

¹DATED

2021

THE OXFORDSHIRE COUNTY COUNCIL

- and -

WESTON ON THE GREEN PARISH COUNCIL

**Agreement
under Section 101 of the Local Government Act 1972**

relating to various highway functions

N Graham
Chief Legal Officer
Oxfordshire County Council
County Hall
New Road
Oxford OX1 1ND

¹ Please do not date. The County Council will date when it has sealed the deed

THIS AGREEMENT is made the² day of 2021

BETWEEN:-

- (1) **THE OXFORDSHIRE COUNTY COUNCIL** (“the County Council”)
- (2) **WESTON ON THE GREEN PARISH COUNCIL** (“the Parish Council”)

1. Interpretation

In this Agreement:-

- 1.1 “the County Council” means the Oxfordshire County Council whose principal office is at County Hall, New Road, Oxford OX1 1ND and any successor to its statutory functions as highway authority, local traffic authority and lead local flood authority for the area of the Parish and any duly appointed employee or agent of the County Council or such successor
- 1.2 “Delegated Functions” means the functions described in column 1 of Schedule 1 to this Agreement
- 1.3 “including” means including without limitation or prejudice to the generality of any preceding description defining term phrase or word(s) and “include” shall be construed accordingly
- 1.4 “the Parish Council” means Weston on the Green Parish Council whose principal office is Oak View, North Lane, Weston on the Green and whose representative is the clerk of the Parish Council or such other representative as is advised to the County Council.
- 1.5 “the Parish” means the area of Weston on the Green.

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- 1.6 “Public Rights of Way” means the footpaths, bridleways, restricted byways and byways open to all traffic recorded on the Definitive Map and Statement for Oxfordshire and situated in the Parish
- 1.7 “the Roads” means the public highway maintainable at public expense situated in the Parish and which may lawfully be used by mechanically propelled vehicles (but excluding any byways open to all traffic)
- 1.8 “statutory requirements” means requirements of any enactment (being any act or any subordinate legislation as defined in the Interpretation Act 1978) national guidance or practice guides
- 1.9 Any reference to an enactment includes any amendment to or modification of it and the version of it for the time being in force shall apply
- 1.10 Headings in this Agreement will be for convenience only and shall not be taken into account in its construction and interpretation
- 1.11 Reference to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Agreement
- 1.12 Where the context so requires:-
- 1.12.1 the singular includes the plural and vice versa
- 1.12.2 the masculine includes the feminine and vice versa
- 1.12.3 persons includes bodies corporate associations and partnerships and vice versa
- 1.13 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that this is done and words placing a party under restriction include an obligation not to cause permit or allow infringement of this restriction

1.14 Any notice, act, determination, direction or other communication between the parties in connection with the Delegated Functions shall be given in writing and be correctly addressed and sent by prepaid first class post or be delivered personally to the Director of Environment and Economy at the County Council County Hall, New Road, Oxford OX1 1ND or to the clerk for the Parish Council

2. **Purpose of Agreement**

- 2.1 The County Council wishes to make arrangements with the Parish Council for the discharge by the Parish Council of certain of the County Council's functions relating to highways, public rights of way, watercourses and school crossing patrols under the Highways Act 1980, and if relevant the Road Traffic Regulation Act 1984 and the Land Drainage Act 1991, and any other enactment giving the County Council the duty or the power to carry out the functions delegated under this agreement
- 2.2 For the purposes of the above mentioned acts the County Council is the highway authority and the traffic authority for certain highways in the Parish and is the lead local flood authority for the Parish
- 2.3 The Parish Council wishes to carry out the Delegated Functions in their Parish
- 2.4 This Deed is entered into pursuant to Section 101 of the Local Government Act 1972, Section 9EA of the Local Government Act 2000, the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and all other enabling powers for the purpose of delegating the functions referred to in this agreement

3. **Delegation**

3.1 The County Council hereby delegates to the Parish Council the power to discharge the Delegated Functions in accordance with the provisions of this Agreement and the Parish Council accepts the delegation of the Delegated Functions subject to the provisions of this Agreement

4. **Commencement and Operation**

4.1 This Agreement shall operate on and from the date of this agreement until it is terminated as follows:-

4.1.1 Immediately on written notice from the County Council in the case of any substantive breach of the terms of this agreement by the Parish Council

4.1.2 by the County Council giving not less than 3 months prior written notice to the Parish Council to take effect at any time

4.1.3 by the Parish Council giving not less than 3 months prior written notice to the County Council to take effect from 1 January in any year

AND the County Council or as applicable Parish Council may give notice as aforesaid so as to partially terminate this Agreement in respect of one or more of the Delegated Functions only

4.2 This Agreement is entirely without prejudice to Section 101 (4) of the Local Government Act 1972 so that the County Council may continue to exercise the functions described in Schedule 1 to this Agreement as well

4.3 If at any time it appears to the County Council that the Parish Council is materially in default of its obligations under this Agreement the County Council may take such action as appears to be reasonably necessary to

remedy such default and may recover its reasonable costs in so doing from the Parish Council subject always to the default continuing after the County Council has given not less than 21 days notice (or in case of emergency such notice if any as is practicable) of the steps it requires to be taken to remedy the default

