precept, reducing current expenditure or using current allocated reserves.
- The implications of taking the loan and not raising the precept are that ALL other non-essential projects, grants, improvements, maintenance and resourcing will have to stop until sufficient ring fenced reserves can be found for 1 years worth of loan repayments.
- Not raising the precept will leave the council completely vulnerable in the event of any issues



Public Consultation

LALC/NALC have stated that:

- our original loan application process was ‘flawed as residents were not provided with sufficient notice about the full potential costs that the taxpayers may be liable for’
- Councillors need to have ‘considered the full financial risk assessment’
- CTC and Councillors ‘must be **honest, open and transparent** about the loan and risks with taxpayers and electors’
- Residents must support the loan with ‘their eyes wide open that they will be on the hook for 50 years if the project failed to generate the necessary funds to cover the loan payments’



Summary of recommendations

- Full and transparent public consultation **MUST** be completed
- Increase the precept to provide sufficient ring-fenced reserves to make the annual loan repayment to PWLB whilst continuing to deliver current level of services to Caistor
- Critical financial analysis of the income/expenditure, cash flows, assumptions, costs etc is completed on CDCT project
- Solicitor is engaged to provide legal support for the loan agreement and charge on the property



A checklist of key information to be provided with any Parish and Town Councils borrowing application

Councils wishing to borrow will have to get in touch with the County Association, whether a member or not, to submit the Application Form. Where a borrowing approval is required the purpose must be detailed on the application and in a report to Council. Approvals should only be sought for capital expenditure. Please complete the borrowing application form and provide the following supporting information;

1. Copy of full minute of the Full Council Meeting with the resolution to seek the Secretary of State's approval for the proposed borrowing;
2. Copy of the Council's budget for the current year, and next year (if available), showing the provision made to meet the loan costs;
3. Full report to the Council or business case. This should include a breakdown of the proposed works, estimated costs, financial planning to fund the loan repayments and the steps/options the Council/has in place to mitigate the risk for not being able to afford the loan repayments;
4. Please provide information on how the Council will afford the loan repayments, breakdown of funding resources, amounts to be used from reserves, and any increase of precept to fund the borrowing;
5. If the Council precept is to be increased to cover the loan repayment, please confirm the amount and percentage of the planned increase related to the loan only (if possible how much increase for house holders at Band D);
6. If applicable, please provide evidence of public support to increase the precept to cover the loan repayment (e.g. the result of any consultation).
7. You still need to provide details how local residents were consulted on the project and associated borrowing even if you are not increasing precept to fund the loan (e.g. newsletter/website/in the agenda of public meeting).

Full provision of this information with the application demonstrating that it meets the guidance criteria will expedite the approval process. For further information,

- Please read full guide to parish borrowing;
- For any queries, please contact your local association at first instance or;
- For clarification on aspect of this guidance, please contact Mr Shafi Khan email: parish.borrowing@communities.gov.uk

A GUIDE TO PARISH AND TOWN COUNCIL BORROWING IN ENGLAND

Introduction

1. In this guide, all references to statutory provisions are to provisions in the Local Government Act 2003 ('the 2003 Act'). References to parish councils include those designated as town councils, village councils, community councils, neighbourhood councils and city councils in England.

2. This guide replaces all previous guidance on borrowing by parish councils in England and reflects the legal framework in force as at 1 April 2015. The law that allows a parish council to borrow money is contained in paragraph 2 of Schedule 1. Before such a council can borrow a sum of money, it must first receive an approval to borrow from the "appropriate person": in England the Secretary of State by way of the Ministry of Housing, Communities and Local Government (MHCLG), and in Wales, the Welsh Ministers. Evidence of the borrowing approval may be required at audit.

3. This guide sets out the criteria that the Secretary of State generally applies in deciding whether to give borrowing approval, and how parish councils should go about applying for approval. It applies only to England. Community and town councils in Wales should contact the Local Government Finance Division of the Welsh Government for details of the approval system applicable to them.

4. There is no national limit on the total annual amount of borrowing approvals that will be granted. Councils should only apply for borrowing approval when they are fully ready to take up the borrowing, for example, when planning permission has been obtained. Applications by councils for borrowing approval should be sent to the local County Association affiliated to the National Association of Local Councils (NALC). This applies whether or not the council is a member of NALC.

