

# Executive

Wednesday 29 June 2016

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A meeting of the Executive will be held at the Town Hall, Royal Leamington Spa on Wednesday 29 June 2016 at **7.30pm** or the conclusion of Council whichever is the later.

Membership:

Councillor A Mobbs (Chairman)	
Councillor N Butler	Councillor P Phillips
Councillor M Coker	Councillor D Shilton
Councillor S Cross	Councillor P Whiting
Councillor Mrs M Grainger	

**Also attending (but not members of the Executive):**

Whitnash Residents' Association (Independent) Group Observer

Labour Group Observer

Liberal Democrat Group Observer

Chair of the Overview & Scrutiny Committee

Chair of the Finance & Audit Scrutiny Committee

Councillor Boad

Councillor Quinney

## Emergency Procedure

At the commencement of the meeting, the Chairman will announce the emergency procedure for the Town Hall.

## Agenda

### 1. Declarations of Interest

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be entered on the form to be circulated with the attendance sheet and declared during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter. If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

2. **Minutes**

To confirm the minutes of the meeting held on 20 April 2016 **(Item 2 / Page 1)**

**Part 1**

(Items upon which a decision by Council is required)

3. **Warwick District Council Enforcement Policy Appendix: Regulatory (Food Safety, Health and Safety and Licensing)**

To consider a report from Health and Community Protection **(Item 3 / Page 1)**

**Part 2**

(Items upon which the approval of the Council is not required)

4. **Renewal of the Fire Alarm Systems in Sheltered Housing Schemes**

To consider a report from Housing and Property Services **(Item 4 / Page 1)**

5. **Multi-Storey Car Park Condition Survey Report - Update**

To consider a report from Neighbourhood Services **(Item 5 / Page 1)**

6. **Business Plan Template for Major Grant Applications from Community Groups**

To consider a report from Finance **(Item 6 / Page 1)**

7. **Review of Street Trading Policy**

To consider a report from Health and Community Protection **(Item 7 / Page 1)**

8. **Use of Delegated Powers: Electrical Repair & Maintenance Contract**

To consider a report from Housing and Property Services **(Item 8 / Page 1)**

9. **General Reports**

**(A) Rural / Urban Capital Improvement Scheme (RUCIS) Award Amendment Request**

To consider a report from Finance **(Item 10A / Page 1)**

10. **Public and Press**

To consider resolving 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 paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Item Nos.	Para Nos.	Reason
13	1	Information relating to an Individual
13	2	Information which is likely to reveal the identity of an individual
11, 12 & 14	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

11. **Housing Benefits and Council Tax Reduction**

To consider a report from Finance

**(Item 11/Page 1)**  
**(Not for publication)**

12. **Agenda Item 8 – Private & Confidential Appendix 2**

To consider a report from Housing and Property Services

**(Item 12/Page 1)**  
**(Not for publication)**

13. **Service Re-design Update**

To consider a report from Development Services

**(To follow)**  
**(Not for publication)**

14. **Minutes**

To confirm the confidential minutes of the meeting held on 20 April 2016

**(Item 14/Page 1)**  
**(Not for publication)**

Agenda published Tuesday 21 June 2016

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request, prior to the meeting by calling 01926  
456114.

# Executive

Minutes of the meeting held on Wednesday 20 April 2016 at the Town Hall, Royal Leamington Spa, following the conclusion of Council at 8.00 pm.

**Present:** Councillor Mobbs (Chairman); Councillors Coker, Cross, Gallagher, Grainger, Phillips, Shilton and Whiting.

**Also present:** Councillor Barrott (Chair Finance & Audit Scrutiny Committee), Councillor Boad (Chair of Overview & Scrutiny Committee & Liberal Democrat Group Observer) and Councillor Mrs Falp (Whitnash Residents' Association Group Observer).

An apology for absence was received from Councillor Phillips.

## 144. **Declarations of Interest**

There were no declarations of interest

### **Part 1**

(Items on which a decision by Council is required)

None

### **Part 2**

(Items upon which the approval of the Council is not required)

## 145. **Council HQ Relocation and replacement Covent Garden Car Park Project – Part A**

The Executive considered a report regarding the Council HQ Relocation and replacement Covent Garden Car Park Project.

Executive and Council had received a series of reports, over a period of years, examining the principle of a relocation of the Council's HQ offices from the current Riverside House site. The current HQ building was larger than the Council needed, costly to adapt to facilitate modern ways of working, difficult to modify to generate revenue savings and in need of considerable capital investment that was currently unfunded. The previous reports, therefore, considered how relocation could assist the Council to deliver a number of complementary objectives: the realisation of revenue savings already built-in as commitments within the Council's Medium Term Financial Strategy; the avoidance of future, unfunded, capital investment in the current building; the use of a relocation to support the local economy and/or stimulate new development within Leamington; redevelopment of the Riverside House site as a brownfield housing development as included within the modified Local Plan; and to ensure the Council had a HQ asset that was fit for purpose and able to support service delivery in a rapidly changing environment.

Since its inception and initial approval, the relocation project had been progressed by officers working in conjunction with the Warwick Limited Liability Partnership (LLP). The LLP, formally the PSP Warwick LLP, was

established by the Council in 2013 as a joint venture vehicle with Public Sector Partnerships (PSP) in order to assist the Council to manage and develop its asset portfolio and to unlock complex regeneration and development projects such as this one.

In September 2015 Executive examined a shortlist of potential relocation sites within Leamington, including an option of refurbishing the existing HQ building, and determined that its preferred option was the comprehensive redevelopment of the current site of the Council's Covent Garden car parks (surface and multi-storey) which would include the construction of the Council's new HQ offices and new car parking in lieu of the existing provision. Executive agreed that the LLP should undertake a detailed feasibility and viability assessment of the preferred option with a further report on the outcome of these studies, including an external validation of the LLP's proposals, being brought back to Members. It should be noted that the relatively recent requirement to consider the replacement of the Covent Garden multi-storey car park had added another key dimension and focus to this overall project.

This report set out the outcomes of those detailed assessments and proposed that the project should be approved and progressed to a delivery phase. It included a request for temporary project resource to work with the LLP on the next stages of the project, in accordance with the principles underpinning the new structure for project management, as approved by Employment Committee in March. Additionally, it was proposed to establish a Members' reference group to oversee the next stages of the scheme.

The proposed relocation project was complex, involving the comprehensive redevelopment and regeneration of a key town centre site and the linked housing-led development of another, edge of town site. Inevitably, with a project of this scale and complexity there would be both legally privileged and commercially sensitive information that needed to remain private and confidential. Where such material had been identified it had been placed within the confidential report. However, every effort had been made by the Council to place as much information as possible in the public domain, via this item.

Following the Executive decision, in September 2015, to select Covent Garden as the preferred site for a new Council HQ, constructed as part of a larger, comprehensive development of the site, officers had been working closely with the LLP on detailed feasibility and viability assessments of this preferred option. The LLP had developed a detailed project proposal, set out at Appendix One to the report. The version of the document attached to the report had been modified to remove any commercially sensitive information, albeit such removals had been minimised. A full version of this document was available at Appendix One of the separate confidential report.

The project proposal involved two linked sites; Riverside House, which would be released for development in two phases, and the site of the current Covent Garden car parks. The Covent Garden redevelopment would comprise of a new office building of 26,100 sq ft net internal area (NIA) for occupation by the Council as its new HQ, a replacement multi-storey car park of 650 spaces and a residential block of approximately 30,000 sq ft for sale to the

market. The Council would retain the freehold of the whole of this site. The Riverside House site would be redeveloped for housing with the whole of the site being sold by the end of the project. A first phase of development on the upper car park would be brought forward immediately, with the remainder of the site only being developed once the new office building has been completed and occupied and the existing HQ building demolished.

Careful consideration had been given to the size of the proposed 650 space multi-storey car park, which would replace the existing car parking provision on the Covent Garden site, to ensure that this would not compromise the off-street car parking capacity needed within the town centre to maintain its economic vitality and vibrancy and to ensure that this capacity was sufficient for both current and the likely future demand. This was explored further within the report and the financial impacts of the proposals were also considered in the report and the separate Part B report. The implications of the Council's car parking proposals, liaison with stakeholders and wider community engagement were also considered.

The LLP's proposal noted that a third site, the current Chandos Street car park, could be linked to the project. However, for commercial reasons considered in the Part B report and in recognition that substantial further work would be required to establish the optimum mix of uses for redevelopment of this site, it was not considered appropriate to bring forward a proposal that was contingent upon its inclusion within this project. Nonetheless, the Council would retain the option of utilising any capital receipt realised by the redevelopment of the Chandos Street site at a future date to contribute towards the funding of this project.

The basis of the LLP's proposal was as follows:

- the Council would vacate the Riverside House site and sell the site for housing;
- the LLP would seek a suitable development partner for the Riverside House site which would be developed in two phases, with the Council's current HQ building only be vacated when a new HQ building was available;
- the Council would close the existing 81 space surface car park and the 511 space multi-storey car park at Covent Garden;
- the LLP would bring forward a comprehensive redevelopment and regeneration of the Covent Garden site;
- this would include the LLP constructing a new, Council-owned, HQ building funded by the receipt of the sale of the Riverside House site and the sale of housing units constructed at the Covent Garden site as enabling development;
- the LLP would also fund the demolition of the existing Covent Garden multi-storey car park and provide a new 650 space Council-owned multi-storey car park on the site, funded by the Council;
- the Council would work with the LLP to specify and design the new office building and multi-storey car park. The HQ office specification would include provision of a 24 hour, operational control room and a Council chamber, allowing for these activities to be relocated from the Town Hall and Acorn Court;
- the LLP would design and develop the new residential block at Covent Garden (directly or in joint venture) to be built concurrently with the

- other elements of the proposed comprehensive redevelopment of the site;
- all elements of the project would be delivered by the LLP; and
- the project would be delivered in two phases, Phase 1 being further feasibility and design work and the securing of all necessary consents and legal agreements and Phase 2 being the full implementation and construction work.

An indicative timeline was set out, at Appendix Two to the report, and provided for the new HQ office building and the new multi-storey car park to be operational by October 2018.

The governance structure of the LLP consisted of an Operations Board, comprised of PSP and WDC officers (currently the Corporate Management Team, Head of Finance and one of the Senior Project Coordinators) who discussed and developed project proposals which were then presented to a Members Board for approval. The Members Board was made up of six people with equal representation for both partners. The Council members of the Board were currently the Leader, along with the Finance and the Development Portfolio Holders.

When establishing the LLP the Council put in place a 'double-lock' on decision making. For a LLP project to proceed it had to receive approval from both the LLP Members Board and the Council's Executive (or Council depending on the nature of the decision required).

The LLP Members Board met on 24 March 2016 and approved the project proposals as set out at Appendix One to the report. The report sought the Council approval for the second part of the 'double-lock'.

As part of their approval process the LLP Members Board agreed a formal resolution on how it would deliver phases 1 and 2 of the project and how these would be funded. This resolution, seeking two signatories from PSP and two from the Council, was set out at Appendix Three to the report.

Recommendation 2.3 sought approval for the Leader of the Council and Finance Portfolio Holder to sign the resolution, committing the Council (as joint partners in the LLP) to the project proposals, set out in Appendix One to the report, and the funding of Phase 1 of the project.

The approval of recommendations 2.2 and 2.3 to the report, allowing for the signature of the resolution by the Council, would allow the LLP to secure project funding from PSP. An initial project budget of £1,175,000 would be committed to fund the detailed design work for each element of the project (in addition to the LLP's £50,000 expenditure on this project to date), the cost of securing the necessary planning permissions, any other necessary consents and all associated costs, for example, the completion of a suite of legal agreements.

In committing to the project, Members needed to be aware that the Council would become liable for all expenditure committed by the LLP on the development of Phase 1 of the project, of the £1,175,000 set out in this report, in one of two circumstances.

The two circumstances were if the Council were to unilaterally withdraw from the project at a future date (this provision would also apply to PSP if it was to unilaterally withdraw from the project and it would become liable for all expenditure incurred in full); or if, after committing to the project, the Council sought changes to the project that had a material impact to the project criteria and the project became unviable as a consequence.

Should it be determined that the project was unviable, despite the reasonable endeavours of both parties represented in the LLP, then all expenditure would cease and the actual expenditure committed to that point (up to the maximum £1,175,000) would be considered as a loss to the LLP. This meant the Council would be fully insulated from any liability for these abortive costs, which would sit on the balance sheet of the LLP.

The terms of the respective responsibilities for the future treatment of any abortive costs associated with Phase 1 of the project were set out in the Commercial Principles contained within Appendix Three, of the report.

Subject to the Council approving the recommendations in the report and committing to the LLP's development strategy, the project would be delivered in two phases as described above. At the completion of Phase 1 a further report would be presented to Members, at a future date during 2017, seeking final approval to commit to Phase 2, the delivery phase of the project.

Phase 2 would require the LLP to commit a further estimated project budget of £24,540,000. The Council would be required to make a financial contribution estimated at this stage at £9,750,000 to this total Phase 2 budget, this being the sum required to deliver the new 650 space multi-storey car park; the detailed financial modelling of which could be found in Section 9 of the report.

Phase 2 of the project would involve the completion of the comprehensive development of the Covent Garden site, comprised of the new HQ office building, new multi-storey car park and enabling housing development and the disposal and phased development of the Riverside House site.

In making the commitment to the project, Members' attention was drawn to the fact that, whilst the final commitment to Phase 2 would require a further 'double-lock' decision by both the LLP Members Board and the Council, the provisions of 3.4.2 would be invoked if the Council decided to unilaterally withdraw from a project that the Phase 1 work had demonstrated was viable.

In making their future decision on the Phase 2 commitment, Members would be able to review the full suite of legal documents prepared during Phase 1 and would have the benefit of the knowledge that the necessary planning permissions and any other consents had already been obtained.

Further information on the PSP Warwick LLP was set out in section 8 but the LLP was specifically created as a vehicle to advance and unlock complex development projects and identify innovative ways to create added value to ensure their delivery. Integral to its establishment was the core principle that



any project that was to be delivered through the LLP vehicle had to be independently validated and demonstrated to outperform any other potential delivery option available to the Council.

These validation exercises had in the past involved independent commercial valuations, undertaken by appropriate 'experts', being commissioned by the LLP on terms agreed by the Council. Work on project costings was undertaken by the global design and consultancy firm Arcadis and an examination of developer profit and interest figures by Blackmoors Property Consultants. This latter work was corroborated by an in-house examination of the likely developer return rates advised to the Council by a number of different independent professional sources over the last 18 months in connection with specific residential and retail schemes within the area.

In respect of this project the Council had agreed with PSP that the individual pieces of work commissioned with appropriate external expert commentators would be reviewed by CIPFA who would present the final evaluation report. PSP had established LLPs with 11 English councils (with a further four at an advanced stage of development and awaiting Member approval of their establishment) but this was the first time that any project undertaken by any of those LLPs on behalf of its respective council has been subject to this additional level of scrutiny and validation. Discussions with PSP indicated that this model of evaluation would be deployed nationally in future.

The CIPFA evaluation, a copy of which was contained within the separate part B report, examined; A 'do nothing' option; the LLP option; the option of the Council procuring the work itself; and other private sector options. However, it should be noted that despite PSP establishing LLP structures with 11 other councils, no other directly comparable LLP model had yet to emerge in the market place.

In addition, and again new for this particular evaluation process, CIPFA were also specifically instructed to provide a 'high level view on the reasonableness of the proposals and whether the proposition itself was something that an authority might reasonably enter into'.

Having examined the independently commissioned appraisals CIPFA's conclusions were *"That, of the options presented, the LLP option would provide the highest financial return to the Council. That, with regard to the three main risk factors mentioned in the evaluation reports (cost escalation, market value on disposal and time delays), the LLP option appears the most robust. That, having considered the information available to us, we are of the opinion that this is an acceptable proposal and that the LLP route is the best option (subject to financial viability) for the Council to move forward with this project."*

The Council had sought a legal evaluation of the proposal to ensure that it was considered lawful and a reasonable exercise of the Council's powers. This had been undertaken in two parts; an assessment by Anthony Collins solicitors, commissioned by the LLP on behalf of both partners (thereby ensuring a duty of care to the Council) and a separate assessment by the Council's own legal advisors at Warwickshire Legal Services (WLS). These

two reports were legally privileged and, therefore, confidential, so were set out in full in the separate Part B report.

