

Cabinet

Excerpt of the Minutes of the meeting held on Thursday 2 November 2023 in Shire Hall, Warwick at 6.00pm.

Present: Councillors Davison (Leader), Billiald, Chilvers, J Harrison, Kennedy, King, Roberts, Sinnott and Wightman.

Also Present: Councillors: Boad (Liberal Democrat Group Observer), Day (Conservative Group Observer), Falp (Whitnash Residents Association Group Observer), and Milton (Chair of Overview & Scrutiny Committee).

44. **Declarations of Interest**

There were no declarations of interest.

Part 1

(Items upon which a decision by the Council was required)

46. **Abbey Fields Swimming Pools Project**

The Cabinet considered a report from the Programme Manager. The project to construct a new Abbey Fields Swimming Pools building had found significant medieval remains under the previous building. This had required a redesign of the foundations of the building and a reappraisal of the construction methods to be employed in order to ensure that the remains were protected as much as possible. The Council was working closely with Historic England to ensure this outcome was achieved. These two elements had already added considerably to the cost and time of the project and would also add considerably to the cost and time required to complete the construction. The purpose of the report was to seek authority to continue with the project. This would entail entering into a revised contract with the main contractor, with a revised contract sum and a revised programme for the works, and related actions.

The project to replace the previous Abbey Fields Swimming Pools had been a key priority for the Council since the project began in 2018. The previous swimming pool building had been demolished and minor construction works on the site had already started but had been halted whilst the Council made a decision to continue or not.

The project works at Abbey Fields had found significant medieval remains under the previous building. The Council was working closely with Historic England, the County Archaeologist and Archaeology Warwickshire to decide how best to preserve the key elements of these remains underneath the new building. The foundations of the new building were being carefully re-designed to avoid the remains as much as possible. The recording and mapping of these remains had been a slow and painstaking process, and this had delayed work on this project.

Constructing a building on this site would now be more expensive and would take a longer time than was previously expected. This was because additional requirements would be placed on the construction team, in order to ensure that damage to the medieval remains from the

construction process was limited as much as possible.

In order to satisfy Historic England that the new building would not cause substantial harm to the medieval remains, it was proposed to raise the foundations of the building by 50cm, as well as moving from a ground-bearing slab to a suspended slab construction. This would raise the ridge of the building by 35cm as the rest of the increase in height could be absorbed by minor changes within the structure of the building. There would be some amendments to the construction process within the remainder of the building, but the general layout and design of the building would remain identical to the existing Planning Permission.

These changes would require the submission of an application for a Material Amendment to the existing Planning Permission under Section 73 of the Town and Country Planning Act 1990. This submission had now been made. It was hoped that a decision could be given by early 2024. If permission was granted and the Council agreed Recommendation 1 of this report then work could begin as soon as the contractor could mobilise, assuming a revised contract had been signed.

The Design Team had been progressing the conceptual work on the changes required to the foundations in order to reduce the impact on the medieval remains. Historic England had confirmed in writing that they were now content with the proposals that had been made. They had effectively reinstated the Scheduled Monument Consent and the Council could continue with the new design. The Design Team would now proceed with the detailed design of the revised foundations.

The on-site work to analyse the medieval remains was now largely complete but the financial and time consequences for the project were not yet precisely known. There would be delays and additional costs caused by the archaeological works and also by the different construction process now required. It was clear that costs and time would both be significant. In reaching a decision on whether to proceed with the project, the Council would have to consider the cost, risk and programme implications of continuing at Abbey Fields.

Due to the submission and consideration of a Section 73 Material Amendment to the Planning Permission and the redesign of the foundations of the building, if the Planning Permission was granted, the start on site date would be delayed until February or March 2024.

Should the Council decide to continue with the scheme, there were a number of factors that would extend the construction period from the previous estimate of 74 weeks to a new estimate of 114 weeks. The relevant factors included restricted access routes across the site to preserve the medieval remains, a constant watching brief from Archaeology Warwickshire until all ground works were complete, the possibility of additional archaeological finds, and more restrictive work practices in order to reduce hazards and use of smaller machines. This gave a revised predicted completion date in the summer of 2026.

The main influences on the predicted increase in costs were prolongation of the works as shown above; re-tendering of all the works packages because the previous prices were all now out of date, waning interest from

some sub-contractors due to the time delay, and archaeological watching brief and inflation due to previous and future delays.

