

Cabinet

Minutes of the meeting held on Thursday 20 May 2021 in the Town Hall, Royal Leamington Spa at 6.00 pm.

Present: Councillors Day (Leader), Bartlett, Cooke, Falp, Hales, Matecki.

Apologies: Councillors Rhead, Noone and Grainger.

Also Present: Councillors: Boad (Liberal Democrat Group Observer) and Davison (Green Group Observer).

Prior to the start of the meeting Councillor Day made a statement about the forthcoming Planning appeal for application No: W21/0590 Land South of Chesterton Gardens Leamington Spa.

1. **Declarations of Interest**

There were no declarations of interest.

2. **Minutes**

The minutes of the meeting held on 22 April 2021 were taken as read and signed by the Chairman as a correct record.

Part 2

(Items upon which a decision by the Council was not required)

3. **Local Development Scheme (LDS) update**

The Cabinet considered a report from Development Services which requested approval for a refreshed Local Development Scheme (LDS) with the inclusion of the production of the South Warwickshire Local Plan. The LDS was updated annual and set out the work of the Planning Policy team over the next three years in terms of the production of planning documents.

The adoption and publication of the LDS was a statutory requirement of the Planning and Compulsory Purchase Act 2004 (PCPA). The PCPA laid out the coverage and duration of the document required which included a provision for an annual review of the Scheme to ensure that it remained relevant and up to date.

The Warwick District Local Plan (2011–2029) was adopted in September 2017, which resulted in a revision of the LDS. The Local Plan included the Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs) that were required to support the Local Plan. Information for applicants and decision makers were also included in the Warwick District Plan.

The programme of work was driven by commitments within the Local Plan. Additional work would be necessary in response to either local planning issues or changes in national legislation. These were factored into the

Scheme and a new version of the LDS was produced yearly to reflect progress made and any new areas of policy being worked on.

In November 2019, an amendment was made to the 2019 LDS to allow for the introduction of a significant new DPD related to climate change and the rearrangement of other areas of work. The 2020 LDS was subsequently adopted by Cabinet in March 2020. The proposed revised LDS made a number of changes to the work programme of the Planning Policy team. This was a result of several factors which included the impact of the pandemic on the team's ability to progress certain work areas during 2020, technical challenges with certain projects and new areas of work which had emerged since the LDS was last updated.

With regards to the Health Impact Supplementary Planning Document (SPD). It was proposed that the SPD should be removed because it was considered to be more expedient and appropriate to provide a guidance note for Development Management staff.

The South Warwickshire Local Plan (SWLP) and the National Planning Policy Framework (NPPF) required Local Plans to be reviewed every 5 years to ensure that they remained relevant and continued to deliver the growth laid out in the Plans. The Council had agreed that work on the Local Plan Review would be undertaken jointly with Stratford District Council. The Strategy at SDC was also in need of review and the authorities were now working collaboratively to produce a South Warwickshire Local Plan. The scoping of this plan had already commenced with most of the policy team involved. Some initial presentations were made to various stakeholder groups in January and February 2021 and an initial public consultation on a Scoping Report, and a "Call for sites" was underway.

The SWLP was not anticipated as an immediate priority last year and so did not appear within the currently adopted LDS. It had previously been anticipated that work on the Local Plan review would commence in late 2021 or 2022. The need to progress this work more urgently had come from a requirement on Stratford District Council to commence a review of its Core Strategy immediately. Work on the SWLP had therefore become a top priority for the team. This significant additional task had impacted the other current priorities including the DPDs on Climate Change and also Purpose-Built Student Accommodation (PBSA).

Work on the South Warwickshire Local Plan was in its early stages and given that the timescale for its delivery was subject to change, it would be noted that the LDS programme accompanying this report was an interim timetable pending additional information with regards to the Planned programme. This would be subject to the results of the Scoping consultation which commenced on 10 May and the anticipated response of the government to their consultation on the Planning White Paper, due later this year. It was likely that a revised timetable for the SWLP would need to be produced later in 2021. This would need to be agreed both by WDC and Stratford District Council as an update to this LDS.

