SECTION 4: COUNCIL RESPONSIBILITIES (NON-EXECUTIVE MATTERS)

Council Responsibilities are set out in this section in paragraphs 4.1 to 4.9, which also shows who carries them out. These matters are not to be the responsibility of the Leader and the Cabinet.

Anything not listed in this section, or in Section 5 and 6 (which set out the role of the Council and its Committees) is an executive responsibility.

Legislation referred to in this section includes any amendments, re-enactments, consolidating legislation or subordinate legislation and regulations.

4.1. Budget and Policy Framework

The Council has responsibility for the Budget and Policy Framework:

Description of responsibility:

The budget, including decisions to allocate money to services and projects, set up contingency funds, set the Council Tax base, set the Council Tax, control the Council's borrowing requirement, control capital spending, set a limit on the amount that can be transferred between cost centres and agree the treasury management strategy.

The policy framework, which comprises:

the plans and strategies that are required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and regulations proposed under the Local Government Act 2000 to be adopted by the Council:

- The Council Delivery Plan (Business Plan)
- Budget and Medium-Term Financial Strategy
- Treasury Management Strategy
- Housing and Homelessness Strategy
- Rushmoor Local Plan and other Development Plan Documents
- Plans and alterations which together comprise the Development Plan
- Licensing and Gambling Policy Statements

4.2. Planning Matters

Description of Responsibility:

- All the responsibilities in Para A and column (1) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended),

- the duty to deal with complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003

- the power to preserve trees under the Sections 197 to 214D of the Town and Country Planning Act 1990 (as amended), the Town and Country Planning (Tree Preservation) (England) Regulations 2012; and

- the power to authorise the stopping up or diversion of rights of way under Section 257 of the Town and Country Planning Act 1990.

Delegation Arrangements:

(1) The full Council is responsible for approving the Draft Submission Local Plan, the adoption of the Rushmoor Local Plan, Development Plan Documents and Neighbourhood Plans.

(2) The Development Management Committee is responsible for determining planning matters referred to the Committee via Referral Meetings as set out in the Protocol for Managing Decision Making under the National Scheme of Delegation prepared in accordance with the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. The decision-making responsibilities of the Development Management Committee are set out in Section 6 (Functions of the Development Management Committee).

Delegation to the Executive Head of Property and Growth:

(3) The Executive Head of Property and Growth must exercise and discharge the provision of the full range of development management services in accordance with Schedule 1 of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 under the Town and Country Planning Act 1990 including:

(a) certificates of appropriate alternative development (applications under section 17 of the Land Compensation Act 1961)

(b) certificates of lawfulness for proposed works to listed buildings (under section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990

(c) householder development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)

(d) minor commercial development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)

(e) minor residential development which is defined in the Regulations as:

(i) development that includes only dwellings and development for the purposes incidental to the enjoyment of dwellings, comprises at least one but not more than nine dwellings, and is to be carried out on a site having an area smaller than 0.5 hectares

(ii) development of a building containing flats, or development within the curtilage of such a building, for any purpose incidental to the enjoyment of the flats or any of them but excludes development in respect of a building containing flats, or development within the curtilage of such a

building, that involves either or both of a change of use or change to the number of flats

(iii) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order for development within paragraph (a) or (b)

(f) permission in principle (as referred to in section 58A of the Town and Country Planning Act 1990

(g) to develop land without compliance with conditions previously attached in respect of which the original planning permission was a Schedule 1 planning permission (applications under Section 73(1) of the Town and Country Planning Act 1990)

(h) non-material changes to planning permission or permission in principle (applications under section 96A (4) of the Town and Country Planning Act 1990)

(i) modification of s106 Planning Obligations under section 106A provisions where connected to a Schedule 1 development

(j) certificates of lawfulness of existing or proposed use or development under sections 191 and 192 of the Town and Country Planning Act 1990

(k) biodiversity gain plan submissions pursuant to Schedule 7A to the Town and Country Planning Act 1990

(l) reserved matters approval application in respect of an outline planning permission other than a large outline permission (large outline permission is defined as 500 or more dwellings or floorspace created by the development is 50,000 sqm or more).

(m) applications made under a planning condition (discharge of conditions)

(n) prior approvals under Schedule 2 to the General Permitted Development Order 2015

The Executive Head of Property and Growth shall also have responsibility for determining:

(o) any Schedule 2 Application under the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 which is not referred to the Development Management Committee following an Assessment of Significance and Referral Meeting pursuant to procedures for managing decision making under the National Scheme of Delegation. (The Procedure Protocol is set out in Part 3 – Section 6 of the Constitution).