The contractor Kier had provided two scenarios for the increase in the costs – a 'lower assessment' and a 'higher assessment'. This was to provide an element of range in the figures, and to demonstrate that these were early indications which required substantially more detailed work before they could be finalised. These figures were therefore confidential as they represented one position in the negotiation between the contractor and the Council.

In addition to these potential increases, there would be additional sums for increases to the demolition contract and site supervision, reinstatement of a project contingency at a rate of 5% of the Kier budget forecast (this was to cover currently unknown problems or opportunities during construction) and the increase in professional fees for Mace Consult Ltd and other consultants that would be payable due to the prolongation of the project.

It was intended that detailed negotiations on cost would be undertaken with Kier to establish a new and agreed contract price before any final decision to proceed could be made. In this way, it would be possible to reinstate the existing balance of the risk between the Council and the contractor, as shown in the existing contract between the parties. There was a fine balance to be made in these negotiations on price. The Council needed to ensure that their cost consultants Mace Consult Ltd would be working hard with Kier to minimise the increase in cost, but it was also important that the agreed price was achievable as the Council did not want to be in a position of facing requests for further increases at a later date.

It was a requirement of the management of a project on a Scheduled Monument that a full and complete record of the historical and archaeological importance of the medieval remains found on the site were recorded in detail within the County Archive. Discussions had already been held with the County Archaeologist to make sure that this duty was discharged as thoroughly as possible.

The Council was also determined to ensure that the educational benefits of the discovery of the medieval remains were maximised in future engagement with local schools. The Council's Arts team would devise one or more educational projects to deliver in local schools, based on the medieval remains found.

In terms of alternative options, in considering the first recommendation in the report, Councillors would need to decide whether to continue with the project at Abbey Fields. In making this decision, it was appropriate for the Council to compare the new projected costs and programme at Abbey Fields with theoretical alternative options and theoretical alternative sites, to establish whether it would be quicker and/or cheaper in theory to cancel the project at Abbey Fields and begin a new theoretical alternative project on a new theoretical site.

This theoretical comparison was intended at this stage to assist with the decision as to whether to proceed with the project at Abbey Fields. If it was decided not to proceed with the project at Abbey Fields, then a full options appraisal process would have to begin again, if it was decided to still seek to provide a swimming pool facility for Kenilworth. At that time other sites would be appraised, alternative designs considered and public consultation undertaken.

There were many variables that were hard to define with any certainty at this time in making a comparison between the option of continuing with the project at Abbey Fields and moving to a new site.

A new site might be less problematical for the construction process and it would cause less interim and permanent disturbance within the Abbey Fields.

However, the opportunity cost of any alternative site would be substantial since to avoid using Green Belt land existing housing sites would need to be used and they were very valuable. Other than sites that the Council owned it would not be possible to guarantee that land would be available for such a purpose. Using any development site would reduce the number of houses that could be built. Designing a new building on a new site and obtaining planning permission could take at least two years. Inflation in the construction industry would continue to rise during that time. The Council had already spent £3.39m on developing this design on this site and demolishing the previous building.

The Council would have to decide what to do with the existing site. Historic England has confirmed that it would require that the site was returned to amenity grassland or wildflower meadow to ensure the least damage to the remains. It could not, therefore, be opened as an attraction or educational resource. Construction on another site in Kenilworth would be likely to cause disruption to people living near to the site, both during construction and when the building was in use.

In planning terms, the District Local Plan said that "all town centre options should be thoroughly assessed before less central sites are considered. First preference should be given to town centre locations". Any Planning Application for a less central site than Abbey Fields would have to establish whether or not the increased cost and construction programme at Abbey Fields was sufficient reason to move to a less central site.

In programming terms, the project at Abbey Fields was predicting a start on site date in early 2024, with a 114-week construction period, giving an opening date in the summer of 2026. A project on a theoretical alternative site would need to go through the whole options, feasibility and design process, including several periods of public consultation. This would lead to a start on site date of at least September 2026. An anticipated 74-week construction period, (depending on site conditions and what might be found below ground) would lead to an earliest possible opening date in the Spring of 2028, which was approximately one and a half years after the Abbey Fields programme.

The programme for an alternative site contained substantially more risk than at Abbey Fields, as there were more steps required within the

process. The current site at Abbey Fields was recognised as an extremely complex site with high levels of risk. However, the site did have an agreed design, Planning Permission (although a new Section 73 application would be required) and a contractor in contract (although price would have to be renegotiated). Many of the risks on this site were now known and allowance had been made within the costings calculated. A new design on a new site would be open to risks relating to site conditions, planning permission, commercial viability, procurement of a contractor and inflation in the intervening period.