The Anthony Collins assessment had considered each element of the LLP proposal from a vires (powers) and an EU procurement perspective, including an assessment of VAT and SDLT tax implications, and separately considered the proposal as a whole from a State Aid perspective. Their overall conclusion was *"There will be some processes that should be followed to enable the project to proceed. These include going through "exceptional circumstances" processes permitted by the Council's Code of Procurement Practice; ensuring that the business case for the car park is robust for recovery of costs of borrowing, construction and operation; and seeking detailed tax advice at e4 stage. None of these present insurmountable obstacles to the Project proceeding."*

The assessment from WLS similarly concluded that there were no legal barriers which should prevent the Council progressing the project in the terms proposed and that the validation work undertaken by CIPFA and others assisted the Council in demonstrating that it has met its duty to obtain best value by proceeding with this project. The legal implications and risks arising from this complex project, and the strategy for their management, were addressed in more detail in the WLS advice note in the Part B report.

WLS had noted that the pre-construction works, which formed part of the project to be undertaken by the LLP and PSP, were estimated to be in the region of £0.5m and £0.75m. WLS agreed with the advice of Anthony Collins that there was a business case for not tendering those works which satisfied the requirements of the Council's Procurement Code of Practice, since these works were integral to, and could not be separated from, the rest of the project proposals.

The LLP Members Board resolution, set out at Appendix Three to the report, contained a document setting out the Commercial Principles, agreed by the Council and PSP members of the Board. These principles would underpin the development of a formal project agreement between the Council and the LLP, giving the latter the necessary legal options it required to deliver the project.

It was not possible to agree the project agreement at this stage as the initial project budget could not be committed by the LLP until the recommendations within this report were considered by the Council. Subject to the approval of those recommendations, the project budget would allow the LLP to commission specialist tax advice on the optimal structure of the necessary land deals that would underpin the legal agreements minimising the costs of any VAT or SDLT tax implications to both parties.

It was, therefore, recommended that delegated authority was granted to the named officers, in consultation with the named members within recommendation 2.6 to agree the legal agreements after this advice had been secured and assessed, provided that the final agreements were consistent with the Commercial Principles.

In the unlikely event that the final form of the proposed agreements required a revision to the Commercial Principles, approval would be sought for a variation from both the LLP Members Board and the Executive under the 'double-lock' arrangement.

The proposed project would have unprecedented significance for the Council, delivering major development and regeneration within Leamington but also delivering a new HQ building capable of supporting different ways of working across all aspects of service delivery for the future.

It was, therefore, proposed to establish a Member Reference Group to work with, and provide guidance to, officers as the project developed. In recognition of the importance of the project to all members of the Council it was proposed that this group should include all the political Group Leaders in addition to the Leader of the Council and the Finance and Development Portfolio Holders, as the Council's representatives on the LLP Members Board.

In addition to its importance to the Council, the project proposals would have significant implications for the town centre and would consequently be of interest to a wide range of stakeholders and the wider community. The Council's previous decision on its preferred option site received strong support from the business community and other stakeholders keen to see the Council's HQ (and the spending power of its workforce) remain within the town centre. However, those same stakeholders would, naturally, wish to be reassured that the proposed changes to the car parking provision at Covent Garden and the potential wider implications of any future proposals in respect of the Chandos Street site were equally beneficial to the town centre.

Those District Council members representing Leamington wards had already been briefed (with a few exceptions, where individual catch-up sessions had been offered) on the establishment of a Leamington Town Centre Forum to discuss the issues affecting the town centre and formulate a Vision that could be approved by and consulted on by the various stakeholders represented on the Forum. Similar briefings had been held for Town Councillors and County Councillors with Leamington wards. Car parking provision would be one of the key issues that the Forum would be discussing.

The importance of stakeholders being reassured that the proposed new 650 space multi-storey car park would be sufficient for the town centre's current and future off-street car parking capacity needs was critical and it was proposed that, in addition to the work being undertaken by the Forum, the Member Reference Group co-ordinated a programme of early officer engagement with key stakeholders, for example, the Town Council, Chamber of Trade, Leamington Business Improvement District (BID), and the managers of the Royal Priors and Regent Arcade shopping centres.

The stakeholders and the wider community would wish to understand what arrangements could be made during the delivery phase of the proposed project to ensure the maximum level of car parking provision could be maintained and any potential disruption to the public minimised. Further work on potential additional temporary provision would be required and this would be undertaken as part of the Phase 1 project works arrangements.

This would need to be communicated to stakeholders and this engagement, and subsequent community engagement and communications on alternative provision, would be overseen by the Member Reference Group.

The financial and viability appraisals set out in the Part B report had considered the impact of differing levels of affordable housing provision coming forward at the Covent Garden and Riverside House sites.

The Council's policy on Affordable Housing was for 40% provision on urban sites of 0.25 hectares or more or on sites where more than ten dwellings were proposed, a threshold that would encompass both the proposed development sites. However, Members would also be aware that where there were material considerations that justified a departure from planning policy, planning permission could be granted subject to a requirement for Affordable Housing that was lower than 40%. Such considerations could include the fact that a development would deliver benefits in planning terms, but would not be financially viable if it had to provide 40% Affordable Housing. Normally, viability was tested through an expert evaluation of the financial appraisal of the scheme.

The proposed project would deliver significant community benefits - cost efficient council offices, delivering savings to the public purse and a new multi-storey car park to support the parking needs of the town centre, but there would be exceptional costs attached to them. The modelling undertaken to date suggested that the project could deliver a level of affordable housing in the range of 20-37% and remain viable, but the exact figure could not be determined until further detailed work was undertaken during Phase 1 of the project.

It was therefore proposed that the Deputy Chief Executive (BH) and Head of Finance, in consultation with the Member Reference Group, were authorised to agree the terms of the planning applications to be submitted by the LLP, which would include a proposal for the provision of Affordable Housing at a level that did not make the development unviable. This decision was wholly without prejudice to the determination of the Council, in its capacity as Local Planning Authority, as to the terms of any planning permission that could be granted.

On 24 March 2016 the Employment Committee approved service re-design proposals for the Prosperity agenda and on 6 April 2016 the Executive approved the funding required to implement the new structure. The re-design included consideration of the staffing resources devoted to Project Coordination and Organisational Development and brought forward proposals to consolidate the resource devoted to major corporate projects within a single team and provide an amended focus for work on feasibility projects and the development of business cases, maintaining the Council's capability to pursue its current level of aspiration. As the previous reports made clear, the proposal was underpinned by the need for the resultant business case(s) to include proposals for the level of, and funding for, the temporary project management resource required for the delivery phase of approved projects.

The LLP's project proposal was that PSP's project management resource would be used for the delivery of the Covent Garden redevelopment. That

phase of the project would only proceed after the detailed preparatory work during Phase 1 of the project and the approval of the unconditional agreements and associated funding necessary for Phase 2. Up to that point Council officers would need to continue to work closely with PSP colleagues on the preparation of the necessary agreements and the design and specification of the new HQ building and the design, specification and funding of the new multi-storey car park.

It was recommended that a maximum commitment of £53,600 was made from the Contingency Budget to fund a temporary project management resource to work with the LLP on the next phase of the project. This sum was equivalent to the annual cost of a grade B post. It was considered a maximum figure, as although this next phase of project work might take slightly longer than 12 months, it was possible that it could be delivered by a part-time resource and that the grading for the post might be assessed by the HAY Panel below the assumed B grade. Subject to approval of recommendation 2.10, an appropriate job description and person specification would be assessed by the HAY Panel. It was likely that further temporary Council project management resource would be required to take this project forward through to its next Phase 2 delivery stage. The cost of this was likely pro-rata to the £53,600 figure, and would be only be reported back for further consideration as part of the next Executive report if it could not be resourced within the robust £8.6m new office budget

The Joint meeting of the Finance & Audit and Overview & Scrutiny Committees supported the recommendations in the report. They also recommended that the Executive should seek to maximise the amount of affordable housing up to 40% before any disbursement of profit to the two partners.

The Leader of the Executive drew attention to the Executive of an addendum circulated at the meeting that informed them the risk register associated to the project had been modified to remove any commercially sensitive information. These risks were detailed in an appendix seven of the confidential report to the Executive.

The Leader proposed the recommendations as set out in the report, and that the recommendation from the Joint meeting of the two Scrutiny Committees be rejected because of the following reasons:

- there was adequate protection on the affordable housing issue already;
- Recommendation 2.8 proposed establishing a Member Reference Group on which all groups would be represented;
- Recommendation 2.9 delegated authority to officers, in consultation with the Member Reference Group, to agree the terms of the planning applications the LLP would submit;
- the Member Reference Group would be fully aware of the Council's policy position on affordable housing and would make its judgements in light of it;
- the planning applications would be determined before the Council made a decision on committing to phase 2;

- Planning Committee would make a decision on any applications, approved by the Member Reference Group, submitted with less than 40% affordable housing, as normal;
- the LLP was committed to delivering a policy compliant scheme and the intention of the phase 1 work would be to examine whether this was possible and viable;
- part of this examination would be to determine whether the Council foregoing its final profit share would assist in delivering a higher proportion of affordable housing; and
- It was therefore unwise to fetter the LLP's discretion by adopting this recommendation given that this protection was already in place.

**Resolved that**

- (1) as much information as is reasonable and realistic has been set out within this report but that some further information, which is either legally privileged and/or commercially sensitive is contained within the separate Part B report elsewhere on this agenda and that the two reports should be read and considered in conjunction to allow a fully informed decision on these recommendations, be noted;
- (2) the development strategy contained within the LLP's proposal document (dated December 2015 and updated as v6 dated 15 February 2016), set out at Appendix One, be adopted, the essential elements of which are:
  - (a) the sale of the Riverside House site for housing, allowing the Council to vacate the site and relocate to a new HQ after completion of that building;
  - (b) the construction of a new Council-owned HQ office building on the Covent Garden car park site funded by the receipt of sale of the Riverside House site and enabling development at the Covent Garden car park site;
  - (c) the decommissioning of the current 81 space surface car park and the demolition of the existing 511 space multi-storey car park at Covent Garden and the provision of a new 650 space council-owned multi-storey car park funded by the Council;
  - (d) the inclusion within the new HQ building of a 24 hour, operational control room and a Council chamber, allowing for these activities to be relocated from the Town Hall and Acorn Court;

- (e) the delivery of the project by the Council's LLP ("PSP Warwick LLP");
  - (f) the delivery of the project in two Phases, Phase 1 being the feasibility work described in paragraphs 3.2.5 and 3.4.1 of this report and Phase 2 being the full implementation work described in paragraphs 3.5.3 of this report; and
  - (f) the indicative project timeline attached at **Appendix Two.**
- (3) the Leader of the Council and the Finance Portfolio Holder, be authorised to sign the LLP Members Board resolution, set out at **Appendix Three to the report**, on behalf of the Council;
  - (4) in committing to the project, the Council would be liable to repay all costs of expenditure on Phase 1 of the project, to be funded by PSP, up to a maximum of £1,175,000, should the Council unilaterally withdraw from, or seek to vary, the project in the circumstances described in the Commercial Principles document attached at **Appendix Three to the report**;
  - (5) the final decision to commit to Phase 2 of the project will be made by the Council in 2017 to approve the Council's contribution of £9,750,000 (to fund the new car park at Covent Garden) towards a full LLP project budget estimated at £24,540,000;
  - (6) the detailed feasibility and viability appraisals of the LLP proposal, undertaken internally and also externally by legal, financial and commercial specialists, as set out in sections 3 and 5 of the report and the separate, confidential report, be noted, and that the information within these appraisals and this provides the business case for not tendering the pre-construction works, to be undertaken by the LLP and PSP during Phase 1 of the project, which, with an estimated value of £0.5m-£0.75m, fall substantially below EU threshold, be approved;
  - (7) authority be delegated to to the Deputy Chief Executive (BH) and Head of Finance, in consultation with the Leader of the Council and the Development and Finance Portfolio Holders, to:

- (a) enter into legal agreements between the Council, the LLP and PSP, on terms consistent with the Commercial Principles document contained within Appendix Three to the report, in order to give effect to Phase 1 of the project; and
  - (b) ensure such agreements include a project agreement between the Council, the LLP and PSP, and a conditional option agreement from the Council to the LLP in respect of the Riverside House site, which shall only be capable of triggering the disposal of the Riverside House site in the event that the project proceeds to Phase 2;
- (8) a Member Reference Group, comprising of the Leader of the Council, the Finance, Development and Neighbourhood Services Portfolio Holders and the Leaders of the Labour, Liberal Democrat and Whitnash Resident Association (Independent) Groups, be approved, to provide guidance to officers as the project develops and to co-ordinate community and stakeholder engagement.;
- (9) authority be delegated to the Deputy Chief Executive (BH) and Head of Finance, in consultation with the Member Reference Group, to agree the terms of the planning applications to be submitted by the LLP in respect of the development proposals for the Covent Garden and Riverside House sites;
- (10) the release of a maximum £53,600 from the Contingency Budget, be approved, to fund a temporary project manager post to work with the LLP on the next stages of the project and to agree the office and car park specifications, with any unused budget allocation being returned to the Reserve; and
- (11) the recommendation from the Joint meeting of the Scrutiny Committees be rejected for the reasons outlined above.

(The Portfolio Holders for this item were Councillors PH Cross, Mobbs Shilton and Whiting)

Forward Plan reference Number 742



146. **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 item by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Minute No.	Para Nos.	Reason
147	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
147	5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(The full minutes for the following item will be detailed within the confidential minutes for this meeting.)

147. **Council HQ Relocation and replacement Covent Garden Car Park Project – Part B**

The Executive considered a report regarding the Council HQ Relocation and replacement Covent Garden Car Park Project.


The Joint meeting of the Finance & Audit and Overview & Scrutiny Committees supported the recommendations in the report

The recommendations of the report were agreed and the amended confidential risk register circulated on the evening was noted.

(The Portfolio Holders for this item were Councillors Cross, Mobbs, Shilton and Whiting)

Forward Plan reference Number 742

(The meeting ended at 8.20pm)

 <b>Executive 29<sup>th</sup> June 2016</b>		<b>Agenda Item No.</b>  <b>3</b>
<b>Title</b>	Warwick District Council Enforcement Policy Appendix: Regulatory (Food Safety, Health and Safety and Licensing)	
<b>For further information about this report please contact</b>	Marianne Rolfe, Regulatory Manager Tel: 01926 456320 Email: <a href="mailto:marianne.rolfe@warwickdc.gov.uk">marianne.rolfe@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>	All wards	
<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	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Executive 3rd September 2014	
<b>Background Papers</b>	The Enforcement policy as agreed on the 3 <sup>rd</sup> September 2014	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality and Sustainability Impact Assessment Undertaken</b>	Yes

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	07/06/16	Andrew Jones
Head of Service	30/03/16	Marianne Rolfe
CMT	07/06/16	
Section 151 Officer	07/06/16	
Monitoring Officer	31/03/16	Andrew Jones
Finance	07/06/16	
Portfolio Holder(s)	07/06/16	Moria-Ann Grainger
Warwickshire Legal Services	21/03/16	John Gregory
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

## 1. **SUMMARY**

- 1.1 To seek the Council's adoption of an appendix to the enforcement policy which addresses matters which are specific to the Regulatory Team within the Health and Community Protection Service Area.

## 2. **RECOMMENDATION**

- 2.1 That Executive recommends to Council adoption of an appendix to Warwick District Council's Enforcement Policy as set out in Appendix 1.

## 3. **REASONS FOR THE RECOMMENDATION**

- 3.1 Local Authorities have a statutory duty to have regard to the Regulators' Code in developing the principles and policies which guide their regulatory activities. The Local Government Ombudsman will be using the Code as a point of reference when examining complaints about local regulatory services. Adopting this Enforcement Policy appendix will mitigate against the risk of successful challenge.
- 3.2 The proposed appendix to the Warwick District Council Enforcement Policy outlines the regulatory matters which are specific to the Regulatory Section of Health and Community Protection and are not covered in the main body of the WDC Enforcement Policy.

## 4. **POLICY FRAMEWORK**

- 4.1 **Policy Framework** – This appendix to the enforcement policy explains the specific powers and actions available to the Regulatory Section of Health and Community Protection which are not covered by the main body of the Enforcement Policy.
- 4.2 **Fit for the Future** – The enforcement appendix will ensure that there is consistent and proportionate enforcement action taken in line with an open and transparent policy. This will ensure that the service is delivered effectively and suitably targeted.
- 4.3 **Sustainable Community Strategy** – The effective targeting of regulatory activities contributes towards the Health & Wellbeing and Prosperity priority themes within the Sustainable Community Strategy. It will help everyone to enjoy a healthy and safe lifestyle and should encourage economic growth by giving commerce the confidence to know that we offer support for compliant businesses whilst targeting our regulatory services on non-compliance to ensure equality in business competition.

