

Michael Doody
Chairman of the Council

Council meeting: Wednesday, 18 November 2015

Notice is hereby given that an ordinary meeting of Warwick District Council will be held at the Town Hall, Royal Leamington Spa on Wednesday, 18 November 2015 at 6.05pm.

Emergency Procedure

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

Agenda

1. **Apologies for Absence**
2. **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.

3. **Minutes**

To confirm the minutes of the meeting of the Council held on 23 September, 7 October and 13 October 2015 as set out on pages 1 to 10.

4. **Communications and Announcements**



5. **Petitions**

6. **Notices of Motion**

7. **Public Submissions**

8. **Leader's and Portfolio Holders' Statements**

9. **Questions to the Leader of the Council & Portfolio Holders**

10. **Report of the Executive**

To consider reports of the Executive

(1) 30 September 2015

(Pages 1 - 15)

(2) Excerpt of 4 November 2015

(Pages 16 - 40)

11. **Report of Licensing & Regulatory Committee**

To consider the report of the Licensing & Regulatory Committee meeting held on 7 October 2015.

(Pages 1-9)

12. **Report of the Standards Committee**

To consider any recommendations, arising from the Standards Committee meeting on 18 November 2015, relating to the adoption of a Joint Standards Committee for Warwick District.

13. **Current position of Late Night Levy's and the feasibility of introduction within Warwick District**

To consider a report from Health & Community Protection **(Pages 1 - 12)**

14. **Councillor Gordon Cain**

The Council considered a request to provide dispensation, under Section 85(1) of the Local Government Act, for Councillor Gordon Cain not to attend meetings due to personal circumstances.

Section 85(1) of the Local Government Act stated that: "if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the Authority".

Councillor Gordon Cain last attended a meeting of the Council on 23 September 2015 and therefore has until 23 March 2016. This dispensation would provide him with the reassurance at this difficult time.

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

16. **Confidential Executive Report**

To consider reports of the confidential report of the Executive on 30 September 2015.
(Pages 1 – 9)
(Not for publication)

17. **Common Seal**

To authorise the affixing of the Common Seal of the Council to such deeds and documents as may be required for implementing decisions of the Council arrived at this day.



Chief Executive
Published Tuesday 10 November 2015

General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.

Telephone: 01926 353362
E-Mail: committee@warwickdc.gov.uk

Enquiries about specific reports: Please contact the officers named in the reports.

Details of all the Council's committees, councillors and agenda papers are available via our website www.warwickdc.gov.uk/committees

Please note that the majority of the meetings are held on the first floor at the Town Hall. If you feel that this may restrict you attending this meeting, please call (01926) 353362 prior to this meeting, so that we can assist you and make any necessary arrangements to help you attend the meeting.

The agenda is also available in large print, on request, prior to the meeting by calling 01926 353362.

WARWICK DISTRICT COUNCIL

Minutes of the meeting held on Wednesday 7 October 2015, at the Town Hall, Royal Leamington Spa at 6.05pm.

PRESENT: Councillor Doody (Chairman); Councillors Ashford, Barrott, Boad, Bromley, Mrs Bunker, Butler, Coker, Cooke, Cross, D'Arcy, Davies, Davison, Day, Edgington, Mrs Evetts, Mrs Falp, Mrs Gallagher, Gifford, Gill, Miss Grainger, Grainger, Mrs Hill, Howe, Illingworth, Margrave, Mobbs, Morris, Naimo, Parkins, Phillips, Quinney, Mrs Redford, Shilton, Mrs Stevens, and Weed.

(The Chairman delayed the start of the meeting until 6.20pm to enable Councillors present to consider an addendum to the report on Devolution and Economic Growth – options for a combined authority, that had been circulated by the Chief Executive earlier that day.)

46. **Apologies for Absence**

Apologies for absence were received from Councillors Cain, Mrs Cain, Harrington, Heath, Mrs Knight, Mann, Murphy, Rhead, Thompson and Whiting.

47. **Declarations of Interest**

Minute - Devolution and Economic Growth – options for a combined authority
Councillors Gifford and Shilton declared an interest because they were Warwickshire County Councillors.

48. **Devolution and Economic Growth – options for a combined authority**

The Council considered a report from the Chief Executive about the current position regarding proposals for devolution, growth and combined authorities and current proposals for Coventry and Warwickshire and the West Midlands in the context of rapidly changing national policy.

In June 2015, the Council agreed a report that proposed responding to this rapidly moving agenda by entering into discussions with other local authorities and the Government to establish how the Council's objectives could be achieved through membership of a West Midlands Combined Authority (WMCA). This required the Council Leader and Chief Executive to feedback on these discussions to Council. This report provided feedback on those discussions for the Council to make a decision on the way forward and in particular to make a decision to join or not join the proposed WMCA as it was now required.

In addition to the report the Chief Executive had circulated an addendum to the report, earlier that day, which set out the recommendations on this matter being presented to two other Councils in Warwickshire this week, the LEP, and to Coventry City Council next week, on the same matter; a letter received from Warwickshire County Council on a proposal for a Warwickshire Devolution Deal; a summary of recent discussions on a WMCA Business Rates pool; a copy of the Chancellor's announcement on Business Rates and funding for Councils; the announcement of a Devolution Deal for the Sheffield City Region; information on the legal steps to exiting a Combined Authority; and advice for Councillors,

from the Chief Executive on this matter in the light of the additional information and the risks that arose.

Councillor Mobbs proposed five alternative recommendations, to the report, as set out below, and this was duly seconded by Councillor Coker.

The proposed alternative recommendations were:

- 1) That this Council declines the invitation to become a Non Constituent Member of the proposed West Midlands Combined Authority **on the current terms.**
- 2) That this Council notes the current position in respect of its preferred option for a Coventry and Warwickshire Combined Authority and agrees to retain this option in case the proposed West Midlands Combined Authority does not develop as currently envisaged.
- 3) That this Council seeks a review of the current Joint Committee covering Coventry and Warwickshire and Hinckley and Bosworth to enhance and maintain the strong local economic, housing and planning linkages and the local authority input into the Coventry and Warwickshire Local Economic Partnership (LEP).
- 4) That the Council agrees to participate in proposals for public sector reform in the sub region or Warwickshire should it receive an invitation to do so from the Warwickshire County Council **or should any improved proposals be offered by the WMCA.**
- 5) That the Council agrees that the governance arrangements for any new Business Rates Pool are agreed and signed off by the Chief Executive and Head of Finance in consultation with the relevant portfolio holders (Leader and Finance).

In light of this it was proposed by Councillor Boad and duly seconded that Council Procedure Rules should be suspended to enable members to speak more than once on this matter. On being put to the vote, the proposal to suspend Council Procedure Rules was defeated.

Councillors Barrott, Boad, Day, Naimo, Mrs Bunker, Miss Grainger, Quinney, Mrs Falp, Illingworth, Shilton, Phillips, Gifford, Parkin, Ashford, Gill, Coker and Mobbs addressed the meeting on this matter.

The proposed recommendations from Councillor Mobbs, that had been duly seconded, were put to the vote and

Resolved that

- (1) the invitation to become a Non Constituent Member of the proposed West Midlands Combined Authority, be declined, on the current terms;
- (2) the current position in respect of its preferred option for a Coventry and Warwickshire Combined Authority, be noted, and agrees to retain this option

in case the proposed West Midlands Combined Authority does not develop as currently envisaged;

- (3) this Council seeks a review of the current Joint Committee covering Coventry and Warwickshire and Hinckley and Bosworth to enhance and maintain the strong local economic ,housing and planning linkages and the local authority input into the Coventry and Warwickshire Local Economic Partnership (LEP);
- (4) Council agrees to participate in proposals for public sector reform in the sub region or Warwickshire should it receive an invitation to do so from the Warwickshire County Council or should any improved proposals be offered by the WMCA; and
- (5) the governance arrangements for any new Business Rates Pool be agreed and signed off by the Chief Executive and Head of Finance in consultation with the relevant portfolio holders (Leader and Finance)

(Prior to the vote being taken it was proposed by Councillor Shilton, and duly seconded by two Councillors, that a recorded vote should be taken on this proposal. The votes were recorded as follows:

For: Councillors Ashford, Mrs Bunker, Butler, Coker, Cooke, Cross, Davies, Davison, Day, Doody, Edgington, Mrs Evetts, Mrs Falp, Gallagher, Miss Grainger, Grainger, Mrs Hill, Howe, Margrave, Mobbs, Morris, Phillips, Mrs Redford, Shilton and Mrs Stevens.

Against: Councillors Barrott, Bromley, D'Arcy, Gill, Naimo, Parkins, Quinney and Weed.

Abstentions: Councillors Boad and Gifford.

On this basis the proposal was carried by 26 votes to 8 with 2 abstentions.)

49. **Common Seal**

It was

Resolved that the Common Seal of Warwick District Council be affixed to such documents as may be required for implementing decisions of the Council arrived at this day.

(The meeting ended at 7.35 pm)

CHAIRMAN
18 November 2015

WARWICK DISTRICT COUNCIL

Minutes of the meeting held on Tuesday 13 October 2015, at the Town Hall, Royal Leamington Spa at 6.05pm.

PRESENT: Councillor Doody (Chairman); Councillors Ashford, Barrott, Boad, Bromley, Mrs Bunker, Butler, Coker, Cooke, Cross, Davies, Davison, Day, Edgington, Mrs Evetts, Mrs Falp, Mrs Gallagher, Gifford, Gill, Grainger, Harrington, Mrs Hill, Illingworth, Mrs Knight, Mobbs, Morris, Naimo, Parkins, Phillips, Quinney, Shilton, Mrs Stevens, Thompson and Weed.

50. **Apologies for Absence**

Apologies for absence were received from Councillors Cain, Mrs Cain, D'Arcy, Miss Grainger, Heath, Margrave, Morris, Murphy, Redford, Rhead and Whiting.

51. **Declarations of Interest**

There were no declarations of interest made.

52. **The Local Plan**

The Council considered a report from Development Services that updated the Council on the letter received from the Local Plan Inspector on 28 August 2015 and asked the Council to endorse the Memorandum of Understanding agreed by the Coventry and Warwickshire Joint Committee for Economic Growth and Prosperity (CWJCEGP) on 29 September 2015, a copy of which was appended to the report. It also set out the way forward for responding to the Inspector and undertaking the work required during the suspension period, should that be agreed.

The recommendations of the report were proposed by Councillor Cross and duly seconded.

Councillor Boad, proposed the following amendment to include two additional recommendations as follows, this was duly:

"2.6 That this Council will ensure that the green open space between settlements is retained to preserve the identity of existing local communities within the District. With this in mind, the Council will not alter the Green Belt to the North of Leamington from the proposals already set out in the current Draft Local Plan.

2.7 This Council requires the Leader of the Council and the Portfolio Holder to actively work with other District and Borough Councils in Warwickshire to examine the option for a new garden settlement, with good transport links to Coventry, to help meet that city's housing needs."

The proposer of the original motion, Councillor Cross, did not accept this amendment. The amendment was therefore debated.

The following Councillors addressed the meeting on the amendment: Councillors Boad, Mobbs, Quinney, Mrs Falp, Grainger, Illingworth, Cooke and Gifford.

On being put to the vote the amendment was lost.

Councillor Quinney proposed the following amendment, that was duly seconded;

"That paragraph 3.11 be amended to include the following additional information and that recommendation 2.3 only be agreed subject to this amendment as follows:

"DS11 stage 3 Housing Density assumptions are reassessed against both the HCA's guidelines and the revised SHMA projections of type and size dwellings. Any adjustments will be reflected in the Sustainable Communities section of the Plan – Built Environment BE2 subheading c"".

The proposer of the original motion, Councillor Cross, did not accept this amendment. The amendment was therefore debated.

The following Councillors addressed the meeting on the amendment: Quinney, Bromley, Coker, Cross and Davison.

On being put to the vote the amendment was lost.

The original proposal was then debated with Councillors Mobbs and Cross addressing the Council.

The proposed recommendations from Councillor Mobbs, that had been duly seconded, were put to the vote and

Resolved that

- (1) the Local Plan Inspector's letter of 28 August 2015, as set out in Appendix 1 of the report, is noted;
- (2) the Coventry and Warwickshire Joint Committee for Economic Growth and Prosperity (CWJCEGP) Memorandum of Understanding relating to the planned distribution of housing, as set out in Appendix 2 to the report, be endorsed;
- (3) the Local Plan Inspector be written to, to request that the Examination is suspended to address the concerns he has raised, as well as indicating the aspects of the Plan that are likely to require modification as set out in paragraphs 3.11 and 3.12 of the report;
- (4) the Head of Development Services, in consultation with the Portfolio Holder for Development Services, be authorised to make representations to Nuneaton and Bedworth Borough Council's forthcoming Borough Plan consultation, with regard to the Plan's proposed level of housing provision and other relevant matters;
- (5) the timetable of work to be undertaken during the suspension period be amended to read as set out in Appendix 3 of the report.

53. **Common Seal**

It was

Resolved that the Common Seal of Warwick District Council be affixed to such documents as may be required for implementing decisions of the Council arrived at this day.

(The meeting ended at 7.13 pm)

CHAIRMAN
18 November 2015

WARWICK DISTRICT COUNCIL

Minutes of the meeting held on Wednesday 23 September 2015, at the Town Hall, Royal Leamington Spa at 6.05pm.

PRESENT: Councillor Doody (Chairman); Councillors Ashford, Barrott, Boad, Bromley, Cain, Mrs Cain J.P., Coker, Cooke, Cross, D'Arcy, Davies, Day, Edgington, Mrs Evetts, Mrs Falp, Mrs Gallagher, Gill, Miss Grainger, Grainger, Harrington J.P., Mrs Hill, Howe, Mrs Knight, Morris, Naimo, Parkins, Phillips, Quinney, Mrs Redford, Rhead, Shilton, Mrs Stevens, Thompson, Weed and Whiting.

34. **Apologies for Absence**

Apologies for absence were received from Councillors Mrs Bunker, Butler, Illingworth, Margrave, Mobbs and Murphy J.P.

35. **Declarations of Interest**

Mrs Falp declared a personal interest as her son was a shareholder of Leamington Football Club referred to in the report of the Executive meeting on 3 September 2015

36. **Minutes**

The minutes of the meeting of the Council held on the 24 June 2015, were approved, subject to minor correction in the statement by Councillor Mrs Gallagher regarding bowls England, and signed by the Chairman.

37. **Notice of Motion**

Councillor Barrott proposed, and it was duly seconded by Councillor Coker, that:

1. Warwick District Council commit to supporting Coventry City Council, Coventry Refugee and Migrant Centre and other Coventry organisations in the resettlement of refugees into the area.
2. Warwick District Council works with all local partners, organisations and charities and coordinate responses to the refugee crisis.
3. Warwick District Council researches all possible funding streams so that all costs of resettlement are met.
4. Warwick District Council lobbies Central Government to make funds available to local authorities for the full five years of resettlement and not just for the one year that has been announced.
5. Warwick District Council enables council staff and Members to volunteer at nearby refugee centres in the same way that it supports volunteering at other events within the District.
6. Regular updates are provided to all Councillors on the work being undertaken with refugees within Warwick District.

It was proposed by Councillor Boad, that the Motion be amended, to read as set out below. The amendment was accepted by Councillor Barrott and Coker and therefore became the substantive motion for Council to Consider.