Work continued on Climate Change & Sustainable Buildings DPD document, but it had proven harder to deliver than first envisaged. This was because of the need to identify a suitable standard to adopt and for technical expertise and advice which was being sought from consultants. The

challenge with this document had been to find an approach which satisfied the Council's goals that was technically deliverable, practical and affordable to implement on a daily basis by planning officers in determining planning applications. There was a need for technical expertise to carry this work forward, the Climate Emergency Action Fund was being utilised to support additional specialist technical advice to support the remaining stages of the DPD production. Funds from the Planning Reserve would also be needed to fund the Examination in Public. Whilst approval for some of this had already been approved, a further request for £30,000 to enable the work on the DPD to proceed.

The Purpose-Built Student Accommodation (PBSA) DPD had slipped due to priority being given to the climate change work and SWLP and because of the pandemic, the number of overseas students had been impossible to predict this year and next year. This had a major impact on the Council's understanding of the need for student accommodation and PBSA in particular. The challenges faced by the University in predicting student numbers made it very difficult for a reliable evidence base on what to prepare a PBSA DPD and on what its soundness would depend.

The team had been in active and positive dialogue with the University to explore how the University could support the Council in bringing this document forward as early as possible. The proposed LDS showed a slippage in the production of this document from the previous LDS; however, it was hoped that with support from the University it would be possible to expedite this piece of work.

Linked to work on PBSA is policy H6 (Houses in Multiple Occupation and Student Accommodation) in the current Local Plan. The scope of the PBSA DPD would include consideration of whether policy H6 needs to be reviewed and updated.

The Canalside DPD had been held up due to a Regulation 19 consultation needing to be carried out to progress to submission to the Secretary of State for a formal Examination in Public. The pandemic had greatly restricted access for the public to consultation material and the Council was had taken advice of the Planning Inspectorate on how to progress. This had now been resolved and the Statement of Community Involvement had been amended to take account of times when it was not in the public interest to have contact with hard copies of documents or submit paper representations. The Regulation 19 consultation had subsequently taken place.

The current resources within the Planning Policy team were described in the background information within the report. The pressure on the team, particularly with both Senior Planners working solely on the South Warwickshire Local Plan, had resulted in other work having to be moved further back in the programme over the last year.

On the issues of resources to deliver the Local Development Scheme, when the decision was made to commence work on the SWLP, no additional staffing resources were identified for this. While this was perfectly reasonable the review of the Local Plan became the major work commitment for the team over the next couple of years regardless of whether the Council was working jointly with SDC. This impacted on the

team's capacity to undertake other projects. This was particularly relevant as there was an urgency to commence the work on the SWLP.

At the last review of the Warwick District Local Plan, the Planning Policy team was larger than it is presently. Other projects were put completely on hold because the entire team was engaged in the work for the Plan and no other documents were produced during that time. At present the smaller team was involved in producing a number of other documents including several DPDs, all of which followed the same procedure as the Local Plan with the same stages and consultations attached, resulting in an Examination in Public (EIP).

As work progressed on the SWLP, the team would face additional challenges in providing the service that Members and the public have come to expect. All officers would be involved to a greater or lesser extent, and initial work on the SWLP had suggested that this would consume team resources beyond any dedicated team that was due to be created to focus on the delivery of the Plan. This would have an impact on officer capacity to deliver other elements of the LDS next year. Officers would carefully manage team resources to deliver items in the LDS and where necessary prioritise and look at ways of securing additional resources.

In terms of alternative options, the Council could choose not to adopt this Local Development Scheme and suggest a different range of priorities and timetable for the delivery of the identified documents. However, the attached LDS had been developed to bring forward the right documents as swiftly and efficiently as possible. Therefore, this option had been discounted. The preparation and maintenance of an LDS was a requirement of the Planning and Compulsory Purchase Act 2004, therefore there was no alternative to publishing it and maintaining it.

Councillor Cooke informed the Cabinet that since the report was written two Neighbourhood Plan Referendums had taken place. Therefore, he proposed on Page 11, Paragraph 2.7 the first sentence should be amended to read; *"The Royal Leamington Spa NDP and the Radford Semele NDP both went referendum in May, and both were approved."*

Together with the amendment Councillor Cooke moved the recommendations as laid out in the report.