(p) Schedule 2 Applications under the Town and Country Planning (Discharge

of Local Planning Authority Functions) (England) Regulations 2026, which are not a matter for determination by the Development Management Committee under the Council's agreed local protocol. This includes:

(i) applications for advertisement consent under regulation 9(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

(ii) applications for consent under tree preservation orders under regulation 16 (1) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012

(iii) applications for the variation or discharge of conditions of listed building consent under section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(4) The Executive Head of Property and Growth is also authorised to exercise and discharge the full range of development management services falling outside of Schedule 1 and 2 to the Town and Country Planning (Discharge of Local Planning Authority Functions (England) Regulations 2026, in accordance with all statutory and other requirements of a Local Planning Authority under the Town and Country Planning Acts including:

(i) Powers to administer and determine applications for hazardous substances consent under the Planning (Hazardous Substances) Act 1990, and related powers.

(ii) Powers to determine requests for confirmation of compliance with conditions, imposed on planning and other permissions; and to approve or reject submissions required by Section 106 Planning Obligations.

(iii) Powers to respond, in consultation with the Chair (or Portfolio Holder as appropriate), to consultations from Government departments, Crown Agencies, statutory undertakers, Hampshire County Council and adjoining local planning authorities.

(iv) Powers to authorise the Executive Head of Governance & Law to issue breach of condition notices, enforcement notices and stop notices under the Town and Country Planning Act 1990.

(v) Powers to confirm in circumstances where, in the opinion of the Executive Head of Property and Growth a breach of planning control gives rise to no material significance or harm, that the Council will take no further action in that regard.

(vi) Powers to sign and serve Planning Contravention Notices under the Town and Country Planning Act 1990, and Requisitions for Information under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and Section1719(c) and 330 of the Town and Country Planning Act 1990.

(vii) Powers to instruct the Executive Head of Governance & Law to the Council to commence and pursue prosecutions with respect to any contravention/offence under the Town and Country Planning Acts.

(viii) Powers to instruct the Executive Head of Governance & Law with respect to any matter related to Section 106 Planning Obligations under the Town and Country Planning Act 1990, including any matter necessary to protect the Council's or public interest in the granting of permission pursuant to either a decision of the Development Management Committee or under delegated powers.

(ix) Powers in respect of trees to

1) make a Tree Preservation Order;
2) confirm any Tree Preservation Order;
3) vary and revoke any Tree Preservation Order
4) authorise the issuing and serving of Tree Replacement Notices
5) determine applications to fell or carry out works to trees that are the subject of a tree preservation order; and
6) determine Notices of Intent to carry out works to tree within a conservation area".

(x) Authority to exercise all the Council's functions with respect to 'screening' and 'scoping' opinions under the Town and Country Planning Acts and the Town and County Planning (Environmental Impact Assessment) Regulations.

(xi) Powers to determine the Council's case to be presented at appeals including the decision whether to appoint consultants to act upon the Council's behalf or to submit claims for costs against an appellant.

(xii) Powers to appoint and authorise officers to exercise the powers of entry under the Town and Country Planning Acts.

(xiii) Powers to determine whether to proceed with a complaint relating to high hedges.

(xiv) Powers to determine a complaint on high hedges, in consultation with the Chair of the Development Management Committee.

(xv) Powers to serve a remedial notice in respect of high hedges in consultation with the Executive Head of Governance & Law.

(xvi) To exercise all the Council's functions with respect to 'Habitats Regulations Assessments' under the Conservation (Natural Habitats etc) Regulations 1994 and the Habitats Directive 1992 (Para 17).

4.3 Licensing of alcohol, entertainment and late-night refreshment

Description of Responsibility

4.3.1 All the responsibilities in the Licensing Act 2003 and any regulations or orders made under that Act.

Delegation Arrangements

4.3.2 Except for the functions listed below, the Chief Operating Officer is delegated all relevant authorities to grant, vary, transfer, suspend, revoke and refuse licences,

permits and registrations and to impose conditions on such permissions in respect of the licensing and registration responsibilities in para 4.3.1.