- 4.4 On termination of this Agreement the rights or remedies for any antecedent breach and clauses which expressly or by implication have effect after termination shall continue in full force and effect

5. **Performance of Delegated Functions**

- 5.1 The Parish Council covenants that:-

- 5.1.1 it will perform the Delegated Functions and undertake them with all due skill care and diligence and in accordance with the provisions of this Agreement
- 5.1.2 it will in carrying out each Delegated Function comply with the conditions and requirements relating to that Delegated Functions as set out in columns 2 and 3 of Schedule 1
- 5.1.3 it will in carrying out the Delegated Functions comply with all statutory requirements and without limitation to the foregoing will comply with Health & Safety at Work and employment legislation at all times in carrying out Delegated Functions
- 5.1.4 it will in carrying out the Delegated Functions including exercising the discretions and decision making powers relating to the Delegated Functions comply with any procedures, protocols and guidance of the County Council as so advised from time to time

including the procedures, protocols and guidance referred to in
Schedule 1

5.1.5 it will exercise the Delegated Functions with the minimum of
disturbance to the highway and take all appropriate steps to
safeguard public rights of passage on the highway

5.2 Any written communication from the Parish Council in connection with the
discharge of the Delegated Functions shall state that such functions are
exercised by the Parish Council as delegated by the County Council but
no such document shall be invalid by reason only that this requirement is
not complied with and no person acting in pursuance of any such
document shall be concerned to see if such requirements are observed

6. **Finance/Funding**

6.1 All expenses arising out of the exercise by the Parish Council in carrying
out the Delegated Functions will be defrayed by the Parish Council

6.2 Where funding is available for the Delegated Function as identified in
column 4 of Schedule 1 the relevant provisions of Schedule 2 shall apply

7. **Legal Proceedings**

7.1 The Parish Council will notify the County Council of any claim made
against the Parish Council in respect of the Delegated Functions within 21
days of receipt of such a claim

7.2 Where any proceedings arise in connection with the Delegated Functions
the County Council or the Parish Council (or both as the case may
require) shall each provide to the other such evidence and other
information and assistance as may reasonably be required for the
purpose of those proceedings

8. **Indemnity and Insurance**

8.1 The Parish Council will indemnify the County Council in respect of all actions claims costs demands proceedings and liabilities which may arise from any act omission or neglect on the part of the Parish Council its agents contractors volunteers or employees in connection with the performance of any of the Delegated Functions or from any breach by the Parish Council of the provisions of this Agreement save to the extent that liability arises out of the negligence or default of the County Council

8.2 The Parish Council covenants with the County Council that it will inform its insurers of its agreement to carry out the Delegated Functions under this agreement and will maintain insurance cover with a reputable company to include public liability insurance in the minimum sum of Ten Million Pounds (£10,000,000) per claim and employers liability insurance in the sum of Ten Million Pounds (£10,000,000) per claim. The Parish Council will within 14 days of request supply evidence to the County Council that such insurance is being maintained by the Parish Council

9. **Employment**

The Parish Council shall indemnify the County Council and any provider engaged by the County Council to perform any of the Delegated Functions and keep them both fully indemnified in respect of any claims losses costs expenses demands and liabilities which relate to any claim brought by any employee or person claiming to be an employee (including any contractor) on the date upon which this Agreement or relevant part of it is terminated arising out of their employment with the Parish Council or its termination

10. **Third Party Rights**

This Agreement gives no rights under the Contract (Rights of Third Parties) Act 1999 but this does not affect any rights which were available apart from that Act

11. **No Waiver**

No alterations in the terms of this Agreement nor any forbearance or forgiveness on the part of any party in or in the extent or nature of any matter or thing concerning this Agreement shall in anyway release any party from liability under this Agreement

12. **No Fetter**

Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the County Council or Parish Council in the exercise of their respective functions in any capacity

13. **Variations**

Any provision of this Agreement may be varied at any time by written agreement between the parties such variation to be attached to this Agreement

14. **Initial Dispute Resolution**

In the event of a dispute arising in connection with this Agreement which is not resolved within 14 days by the Parish Council and the County Council it shall:-

14.1 in the first instance be referred to the respective directors of the Parish Council and the County Council with overall responsibility for the performance of the Delegated Functions

14.2 if after a further 14 days the dispute remains outstanding it will be referred to the Chief Executives or other senior officer designated by the Parish Council and the County Council

IN WITNESS whereof the parties have executed this Deed the day and year first
above written

³**SIGNED** as a **DEED** by two members of **the PARISH COUNCIL**

.....
(print name)

.....
(signature)

.....
(print name)

.....
(signature)

OR

THE COMMON SEAL of

the PARISH COUNCIL)

was affixed to this Deed in the presence of:)

Authorised officer.....

OR

SIGNED as a **DEED** by **the PARISH COUNCIL**

Name of officer.....signature.....

In the presence of:

Witness signature.....

³ The Parish Council will know its own constitution and how to execute documents. If none of the above execution clauses appropriate please could the Parish Council amend the wording by hand as needed

THE COMMON SEAL of THE)

OXFORDSHIRE COUNTY COUNCIL)

was affixed to this Deed in the presence of:)

Chief Legal Officer/Designated Officer