Resolved that:

- (1) the Local Development Scheme, as set out at Appendix 1 to the report, be adopted for delivery of planning documents over the next 3 years; and
- (2) the Head of Development Services, be authorised, in conjunction with the Portfolio Holder, to draw down up to £30,000 from the Planning Reserve to cover the additional costs associated with preparing the Climate Change & Suitable Buildings DPD.

(The Portfolio Holder for this item was Councillor Cooke)

4. **Use of Delegated Powers - Decarbonisation of Council**

The Cabinet considered a report from the Programme Director for Climate Change that notified them of an urgent decision taken by the Chief Executive under delegated authority CE(4) to accept a grant from the Public Sector Decarbonisation Fund.

The Chief Executive in consultation with the Group Leaders had used his delegated powers to approve the inclusion of the Public Sector Decarbonisation Fund (PSDF) programme in the General Fund Capital Programme. Following the approval of the Council's bid to the PSDF in March and the subsequent appointment of contractors, it was necessary to take this decision urgently to enable the planning for the works to commence promptly. This reflected the funder's deadline of 30 September for completing the PSDF works.

Paragraph 9.2 of the Council's Code of Financial Practice states that; "Prior to a scheme being incorporated in the Capital Programme, a business case for the scheme must be presented to the Cabinet. The business case must include details of:

- how the scheme will contribute towards the Council's priorities and its Fit for the Future Programme, as set out in other policies and strategies, and service plans;
- a robust estimate of the capital cost of the scheme;
- the revenue implications;
- proposed funding for the scheme, both revenue and capital;
- VAT implications; and
- analysis of risks and mitigations.

In March 2021, the Council had received confirmation from Salix Finance that its application to the Public Sector Decarbonisation Fund (PSDF) had been successful. This involved a grant of £744,829.67 towards decarbonisation works for Jubilee House, the Glasshouse Restaurant and Temperate House; and the Newbold Comyn Sports Pavilion. The grant relied on match funding of £157,193.78 from the Council (to be funded from the Climate Action Fund), providing a total works programme worth £902,023.45.

The proposed works provided an important part of the Council's response to the Climate Emergency. In particular, they made a significant contribution to the plan of becoming a carbon neutral Council by 2025. The objective was to reduce the Council's carbon emissions by 138 tonnes CO₂e per annum which represented around 8% of the Council's carbon emissions.

The estimate of the capital cost of the scheme had been worked up by the Council's technical consultants, in accordance with the requirements of the PSDF including detailed works and costings. The proposed schemes had been tested and verified by Salix Finance who administered the PSDF on behalf of the Government.

In the short term, the proposed works were expected to increase the cost of heating within the three buildings by a total of approximately £25,000

per annum, with the vast majority of this falling on Jubilee House. This was because the schemes involved replacing gas heating systems with electrical heat pumps. Although the total energy demand of the new schemes was lower, electricity prices were currently significantly higher than gas prices. This resulted in an increased revenue cost. While it was not possible to be certain about future energy costs, the Government energy strategy sought to phase out gas heating systems and replaced them with low carbon systems such as electric heat pumps. In this context it would be reasonable to expect the cost gap between electricity and gas to narrow in the next few years and potentially for gas prices to be higher than electricity. If that were to occur, the increased revenue costs would be for a limited period only. It was therefore proposed that the increased revenue costs for 2021/22 and 2022/23 were not passed on to the tenants of these buildings and were covered by the Climate Action Fund.

The vast majority of the capital costs would be covered by a grant from the Public Sector Decarbonisation Fund with the match funding coming from the Climate Action Fund. An increase in revenue costs for 2021/22 and 2022/23 at Jubilee House and the Glass House/Temperate House as a result of the switch from gas to electricity would be covered by the Climate Action Fund at a cost of approximately £12,500 for 2021/22 and £25,000 for 2022/23. It was hoped that the costs differential would be minimal and any ongoing cost increases would be covered by the service area and the tenants.

There was a risk that the differentials in energy prices between gas and electricity did not narrow as anticipated. The implication of this was that the proposed works would have ongoing revenue implications which would need to be covered through a combination of increased service budgets and where tenants were in place, passing the costs on to the tenants. The more immediate impacts would be mitigated.

The capital costs of the works had been derived from a thorough assessment by professionals and had been verified by Salix Finance. It was expected that it represented an accurate picture. The overall costs included a contingency of 8%.