Private and Confidential Appendix A to the report showed a cost comparison with a theoretical alternative. This comparison was taken from this point forward. It was acknowledged that £3,390,000 had been spent to date on the Abbey Fields site on design, project management, demolition and managing the implications of the medieval remains. This was included within the figures in the table in the Appendix A to the report for both options as the money had already been spent by the Council.

The figure for the cost of land in Appendix A to the report was based on market rates for land in Kenilworth. It also included various additional costs that the Housing Revenue Account (HRA) would incur if the land were to be taken from one of the Council's housing sites in Kenilworth. The Council's housing sites were the only potential sites in Kenilworth that were owned by the Council, and there was no certainty that any other sites would be available for purchase.

However, there was a significant risk that use of one of the Council's existing housing development sites could incur additional costs to the Council. The Council had received £9,591,000 from Homes England for the delivery of the new school and 516 dwellings in Kenilworth. The agreement with Homes England said that the Council was to use its best endeavours to deliver the full amount of this housing or there would be a requirement to repay all or part of the grant received. If the Council chose to place a swimming pool building on one of these sites, then it could be hard to prove that it had used its best endeavours to maximise the housing provided, and there was a significant risk that some or all of the grant would be reclaimed.

The table assumed that a new swimming pool building on a new site would have the same construction cost as the expected cost of the pools at Abbey Fields before the discovery of the medieval remains, plus 1.8 percent, which was the predicted increase necessary to comply with the new Building Regulations, which would apply to a new facility. This had been compared with national data and was considered to be a reasonable sum for a facility of this type. It was then necessary to add the loss of income to the Council from the houses that could not be built, inflation in the period before construction could start, the cost of a new design process from scratch and the cost of cancelling the current contract with Kier to this option. When these items were added it was predicted that a new swimming pool building on a theoretical new site would cost more than the project at Abbey Fields, at the lower estimate and the higher estimate for that project.

It was also considered that any other site would take almost one and a half years longer to open to the public. As well as additional cost and time,

the proposal to consider an alternative site would carry a higher risk in a number of factors than continuing at Abbey Fields. These risks included such items as site availability, ground conditions on the new site, obtaining Planning Permission, Planning Conditions required, procuring a new contractor in a competitive market and construction inflation in the intervening period.

A further consideration with regard to the use of an alternative site was income to be generated from the new swimming pool in either location. Recent benchmarking work by officers on financial forecasts showed that any new swimming pools facility would run at a loss for the first few years whilst the programme was developed. This loss was reduced once the site and user base were established.

If this general trend were to continue beyond the end of the existing contract it was not unreasonable to assume that the facility would be producing a franchise fee (payment to the Council) from year five onwards, rather than a management fee (payment from the Council).

Although the figures could reasonably be expected to be small, it appeared that the sooner the facility was open to the public the sooner the performance could be improved until it was generating a small income to the Council, rather than a cost. If an alternative site took longer to open to the public, then the production of a small income to the public would not be delivered until a later date.

The other option would be to terminate the project to build a new swimming pool building for Kenilworth. This would provide a substantial saving on the capital budget and create less disturbance to local residents and users of Abbey Fields. This option would mean that people in Kenilworth would have to travel to other towns to swim, leading to a substantial loss of amenity for local residents and increase in carbon emissions. Sport England would confirm that the Council was not providing the necessary swimming facilities for local residents, contrary to the Council's own Local Plan and Sports Facility Strategy.

The cost of this option going forward could be estimated to be £2,375,402, as this was the predicted cost of cancelling the contract with Kier and returning the site at Abbey Fields to grassland. The Council had already spent £3,390,000 with a number of bodies including Kier on developing the design for the Abbey Fields site and demolishing the previous building.

The Overview & Scrutiny Committee supported the recommendations in the report with the following caveats and conditions:

1. the project would undertake a review on the assurance of the environmental energy reduction measures;
2. an independent review of the costs would be carried out; and
3. Cabinet would be provided with a full briefing on the previous site analysis that had been done so that it could be properly informed when making its decision.

The Cabinet was required to vote on this because it formed a recommendation to it.

At the start of the item, Ms Judy Brook and Mr Rod Jones addressed the Cabinet.

Councillor Davison proposed the report as laid out, subject to the additional recommendations from the Overview & Scrutiny Committee.