## 5. **BUDGETARY FRAMEWORK**

- 5.1 There are no budgetary implications associated with this report.

## 6. **RISKS**

- 6.1 Risk of not adopting the appendix is covered in the Reasons for Recommendations.

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

- 7.1 No alternative options were considered as adoption of the appendix will provide the Council with additional protection when undertaking its Regulatory activities.

## 8. **BACKGROUND**

- 8.1 The Department for Business, Innovation & Skills introduced a new Regulators' Code which came into force on 6 April 2014 and covers environmental protection, food safety, health and safety, licensing, private sector housing, public health, and waste. Its aim is to provide a regulatory framework that supports compliance and growth while enabling resources to be focussed where they are most needed. It sets out a framework for proportionate and accountable regulatory delivery and establishes principles of how local authorities should engage with businesses to avoid imposing unnecessary regulatory burdens.
- 8.2 The Government's Better Regulation Delivery Office (BRDO) has produced an example template to assist local authorities in drafting enforcement policies and this has been used to create the council's Enforcement Policy. This policy was designed to apply to all the Council's regulatory activities.
- 8.3 It was acknowledged during the introduction of the council Enforcement Policy that certain services may require additional explanation to be provided to outline the specific enforcement opportunities available to the subject area.
- 8.4 Appendix 1 outlines the specific enforcement areas for food safety, health and safety and licensing which are not covered in sufficient detail within the main enforcement policy body.

## Appendix 1:

**WARWICK DISTRICT COUNCIL'S  
ENFORCEMENT POLICY  
REGULATORY SERVICE (Food Safety, Occupational Safety and Health  
and Licensing) APPENDIX  
Revision 2 (2016)**

### 1. Introduction

- 1.1 This Regulatory Service Appendix is intended to be read in conjunction with Warwick District Council's published [Enforcement Policy](#). It will provide specific details that relate to the enforcement of matters with respect to food safety, occupational safety and health and licensing.

### 2. Background

- 2.1 As a **food authority** in the terms of the [Food Safety Act 1990](#), Warwick District Council has a duty to enforce food safety legislation, and a responsibility to follow associated [Codes of Practice](#) under the Act. It is required to enforce the legislation in pursuit of the particular interests of consumers within the authority's area including members of the public, employees and business owners by:

- § protecting public health, and
- § ensuring a fair trading environment for local businesses.

- 2.2 Hygiene inspections are targeted in accordance with the risk assessment parameters set by the Food Standards Agency and the corresponding inspection frequencies.
- 2.3 The Council has a shared enforcement role with the County Council in respect of food labelling requirements. This situation is managed by case by case communication between the two authorities and by regular meetings of the Warwickshire & Coventry Food Liaison Group.
- 2.4 Food safety and quality is determined on inspection or sampling and by the investigation of complaints made to the Department.
- 2.5 Local authorities have statutory responsibilities to make adequate arrangements for the enforcement of **health and safety** law in relation to specified work activities- including offices, shops, retail and wholesale distribution centres, leisure, hotel and catering premises. Health and Safety Executive (HSE) inspectors also enforce health and safety law in workplaces allocated to them.
- 2.6. The appropriate use of enforcement powers, including prosecution, is important, both to secure compliance with the law and to ensure that those who have duties under it may be held to account for failures to safeguard health, safety and welfare. In allocating resources, enforcing authorities should have regard to the principles set out below, the objectives published in the [National Enforcement Code](#), and the need to maintain a balance between

enforcement and other activities, including inspection.

- 2.7 HSE expects enforcing authorities to use discretion in deciding when to investigate or what enforcement action may be appropriate. The decision-making process which inspectors will follow when deciding on enforcement action will be set down in writing, and made publicly available. The judgements will be made in accordance with the principles of Philip Hampton's report '[Reducing administrative burdens: Effective Inspection and Enforcement](#)'.
- 2.8 The **Licensing** function of the Regulatory Team covers the following areas:-
- Licensing Act 2003
  - Gambling Act 2006
  - Sexual Entertainment Venues
  - Private Hire driver, vehicle and operator's licences
  - Hackney Carriage driver and vehicle licences
  - Street Trading Consents
  - Small lotteries
  - Street Collections
  - House to House collections
  - Scrap Metal Dealers
- 2.9 This policy should be read in conjunction with codes of practice and guidance issued by the following:- Food Safety Act 1990 [Code of Practice](#); [Approved Codes of Practice \(ACOPs\)](#); [Local Authorities Regulators of Regulatory Services \(LACORS\)](#); [HSE](#) and [HELA guidance](#); [Home Office](#), [Institute of Licensing](#), [National Association of Licensing Officers](#) and [Gambling Commission](#).
- 2.10 All actions will be taken only by duly authorised officers in accordance with the [Council's Scheme of Delegation](#).

### **3. Enforcement Options**

- 3.1 In making a choice of action, the appropriate subject guidance below will be followed:- Food Safety Act 1990 [Code of Practice](#); [Approved Codes of Practice \(ACOPs\)](#); [Local Authorities Regulators of Regulatory Services \(LACORS\)](#); [HSE](#) and [HELA guidance](#); [Home Office](#), [Institute of Licensing](#), [National Association of Licensing Officers](#) and [Gambling Commission](#).
- 3.2 Any significant choice of action which might be considered to be inconsistent with such guidance, advice and views will be made in consultation with the Warwickshire & Coventry Food, Safety and Licensing Liaison Group, LACORS, the Food Standards Agency, HSE and the Primary Authority. It is recognised, however, that only the Courts can make decisions on matters of legal judgement.
- 3.3 In most instances no action will be taken where the offending circumstance has been occasioned by inadvertence and is proactively in the process of being remedied, however, each case will be considered individually.

### **4. Informal Action**

- 4.1 Informal action is the issue of verbal advice (always confirmed in writing on the visit report or by letter), written advice with no date for action requested, written advice with a date specified for completion, and written warnings that future offences may result in prosecution.
- 4.2 Recommendations are necessary in order to assist the duty holder in taking all reasonable precautions and exercising all due diligence to avoid offences. Such recommendations will be clearly differentiated from legal requirements which will be identified by statute and regulation or section number.
- 4.3 Action Plans including timescales for completion are agreed by all parties including where necessary, the Licence Holder, Designated Premises Supervisor and other relevant Responsible Authorities (i.e. Police, WDC Environmental Health Officers and Planning Officers).

## **5. Statutory Notices**

- 5.1 **Food - Hygiene Improvement Notices** will be served by authorised Inspectors and Officers in circumstances related to risk to health, in accord with [Code of Practice](#) and [Local Authorities Regulators of Regulatory Services \(LACORS\)](#) guidance, in one or more of the following circumstances:
  - i. There are such significant contraventions of the legislation that it is anticipated that a prosecution would be successful in the Magistrates' Court if the evidence were placed before them.
  - ii. There is a justifiable lack of confidence in the duty holder to respond to an informal approach.
  - iii. There is a history of non-compliance with informal action.
  - iv. Standards are generally poor with little duty holder awareness of statutory requirements.
  - v. The consequences of non-compliance could have negative implications for public health or fair trading.
  - vi. Although it is intended to prosecute, effective action also needs to be taken as quickly as possible to remedy continuing contraventions.
- 5.2 The time limit for compliance with the requirements of the notice will be made clear verbally with the duty holder, or appropriately negotiated. Regard will be had in the negotiations to consistency and feasibility. The duty holder will be advised that any unforeseen circumstances which arise in the time period, which may cause it to overrun, must be drawn immediately to the attention of the Food Safety Team. On written application, the originating officer will have regard to the following criteria in granting an extension of the time period, or otherwise:
  - i. The risk to public health associated with the fault if an extension was granted;
  - ii. The reason for the request;

- iii. The remedy involved;
- iv. The past record of compliance of the duty holder; and
- v. Any temporary action which the duty holder proposes to take to remedy the defect.

5.3 As a rule, failure to comply with a Hygiene Improvement Notice will be reported for prosecution. Only unavoidable circumstances, or mitigating information coming to light concerning factors outside the control of the duty holder, will justify a variation of this policy.

5.4 **Food - Hygiene Emergency Prohibition Notices** will be served by authorised Environmental Health Officers in one or more of the following circumstances:

- i. He/she is satisfied that there is an imminent risk of injury to health.
- ii. Not taking immediate and decisive action to protect public health is unjustifiable.
- iii. There is no confidence in the integrity of an offer made by a duty holder to close the premises voluntarily and to keep the premises closed until the risk is removed.

5.5 **Occupational Safety and Health – Improvement Notices**

- i. Paragraphs 5.1 I – vi and 5.2, apply.
- ii. As a rule, failure to comply with an Improvement Notice will be reported for prosecution. Only unavoidable circumstances, or mitigating information coming to light concerning factors outside the control of the duty holder, will justify a variation of this policy.

5.6 **Occupational Safety and Health – Prohibition Notices** will be served by authorised Environmental Health Officers when there is a requirement to stop work to prevent serious personal injury.

- i. Prohibition Notices will be issued to have immediate or deferred effect.
- ii. There does not have to be a breach of any statutory requirements before a prohibition notice is issued, but an officer who thinks there has been will specify it in the prohibition Notice.

5.7 Primary, Home and originating authorities will be notified of any statutory notices served.

## 6. Prosecution

6.1 The decision to prosecute rests with the Council and/or Duly Appointed Inspector (in the case of Health & Safety cases) and is delegated to the Head of



Health and Community Protection in consultation with the appropriate elected Member. See [Warwick District Council's Scheme of Delegations](#).

- 6.2 The recommendation to prosecute, based on the available evidence and professional judgement, comes from the Regulatory Manager by way of formal report to the Head of Health and Community Protection and in consultation with a Solicitor of the Legal Services Unit.
- 6.3 Prosecutions will be related to risk and will not be used as a punitive response to minor breaches of legislation.
- 6.4 The objectives of any prosecution must be:
- i. To concentrate the mind of the duty holder on the necessity to be duly diligent and to take all reasonable precautions to ensure food safety and hygiene;
  - ii. To demonstrate to the public that their interests are being protected; and
  - iii. To demonstrate to other duty holders that the law is being evenly applied.
  - iv. To enable the Courts to decide the appropriate punishment.
- 6.5 **Before deciding whether a prosecution should be taken one or more of the following factors will be considered:**
- i. The seriousness of the alleged offence.
  - ii. Whether death or personal injury resulted from the alleged offence.
  - iii. The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it.
  - ii. The previous history of the party concerned.
  - iii. The likelihood of the defendant being able to establish a due diligence defence (food safety only).
  - iv. The availability of any important witnesses and their willingness to cooperate.
  - v. The willingness of the party to prevent a recurrence of the problem.
  - vi. The probable public benefit of a prosecution, the importance of the case (eg. whether it might establish a legal precedent) and satisfaction of the tests in the [Code for Crown Prosecutors](#).
  - vii. Whether other action, such as issuing a simple caution in accordance with [Home Office Circular 16/2008](#), or a Hygiene Improvement Notice (H.I.N.), Improvement Notice (I.N.) or imposing a prohibition, would be more appropriate or effective.

- viii. Any explanation offered by the affected company.
- vix. False information has been supplied wilfully, or there has been an intent to deceive, in relation to a matter which gives rise to a significant risk.
- x. Inspectors have been intentionally obstructed in the lawful course of their duties.

These considerations will be detailed in all reports recommending prosecution.

- 6.6 Before a decision is made to prosecute, the duty holder will be invited to an interview under the [Police and Criminal Evidence Act 1984](#) in order to make representations before a decision is made as to the appropriate course of action to be taken. The duty holder will have an opportunity to be accompanied by a legal representative at the interview. This is the duty holder's opportunity to present any facts or views he considers pertinent to the decision-making process.
- 6.7 The circumstances where prosecution is warranted are one or more of the following:
  - i. The offence involves a flagrant breach of the law such that public health, safety or well-being is or has been put at risk, or fair trading is prejudiced.
  - ii. The offence involves a failure to correct an identified serious potential risk to food safety having been given a reasonable opportunity to comply with requirements.
  - iii. The offence involves a failure to comply with a statutory notice.
  - iv. There is a history of similar offences.
- 6.8 If it is then considered by the Regulatory Manager that prosecution is appropriate the file of evidence will be presented to the Head of Health and Community Protection with a Report by the Regulatory Manager recommending prosecution. If the Head of Health and Community Protection agrees with the recommendation in the report, it will be presented to the Council's Solicitor for review, and, if the evidence is considered sufficient for there to be a realistic prospect of conviction, and the public interest test is satisfied, then legal proceedings will normally be instigated.
- 6.9 Where there is a risk of injury to health the Solicitor will, in the course of the hearing, draw the Court's attention to its duty to impose a Prohibition Order.
- 6.10 Primary, Home and originating authorities will be notified of the results of prosecutions.

## **7. Simple Cautions**

- 7.1 Simple Cautions in accordance with [Home Office Circular 16/2008](#) will only be issued by the Council in the following circumstances:
  - i. There is evidence sufficient to give a realistic prospect of conviction;
  - ii. The duty holder admits the offence;


- iii. The duty holder understands the significance of the simple caution and gives informed consent; and

7.2 If a duty holder refuses the offer of a Simple Caution then a prosecution will be instituted.

7.3 Primary, Home and originating authorities will be notified of Simple Cautions issued. The Caution will be cited in any subsequent proceedings as a previous offence.

## **8. Revocation of Approvals/Licenses/Permits/Consents & Registrations**

8.1 Premises, people and vehicles can be approved and/or licensed by the Council. The Council will exercise its power of revocation, suspension or refusal to grant in the circumstances dictated by the appropriate regulations, and where it has not been possible to secure compliance by less draconian means.

 <b>Executive 29<sup>th</sup> June 2016</b>		<b>Agenda Item No.</b> <b>4</b>
<b>Title</b>	Renewal of fire alarm systems in sheltered housing schemes	
<b>For further information about this report please contact</b>	Jacky Oughton, Sustaining Tenancies Manager <a href="mailto:jacky.oughton@warwickdc.gov.uk">jacky.oughton@warwickdc.gov.uk</a> 01926 456434  James Baker, Housing Support and Neighbourhoods Manager <a href="mailto:james.baker@warwickdc.gov.uk">james.baker@warwickdc.gov.uk</a> 01926 456432	
<b>Wards of the District directly affected</b>	Saltisford, Crown, Clarendon, St John's	
<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	
<b>Date and meeting when issue was last considered and relevant minute number</b>		
<b>Background Papers</b>		

<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>	Yes, Ref. 784
<b>Equality and Sustainability Impact Assessment Undertaken</b>	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	10/06/2016	Bill Hunt
Head of Service	09/06/2016	Andy Thompson
CMT	10/06/2016	
Section 151 Officer	10/06/2016	Mike Snow
Monitoring Officer	10/06/2016	Andy Jones
Finance	09/06/2016	Kunmi Joseph
Portfolio Holder(s)	15/6/2016	Peter Phillips
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

## **1. SUMMARY**

- 1.1 This report requests additional resources to enable the replacement of the current out- of-date fire panel alarm systems at the Council's five sheltered housing schemes for older and/or vulnerable people (Acorn Court, Chandos Court, James Court, Tannery Court and Yeomanry Close) which together provide homes for around 185 people.

## **2. RECOMMENDATIONS**

- 2.1 That Executive agrees to increase the £71,000 of earmarked funding for the renewal of the fire alarm systems in the Council's five sheltered housing schemes up to a maximum of £207,000 by reducing the contribution to the Housing Revenue Account Capital Investment Reserve during the financial year 2016-17.
- 2.2 That Executive notes the works will be completed by the end of the current financial year and that, given the inadequacies identified with the existing systems revised management arrangements that will remain in place until the completion of the works, to ensure the continued safety of the sheltered scheme tenants.