Function	**Carried out by**
To agree the Statement of Licensing Policy	Council
To appoint a Licensing Sub-Committee (Alcohol and Entertainments) to discharge the functions below	Licensing and Corporate Business Committee
In the case of a police objection to (a)-(d) below, determination of (a) Application for personal licence (b) Application to vary designated premises supervisor (c) Application for transfer of premises licence (d) Application for interim authorities	Licensing Sub-Committee (Alcohol and Entertainments)
Application for personal licence with unspent convictions	Licensing Sub-Committee (Alcohol and Entertainments)
Application to review premises licence/club premises certificate	Licensing Sub-Committee (Alcohol and Entertainments)
Determination of a police or Environmental Health objection to a standard temporary event notice where it is not appropriate to add conditions under S106A of The Licensing Act 2003	Licensing Sub-Committee (Alcohol and Entertainments)
If a relevant representation is made to (a) – (c) below, determination of (a) Application for premises licence/club premises certificate	Licensing Sub-Committee (Alcohol and Entertainments)

(b) Application for provisional statement (c) Application to vary premises licence/club premises certificate (other than applications for minor variations)	

4.4 Licensing of gambling

Description of Responsibility

4.4.1 All the responsibilities in the Gambling Act 2005 and any regulations or orders made under that Act.

Delegation Arrangements

4.4.2 Except for the functions listed below, the Chief Operating Officer is delegated all relevant authorities to grant, vary, transfer, suspend, revoke and refuse licences, permits and registrations and to impose conditions on such permissions in respect of the licensing and registration responsibilities in para 4.4.1.

Function	**Carried out by**
To agree the Gambling Policy	Council
To appoint a Licensing Sub-Committee (Alcohol and Entertainments) to discharge the functions below	Licensing and Corporate Business Committee
If a relevant representation is made to (a) – (c) below, determination of (a) Application for a premises licence (b) Application for a variation to a premises licence (c) Application for a provisional transfer	Licensing Sub-Committee (Alcohol and Entertainments)

Application for a transfer of a premises licence in the case of a representation from the Commission.	Licensing Sub-Committee (Alcohol and Entertainments)
Application for a provisional statement in the case of a relevant representation	Licensing Sub-Committee (Alcohol and Entertainments)
Review of a premises licence	Licensing Sub-Committee (Alcohol and Entertainments)
Application for club gaming/club machine permits in the case of a relevant objection	Licensing Sub-Committee (Alcohol and Entertainments)
Cancellation of club gaming/club machine permits	Licensing Sub-Committee (Alcohol and Entertainments)
Decision to give a counter notice to a temporary use notice in the case of a relevant representation	Licensing Sub-Committee (Alcohol and Entertainments)

4.5 Taxi and private hire licensing and associated licensing arrangements

Description of Responsibility

4.5.1 All the taxi and private hire and other vehicle licensing responsibilities in Paragraph B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

These are powers to license taxi and private hire vehicles, drivers and operators.

Delegation Arrangements

4.5.2 Except for the circumstances below in 4.5.3 and 4.5.4, the Chief Operating Officer is delegated all relevant authorities to grant, vary, transfer, suspend, revoke and refuse licenses, permits and registrations and to impose conditions on such permissions in respect of the licensing and registration responsibilities in para 4.5.1.

4.5.3 Where the Chief Operating Officer (or delegated officer) proposes to refuse or revoke a licence for a private taxi hire operator or a hackney carriage and/or private hire driver, the matter shall be referred to a taxi licensing hearing for decision in the following circumstances:

- The proposed decision would not be in accordance with the Council's Taxi Licensing Policy and it is not deemed urgent on public safety grounds; and/or

- The Chief Operating Officer (or delegated officer) considers it appropriate in a particular case e.g. it is contentious

4.5.4 Decisions by the Chief Operating Officer (or delegated officer) to suspend, refuse or revoke a licence for a private taxi hire operator or a hackney carriage and/or private hire driver, which are in accordance with the Council's Taxi Licensing Policy and not deemed urgent on public safety grounds, shall be made in consultation with the Chair of the Licensing and Corporate Business Committee.

4.6. Other licensing and registration functions

Description of Responsibility

4.6.1 All the responsibilities in Paragraph B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, with the exception of the Licensing Act 2003, Gambling Act 2005 and taxi and private hire and other vehicle licensing.

