

# Uppingham Town Council

**Report to:** Full Council  
**Date:** 7<sup>th</sup> September 2016  
**Subject:** Uppingham Hopper Bus  
**Agenda Item:** 11.

**Report Objective(s):** To consider what level of financial support (if any) to give to the Uppingham Hopper Bus project to enable it to become a permanent service for the next five years.

**Background:** Report to Uppingham Town Council on options for funding a permanent Hopper Bus Service.

**Executive Summary:**

The Hopper Bus Trial (originally envisaged for a six month period) has now been running for 44 weeks although because of vehicle reliability problems the service has not been available for 100% of this period. During the trial a total of 5470 passenger journeys have been undertaken which mathematically equates to circa 25 passenger journeys per day. Whilst the majority of the running costs have been covered by RCC and UTC it is notable that some £785 has been raised from public donations which were only sought from week 32 of the trial. This therefore averages at a voluntary contribution of around £52 per week.

RCC has now indicated that it no longer wishes to provide the vehicle for this service nor is it prepared to contribute towards the on-going running costs. RCC is, however, prepared to make an interest free loan of up to £50,000 repayable over 5 years available (subject to formal sign off by the RCC Cabinet) to enable a new vehicle to be obtained. A visit to a potential supplier (Minibus World) has established that a suitable brand new vehicle can be acquired for £33437 + VAT (£6687.40) plus Registration of £220 giving a total of £40344.40.

A formal enquiry to NALC has thrown up an unforeseen problem in that their legal opinion is that the Town Council does not have legal powers to either operate a bus service nor to loan a vehicle to a third party for the purposes of running such a service. NALC does however confirm that UTC does have the power to support such a bus service by way of financial means either through grants or indeed by formally budgeting for the expense. (Copy of the response from NALC attached at appendix A). They also go on to state that their advice would not change even were UTC to regain its General Power of Competence.

The legal position therefore means that if UTC wish to continue to support the Community Bus then this can only be on a financial basis and UTC will not end up owning any vehicle once the period of financial support being sought comes to an end.

A meeting has also been held with Marshalls of Peterborough who are experienced in the supply of minibuses and they have been asked to supply quotes for contract hire as well as outright purchase.

This paper therefore seeks an agreement in principle for UTC to provide financial support to the operation of the Uppingham Hopper Bus to enable the existing pilot scheme to become a permanent service. Given this is public money, there would need to be some form of agreement (not sure what this would look like and we would no doubt need legal advice) between Uppingham First or another body operating the bus in return for the support which is needed. Agreement would be needed about who covers the cost of this advice.

**Proposal.**

UTC is asked to decide whether or not it wishes to provide financial support to enable the Hopper Bus to move to a permanent service. A secondary question is if UTC does wish to financially support a permanent Hopper solution then at what level and for how long?

**Risks & Issues: Issues.**

The bus is currently being operated by Uppingham First who hold an appropriate bus licence and a pool of volunteer drivers. In theory other groups could provide the operation of the bus but in reality there isn't currently another bus operator running in Uppingham, other than those carried out by VAR and RCC where the type of service is not the same as that provided by Uppingham First. Over the past 44 weeks UTC have been asked to support the Uppingham First pilot and therefore it seems logical to ask UTC for support of the formalised version of that pilot with the same operator as we move to a permanent solution.

The offer of a capital loan from RCC remains only a verbal informal offer at this stage. I have personally spoken to Dave Brown at RCC to understand what the steps would be to formalise this offer. DB has told me that he believes that it would be a cabinet decision and once we are certain that this is a route that collectively Uppingham wishes to go down, the likely timescales for formalising the offer will be around six weeks. There is now also the issue that any such loan would need to be made to Uppingham First rather than the Town Council and whilst the initial discussions with RCC did not rule this out, again UTC would want to see this confirmed before we could formally commit our own financial support.

Uppingham First is a separate legal entity and needs to make its own decision on whether or not it wishes to commit to operating the Hopper Bus on a permanent basis as this is a significant commitment. UF will also have to decide if it wishes to accept a loan from RCC (were such an offer to be made). The next UF board meeting is scheduled for 13<sup>th</sup> September 2016.

**Consultation &****Feedback:****Options:****Finance Required: Level of commitment**

The first point here is to discuss what is meant by a permanent solution. Because the potential capital loan is "offered" over a five year period it would seem sensible to consider this a suitable term for any financial commitment from UTC and any operational support from UF (it would not seem appropriate to ask either party to sign up to an on-going commitment whereas a finite liability is easier to evaluate and budget for). The financial costs of operating the bus service can be broken down into the capital element of acquiring a suitable vehicle and the revenue costs of running it. We know that a suitable vehicle can be obtained for £40344.40. It is not considered appropriate to obtain a second hand vehicle as it will not come with the same warranties and the volunteer drivers are only prepared to commit to a longer term project if a new vehicle is provided. Finally the proposed vehicle does not legally require a D1 licence (it can be driven on a standard car licence) and this will potentially open up the pool of additional volunteer drivers.