## **3 REASONS FOR THE RECOMMENDATIONS**

- 3.1 The current fire systems in the Council's five sheltered housing schemes have been in place since the schemes were built over 30 years ago. In recognition of the age of these systems £71,000 was transferred from the Fire Risk budget to the Sheltered Schemes Fire alarm budget and earmarked to fund the system upgrades.
- 3.2 A major re-organisation of the sheltered scheme contracts had been agreed by the service area and the Procurement Team, with the previously separate contracts for fire alarms, Lifeline call systems, automatic doors and CCTV at the sheltered schemes being brought together into a single contract to improve efficiency and maximise best value through an economy of scale. It was, therefore, decided to defer major works to the fire alarm systems until the new contractor was in place.
- 3.3 The new contract was put out to tender via a framework agreement in April 2015. However only one supplier tendered for the contract and the evaluation process, which included a comprehensive benchmarking exercise, determined that the prices quoted were above market average, so the contract was not awarded. After careful consideration and liaison between the service area and the Procurement Team it was decided that the contract should be re-tendered, but with the works sub-divided into lots. This second procurement exercise was undertaken in July 2015 and contracts let in October 2015.
- 3.4 The newly appointed contractor was instructed to carry out a full inspection of the systems in each scheme. This survey identified an unanticipated range of problems including that some sensors were not working and that many others were operating with too long a delay before triggering an alarm. After examination of the inspection results and discussions with the contractor it was determined that the existing systems could not be upgraded and that full replacement was the only viable option to ensure the future safety of the scheme's tenants.

- 3.5 Two options for replacement systems were considered, replacement with a like-for-like conventional system or replacement with an addressable system. Conventional systems will identify that a fire alarm has been activated at a scheme but not its exact location whereas an addressable system identifies the precise location of the activated sensor. Advice from the Building Control team and Health & Safety Officer is that an addressable system should be fitted.
- 3.6 Addressable systems are more expensive than conventional ones and the earmarked £71,000 would be insufficient to cover their installation. However, they have many advantages over conventional systems including:
- Greater reliability and fewer false alarms
  - Greater functionality, identifying the location of a fire with much greater precision, thus saving time in an emergency situation
  - Lower repairs and maintenance costs as each detector effectively incorporates its own computer which evaluates the environment around it and, in addition to alerting the Control Panel if there a fire, also identified faults or the need for the sensor head to be cleaned.
- 3.7 The contract for the repair and maintenance of fire alarm systems provides for upgrades and new system installations, as well as repairs, under the Schedule of Rates (SORs) we issued in the contract specification. This removes the need for a separate procurement exercise for the installation works and will allow the new systems to be in place by the end of the current financial year.
- 3.8 However, having identified that there are deficiencies with the existing systems the risks associated with these issues will not be fully addressed until such time as the all the installations are complete. To mitigate this risk a range of revised management arrangements have already been implemented.
- 3.9 The existing systems are monitored by the Council's Lifeline control centre, which operates 24/7, 365 days a year and if any alarm activation is detected a protocol has been put in place with the Fire & Rescue Service to ensure that they will call out to the affected scheme as a priority. In addition, if there are no staff on site the Control Centre will dispatch a minimum of two response officers to the scheme. Once on site they would investigate to ascertain if the activation is a false alarm or, in the event of fire, they would, if the Fire Service was not already on site, assess the need for an evacuation provided it was safe to do so.
- 3.10 An enhanced testing regime has also been put in place as an interim measure with a weekly test undertaken by staff and a full inspection by the contractor every 3 months. This is a blanket measure and is now being reviewed to determine if the contractor should be instructed to inspect particular schemes more regularly.

#### 4. **POLICY FRAMEWORK**

- 4.1 **Policy Framework** – The recommendations support the Council's delivery of its Sustainable Community Strategy. The investment in the Council's housing stock assists delivery of the Housing theme, the additional protection of the additional functionality of the new systems supports the Community Safety scheme and the benefits of the provision of a safe environment for older or vulnerable tenants supports the Health & Well-being theme.

- 4.2 **Fit for the Future** – The proposals will assist the Service Strand of the Fit for the Future Programme as it will maintain or improve our services to the local community.

## 5. **BUDGETARY FRAMEWORK**


- 5.1 The estimated cost of the works to upgrade to a fully addressable system at each scheme is £180,000. However, given the scale of the works across 5 separate sites it is prudent to include a contingency budget of 15%, taking the estimated cost to £207,000. This would cover the works themselves with any ancillary works, for example, making good and decoration or associated M&E upgrades being covered by the appropriate budgets, which have capacity to absorb any in-year expenditure.
- 5.2 Funding of £71,000 has already been set aside towards this work from earmarked reserves carried forward from 2015-16 to 2016-17, so the additional budget requested is £136,000.
- 5.3 This sum can be funded from the Capital Investment Reserve. This will have no immediate impact on the Council's capacity to meet its wider housing investment needs, such as building new homes, which are being developed as part of the Housing Futures project.
- 5.4 The costs of the contract will be closely monitored and any unused contingency would be returned to the Capital Investment Reserve.

## 6. **RISKS**

- 6.1 If the Council does not maintain adequate fire safety system, there then it is at risk of not meeting its obligation to ensure a safe and secure environment for our residents. The Council also needs to meet the requirements of the Government guideline for Risk Assessment to Sheltered accommodation in association with compliancy to the Regulatory Reform (Fire Safety) Order 2005 which recommends that fire alarm systems in the communal areas comply with BS5839 part 1 2002 LD2. Whilst this guidance is not retrospective and does not apply to the existing systems any new system would have to be compliant. The proposed addressable systems will meet this standard.
- 6.2 Significant weaknesses have been identified with the existing alarm systems requiring specific mitigation measures. It is therefore imperative that the enhanced management arrangements set out in paragraphs 3.9 and 3.10 are maintained, monitored and adjusted as necessary until all the proposed new installations are complete at which point the risk level within the Service Area Risk Register can be downgraded as appropriate.

## 7. **ALTERNATIVE OPTION CONSIDERED**

- 7.1 We could install a conventional systems but this has been discounted as the addressable systems will provide the greatest protection to the scheme residents and ensure compliance with good practice and all relevant legislation and regulations.

 <b>Executive meeting – 29<sup>th</sup> June 2016</b>		<b>Agenda Item No.</b>  <b>5</b>
<b>Title</b>	<b>Multi-storey car park condition survey report - update</b>	
<b>For further information about this report please contact</b>	Gary Charlton Contract Services Manager <a href="mailto:gary.charlton@warwickdc.gov.uk">gary.charlton@warwickdc.gov.uk</a> 01926456315	
<b>Wards of the District directly affected</b>	Leamington 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	
<b>Date and meeting when issue was last considered and relevant minute number</b>	20 <sup>th</sup> April 2016 Executive Minute number 2 & 4	
<b>Background Papers</b>	Executive 10 February 2016 – Multi-storey car park condition survey; Executive 30 September 2015 – Council HQ relocation project, Part A and Part B reports; Executive 3 December 2014 – Council HQ relocation project – update report; Executive May 2104 – Council HQ Relocation Project – Update Report. Executive Mar 2014 – Relocation of the Council's HQ offices, Parts A and B and Addendums	

<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 Impact Assessment Undertaken</b>	No, this will be picked up during the procurement stage.

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive	7 <sup>th</sup> June 2016	Bill Hunt
Head of Service	3 <sup>rd</sup> June 2016	Robert Hoof
CMT	7 <sup>th</sup> June 2016	
Section 151 Officer	7 <sup>th</sup> June 2016	Mike Snow
Monitoring Officer	7 <sup>th</sup> June 2016	Andy Jones
Finance	7 <sup>th</sup> June 2016	Mike Snow



Portfolio Holder(s)	7 <sup>th</sup> June 2016	Councillor David Shilton
<b>Consultation &amp; Community Engagement</b>		
No consultation proposed as this is for an internal works programme.		
<b>Final Decision?</b>		Yes
<b>Suggested next steps (if not final decision please set out below</b>		

## **1. Summary**

- 1.1. The HQ relocation project, including the replacement of the Covent Garden Multi-Storey Car Park (MSCP) was approved in April 2016. Identified within this report was the need to undertake essential works at Covent Garden MSCP to ensure it remains safe and fit for purpose until such time as the site is redeveloped.
- 1.2. This report seeks the necessary funding for those works and also for a project management resource, necessary to ensure that multiple car park projects can be delivered within appropriate timescales to minimise potential adverse impact on car park users, local businesses and the wider local economy.

## **2. Recommendations**

- 2.1. That Executive agrees to release a maximum £300,000 from the Car Park Repairs and Maintenance Reserve, to fund essential repairs to the Covent Garden MSCP, with any unused budget allocation being returned to the Reserve.
- 2.2. That Executive agrees to release a maximum £105,000 from the Service Transformation Reserve to fund a temporary project manager post for two years to support the delivery of multiple car park projects, with any unused budget allocation being returned to the Reserve.

## **3. Reasons for the Recommendations**

- 3.1. The progression of the relocation project will require a final decision to be made by Council in July 2017 and the Covent Garden MSCP would then be closed shortly afterwards, as set out in the April report to Executive. This timescale provides for the development of a displacement strategy to ensure that there is no detrimental impact of the closure on town centre businesses and the local economy.
- 3.2. However, the April report highlighted the need for essential repairs to the car park to ensure that it could remain open until the date of its planned closure. As highlighted in section 6, if these essential repairs are not carried out the Covent Garden MSCP would need to be closed with immediate effect on health and safety grounds, as it carries a significant risk to human safety if left unrepaired.
- 3.3. The result of such an unplanned closure of the car park would be a significant reduction in town centre parking capacity and a major detrimental impact on the local businesses that rely on this car park for longer stay parking for their customers and staff. There is currently no other long stay car park that could accommodate the displacement of season ticket holders from Covent Garden MSCP if it were to close and no significant capacity to accommodate non-season ticket users within the town centre.
- 3.4. Whilst, additional car parking capacity can potentially be provided by adding a temporary deck to the Chandos Street surface car park this would take at least 12 months to be manufactured and constructed and, in any case, more time is required to ensure a robust business case is developed. There is, therefore, no viable option that could be delivered in time to assist with replacement capacity within the town centre if the car park was to be closed.

- 3.5. The estimated maximum £300,000 cost of the essential repairs is roughly the same as the loss of net income should the car park be closed immediately rather than as planned in late 2017. There is a strong business case to utilise the available funds in the Car Park Repairs and Maintenance Reserve to ensure the net income is maintained for a further year but, more importantly, to ensure the car park remains open for the benefit of the town and parking capacity is retained within the town centre until alternative arrangements can be put in place.
- 3.6 Our specialist structural engineers have advised that it would be prudent to tender the work at Covent Garden & St Peter's MSCPs at the same time to minimise costs and benefit from scales of economy. In February 2016 the Executive agreed to fund £120k for repairs at St Peter's MSCP. If funding for Covent Garden MSCP can be agreed then a tender for the both MSCPs can be submitted to the market place.
- 3.7 When approving the Multi-storey Car Park Condition Survey report in February 2016 Executive agreed that funding for future MSCP maintenance liabilities should come from the Car Park Repairs and Maintenance Reserve. Additional funds for this reserve were agreed by Executive in June when agreeing the Final Accounts report. It is therefore proposed that the estimated cost of undertaking the repairs is funded from this reserve.
- 3.8 In addition to the MSCP repair programme and consideration of the future of the Linen Street MSCP, highlighted in that report, there is range of other project work envisaged within a wider Car Parking strategy, including consideration of the future car parking provision needed within Leamington Old Town, the potential development of additional provision within Warwick to address the town centre's needs projects and the need for future renewal of the existing pay on foot and pay and display equipment. Existing officer resource within the Neighbourhood Services service area is not sufficient to deliver all this project work at the same time. A dedicated project manager resource is needed to ensure they are delivered to required standard and on acceptable timescales.
- 3.9 The work that will be generated from the Linen Street MSCP project alone is considerable and time critical. This one project will need to focus on the feasibility aspects, the development of the business case, controlling the necessary communications with substantial numbers of stakeholders whilst maintaining the Council's capability to pursue its current level of aspiration.
- 3.10 It is, therefore, recommended that a maximum commitment of £105,000 is made from the Services Transformation Reserve to fund a temporary project management resource to work on the car park projects. This sum is equivalent to the annual cost of a grade B post for two years. It is considered a maximum figure as the grading for the post assessed by the HAY panel may score between a D to B grade.

#### **4. Policy Framework**

- 4.1 These proposals will assist with the Service Strand of the Fit for the Future Change programme by enabling the Council to continue to deliver a key part of its service.
- 4.2 The provision of appropriate public car parking is an essential part of the infrastructure of our town centres and within the Prosperity theme of the

Sustainable Community Strategy the Council is committed to supporting the vitality and viability of town centres.

## **5 Budgetary Framework**

- 5.1 The cost of the specialist work to deliver the necessary repairs to the Covent Garden MSCP is estimated to be a maximum of £300,000, including a reasonable contingency. This can be funded from the Car Park Repairs and Maintenance Reserve. This reserve has an unallocated balance of £518,000 as at 13<sup>th</sup> June 2016.
- 5.2 The impact of not commissioning the remedial repairs at Covent Garden would be the closure of the car park immediately until the redevelopment of the new car park is commenced in late 2017. This would result in lost income of £38,000 per annum in season ticket income and £315,000 in car park fees. As the operational cost for the car park is £63,000 per annum the estimated net loss of car parking income prior to the date of the planned closure would be a minimum of £290,000 this being the estimated net loss for 12 months.
- 5.3 The maximum £105,000 to fund a temporary project manager can be funded through the Service Transformation Reserve. This reserve has an unallocated balance of £249,000 as at 13th June 2016.
- 5.4 In both cases the expenditure figures quoted are maximum amounts. Any unused funding provision would be returned to the respective Reserve as appropriate.

## **6 Risks**

- 6.1 The most significant element of the necessary essential repairs is the cost of undertaking of safety improvements by installing new, higher, metal safety barriers. Our specialist structural engineers have specifically highlighted that the current handrails and safety barriers do not conform to modern day safety standards and are too low to adequately deal with the risk of falls.
- 6.2 Officers have obtained legal advice as to whether retrospective work of this nature is required, especially as the car park is due to be demolished in the near future. The advice from Legal Services is that once the Council has been made aware of a significant safety issue such as this, by a specialist expert, it would be negligent in ignoring the issue were the car park is to remain open and, if an injury or death should occur as a result of not undertaking the work, the Council could be subject to charges of corporate manslaughter.
- 6.3 Projects not being delivered on time or effectively due to the existing officer resource not being able to allocate sufficient time within existing workload also create risks. For example, there are a number of legal issues in relation to rights assigned at Linen Street MSCP that need careful consideration and time spent understanding the implications. There are financial and reputational risks involved with not carrying out this work effectively at Linen Street MSCP and the wider risk of detrimental harm to the town centre economies if projects are not delivered on appropriate timescales.

## **7 Alternative Option(s) considered**

- 7.1 The option of closing the Covent Garden MSCP with immediate effect to avoid the £300k expenditure on essential repairs has been discounted due to the

impact on car parking capacity of the town centre and the inability to make any suitable alternative arrangements within a realistic timescale

- 7.2 The option of not funding the identified safety repairs to minimise costs requires acceptance of the risk that future incidents could occur in the final stages of the car parks life. However, due to the nature of the potential risk raised and after consulting with our Legal advisers this option has been discounted as there is the risk of corporate manslaughter if we did have a fatal incident after being given clear advice from a specialist company.
- 7.3 The option of not funding a project manager resource and continuing with the existing officer resource delivering the projects has been discounted as there are too many detailed elements of each project that require significant time allocation which is not available within the current officer resource.

## **8 Background**

- 8.1 Due to the Council no longer having internal engineering department it was agreed to procure suitable expertise to undertake structural surveys and supply the project manager for any work programme tendered thereafter. The competitive tender was published at the beginning of the year (2015) for suitable companies to undertake this project.
- 8.2 In April 2015 the company Pick Everard were commissioned to undertake the structural surveys. It was necessary for all three multi-storey car parks, St Peters, Covent Garden and Linen Street to be surveyed.
- 8.3 The results from the surveys were supplied in July 2015. The findings highlighted structural and health and safety issues at all three sites. More significant problems were highlighted at Covent Garden and to ascertain the extent of the problems, further testing was required at the site. The testing is now complete Covent Garden.
- 8.4 The summary of Covent Garden's car park survey are as follows;
- Chloride ion content in concrete is one of the most common initiators of corrosion of steel reinforcement embedded in concrete. There are negligible levels of chloride to the all decks and therefore the risk of corrosion from chloride is considered to be low.
  - There is lack of concrete cover due to the design and age of the car park, modern standards suggest 30mm minimum cover in sections of the car park it is only 10mm. However this has not led to high levels of chloride ion ingress or affected the reinforcement bars.
  - The failure of the top deck covering is allowing water to enter the structure and have caused extensive delamination of the concrete structure. Due to the water ingress from the top two floors there is corrosion to the rebar within the ramp to deck 7 and 8 which is cause for concern. As a result of these findings the top two decks have been closed to vehicles.
  - Alkali-Silica Reaction occurs when the alkaline pore fluid and siliceous minerals in some aggregates react to form a calcium alkali silicate gel. This gel absorbs water, producing a volume expansion that blows open the concrete. This was noted in the initial testing and a further test was undertaken to assess the extent of the problem. ASR cannot be repaired and can only be slowed by preventative moisture ingress into the concrete and by continuous monitoring to assess the structure.

