

 <b>Executive Report</b> <b>7<sup>th</sup> March 2018</b>		<b>Agenda Item No.</b>  <b>5</b>
<b>Title</b>	Newbold Comyn Golf Course - Proposed Next Steps	
<b>For further information about this report please contact</b>	Andrew Jones, Deputy Chief Executive <a href="mailto:Andrew.jones@warwickdc.gov.uk">Andrew.jones@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>	Clarendon	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No – however it is linked to Agenda Item 14 which is confidential under paragraph 3 of Section 12A.	
<b>Date and meeting when issue was last considered and relevant minute number</b>	4 <sup>th</sup> January 2018 Min No's 99 & 100	
<b>Background Papers</b>	Finance & Audit Nov. '13; Mar. '14; Nov. '15. Executive April '14.	

<b>Contrary to the policy framework:</b>		No
<b>Contrary to the budgetary framework:</b>		No
<b>Key Decision?</b>		Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>		No
<b>Equality &amp; Sustainability Impact Assessment Undertaken</b>		No
N/A		
<b>Officer/ Councillor Approval</b>	<b>Date</b>	<b>Name</b>
Deputy Chief Executive	9 <sup>th</sup> February 2018	Andrew Jones
Head of Service	10 <sup>th</sup> February 2018	Rose Winship
CMT	13 <sup>th</sup> February 2018	Chris Elliott Bill Hunt Andrew Jones
Section 151 Officer	13 <sup>th</sup> February 2018	Mike Snow
Monitoring Officer	9 <sup>th</sup> February 2018	Andrew Jones (author)
Portfolio Holder(s)	21 <sup>st</sup> February 2018	Councillor Coker
<b>Consultation &amp; Community Engagement</b>		
N/A		
<b>Final Decision?</b>		Yes
<b>Suggested next steps (if not final decision please set out below).</b>		

## 1. **SUMMARY**

- 1.1 Following Executive's consideration of the Mack Trading (Heaton Park) Ltd (hereafter referred to as Mack) situation at its meeting of 4<sup>th</sup> January 2018, the report provides an update on the position following the negotiations to end the contractual arrangements between Mack and this Council. Further, the report proposes the next steps the Council could take in relation to Newbold Comyn golf course.

## 2. **RECOMMENDATIONS**

- 2.1 That Executive notes that a negotiated settlement has been reached to end the contractual arrangements between Warwick District Council (WDC) and Mack meaning that Mack no longer has a legal interest in the land at Newbold Comyn golf course.
- 2.2 That Executive notes the headline points of the negotiated settlement at Item 14 in the Private and Confidential part of this Executive Committee agenda.
- 2.3 That due to the decline in the traditional golfing sector, Executive agrees that officers explore in detail the options available for the best use of the land at Newbold Comyn golf course based on the assumption that there is no predisposition towards providing a golf course in the future, that the land will not be available for residential development and thereby makes available up to £50,000 from the Community Projects Reserve (CPR) to commission specialist consultancy advice, with access to this sum delegated to Deputy Chief Executive (AJ) (DCX(AJ)) in consultation with the Portfolio Holder for Culture.
- 2.4 That subject to agreeing recommendation 2.3 and thereby allowing for the option to provide a golf course in the future, Executive notes that an exemption to the Code of Procurement Practice to enable a service contract with Warwick Golf Centre Limited (WGC) to provide a low level maintenance regime for the golf course has been agreed by the Head of Finance and Procurement Manager and agrees that £50,000 is made available from the Contingency Budget to supplement the £50,000 previously agreed, so giving £100,000 for maintenance of the grounds and the health and safety requirements discussed in paragraph 3.4.7.
- 2.5 That Executive agrees that the current year rent and service charge shortfall of c.£8,000 is funded from the 2017/18 Contingency Budget, and that the 2018/19 rental is funded from the 2018/19 Contingency Budget, and beyond that is included within the Medium Term Financial Strategy (MTFS).

## 3. **REASONS FOR THE RECOMMENDATIONS**

### 3.1 Recommendation 2.1

- 3.1.1 At its meeting of 4<sup>th</sup> January 2018, Executive agreed that officers should enter into negotiations with Mack to end the contractual relationships between Mack and Warwick District Council (WDC). Those negotiations have now been concluded and a Deed of Settlement has been signed by the relevant parties which bring to an end the operating agreement of 1<sup>st</sup> April 2010 and a lease of 8<sup>th</sup> May 2012 for Mack to operate and maintain a golf course at Newbold Comyn.