When I was Mayor I held a Ball that raised £1500 towards the Hopper Bus fund. If £1344.40 of this was used towards the above capital cost there would be a balance of £39000 left to fund which over 5 years would equate to £7,800 per annum. Alternatively we could choose to repay this over four years which would require annual payments of £9750. (I have always had in my mind that any financial contribution by UTC should be of a similar figure to the amount that we historically provided for Parking Subsidy to RCC which was £8500 pa and so either of the above options are around this figure. Whilst there is no direct tie up between Parking Subsidy and Community Bus support I do feel

that there is a neat “transport” link and logic to this).

In terms of whether the financial support requested would be required by RCC as annual payments, monthly or quarterly etc. this still has to be decided but given my theoretical link with the previous Parking Subsidy which was paid annually in arrears then I would be proposing this arrangement to both UTC and RCC if we end up going down this route. This capital element can alternatively be replaced by entering into a contract hire for a new vehicle. I have arranged for quotes to cover 15,000 miles per annum and 20,000 miles per annum and the best figures (including VAT) received are as follows:-

Miles	3 Years	5 Years
15,000	£882 per month or £10584pa	£695 per month or £8340pa
20,000	£954 per month or £11448pa	£750 per month or 9000pa

Should the bus operator be able to reclaim VAT then obviously these figures would fall by 20% in all cases. In my opinion unless the VAT is recoverable then I believe that the outright purchase via a loan from RCC is better value for money plus there will be a physical bus to show within the Uppingham Community at the end of it (which is not the case with Contract Hire). My initial conversations have led me to believe that the VAT is unlikely to be recoverable by Uppingham First.

In terms of running costs the pilot has given us some very good data. The key costs are for fuel, insurance and maintenance and testing. At present the maintenance/testing costs are picked up by RCC but these will need to be covered by the bus operator going forward. If we accept the argument that this is most likely to be Uppingham First (subject to their Board approval) then that company have informally indicated that they believe that they can cover the operating costs themselves with voluntary support from the public and from business. A new vehicle will come with a warranty (which can be extended for the period of the loan) and a maintenance contract taken out.

This leaves fuel and insurance. The proposed vehicle is much more fuel efficient and likely to use at least 50% less diesel. At present diesel costs are circa £475 per month. The vehicle covers just under 300 miles per week at an approximate weekly fuel cost of £118 (which equates to about 100 litres or 22 gallons giving a return of about 14 mpg). Peugeot claim that the new vehicle will easily achieve 30 mpg but even if we assume that reality is between 20 -25 mpg it can be seen that there is a significant cost saving available. Insurance on the new vehicle is expected to be around £100 per month with testing the equivalent of a further £50 per month. The servicing contract will be £XX giving a monthly running cost (to be found by Uppingham First) of about £450. Currently public donations on the bus itself amount to around £200 per month leaving Uppingham First to find £250 per month from other sources such as on-board advertising (budgeted for £100 per month) and sponsorship and special events (the Classic Car evening at Welland Valley Garden Centre raised £96 alone). Currently on-going is a hamper raffle and UF would undertake various other fund raising activities to make up the funding shortfall.

**Timeline:** If UTC agrees in principle to provide the financial support as set out in this paper we will want to see written confirmation from RCC that they are prepared to make a capital loan to Uppingham First and what the terms are. We understand that this process could take up to six weeks.

Once UTC is happy with the terms of any proposed loan to UF (we would need to be happy because we would want to tie our financial commitment to those terms so, for example, if the bus is repossessed by RCC then our financial commitment ceases at that point) then we will also need written confirmation from UF that they are prepared to

operate the service and fund the on-going operating costs of the vehicle and the service. We would need to draw up some form of agreement between Uppingham First in return for the support which is needed. Agreement would be needed about who covers the cost of this advice and agreement.

Once all of the above are in place and signed off then Uppingham First could place the order for the new vehicle. From the point of vehicle order there is likely to be a 10 week delay until delivery.

Whilst it might be possible to undertake some of these steps in parallel it does seem that there is going to be a period of a minimum of four months before any new vehicle could be acquired and start operating and potentially this could easily stretch to six months. The issue then becomes what happens to the pilot scheme during this period? (This matter is covered under a separate agenda point as it will be dependent upon the decision made on funding a permanent solution).

This timescale would be reduced by around six weeks were a contract hire option to be chosen as there would then be no need to wait for confirmation of the RCC loan or its terms.

**Powers Required:** The Transport Act 1985, s106A

**Recommendation(s) / Resolution in draft:** I personally believe that this is an excellent project providing a much needed service within Uppingham. I would recommend that Uppingham Town Council agrees in principle to budget the sum of £7800 pa for the next five years to financially support the Uppingham Hopper Bus.

**Next Steps and Actions for the Town Clerk:** If UTC does commit in principle to the funding sought then I recommend that the powers to sort out all the details to go forward be delegated to the Finance and General Purposes Committee.