Recommended to Council that the decisions of the Cabinet at (1) and (2) below be funded by external borrowing from the Public Works Loan Board (PWLB), with the revenue cost of the borrowing to be factored into the Medium-Term Financial Strategy (MTFS).

Resolved that

- (1) authority be delegated to the Chief Executive, in consultation with the Leadership Coordination Group, to enter into a revised contract with Kier Construction Ltd trading as Kier Construction-Eastern with a revised programme and a revised contract sum, always provided that the total project capital cost for the Abbey Fields Swimming Pools project from January 2021 to the completion of the works does not exceed a ceiling set out within the private and confidential Appendix A to the report and an appropriate level of contingency can be maintained within this ceiling at the start of the contract;
- (2) officers are to undertake other tasks including the continued employment of Mace Consult Ltd as project managers and cost consultants in order to deliver the project as cost effectively and as expeditiously as possible;
- (3) the project undertakes a review on the assurance of the environmental energy reduction measures;
- (4) a third party independent review of the costs be carried out; and
- (5) Cabinet assured the Overview & Scrutiny Committee that they were be provided with a full briefing on the previous site analysis that has been done so that they can be properly informed when making their decision.

(The Portfolio Holder for this item was Councillor Davison)

47. **Fees and Charges 2024/25**

The Cabinet considered a report from Finance which detailed the proposals for discretionary Fees and Charges in respect of the 2024 calendar year. It also showed the latest Fees and Charges 2023/24 income budgets, initial 2024/25 budgets and the actual out-turn for 2022/23.

The Council was required to update its Fees and Charges in order that the impact of any changes could be fed into the setting of the budget for 2024/25. Discretionary Fees and Charges for the forthcoming calendar year had to be approved by Council.

In accordance with the Financial Strategy and Code of Financial Practice it was appropriate to consider certain other factors when deciding what the Council's Fees and Charges should be:

- The impact of the Fees and Charges levels on the Council's Business Plan.
- The level of prices the market can bear including comparisons with neighbouring and other local authorities.
- The level of prices to be sufficient to recover the cost of the service and the impact on Council Finances, where this was not the case.
- The impact of prices on level of usage.
- The impact on the Council's future financial projections.
- Ensuring that fees, in particular those relating to licensing, reflected the current legislation. The regulatory manager had to ensure that the fees charged should only reflect the amount of officer time and associated costs needed to administer them.
- Whether a service was subject to competition from the private sector, such as Building Control. This service had to ensure that charges set remained competitive within the market.
- Income generated from services including Building control, land charges and licensing was excluded from the Medium Term Financial Strategy and was managed through ring-fenced accounts, due to the legislation and criteria under which they operated.
- Management of the Council's Leisure Centres was by Everyone Active. The contract definition stated that 'The Contractor shall review the core products and prices in September of each year and submit any proposed changes to the Authority for approval (the "Fees and Charges Report")'. Appendix C to the report outlined the core fees.

Managers had been challenged on ensuring income maximisation and cost recovery where appropriate and had provided commentary on the rationale behind some of the charges.

In terms of alternative options, these were the following:

- Leave all fees and charges at 2023 levels, or increase at a reduced level. This would increase the level of savings to be found over the next five years unless additional activity could be generated to offset this.
- Increase at a level higher than proposed in the report. Excessive increases could deter usage where the take up was discretionary.

Customers might choose to use the service less frequently or use an alternative supplier where one was available. Options for meeting the 10% target were considered, including higher charges on parking, green waste or bereavement services. However, the judgement on each of these was that these prices were more than the market would likely to bear and could result in a loss of income and therefore were not recommended in the report.

Both of the above were considered not to be realistic options given the increased cost of delivering some services, the current position of the Financial Strategy, and the level of savings required.

The Budget Review Group had concerns about the increase in fees at the crematorium but were satisfied by the rationale behind the decision provided by officers.

The Group wished to draw Members' attention to the following points regarding car parking charges:

1. The connection between car parking fees and other priorities such as the town centre economy and the climate emergency should be recognised. The Council's ambition to encourage net zero carbon methods of transportation should be reflected in the parking charges strategy. To understand the impacts of these connections better and define a way forward in achieving the Council's goals, the Group encouraged officers to test hypotheses and pursue different avenues to find potential solutions;
2. the importance of having an aligned strategy with Warwickshire County Council in relation to transportation and car parking charges should be highlighted;
3. in future, the consultation for car parking charges should be widened to include all Town and Parish Councils and interested organisations such as the Chambers of Trade and Commerce for Leamington, Kenilworth, and Warwick; and
4. a review into car parking charges of all car parks linked to leisure facilities would be welcomed to ensure that they are fair and equitable across the District.