These functions relate to the following licensing and registration powers:

- To issue licences authorising the use of land as a caravan site, and register fit and proper persons to manage a caravan/mobile home site
- To license the use of moveable dwellings and camping sites
- To register pool promoters
- To grant track betting licences and to license inter-track betting schemes
- To grant permits in respect of premises with amusement machines or where amusements with prizes are provided
- To register societies wishing to promote lotteries
- To issue cinema, cinema club and theatre licences
- To issue entertainments licences
- To license sex shops and sex cinemas
- To license performances of hypnotism
- To register premises for acupuncture, tattooing, ear piercing and electrolysis
- To license pleasure boats and pleasure vessels
- To license market and street trading
- To issue street trading consents
- To license dealers in game and the killing and selling of game

- To register and license premises for the preparation of food
- To license scrap yards, scrap metal dealers and register motor salvage operators
- To license premises for the breeding of dogs
- To license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business
- To license zoos and dangerous wild animals
- To license knackers' yards
- To license persons to collect for charitable and other causes
- To grant consent for the operation of a loudspeaker
- To approve food premises in accordance with EC regulation 853/2004
- To issue licences to retailers carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods
- To approve dispatch or purification centres
- To register food business premises
- Functions relating to pavement licences

4.6.2 the licensing responsibilities under Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 – Control of Sex Establishments.

Delegation Arrangements

4.6.3 Except for the functions listed below, the Chief Operating Officer is delegated all relevant authorities to grant, vary, transfer, suspend, revoke and refuse licences, permits and registrations and to impose conditions on such permissions in respect of the licensing and registration functions in para 4.6.1. and 4.6.2.

Responsibilities of the Licensing and Corporate Business Committee:

4.6.4 Responsibility for determining whether a charge should be made for any approval, consent, licence, permit or registration in respect of the licensing and registration matters in para. 4.6.1 and 4.6.2 above, and where a charge is made, the amount of the charge. However, changes in fees and charges that are made within existing policies for fees and charges may be updated by the Executive Head of Service.

4.6.5 To appoint a Licensing Sub-Committee to:

- deal with licensing applications where such applications have a substantial impact on the area or there are significant objections; or
- where the Chief Operating Officer considers it inappropriate to exercise his/her delegated powers

4.7 Health and Safety at Work

Description of Responsibility

All the responsibilities in Paragraph C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

These are Functions under any of the relevant statutory provisions within the meaning of Part 1 (health, safety and welfare in connection with work and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

Delegation Arrangements

All powers and responsibilities are delegated to the Head of Operational Services.

4.8 Smoke-Free Premises

Description of Responsibility

All the responsibilities in the Health Act 2006 and Smoke-free (Premises and Enforcement) Regulations 2006.

Functions to enforce Chapter 1 of the 2006 Act, with powers to authorise officers, issue fixed penalty notices and powers to transfer enforcement functions to another enforcement authority.

Delegation Arrangements

Powers and responsibilities are delegated to the Chief Operating Officer.

4.9 Other Council Responsibilities

Other matters which are not to be the responsibility of the Cabinet and Leader are set out in the table below. This incorporates 'Local Choice Functions' which the Council has decided shall be non-executive matters.

This list is anything else that must be non-executive. Matters that are delegated to a Committee will appear in their Terms of Reference in Section 6.

	Responsibility	Legislation	Carried out by
1.	Power to make Standing Orders	Local Government Act 1972, Section 106 and paragraph 42 of Schedule 12	Council
2.	Power to make standing orders as to contracts	Local Government Act 1972, Section 135	Council
3.	Power to appoint staff and determine their terms and conditions	Local Government and Housing Act 1989 and Regulations	In accordance with the provisions set out in the Officer Employment Rules in Part 4
4.	Duty to designate Head of Paid Service and provide resources	Local Government and Housing Act, Section 4	Council (recommendation made by Licensing and Corporate Business Committee)
5.	Duty to designate Monitoring Officer and Section 151 (Chief Finance Officer)	Local Government and Housing Act, Section 5	Council
6.	Duty to provide staff and resources to a person nominated by the Monitoring Officer	Local Government Act 2000, Section 82	Council
7.	Power to appoint proper officers	Local Government Act 1972, Section 270 (3)	Head of Paid Service (Chief Executive)