5. If the Association considers that the application form is complete with no obvious omissions or errors, and that the application is made in good faith, the application will be forwarded to MHCLG. Where an Association has any concerns it will raise the matter with the council. The council may, if it wishes, take up any disputed issue with MHCLG. The review by the County Association is intended to assist councils in submitting well-founded applications to MHCLG. The County Association will provide a brief factual report to MHCLG with the application.

Local Accountability and Transparency

6. The Government's localism agenda aims to place more power into people's hands. For democratic accountability to increase, local people need to be able to hold local authorities to account over how they spend public funds and the decisions that are made on their behalf. This principle applies to decisions made by all levels of local government, including parish councils. **Transparency is the foundation of this accountability** and, if people are to play a bigger role in society, they need to have the tools and information to enable them to do so.

7. When considering whether to apply for borrowing approval, parish councils should be fully open and transparent with their residents and taxpayers in all their dealings. Details of the project and plans for borrowing and loan repayment must be available to residents from an early stage. This could include discussion of proposals in open meetings, and ensuring that information is available for the public before and after a decision is taken, for example on the council website or published in local newsletters. Evidence of this will be taken into account in considering whether to give approval for borrowing. When increasing precept to fund borrowing, evidence of public support for increasing the associated precept will be required to support the loan application.

What is a Borrowing Approval?

8. It is a formal approval issued by the Secretary of State to borrow money.

9. The Secretary of State's decision on the borrowing application will be sent direct to the Clerk to the council. A copy of the decision letter will also be sent to the Chair of the council and the local County Association. Where approval to borrow is given, as well as containing the legal authority for the council to borrow money, the approval will state the maximum amount of money that can be borrowed, the purpose for which the money may be used, the period within which money must be borrowed, and the maximum period within which the borrowing must be repaid.

10. Where a council wishes to use borrowed money for a purpose other than that specified in the borrowing approval letter, written consent to the change of use must be obtained from MHCLG, prior to committing to the expenditure. This applies to unused funds.

Who can apply for Borrowing Approval?

11. Any parish council in England.

When is a Borrowing Approval not required?

12. Under paragraph 2(3)(a)(i) of Schedule 1, no approval is required for borrowing by temporary loan or overdraft from a bank or otherwise of sums which the council may temporarily require to meet expenses pending the receipt of revenues receivable by it in respect of the period of account in which the expenses are chargeable.

13. A council may also borrow by temporary loan or overdraft pending the raising of the loan permitted by a borrowing approval (paragraph 2(3)(a)(ii) of Schedule 1). A council must be in possession of the borrowing approval when the temporary loan is taken out, but no second approval is required. The temporary loan must be for the purpose of meeting expenses intended to be met by the approved borrowing. A council can also raise a further loan to repay the original loan without the need for another approval, so long as the new borrowing takes place within the fixed period (paragraph 2(3)(b) of Schedule 1). For the meaning of "fixed period" see paragraph 33 of this guide.

14. In all other circumstances, borrowing approval is required.

How is an application for borrowing approval made?

15. In the first instance, councils should complete the application form included in this guidance. Contact should also be made with the local County Association who will process the application form once it is completed. All questions in the form need to be answered and all supporting information must be supplied (see paragraph 16 below). The making of the application requires approval by resolution of the full council (paragraph 4 of Schedule 1). The form must be signed by the Chair of the council and the responsible financial officer (in most councils the Clerk is also the responsible financial officer, but the post is sometimes a separate appointment). The completed form must be sent in hard copy to the County Association (see paragraph 4 above).

What information must be provided?

16. In addition the form must be accompanied by:-

- a copy of the council's budget for next year (or for the current year if next year's is not available),
- a copy of the written report considered by the council in reaching its decision to apply for borrowing approval,
- the full minutes of the meeting at which the resolution to make the application was passed,
- evidence that residents have been consulted on the following:
 - i) the proposed project,
 - ii) the council's intention to borrow,
 - iii) proposals to increase the precept to meet borrowing costs, if applicable; and
 - iv) if applicable evidence of public support to increase precept because of the proposed borrowing.

17. Where the council intends to provide a grant to another body the references to "project" in this guide and in the application form apply to the assistance being provided by the council, not to the project towards which the assistance is given. For example, if a council wishes to borrow £50,000 to part finance a grant of £100,000 towards the construction by a local charity of a village hall costing £250,000, the application form should show £100,000 as the total cost of the project and £50,000 as the amount to be borrowed, and explain how the remaining £50,000 is to be financed by the council.