Substantive Motion:

"1. To work with all local partners, organisations and charities, within the Coventry & Warwickshire Area and call on the expertise and experience of the Coventry Refugee and Migrant Centre in the resettlement of refugees into this area;

2. Create and maintain a database of offers of help, accommodation and assistance from local residents to support refugees arriving in the District;

3. Warwick District Council research all possible funding streams so that all costs of resettlement are met;

4. Support the Local Government Association in its lobbying of Central Government to ensure that sufficient funds are made available to local authorities to meet the additional costs incurred for the full five years of resettlement and not just for the one year that has been announced;

5. Enable council staff and members to volunteer at nearby refugee centres in the same way that they support volunteering at other events within the District; and

6. Provide regular updates to all councillors on the work being undertaken with refugees within Warwick District."

Councillors Barrott, Boad, Coker, Mrs Falp, Gifford, Quinney and Mrs Knight all addressed the Council on this item.

On being put to the vote the motion was carried.

(This item was taken as an urgent item by the Council, with the agreement of the Chairman of the Council, to enable it to respond to present refugee crisis.)

38. **Communications & Announcements**

The Chairman informed the Council that he would be holding a reception for the Japanese Rugby Team at Warwick Castle on evening of 25 September 2015.

The Chairman informed the Council that on behalf of the Council and its officers, he had sent a congratulatory letter to Her Majesty the Queen on becoming the longest serving Monarch of this country.

The Chairman informed the Council that he had attended a number of events as part of the Heritage Open Days weekend including a lecture in Kenilworth by Councillor Cain, about the Swan Theatre.

The Chairman reminded the Council about an the additional meeting scheduled for the 7 October to consider the Council's position regarding Combined Authorities.

The Chairman asked the relevant Councillors to repeat their thanks to former Councillor Norman Parker, to enable it to be videoed and passed to his family.

The Chairman informed the Council that there was no business to be considered under Item 5 Petitions or Item 7 Public Submissions.

39. **Leader's and Portfolio Holders Statements**

The Portfolio Holder for Health & Community Protection, Councillor Grainger encouraged Councillors to ensure they had a flu jab. She highlighted that this would be available to Councillors and Officers (for a small charge) at Riverside House, on specific dates in November. She also explained that Councillors should encourage everyone to get a flu jab and these were commonly available from Chemists or GP surgeries.

The Portfolio Holder for Health & Community Protection, Councillor Mrs Grainger informed Councillors that the Council had secured funding from Warwick University for the Street Marshalls to continue for the next 12 months. She reminded Councillors that the next "your town your choice" was on 5 October and encouraged them to attend to see the work of the Council and its partners to protect and help in the night time economy.

40. **Questions to the Leader of the Council & Portfolio Holders**

Councillor Mrs Falp asked the Development Portfolio Holder, Councillor Cross, that in light of the new guidance regarding the requirements and funding for the provision of sites for Gypsies and Travellers, whether the Council should reassess its current proposals.

In response the Portfolio Holder for Development, explained that this new guidance had to yet to be confirmed and therefore officers needed to continue with the current plan. However they were monitoring the situation to ensure the Council undertook what it was required to do.

Councillor Quinney, asked the Portfolio Holder for Health & Community Protection, Councillor Grainger, if the Council had been consulted on the closure of the sexual health clinic in Warwick Hospital and its transference to the Stratford on Avon Hospital in October?

In response the Portfolio Holder for Health & Community Protection explained that she was not aware of this, but was mindful that the clinical partnership would be responsible for this allocation. That said, she agreed to investigate this and provide feedback to Council.

41. **Executive Report**

The reports of the Executive meeting on 29 July 2015 and 3 September 2015 were proposed, duly seconded and:

Resolved that the Executive reports of 29 July 2015 and 3 September 2015, be approved.

42. **Statement of accounts 2014/2015**

The Council received a report from Finance setting out the accounts for the Council for the Financial year 2014/15.

Resolved that the Statement of Accounts for 2014/15 be approved.

43. **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 relevant paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

44. **Confidential Executive Report**

The confidential report of the Executive meeting on 3 September 2015 was proposed, duly seconded and:

Resolved that the Executive report of 3 September 2015, be approved.

45. **Common Seal**

It was

Resolved that the Common Seal of Warwick District Council be affixed to such documents as may be required for implementing decisions of the Council arrived at this day.

(The meeting ended at 7.15 pm)

CHAIRMAN
18 November 2015

Executive

Minutes of the meeting held on Thursday 30 September 2015 at the Town Hall, Royal Leamington Spa at 6.00 pm.

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

Also present: Councillor Boad, Chair of Overview & Scrutiny Committee and Councillor Quinney (Labour Group Observer and representing Finance & Audit Scrutiny Committee).

Apologies for absence were received from Councillor Phillips.

45. **Declarations of interest**

There were no declarations of interest.

46. **Minutes**

The minutes of the meeting held on 3 September 2015 were agreed as written and signed by the Chairman as a correct record.

Part 1

(Items on which a decision by Council is required)

47. **Fees and Charges 2016/17**

The Executive considered a report from Finance that detailed the proposed Fees and Charges in respect of the 2016 calendar year. It also showed the latest Fees and Charges income budgets for 2015/16 and the actual out-turn for 2014/15.

The Council was required to update its Fees and Charges in order that the impact of any changes can be fed into the setting of the budget for 2016/17. Discretionary Fees and Charges for the forthcoming calendar year had to be approved by Members.

In the current financial climate, it was important that the Council maximised income and therefore minimises the forecast future deficit.

The Contract Services Manager was in the process of formally consulting local Chambers' of Trade as part of reviewing the current parking charges. The proposed changes for 2016/17 reflected early customer feedback.

The fees charged under the new Building Control Shared Service arrangement that commenced on 1 April 2015 had been amended to ensure consistency of charging amongst the partners, these current charges were proposed to remain unchanged. To ensure consistency with previous years, only the Warwick District Building control fees had been shown in this report. Next year's report, which would have the benefit of

more than one year's operating of the service, would provide the full picture of income and expenditure for all the areas involved.

There had been further work carried out by the Regulatory Manager on licensing fees due to reflect the current legislation. The fees charged should only reflect the amount of officer time and associated costs needed to generate them. There would now be a two stage process of getting certain licences from this Council. The first stage was paying for an application fee (non refundable), the second was paying for the actual licence itself, which if refused, was refunded. Details of these changes were shown in Appendix A, to the report

Some additional fees had been created to generate additional income for the service areas concerned and others in response to new legislation. These were highlighted in Appendix A to the report. Other charges had been deleted due to legislation changes or changes in the way the service was provided.

Members agreed in July 2015 to the introduction of Pre-Application Advice charging for Development Control. The report detailed the proposed charges. It was likely that this would happen later this year as it was dependent on the fees being approved by Council, which should happen as part of Council approving this report. Initially it was projected that the income generated would cover the additional post agreed to assist with the operation of the scheme. No additional income for this had been included in the report.

CCTV and the Police were working together to prevent crime and increase community safety throughout the district. The police had agreed to pay for certain services.

The various options affecting individual charges were outlined in the main body of the report, in sections 8 to 16.

Alternatively the Fees and Charges for 2016/17 could remain static i.e. remain at the same level as for 2015/16, which would substantially increase the savings that needed to be found over the next five years unless additional activity could be generated to offset this.

In addition to the report a table was circulated, at the meeting setting out the correct all day charging rate for Covent Garden Car Park £3.50, and not £4.50 which had been incorrectly stated out in the report.

The Finance & Audit Scrutiny Committee endorsed the report. However, concerns were raised by them about the car parking charges in Kenilworth not being comparable to the other towns and whether there was scope for overall charges to be raised but Members were satisfied that a balanced approach was preferable and the priority was attracting shoppers to the District.

The Overview & Scrutiny Committee noted the report.

The Portfolio Holder for Neighbourhood Services explained that there was a need to recognise the individual towns circumstances and competition but at the same time there was a need to bring income from these sites. Therefore charges were increasing and there was variation in charges but at the same time Kenilworth was coming into line with Old Town Leamington and charges in Warwick were now cheaper.

The Executive therefore

Resolved that

- (1) the detailed exercises undertaken by Service Areas when determining the Council's income levels and fees for next year, be noted
- (2) proposed changes to Parking Fees for 2016/17, the first change for a while, due to the need to fund car park repairs, as well as a result of customer feedback, be noted;
- (3) the significant changes to some licensing fees due to changes in legislation, as well as the new charges created for Pre-Application planning advice and for CCTV services, be noted; and
- (4) Executive notes that the income generated by the proposed fees and charges operating from 2 January 2016 will generate income of £67,000 above the target set in the Medium Term Financial Strategy.

Recommended that the Fees and Charges identified in Appendix 'A', to the report operate from 2nd January 2016 unless stated.

(The Portfolio Holder for this item was Councillor Whiting)
(Forward Plan reference number 697)

Part 2

(Items on which a decision by Council is not required)

48. **Review of WDC/WCC Customer Service Centre & Digital Transformation Initiatives**

The Executive considered a report from the Deputy Chief Executive (AJ) that sought approval to end the joint Customer Service Centre arrangement with Warwickshire County Council (WCC) and return the handling of customer telephone enquiries to Riverside House.

The report also sought approval for officers to complete the business case for further investment in the digitisation of Council services, thereby

improving the customer experience and reducing costs, so that a further report can be submitted to the Executive for its consideration

In 2009, Warwick District Council (WDC) moved its Customer Service Centre (CSC) operation (handling the vast majority of this Council's phone calls) to WCC's headquarters at Shire Hall, Warwick where a joint team of relocated WDC, and WCC staff had been set-up to handle the phone calls of customers making enquiries in respect of either or both of the Council's services. This initiative was on the back of a customer service programme of improvement taking place across all of the Council's in Warwickshire and underpinned by joint Customer Relationship Management and phone ICT systems overseen by the Warwickshire Direct Partnership (a Councillor/ Officer Forum made up of all the Councils in Warwickshire).

At the vanguard of this customer service programme was the "partnership" between WDC and WCC which by the time joint CSC was established had delivered four joint one stop shops enabling customers to make Council enquiries (of both District and County tier-level) in a single visit. Therefore the decision to move WDC's phone operation to WCC premises was a natural progression in the programme of work.

For a four-year period the joined-up phone service operated reasonably successfully, although not to the levels that had originally been anticipated, but over the course of the last two years, service could at best be described as poor with complaints from both customers and elected Members. Details of the performance was detailed at Appendix A.

Throughout the period of co-location both Councils had worked very hard to make the arrangement a success. Many initiatives had been tried including investment in training, workforce planning, resource planning and ICT development. Many of the staff at the CSC had been there since the operation's inception and their dedication and efforts must be recognised.

With both WDC and WCC being dissatisfied with the levels of CSC performance, officers at WCC undertook work to establish what investment in the CSC would be necessary to significantly improve customer service response times. In tandem with this, officers at WDC undertook an options appraisal of different phone service delivery models so that they could be compared against the findings of the WCC study.

Details of the options appraisal was detailed at Appendix B, to the report, and it was officers' recommendation that WDC repatriates its phone service to Riverside House but rather than re-establishing a WDC-only CSC, it created phone services that were managed by the individual service areas. Officers anticipated that by handling calls in this fashion they would be able to redesign the Council's services so that the work of customer service, business support and administration staff was looked at in a joined-up fashion, thereby cutting out inefficiencies and providing an improved customer experience.

Should Members agree with the recommended approach then Deputy Chief Executive (AJ) would write to WCC giving the required 12 months'

notice under the licence agreement to vacate the Shire Hall premises. However, it was anticipated that this would be the maximum period of time to relocate WDC's phone service and it was hoped that the necessary changes could commence soon after the necessary staffing approvals had been received from Employment Committee.

WDC has 11 staff employed at the joint CSC or in its supporting infrastructure team (Members should be aware that ICT arrangements enabled three of these staff to operate out of a WCC-run CSC in Bedworth but for the purposes of this report, they were treated as part of the Shire Hall operation) and so if Members agreed officers would work with the affected staff and recognised Trade Unions in accordance with agreed consultation and redeployment agreements. At this point it was not possible to say what the individual outcomes would be for the staff affected but a future report to Employment Committee would make the position clearer.

Members should be aware that successful redeployment might not be possible in every case and if necessary a future report would be submitted to Executive to seek the funding for any redundancy payment.

The approach recommended by officers would mean that the current annual staffing budget for the CSC arrangements of £526k could reduce by £170k. Members would recall that a review of the CSC was an element of the *Sustainable Community Strategy & Fit For the Future Update* report agreed by the Executive at its meeting of 3 September 2015. That report explained how the Council would realise the necessary savings/ increased income to set a balanced budget whilst protecting services to the customer.

Members should note that in contrast to the recommendation in this report, the option proposed by WCC would have required extra investment of £162.5k this year and a further £100-150k in 2016/2017. The impact on the Council's Medium Term Financial Strategy would be an extra £200-250k to find each year.

In order to implement the project it was estimated that a budget of £50k would be required. It was recommended that this budget was made available from the Service Transformation Reserve.

Officers did not consider that simply re-establishing a CSC at Riverside House was the way forward for WDC. The CSC was originally established at Riverside House over ten years ago for good reasons: the default channel for contacting the Council was via the phone service but increasingly customers would prefer to transact with the Council via the website (whether this be through a pc or smart phone). This change could be demonstrated by the tremendous growth in WDC website visits over the last 10 years from approx. 15,000 visits per month in 2005 to over 150,000 visits per month in 2015.

As WDC has invested further in its website then usage has continued to grow. In 2013, the Council improved and upgraded its Content Management System. Whilst this was primarily a necessary upgrade to

back office software it allowed WDC to significantly improve how the site appeared and works on mobile phones for our customers. As a consequence usage on mobiles has increased by 41% between 2014 and 2015 and overall usage by 10%. In addition the WDC website was ranked in the top 10 council websites for customer success rates (i.e. customers can find/do what they want to) and in the top 3 councils for customer satisfaction and success rates on mobile devices (SOCITM Better Connected 2015).

Therefore, as well as redesigning processes to reduce the number of staff a customer needs to interact with, officers were undertaking work to determine what further investment could be made in the website to improve the customer experience and reduce costs whilst at the same time recognising that some of our customers would always need to speak with or visit a member of staff. Consequently, officers propose to bring a report to the 2 December 2015 Executive setting out a full business case for what is being described as the *Digital Transformation* agenda.

Should Members agree to the submission of a full business case for further investment in a *Digital Transformation* agenda then officers believed that there were some key areas that should be covered by the business case which required Members' explicit approval for consideration. These areas were:

- a. in conjunction with WCC, officers review the joint One Stop Shop Service;
- b. a review of the Council's cash handling service and customer payment options is undertaken; and
- c. a review of the Council's approach to e-mail is undertaken.

WDC and WCC currently provided five joint one stop shops throughout the District based in Kenilworth, Leamington Spa, Lillington, Warwick and Whitnash respectively. The customer numbers and demand for types of service varies significantly by location and officers consider it appropriate that each of these operations was reviewed to ensure that they were meeting customer expectations and providing value for money.

Customers were able to make payments to the Council in a variety of ways, for example by direct debit, phone, on-line or via Allpay. However, the Council still receives a significant number of cheque and cash payments which were resource intensive to process. With the number of alternative payment options available to the customer, it was considered appropriate that officers review the full suite of payment facilities to determine whether they were all still appropriate.

WDC has an approach to e-mail that was very inefficient when it comes to dealing with customer enquiries. The system did not enable work to be managed in a structured fashion and it provided the customer with a number of e-mail addresses to register a query. Officers consider that WDC's whole approach to e-mail should be examined to ensure it was fit for purpose.