- The further testing has indicated that ASR is present throughout the structure but at a low level and does not pose an immediate risk. But treatment of the parapets is advised due the nature of the design and location.
- Carbonation to the concrete is not considered to be a cause for concern.
- The drainage system is main contributor to the water ingress to the building and should be refurbished as soon as possible.
- Vehicle impact protection on all decks is showing extensive failure to the paint coatings and rusting has occurred to the barrier and bolt fixings in many locations. It is also does not pass modern standards and would is unlikely to pass load testing against vehicle impact, these should be refurbished.
- The handrails are less than 1m high which is less than current building regulations allow. They are also showing signs of corrosion and should be replaced to meet modern day standards.
- The water ingress to open stairwell within the centre if the car park presents an ongoing health and safety risk and should also have a steel barrier installed to protect pedestrians from moving or parking vehicles.
- The report concludes that Covent Garden MSCP needs remedial repairs to be undertaken by summer 2016 if this is to be maintained as a public use car park.

8.5 The summary list of repairs is an indication of what would have been required if the Council was to keep Covent Garden for the medium term. With the Council taking the decision to replace the car park, only immediate remedial works will be undertaken. This will extend the usability of the car park until it is demolished for the new HQ and MSCP. The original cost for the immediate remedial works was £814,000, however in conjunction with our specialist engineering contractors this has now been revised down to circa £300,000.

8.6 £200,000 of the £300,000 would be expended on metalwork to resolve the safety issue with the height of the handrails and safety barriers with the remainder tackling the structural deficiencies. Due to the car park's age and design it fails when it is measured against modern building standards. The specialist structural engineers highlighted the issue of the handrails and the barriers not conforming to modern day standards. The handrails are 40cm too low and therefore do not adequately deal with the risk of falls. To not undertake the work would place the council at risk as detailed in 6.2.


8.7 The car park has 511 spaces and supports the town centre shopping offer by providing easy to use parking with the pay on foot system and much needed all day parking close to the main centre. It currently operates on a circa 55% fill rate and has 150 day time season ticket holders and 60 resident overnight season ticket holders. In terms of spare car parking capacity in all the town centre car parks there is on average 340 spare spaces available weekdays and 240 spare spaces on weekends. If the car park was closed then the weekday capacity is short by 170 spaces and by 270 spaces on a weekend.

8.8 The current project plan for the new multi-storey is commencement late 2017 which would give officers time mitigate the impact of the displacement of cars by potentially increasing capacity in the remaining car parks. This would be done by introducing a temporary additional deck at Chandos Street. The initial advice from suppliers is that a temporary deck would have at least a 12 month production lead time.

8.9 The works programme has been greatly reduced due to the future development of the car park. The main works due for completion are safety improvements to the hand railings around floors 2, 3, 4 and 5, waterproof coverings to the

parapets and some minor concrete and rebar repairs. In conjunction with the remedial work the top two decks will be permanently closed to public access, this will present no loss of parking spaces as the car park is only 45% to 55% full at any one time. This work will ensure the operational use of the car park until such time as it is redeveloped.

- 8.10 The cost for this work is still substantial and this is predominantly due to the size of the building. To not complete these works would leave us in a difficult position in terms of liability should an incident occur now we are aware of the problems. Whilst we are in the process of obtaining the necessary works we have mitigation grounds. However, if the Council decides not agree to the works then we are left culpable if an incident occurs in an area that we have been notified about. It is officers recommendation that we undertake the necessary work to ensure that we have suitable dealt with the risk to the Council whilst maintaining public use to the car park.

 <b>Executive – 29<sup>th</sup> June 2016</b>		<b>Agenda Item No.</b>  <b>6</b>
<b>Title</b>	Business Plan Template for Major Grant Applications From Community Groups	
<b>For further information about this report please contact</b>	Jon Dawson Finance Administration Manager 01926 456204 email: <a href="mailto:jon.dawson@warwickdc.gov.uk">jon.dawson@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>	All	
<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	
<b>Date and meeting when issue was last considered and relevant minute number</b>	N/A	
<b>Background Papers</b>	Email correspondence	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality Impact Assessment Undertaken</b>	Yes

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	13.6.16	Chris Elliott
Head of Service	13.6.16	Mike Snow
CMT	13.6.16	Chris Elliot, Bill Hunt and Andy Jones
Section 151 Officer	13.6.16	Mike Snow
Monitoring Officer	13.6.16	Andy Jones
Finance	13.6.16	Mike Snow
Portfolio Holder(s)	13.6.16	Cllr Whiting
Consultation & Community Engagement		
Community Partnership Team and WCAVA; Email communications and verbal discussions (final feedback email with regards to suggested business plan structure dated 4 <sup>th</sup> May 2016). A copy of this report has also been forwarded to the Community Partnership Team on 2 <sup>nd</sup> June 2016; reply email from Liz Young received on 6 <sup>th</sup> June 2016 confirming her satisfaction with the report.		
Final Decision?		Yes/No
Suggested next steps (if not final decision please set out below)		



## 1. **Summary**

- 1.1 The purpose of this report is to seek approval to implement a standard business plan template as an essential requirement of the application process for community group organisations applying for major grants.

## 2. **Recommendation**

- 2.1 It is recommended that the Executive approves the proposed standard business plan template as an essential requirement for future major grant applications from community group organisations as noted in appendix 1.

## 3. **Reasons for the Recommendation**

- 3.1 The Council has previously agreed major grants for community groups for example:

- St Chad's Community Centre
- Barford King George's Playing Fields
- Racing Club Warwick

The approval process has included delegated authority to the Chief Executive and appropriate Heads of Service to agree and sign-off a business plan submitted by the applying organisation before final confirmation of the grant award and any draw down on funds.

- 3.2 Currently there is no standard business plan template; this leads to varying degrees of quality and content in each case and different formats / lay outs. This in turn leads to multiple draft versions for Council Officers to review and comment on before a final acceptable version is received and signed-off.
- 3.3 Implementation of a standard business plan template covering specific key areas will provide a consistent approach and ensure that required information is captured, save Council Officer time in having less versions to review and comment on and will better support the decision making process.
- 3.4 The standard business plan invariably cannot capture everything. Depending on the nature of the project and the organisations, additional relevant information may need to be sought if it is not included within submitted business plans.
- 3.5 In preparing the business plan template we asked Warwickshire Community and Voluntary Action (WCAVA) for their views of its suitability for voluntary community organisations; they have supported the use of this template.

## 4. **Policy Framework**

- 4.1 The projects that the major grant applications contribute towards typically support Fit for the Future, the Sustainable Community Strategy and the Local Plan.

## **5. Budgetary Framework**

- 5.1 There is no financial implication in agreeing to implement the proposed standard business plan template as an essential requirement of the major grant application process for community groups.
- 5.2 Alongside the business plan, organisations will continue to be required to submit previous years' financial statements.

## **6. Risks**

- 6.1 There are no main risks for this proposal; having detailed business plans that cover all the aspects noted within the template should help to reduce the risk of failure of a particular project or the organisation.

## **7. Alternative Option(s) considered**

- 7.1 Members may choose to not approve the proposed business plan template and allow applying organisations to continue to produce business plans in their own formats; this isn't recommended due to the varying levels of quality and detail in submitted business plans which often leads to delays in the decision making process and consumes a considerable amount of Council Officer time reviewing multiple versions before a final acceptable version is approved.
- 7.2 Members may choose to amend or add to the items on the proposed business plan template.

## **8. Background**

- 8.1 No further information to include.

It is recommended that the Executive approves the proposed business plan template as an essential requirement for future major grant applications from community groups as noted in appendix 1.

## **Business Plan for Major Grant Applications**

### **1. Introduction / Overview**

- a. Brief history / background
- b. Current position
- c. Aims & objectives
- d. Planned development
- e. Management / governance and organisation

### **2. Project Proposal**

- a. Description of project
- b. Rationale for project; evidence that supports the need for the project
- c. Phases / works programme
- d. Key partners
- e. Milestones
- f. Outcomes

### **3. Marketing and Promotion**

- a. Description of current marketing plan
- b. Future service offer options; market definition, community need, target audience
- c. Competition; similar service offerings within the local area, the district and the county
- d. Community engagement; consultation, involvement with the organisation
- e. Planned marketing activities; be as specific as possible, include timescales and milestones
- f. Agreements already in place; note any specific future usage agreements / bookings / hiring's already agreed


### **4. Financial Plan**

- a. Present financial situation; financial summary to include income/expenditure figures and profit / loss (last 3 years accounts)
- b. Estimated project costs
- c. VAT status of organisation and project
- d. Funding plan; to include details of the status of the funding
- e. Income & expenditure forecast; cover the next three year period
- f. Sensitivity analysis; impact of variances in income on the on-going business plan (for example; if projected income does not materialise, or delays to the project, what will the impact be and what will that mean for the organisations finances)

### **5. Risks and Issues**

- a. Risk register; list individual risks (for example; project stages overrun, overspends, planning permission is refused), the risk level (low, medium, high) and the mitigation (actions) to reduce the risk
- b. Issues log; areas that are prerequisites for the project to go ahead / succeed (for example; access to systems / ICT technology requirements, cash flow whilst waiting for grants to be awarded, facilities management)

A standard business plan invariably cannot capture everything; depending on the nature of the project and the organisations, additional relevant information may need to be sought if it is not included within submitted business plans.

 <b>Executive Committee 29<sup>th</sup> June 2016</b>		<b>Agenda Item No.</b>  <b>7</b>
<b>Title</b>	Review of Street Trading Policy.	
<b>For further information about this report please contact</b>	Kathleen Rose, Licensing and Support Team Leader Tel: 01926 456703 Email: Kathleen.rose@warwickdc.gov.uk	
<b>Wards of the District directly affected</b>		
<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	
<b>Date and meeting when issue was last considered and relevant minute number</b>		
<b>Background Papers</b>		

<b>Contrary to the policy framework:</b>	Yes/No
<b>Contrary to the budgetary framework:</b>	Yes/No
<b>Key Decision?</b>	Yes/No
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes/No
<b>Equality Impact Assessment Undertaken</b>	Yes/ <del>No</del> (If No state why below)

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	07.06.16	Andrew Jones
Head of Service	01.06.16	Marianne Rolfe
CMT	07.06.16	
Section 151 Officer	07.06.16	
Monitoring Officer	07.06.16	Andrew Jones
Portfolio Holder(s)	06.06.16	Moria Ann Grainger
Warwickshire Legal Service	TBC	John Gregory
Consultation & Community Engagement		
Final Decision?		No
Suggested next steps (if not final decision please set out below)		

## 1. **Summary**

- 1.1 To present the reviewed drafted policy document applicable to all Street Traders.

## 2. **Recommendation**

- 2.1 That Executive notes the draft Street Trading Policy at Appendix 1 making any comments it considers appropriate and agrees a 6 week public consultation on the proposed policy.
- 2.2 That Executive notes that a future report will be submitted summarising the consultation response, any alterations suggested to the policy in response and seeking its recommendation of the final policy to Council for adoption.

## 3. **Reasons for the Recommendation**

- 3.1 Over the last two years officers have been undertaking a review of the policy associated with the licensing of Street Trading. Officers have considered local and national examples of best practice in establishing where improvements in the policy can be made.
- 3.2 The review has addressed the concerns of officers, the general public and councillors. It is proposed that a public consultation begin on the 8<sup>th</sup> July 2016 and concludes on the 19<sup>th</sup> August 2016. The policy will be made available on the council website. Each permit holder and stakeholders will be written to in order to advise them of the consultation.
- 3.3 It is currently only possible to apply for a full annual permit within the District. This restricts those traders that would like to trade for a limited period only from trading legally within the District. The policy remedies that position.
- 3.4 The current policy requires each permit holder with a touring permit to provide a valid DBS certificate for themselves. The proposed policy requires employees to be fully DBS checked also.
- 3.5 The proposed policy will require all traders and staff to provide photographs of themselves on application to aid with monitoring and compliance checks throughout the duration of the permit.
- 3.6 A summary of the changes is attached as Appendix 2

## 4. **Policy Framework**

- 4.1 **Fit for the Future** – Street traders add to the vibrant mix of amenities within the District. The proposed changes to the policy will ensure that we are better able to meet the needs of individual traders and those who live and work within or visit our district. The changes to the policy will clarify regulatory matters and simplify decision making processes for staff and applicants. The introduction of day trading consents will enable individuals to add to the local economy and the vibrancy of local events.

## 5. **Budgetary Framework**

- 5.1 It is possible that additional revenue could be generated by the introduction of day trading permits. It is also anticipated that the requirement of each vehicle within the district to be licenced separately will generate additional income. A fee would need to be determined and agreed by Council for the introduction of

the policy for day trading. However, as the Council is not able to make a surplus on such activities, there will be no material impact on the Council's finances.

## **6. Risks**

- 6.1 Current permit holders may consider the policy as an unnecessary burden and may refuse to permit individual vehicles. This would increase the risk of unlicensed vehicles being operated within the District.
- 6.2 Currently permit holders for Touring vehicles are required to provide a Basic Criminal Records Bureau certificate with their application. Therefore this would mean that the traders operating without a permit would also be operating without the benefit of a current DBS check.

## **7. Alternative Option(s) considered**

- 7.1 The current policy remains in place without amendment or alteration. However, it is considered that the proposed document is reflective of best practice and would increase competitive trade at short events, increase income and raise the standards required of street traders within Warwick District Council.

## Warwick District Council

### **DRAFT Street Trading Consent Policy Local Government (Miscellaneous Provisions) Act 1982**

#### **Introduction and Scope**

Warwick District Council recognises the valuable contribution that street trading can make to the local culture and economy, and the service that street traders provide to residents of the district, some of whom are unable to travel to centralised shopping centres. Street trading can provide people with a flexible way of working, to meet the demands of the public where and when that demand arises.

The Council is also committed to improving the support provided to small businesses, ensuring there are no unnecessary burdens placed on them and they are provided with sufficient advice to enable them to operate successfully. However, issues arise where vendors do not pay due regard to their siting, and create an obstruction in the street, or make it dangerous for people to move around them.

Street trading can also result in unnecessary littering and other nuisance to persons visiting, living or working in the vicinity. For this reason, Local Authorities have a legal discretion to regulate street trading in their area. Street trading is covered by the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4.

Warwick District Council has designated **all** streets within its boundaries as "Consent Streets". The effect of this designation is that if you want to sell goods on the street, you are classed as a Street Trader and, subject to legal exemptions, will need to have the appropriate consent. Conditions can be attached to the consent as is considered 'reasonably necessary'. Trading without the required consent is a criminal offence.

#### **What is a Street?**

A street means any road, footway, beach, service area as defined in section 329 of the Highways Act 1980 or other area to which the public have access without payment. The Courts have confirmed that any land located away from the highway which the public can access without payment, including privately owned land, is capable of being a street for these purposes. For example, this could include car parks, trading estates, forecourts, open spaces etc. However, the Council takes the view that street trading controls would not normally apply within buildings.

#### **What is Street Trading?**

Street trading means selling, exposing or offering for sale any article (including a living thing) in a street. This includes a wide range of retail activities e.g. food, beverages, arts and crafts, jewellery, household goods, clothing etc. It also includes the sale of vehicles from the roadside.

#### **What is not Street Trading**

Certain activities are exempted from street trading control by the legislation. These include:

- trading as a pedlar under a pedlar's certificate;
- trading at an established market or fair;
- trading as a news vendor;
- trading at a petrol station or shop or from a street adjoining a shop which is used as part of the business of the shop;
- trading as a roundsman (i.e. delivering pre-ordered goods to customers);
- trading from a licensed highway area (Tables and Chairs licence);
- trading under a street collection permit

### **Objectives of the policy**

Central to the Council's policy are a number of key objectives which are:

- To prevent public nuisance by taking measures to reduce the risk of nuisance from obstruction, noise, refuse, vermin, fumes and smells.
- To ensure that traders operate within the law and act fairly in their dealings with the public so as not to present a risk to public order.
- To ensure the suitability of the structures used for the sale of goods on the street.
- To permit temporary or occasional street trading, where appropriate.
- To ensure that the process involves opportunities for consultation with relevant agencies.