Parish council precepts and council tax referendum principles

18. When planning budgets and considering whether to apply for borrowing approval, parish councils should bear in mind the provisions of Chapter 4ZA of Part 1 of the Local Government Finance Act 1992 relating to council tax referendums. Each year, the Secretary of State will determine "excessiveness principles". If an authority breaches those principles, it must arrange a referendum to seek the approval of its local electors to the excessive increase in council tax it has set. For 2014-15, no

principles were set for parish councils: so the new referendum provisions did not apply to them for that year.

19. However, Ministers have made it clear that when setting principles in future years, the Secretary of State will consider whether principles should be set in respect of parish councils, in light of the extent to which restraint in relation to council tax in 2014-15 has been exercised.

20. Ministers are putting on notice that they are prepared, if necessary, to apply the referendum thresholds to larger town and parish councils from 2015-16 onwards to provide protection for local taxpayers and extend the principle of direct democracy.

21. If the Secretary of State decides to determine council tax referendum principles in relation to parish councils for the financial year 2015-16, (and in subsequent financial years), a parish council would need to consider whether its relevant basic amount of council tax¹ was excessive by reference to those principles. Councils with precept increases resulting in a relevant basic amount of council tax which exceeded the principles would be required to hold a referendum to seek local electors' approval to that increase. The result of the referendum would be binding and where an increase was not approved, the parish precept would be substituted with a precept that produced a relevant basic amount of council tax that was not excessive by reference to the principles. Parish councils would be responsible for meeting the costs of any referendum.

22. It should be noted that the Secretary of State will **not** exclude increases in parish council tax precepts attributable to a borrowing approval when considering whether to set council tax referendum principles for parish councils in 2015-16 and in future years.

23. The Secretary of State intends to determine excessiveness principles in parallel with the process for deciding the annual local government finance settlement for each year; so it is expected that principles will be proposed in November/December alongside the announcement of the provisional settlement.

What are the criteria for borrowing approval?

24. The Secretary of State will generally apply the following criteria in deciding whether to give borrowing approval:

- a) the borrowing should be for a purpose that would be capital expenditure as defined in section 16 of the 2003 Act. Appendix A to this guide explains what is covered by the section 16 definition;
- b) the amount to be borrowed should generally not be less than £5 multiplied by the number of local government electors for the area of the council as counted at the latest register for the electoral roll. However, the Ministry will consider applications for a lower borrowing amount where the total project cost is above the threshold and grants or other resources intended for the project expenditure will be refused or reduced if the borrowing does not go ahead;

¹ For the meaning of "relevant basic amount of council tax" see section 52ZX(5) of the Local Government Finance Act 1992.

- c) any unallocated balances (including, where appropriate, capital receipts), beyond those required for the prudent financial management of the council, should be used in the project for which borrowing is required;
- d) the council should have a realistic budget (this must be affordable, taking account of its effect on the council's precept) for the servicing and repayment of the debt. The Secretary of State will expect to see that the affordability of the loan charges and any other revenue costs arising from the project is demonstrated in the written report to the council recommending the borrowing application. A copy of the report should be submitted with the application form. The report should provide:
- an estimate of the annual costs, and an indication of whether they will be covered by reductions in other expenditure, or by additional income from the precept or other sources,
 - in cases where an increase in the precept is proposed, an estimate of the amount of the increase in both monetary and percentage terms, and recognition that any proposed increase in precept may be subject to council tax referendum principles in future years,
 - evidence that any risks and uncertainties affecting the financing of the project have been taken into account in assessing its affordability,
 - details of any significant financial developments that might affect the ability of the council to finance the costs in future years, so far as can reasonably be foreseen.
- e) The council should have consulted local residents on the project and associated borrowing. The format of consultation with residents is a matter for the council to decide, however councils should note the following:
- details of the project and plans for borrowing and loan repayment must be accessible to residents from an early stage,
 - decisions on borrowing must be taken in an open and transparent way, following discussion in open meetings,
 - inclusion of the matter on an agenda for a public meeting of the council will not, in itself, be considered sufficient evidence of consultation,
 - the council should ensure that information about the progress of the project continues to be available to residents following the approval to borrow,
 - in particular, any proposal to increase the precept to meet borrowing costs **must** be backed by evidence of public support.

