

**GATE & UPPER HELMSLEY PARISH COUNCIL**

**MINUTES OF A PARISH COUNCIL MEETING HELD REMOTELY  
ON THURSDAY 09 DECEMBER 2021 AT 7.30PM**

**Councillors Present:** Janet Buckley Robert Grabowski  
Michael Harrison

**In Attendance:** Fiona Hill - Parish Clerk  
NYCC/RDC Councillor Caroline Goodrick

**Public Present:** 1- Anna Sawkins

**22/29 a) To receive apologies for absence given in advance of the meeting:**  
Parish Councillor Charlie Dodds

**b) To consider the approval of reasons given for absence:**  
Resolved, Approved (Unanimous)

**22/30 To record declarations of interest in items on the agenda:** None

**22/31 To confirm the minutes of the meeting held on Friday 09 September 2021:**  
Resolved, Approved (Unanimous)

**22/32 To discuss matters arising from previous minutes:**

Website – The Parish Clerk had researched options:

From [www.parishcouncilwebsites.co.uk](http://www.parishcouncilwebsites.co.uk)

“Done For You” Packages from £569.00 plus domain name and hosting  
To Wix

“Do It Yourself” Packages from £3.50 per month plus domain and hosting  
The Parish Council would discuss this further at the next meeting.

**22/33 To discuss long-standing matters:**

Back Lane – Cllr Goodrick would speak to Andrew Stanton, NYCC Highways about the survey

Road Safety Issues adjacent to BATA – Cllr Goodrick had previously emailed as follows –  
“.....Secondly and the more worrying issues is that we were trying to work on the problem of the pull in opposite the BATA garage as this is obviously a significant safety concern for us. We have very unfortunately discovered that North Yorkshire cannot do anything about this as the land belongs to City of York so we have no jurisdiction to be able to do anything. I will try and see if we can get York involved but I’m not hopeful. Just to be clear the boundary between the two contiguous authority’s runs right down the middle of the A166”.

Dog fouling around parish – The Parish Council would keep a watching brief.

- 22/34 To discuss the two casual vacancies:**  
Resolved – Anna Sawkins was coopted as a member of the Parish Council
- 22/35 Public Session:** None
- 22/36 To discuss new planning applications received:** None
- 22/37 To report planning decisions by Ryedale District Council:** None
- 22/38 To discuss/grant delegate power – e.g. planning applications**  
 The Parish Council noted the guidance from YLCA as shown at the end of these minutes.
- 22/39 To discuss matters raised by Parish Clerk/Responsible Financial Officer:**  
 Bookkeeping records to date  
 The Parish Clerk had circulated the spreadsheet including a bank reconciliation totalling £3811.31 along with an income and expenditure report
- Financial Management:
- To conduct internal control checks  
 Parish Councillors conducted these checks and found everything in order
- To draft budget 2022/2023  
Resolved – A precept of £4000.00 was agreed (Unanimous)
- Matters raised by/with Yorkshire Local Councils – NTR
- Payment approval - None
- 22/40 To report correspondence received by the council:** None
- 22/41 To receive matters raised by members:** None
- 22/42 To confirm the dates of the future meeting(s):**  
 10 March 2022, 12 May 2022, 08 September 2022, 08 December 2022  
Resolved, Approved (Unanimous)

Thank you for your enquiry in which you request advice, on behalf of Gate Helmsley Parish Council regarding the lawful decision making process for local councils.

The Associations can confirm that, by virtue of the Local Government Act 1972 Schedule 12 paragraph 39 (1) 'every decision of a local council must be made by members present and voting'; that is, all decisions made must be at a meeting of the council; this means the display of a public notice, a legal summons and specified agenda (which states all items of business to be transacted at that meeting) to councillors for a meeting which is open to the public with minutes taken which are retained in perpetuity; a parish council comment to the Local Planning Authority on a planning application (as in this instance) is a decision of the council.

Although the decision making power cannot be delegate to any one councillor (not even the Chairman) or councillors, the same legislation does provide, in section 101, for decision making powers of a parish council to be delegated to either a properly constituted committee, sub – committee or an officer of the council. This is the only power of delegation (please find attached NALC Legal Topic Note 1 – Councils Powers to Discharge Functions). There is nothing in law which makes provision for lawful decision making using the process you have described in your enquiry.

Delegation to the Officer of the Council/Clerk

In terms of efficiency it is very sensible for a council to agree that the clerk will be authorised to take decisions on behalf of the authority between meetings. These can be simple decisions such as reporting highway issues to decision which carry more responsibility such as getting invoices paid for work which the council has already authorised and has been carried to a satisfactory standard by a contractor or non-controversial planning application responses. A council can resolve to delegate any of its functions to an officer apart from deciding the precept to be levied and an amount to be borrowed if the council is taking out a loan. In making the decision to delegate decision making a council should set terms of reference for the clerk to work to – what that person can do and how far the power can be taken. If the delegation is minor, e.g. perhaps just dealing with highway matters; the decision and the remit in which the clerk will work can be recorded in the minutes.

However, if the delegated responsibility is wide ranging the council may wish to establish a formal scheme of delegation; although I would add that this tends to happen in larger authorities. Delegation is absolutely subjective and the remit that the Council sets for the clerk to work within should be as detailed as is reasonably possible so that both Council and Clerk fully understand the extent of the role and responsibilities that are being delegated. The council must be mindful that delegation to the clerk means that the clerk makes the decisions within the specified remit. The law does not provide for delegation by consultation.

Delegation to a Committee:

A council may delegate planning decisions (or other decisions) to a committee of a local council; Section 102 of the Local Government Act 1972 states that if a council has formed committees, those bodies should have terms of reference laid down by full council as the appointing body. This is sensible because the councillors who have been appointed to the committee need to know the

remit in which they are working, other councillors and the public too, need to be aware of these details. The terms of reference should contain provisions for the number of councillors appointed to the committee, when their term of office on the committee will end, whether the committee will elect a chairman, who will take the minutes, whether the committee will ratify its own minutes or will they go to full council for ratification, the actual remit of the committee – what is its purpose and under which circumstances will it have decision making powers as opposed to powers of recommendation. Council must hold any committee meetings in a public place, the meetings must be treated in exactly the same way as a full council meeting, i.e. a notice showing the date, time and place of the meeting must be posted in a conspicuous place in the parish at least three clear days prior to the meeting. Additionally, a summons and agenda should be produced and delivered/mailed to each member of the planning committee, once again at least three clear days before the meeting. Minutes of committee meetings must be kept and meetings must be open to the press and public.

The only alternative to the above, in ensuring decisions of the parish council are lawful, is for the Chairman to convene an extraordinary meeting of the council to discuss specific items which arise in between scheduled ordinary meetings of the council. Again, such meetings must be treated in exactly the same way as a full council meeting, i.e. a notice showing the date, time and place of the meeting must be posted in a conspicuous place in the parish at least three clear days prior to the meeting. Additionally, a summons and agenda should be produced and delivered to each member, once again at least three clear days before the meeting. Minutes must be kept and meetings must be open to the press and public.

We hope this information is useful to you. Please do not hesitate to contact us if you require any further assistance.