Officers have started to develop a Customer Access Strategy based on the recommendations in this report and the following set of principles:

- Digitisation of services would be prioritised based on transaction data and customer feedback. The Council should not seek to deliver 100% of services electronically. Digital services would only be implemented where the benefits outweigh the development, support and maintenance costs. Resources should be focused on services with high transaction volumes, high delivery costs and/or customer demand.
- The 80/20 rule would be applied to all digital services to reduce delivery times and improve benefits realisation. If the solution is appropriate for 80% of the target audience and/or would deal with 80% of the anticipated transactions, the service would be considered fit for initial deployment.
- The entire transaction would form part of the service scope from the digital interaction to service fulfilment. For transactions with lengthy fulfilment periods, notifications and self-service status checking will be included by default. Where possible, market leading best practice would be used to benchmark our approach to keeping the customer informed.
- All designs must be user tested prior to launch. This means testing real tasks with real citizens. Customers would not use solutions that are not usable/user-friendly - leading to more complaints and failure demand.
- With all solutions we would adopt an approach of continuous improvement, not launch and leave. We would use data, testing and feedback to fine-tune solutions.
- Off-the-shelf solutions which meet the 80/20 rule will be utilised where possible, providing a suitable business case could be provided.
- All solutions must be responsive so that they detect the user's screen size and orientation, changing the solution's layout accordingly.
- Services must be designed to reduce paper handling at inception, processing and fulfilment.
- Further work would be carried out to understand the impact and opportunities afforded by social media to inform, transact and comment on council services.
- All digital services must maintain the confidentiality and integrity of the data, with design decisions based on data classification. Risk and security controls should be balanced according to business objectives – security controls should be proportionate to risk. In addition, security should be user transparent and not cause users undue extra effort.

Subject to Members agreeing the principles and recommendations contained in this report it was proposed that a Customer Access Strategy is submitted to 2 December 2015 Executive in tandem with the business case for investment in a *Digital Transformation* agenda.

A number of phone service delivery options were considered and can be seen at Appendix B.

A further recommendation to the report was circulated at the meeting that addressed concerns raised regarding the redeployment process of staff and any redundancies that could arise from that.

The additional recommendation stated:

“That Executive agrees that following a comprehensive redeployment process at both WDC and WCC, should there be any WCC staff, funded by WDC, who were in a redundancy situation, this Council agrees to meet 50% of the redundancy costs noting that the maximum liability at this point is c£68k.”

Paragraph 5.3 of the report explains the position with regard to the 11.3 Full Time Equivalent staff that are employed by WCC but funded by WDC. Whilst it was hoped that these staff would secure alternative employment with WDC or WCC, there could be a situation whereby staff were made redundant. If this proves to be the case, then it was reasonable that this Council should meet 50% of any redundancy costs. At the time of writing the maximum liability for this Council would be c£68k but this would only be the case if none of the staff were able to find alternative employment.

The Finance & Audit Scrutiny Committee supported the recommendations in the report.

Resolved that

- (1) the service delivery performance over the last two years of the Customer Service Centre (CSC) (based at Warwickshire County Council, Shire Hall), be noted;
- (2) the options appraisal of different phone service delivery models, be noted and in accordance with the licence agreement between Warwick District Council and Warwickshire County Council dated 6 January 2010, 12 months’ notice of WDC’s intention to vacate Shire Hall and establish a headquarters phone service based at Riverside House, be approved;
- (3) officers work with staff and the recognised Trade Unions to ensure that Warwick District Council staff affected by the change to service delivery are managed in accordance with the Fit For the Future Employment Procedures with a report being submitted to Employment Committee at the appropriate time;
- (4) potential ongoing revenue savings of c£170k (as opposed to a potential c£250k increase under the current model) by financial year 2018/19 through the phone service changes, be noted; and agrees to release £50k from the Service Transformation Reserve to implement the project;
- (5) a further report is submitted to 2 December 2015 Executive Committee which will provide a full business case for investment in *Digital*

Transformation technology to deliver further substantial ongoing revenue savings both as a consequence of the proposed phone service changes but also due to other business design and process changes;

- (6) in conjunction with WCC, officers review the joint One Stop Shop Service; a review of the Council's cash handling service and customer payment options; and a review of the Council's approach to e-mail is undertaken with any recommendations for service changes being submitted to a future Executive;
- (7) a Customer Access Strategy for Warwick District Council be submitted be brought to the Executive on 2 December 2015 based upon the principles described in paragraph, of the report;
- (8) that following a comprehensive redeployment process at both WDC and WCC, should there be any WCC staff funded by WDC who are in a redundancy situation, this Council agrees to meet 50% of the redundancy costs noting that the maximum liability at this point is c£68k

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

49. **Air Quality Action Plan**

The Executive considered a report from Health & Community Protection that invites the Executive to adopt an updated Air Quality Action Plan which will replace the original document published in 2008

An Air Quality Action Plan was required to be prepared as part of every local authority's statutory duties as defined within Part IV of the Environment Act 1995. Whilst there did not appear to be any obligation to update a plan, it was considered that locally this was an appropriate time to produce a new plan to reflect current policies and strategies.

As local air quality was chiefly influenced by vehicle emissions, the 2008 Plan was written with reference to the first Warwickshire Local Transport Plan (LTP). The third LTP (LTP3) came into effect in 2011 covering the period 2011-2026. Since then, the County had also produced the Warwick and Leamington Spa Transport Strategy and this Council had undertaken a Low Emission Zone Feasibility Study. The draft Local Plan made reference to air quality and the Arden Health Protection Strategy for Coventry & Warwickshire has identified air quality as a priority.

The Air Quality Action Plan 2015 reflects the current priorities of partner agencies and therefore no alternative was proposed

The Overview & Scrutiny Committee noted the report and thanked the Portfolio Holder for agreeing to some changes.

The Portfolio Holder for Health & Community Protection, thanked the Scrutiny Committee for their advice and suggestions on this matter, the previous evening particularly Councillor Davison.

It was recognised that the Council was reliant on partners with delivering improvements but we needed to make every efforts that we could which for example included modal shift for encouraging people to cycle/walk to work.

The Portfolio Holder for Health & Community Protection explained that as a result of the feedback from the Scrutiny Committee the table on page 46 of the agenda would included an additional column to show who the lead authority was for delivering the action.

The Executive recognised that this was an important plan and looked forward to regular work on this between the Portfolio Holder and the Health Overview & Scrutiny Sub-Committee

Resolved that Air Quality Action Plan 2015 as contained in Annex 2, be approved.

(The Portfolio Holder for this item was Councillor Mrs Grainger)
(Forward Plan reference 716)

50. **Council HQ Relocation Project – Part A**

The Executive considered a report from the Deputy Chief Executive (BH) recommended that the Council commits to a detailed feasibility study of the preferred option, a comprehensive development of the current site of the Council's Covent Garden car parks (surface and multi-storey), which would include the Council's new HQ offices and new car parking in lieu of the existing provision.

There was a separate Part B report on the agenda that contained further information that was commercially confidential, although all the recommendations were within this Part A report, the two reports should be read in conjunction to enable members to form a balanced view of the recommendations.

The Executive meeting of 3 December 2014 approved a shortlist of potential sites for new or refurbished Council HQ offices for further assessment: Court Street; Spa Centre site; Riverside House (refurbishment); and Covent Garden.

Officers had continued discussions with the previously selected developer partner, Wilson Bowden, in respect of the option to bring forward retail-led development on the site of the Chandos Street car park site. These discussions had considered the potential for an office component to any future scheme. Consequently, and for completeness, this fifth potential site option had also been assessed.

Details of the outcomes of the assessment of these five options were set out at Appendix One, to the report, with further commercially sensitive cost analysis information appearing in the confidential Part B report.

The Council had been considering site options since December 2012 and has had differing 'preferred options' at different points in the intervening period. An exhaustive search for potential sites led to the production of the 'longlist' considered in December 2014 and a further iterative assessment had now concluded that of the 'shortlist' options it was Covent Garden should be investigated in detail. It was, therefore, recommended that the Council made a final decision on a preferred site option and discontinues any further assessment work on alternatives, freeing up the resources that had been devoted to the task. Alternative site options would, therefore, only be considered in the future if the detailed feasibility and viability appraisals that would now be undertaken conclude that the Covent Garden option should be discounted rather than the project moving from its current feasibility phase to a future delivery phase.

A Limited Liability Partnership (LLP) was created in 2012 as a vehicle to specifically advance and unlock complex development projects such as this one and to 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 demonstrate, through independent validation, that it was better than any other potential delivery options open to the Council. The LLP had undertaken, and funded, all the site option feasibility work undertaken to date at its own risk. As risk funder it now required clarity on our preferred site before it invested further time and energy in taking forward the next stages of the project feasibility and evaluation processes.

Subject to approval of recommendation 2.2, in the report, the LLP would now undertake detailed feasibility and viability assessments of the Covent Garden site, currently occupied by a surface car park and a multi-storey car park (MSCP). Officers had full confidence that the LLP's credentials to undertake this work had been previously proven. This view had been further endorsed by the Executive's decisions in November 2014 and September 2015 that they be authorised to look at the Council's non-operational property assets and assess how these could potentially be used to drive and capture added value to support future revenue expenditure and service provision.

The LLP had already undertaken site feasibility appraisal work for previous preferred options, including a range of financial feasibility and development modelling work, and some of these detailed assessments could be used, with appropriate updating, to ensure the proposed assessments for the Covent Garden site were completed as quickly as possible. Ensuring that this process was undertaken speedily was important given that the previously agreed £300,000 per annum revenue savings attributable to this project had already been included within the Medium Term Financial Strategy (MTFS) as being deliverable from April 2018 onwards.

The viability appraisals would include the development of a funding strategy for the project, critical to achievement of the principle, integral to all previous decisions made on this project, that it should be broadly capital cost neutral. Delivery of this principle was increasingly important to the overall finances of the Council given the potential future calls on capital expenditure and/or borrowing and consequent revenue saving pressures that were explored in more detail in Section 5 of the report.

It was clear that the sale of the Riverside House site would not generate sufficient capital to cover the costs of construction of a new HQ office building and the re-provision of sufficient new car parking on the Covent Garden site to ensure that the overall car parking capacity needs of the town centre were met, now and in the future. Further information was provided within the Part B report.

Consequently, the Council either had to abandon the principle of the project being broadly capital cost neutral and accept that borrowing would be required, (the costs of which would eat into the planned £300,000 per annum revenue savings that the new HQ would generate) or it had to develop a wider funding strategy to close the gap between the Riverside House site receipt and the cost of the project. Officers would continue to work closely with the LLP on this issue and the outcomes of this work would be reported back as part of the overall feasibility and viability studies.

The emerging funding strategy had a number of components that were set out within the detail of the report.

Recommendation 2.5 sought approval for the LLP to be instructed to consider the potential disposal or alternative use of other WDC assets within this overall funding strategy. No firm decisions would need to be made on any proposals for such alternative uses or disposals at this stage, as it would not be known until the next stage feasibility and viability options were completed what the size of any potential funding gap would be and therefore whether or not this option needed to be exercised. Consequently, the January 2016 report would address whether the funding gap could be addressed or if consideration of other approaches was required.

At this stage it was envisaged that the LLP consideration of other assets would only extend to other WDC owned car parks in Leamington town centre. Such an examination would explore the potential contribution their alternative use could contribute to this project and/or the overall financial position of the Council. This work would be informed by a separate examination of the car parking capacity needs of the town centre. This work would not impact on the decision making as to whether or not they could be decommissioned as car parks but also inform the decision as to what level of car parking re-provision is required on a redeveloped Covent Garden site.

Subject to approval of the recommendations in this report the next stage would be the completion of detailed feasibility and viability appraisals. This work would comprise of:; An evaluation of a comprehensive development

scheme on the Covent Garden site that included, the Council's new HQ offices; including a new Council Chamber and CCTV control room, relocated from the Town Hall, Sufficient car parking re-provision in lieu of the current surface car park and MSCP, and further appropriate commercial and/or residential elements to 'add value' to the project.; A review of the anticipated revenue savings; Scheme deliverability and risk assessments; and an updated programme timetable.

As with all LLP projects there would need to be a formal 'sign-off' of a viable scheme from both Executive and the LLP Members' Board, on which Warwick District Council had 50% representation. There would, therefore, also be a need to prepare; a provisional Heads of Terms agreement (between the Council and the LLP) for a scheme and its delivery; the formal independent evaluation of the project, necessary to demonstrate that the LLP's proposition was better than any other option open to the Council; and these elements of the project would require the approval of the LLP's Operations and Member Boards prior to their formal sign-off by Executive. However, the final decision on moving from this current evaluation stage to a delivery project would be made by the January 2016 Executive.

The current outline timetable for the project was set out below. This was designed to enable the Council to take up occupation of the new HQ offices by March 2018, assuring delivery of the planned revenue savings on the timetable already built into the Medium Term Financial Strategy.

This was clearly an ambitious timetable. Its deliverability would be carefully reviewed as part of the proposed feasibility and viability appraisals and the conclusions reported back in the January report. If, for any reason, it was felt that this timetable might not be deliverable any ensuing consequences for the Medium Term Financial Strategy will be considered within that report

The Executive could choose not to progress the recommended approach and select an alternative site. This option had been discounted because the summary of the site appraisal work, set out in Appendix One, showed that the Covent Garden site was the best option available to the Council. Selection of a sub-optimal site would require further work, worsen the potential viability of the scheme and compromise the Council's ability to deliver the required revenue savings on schedule.

The Executive could decide not to progress the project and remain in occupation of Riverside House. This option had been discounted as this would add c£1.5m to the currently unfunded assets maintenance liability and could compromise the delivery of the required revenue savings.

The Executive could decide to undertake the next-stage feasibility work in-house rather than through the LLP. This option had been discounted as it would place all the risk onto the Council, have a significant cost and resourcing impact and would be likely to delay the completion of the next stage, compromising the ability to deliver the required savings on schedule. The LLP was established for exactly this purpose and has the necessary expertise and resource to undertake the required work on the

timescale envisaged. Not utilising the LLP would also fundamentally undermine the proposed funding strategy as it would effectively rule out the ability to capture 'value added' capital receipts from other assets

The Overview & Scrutiny Committee noted the report.

The Leader explained that he recognised concerns about ensuring the future viability and protection of the Town Hall as a prominent feature of town centre and these would be addressed.

Resolved that

- (1) the outcome of the site option feasibility work as set out at Appendix One, be noted;
- (2) the Covent Garden site is the preferred location of its new HQ offices and agrees that no further work will be undertaken on any other site options at this stage;
- (3) the LLP is instructed to undertake a full feasibility and viability assessment of a comprehensive redevelopment of the Covent Garden site, to include new HQ offices and new car parking in lieu of the current provision;
- (4) officers work with the LLP to develop a funding strategy for the relocation project, based on the principle of the development scheme being broadly capital cost neutral;
- (5) the LLP is instructed to investigate the potential for disposal/alternative use of other WDC owned assets to generate value added capital receipts to support the funding strategy; and
- (6) a further report be presented to the January 2016 meeting allowing a decision to be made on whether the project should progress to the delivery phase.

(The Portfolio Holder for this item were Councillor Cross, Mobbs and Whiting)
(Forward Plan reference 719)

51. Additional Temporary Staffing Resource - Housing and Property Services

The Executive considered a report from the Deputy Chief Executive (BH) that set out proposals to address capacity issues within the Assets Team of Housing & Property Services that were currently impacting on service delivery and workforce development

On 27 January 2015 the previous Employment Committee approved a significant redesign of the Asset Management Team within Housing & Property Services.