When should a council apply?

25. All councils are encouraged to let their County Associations know of their borrowing requirements as soon as possible. However, councils should not apply for borrowing approval until all negotiations have been completed and all other consents (eg planning permission) have been obtained. If an applicant council is successful, processing of the borrowing approval should generally take about 15 working days from the date of its receipt by MHCLG. The borrowing approval will authorise the council to take out a loan within a period of twelve months starting with the date of issue of the borrowing approval.

How much can a council borrow?

26. The amount that an individual council will be authorised to borrow will normally be limited to a maximum of £500,000 in any single financial year for any single purpose.

27. Where borrowing approval is sought for an amount higher than £500,000, MHCLG may issue the borrowing approval phased over the life of the project. An approval-in-principle for the full amount will normally be issued at the outset of the project, with formal approval letters issued at stages agreed with the council. MHCLG may request project progress reports at any time during the phased approvals process.

28. A council wishing to borrow more than £500,000 is encouraged to contact MHCLG as early as possible to discuss the approvals process.

Where can councils go for funds?

29. Councils may not, without the consent of HM Treasury, borrow otherwise than in sterling (section 2(3)). In practice, most councils are likely to obtain funds from the Public Works Loan Board or the clearing banks. When councils apply for funds, the Public Works Loan Board will insist that they have sight of the original borrowing approval. Loans may also be taken out from private or voluntary sector organisations, or from individuals. Irrespective of the proposed source of borrowing, councils must have borrowing approval in place before arranging a loan. Evidence of the borrowing approval may be required at audit. Councils are advised to seek appropriate advice.

30. Councils are reminded that the decision to borrow must be taken by the full council (paragraph 2(4) of Schedule 1). This is a separate decision from the decision to apply for borrowing approval. Lenders will generally offer a variety of loan structures such as fixed or variable repayment rates of interest, discount or premiums for early repayment in certain circumstances.

Timing of borrowing

31. A council may borrow by temporary loan or overdraft pending the raising of the loan permitted by a borrowing approval (paragraph 2(3)(a)(ii) of Schedule 1). This means that progress on a project need not be delayed until the longer-term borrowing is arranged. See paragraph 13 above for the requirement for borrowing approval in these circumstances.

Security for the lender

32. All borrowing by a council, together with interest on it, is charged indifferently on all the revenues of the council (section 13(3)). A council cannot mortgage or charge any of its property as security for money borrowed or which it otherwise owes; any security given in breach of this provision is unenforceable (section 13(1) and (2)).

Period of loan

33. Councils must determine the period within which the money borrowed will be repaid, and they are required to make charges to revenue account sufficient to repay the principal within that period and meet the interest charges on the borrowing (paragraphs 3 and 5 of Schedule 1). The period determined is known as the "fixed period", and the council's determination requires the consent of the Secretary of State. The borrowing approval letter will normally specify the maximum period for the repayment of the loan. The maximum period will begin on the date on which the money is borrowed, and will generally be either:

- *50 years*, for the acquisition of, or works on or to, land, buildings, roads or structures, or the making of grants for such purposes; or
- *10 years or life span of an asset*, in all other cases.

34. Councils are asked to consider carefully whether it would be appropriate to borrow for the permitted maximum or for a shorter period. Generally the borrowing period should be no greater than the period for which the expenditure is forecast to provide benefits to the council (or the body being assisted). Thus if a piece of equipment is only thought likely to last for five years, it would be more appropriate to borrow for five years than for the ten years that the borrowing approval might permit.

When a borrowing approval is no longer required

35. If a council finds it no longer needs the borrowing approval issued to it, it must inform MHCLG.

36. If a council finds that it does not need to borrow the full amount as specified in the approval letter, MHCLG should be informed of the actual loan amount as soon as is reasonably practical.

Best Practice

- Seek appropriate advice and guidance at early stage of the project.
- Programme prudent use of balances as well as borrowing.
- Budgets or revised budgets should be considered before applying for borrowing approval.
- The borrowing term should not exceed the life of the asset.
- Even if the council secures an interest free loan, it will still require borrowing approval.
- Consult local residents about the proposed project and the intention to borrow.
- Make sure residents have access to as much information as possible about the project and loan, both before and after the decision to borrow.
- If increasing precept, ensure residents are consulted on the increase and obtain evidence to support loan application.

