

PART I

4. SPECIAL EXPENSES 2022/23
(DoF)

1. Summary

1.1. This report reviews the Council's general and special expenses.

2. Details

Financial Arrangements with Parish Councils - The Principles

- 2.1. Financial arrangements with parish councils are specifically aimed at avoiding 'double taxation' – the situation where the costs of certain services are charged twice to local taxpayers because the parish provides a service but the district council still charges taxpayers in the parish for the equivalent services it provides elsewhere.
- 2.2. Double taxation might apply, for example, if the residents of Abbots Langley were to be charged via the Abbots Langley Parish Council precept, for the maintenance of playing fields in the parish (a function performed only by the parish council in that area and paid for only by Abbots Langley parishioners), and for a share of the cost of maintenance of playing fields in the remainder of the district (carried out by the district council elsewhere).
- 2.3. Guidance provided by the Department for Communities & Local Government suggests that there should be five principles that should govern arrangements between district councils and parish councils:
1. Fairness in the provision and access to services
 2. Simplicity to keep operating costs to a minimum
 3. Transparency to help understanding
 4. Democratic control and accountability to distinguish between funding provided to a parish by the district for a service carried out by the parish and funding raised through the parish precept for services carried out by the parish.
 5. Finance should follow function so that where service provision is devolved or transferred from the district to the parish council funding is also transferred with the amount agreed between the councils.
- 2.4. Prior to the Local Government Finance Act 1992, the Council made grants to parish councils where they carried out a 'concurrent' function in their area that would normally have been performed by the district council.
- 2.5. Other arrangements (that have not been used here) could be support in goods or in kind and agency agreements under S101 of the Local Government Act 1972 or S20 of the Local Government Act 2000 where a parish council acts as an agent for the district in carrying out a task for which it is paid an agreed rate.
- 2.6. The Local Government Finance Act 1992 provided for different amounts of council tax to be calculated for different parts, e.g. parished and unparished areas, of a district, depending on what, if any, 'special items' relate to those parts.
- 2.7. A special item is an item which relates to only part of a district council's area. A parish precept is one special item. 'Special expenses' are another special item.
- 2.8. There are five different types of special expense, but the one affecting this district is set out in Section 35(2)(d) which provides that:

“any expenses incurred by a billing authority in performing in a part of its area a function performed elsewhere in its area by the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, a parish or community council or the chairman of a parish meeting are the authority’s special expenses unless a resolution of the authority to the contrary effect is in force”.

2.9. Three Rivers decided to use the special expenses arrangements because:-

- a) they provided fairness, transparency and accountability, and,
- b) by reducing the district’s expenditure on grants for ‘concurrent’ services and raising the funding via the parish precept, the district reduced the chances of it being ‘capped’.

2.10. Having agreed the items that are “special expenses” and the areas to which they relate the calculation of the council tax is purely a mathematical exercise. This is set out at **Appendix 1**.

2.11. There are no changes to the functions the parishes are performing from previous years that impact on the calculation of special expenses for 2022/23.

3. Options/Reasons for Recommendation

- 3.1. The recommendation enables the Council to determine the calculation of special expenses.
- 3.2. In the interests of fairness, the option to resolve that all of the district’s expenses be ‘general’ has been rejected.

4. Policy/Budget Reference and Implications

- 4.1. The recommendations in this report are within the Council’s agreed policy and budgets.

5. Legal, Staffing, Environmental, Community Safety, Customer Services Centre, Communications & Website Implications

- 5.1. None specific.

6. Financial Implications

- 6.1. There are no changes to the budget already agreed by Members as a result of this report.

7. Legal Implications

- 7.1. Contained in the report. There has been little case law resulting from the legislation. Any challenge to the Council’s interpretation of the law would be subject to judicial review. The Council would need to demonstrate that it had acted reasonably. This would particularly apply where apportionments are used. There are different bases for apportionments any one of which might be ‘reasonable’ but give a different answer.