On 11 March 2015 the Executive considered the budgetary issues arising from the redesign proposals and the outcome of the internal matching process which required further provision to be made for redundancy costs. Their approval of the proposals in this report enabled an external recruitment process to commence. The staffing structure approved as a result of these two reports was attached at Appendix One, to the report.

Overall, the recruitment process, both internal and external had proved to be more protracted than anticipated, with the final vacant post due to be filled this month, subject to satisfactory interviews. Whilst the process had been underway there had been significant internal staff movement which has proved disruptive, particularly in respect of the Energy and Plant Management Team, where the two staff previously undertaking the Contract Administrator roles secured new positions within the Housing and Void Repairs Team.

The internal staff movements and the successful completion of the external recruitment process had meant that the objectives of the redesign had been met and staff appointed to the new structure with the appropriate skills to deliver an enhanced service. However, there were now a large number of new starters within each of the three teams.

The protracted and disruptive recruitment process and the relatively high proportion of new starters within the teams had had several consequences, including; planned work has needed to be rescheduled; managers had been unable to delegate work until staff have been appointed and settled into their (new) role; managers had been unable to progress staff training and development as quickly as desirable as they have lacked the resources to do so.

Each of these issues impacted adversely on the other issues and all had been compounded by long term sickness issues within the Building Surveying Team affecting 4 staff, 1 of whom remains on long term sick leave and another had returned to work but awaited surgery and a three week recovery period.

The net result had been the build-up of a backlog of work, delays to the commencement of projects and an inability for the teams to effectively support colleagues working on key corporate and strategic initiatives. The latter issue, in particular, had been aired at recent Asset Strategy Group and Senior Management Team meetings and the Corporate Management Team (CMT) was consequently bringing forward these proposals to address the current capacity issues.

These capacity issues had resulted in key initiatives to review the effectiveness of the current Open Book contracting arrangements for housing and void repairs, update HRA stock condition information, introduce a new strategic approach to planning Housing Investment Programme expenditure and introduce a comprehensive corporate asset

management strategy all being delayed, in addition to the procurement and mobilisation of specific contracts and/or framework agreements for both Housing Revenue Account and corporate properties. Resource had been redirected to other key corporate projects, for example the Leisure Options Review and St. Marys Lands at short notice and the lack of capacity has meant that these contributions have been less efficient and effective than if they had been planned.

It was therefore proposed to recruit a Project Manager for 24 months, working direct to the Asset Manager, to concentrate on the Open Book contracts review, process changes to the existing contract in advance of the review's completion and to assist with the co-ordination of a new approach to corporate asset management. This would free up the Asset Manager to focus on strategic issues and team leadership and development and free up the Housing and Void Repairs Manager to concentrate on operational issues and the effective integration and personal development of the new starters within their team.

An additional Property Maintenance Officer (PMO) was also proposed for the period ending 31 March 2017. This post would enable additional operational capacity to be deployed to increase the level of pre and post-inspections on existing contracts while the strategic review is underway. The capacity would also enable the Housing Repairs and Voids Manager to focus on revised operational arrangements for repair reporting. The fixed timescale was proposed to tie in with the likely timescales relating to the proposed review of the Customer Service Centre which was the subject of a report being presented to Executive on 30 September 2015.

The proposed posts would slot into the current structure shown at Appendix One. The Project Manager post would report direct to the Asset Manager and the Property Maintenance Officer would report to the Housing and Void Repairs Manager.

Members would recall that the Executive of 3 September 2015 note approved the recruitment of a temporary Building Surveyor for a period of up to two years. This post was separate to the proposals set out in this report and was needed to provide the necessary capacity to ensure that the full stock condition survey of the HRA stock and subsequent transition to a strategic asset management process designed to ensure that the survey data is used effectively. There was no duplication between the capacity released by this post and the proposals in this report as it was for an entirely discrete new initiative.

Despite this planned new post the existing resources within the Building Surveying team would continue to be stretched in the short to medium term. Some project work, e.g. the Oakley Wood improvement scheme, would come to a natural end in the next few weeks which would release capacity and the Building Surveying Manager had also undertaken a thorough review of current and future work allocations to ensure that existing capacity was being utilised in the most effective way. This would, in turn, free up the Building Surveying Manager and allow the Asset Manager to delegate additional operational issues to them.

The additional resource now available within the Procurement Team would also assist the backlog issues within the Building Surveying Team allowing tender specifications to be agreed so that contracts for work such as door entry system maintenance, engineering works and fire risk assessments can be procured and the necessary contractor mobilisation subsequently put in place. However, there were still likely to be resource bottlenecks within this team, partly as a result of work backlogs, partly as a result of the need to develop the new starters and to address this it would be recommended to Executive that budget was made available to allow specific tasks to be undertaken by deploying resources secured through a 'call-off' mechanism with contractor(s) selected through a procurement compliant framework agreement(s). After careful consideration it had been assessed that this arrangement would provide the team with optimum flexibility, allowing resources to be drawn down on a 'as and when needed' basis, a more cost effective solution than tying up cost in temporary staff resource which was likely to be under-utilised as a result of the 'lumpy' profile of the work programme in the coming months.

One option would be not to put additional temporary resource into the Housing & Property Services area. This 'do nothing' option had been discounted as it would not address the current backlogs and capacity issues compromising the service area's ability to deliver an effective service on all corporate priorities.

Another option would be to recruit two additional temporary staff into the Building Surveying Team rather than use the recommended funding allocation to establish the proposed 'call-off' arrangements. This had been discounted as the additional management responsibilities falling on the team manager would not result in any additional capacity being released, compromising both the ability of the Asset Manager to delegate work and free up their capacity and the Building Surveying Manager's ability to develop the existing new starters within their team.

Resolved that

- (1) funding of a maximum of £33,999, is approved, from the Service Transformation Reserve and a reallocation of the existing Housing Revenue Account (HRA) budget that will reduce the current contribution to the HRA Capital Investment Reserve by a maximum of £71,129, to cover the costs of
 - (i) 1 temporary Project Manager post at salary grade E1 for 24 months
 - (ii) 1 temporary Property Maintenance Officer at salary grade F for the period ending March 31st 2017; and
- (2) a maximum budget allocation of £100,000, is approved, to cover the costs of deploying

resource procured via a 'call-off' arrangement through a procurement compliant framework agreement, to be funded by a £70,000 allocation from the Service Transformation Reserve and a reallocation of the existing Housing Revenue Account (HRA) budget, that will reduce the current contribution to the HRA Capital Investment Reserve by a maximum of £30,000.

(The Portfolio Holder for this item were Councillor Phillips)

52. **Significant Business Risk Register**

The Executive considered a report from Finance that set out the latest version of the Council's Significant Business Risk Register for review by the Executive. It had been drafted following a review by the Council's Senior Management Team and then the Leader of the Council in consultation with the Corporate Management Team, the Section 151 Officer, and the Audit & Risk Manager.

This report was not concerned with recommending a particular option in preference to others but was submitted to assist members in fulfilling their role in overseeing the organisation's risk management framework .

The Finance & Audit Scrutiny Committee noted the report but queried why the risk relating to the Local Plan had been placed in a different position from that in its own Development Services risk register and whether an additional significant medium-term risk was emerging of funding for major projects being identified.

The Leader of the Executive explained that the importance was not the scoring but ensuring we were recording and mitigating the risks, which the Executive would continue to manage.

Councillor Mobbs endorsed the report and the Executive therefore

Resolved that the Significant Business Risk Register, attached at Appendix 1 to the report, be noted.

(The Portfolio Holder for this item was Councillor Mobbs)

53. **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 three 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.

Minute No.	Para Nos.	Reason
54 & 56	1	Information relating to an Individual
54 & 56	2	Information which is likely to reveal the identity of an individual
55 & 56	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The full minutes for the following items would be set out in the confidential minutes of the meeting.

54. Extension of Sustainability Officer's Contract Period

The Executive approved the recommendations in the report.

(The Portfolio Holder for this item was Councillor Mrs Grainger)

55. Council HQ Relocation Project - Part B

The Executive approved the recommendations in the report.

(The Portfolio Holder for this item were Councillor Cross, Mobbs, Shilton and Whiting)

(Forward Plan reference 719)

56. Minutes

The confidential minutes of the meetings held on 3 September 2015 were agreed as written and signed by the Chairman as a correct record.

(The meeting ended at 6.35 pm)

Executive

Minutes of the meeting held on Thursday 4 November 2015 at the Town Hall, Royal Leamington Spa at 6.00 pm.

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

Also present: Councillor Boad (Chair of Overview & Scrutiny Committee & Liberal Democrat Group Observer), Councillor Barrott (Chair Finance & Audit Scrutiny Committee) and Councillor Naimo (Labour Group Observer)

Apologies for absence were received from Councillor Shilton.

57. **Declarations of interest**

There were no declarations of interest.

58. **Minutes**

The minutes of the meeting held on 30 September 2015 were agreed as written, subject to a minor amendment to record Councillor Phillips apologies instead of Councillor Quinney and signed by the Chairman as a correct record.

Part 1

(Items on which a decision by Council is required)

59. **Leisure Development Programme**

The report asked the Executive to approve a series of recommendations following completion of the initial phase of the Leisure Development Programme. The programme was established in November 2014 to formulate options for the future provision and management of the Council's leisure centres and dual-use sites. The recommendations were based on strengthening the Council's facilities, service offering and income. The report addressed two significant issues that Members would need to determine.

Firstly, whether the Council should invest significant capital sums in two of its existing leisure centres (Newbold Comyn and St Nicholas Park) to make them fit for purpose for the next 20/30 years. The investment proposals at these two leisure centres included: the creation of state of the art health and fitness facilities; remodelling and updating of reception areas; and at Newbold Comyn, the construction of a new sports hall. Without this investment, there was a significant risk that these major leisure facilities would no longer be fit for purpose, resulting in a reduction in usage and a potential increase in public subsidy. There was also robust evidence supported by the Sport England Facilities Planning Model to support the

view that without this investment the facilities would be insufficient for the growing population of the District.

Secondly, deciding what was the best model for managing the Council's leisure facilities in the future – keeping the management of the Leisure Service in-house or management via an external partner. Such a decision needed to be made in the context of the continuing reductions in local authority funding and take account of the need to secure best value for money without compromising the aim of securing the best outcome for the District in terms of providing quality leisure facilities and services.

The Council had 4 main leisure centres, all of which were built 20 – 30 years ago, which for many years have provided the District with a range of modern and varied facilities. The Council also managed dual use centres at Kenilworth School and Myton School which were available for community-use outside of school hours. Over time investment had been made in the centres, adding new elements and updating the internal finishes, ensuring that the facilities had remained in good condition and were structurally sound. This ongoing investment was justified when in 2013 a condition survey of all the Council's assets found the leisure centres to be in good structural condition, but crucially found them to be in need of modernisation and requiring the establishment of a programme of planned preventative maintenance including the replacement of significant elements of mechanical and electrical plant and building fabric.

In parallel with the condition survey, a facility audit (available on the Council website) was undertaken by Neil Allen Associates (NAA) to establish whether the range of leisure facilities was appropriate for the District, and if this provision would be able to meet the future needs and demands of the local community. The audit concluded that when using the Sport England Facility Planning Model (FPM), the existing provision was largely in the right place and was providing a suitable range of activities and facilities for the people of Warwick District. There was no evidence to suggest that any of the facilities were under-used nor that there were parts of the District that did not have reasonable access to facilities. The model took account of the anticipated growth of population in the District and at the time of assessment in 2014, used the then Local Plan figures to calculate demand. Based on the figures at that time, the audit recommended that the present facilities were retained, but that investment was made to bring the facilities up to modern standards and extended to provide additional health and fitness provision and an additional sports hall (located in Leamington).

However, following receipt of the Planning Inspector's Local Plan letter early that summer and the subsequent development of the sub regional Memorandum of Understanding about housing numbers, officers had liaised with Sport England on the potential implications for sports facilities. Officers have been advised that the FPM should be re-run in the next 12 months to take into account the additional houses that were now required in the District. However, having undertaken an initial desk-top exercise using the model, the data suggest that the additional houses would not

change the outcome of the FPM significantly and that the approach of extending and refurbishing current facilities remained valid.

The NAA report strongly supported the proposals for significant expansion of the health and fitness element of the facilities (gyms and studios). It was acknowledged that this was a strong and commercially significant element of the leisure sector and one which was a key source of income for any operator. A soft market testing exercise was undertaken by Strategic Leisure (consultants commissioned by the Council to support on the Programme) in Spring 2014 to examine the appetite and interest of the private sector in partnering with the Council to manage its leisure centres. The respondents confirmed that they would see the expansion of health and fitness facilities as a priority in the event that they were offered the opportunity to manage the Council's leisure centres.

Aware of the levels of potential investment being proposed, set against the volatile nature of the health and fitness sector, officers had undertaken a review of the status of health and fitness provision locally, Appendix 2 to the report. It concluded that, whilst there were some local gyms that were not identified in the NAA report, there remained a strong case for expansion of the Council's facilities to offer a modern and accessible health and fitness product that would have the capacity to attract new members and increase levels of physical activity across all sectors of the community.

The investment recommendations in this report related only to the leisure centres in Leamington and Warwick. The situation in Kenilworth was significantly different for two reasons. Firstly, the proposed relocation of Kenilworth School and the Kenilworth Wardens sports club from land allocated as strategic housing development sites within the Submission Draft Local Plan could directly impact on the existing Council facilities. Secondly, unlike Leamington and Warwick, there was a potential impact on the Council's leisure facilities in Kenilworth from planned future facility development in neighbouring areas and, in particular, the emerging plans that Coventry City Council and the University of Warwick had for their leisure provision. Discussions were held, and continued, with both bodies. Coventry's plans relating to the replacement of the Fairfax Street 50m pool and sports centre were acknowledged but due to the travel time from the District were not considered relevant to Warwick District's facility planning exercise. Warwick University were reviewing their campus master-plan and this process included a review of sports and leisure provision. Whilst any changes made at the University site had a broad relevance to the whole District they were not considered to be in conflict with the proposals for St Nicholas Park and Newbold Comyn but, due to the proximity of the University to Kenilworth, they would potentially have a direct impact on the Council's facilities in Kenilworth.

In the light of these issues officers had consulted with Kenilworth Councillors on the recommendations of the NAA report and the feedback from Strategic Leisure in respect of the leisure facilities in the town. The conclusion of these discussions was that it would be premature to recommend an investment programme for the Kenilworth facilities until

the Local Plan had been adopted, the funding issues around the relevant site developments clarified and the potential impact of facility development in neighbouring areas confirmed. Future plans for the Kenilworth facilities should, therefore, be viewed as a second phase to a programme of investment and development with the current proposals for Newbold Comyn and St. Nicholas Leisure Centres forming Phase I. Members should note that, if recommendation 2.6 of the report, was approved and a procurement process undertaken to identify an external operator for the Council's leisure facilities, any future contract would include the current Kenilworth sites. Any contract would need to be structured in a way that would allow for variation in the event of significant changes to the facilities in Kenilworth in the future.