3.1.2 With the removal of Mack's leasehold interest, WDC has taken control of the land and officers are now in the process of determining what urgent maintenance is necessary. Officers have been on site and are compiling a list of the actions necessary to address any health and safety issues e.g. tree and path maintenance.

### 3.2 Recommendation 2.2

3.2.1 The terms of the negotiated settlement between the parties are private and confidential and cannot be detailed in a public report, however, for the benefit of Councillors only, the main points of the settlement are detailed at Item 14 on this agenda.

### 3.3 Recommendation 2.3

3.3.1 Members will be aware that over the last ten years there has been a marked reduction in the number of people participating in golf either on a pay-and-play basis or through a golf club. Indeed the decline in golf participation is what lay behind the problems Mack was experiencing. Consequently when considering what to do next with Newbold Comyn golf course, it would be premature to embark on a tendering process to commission a new golf course operator when the return of the land allows the Council the opportunity to consider in depth what it wishes to do with the site in the future.

3.3.2 Newbold Comyn Park is a 300 acre (120ha) country park (see Appendix A). The northern half is the golf course. The southern half is used for recreation, sport and wildlife conservation. Leam Valley Local Nature Reserve covers part of the country park. The park is one of the District's major attractions offering numerous things to see and do. It is therefore officers' view that time needs to be taken to consider in depth the options for this part of the park. In effect it is recommending that an options appraisal is undertaken.

3.3.3 In undertaking an appraisal, officers are clear that there is no Executive desire to bring forward a scheme for any residential development on the land. However, this does not rule out options for upgrading the buildings already sitting on the site.

3.3.4 Initial discussions between officers have raised many matters that will need to be considered such as the land's greenbelt setting, its relationship to abutting sites and current land uses. The best way to consider all these matters is through a detailed piece of work. Given the scope of this work, expert external advice will be required and it is therefore recommended that £50,000 is made available from the CPR to commission professional services and that authority is delegated to DCX (AJ), in consultation with the Portfolio Holder for Culture, to draw-down this funding.

3.3.5 Officers have considered a timeline for undertaking the options appraisal as well as fulfilling the Council's legal requirements in respect of consultation and whilst it is difficult to be precise an indicative plan is shown below:

<b>When</b>	<b>Action</b>
March '18 - August '18	Formulation of options following consultation and engagement with public and interested stakeholders.
September '18	Report to Executive with proposed next steps

October '18 - December '18	Consultation with public and interested stakeholders.
January '18	Report to Executive with recommended option.

3.3.6 Members should note that there is a legal requirement to consult on whether the Council should operate the golf course in future. This is the case even though the service that was being provided was discretionary rather than mandatory. The Council must go into this consultation with an open mind, however, it is legitimate to have reflected on past experience and external information when determining a way forward. Combining the consultation with an in-depth options appraisal is a sound approach to decision making.

### 3.4 Recommendation 3.4

3.4.1 Assuming that Executive agrees to recommendation 2.3, it is important that the option to operate a golf course in the future is not ruled out. Golf courses require a considerable amount of attention, particularly the greens and bunkers, and if they are untended for a significant period then it can take many seasons to return the course to a playable state. It is therefore recommended that whilst the options appraisal is undertaken, the course is maintained at a low level but with enough intensity that enables return to a playable condition in a reasonable period of time.

3.4.2 To deliver this level of maintenance, officers have sought quotes from its current grounds maintenance contractor, id verde, and WGC, the operator of the Council's other golf course at St Mary's Lands, Warwick. Officers believe that the quote provided by WGC offers best value given the need to put arrangements in place as soon as possible.

3.4.3 Officers have therefore agreed an exemption to the Code of Procurement Practice to enable this award to be made for a period of up to 12 months at a total cost of c£60,000. When considering this matter, officers considered:

- the work that would be required in going through an open tender process before any award could be made;
- the opportunity cost on other officer work of the tender process and subsequent contract managements arrangements with a potentially currently unknown contractor;
- the quote provided by WGC is considerably cheaper than from the Council's grounds maintenance operator;
- the good relationship the Council has had with WGC over a number of years.