8. Risk Management and Health & Safety Implications

- 8.1. The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council’s duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.
- 8.2. The subject of this report is covered by the Finance service plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this plan.

Nature of Risk	Consequence	Suggested Control Measures	Response (tolerate, treat, terminate, transfer)	Risk Rating (combination of likelihood and impact)
The Council does not apply the resolution for special and general expenses	There is a successful challenge to the Council's application of the special expenses provisions of the Local Government Finance Act 1992.	Continue with previous years' resolution	Tolerate	4

8.3. The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely ----- Likelihood ----- Remote	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
		Impact -----> Unacceptable		

Impact Score
4 (Catastrophic)
3 (Critical)
2 (Significant)
1 (Marginal)

Likelihood Score
4 (Very Likely (≥80%))
3 (Likely (21-79%))
2 (Unlikely (6-20%))
1 (Remote (≤5%))

8.4. In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Council's Corporate Framework and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

9. Recommendation

To Council

9.1. That the Council confirms that it will apply the following resolution for special and general expenses for 2022/23:-

- 1) that the following functions being either those provided equally across the district or incurring minimal expenditure be declared general expenses:-
 - allotments;

- litter, salt and dog bins;
- highways, trees and roadside verges;
- seats and shelters;
- youth centres;
- crime prevention;
- land drainage;
- footpath maintenance;
- footpath lighting;
- community arts;
- off-street car park maintenance;
- street naming;
- Dial-A-Ride;
- play-schemes
- cemeteries
- YMCA Woodlands building in Abbots Langley
- The Centre, South

9.2 That the following functions are declared special expenses:-

- **Woodlands** (apportioned on the basis of acreage) including the ranger at Leavesden Open Space and 50% of the Arboriculture and Landscape Officers' costs
- **Community halls** (including apportionment of Oxhey Hall);
- **Playing fields and open spaces** (excluding water-based activities and maintenance met from commuted sums); based on the Grounds Maintenance contract.
- **Aquadrome** Treated as 50% general expense and 50% special expense apportioned to the Batchworth Community Council.
- **Watersmeet** (all costs except the pantomime charged to the unparished area and Batchworth Community Council as a community hall. The pantomime is treated as a general expense).

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Background Papers

Questionnaire to Parish/Community Councils.
2022/23 Special expenses calculation.

APPENDIX

1 Extract from the Local Government Finance Act 1992

LOCAL GOVERNMENT FINANCE ACT 1992

34. – (1) This section applies where for any financial year an item mentioned in section 35(1) below relates to a part only of a billing authority's area; and in this section "special item" means any such item which so relates and "the relevant part", in relation to such an item, means the part concerned.

(2) The authority shall calculate the basic amount of its council tax for dwellings in a part of its area to which no special item relates by applying the formula –

$$B - \frac{A}{T}$$

where –

B is the amount calculated (or last calculated) by the authority under section 33(1) above as the basic amount of its council tax:

A is the aggregate amount of all special items;

T is the amount determined for item T in section 33(1) above.

(3) The authority shall calculate the basic amount of its council tax for dwellings in a part of its area to which one or more special items relate by adding to the amount given by the formula in subsection (2) above the aggregate of the amounts which, in relation to each of those special items, are given by the formula –

$$\frac{S}{TP}$$

where –

S is (in each case) the amount of the special item;

TP is (in each case) the amount of the authority's council tax base for the relevant part as calculated by it for the year.

And

35. – (1) The items referred to in Section 34(1) above are –

(a) any precept issued to or anticipated by the authority which is or is believed to be applicable to part of its area and was taken into account by it in making the calculation (or last calculation) in relation to the year under section 32(2) above; and

(b) any expenses of the authority which are its special expenses and were taken into account by it when making that calculation

(2) For the purposes of subsection (1) above –

(d) any expenses incurred by a billing authority in performing in a part of its area a function performed elsewhere in its area by the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, a parish or community council or the chairman of a parish meeting are the authority's special expenses unless a resolution of the authority to the contrary effect is in force.