In developing the investment proposals to RIBA Stage 2 (Appendix 3 to the report), project managers, Mace Ltd, and their professional colleagues such as architects and Mechanical & Electrical (M&E) consultants had produced a cost model (Confidential Appendix 1 in the Part B). The model included construction costs, M&E costs and an allowance for professional fees, which total £11,984,698. Initial fees to the total of £171,400 was approved previously by the Executive and had already been spent in reaching RIBA Stage 2. Should the Executive approve Recommendations 2.1 – 2.5 which enabled the project to progress to RIBA Stage 4, the design plans would be refined and a comprehensive cost model developed. Invasive surveys of the existing buildings would be carried out in order to provide certainty that the designs being prepared could be successfully built. The designs would be prepared for a planning application and the application would be submitted towards the end of RIBA Stage 4 as can be seen in Table 1, in the report.

It should be noted that the investment proposals had subsumed some of the leisure centre elements of the Council's Planned Preventative Maintenance Programme (PPM). These elements were estimated to cost in the region of £3m over a period of 30 years. The first 5 years of the leisure centre PPM Programme had an estimated cost of £836,000. Further detail on the financial implications of the PPM Programme was included in paragraph 5.7 of the report.

The plans and costs included in respect of Newbold Comyn and St Nicholas Park Leisure Centres represent Stage 2, the "Concept Design" phase of the RIBA framework. In Stages 3 and 4, the project progressed with updated proposals for structural design, building service systems, outline specifications, and fully detailed cost projections and Risk Assessments. At the end of this phase, the Council had the opportunity to continue with the proposals or halt the project. In order to achieve this, £550,000 was required to fund the Project and Programme Management, planning applications and surveys.

To progress the investment proposals to RIBA Stage 2, the Council engaged Mace Ltd as project managers through the NHS Shared Business Services Framework. In doing so the project had benefited from the services of a range of professions including architects and M&E consultants, all of whom have been sub contracted by Mace Ltd on

competitive rates. If the Executive approves Recommendations 2.1 and 2.2 and authorised officers to produce detailed proposals for the investment and thereby progressed the scheme to RIBA Stage 4, consideration needed to be given to the most appropriate way of procuring the relevant services.

Officers had sought advice from the Procurement Manager and Head of Finance on the most appropriate approach to the next stage that minimises costs and ensures continuity of the project to RIBA Stage 4. Officers therefore continued to work with Mace Ltd as project managers under the NHS Shared Business Services Framework to complete this next phase of work and, subject to the decision to progress to construction, Mace Ltd continued as project managers until the end of the construction phase.

It was proposed that an application for planning permission should be made towards the end of RIBA Stage 4, using the information prepared as part of the RIBA Stage 4 process. This would ensure that the planning process could be undertaken in time to begin work on site in accordance with the agreed programme, subject to permission being granted. Delegated authority was also sought to apply for planning permission and for any other necessary and statutory consents to allow the project to proceed to the next stage of proceedings.

It was anticipated that the investment proposals would be funded from a number of sources, some of which were already secured, and others which had yet to be confirmed. Further details were included in 5.2.4, of the report.

It was proposed that officers sought to access funding from the Sport England Strategic Facilities Fund (SFF). Due to the way in which Sport England manage that fund, there was no indication at that stage as to whether an application would be successful. Recommendation 2.4 sought the relevant delegation to the appropriate officer and Member to progress any application.

The Sport England SFF was designed to direct capital investment to local authority projects that had been identified through a strategic needs assessment and that have a maximum impact on growing and sustaining community sport participation. Projects that were funded from this source were promoted as best practice in the delivery of quality and affordable facilities and were able to demonstrate long term efficiencies. Projects needed to be able to demonstrate that they were bringing together a number of partners, with input from public and private sectors, and had the support of national governing bodies of sport.

Applications to this fund were on a "solicited-only" basis, meaning that the Council had to be invited by Sport England to make an application. Consequently, officers had been working closely over the last 12 months with Sport England, and with the County Sports Partnership who had an overview of the regional strategic picture of facility provision, to get to a

point where Sport England would hopefully invite an application for the improvements at Newbold Comyn and St Nicholas Park Leisure centres.

In the event that the Executive approved Recommendations 2.1 – 2.5, officers would confirm, to Sport England, the Council's commitment to the investment proposals and would look to work with the relevant Sport England officers to secure funding from this source in order to improve the affordability of the schemes. The modelling explained in Section 5 of this report and Confidential Appendix Z of the Part B report showed the impact of the Council being unsuccessful in securing Sport England funding.

A fundamental consideration in finalising the detail of the investment proposals for Newbold Comyn and St Nicholas Park Leisure Centres was the impact of increased customer visits to these sites and the additional pressure that this would place on the car parking provision. If facilities were expanded and insufficient parking provision is made, business models would not be deliverable and customer satisfaction levels would be reduced.

Recognising the challenges that this could pose, consultants Atkins were commissioned to assess the current level of car park usage, to consider the future pressures on parking provision at these sites as a result of the investment proposals and to make recommendations on how car parking provision could be managed in future to minimise the impact on customers of the leisure centres and other car park users.

The high level summary of the surveys for St Nicholas Park and Newbold Comyn leisure centres were set out in the report.

Officers of Cultural Services and Neighbourhood Services had considered the findings and recommendations of the Atkins surveys and had concluded that car parking provision at Newbold Comyn was satisfactory for the extended facilities proposed for this site. In respect of St Nicholas Park it was clear that, whilst the current parking provision could meet demand at most times of the day/week, there were some times when demand would exceed capacity. Officers had considered a range of mitigation measures that could be put in place in future to address these shortfalls, but also taking into account the emerging findings of an investigation into car parking throughout Warwick town centre currently being undertaken. It was proposed that the outcome of this work would be reported to the Executive alongside the further report referred to in Recommendation 2.1. It was believed that the car parking issues at St Nicholas Park Leisure Centre was not severe enough to question the decision to invest in the facilities. Nonetheless, any mitigation would be advantageous to the future performance of the Centre and the user experience more broadly.

As part of the planning process Green Travel Plans would be developed for both facilities and that would help to alleviate pressure on car parking.

The recommendation that tenders would be invited for the management of all the Council's leisure and dual use facilities (subject to agreement by

dual use partners), took into consideration the Business Plan (Confidential Appendix 2 in the Part B report) and the confidential Prospectus (Confidential Appendix 3 in Part B of the report) submitted by the in-house team. It considered the report from Strategic Leisure (Confidential Appendix 4 in Part B of the Agenda) comparing the relative merits of the in-house model and potential external operators (based on industry benchmarks for external operators).

Due to the commercial sensitivity of this information, the full details of the in-house proposal was included in Part B of the Agenda. The proposal was considered to be a robust and comprehensive Business Plan and Prospectus that had been developed from first principles and had included forensic challenge of all aspects of the business.

The Business Plan had been written to address two scenarios. Firstly, and referred to hereafter as Option 1, there was an assumption that the Executive decides not to invest in the enhancement and extension of Newbold Comyn and St Nicholas Park Leisure Centres (other than essential £3.9m of works referred to in paragraph 5.7), and so relied on the in-house team delivering the service in a more commercial manner with a clear focus on the areas of greatest potential for income generation i.e. swimming lessons and health and fitness.

The alternative, Option 2, was based on Executive agreeing to invest in the region of £12m in the Newbold Comyn and St Nicholas Park Leisure Centres, and so relied on significant increase in the income generated by the expanded health & fitness provision, the expansion of the swimming lesson programme (as in Option 1), the installation of a "Clip and Climb" facility and a new sports hall at Newbold Comyn, and a consequent uplift in income from a number of areas as a result of the improved changing provision, refurbished reception areas and general service improvement.

The Prospectus described in detail how the in-house team intended to approach the service improvement that was essential for both Option 1 & 2 to be successful. It highlighted the many benefits that would be optimised by retaining the service in-house, focuses on the Principles that would underpin the new-look "Warwick District Sports & Leisure" team going forward, and describes the areas that the team intends to focus on in order to develop the service.

In order to get an independent assessment of the in-house proposals, Strategic Leisure was asked to produce an evaluation report which was included in full as confidential Appendix 4 in Part B of the report. Strategic Leisure highlighted a number of areas which they believed warranted detailed consideration when comparing the in-house v external model for both Options 1 & 2. A financial analysis of the two models was included at section 5 of this report and in all scenarios Strategic Leisure considers that an external provider would out-perform the in-house model, albeit by a margin that requires careful consideration.

However, when considering the in-house bid against what an external operator might be able to provide in the context of the separate decision

on investment, the Council needed to consider a wider number of issues, not all of which are financial. These were set out in Table 2, of the report.

:

This assessment brought out issues; track record of the in-house offer, financial impact, impact on staff, impact on procuring an external supplier on the rest of the Council, certainty of benefit of procuring an external supplier; and best value.

It was acknowledged that over the course of the last two years, and more particularly the last six months, the in-house operation has improved significantly, with income projected to be circa £50k above the 2015/16 budget at year end. However, the increased income detailed in the business plan, whilst being cautious, was a major step-change on what has previously been delivered by the in-house team. Consequently, the Option 2 business plan which would increase income by some £2m could be a major challenge for the Council in-house team to sustain. The contrast with a commercial operator was that driving income is its day-to-day business. The recent improvement coincides with the appointment of the current Sports & Leisure Manager and other operational management changes. It was the case, though, that if the current position had largely been driven by one individual there was a significant risk to the business if that individual leaves the organisation, or falls ill or is otherwise prevented from performing as now.

Strategic Leisure's view was that an external operator would be able to deliver a financial benefit at least as good as the in-house offer, indeed surpassing it. If that was not the case and the operator was unable to deliver to its business plan it would still be liable to pay the agreed contractual fee to the Council. However, should the in-house bid not deliver in accordance with the business plan, it would lie with the Council to make good any deficit.

The impact on staff was more difficult to estimate but feedback from Strategic Leisure's experience in similar leisure service outsourcing projects elsewhere suggests that the overwhelming majority of staff who work within the current service were likely to continue to do so. This was of course subject to the Council's compliance with the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and the Government's Fair Deal pension policy.

No modelling had been done so far on what other savings could be made from "back-office" changes should Executive decide to externalise the service. However, should Executive make this decision then the next report would detail the areas where it was considered that further savings could be made and would also address any other possible consequences.

Strategic Leisure states, *"Without formal procurement of the service it is difficult to confirm definitively the difference between an in-house operation and an external operator."* The whole tenor of Strategic Leisure's appraisal was that an external operator could deliver a greater financial advantage than the in-house provider and deliver the same service, but the only way to determine this was by going to the market.

The Public Services (Social Value) Act 2012 placed a requirement on the Council to consider overall value, including economic, environmental and social value, when reviewing service provision. These elements would be integrated into the evaluation methodology for the tenders for both the management and the construction and refurbishment projects.

Taking into careful consideration the recommendations from Strategic Leisure, it was recommended that the Council procured a partner to manage its leisure centres on a long-term basis through a competitive process in compliance with the Public Contract Regulations 2015. The specific procurement procedure likely to be used was the Competitive Procedure with Negotiation, as that would enable the Council to specify its minimum requirements and then to negotiate with bidders on their proposals with a view to refining and improving the proposals, ultimately to arrive at a preferred bidder and a preferred arrangement.

As part of the procurement process, the Council would set down minimum requirements which it was seeking from any proposal in the Service Specification. Bidders would be invited to submit proposals which, amongst other things, were deliverable, financially acceptable to the Council and best fit with the Council's requirements.

The timing of the procurement process would be heavily influenced by the construction programme should that be approved and it was proposed that the two processes dovetail to cause minimum interruption for service users, staff and management. The provisional procurement timetable was set out in the report.

The decision by the Executive to undertake a procurement to seek tenders from the external market must be a considered one. Members would need to balance a number of factors when reaching their decision, including:

The financial and other benefits of what the market could offer compared to an in-house model, which was capable of being clearly articulated to all interested parties,

That Council officer time and costs would be incurred in undertaking the procurement process, as well as increased costs of contract monitoring and risk of contract failure,

That the procurement procedure would need to be planned in such a way as to avoid the need for cancellations and avoid the risk of challenge from prospective partners, and

To mitigate (but not remove) this risk, it was recommended that the Council, in the procurement documents, reserves the right not to award any contracts as a result of the procurement process, and that the Council would not be liable for any of the bidders' costs in submitting a bid.

If the decision was made by the Executive to procure a provider to manage the Council's leisure center management service, it was recommended that the Executive delegated authority to the Head of Cultural Services, in consultation with the Portfolio Holder for Culture, to finalise the Service Specification, to undertake the procurement process through to one preferred party, and to complete the necessary legal documentation with this party. In the event that a significant risk or change to the proposed project emerges through the procurement process, then a full report would be brought back to the Executive before any decision was made.

The Service Specification was a detailed document that lays out the parameters within which the service would be delivered, and at the same time was the document by which the performance of any operator, be it the in-house team or an external contractor, could be monitored and managed. The successful delivery of the service would rely on the development of a "partnership approach" between Council and operator, subject to the terms and conditions agreed in the contract.

For example, the Service Specification includes minimum standards in respect of opening hours, cleanliness and maintenance, health and safety management, customer service, staff training and qualifications, and how the facilities were programmed to accommodate a wide range of users.

The Service Specification would also include a list of index-linked key charges and concessionary rates that any operator would be required to adhere to as maximum charges. It would be left to the discretion of the operator should they wish to lower the key charges. In this way the Council was able to protect certain user groups and ensure that they were not disadvantaged or discouraged from using the facilities.

The Specification would also include a performance management framework which again would be an essential tool in the Council managing the performance of the operator.

The draft Service Specification was attached as Appendix 1, to the report. The Council must recognise that there was many variables in the provision of leisure services which officers would need to work through in more detail should the Executive agree Recommendation 2.6. This would enable officers to finalise the Service Specification prior to the commencement of the tender process and then to enter into the necessary legal agreements with the chosen partner in order to best protect the Council's and the customers' interests.

The cross-party Members' Working Group had played a crucial role in steering the Programme to date. As the Programme entered the new phase it was considered appropriate for the Group to continue to provide oversight of the procurement and contract award process, and the investment work as it progresses to RIBA Stage 4. Members of the Group were also able to feed-back to their political Groups to ensure that Councillors remain up to date as the programme develops.

Throughout the course of the programme, sports and leisure staff and Unison representatives had been engaged in the process through regular briefing notes, and by the Unison Secretary being a member of the Programme Board. Staff from the leisure centres were also involved in the development of the in-house Prospectus and Business Plan and took part in a design workshop for the refurbishment work.

If the management of the service was externalised pursuant to Recommendation 2.6 all operational staff will automatically transfer to the new operator under the terms of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE). HR and other relevant officers would work closely with the Programme Manager to ensure that appropriate pension arrangements were in place. They would also identify other support staff that may be subject to TUPE by virtue of their duties as they relate to the Leisure Service. This would ensure the necessary work in this area was progressed in line with Council policies, and that staff were fully consulted at the appropriate times.

The report detailed the reasons why investment in Newbold Comyn and St Nicholas Park Leisure Centres was considered necessary (Section 3.1). However, a decision could be taken not to make the significant investment outlined in the report. If that were the decision, there would be some substantial essential maintenance required to the structure of the facilities, and some significant replacement of plant. Without these items, the leisure centres would become "not fit for purpose", attendances would fall, and the subsidy required to operate the facilities would increase. There would also be a shortfall in sports and leisure provision in the District which would have a detrimental effect on the health and well-being of current and future residents of the area.