### **Purpose**

This Policy seeks to ensure that these objectives are achieved in a consistent, fair and proportionate way.

### **Requirement to Obtain Consent**

A person intending to sell items from a street in accordance with the above definitions of "street" and "street trading" will be required to obtain full written consent from the Council to do so, unless they fall within any of the 'Deemed Consent' categories or 'Prohibitions' listed below:

### **Deemed Consent**

The following activities will be deemed to have consent (i.e. it is assumed that an application has been made and granted without the need to actually do so):

- a) A registered keeper displaying a vehicle for sale at the registered address for that vehicle subject to a maximum of two vehicle sales per household per year;

#### **Note 1**

*No application is required or fee payable for traders who operate with 'Deemed Consent'*

### **Prohibitions**

The following will not be issued with street trading consents:

- a) Suitcase salesmen and similar itinerant traders.
- b) The selling of cars and other vehicles in the course of a trade or business.
- c) The sale of live animals.



## Applications

In considering applications for the grant or renewal of a street trading consent the following factors will be considered:

- a) Public Safety  
Whether the proposed activity represents or could present a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions.
- b) Public Order  
Whether the proposed activity presents or could present a risk to public order.
- c) The Avoidance of Public Nuisance  
Whether the proposed activity presents or could present a risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.
- d) Local Area Needs  
Consideration will be given to the character of the area (eg conservation area)

## Street Trading Consent Conditions

Upon grant of a street trading consent a street trader will be required to comply with the conditions that are attached to the consent (see Appendix 1). Any breach of the conditions may result in the revocation of the consent.

Under the terms of the legislation, the Council may, at any time vary the conditions of a street trading consent.

## Consent Period

Warwick District Council has 3 types of consent.

1. A Daily Consent – for trading with a static pitch for a period of up to 24 hours
2. An Annual Consent which may be granted for any period not exceeding 12 months
  - a. For static pitches
  - b. For touring traders
3. Multiple Trader/Special Event Consent
  - a. At special events, the council will issue one consent to the person organising the event/market, rather than to each individual trader. This policy is aimed at promoting events and encouraging more traders to attend them.
  - b. We will issue a single consent, which will cover a number of traders. The number of traders covered is as follows:
    - Category 1 – Up to 20 traders
    - Category 2 – Between 21 and 49 traders
    - Category 3 – Between 50 and 75 traders
    - Category 4 – Between 76 and 99 traders
    - Category 5 – over 100 traders

## Fees

A fee will be charged for processing any application for consent, transfer, variation or the issue of a replacement notice. The scale of charges will be published on the Warwick District Council web site. Fees are broken down into 2 elements, an Application fee and a Licence fee. Where an application is unsuccessful the Licence element of the fee will be refunded.

There are no charges for anyone who falls under the category of 'Deemed Consent'.

## Application Process

Applicants for a new (or renewal) street trading consent should give not less than 28 days notice of the application to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ. Tel: 01926 456705 or email [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)

Upon receiving a full application and fee the Licensing Team will consult with interested parties for a period of 14 days. If there are no objections raised to the application and the applicant has no convictions it is likely the Regulatory Manager will grant the application.

If objections are received to an application or the applicant has any convictions it is likely that the application will be referred to the Regulatory Committee for a decision to be made. The applicant will be invited to attend a Committee hearing to respond to any objections made.

Applicants for a Daily consent should give not less than 14 days notice of the application to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ. Tel: 01926 456705 or email [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)

Upon receiving a Daily consent application and fee the Licensing Team will inform interested parties of the application. If all other permits/licences are in place it is likely the Regulatory Manager will grant the application.

Applicants for a Multiple Trader/Special Event consent should give not less than 28 days notice of the application to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ. Tel: 01926 456705 or email [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)

Upon receiving a Multiple Trader/Special Event consent application and fee the Licensing Team will consult with interested parties for a period of 14 days. If all other permits/licences are in place and there are no objections raised, it is likely the Regulatory Manager will grant the application.

### **Plan of Location**

The applicant shall provide a map showing all streets and public areas in a radius of 0.25 a mile from the proposed location.

The map should be an ordnance survey map or equivalent and will mark clearly the proposed trading site.

If a proposed street trading site is located on private land, including forecourts, satisfactory evidence must be provided to the Council that the permission of the landowner or lessee has been obtained.

### **Suitability of the Street Trading Unit**

The application must be accompanied by 3 colour photographs of the unit to be used.

Full details of any van, barrow, other vehicle or portable stall which the applicant intends to use must be supplied to the Council at the time of making the application. Arrangements shall be made for the van, barrow, other vehicle or portable stall to be inspected by a duly authorised officer prior to the application being considered if requested.

### **Suitability of the Applicant**

The Council will not grant a street trading consent to persons under the age of 17.

All applicants and 'assistants' are required to submit a recent Basic Disclosure Certificate from Disclosure Scotland. The certificate must not be more than 4 weeks old at the time of submission. Applicants with previous convictions or cautions are not necessarily debarred from holding a consent unless the authority considers that the conviction renders them unsuitable. In making this decision the Council will consider the nature of the offence and how long it has been since the applicant was convicted.

**Each case will be dealt with on its own merits with the overriding consideration being the protection of the public.**

Applicants whose street trading activity includes the provision of food in any form, must be in possession of a current CIEH Level 2 Award in Food Safety Certificate, or suitable equivalent.

### **Consultations**

Before a street trading consent is granted or renewed the Licensing Team will consult with the following agencies as considered appropriate:

- Police
- Highways Department
- Environmental Health

The Council shall consider any representation made in writing to the Authority in respect of any application. The applicant will be provided with a copy of any representation received and given an opportunity to comment before a final decision is taken.

#### **Decision to Refuse or Revoke a Licence**

If the Council is unable to grant a licence the applicant will be informed of the reason for the refusal within 21 days of the decision being made.

#### **Appeals**

There is no statutory right of appeal in respect of refusal or revocation of street trading consent, other than by means of a judicial review of the administrative action in reaching the decision. However, applicants also have recourse to the council's complaints procedure if the applicant considers that a council service has not been properly delivered. Full details are available on request or on the internet at - [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk)

#### **Permitted Trading Hours**

The Council generally will only permit street trading between 06:00 and 18:00. Any trading outside these hours will have to be approved by the Regulatory Committee. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.

#### **Market days**

Those Consent Street licensees who have consent to trade in the town centres will not be able to do so on Market days on the Parade in Leamington, Market Square in Warwick, Abbey End in Kenilworth or any area designated by the Council from time to time.

#### **General Information on Street Trading Consents**

Street Trading Consents will be issued only at the Council Offices. The applicant must attend in person to collect any documentation.

An Equality Impact Assessment on this policy was undertaken on 16/05/2016 and will be reviewed on 16/05/2019.

**Appendix 1****General Conditions****Definitions:**

**Street Trading** – the selling or exposing or offering for sale any article (including a living thing) in a street

**Street**

- a) any road, footway, beach or other area to which the public have access without payment; and
- b) a service area as defined in section 329 of the Highways Act 1980

**The Council** – Warwick District Council

**Authorised Officer** – an Officer employed by Warwick District Council and authorised by the Head of Service (Health and Community Protection) in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982

**Consent Details**

1. A copy of the consent must be displayed prominently on the unit at the street trading site.
2. The consent holder shall not sell any type of food, goods or merchandise other than those specified in the consent.
3. The consent holder shall not trade outside the time and days permitted by the consent.
4. The consent holder shall not trade within the consent area other than at the location permitted by the consent.
5. Touring consent holders shall not trade from the same location for more than 15 minutes (or until queuing customers have been served) at any one time. There is to be no return to any location within 2 hours of previous trading.
6. The consent is personal to the consent holder and shall not be assigned or transferred to another person or company without the appropriate notification of such transfer. (See application for consent transfer.)
7. The consent holder shall produce the consent if required to do so by a police officer or authorised officer at the time.
8. The consent may be revoked by the council at any time for non-compliance with conditions, or surrendered by the consent holder at any time.
9. The Consent Holder may employ another person to 'assist' with trading but shall be expected to be in attendance at the site in order to remain in control of trading for the majority of trading hours.
10. Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence.

**General Conduct**

11. The consent holder shall not trade in such a way that is likely to cause obstruction of any part of any street or public place.
12. The consent holder shall not trade in such a way that is likely to cause an injury to any person using the street or place.

13. The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or place.
14. The consent holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity. Noise from equipment must not be persistently audible in nearby residences.
15. The consent holder shall not trade from a vehicle parked in the lay-by outside the Royal Pump Rooms, the Parade, Leamington Spa, or in the entrance to the park opposite.
16. Applicants who wish to operate within the district **must** obtain a Basic Disclosure Certificate from Disclosure Scotland. A DBS check will have to be completed every year, or more frequently, at the discretion of the Council

### **Protection of Young People**

17. Street trading will not normally be authorised within 50 metres of any entrance or exit to a school or nursery or within a designated conservation area. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).
18. No child aged 16 or below shall be engaged in or employed to undertake any street trading under a consent issued by the Council.

### **Noise Nuisance**

19. The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract vendors to the stall/vehicle/trailer by sound. Ice cream vans may use a chime only in accordance with the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982.

### **Visual Appearance**

20. Any vehicle/stall/trailer used by the consent holder in the course of trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council. A high standard of presentation and appearance will be expected.

### **Health & Safety**

21. The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc. Act 1974 and any Fire Authority requirements.
22. Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.
23. The consent holder shall at all times maintain a valid third party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.
24. The consent holder will not be permitted to erect additional awnings, tents or other structures at the site without permission.

### **Advertisements / Signage**

25. Advertisements must not be placed outside the perimeter of the trading site or affixed to any street furniture - e.g. lamp posts, road signs, fences, bollards.

### **Waste Management**

26. The consent holder shall provide and maintain adequate refuse receptacles for litter and shall remove all litter in the trading vicinity; suitable arrangements must be in place for the disposal of commercial waste. The consent holder shall be responsible for any damage to the highway resulting from the trading activity.

27. The consent holder must prevent the deposit in any street of solid or liquid refuse and shall not discharge any water (except as may be necessary for cleansing) to the street surface or to the surface water drains. The surrounding area shall be kept clean and tidy including the necessary washing of street surfaces.

#### **Additional Requirements for Food Operations**

28. When street trading includes the provision of food, the Food Business Operator (FBO) must ensure that any van/barrow/vehicle or stall is sited, designed, constructed and kept clean and maintained in good repair and condition as to avoid the risk of contamination, in particular by animals and pests. Any food handler must keep a high degree of personal cleanliness, shall wear suitable protective clothing and have received suitable hygiene training. In addition the FBO shall ensure that:-

- a) appropriate facilities are available to maintain adequate personal hygiene (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities)
- b) surfaces in contact with food are to be in a sound condition and be easy to clean and, where necessary, to disinfect. This will require the use of smooth, washable, corrosion-resistant and non toxic materials, unless the food business can satisfy the Authorised Officer that other materials used are appropriate.
- c) adequate provision is to be made for the cleaning and, where necessary, disinfecting, of working utensils and equipment
- d) an adequate supply of hot and/or cold potable water to be available
- e) where foodstuffs are cleaned as part of the business operation, adequate provision is to be made for this to be undertaken hygienically
- f) adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid) are to be available
- g) adequate facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions are to be available
- h) foodstuffs are to be so placed as to avoid the risk of contamination so far as is reasonably practicable

Furthermore, the consent holder must put in place, implement and maintain a permanent procedure based on the HACCP principles.

**Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e. for each day of trading without consent.**

## Summary of changes

### Applications

The proposed policy includes timescales for both the application and consultation periods. In practice neither of these has been altered, however, the document formalises and clarifies the current practice. There is also an additional requirement for applicants to produce their stall/barrow/vehicle for inspection by a duly authorised officer if there are any concerns raised regarding suitability or condition during the application process.

### Street Trading Consent Conditions

Additional conditions have been included to bring WDC in line with neighbouring councils and national 'good practice' standards. Some existing conditions have been rewritten to improve clarity and understanding.

Additional conditions include:

- an item to ensure that Touring consent holders are not acting as Static 'pitches' without the appropriate consultation process
- the ability to update or 'transfer' a consent between individuals
- clarification of the status of 'employees' within the street trading business
- the requirement for all street traders and their employees to provide a DBS certificate with all applications
- the introduction of a minimum distance from school and nursery sites
- the introduction of 'presentation standards' for vehicles/trailers/stalls
- additional requirements for food business operators to ensure compliance with food safety legislation
- additional requirement for all food business operators to hold a current CIEH Level 2 Award in Food Safety Certificate, or suitable equivalent
- additional requirement for all food handlers to have received suitable hygiene training

### Consent Period

The proposed policy includes the introduction of single day trading consents and group/special event consents. This would allow more flexibility to small traders/charity groups etc. that wish to hold street collections and sell small items at the same time.

### Fees


The proposed policy would introduce new types of consent, the ability to transfer a consent and the ability to vary an existing consent all of which would need to have an appropriate fee calculated and agreed.

### Suitability of the Applicant

The proposed policy would extend the current requirement for Touring consent applicants to provide a current DBS certificate to include all Static and Touring consent applicants and all employees. This would not be required for temporary traders.

### Permitted Trading Hours

The proposed policy would extend the current permitted trading hours from 08.00 am by two hours to permit trading between 06:00 and 18:00.

 <b>Executive 29<sup>th</sup> June 2016</b>		<b>Agenda Item No.</b>  <b>8</b>
<b>Title</b>	Use of delegated powers - Electrical Repair & Maintenance Contract	
<b>For further information about this report please contact</b>	Bill Hunt Deputy Chief Executive 01926 456014 bill.hunt@warwickdc.gov.uk	
<b>Wards of the District directly affected</b>	All	
<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 – other than Confidential Appendix Two which contains information and information by which individuals might be identified	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Executive 11 <sup>th</sup> March 2015 –Minute 144	
<b>Background Papers</b>	Proposed Exemption from the Code of Procurement Practice – Executive, 11/3/15	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes - 785
<b>Equality Impact Assessment Undertaken</b>	No

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Deputy Chief Executive		Author
Head of Service		Andy Thompson, Mike Snow
CMT		Chris Elliott, Bill Hunt, Andy Jones
Section 151 Officer		Mike Snow
Monitoring Officer		Andy Jones
Finance		John Roberts
Portfolio Holder(s)		Cllr. Phillips, Cllr. Whiting
<b>Consultation &amp; Community Engagement</b>		
Insert details of any consultation undertaken or proposed to be undertaken with regard to this report.		
<b>Final Decision?</b>		Yes
<b>Suggested next steps (if not final decision please set out below)</b>		



## 1. **Summary**

- 1.1 This report informs members of the use of delegated powers to temporarily extend the electrical repair and maintenance contract by one month while the new contractor mobilised, examines the reasons for the delay that required the extension, the lessons learnt and the actions now required as a result.

## 2. **Recommendations**

- 2.1 That Executive note the exercise of the Chief Executive's delegated authority on 31<sup>st</sup> March 2016, under provision CE(4) of the Scheme of Delegation, following consultation with the Group Leaders, to agree an arrangement with the outgoing contractor to extend the electrical repair and maintenance contractor for one month until the incoming contractor had completed mobilisation and could assume full responsibility for the contract on 1<sup>st</sup> May 2016.
- 2.2 That Executive note the timeline for the re-procurement process set out at Appendix One and the contents of the Internal Audit report, commissioned by the Corporate Management Team to investigate the reasons for the delays that necessitated the contract extension, set out at the private and confidential Appendix Two.
- 2.3 That Executive note the Audit recommendations set out at Appendix Three, the summary of the main findings set out at paragraph 3.7 and the proposed additional actions set out at paragraphs 3.9 – 3.11 and confirm whether they wish any further management actions to be considered by the Corporate Management Team.