8.	Duty to make arrangements for proper administration of financial affairs	Local Government Act 1972, Section 151	Section 151 Chief Finance Officer
9	Duty to approve the Authority's Statement of Accounts	The Accounts and Audit Regulations 1996	Audit and Standards Committee
10.	Functions related to pensions	Regulations under Section 7,12 or 24 of the Superannuation Act 1972	Licensing and Corporate Business Committee
11.	Power to change the name of the Borough	Local Government Act 1972, Section 74	Council
12.	Power to confer the title of honorary alderman or to admit an honorary freeman	Local Government Act 1972, Section 249	Council
13.	Powers and functions relating to community governance reviews, including power to undertake a review, as listed in Paragraph E of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Local Government and Public Involvement in Health Act 2007.	Council
14.	Power to make payments or provide benefits in cases of maladministration, etc.	Local Government Act 2000, Section 92	Head of Paid Service or Section 151 Officer
15.	The making, amendment, revocation or re-enactment of any byelaws	Any statutory provision	Council

16.	The promotion, opposition to or amendment of local or personal Bills	Local Government Act 1972, Section 239	Council
17.	Appointment of elected Members to vacancies on Outside Bodies arising during the Municipal Year		Corporate Manager - Democracy

Elections

	Responsibility	**Legislation**	**Carried out by**
18.	Duty to appoint an electoral registration officer and returning officer for local government elections	Representation of the People Act 1983, Section 8(2) and 35	Council
19.	Power to appoint deputies at elections	Representation of the People Act 1983, Section 28 (5)	Returning Officer
20.	Power to appoint Deputy Electoral Registration Officers to process applications for Temporary Voter Authority Certificates	Elections Act 2022	Electoral Registration Officer
21.	Power to appoint Deputies to carry out the necessary processes and arrangements to meet the requirements of the regulations and guidance	Elections Act 2022	Electoral Registration Officer/Returning Officer
22.	Powers to provide the officers the electoral registration officer needs	Representation of the People Act 1983, Section 52(4)	Head of Paid Service

23.	Duty to divide constituency into polling districts and designate polling places	Representation of the People Act 1983, Section 18	Licensing and Corporate Business Committee
24.	Power to divide electoral divisions into polling districts and designate polling places at local government elections	Representation of the People Act 1983, Section 31	Licensing and Corporate Business Committee
25.	Power to make changes to polling places at short notice	Representation of the People Act 1983 (Sections 18 and 31 (3))	Returning Officer
26	Powers in respect of holding elections	Representation of the People Act 1983, Section 39(4)	Returning Officer
27	Power to pay electoral registration officer's expenses (Chief Executive is Registration Officer)	Representation of the People Act 1983, Section 54	Monitoring Officer
28.	Duty to declare vacancy in office	Local Government Act 1972, Section 86	Returning Officer
29.	Duty to give notice of a casual vacancy	Local Government Act 1972, Section 87	Returning Officer
30.	Power to make proposals for pilot schemes for local elections	Representation of the People Act 2000, Section 10	Licensing and Corporate Business Committee
31.	Duty to consult on change of scheme for elections e.g. whole council elections	Local Government and Public Involvement in Health Act 2007, Sections 33(2), 38(2) and 40(2)	Head of Paid Service

32.	Duties relating to certain publicity in relation to change of scheme for elections	Local Government and Public Involvement in Health Act 2007, Sections 35, 41 and 52	Head of Paid Service
33.	Functions relating to consultation and notification processes in relation to changing the name of an electoral area	Local Government and Public Involvement in Health Act 2007, Section 59	Head of Paid Service

Regulatory Matters:

	Responsibility	**Legislation**	**Carried out by**
34.	To exercise powers to protect the rights of the public to use and enjoy highways	Section 130 of the Highways Act 1980	Chief Operating Officer
35.	Powers to grant permission for provision of objects, services, amenities, recreation and refreshment facilities on the highway and related powers	Part VIIA of the Highways Act 1980	Chief Operating Officer
36.	To exercise powers adopted by the Council under the Hampshire Act 1983	s.4 (relating to the registration of hairdressers and barbers and premises occupied by them) s.8 (relating to the control of stray dogs) s.9 (relating to the seizure of horses).	Chief Operating Officer
37.	Appointments and authorisations of officers	Food Safety Act 1990, Health and Safety at Work Act, 1974	Chief Operating Officer

38.	Power to issue a closing order to takeaway food shop	Local Government (Miscellaneous Provisions) Act 1989	Chief Operating Officer
39.	Powers to protect important hedgerows	The Hedgerows Regulations 1997	Executive Head of Property and Growth
40.	Power to transfer non-executive functions to another local authority, or decision to accept such a delegation from another local authority	Local Government Act 1972	Council
41.	Power to make an order identifying a place as designated public place for the purpose of police powers in relation to alcohol consumption	Criminal Justice and Police Act 2001	Licensing and Corporate Business Committee