The Group welcomed the increase in charges for filming on Council land.

The Group wished to draw Cabinet's attention to the circa £170,000 of opportunity that had not been taken which could have been available had the projections of the last Medium Term Financial Strategy been followed.

An addendum circulated prior to the meeting advised of minor corrections to the wording within the Parking Services and Season Tickets sections of Appendix A to the report.

A further addendum circulated prior to the meeting advised of the following amendment to the report:

“Under Parking Services, to freeze the 24 hour rate at St Peter’s car park at £8, instead of increasing it to £9. This brings it in line with all other 24 hour rates in the district.

This will reduce the forecast income from this tariff by £23,000. Therefore the total increase in proposed fee & charges income will be £726,000. This remains above the level of £721,000 that was factored into the Medium Term Financial Strategy (MTFS) at Budget Setting in February 2023”.

Councillor Chilvers, the Portfolio Holder for Resources, proposed the report as laid out, subject to the amendments in the addendum.

Recommended to Council that

- (1) the Fees and Charges proposals set out in Appendix A to the minutes, to operate from 2 January 2024 unless stated otherwise, be approved as amended in the update report;
- (2) the changes proposed by Everyone Active to the core products and prices from January 2024 which are within the 2023 June RPI as per contract and agreed with the Sports and Leisure Manager, be approved; and
- (3) authority be delegated to the Head of Neighbour and Assets in conjunction with Portfolio Holder, to increase fees for Media services at Oakley Wood after 1 April 2024.

(The Portfolio Holder for this item was Councillor Chilvers)
Forward Plan Reference 1,385

48. Corporate Strategy 2023/2030

The Cabinet considered a report from the Chief Executive which brought forward the Corporate Strategy 2023/2030. A corporate strategy was a key document that set out the Council’s priorities, goals and how success would be measured. The strategy provided the basis for the Council to set resources against agreed priorities, inform policy direction and provide the framework to help prioritise future opportunities that arose.

Following the change in the Council’s administration, a revised Corporate Strategy was needed to reflect a new set of strategic priorities. The strategy would inform the Council’s performance framework that explained how the priorities, values and vision were aligned and woven into the fabric of the organisation - known as the ‘Golden Thread’. The draft Corporate Strategy was set out in Appendix 1 to the report.

Without a Corporate Strategy in place, the Council would be operating without an agreed framework of priorities and objectives. A Corporate Strategy was a critical document to ensure strategic direction, focuses prioritisation of resources and one of the key components of good corporate governance.

The Overview & Scrutiny Committee had scrutinised the draft Corporate Strategy at length previously, so further scrutiny was not considered necessary. The Chair had liaised with the Leader of the Council and had informed him that he would be asking Members if they had any further comments to pass to Cabinet.

The Overview & Scrutiny Committee was pleased to note that how performance would be measured was defined in the Strategy but looked forward to receiving the actual targets and key performance indicators (KPIs). The Committee requested more clarity on review process because the "who, what, when and how" was unclear.

An addendum circulated prior to the meeting clarified that some areas in the policy needed refinement of the wording. For clarification, the Strategy would be reviewed every two years and under "how success would be measured", it should read "**% of WDC Homes reaching EPC C**". The map within the strategy would also be updated prior to going to Council.

In response to the request from the Overview & Scrutiny Committee to provide clarity on the review process on the "who, what, when and how", this would be set out in the first annual report to Overview & Scrutiny Committee in November 2024.

In recognition of the points of clarification, an additional recommendation was proposed that authority be given to the Deputy Chief Executive, in consultation with the Leader to review the strategy for grammatical or spelling errors and update it prior to its final publication.

Councillor Davison, the Leader of the Council, proposed the report as laid out.

Recommended to Council that

- (1) the Corporate Strategy, as set out at Appendix 1 to the minutes be approved; and
- (2) authority be delegated to the Deputy Chief Executive, in consultation with the Leader, to review the strategy for grammatical or spelling errors and update it prior to its final publication.

(The Portfolio Holder for this item was Councillor Davison)
Forward Plan Reference 1,399

49. **Public and Press**

Resolved that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following items by reason of the likely disclosure of exempt information within the paragraph of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Minutes Numbers	Paragraph Numbers	Reason
52	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

52. **Confidential Appendices to Item 6 – Abbey Fields Swimming Pools Project**

The confidential appendices were noted.

(The meeting ended at 7:20pm)