## 3. **Reasons for the Recommendations**

- 3.1 Provision CE(4) of the Scheme of Delegation contained within the Council's Constitution provides for the Chief Executive (and in their absence the Deputies) to have authority to: *'deal with urgent items that occur between meetings, in consultation with the relevant Deputy Chief Executives, Heads 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'*.
- 3.2 The electrical repair and maintenance contract covers the responsive repairs and periodic safety inspections that allow the Council to discharge its statutory duties and health and safety responsibilities for its Housing Revenue Account (HRA) homes, leisure centres and all other corporate buildings. Executive approved an exemption from the Code of Procurement Practice in March 2015 to allow the contract to be extended for 12 months as resource constraints and competing work commitments within both the Housing & Property and Finance service areas had prevented re-procurement before the then contract expiry date of 31<sup>st</sup> March 2015.
- 3.3 That report asked Executive to note that *'an OJEU compliant procurement exercise has been commenced for the re-procurement of the electrical maintenance and repair contract, the programme for which allow [sic] for a new contract to commence on 31<sup>st</sup> March 2016'*. The report also stated that the *'Housing & Property Services and Financial Services teams have put in place actions to prevent – except in the most extraordinary of circumstances – such exemption requests being necessary in the future'*.

- 3.4 Despite these statements and the commencement of a procurement exercise which planned for the publication on 5<sup>th</sup> May 2015 of the necessary OJEU notice to allow the re-tendering process to commence, the notice was not published until 3<sup>rd</sup> November 2015 and the contract award was not made until 15<sup>th</sup> March 2016. This meant that the incoming contractor had insufficient time to mobilise for a 31<sup>st</sup> March contract start date requiring the need for the use of CE(4) of the Scheme of Delegation.
- 3.5 The exercise of the delegated authority enabled a suitable agreement to be negotiated with the outgoing contractor to provide for them to undertake all necessary works to ensure that the Council was meeting its statutory responsibilities until such time as the incoming contractor had fully mobilised. However, the need to use the powers to grant a contract extension was deeply concerning and the Corporate Management Team (CMT) initiated immediate investigatory action.
- 3.6 Through the Deputy Chief Executive (BH), they requested the Internal Audit team to undertake a fast-paced review of the procurement process to establish a timeline that would expose the reasons for the delay, that could be reported to Executive as part of the normal report automatically triggered by the use of CE(4). The timeline is set out at **Appendix One** and the full Internal Audit report is set out at **Appendix Two**. This appendix is private and confidential due to the nature of the information contained within it which could enable individuals to be readily identified.
- 3.7 A more detailed examination of the delays and the reasons for them is included in section 8 but, in summary, the main findings of the investigation are:
- The conduct and progress of this procurement process was in marked difference to others undertaken and successfully completed within the same period
  - There was a lack of ownership for, and responsibility taken within, the procurement process
  - There was a lack of understanding at a managerial level of the respective responsibilities at key stages in the process of the two service areas involved at key stages in the process
  - Communication between key staff within both service areas was poor
  - There was a lack of trust between some staff in the two service areas that fostered a defensive attitude that hindered communication, contributed to the lack of urgency to resolve issues, prevented effective corrective action being taken when delays occurred
  - Capacity and staffing issues within both service areas contributed to the delays but would not, of themselves, have prevented action being taken that would have enabled the contract to be let earlier and without the need for the extension
- 3.8 The recommendations arising from the Internal Audit investigation are set out at **Appendix Three** and the appropriate actions in response are already underway. CMT consider that there are two additional actions required but wish to seek Executive's view as to whether there are any other issues they should consider.
- 3.9 The first additional issue is the need to ensure that the Council's organisational culture supports it being a learning organisation. It is inevitable that from time to time problems, occasionally significant, will occur and whilst the role of managers is to minimise the likelihood and impact of any such event it is

equally important that they ensure all available learning is captured and understood and that appropriate actions are initiated.

- 3.10 Whilst, effective learning has been captured in this case, the defensive attitudes that characterised parts of the procurement process were still in evidence when the Deputy Chief Executive (BH) and the Audit and Risk Manager convened a meeting of key managers and staff from both service areas to discuss the draft Internal Audit report. CMT members have subsequently initiated discussions amongst the wider Senior Management Team to ensure that the appropriate learning environment is nurtured.
- 3.11 The second issue is that the basis for management decision-making in respect of the tender evaluation process is worthy of further examination than was possible within the limited remit of the initial investigation, including further consideration of any potential Code of Conduct issues. CMT have, therefore, through the Deputy Chief Executive (BH), initiated a further Internal Audit investigation. This will focus on the events in the period after the tenders were returned up to the point of the tender award, including the tender evaluation and will also consider the apparent lack of contingency planning for potential mobilisation issues given the slippage in the procurement timetable up to that point. CMT will then consider the outcomes of this investigation and determine if any further management action is required.

#### 4. **Policy Framework**

- 4.1 The Scheme of Delegation, Code of Conduct and Code of Procurement Practice are contained within the Council's Constitution
- 4.2 The electrical repair and maintenance contract is a key service contract, enabling the delivery of services which assist the Council to meet its statutory responsibilities and ensure the electrical installations within all its assets are fit for purpose, directly contributing to the Council's unifying vision of making Warwick District a great place to live, work and visit.

#### 5. **Budgetary Framework**

- 5.1 The typical annual value of the Electrical Repair & Maintenance Contract is c£1.3m, depending on the level of responsive repairs raised within any given period.
- 5.2 At the point that delegated authority was exercised to extend the contract the estimated maximum cost of the month's extension was assumed to be £100,000.
- 5.3 The final account from the outgoing contractor is now being finalised but the anticipated final outturn is likely to be c£51,000.
- 5.4 This level of expenditure can be accommodated within the agreed budget for the financial year without any anticipation of budget pressures later in the year.

#### 6. **Risks**

- 6.1 The extension was awarded to mitigate the risk of the Council failing to meet its statutory safety responsibilities, but the decision raised a new risk of a potential procurement challenge to the extension award.

- 6.2 The extension period has now passed without a challenge materialising and this risk is now closed but the balance between these two risks re-inforces the need for officers to ensure that correct and timely procurement processes are undertaken.
- 6.3 The risk of the organisation not adopting the learning captured from the investigations to date will be mitigated by the leadership action initiated by the Corporate Management Team.
- 6.4 The risk of not fully understanding all the issues that require corrective action is mitigated by the additional investigations that have been instigated.

## **7. Alternative Options considered**

- 7.1 In arriving at the decision to agree an extension officers considered and rejected the following alternative options:
- To commence the new contract with the successful tenderer from the original 1<sup>st</sup> April 2016 contract commencement date and accept that a reduced service would be in place while the full contract team and working processes were mobilised. This option was explored with the incoming contractor but was discounted once the legalities of the TUPE process had been explored and it had been confirmed that they would not be able to secure sufficient resource within the available timescale to provide a level of service that would enable the council to meet its statutory obligations.
  - To establish emergency service provisions using the contractual arrangements of other organisations while completing the mobilisation of the newly procured contract. This option was discounted because of the complexity and lack of available time needed to establish adequate agreements, supporting documentation and administration processes to support the ordering and control of works in the limited time period available.
- 7.2 The option of not initiating further investigatory action has been discounted by CMT given the potential significance of the issues now under investigation.

## **8. Investigation Findings**

- 8.1 An initial procurement timetable was agreed in March 2015 which allowed for documents to be published on 5<sup>th</sup> May 2015. This deadline was missed and it is clear that there was a lack of ownership for the procurement process, a lack of clarity of the roles and responsibilities for the production of documents on the part of the officer initiating the procurement process and a feeling in both Finance and Housing & Property Services (H&PS) that one team was waiting for the other to make progress. Communication between officers was not decisive, the initiating officer did not appear to take ownership at the outset of the procurement process and neither team took ownership of the key tasks necessary, at varying points, to move the process forward and achieve the then procurement timetable in place at that point.
- 8.2 The technical specification documents were provided by H&PS on the 15<sup>th</sup> June 2015 and shortly after a new procurement timetable was produced in discussion with the then Procurement Manager, which provided for the tender documents to be published early in September 2015. However, during this period there were capacity issues within the procurement team arising from a chain of personnel changes, with the previous Procurement Officer having left earlier in the summer.

- 8.3 In order to alleviate the pressure on the Procurement Team, members have previously agreed the recruitment of an additional temporary three year Procurement Officer post. Unfortunately, despite extensive advertising of this position it has not yet proved possible to fill it. A more recent review of the team's resource requirements in conjunction with HR has determined that the appointment of an apprentice should prove advantageous. Efforts are currently being made to appoint an apprentice, working with local colleges.
- 8.4 A new permanent Procurement Officer began employment with the Council on 1<sup>st</sup> September 2015, and in recognition of the need for immediate progress was allocated the task of handling the procurement of the contract in question. However, the handover process proved less than satisfactory and they were unaware of the events leading up to that point or the proposed revised timetable.
- 8.5 This officer reviewed the technical documents they had inherited and recommended amendments despite them previously being agreed by other officers within the procurement team. A further delay of four weeks ensued while various discussions took place between the two service areas as to the content of the documents to be published, with the final version incorporating some of the changes recommended by the new Procurement Officer.
- 8.6 The tender documents were eventually published on 3<sup>rd</sup> November 2015 and tenders returned on 3<sup>rd</sup> December 2015. A further misunderstanding between H&PS and Finance about the location, availability and access to the returned tender documents resulted in the evaluation of the tenders being delayed by a further four weeks until the early New Year. Again, this delay was characterised by poor communication between the teams and the absence of any clear ownership or responsibility.
- 8.7 Subsequent to this early January scoring exercise it was identified that two scoring tables, each with different scoring criteria, had been included within the tender documents. Concerns had also been raised by the Procurement Team over the process and personnel used in this initial scoring exercise. A decision was eventually taken to re-evaluate the tenders using a different evaluation team, utilising the correct scoring mechanism, to address the various concerns that had been raised up to that point. However, the process that led to this decision was contentious, overly prolonged and typified the lack of trust that had developed between the two service areas. Although not covered in the initial investigation it is also notable that it appears that no contingency planning around potential delays to the contract start date was initiated at this point, an issue that requires further consideration.
- 8.8 Once the decision had been made the re-evaluation process was delivered speedily and professionally by the Building Surveying and Construction Manager and a Senior Building Surveyor allowing the Intent to Award notice to be published on the 4<sup>th</sup> March 2016 and the contract to be finally awarded to Dodd Group Limited on the 15<sup>th</sup> March 2016, following the completion of the mandatory standstill period. They immediately flagged their, entirely justified, concern that mobilisation for a contract start date of 1<sup>st</sup> April 2016 was impractical, starting the process that resulted in the exercise of the delegated powers.

**Electrical Maintenance Contract: Timeline**

<b>Date</b>	<b>Event</b>
March 2015	First indicative timetable agreed. The timetable suggested that the OJEU contract notice would be published on 5 May 2015.
15 June 2015	Energy Manager supplies Procurement with draft tender documentation.
29 June 2015	Revised timetable produced by Energy Manager following discussion with the then Procurement Manager. This suggested that the OJEU notice would be published on 7 September 2015.
July 2015	Emails raising concerns with regards to the capacity of Procurement to deal with all of the contracts that were due for renewal.
1 September 2015	New Procurement Officer tasked with dealing with the electrical maintenance contract.
6 October 2015	Amended draft documents passed to H&PS staff by Procurement Officer.
3 November 2015	OJEU notice published.
3 December 2015	Tenders opened.
10 December 2015	Folder set up by ICT Services for submitted documentation, accessible by specific H&PS staff.
29 December 2015	Folder populated with relevant documentation.
6 – 13 January 2016	Contract Administrators, with support from Energy Manager, evaluate the tenders submitted.
January – February 2016	Queries and clarifications over the scores from the first evaluation.
22 February 2016	Procurement Officer notices issue with the scoring ranges applied.
2 – 3 March 2016	Tenders re-evaluated by Building, Surveying & Construction Manager and Building Surveyor.
4 March 2016	Intention to Award notice posted.
15 March 2016	Contract awarded to Dodds following the standstill period.

## Action Plan

## Internal Audit of the Electrical Maintenance Contract Letting Process – June 2016

Report Ref.	Recommendation	Risk	Risk Rating*	Responsible Officer(s)	Management Response	Target Date
	No staff with a potential conflict of interest should play any part in a related tender process.	The evaluation process may be biased towards the company in which the interest is held and the award of the contract may be subject to challenge.	High	SMT	This is reflected within the Code of Procurement Practice and the Employee Code of Conduct. This specific issue will be discussed at SMT to ensure that appropriate practices are in place.	June 2016
	Independent (Procurement) staff should be present during tender evaluation exercises to ensure that correct processes are followed.	Errors made during tender evaluation processes may not be identified in a timely manner.	Medium	Procurement Manager	The Code of Procurement Practice and the Guide to Tendering Evaluation include these requirements. This is reinforced as part of planning for each tender opportunity and is within all procurement training (formal and informal).	In place and on-going.
	The corporate training programme should promote the respective roles and responsibilities of the initiating service area and the Procurement Team in respect of the procurement process, including clarification of where the 'ownership' of each task lies.	Staff may not be aware of the who is responsible for ensuring that different stages are the process are completed and when they need to be completed by.	Medium	Head of Finance & Procurement Manager	Roles and responsibilities will continue to be brought out in future training. More importantly, for each project responsibilities are agreed with those involved, this being spelt out in the Project Initiation Document (PID).	On-going

Report Ref.	Recommendation	Risk	Risk Rating*	Responsible Officer(s)	Management Response	Target Date
	Staff involved in tender evaluation processes should receive appropriate training.	Staff may not be aware of the correct processes to follow.	Medium	Procurement Manager / SMT	The Procurement Team ensure, as part of planning each tender opportunity, that staff are appropriately trained (often by informal 1 2 1 training) to undertake evaluations, and this will be part of the planned Stage 2 Advanced Procurement Training	In place and on-going.
	The recommendations made in the report produced by the Head of Housing & Property Services should be implemented (see Appendix A below)	No specific related risk.	N/A	Procurement Manager / SMT	All the principles within the H&PS Recommendations are in accordance with the practices which the Procurement Team seek to instil across the Council. Many of these are already reflected in the Code of Procurement Practice and associated documents, and these documents are kept under regular review. It is for SMT and the Procurement Team to ensure these recommendations are adhered to.	In place and on-going.


\* Risk Ratings are defined as follows:

High Risk: Issue of significant importance requiring urgent attention.  
Medium Risk: Issue of moderate importance requiring prompt attention.  
Low Risk: Issue of minor importance requiring attention.



### **Recommendations from Report Produced by Head of Housing & Property Services**

- That the Council introduces for all procurement exercises that start on or after April 1<sup>st</sup>, 2016, a mandatory formal Project Plan for each procurement exercise setting out an agreed schedule of all actions, deadlines and responsible officers (Procurement Team)
- That within the Project Plan there is a clear and distinct division of responsibilities and contributions from the procuring service, the Legal Services Team and the Procurement Team
- That each procurement project is assigned a named officer to act as Project Manager, that officer reporting to the head of the procuring service on progress on the project.
- That a restricted access shared folder system is mandated to be used for all procurement projects, with a reference system for each document designed to make sure that a single, common set of documents is used at all stages of the procurement process by all involved in the procurement exercise (Procurement Team)
- That other than in the most exceptional of circumstances, all procurement projects are scheduled to allow for a minimum four month mobilisation period (CMT/SMT)
- That all officers who are to be involved in a procurement project are required to sign a Declaration of Interest bespoke to that procurement exercise (CMT/SMT)
- That all officers are asked each year, on the anniversary of the date they first joined the Council, to update and sign their Declaration of Interest form (CMT/SMT)
- That releasing or allowing the release of details of procurement exercises before the formal announcement of the outcome of such an exercise be considered an act of gross Misconduct (CMT/SMT)
- That as part of the Council's approach to procuring services, a 'whole system cost and benefit analysis' be required to consider alternative delivery vehicles to external providers (CMT/SMT)

 <b>Executive – 29<sup>th</sup> June 2016</b>		<b>Agenda Item No.</b>  <b>9A</b>
<b>Title</b>	Rural/Urban Capital Improvement Scheme (RUCIS) Award Amendment Request	
<b>For further information about this report please contact</b>	Jon Dawson Finance Administration Manager 01926 456204 email: jon.dawson@warwickdc.gov.uk	
<b>Wards of the District directly affected</b>	Old Milverton and Blackdown	
<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	
<b>Date and meeting when issue was last considered and relevant minute number</b>	N/A	
<b>Background Papers</b>	Rural/Urban Capital Improvement Scheme details. Rural/Urban Capital Improvement Application file no. 206 to 208; correspondence with applicant.	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality Impact Assessment Undertaken</b>	Yes

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	13.6.16	Chris Elliott
Head of Service	13.6.16	Mike Snow
CMT	13.6.16	Chris Elliot, Bill Hunt and Andy Jones
Section 151 Officer	13.6.16	Mike Snow
Monitoring Officer	13.6.16	Andy Jones
Finance	13.6.16	Mike Snow
Portfolio Holder(s)	13.6.16	Cllr Whiting
Consultation & Community Engagement		
Community Partnership Team and Manoj Sonecha (Active Communities Officer); Copy of report forwarded 1st June 2016.		
Final Decision?		Yes/No
Suggested next steps (if not final decision please set out below)		

## 1. **Summary**

1.1 This report provides details of a Rural/Urban Capital Improvement Scheme grant award amendment request by Leamington Netball Club to;

- Build and equip a purpose built courtside facility to provide disabled / wheelchair access, two toilets (one of which will be a disabled toilet), a social / mentoring / de-brief area and a kitchen / refreshment facility.
- Raise the two perimeter fences that are not currently at full height to reduce anti-social behaviour when not in use, ensure that safety aspects are covered by reducing the number of occasions of netballs going over the fence onto either the car park or Leamington Rugby Club's 3rd team pitch and support the club's safeguarding policy for young female players.