A decision could be taken to invest on one but not both of the above venues. In that case some of the additional demand on sporting provision would be met by the additional provision made, but the District would face a shortfall in terms of the levels of provision that has been modelled by the Sport England Facilities Planning Model, and again risk not meeting the demands of a growing population. There would also remain a need to undertake essential maintenance/replacement at the venue that was not refurbished.

A Joint meeting of the Finance & Audit and Overview & Scrutiny Committee had taken place and recommended to the Executive that

- (1) recommendations 2.6, 2.7, 2.8 and 2.9 of the report are removed, effectively retaining the Leisure Options in Council's management control and continuing under existing arrangements; and
- (2) officers investigate the option of introduction a "Passport to Leisure" into the contract to enable access to leisure facilities for all members of the community.

The Executive welcomed the recommendations from the Joint Scrutiny Committee and agreed to support the second point. However they could not support the first recommendation because of the substantial reasons

within report to support the recommendations, the information and debate within the confidential part of the meeting relating to this matter, the way this provided upgrade to the facilities, the way the external management option provided for growth in this District including provision of further jobs, that this would provide a substantial improvement in the financial health of the Council and the significant and important advice received from officers on this matter.

The Executive therefore

Resolved that

- (1) the refurbishment and expansion of the Newbold Comyn and St Nicholas Park Leisure Centres, be approved, at a cost in the region of £12 million, subject to a further report to the Executive in June/July 2016 detailing the final cost model and the sources of funding for the investment;
- (3) (2) authority be delegated to the Head of Cultural Services, in consultation with the Portfolio Holder for Culture to seek planning permission and such other necessary statutory consents that would enable the proposed improvements to Newbold Comyn and St Nicholas Park Leisure Centres to be implemented; the Head of Cultural Services, in consultation with the Portfolio Holder for Culture, to work with Sport England to seek funding from Sport England's Strategic Facilities Fund (SFF) as a contribution to the costs of the capital investment;
- (4) that a further report be brought forward that would also provide details of further mitigation of car parking constraints at St Nicholas Park and note that the mitigation may involve:
 - i) Improved signage directing traffic to Myton Fields
 - ii) Remodelling of some areas of St Nicholas Park car park
 - iii) Reviewing the relative charges at St Nicholas Park and Myton Fields car parks.
- (5) the procurement of a partner to manage all of the Council's leisure centres and dual-use operations (subject to necessary consents by dual use partners) is undertaken on a timeline that marries-up with the refurbishment programme,; and a budget of £30,000 was

allocated from the Contingency Budget to fund the cost of the procurement exercise;

- (6) note the principles of the draft Service Specification at Appendix 1 to the report, which detailed the future service standards that would be delivered at the Council's leisure centres and dual-use facilities (subject to necessary consents by dual-use partners); and delegates authority to the Head of Cultural Services, in consultation with the Portfolio Holder for Culture, to finalise the Service Specification, to undertake the procurement process to select one partner, and to enter into the necessary legal agreements with that partner including arrangements in relation to staffing, pensions and assets;
- (7) the current Members' Working Group that had been overseeing the Leisure Development Programme to date extend its role to provide oversight of the procurement process and risk logs;
- (8) the current level and process of liaison and consultation with staff and their representative bodies continue; and
- (9) officers investigate the option of introduction a "Passport to Leisure" into the contract to enable access to leisure facilities for all members of the community.

Recommended that Council approves the funding of £550,000 (included in the £12m) from Section 106 payments (c£170,000) already received and internal borrowing (c£380,000) managed by the Head of Finance, to allow the design proposals for Newbold Comyn and St Nicholas Park Leisure Centres to be developed up to and including the end of RIBA Stage 4, thereby enabling appropriate planning applications to be submitted, a preferred developer to be selected and a provisional contract price to be established.

(The Portfolio Holder for this item was Councillor Whiting)
(Forward Plan reference number 697)

Licensing & Regulatory Committee

Excerpt of the minutes of the meeting held on Wednesday 7 October 2015, at the Town Hall, Royal Leamington Spa at 2.30pm.

Present: Councillor Illingworth (Chairman); Councillors Ashford, Mrs Bunker, Davies, Edgington, Mrs Falp, Gifford, Gill, Quinney, Redford, Mrs Stevens and Weed.

Apologies for absence were received from Councillors Cain, Mrs Cain and Mann.

9. **Substitutes**

Councillor Mrs Bunker substituted for Councillor Murphy, and Councillor Edgington substituted for Councillor Miss Grainger.

10. **Declarations of Interest**

Councillor Illingworth declared an interest because he had responded to the consultation document on the Gambling Policy.

16. **Revision of Gambling Policy**

The Committee considered a report from Health & Community Protection which set out the new Gambling Policy / Statement of Principles.

The main differences between the Council's current policy and the new one related to Social Responsibility and the requirement for operators to adhere to the new Codes of Practice and Guidance issued by the Gambling Commission.

Appendix 1 to the report gave a listing of responses received to the consultation document on the policy from the seven responses received and it was noted that two consultees had made comments on reference point 7.4 of the revised policy. The Committee agreed that the comment made on behalf of the Association of British Bookmakers was the one that would go forward in respect of reference point 7.4.

Members questioned whether the Council needed to set a policy on whether or not casinos would be permitted in the District which was within the remit of a Local Authority to decide. The Council's Solicitor advised that the Gambling Commission had just published relevant new guidance. The Committee requested that officers check the new guidance and if necessary bring a report to the Committee.

Resolved that the new Gambling Policy, as set out in Appendix 1 to the minutes, is recommended to Council.

The Chairman thanked the Places and Projects Team Lead for the report.

(The meeting ended at 3.12 pm)

GAMBLING ACT 2005 STATEMENT OF POLICY

1. Introduction

- 1.1 Warwick District Council, as the Licensing Authority ("the Authority"), makes this Statement of Policy ("the Statement") in pursuance of its powers and duties under Section 349 of the Gambling Act 2005 ("the Act") and sets out the Authority's approach in dealing with its responsibilities under the Act.
- 1.2 Warwick District is situated in the south of Warwickshire in the centre of England and its boundaries embrace an area of some 28,253 hectares with a population of 138,462 people. The District covers four towns, Royal Leamington Spa, Warwick, Kenilworth and Whitnash as well as a large rural area with 20 Parish Councils.
- 1.3 The Authority has consulted with the statutory consultees and a widespread cross section of the trade and other organisations, this list can be found in Appendix 1 of this document.
- 1.4 In preparing this Statement, the Authority has had regard to the provisions of the Act, the Guidance issued by the Gambling Commission and Regulations made by the Secretary of State. Due consideration has been given to the responses of all consultees and in determining the weight to be attached to particular representations the Authority has taken into account the following factors:
- Who is making the representation (what is their expertise or interest)
 - The relevance to the licensing objectives
 - how many others expressed the same or similar views

2. Gambling Act 2005

- 2.1 The Act specifies licensing objectives which are central to the regulatory regime, these are:-
- **Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;**
 - **Ensuring that gambling is conducted in a fair and open way; and**
 - **Protecting children and other vulnerable persons from being harmed or exploited by gambling**
- 2.2 In carrying out the licensing function under the Act the Authority will aim to permit the use of premises for gambling as long as it is considered to be:-
- **In accordance with any relevant Codes of Practice issued by the Gambling Commission under section 24 of the Act.**
 - **In accordance with any relevant Guidance issued by the Gambling Commission under Section 25 of the Act.**
 - **In accordance with this Statement of Policy and**
 - **Reasonably consistent with the licensing objectives**
- 2.3 The Act provides for 3 categories of licence:
- Operating licences;
 - Personal licences; and

- Premises licences

2.4 The Authority will be responsible for issuing premises licences. The Gambling Commission will be responsible for issuing operating and personal licences.

2.5 This Statement will come into force on the 31st January 2016 and will have effect until 30th January 2019 being kept under review and revised or amended as required following consultation.

3. Authorised Activities

3.1 'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize:
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event, the likelihood of anything occurring or not occurring; or whether anything is true or not:
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

3.2 The main functions of the Licensing Authority are to:

- Licence premises for gambling activities
- Grant permits for gambling and gaming machines in clubs
- Regulate gaming and gaming machines in alcohol licensed premises
- Grant permits for prize gaming
- Consider notices given for the temporary use of premises for gaming
- Receive occasional use notices for betting at tracks and
- Register small societies lotteries

3.3 Spread betting is regulated by the Financial Services Authority. Remote Gambling is dealt with by the Gambling Commission. The National Lottery is regulated by the Gambling Commission.

4. General Statement of Principles

4.1 The Authority recognises the wide variety of premises which will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs, amusement arcades and racing tracks.

4.2 The Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation. This Statement will avoid duplication with other regulatory regimes wherever possible. In considering applications, and taking enforcement action, under the Gambling Act the Authority will have regard to the provisions of the Human Rights Act.

4.3 To ensure the licensing objectives are met the Authority will establish a close working relationship with the Police, the Gambling Commission and other Responsible Authorities.

4.4 This Statement will not override the right of any person to make an application under the Act, make representations about an application or apply for a review of a licence. Each application will be considered on its own merits.

- 4.5 In its Guidance to Local Authorities the Gambling Commission suggest that Licensing Authorities should adopt a "Local Area Profile". A Local Area Profile is created by gathering information about a locality and any particular areas of concern within that locality. Where evidence is submitted to the Licensing Authority which identifies any areas of concern it is intended to produce a Local Area Profile separate to this Statement. Once adopted, the Local Area Profile would assist the Authority and Operators in identifying specific local risks within the District.

5. The Licensing Objectives

5.1 Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime

5.1.1 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling, or being associated with providing such facilities.

5.1.2 When applying to this Authority for a premises licence the applicant will have to hold an operating licence from the Commission before a licence can be issued so the Council will not be concerned with the suitability of the applicant. Where concerns about a person's suitability arise the Authority will bring those concerns to the attention of the Commission.

5.1.3 The Authority will have to be satisfied that the premises will not adversely affect the licensing objectives and are compliant with the Commissions Guidance, Codes of Practice and this Statement. The applicant will be expected to demonstrate that they have, or intend to implement, sufficient controls to prevent the premises being a source of crime and disorder, associated with crime and disorder or used to support to crime. This could include details of any risk assessments that have been carried out, measures relating to the design and layout of the premises to minimise opportunities for crime and disorder and the strategies for managing the premises.

5.1.4 Where an area is known to have high levels of crime the Authority will consider carefully whether the location is suitable for gambling premises. The Authority will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate and demonstrate how they will promote this objective in this location. Where representations are received, it may be necessary for appropriate conditions to be attached to the licence, for example, Licensed Door Supervisors, CCTV or minimum levels of staffing.

5.1.5 Where a particular premises has a history of crime and disorder or a history of use by those involved in crime as a place of association or a way to dispose of the proceeds of crime the Authority will give careful consideration as to whether it is suitable to be licensed under the Act. The Authority may decide that any licence that is granted should be subject to additional conditions to promote this objective.

5.1.6 Whilst issues of nuisance are not included specifically in the gambling objectives and cannot be addressed via the Gambling Act, the Authority may consider, that extreme instances of public nuisance and persistent public nuisance amount to crime and disorder and may refuse to grant a licence or impose additional conditions in circumstances where serious and persistent public nuisance is associated with the premises.

5.2 Ensuring Gambling is conducted in a fair and open way.

5.2.1 Generally it is for the Gambling Commission to ensure that this licensing objective is complied with as this will be a matter that will primarily dealt with under either the operating licence or the personal licence. Where the Authority suspects that gambling is not being conducted in a fair and open way this will be brought to the attention of the Commission.

5.2.2 In relation to the licensing of tracks, as defined by section 353 of the Act the Authority's role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. In particular the Authority will consider whether the layout, lighting and fitting out of the premises have been designed so as to ensure that gambling is conducted in a fair and open way and whether sufficient management measures are proposed or in place. The Authority will also consider whether the operators have been compliant with enforcement agencies and whether the Commissions Codes of Practice have been complied with.

5.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling

5.3.1 This objective intends to prevent children and young persons from taking part in, or being in close proximity to, gambling. This also means restricting advertising so that gambling products are not aimed at or are, particularly attractive to children.

5.3.2 The Act and Gambling Commission Guidance do not define the term vulnerable but the Commission states that for regulatory purposes it assumes "vulnerable persons" includes people who gamble more than they want to; people who are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health issues, learning disabilities or substance abuse. This is the definition the Authority will use in its consideration of applications. Whilst the Act does not prohibit vulnerable groups in the same manner as children and young persons the Authority will consider whether or not measures have been taken to protect such a group. Any such considerations will be balanced against the Authority's aim to permit the use of premises for gambling and each application will be judged on its own merits.

5.3.3 The Authority will expect operators to put appropriate measures in place to protect children and other vulnerable persons. These could include, but are not confined to:

- Specific training programmes for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to exclude them from the premises or part of the premises

- Effective measures to implement a proof of age scheme for adult only premises.
- Provision for self-barring schemes and access to information or helplines for organisations such as GamCare.
- Appropriate design and layout of the premises to ensure that they do not attract children or vulnerable people including appropriate signage and location of machines
- Effective management of the premises to include refusals logs and sufficient numbers of staff.
- Ensuring that any promotional materials do not encourage the use of the premises by children, or vulnerable people.

5.3.4 The licensing authority will pay particular attention to any codes of practice which the Gambling Commission issues in relation to specific premises such as casinos. It will consider this licensing objective on a case-by-case basis, and where necessary add conditions to promote this objective.

5.3.5 The Authority will carefully consider the location of the premises in relation to this objective.

6. Premises Licences

6.1 Section 150 of the Act permits the issue of premises licences authorising the provision of facilities at the following:-

- casino premises;
- bingo premises
- betting premises, including tracks and premises used by betting intermediaries;
- adult gaming centres;
- family entertainment centres;

6.2 Premises can be 'any place' but the Act prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be genuinely regarded as being different 'premises'.

6.3 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to 'drift' accidentally into a gambling area.

6.4 Where the Authority has concerns about the use of premises for gambling these will generally be addressed through licence conditions.

6.5 Other than an application for a betting premises licence in respect of a track, the Authority is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

6.6 When considering applications for premises licences the Authority will not take into consideration either the expected 'demand' for facilities or the likelihood of planning permission being granted.

6.7 The Authority will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

7. Location

- 7.1 This licensing authority is aware that demand issues cannot be considered with regard to the location of premises either at a district wide or more local scale. However, it considers that the location of gambling premises can be a major factor on the promotion of the licensing objectives. The authority will pay particular attention to the suitability of a location for gambling activity in terms of the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 7.2 Any existing Local Area Profile will be considered by the authority. This will assist operators to make their decisions using the information which may highlight sensitive areas which they can take into account of any sensitive locations within close proximity to proposed gambling premises.
- 7.3 Applicants will have to show that they have considered any potential impact of their proposed business on the licensing objectives and provide information on how they plan to reduce or remove any likely adverse impact on them.
- 7.4 The licensing authority will carefully consider proposals for new gambling premises that are in close proximity to hostels or other accommodation or centres catering for vulnerable people, including those with mental disabilities or learning difficulties, and those with problem gambling or with alcohol or drug abuse problems, in the light of the gambling objectives.
- 7.5 It should be noted that areas considered to be sensitive does not preclude any application being made and each application will be decided on its own merits.