3.4.4 Members will also wish to note that officers requested its ground maintenance contractor to provide quotes for simply cutting the grass (i.e. no specific green and bunker maintenance) based on a 14 cut-per year regime and a 3 cut-per-year regime. The quotes it received were respectively £69,000 and £52,000. A 3 cut regime would see the grass grow to a significant height during the spring and summer which is considered to be unacceptable for such an amenity and consequently the price offered by WGC offers excellent value for money.

3.4.5 The information from the Council's contractor demonstrates the importance of comprehensively analysing the options for Newbold Comyn golf course as it seems more than likely that without any commercial input, there could be a large financial input required of the Council.

3.4.6 Authority for this action is provided in the Code of Procurement Code of Practice at Paragraph 6.5 and specifically:

- If there are exceptional circumstances in which it would not be in the Council's best interests to follow the tender or quotation procedure or another Rule for Contract.

3.4.7 Executive has previously agreed that £50,000 is made available for low level maintenance work. However, initial investigation by officers suggests that further funding will be needed to deal with health and safety matters. It is therefore proposed that this amount is supplemented by a further £50,000 from the Contingency Budget. The total funding of £100,000 should cover the maintenance contract and other likely eventualities.

### 3.5 Recommendation 2.5

3.5.1 This recommendation is addressed in section 5, the Budgetary Framework.

## 4. **POLICY FRAMEWORK**

### 4.1 **Fit for the Future (FFF)**

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

<b>FFF Strands</b>		
<b>People</b>	<b>Services</b>	<b>Money</b>
<b>External</b>		
<b>Health, Homes, Communities</b>	<b>Green, Clean, Safe</b>	<b>Infrastructure, Enterprise, Employment</b>
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/ productivity of local economy Increased employment and income levels
<b>Impacts of Proposal</b>		
To ensure a valuable public asset, enjoyed by many thousands of people, is properly	To ensure a valuable public asset, enjoyed by many thousands of people, is properly managed.	To reflect on the best use of the golf course going forward.

managed.		
<b>Internal</b>		
<b>Effective Staff</b>	<b>Maintain or Improve Services</b>	<b>Firm Financial Footing over the Longer Term</b>
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
<b>Impacts of Proposal</b>		
Not applicable.	To ensure the Council delivers a service/ asset that is valued.	To ensure the Council gets the best value for money from its asset.

## 4.2 Supporting Strategies

Each strand of the FFF Strategy has several supporting strategies. The recommendations seek to protect the Council's financial position whilst ensuring a valuable public asset is protected for the long term.

## 5. BUDGETARY FRAMEWORK

- 5.1 The impact of the negotiated settlement is shown at Item 14.
- 5.2 There is currently an unallocated balance of £310,300 in the 2018/19 Contingency Budget. This amount could therefore cover the additional £50,000 requested to address emerging health and safety matters and ground maintenance, giving £100,000 in total for this work.
- 5.3 The Community Projects Reserve currently has an unallocated balance of £1.447m. It is proposed that £50,000 of this is used to fund the commissioning of specialist consultancy advice.
- 5.4 Mack is due to pay the Council £20k per annum in rent under the current agreement. This has been paid up to 31 December 2017. As part of this settlement no further rent will be recovered. The £5,000 shortfall for 2017/18 is proposed to be funded from the current year Contingency Budget that has a balance of £14,400. In addition, there is a service charge shortfall of c£3,000 which will not be recovered, which should also be funded from the 2017/18 Contingency. For 2018/19, the full £20,000 rental shortfall should be funded from the 2018/19 Contingency Budget. Beyond that, the £20k should be funded within the Medium Term Financial Strategy. The long term financial implications will need to be included as part of the consideration on the future use of the land.

6. **RISKS**

- 6.1 There is a reputational risk of the Council not recommencing the operation of the golf course with immediate effect. However, given the experience of Mack and what is known about the industry, it is highly unlikely that the course could be operated without a significant subsidy. It therefore makes sense to explore fully the available options.
- 6.2 There is a financial risk that maintenance of the course even at a low level will be more expensive than anticipated. Whilst officers' knowledge of the course does not suggest this will be the case, the risk cannot be discounted.

7. **ALTERNATIVE OPTION(S) CONSIDERED**

- 7.1 The only alternative option considered was immediate reinstatement of the course but for the reasons set out this was discounted.