## 2. **Recommendation**

2.1 It is recommended that the Executive approves an amendment to the RUCIS award agreed in February 2016 from the rural cost centre budget for Leamington Netball Club:

- From 42% of the total project costs to build and equip a purpose built courtside facility and raise the height of two perimeter fences, as detailed within paragraphs 1.1, 3.2 and 8.1, up to a maximum of £30,000 including vat
- To 50% of the total project costs, up to a maximum of £30,000 including vat, as detailed within paragraphs 1.1, 3.2, 8.1 and 8.2

As supported by appendix 1.

## 3. **Reasons for the Recommendation**

3.1 The Council operates a scheme to award Capital Improvement Grants to organisations in rural and urban areas. The grant recommended is in accordance with the Council's agreed scheme and will provide funding to help the project progress.

3.2 This project contributes to the Council's Sustainable Community Strategy; without the netball club there would be fewer opportunities for the community to enjoy and participate in sporting activities which could potentially result in an increase in anti-social behaviour, an increase in obesity (particularly in children) and disengage and weaken the community. The project will provide disabled access to facilities and increase court usage thus providing increased opportunity for the community to participate in sporting activity and it will also improve safeguarding of under 16's players.

3.3 The original RUCIS grant award (number 208) agreed by the Executive on 10th February 2016 was for 42% of the total project costs, up to a maximum of £30,000 including vat subject to receipt of the following:

- Written confirmation from BiffaAward (or an alternative grant provider) to approve a capital grant of £30,000

- 3.4 In March 2016, BiffaAward unfortunately declined Leamington Netball Club's £30,000 grant application due to their scheme being oversubscribed with applications totalling more than the budget for that tranche of funding; this has therefore left a shortfall in the project budget.
- 3.5 As a result Leamington Netball Club completed further fundraising and reviewed their project plans; some areas have been amended, some items are no longer required and some work is now going to be completed free of charge by a local contractor (ICM Ltd) as a contribution to the local community, for example;
- Drainage has reduced from £13,100 to £6,071 as they no longer need a "treatment plant" as the ground level allows for a standard septic tank which is considerably less expensive.
  - Car park surfacing has reduced from £25,135 to £11,895 as it was decided that the original plans for 200 square metres are well in excess of requirements; this has now been reduced to a smaller area of approximately 35 square meters which still includes the required disabled parking bays.
  - Various works on the interior of the building are being completed free of charge; decorating, installation of kitchenette area, storage racking, installation of sinks and wall mounted items (soap holders, mirrors, grab rails) within the toilets, bench seats.
- 3.6 A revised quote has been received from the main contractors, Warwick Buildings, confirming the new £60,013 project cost, a reduction from the original £72,102 quote.
- 3.7 A schedule of works has been received from ICM Ltd which confirms the free of charge items of work as noted above.
- 3.8 Leamington Netball Club has now committed £28,013 to the project from their cash reserves; an increase of £17,911 from the initial £10,102 contribution. Recent bank statements and a breakdown of fundraising activities have been provided to evidence these funds.
- 3.9 Leamington Netball Club wish to retain the RUCIS grant award of up to a maximum of £30,000 which, if agreed, will increase the percentage contribution to the overall project costs from 42% to 50%; this remains within the scheme criteria.
- 3.10 The £2,000 Leamington Town Council contribution along with the club's increased contribution and a RUCIS award increase to 50% of the total project costs ensures that there is sufficient budget to deliver the project with all the outcomes / benefits noted in the original application that was previously agreed by the Executive on 10<sup>th</sup> February 2016.

#### 4. **Policy Framework**

- 4.1 The Rural and Urban Capital Improvement Scheme supports the Sustainable Community Strategy and the cross cutting themes which form the priorities for funding areas as follows:-
- Community Engagement & Cohesion (including Families at Risk)

- Targeting disadvantaged rural locations
- Reducing inequalities

## 5. **Budgetary Framework**

- 5.1 The budget for the Rural/Urban Capital Improvement Scheme applications for 2016/17 is £150,000 (£75,000 for rural projects and £75,000 for urban projects).
- 5.2 There is £58,903 available to be allocated for Rural/Urban Capital Improvement Scheme Grants from the urban cost centre budget in 2016/17.
- 5.3 There is £45,000 available to be allocated for Rural/Urban Capital Improvement Scheme Grants from the rural cost centre budget in 2016/17.
- 5.4 As this request doesn't involve an increase to the grant amount agreed in February 2016 and the £30,000 award has already been allocated from the 2015/16 budget there is no impact on the 2016/17 budget.

## 6. **Risks**

- 6.1 There are no main risks for this proposal.

## 7. **Alternative Option(s) considered**

- 7.1 The Council has only a specific capital budget to provide grants of this nature and therefore there are no alternative sources of funding if the Council is to provide funding for Rural/Urban Capital Improvement Schemes.
- 7.2 Members may choose not to approve the grant funding, or to vary the amount awarded.

## 8. **Background**

- 8.1 In February 2016 Leamington Netball Club submitted a RUCIS application to:
  - Build and equip a purpose built courtside facility to provide disabled / wheelchair access, two toilets (one of which will be a disabled toilet), a social / mentoring / de-brief area and a kitchen / refreshment facility
  - Raise the two perimeter fences that are not currently at full height to reduce anti-social behaviour when not in use, ensure that safety aspects are covered by reducing the number of occasions of netballs going over the fence onto either the car park or Leamington Rugby Club's 3rd team pitch and support the club's safeguarding policy for young female players

The application was for 42% of the total project costs up to a maximum of £30,000.

Leamington Netball Club committed £10,102 to the project from their cash reserves; these funds were evidenced through their annual accounts and the provision of bank statements.

Leamington Netball Club is a section of Leamington Rugby Club which is vat registered (number; 272935339) although they will not be reclaiming vat in connection to this project; the award was therefore inclusive of vat.

Leamington Town Council approved a £2,000 contribution to the project.

Leamington Netball Club applied to BiffaAward for a £30,000 capital grant.

Leamington Netball Club was formerly AP Netball Club, they lost their playing facilities when AP sold off their sports facilities around 1990; due to this situation Leamington Rugby Club offered to provide the netball club with space on their ground to build a new netball court which was achieved via grants from the Sports Council, Warwick District Council and local fundraising. Leamington Netball Club thus became an integral part of the rugby club; legally they are one entity although they are operationally separate in relation to the playing of two different sports. Leamington Netball Club has its own organisational structure, committee and membership, totally separate from the rugby club.

Whilst Leamington Netball Club had not previously had a RUCIS grant award, Leamington Rugby Club have had the following successful RUCIS grants:

- £1,914 (50% of the total project costs) for replacing the drainage / sewage system in December 2010
- £3,013 (50% of the total project costs) for energy saving alterations to the cellar coolers in November 2011
- £36,000 (41% of the total project costs) to build an extension to install disabled toilet facilities, refurbish female and male toilet facilities and create disabled access to the main entrance in February 2014.

This application therefore met the scheme criteria whereby after a successful grant award an organisation must wait for a minimum of 2 years before re-applying for a new grant.

On 10<sup>th</sup> February 2016, Executive approved an award of a Rural / Urban Capital Improvement grant to Leamington Netball Club of 42% of the total cost of the project, including vat, up to a maximum of £30,000 subject to written confirmation from BiffaAward (or an alternative grant provider) to approve a capital grant of £30,000.

The request made in this report is within the scheme criteria, it is therefore recommended that the Executive approves an amended award of a Rural / Urban Capital Improvement grant to Leamington Netball Club of 50% of the overall total costs of the project, including vat, up to a maximum of £30,000.

RURAL/URBAN CAPITAL IMPROVEMENT GRANTS AWARD AMENDMENT REQUEST FOR 29TH JUNE 2016 EXECUTIVE :

Applicant :

Leamington Netball Club

Description of scheme:

- Build and equip a purpose built courtside facility with disabled/wheelchair access; this will have two toilets (one of which will be a disabled toilet), a social/mentoring/de-brief area and kitchen/refreshment facility.
- Raise the two perimeter fences that are not currently at full height; this is to reduce anti-social behaviour when not in use, to ensure that safety aspects are covered by reducing the number of occasions of netballs going over the fence onto either the car park or Leamington Rugby Club's 3rd team pitch, this will also support the club's safeguarding policy for young female players.

Evidence of need:

The need is visibly obvious (a site visit has confirmed this and photos taken); the project is to replace the existing, not fit-for-purpose, courtside hut which has no disabled access / facilities, is leaking, cold and does not have toilet facilities. From a safeguarding perspective, when under 16 players need to go to the toilet they have to use the rugby club facilities some distance away, this therefore requires two DBS checked adults to accompany them which is very unpracticable. Additionally, court bookings are restricted to when the rugby clubhouse is open and unless the existing facilities are replaced England Netball will not consider the club for future hire again; the use by England Netball provides much needed revenue, which in turn supports off-setting membership subscriptions and helps maintain these at a level affordable by all, supporting club sustainability levels. Warwickshire Netball have also stated that the project will increase their opportunities to use the court for hosting umpiring tests and mentoring, netball coach development courses and screening of players for County netball academies. Letters of support have been received from; Leamington Rugby Club (24.6.15), Cllr Gordon Cain (21.6.15), Warwickshire Netball (19.6.15), Myton School (16.6.15) and Princethorpe College (June 15).

3 years accounts received?

2013 - 2015 accounts have been received, along with recent bank statements; Treasurers Account (balance at 1st March 2016) Hub Account (balance at 5th April 2016) and Court Saving Account (balance at 9th February 2016); this evidences sufficient cash reserves to meet the contribution stated in the Executive report.

Financial Performance; minus figure = deficit

Year ended	Year ended	Year ended
30/04/15	30/04/14	30/04/13
£1,802	-£75	£1,419

Available Funds ( cash and reserves )

Year ended	Year ended	Year ended
30/04/15	30/04/14	30/04/13
£5,548	£3,968	£3,821

Details of membership, fees etc:

Adult (over 18) - £200, Full time education/Under 18 - £175, Non-player-discretion of Committee - £35; This covers all necessary affiliations and match fees.

Details of usage:

The club has 170 members across a number of teams and age groups ranging from Under 11's to over 60's. The court is also available to hire, for example, by local schools, and is also used occasionally to host events, for example, for Netball England.

REGULAR USE:

- Under 16's skill sessions (That don't playing competitive league) – run 6 times a year for a 4 week duration, up to 50 players enjoying the coaching and playing opportunities
- 10 week courses for adults ("back2netball" initiative) - run three times a year, 35 players per course
- 2 teams compete in the West Midlands Regional league – played at a central venue in Walsall; 16 games in total, and 10 squad players per team
- 5 teams in the local Coventry & Warwickshire league - in total 9 home matches a season, and 10 players per team
- 5 teams in the West Midlands Junior competition - played at a central venue in Walsall; 14 matches a season with 10 players per team
- Youth fun and coaching sessions - 20 sessions per season with approximately 20 players per session, fun festival held on two full days with up to 40 girls each festival

AD-HOC USE:

- Local school hire (such as Princethorpe College, Myton School & Crackley School) for practice sessions and / or competitions; up to 3 schools hiring courts twice a week during playing season (October – March) totalling approximately 100+ under 16's players each week (each school as a minimum = 18 players x twice a week)
- England Netball "Summer Festival" – held over a week, approx. 25 players

Details of Organisations equalities policies:

The Club has held Clubmark accreditation at Gold level for the last 9 years and this policy is acknowledged by the netball national governing body.

Equity Policy Statement

The club is committed to ensuring that equity is incorporated across all aspects of its development, in doing so it acknowledges and adopts the following Sport England definition of sports equity:

Sports equity is about fairness in sport, equality of access, recognising inequalities and taking steps to address them. It is about changing the culture and structure of sport to ensure it becomes equally accessible to everyone in society.

- The club respects the rights, dignity and worth of every person and will treat everyone equally within the context of their sport, regardless of age, ability, gender, race, ethnicity, religious belief, sexuality or social/economic status.
- The club is committed to everyone having the right to enjoy their sport in an environment free from threat of intimidation, harassment and abuse.
- All club members have a responsibility to oppose discriminatory behaviour and promote equality of opportunity.
- The club will deal with any incidence of discriminatory behaviour seriously, according to club disciplinary procedures.

**3 quotes provided:**

Yes - three quotes have been received.

**Which of the Council's Corporate Priorities are met?**

**Reduce anti-social behaviour**

**Evidence**

Whilst providing a new courtside facility doesn't directly impact on this, the club does provide a variety of sporting activities for a wide range of age groups, for example;

- Under 16's skill sessions (for those who choose not to commit to competitive league games)
- 10 week courses for adults via Back2netball
- 1 team competing in the West Midlands Regional Senior league
- 5 teams in the local Coventry & Warwickshire league
- 5 teams in the West Midlands Junior League
- "Back2Netball" initiatives
- Fun and coaching sessions

In addition to the above activities, an improved courtside facility will increase opportunities for the community, especially under 16's, to participate in sporting activities which supports reducing anti-social behaviour.

**Reducing obesity, particularly in children**

Whilst providing a new courtside facility doesn't directly impact on this, the club does provide a variety of sporting activities for a wide range of age groups, for example;

- Under 16's skill sessions (for those who choose not to play in a competitive league)
- 10 week courses for adults ("back2netball" initiative)
- 1 team competing in the West Midlands Regional league
- 5 teams in the local Coventry & Warwickshire league
- 5 teams in the West Midlands Junior league
- Fun and coaching sessions

In line with the netball national governing body vision of 3x30 minutes of sport per week- at least 2 x 30 is currently offered to the club's Under 16's. The club's coaches have also produced literature to complement the netball activity which covers healthy eating and the importance of hydration; one of the club's aims is to promote healthy lifestyles that will continue for life. Provision of these activities and promotion of healthy lifestyles helps towards reducing obesity, including in children; with a better, more fit-for-purpose courtside facility the club will be able to increase sporting opportunities to further support a reduction in obesity.

**Increase opportunities for everyone to enjoy and participate in sports, arts and cultural activities**

With a better, more fit-for-purpose courtside facility the club will be able to increase sporting opportunities for the community; as noted above, Warwickshire Netball and Schools letters of support indicate there will be an increased usage, for example, there will be no restrictions on when the court can be used based on relying on the rugby clubhouse to be open for toilet facilities and hosting more activities such as umpiring tests and mentoring, netball coach development courses and screening of players for County netball academies. Additionally the new facility will provide two nearby disabled parking spaces, disabled / wheelchair access and a disabled toilet (as per quote) which will also increase opportunity for the community to participate in activities.

**Engaging and strengthening communities**

All the club's netball initiatives are widely advertised to ensure that backgrounds/school/or ethnicity do not become a barrier. The club also encourages members and parents to volunteer to become active members supporting the club in which ever way they can, this may be through administration work, support with leaflets / e mail alerts and support at events; this strengthens community ties.

Whilst a new courtside facility doesn't directly impact on this, the club is also managed and run by a wide range of volunteers from the local community and the sporting activity that is available also brings together a wide range of people, this all helps to engage and strengthen the community. With a better, more fit-for-purpose courtside facility the club will be able to increase sporting opportunities which will increase engagement and strengthening of the community.

**Total cost of scheme (including VAT where appropriate)**

£60,013 Including VAT

**Funded by:**

**Status**

**Leamington Town Council**

£2,000 Approved

**Own Funds**

£28,013

**Total RUCIS**

**£30,000**

**equates to**

**50.0%**