8. Primary Activity

- 8.1 The primary activity of each premises licence type is specified on the premises licence when it is issued. The licensing authority will take decisions in accordance with the Commission's Guidance and Codes of Practice on primary gambling activity, and will have regard to the advice which it issues from time to time, and will expect applicants to operate premises in line with the Commission's Guidance and conditions on their operator's licence. The council will monitor the operation of premises and report any potential breach of operating licence conditions to the Commission. Applications for new premises licences, or to vary an existing licence, will be expected to be clear that the premises are intended to be used for the primary gambling activity proposed.
- 8.2 It should be noted that the Act does not permit a premises to be licensed for more than one gambling activity.

9. Responsible Authorities

- 9.1 These are generally public bodies that must be notified of all applications and who are entitled to make representation to the Authority if they are relevant to the licensing objectives.
- 9.2 Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. In relation to the Authority's area, these are:
 - The Licensing Authority itself

- The Gambling Commission
- The chief officer of police
- The Fire & Rescue Authority
- The local planning authority
- An authority with functions in relation to pollution of the environment or harm to human health
- A body designated in writing by the licensing authority as competent to advise about the protection of children from harm)
- HM Revenue & Customs; and
- Any other person prescribed in regulations by the Secretary of State

Section 211 (4) provides that in relation to a vessel, but no other premises, responsible authorities also include navigation authorities within the meaning of section 22 (1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is to be used for licensable activities.

9.3 The Authority is required to set out the principles to be applied in exercising its powers to designate, in writing, a body which is competent to advise about the protection of children from harm. The principles applied in designating such a body are:

- the body must be responsible for covering the whole of the Authority's area; and
- the body should be answerable to democratically elected persons rather than any particular vested interest groups etc.

9.4 Details of the body designated for Warwick District Council and all other responsible authorities are available on www.warwickdc.gov.uk and a printed form is available from the Authority.

10. Interested Parties

10.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence based on the principles detailed in section 2 of this policy statement.

An interested party is someone who-:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons in either of the two groups above

10.2 The principles the licensing authority will apply to determine whether a person is an interested party are:

- Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities.
- Interested parties can be persons who are democratically. These include MPs, County and District Councillors, Town Councillors and Parish Councillors. No specific evidence of being asked to represent an interested person will be

required as long as the Councillor/MP represents the ward likely to be affected. Other than these persons, this authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

- 10.3 It should be noted that, unlike the Licensing Act, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. There is however other relevant legislation which deals with public nuisance.

11. Representations

- 11.1 The Authority is obliged to consider representations from 'responsible authorities' and 'interested parties' and must determine whether or not representations are admissible. A representation is inadmissible if not made by a responsible authority or an interested party.
- 11.2 The only representations likely to be relevant are those that relate to the licensing objectives, or that raise issues under this statement or the commissions Guidance or Codes of Practice. The Authority must determine the relevance of the representation.
- 11.3 Any concerns that responsible authorities have in relation to their own functions cannot be taken into account if they are not relevant to the application for a premises licence and the licensing objectives.
- 11.4 The Authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but before coming to a decision the Authority may consider the following:
- who is making the representation and whether there is a history of making representations that are not relevant;
 - whether it raises a 'relevant' issue or not; or
 - whether it raises issues specifically to do with the premises which are the subject of the application.

12 Conditions of Licence

- 12.1 Conditions imposed by the Authority may be general in nature by applying to all licences, or those of a particular type, or they may be specific to a particular licence.
- 12.2 The Authority will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's Guidance, any codes of practice issued by the Commission, this Statement of Principles or in a way that is reasonably consistent with the licensing objectives.
- 12.3 Any conditions imposed by the Authority will be proportionate to the circumstances they are intended to address. In particular, the Authority will ensure that any conditions are:
- relevant to the need to make the premises suitable as a gambling facility;

- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects
- decided on a case by case basis

12.4 The Authority will not consider imposing conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission;
- relating to gaming machines categories, numbers or method of operation;
- which specify that membership of a club or other body is required; and
- in relation to stakes, fees, winnings or prizes.

13 Casinos

13.1 There are currently no casinos operating in the district

13.2 Section 166(1) of the Act states that a Licensing Authority may resolve not to issue casino premises licences. There is no resolution to prohibit casinos in the District at present. The Council reserves the right to review this situation and may, at some point in the future resolve not to permit casinos. Should the Council choose to make such a resolution, this will be made in accordance with s166 of the Act and a resolution of full Council following considered debate.

14 Betting Machines in Betting Premises

14.1 The Authority is aware of its power to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching licence condition to a betting premises licence.

14.2 In the event that the Authority considers whether to impose such a condition on any particular licence it may, among other things, take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines.

15 Bingo

15.1 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licence, for that or those excluded areas.

15.2 Section 172(7) of the Act provides that the holder of bingo premises licences may make available for use a number of category B gaming machines for use on the premises.

15.3 This authority also notes the Commission's Guidance in the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted. It is not permissible for all of the gaming machines to which each of the licenses brings an entitlement to be grouped together within one of the licensed premises.

- 15.4 New rules are laid down in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners welfare institutes. Where the level of bingo played in these premises, under the exempt gaming allowances, reaches a certain threshold, it will no longer be authorised by these allowances, and a bingo operating licence will be required by the Commission.
- 15.5 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- 15.6 Commercial bingo halls will require a bingo premises licence from the Council.
- 15.7 Under the auspices of their gaming machine permit, adult gaming centres may offer any type of prize gaming and unlicensed family entertainment centres may offer equal chance prize gaming without the need for a prize gaming permit.
- 15.8 Children and young people are allowed into bingo premises, however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed, local authorities will ensure that:
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where the machines are located;
 - access to the area where the machines are located is supervised;
 - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

16 Tracks

- 16.1 Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 16.2 Track operators are not required to hold an 'operator's licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 16.3 Although there will, primarily, be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting officers, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 16.4 When considering whether to exercise its power to restrict the number of betting machines at a track the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people on the machines.

17 Temporary Use Notices

- 17.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 17.2 The licensing authority can only accept a Temporary Use Notice from a person or company holding a relevant operating licence.
- 17.3 Regulations prescribed by the Secretary of State provide that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming where the gaming is intended to produce a single winner, for example games such as backgammon, cribbage, bingo and poker.
- 17.4 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance notes that the meaning of 'premises' in part 8 of the Act, is mentioned in Part 7 of the Gambling Commission Guidance. As with 'premises', the definition of 'a set of premises' will be a question of fact in the particular circumstances of each notice that is given. In the Act 'premises' is defined as including 'any place'. In considering whether a place falls within the definition of 'a set of premises', licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.
- 17.5 The licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission Guidance.

18 Occasional Use Notices

- 18.1 The licensing authority has very little discretion as regards to these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail them from the notice.

19 Gaming Machines

- 19.1 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would cause it to be a gaming machine. A machine that is capable of being used as a gaming machine whether or not it is currently operating as one would also be classified as a gaming machine.
- 19.2 The Authority is aware of its power to restrict the number of gaming machines in certain circumstances. In the event that the Authority considers whether to impose such a restriction on any particular permit it may, among other things, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.
- 19.3 The Authority will be unable to issue premises licences to authorise gaming machines in certain types of premises. These generally will be premises to which children and vulnerable people will have unrestricted access and would include take-away premises, taxi offices, supermarkets etc.

20 Unlicensed Family Entertainment Centre Gaming Permits

- 20.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 20.2 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25. The Gambling Commission’s Guidance also states that in their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits and licensing authorities will want to give weight to child protection issues.
- 20.3 Guidance also states that an application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application, licensing authorities may wish to consider asking applicants to demonstrate:
- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
 - That staff are trained to have a full understanding of the maximum stakes and prizes.
- 20.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 20.5 With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

21 (Alcohol) Licensed Premises Gaming Machine Permits

- 21.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the ;
 - licensing objectives
 - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)

- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

21.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issues by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant*”.

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

21.3 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an Adult Entertainment Centre premises licence.

21.4 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

21.5 It should also be noted that the holder of a permit must comply with Gaming Machines in Alcohol Licensed Premises Code of Practice issued by the Gambling Commission about the location and operation of the machine.

22. Prize Gaming Permits

22.1 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant”.

22.2 This licensing authority has adopted a Statement of Principles that is available from the licensing department or at www@warwickdc.gov.uk. Potential applicants/other interested persons are advised to read the Statement of Principles before applying to the Licensing Authority for a licence or permit.

22.3 In making its decision on an application for this permit the licensing authority does not need to, but may have regard to, the licensing objectives but must have regard to any Gambling Commission Guidance.

22.4 It should be noted that there are condition in the Gambling Act 2005 by which the permit holder must comply, but the licensing authority cannot attach conditions. The conditions in the Act are;

- the limits on participation fees, as set out in regulations, must be complied with;

- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

23. Club Gaming and Club Machine Permits

- 23.1 Members clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 23.2 Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.
- 23.3 This Licensing Authority is aware that: "Licensing authorities may only refuse an application on the grounds that:
- the applicant does not fulfil the requirements for members or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - the applicants' premises are used wholly or mainly by children and/or young persons;
 - an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - a permit held by the applicant has been cancelled in the previous ten years;
- or
- an objection has been lodged by the Commission or the police.
- 23.4 It should be noted that there is a "fast track procedure available for premises which hold a Club Premises Certificate under the Licensing act 2003. As the Gambling Commission's draft Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:
- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or

- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled

23.5 There are statutory conditions on club gaming permits that not child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

24. Lotteries

24.1 In carrying out its functions in relation to Lotteries, the Authority will have regard to the Act, any guidance issued by the Commission from time to time and any Regulations issued by the Secretary of State.

24.2 The Act makes it illegal to promote lotteries unless they are licensed or within an exempt category. One such exemption relates to registered small society lotteries and the Council is responsible for registering small society lotteries, which are promoted by non-commercial organisations that are established for:

- charitable purposes
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain

25. Exchange of Information

25.1 The principle that the licensing authority will apply in respect of the exchange of information between it and the Gambling Commission and those bodies listed in Schedule 6 of the Act is that it will act in accordance with the provisions of the Gambling Act 2005 which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the Gambling commission to Local Authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

26. Enforcement Protocols

26.1 The Council will liaise with the Gambling Commission and other enforcing authorities on enforcement issues. These protocols will include agreements relating to joint inspections and joint strategies. This will provide a more efficient deployment of the Council's officers and other officers that are commonly engaged in enforcing gambling law and inspection of licensed premises. For example, these protocols should also provide for the targeting of resources towards high-risk premises and activities that require greater attention. A lighter touch will apply in respect of low risk premises, which are well run.

26.2 In general, action will only be taken in accordance with the principles of the Regulatory Compliance Code, Licensing Authority Enforcement Policy and the relevant provisions as they come into force of the Regulatory Enforcement and Sanctions Act 2008. To this end the key principles of consistency, transparency and proportionality will be maintained.

- 26.3 As per the Gambling Commission Guidance to Licensing Authorities, the Council will endeavour to avoid duplication with other regulatory regimes as far as possible.
- 26.4 The Council has adopted and implemented a risk based inspection programme based on:
- relevant codes of practice
 - guidance issued by the Gambling Commission
 - the licensing objectives
 - the principles set out in this statement of gambling policy
- 26.5 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions, which it authorises. The Gambling commission will be the enforcement body for the Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

27. The Licensing Process

- 27.1 The powers of the Council as a licensing authority under the Act may be carried out by the Licensing and Regulatory Committee and then put before Full Council. Applications under the Act will be dealt with in accordance with the Council's scheme of delegation. The attached table sets out how the Council will determine applications and other matters under the Act. (the table can be found as Appendix 2).
- 27.2 Application forms will be in the format prescribed by regulations. The form will need to contain information that describes the gambling activities to be provided, the operational procedures, hours, nature of the location, needs of the local community, etc. Most importantly, the applicant will have to detail the steps that will be taken to promote the three licensing objectives. Applicants should carry out a risk assessment before they apply for a licence.
- 27.3 Applicants are encouraged to fully consult the Police and other responsible authorities well in advance of submitting their applications. Application forms will be available on our website www.warwickdc.gov.uk this includes contact names for each of the responsible authorities that will be receiving applications. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.
- 27.4 The Act requires licensing authorities to maintain a register of premises licences issued. The register must be available at any reasonable time to the public, who can request view copies of entries. The register is available online or located at:
- Licensing
Health & Community Protection
Warwick District Council
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5HZ

Effective 31st January 2016 Valid until 30th January 2019

Appendix 1 to the Gambling Act 2005 – Statement of Policy

Consultees

Association of British Bookmakers
Beer & Pub Association
Bingo Association
British Amusement Catering Association
National Casino Forum
British Horse Racing Board
Casino operators Association
Chamber of Commerce
Club & Institute Union
GamCare
Greyhound Racing Board
Licensed Victuallers Association
Responsibility in Gambling Trust
Royal Society of Psychiatrists
The Gambling Trade carrying on gambling business in Warwick District
Town and Parish Councillors


Responsible Authorities;

Chief Officer of Police (Warwickshire)
Fire and Rescue Authority (Warwickshire)
Enforcement Agency for Health and Safety
Environmental Health
The Gambling Commission
The Licensing Authority
The Planning Authority
Safeguarding Children Board
Public Health
HM Revenue and Customs

Summary of licensing authority delegations permitted under the Gambling Act applicable to England and Wales only

Matter to be dealt with	Full Council	Sub-committee of Licensing & Regulatory Committee	Officers
Final approval of the Licensing Authority Statement of Policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X (if delegated by full council)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

X indicates the lowest level to which decisions can be delegated

 Council – 18th November 2015		Agenda Item No. 13
Title	Current position of Late Night Levy's and the feasibility of introduction within Warwick District	
For further information about this report please contact	Marianne Rolfe, Regulatory Manager Tel: 01926 456320 Email: marianne.rolfe@warwickdc.gov.uk	
Wards of the District directly affected	All	
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?	No	
Date and meeting when issue was last considered and relevant minute number	Full Council 26 th March 2014 Licensing Committee 18 th February 2013 item 7.	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	Yes
Equality Impact Assessment Undertaken	Yes/No (If No state why below)
Not relevant at this stage.	

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	3/9/15	Andrew Jones
Head of Service	3/9/15	Richard Hall
CMT	3/9/15	
Section 151 Officer	3/9/15	Mike Snow
Monitoring Officer	3/9/15	Andrew Jones
Finance	3/9/15	Mike Snow
Portfolio Holder(s)	3/9/15	Moira Ann Grainger
Legal	3/9/15	John Gregory
Consultation & Community Engagement		
Consultation with Economic Development and Regeneration Manager, Town Centre Development Officers, Town Centre Manager, Community Protection Team within Health and Community Protection.		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 Further to the motion placed before the council on the 26th March 2014, this report seeks to update councillors regarding the current position of Late Night Levies (LNL), and the feasibility of such an introduction within Warwick District.
- 1.2 The report further requests a decision on whether to progress to a public consultation on the subject of a Late Night Levy (LNL) or Early Morning Restriction Order (EMRO) within Warwick District.

2. **Recommendation**

- 2.1 That the council agrees that a formal consultation regarding the introduction of a Late Night Levy or Early Morning Restriction Order is not conducted at this current time.