Issued July 2015

APPENDIX A

DEFINITION OF CAPITAL EXPENDITURE

- 1 Section 16 of the 2003 Act defines "capital expenditure" as "expenditure of the authority which falls to be capitalised in accordance with proper practices". In turn section 21(2) defines "proper practices" as those accounting practices that local authorities are required to follow by virtue of any enactment, or of a code of practice or other document specified in regulations. Under this power the Secretary of State has specified (among other documents) the CIPFA/LASAAC *Code of Practice on Local Authority Accounting in the United Kingdom* ("the Code"). The Code does not apply to parish councils. However, the first of the criteria set out in paragraph 24 of this guide relies on the Code's provisions to provide a definition of capital expenditure for parishes consistent with the definition applicable elsewhere in the public sector. This is done purely to ensure that all applications are judged against uniform criteria, and does not imply that the Code is in any way applicable to a parish council's accounting statements.
- 2 The key relevant paragraphs of the 2012-13 Code for the purposes of the capital expenditure definition are as follows:

4.1.2.11 Property, plant and equipment are tangible assets (ie assets with physical substance) that are held for use in the production or supply of goods and services, for rental to others, or for administrative purposes, and expected to be used during more than one period.

Recognition

4.1.2.16 The cost of an item of property, plant and equipment falling under this section of the Code shall be recognised (and hence capitalised) as an asset on a local authority Balance Sheet if, and only if:

- it is probable that the future economic benefits or service potential associated with the item will flow to the authority, and
- the cost of the item can be measured reliably.

4.1.2.17 Costs that meet the recognition principle in paragraph 4.1.2.16 include initial costs of acquisition and construction, and costs incurred subsequently to enhance, replace part of, or service the asset.

The Code goes on to exclude day-to-day servicing (ie repairs and maintenance) from the definition if they do not add to the future economic benefits or service potential of the asset.

- 3 In addition, section 16 allows the Secretary of State to adjust the definition of capital expenditure by regulation, and, in the case of a particular authority, by direction. Regulation 25 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (SI 2003/3146), as amended, provides as follows:

Expenditure to be capital expenditure

25. —(1) For the purposes of Chapter 1 of Part 1 the following expenditure of a local authority, incurred on or after 1st April 2004, shall be treated as being capital expenditure insofar as it is not capital expenditure by virtue of section 16(1) —

- (a) expenditure incurred on the acquisition or preparation of a computer program, including expenditure on the acquisition of a right to use the program, if the authority acquire or prepare the program for use for a period of at least one year for any purpose relevant to its functions;
- (b) subject to paragraph (2), the giving of a loan, grant or other financial assistance to any person, whether for use by that person or by a third party, towards expenditure which would, if incurred by the authority, be capital expenditure;
- (c) the repayment of any grant or other financial assistance given to the local authority for the purposes of expenditure which is capital expenditure;
- (d) subject to paragraph (3) the acquisition of share capital in any body corporate;
- (e) expenditure incurred on works to any land or building in which the local authority does not have an interest, which would be capital expenditure if the local authority had an interest in that land or building;
- (ea) expenditure incurred on the acquisition, production or construction of assets for use by or disposal to, a person other than the local authority which would be capital expenditure if those assets were acquired produced, or constructed for use by the local authority; and
- (f) the payment of any levy by a local authority under section 136 of the Leasehold Reform Housing and Urban Development Act 1993 (levy on disposals)

(2) Where the expenditure referred to in paragraph (1)(b) is a loan given by a parish council or charter trustees to any person, it shall not be treated as being capital expenditure by virtue of this regulation.

(3) Where the expenditure referred to in paragraph (1)(d) is—

- (a) an investment in a money market fund; or
- (b) an investment in the shares of a company to which Part 4 of the Finance Act 2006 (Real Estate Investment Trusts) applies; or
- (c) the acquisition of shares in an investment scheme approved by the Treasury under section 11 (1) of the Trustee Investments Act 1961 (local authority investment schemes).

it shall not be treated as being capital expenditure by virtue of this regulation.

Parish councils should note in particular the effect of paragraph (2) of the regulation.