Report produced by Cllr. David Ainslie. 1<sup>st</sup> September 2016

**Appendix A – Legal Advice from NALC**



Mr Neil Wedge  
Town Clerk  
Uppingham Town Council

23 August 2016

Our Reference: Leic 16/315  
Your Reference: NSWHBAug16

**By Email only** – [townclerk@uppinghamtowncouncil.co.uk](mailto:townclerk@uppinghamtowncouncil.co.uk)  
cc [admin@leicestershireandrutlandalc.gov.uk](mailto:admin@leicestershireandrutlandalc.gov.uk)

Dear Mr Wedge

**Client: Uppingham Town Council**  
**Subject Matter: Community bus service**

Thank you for your email of 19 August 2016. You have requested advice on behalf of Uppingham Town Council ("the Council"). I understand that the Council has been financially supporting a bus pilot scheme for the past 12 months along with Rutland Community Council ("RCC").

Uppingham First has been managing and running a bus on weekdays in the pilot. I understand from its website that Uppingham First is a community partnership, which is a limited company. RCC has supplied and maintained the bus thus far. The Council has paid approximately £625 per month towards running costs.

RCC has now said that it cannot continue to support the pilot but would be happy to make a loan of up to £50,000 to the Council or Uppingham First to acquire a new bus. I understand it would be an interest free loan. Uppingham First has indicated that it would like to operate the bus service for the Council. The Council had envisaged that it may be asked to contribute annually to running costs of the new bus, which would be in the ownership of Uppingham First. The Council has apparently instead been asked by Uppingham First to consider if the Council would own the bus and be responsible for the loan from RCC, presumably repayments and the like. RCC would apparently prefer to make the loan to the Council than a company and for the Council to own the bus.

I have been supplied with a document that would appear to be a specification for a bus from a company called Minibus World. The cost is given as £33,437 + VAT. I have also seen the report to full council for a 7 September 2016 meeting on the subject of the Uppingham Hopper Bus. The objective is given as to secure agreement on making the bus a permanent facility in Uppingham for the next five years. The report says that the loan would be repayable over five years and the bus would become the Council's asset upon the loan being



repaid. A section of the report is entitled “powers required” and provides “borrowing of money from RCC. Lending an asset to our chosen Hopper Bus Operator”.

### **The Council’s questions**

You say in your first question that you know the Council has the power to borrow money. You have said you are unclear on the power to be able to lend a Council asset to a third party, that is, Uppingham First. You have asked what would need to be put in place to safeguard the investment under the loan to RCC and what there need to be a formal tender process.

This question raises complex legal issues. The first point I would make concerns parish/ town council borrowing powers as the Council would be borrowing money from RCC under the proposal. I advise that councils do not have the power to borrow *per se*; they have the power to borrow money for any purpose relevant to their statutory functions or for the purpose of the prudent management of their financial affairs (paragraph 2 (1) of Schedule 1 to the Local Government Act 2003 (“the 2003 Act”).

Before a council can borrow a sum of money, it must also first receive an approval to borrow from the Secretary of State by way of the Department for Communities and Local Government. Further to receiving approval a council can borrow money from any source.

In my view the issue here is identifying a relevant statutory function as per paragraph 2 (1) of Schedule 1 to the 2003 Act that would cover the provision and operation of a community bus scheme.

I advise that s.106A (1) of the Transport Act 1985 (“the 1985 Act”) provides that a parish council may make grants to any body towards expenditure incurred or to be incurred by that body in connection with the operation of:

- (a) a bus service appearing to the council to be wholly or mainly for the benefit of members of the public who are elderly or disabled; or
- (b) a community bus service

“Community bus service” is defined in s.22 of the 1985 Act to mean a local service provided by a body concerned for the social and welfare needs of one or more communities; without a view to profit, either on the part of that body or of anyone else; and by means of a vehicle adapted to carry more than eight passengers.

This legislation gives a parish/ town council the power to spend money on community transport schemes such as bus services. It does not permit a parish council to operate such a scheme.

Under the proposal, the Council would take out a loan to buy a bus and the bus would be lent to a bus company. The Council refers to the bus company as the operator of the scheme. In my view the Council’s role under the proposal would go beyond that permitted by s.106A of the 1985 Act, assuming the bus service meets the definition as set out in s.22 of



the 1985 Act. As such, my view is that the Council does not have the power to borrow from RCC or any other source in the manner envisaged. The Council would be able to make grants to another body only. I cannot say if Uppingham First meets the definition of a body to which the Council would be permitted to make a grant under s.22 of the 1985 Act.

I have not been told that the Council is eligible to exercise the general power of competence. My advice would remain the same even if it can.

In light of my above advice I will not consider the Council's second question. The third question on reclaiming VAT and the associated implications is not a legal question in any event.

I hope this has been of assistance.

Yours sincerely

Jane Moore  
Solicitor  
Head of Legal Services