

BABERGH DISTRICT COUNCIL

From: Strategic Director (Corporate)	Report Number: L162
To: Council	Date of meeting: 23 February 2012

CHELSWORTH PARISH MEETING

1. Purpose of Report

- 1.1 To consider an application from Chelsworth Parish Meeting that this Council make an Order conferring on the Parish Meeting certain powers of parish councils.

2. Recommendation

- 2.1 That an order be made pursuant to Section 109 of the Local Government Act 1972 conferring on Chelsworth Parish Meeting the powers of a Parish Council to exercise functions under Sections 111, 124, 125, 137, 139 and 222 of that Act and, subject to the agreement of the Highway Authority, to exercise functions under Section 96 of the Highways Act 1980.
- 2.2 That the Strategic Director (Corporate) be authorised to determine any future applications from Parish Meetings for powers to enable them to undertake the functions of Parish Councils.

3. Financial Implications

- 3.1 None.

4. Risk Management

- 4.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. 7, Localism and Community Engagement. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to understand local wishes and needs for new and/or improved services	Low	Critical	Review arrangements for the delivery of services as requests arise

5. Consultations

- 5.1 Consultations have been carried out with the Ward Councillor (Councillor Arthey) and Suffolk County Council.

6. Equality Analysis

- 6.1 The proposals of the Parish Meeting addressed in this report have no impact in relation to the equalities enactments.

7. Shared Service / Partnership Implications

- 7.1 None.

8. Key Information

- 8.1 In Babergh's administrative area there are nine small parishes that do not have parish councils. In those parishes, decisions about parish matters are taken by a Parish Meeting. A Parish Meeting is open to all electors of that parish, who are entitled to speak and vote on any matter under discussion.
- 8.2 Members will be familiar with the principle of *ultra vires* in local government by which a local authority, including a Parish Meeting, may only perform functions conferred upon it by law. Parish Meetings have limited powers compared to parish councils although, in many cases, they can be very active in representing their local communities. They can ask the inhabitants of the parish to contribute to expenditure as part of the council tax setting process but they can only do so where they have the power to carry out the function in the first place. Chelsworth Parish Meeting wishes to carry out – and incur expenditure on – a variety of functions for which it currently has no power. The District Council, however, has the power to confer on a Parish Meeting additional powers similar to those exercisable by a parish council.
- 8.3 At its meeting on 18 November 2011 the Parish Meeting passed the following resolution unanimously –

'That Babergh District Council be requested to make an order under Section 109 of the Local Government Act 1972 to confer upon Chelsworth Parish Meeting the functions of a Parish Council as follows:

1. *"Power of local authorities to incur expenditure for certain purposes not otherwise authorized" (section 137 of the Local Government Act 1972).*
2. *"Acceptance of gifts etc." (section 139 of LGA1972).*
3. *"Acquisition of land by agreement by parish and community councils" and "Compulsory acquisition of land on behalf of parish or community councils" (section 124 and section 125 of LGA 1972).*
4. *"Subsidiary powers of local authorities" and "Power of local authorities to prosecute or defend legal proceedings" (section 111 and section 222 of LGA 1972).*
5. *"Powers of highway and local authorities to plant trees, lay out grass verges, etc." (Highways Act 1980 Section 96, subsections (1) and (2)).'*

- 8.4 Section 137 of the Local Government Act 1972 allows a local authority to spend a limited amount on activities for which it has no specific power, but which the authority considers 'will bring direct benefit to the area, or any part of it or all of some of its inhabitants'. The Local Government and Housing Act 1989 added a requirement that the benefit obtained should be commensurate with the expenditure incurred. The amount of expenditure that may be raised using Section 137 powers is restricted in 2011/12 to £6.44 per elector and the Parish Meeting proposes to utilise the funds raised by this means on items such as the maintenance of the village green, the upkeep of which currently represents its major item of expenditure. However, the Parish Meeting also has other aspirations for the village and the total amount that could be raised under Section 137 is unlikely to be sufficient for its needs. It has therefore requested additional specific powers, which already exist for parish councils. The Parish Meeting has requested direct statutory powers that would enable it to -

- apply to the Highway Authority to operate an agreement to maintain highway verges (including the power to plant trees and shrubs, to lay out verges and erect fences)

- accept gifts and grants from individuals and organisations for the benefit of the village and its inhabitants (such as a grant for operation of a Community Speed Watch scheme)
- acquire, own and maintain land for the benefit of the village and its inhabitants (which in future would permit the Parish Meeting to acquire and hold various parcels of apparently abandoned land within the parish)
- prosecute or defend legal proceedings and to deploy “subsidiary powers” of local authorities (i.e. the power to do anything, including incurring expenditure, that is calculated to facilitate or is conducive or incidental to the discharge of any functions), which would enable the Parish Meeting to participate in campaigns such as that relating to electricity pylons, and to prosecute or defend legal proceedings in its own name and make representations at public inquiries in the interests of inhabitants of the parish.

8.6 The District Council has not delegated authority to make the necessary Order. No similar applications have been made recently but the power exists under Section 109 of the Local Government Act 1972 to enable local communities without parish councils to pursue their locally expressed and agreed needs or requirements.

9. Appendices

None.

10. Background Documents

- 10.1 Letter dated 6 December 2011 from the Chairman of Chelsworth of Parish Meeting
- 10.2 Draft minutes of Chelsworth Parish Meeting held on 18 November 2011.

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