At this time there were no alternatives that could be considered because the grant funding had been accepted for works defined within the grant application.

Councillor Day explained that he was aware of the opportunity this presented for further efficiency works in insulation of the premises involved thus reducing energy consumption overall where being investigated by Councillor Rhead as portfolio holder.

Councillor Day moved recommendations as laid out in the report

Resolved that the use of Chief Executives delegated authority CE(4) for the incorporation of the Public Sector Decarbonisation Fund Programme involving Jubilee House, the Glass House Restaurant and Temperate House; and the Newbold Comyn Sports Pavilion into the General Fund Capital Programme be noted.

(The Portfolio Holder for this item was Councillor Rhead)

5. Use of Delegated Emergency Powers

The Cabinet considered a report from the Chief Executive which asked them to note a decision taken under delegated power CE (4), after appropriate consultation with the five Group Leaders.

Within the Constitution the Chief Executive was authorised to deal with urgent items that occur between meetings, in consultation with the relevant Deputy Chief Executive, Head(s) of Service (if available) and Group Leaders (or in their absence Deputy Group Leaders) subject to the matter being reported to the Executive at its next meeting. This is delegation CE(4).

The Council had been in discussions with its former partner in the PSP Warwick Limited Liability Partnership (LLP), Public Sector PLC (PSP), since March 2019 and that following the decisions made by the Executive on 21 August 2019 this included discussions on the dissolution of the LLP in addition to the cessation of all work on the former HQ relocation project. These discussions proved to be both complex and contentious. Regular briefings were provided to both Executive and the Leadership Coordination Group, comprised of the Group Leaders during 2020 and 2021.

In November 2020 the Council and PSP agreed to enter into formal mediation, overseen by an independent mediator to attempt to resolve matters between them. The Group Leaders gave approval under delegated power CE(4) authorising potential full and final settlement terms for the Council's negotiating team to use in the mediation session arranged for 1 December 2020.

Despite a full day of (virtual) face to face negotiation, an agreement was not reached but a potential route forward was agreed by both parties, sufficient to allow the formal mediation process to be continued. Revised authority under CE(4) was sought and obtained by officers to allow the negotiations to continue.

Detailed discussions, both through the party's respective legal teams and through direct conversation between the principal officer leads at the Council and PSP continued since the start of the year, culminating in a final draft agreement being produced in late April. Approval for this document was provided by the Group Leaders, again through the exercise of CE(4), on 3 May 2021.

A last-minute change to the final draft agreement was required and again this was approved by the Group Leaders, through the exercise of delegated authority CE(4) on 10 May 2021.

This ensured that both parties were able to sign an agreement on 13 May 2021 in full and final settlement of any actions, claims, rights, demands or set offs between the parties, removing any threat of legal action by either party against the other, for the LLP's accounts to be submitted to Companies House and for the LLP to be formally dissolved.

The terms of the agreement were subject to legal privilege and commercial confidentiality to ensure that there was no prejudicial impact on the commercial activities of PSP.

In terms of alternative options because the report related to the noting of a retrospective decision made under delegated powers there were no alternative options available. The options that resulted in the Group Leaders giving their authority to the final agreement were fully explored during briefings held in 2020 and 2021.

Councillor Davidson thanked Bill Hunt on the work that has been on this project. Councillor Day moved the recommendation as set out and Councillor Falp seconded.

Resolved that the appropriate use of delegated powers as provided by CE (4) in the Scheme of Delegation along with the drawdown from the Contingency Budget the sum referred to within the Private and Confidential Appendix 1 to the report, be noted.

(The Portfolio Holders for this item were Councillors Day and Councillor Matecki)

6. **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
7,8, 9	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

7. **Private and Confidential Appendix to Item 5 – Use of Delegated Emergency Powers**

The Cabinet noted the confidential appendix in relation to Agenda Item 5-Minute Number 5 - Use of Delegated Powers.

8. **Minutes**

The confidential minutes of the meeting held on 13 April 2021 were taken

as read and signed by the Chairman as a correct record.

9. **Minutes**

The confidential minutes of the meeting held on 22 April 2021 were taken as read and signed by the Chairman as a correct record.

(The meeting ended at 6.16pm)

CHAIRMAN
8 July 2021