3. **Reasons for the Recommendation**

- 3.1 When considering a LNL or EMRO account must be taken of the financial risk involved. This included the possibility of lower than expected revenue or inadequate revenue generation to make the LNL or EMRO a viable option for the area. This also includes the potential for 20% businesses to vary their licences free of charge so that they can fall outside of the LNL. (Appendix B).
- 3.2 It is officer opinion that the value of the revenue generation to the council of a LNL or an EMRO is extremely limited due to the time consuming and resource hungry implementation phase. Estimates have been provided of the potential implementation costs. These estimates are based on the average costs incurred by other Local Authorities which have implemented these measures.
- 3.3 The estimated income is outlined in appendix A and B. These demonstrate the number of businesses that would be included in a LNL and the estimated gross income at the current time. Appendix B outlines the estimated income if 20% of business opted to vary their licence conditions to fall outside of the LNL.
- 3.4 There is a risk that the night time economy of the District may be adversely impacted by the introduction of extra fees. Business opinion has been that LNL and EMROs should be a last resort and are divisive by nature. By their nature the fees are contradictory to the prosperity growth agenda.
- 3.5 It is also likely that any decision to implement either the LNL or EMROs would be challenged by judicial review either by single premises or a group of premises.
- 3.6 It is possible that the good relationship that Warwick District Council has built with the licenced premises owners would be adversely impacted by the introduction of a Late Night Levy. A northwest council recently reported that the consultation process for a LNL/EMRO "drove a wedge between the licensees, Police and Council".
- 3.7 There are alternative methods to LNL and EMROs which are being piloted with success around the country. These include:
 - Early Evening Economy Groups
 - Crime and Disorder Working Groups
 - Partnership working & Social Responsibility approaches
 - Licensing Forums
 - Trade training events
 - Accreditation Schemes (Purple Flag, Best Bar None, Pub watch)
- 3.8 The Council is working towards a submission for Purple Flag accreditation.
- 3.9 Current staff capacity could not accommodate the increased administration, compliance and monitoring activities required by a LNL/EMRO.

4. Policy Framework

- 4.1 The introduction of a Late Night Levy and or Early Morning restriction orders allow a certain level of cost recovery. However, the nature of the fee is contrary to the council's ambitions to encourage economic growth.

5. Impact Assessments

- 5.1 If the recommendations of this report are followed there will be no impact on the business, residents and visitors to Warwick District. The Licensing team and community protection teams will continue to work proactively with the licenced community.
- 5.2 If the council determines that a LNL or EMRO is feasible and a consultation should be undertaken then all business venues which trade within the specified time period would be treated equally with application of the LNL or EMRO across of the boundaries of the district.

6 Budgetary Framework

- 6.1 The recommendations of the report will not have an impact upon the budgetary framework. However, should a formal consultation be agreed this will have a significant cost implication.
- 6.2 Both the consultation and any subsequent implementation would have significant impacts upon the licensing teams and finance teams in regard to the officer time spent on the administration, monitoring and compliance of the LNL/EMRO. This time could not currently be found with the capacity of the licensing team and would result in the need for extra staffing. The estimated costs of implementing the scheme included within the appendices, reflect the estimated costs of the additional work that would be required. Much of this work would initially fall upon existing officers, impacting upon their current workload. The additional funding from the scheme should generate some funding towards backfilling for the workload of these officers that has been displaced. However, there is concern that it may not be practicable and affordable to so appoint within the available resources.

7. Risks

- 7.1 The strong working relationships that have been built between the council and the licenced community will be significantly undermined. Undermining the current working relationships could have a detrimental effect on the good works that are the Regulatory (Licensing) and Community Protection Teams undertake. Much of the work that the teams undertake is done so with the full co-operation of the licensed businesses. An undermined relationship could negatively impact upon compliance activities and educational activities such as 'Your Town Your Choice'.
- 7.2 There is a risk that a decision to implement a EMRO or LNL will be challenged by way of judicial review. A judicial review can be potentially very costly. This risk is not, in itself, a reason not to proceed with a consultation and it can be mitigated by ensuring any decision is made properly and in accordance with public law principles. However, the risk of challenge is one that members need to be aware of, as there have been several similar challenges to implementation of these measures across the country.
- 7.4 An LNL or EMRO could have a divisive and counterproductive impact on the partnership with BID members, which in turn could make the revote of the BID's mandate difficult in future years.

8. Alternative Option(s) considered

8.1 The committee agree a formal consultation is undertaken with regard to the implementation of a LNL or EMRO to establish the level of feeling regarding such a process and which groups of businesses eligible for a discretionary exemption or reduction should be given such exemption or reduction under the scheme. It is believed that the income gained by such a scheme in the longer term would not be outweighed by the negative impacts, cost of implementation and monitoring outlined in this report.

9. Background

9.1 THE LATE NIGHT LEVY

9.2 The Act gives licensing authorities the power to raise a financial contribution from late opening alcohol-licensed premises towards the cost of policing the night time economy. In deciding whether to apply the Levy, the licensing authority must consider: "The costs of policing and other arrangements for the reduction or prevention of crime and disorder in connection with the supply of alcohol between midnight and 6.00 am" (PRSRA).

9.3 If adopted a Levy must be applied to the whole of the local authority area. This includes all village and rural licensed premises. The licensing authority select the period during which the levy would apply, i.e. 00:00 -06:00 and could decide, within the legislative parameters, what exemptions and reductions should apply.

9.4 The late night supply period must begin at or after midnight and end at or before 6am. The selected period cannot apply on different days or times. The selected period must be the same for every day of the week.

9.5 The licence holders are liable for the levy in accordance with their licensing hours regardless of their actual opening hours.

9.6 Licensing authorities would have discretion to exempt the following premises from the Levy. A group of premises cannot be exempt from the levy if they are not referenced in the legislation.

- Premises with overnight accommodation (e.g. hotels, guest houses). (An exemption can apply only where their licences only permit the sale of alcohol between midnight and 6.00 am (a) to a person who is staying at the premises (not their guests) and (b) for consumption on the premises.
- Theatres and cinemas
- Bingo halls
- Community premises (village halls and similar)
- Participants in Business Improvement Districts
- Community Amateur Sports Clubs
- Public houses entitled to rural rate relief
- Premises which are licensed to supply alcohol between midnight and 6.00 am on New Year's Eve – this will allow all premises licensed to sell alcohol after midnight to stay open on New Year's Eve without having to pay a levy.

9.7 The levy is not payable by a business selling alcohol between the levy operating hours under the authority of a Temporary Events Notice.

9.8 A minimum of 70% of the net proceeds generated by a Levy must go to the police, although there is no requirement for them to spend this income in Warwick District, or on the night time economy. The remaining 30% must be spent by the council to fund relevant crime prevention initiatives connected with the late night economy.

- 9.9 The levy rates have been set by central government and are dependent on the non-domestic rateable value of the premises. The fees must be paid in addition to the annual premises licence fee. The prescribed annual levy is shown below for some of the bands.

Rateable Value Band	Levy Charge
A £0 - £4,300	£229
B £4301 - £33,000	£768
C £33,001 - £87,000	£1,259
D* £87,001 - £125,000	£1,365 / £2730
E* Over £125,000	£1,493 / £4440

**there are two fees available in these Rateable Value Bands. The higher fee is applicable if the premises are used exclusively or primarily for the supply of alcohol for consumption on the premises.*

- 9.10 The regulations also permit the licensing authority to allow a reduction of 30% in the amount of the Levy for premises which are members of best practice schemes such as Pub watch (most town centre premises), Best Bar None etc., and licensed premises which are entitled to small business rate relief.
- 9.11 If a licensing authority decides to introduce a LNL, it must consult the Local Police Force, the Chief Officer of Police for the area and the holders of 'relevant late night authorisations' (premises licence holders). The Authority must also publish a notice of the proposal and send this to the above persons. In contrast to an EMRO, there is no provision for persons to make representations about a proposal to introduce the Levy. However, the Authority must fully consider all responses to the consultation before making an Order.
- 9.12 Licence holders who wish not to pay the Levy will be able to apply for a free minor variation, to reduce their alcohol licensing hours prior to the Levy coming into force. This would impact on the resources of the licensing team with regard to officer time and also income. The significance of which would be determined by the number of premises who wish to vary their hours to place them outside of the levy period. Other authorities have experienced 20% of businesses varying their hours free of charge.
- This would equate to approximately 30 businesses (00:00-06:00)
 - Max 2 hours of officer time per application (£1,863)
 - Income reduction of £89 per application (£2,652.20)
 - Maximum estimated cost to the authority of: £4,515.20
- 9.13 Other local authorities with a LNL in place have experienced a further 20-30% of businesses within the LNL scheme submitting variations to alter their hours so that they are no longer included in the scheme after the scheme has begun. Appendix C estimates the effect on income with a further 20% reduction in eligible businesses.
- 9.14 The Levy does not apply to premises licensed only for regulated entertainment or late night refreshment. Therefore 'take away' style premises are exempt. This would exempt 29-50% of businesses who operate within the hours that a LNL or EMRO would be applied. These are include premises that have been 'flash points' for problems in the past thus making the scheme unequitable.

- 9.15 Any decision to introduce the LNL is for the licensing authority to make and any decision to introduce it must be put to full Council for approval. Local residents and business holders can use existing channels and forums to put forward views and call for the implementation or not, of the levy in their area.
- 9.16 The licensing authority can deduct the cost it incurs in connection with the introduction, variation, administration and enforcement of the levy prior to it being apportioned between the police and local authority. This carries a financial risk as the costs of the introduction, variation, administration, monitoring and compliance could be higher than the estimated cost or the actual income, i.e. business closure, variation in licences, failure to pay increasing estimated compliance costs etc.
- 9.17 It would be expected that the implementation and ongoing scheme management costs would be higher during the introduction period. It is difficult to identify the level of these costs at this time therefore the figures used in appendix A and B use the average costs as quoted by local authorities who have been through the process of implementation and or consultation.
- 9.18 The Council must publish estimates of expenses at the beginning of the Levy year and statements of receipts at the end of the Levy year. The council may be required to pay the police the full predicted share even if the council has been unable to collect this amount.
- 9.19 The Authority may amend or vary the Levy at any time after its introduction in accordance with Regulations. This includes the late-night supply period and any exemptions or reductions that may apply.
- 9.20 As with failure to pay an annual fee, non-payment of the Levy will result in suspension of licence/certificate.
- 9.21 There is no provision for appeal against a local authority's decision to apply the Late Night Levy. However, it is anticipated that several challenges to LNLs would be mounted by way of judicial reviews.
- 9.22 Should the Licensing Authority decide to consider a Levy option, the council would need to exercise great care to ensure the fairness of the consultation procedure, proper consideration of responses and the robustness of its decision-making process in order to avoid legal challenge.

9.23 EARLY MORNING RESTRICTION ORDERS

- 9.24 An Early Morning Restriction Order (EMRO) is a power which would enable a licensing authority to restrict the sale of alcohol if it considered this appropriate for the promotion of the licensing objectives. Unlike the Levy, the authority may make an Order for the whole or a part of its area. (This could extend to a town centre or a single street where problems associated with late night drinking have been identified).
- 9.25 An EMRO is intended to be a flexible tool which may be applied for any period between 0000 and 06.00 and may be for any length of calendar period. It may be made for the same period every day or for different periods on different days.
- 9.26 An EMRO may be applied for by a member of the public, an organisation or a statutory authority. However, it is for the licensing authority to justify an EMRO so any person applying for an EMRO would be expected to produce robust and extensive evidence in support of their application.
- 9.27 The Act sets out the procedural requirements for making an EMRO including the advertisement of a proposed Order for a period of no less than 42 days. A Responsible Authority and any person who is likely to be affected by an EMRO may make representations to the licensing authority about the Order and, provided they are

relevant, this will trigger a hearing. This could be potentially burdensome to a licensing authority if a high number of representations are received.

- 9.28 The only exceptions to an EMRO will be:
- Premises authorised to sell alcohol between 00:00 and 06.00 on New Year's Eve; and
 - Premises such as hotels or similar premises supplying alcohol to persons consuming alcohol in the privacy of their room.
- 9.29 A licensing authority may vary or revoke an EMRO at any time but must follow the same procedures as for making an Order
- 9.30 It is important to note that an EMRO restricts just the sale of alcohol and not consumption. A premises cannot be required to close at a specified time. Therefore a person may order alcohol prior to the commencement hour of the EMRO and consume it afterwards whilst the premises are permitted to stay open.
- 9.31 There is no provision for appeal against a local authority's decision to make an EMRO. Any challenge would be by way of Judicial Review, and the licensed trade in other areas has indicated its willingness to take such action as the process is inherently complex and, apparently, easily challenged. In addition, licensees may group together to challenge any EMRO put into force and delay its commencement for a considerable period of time.
- 9.32 In the case of the Levy, these costs can be recovered from the revenue generated but there is no similar provision for an EMRO. There will also be costs involved in making and advertising the necessary Orders.

9.33 THE CURRENT NATIONAL PICTURE AND LOCAL PICTURE:

- 9.34 The table below shows the current number of local authorities with LNL or EMROS :

LNL introduced	7
LNL rejected following consultation	2
EMRO introduced	7
EMRO discontinued following implementation	3
EMRO rejected following consultation	3

- 9.35 The table in appendix A shows the number of premises who would fall into the levy based upon their current Licensing Act license. An attempt has been made to give an estimate of those businesses who are part of an organisation that would potentially generate a reduced levy.
- 9.36 Appendix A show the estimates of implementation and scheme management costs based on the appropriate officer salary per hour with on costs.
- 9.37 The appendix does not take into account any increase in service complaints or increased failure to pay rate than is currently experienced in the annual licensing act fees.
- 9.38 Appendix C shows the estimated income in the second year. This includes a further 20% reduction in businesses whose licences would make them eligible for a LNL through minor variation after the LNL was implemented year. These businesses would not be eligible for a free of charge minor variation and would need to pay £89. The £89 covers the cost of the staff time and consumables involved in this process.

- 9.39 For Warwick District Council, if all eligible businesses were given a full 30% reduction, and the police were given the full 70% share of a levy income there appears to be only one feasible option for a LNL. That is to include all businesses licenced to operate between 00:00 and 06:00.
- 9.40 However, considered against the estimated income must be economic pressure of the levy on the business and therefore the loss of income caused by business closure; the cost of increasing staff resources in order to allow the effective implementation, monitoring and compliance of the system which have not been factored into the estimates; possibility of judicial review and loss of good will between the council and our business community.
- 9.41 It is officer opinion that the scheme is only of value if the following agreements can be sought with the Police and the Police and Crime Commissioner:
- That the police take a lesser share than 70% of the income generated.
 - That the police spend the income generated in Warwick District only
 - Or that a Late Night levy Board is formed, (including representatives of the Police, Community Protection, Licensing, Community Partners and Local Business Groups) to decide on how the full income (100%) is spent.

9.42 PURPLE FLAG ACCREDITATION

- 9.43 Purple Flag's aims are to raise standards and broaden appeal of town centres and are the benchmark for good night-time destinations. Town Centres that achieve a Purple Flag will be those that are safe, vibrant, appealing, well-managed and offer a positive experience to consumers.
- 9.44 The accreditation acknowledges that a town centre is a safe and welcoming place to visit, work and live. It recognises the work that is being done to assist businesses in becoming more lucrative enabling them to invest in their business; encourage more people to attract a diverse footfall into the town centre and the use initiatives to promote the Night time economy and tackle crime and disorder.
- 9.45 A report outlining the ambition to aim for Purple Flag accreditation was considered by the Executive on the 11th March 2015. It was resolved that the council would work towards gaining the accreditation.
- 9.46 It is officers view that this accreditation will go a long way to promote the licensing objectives and is more suited to doing so that an EMRO would be given the nature of the licensed trade in Warwick district.

Appendix A: Estimated income from LNL (current picture) Year 1

Number of business open between (accumulative)	00:00-06:00	01:00-06:00	02:00-06:00	03:00-06:00	04:00-06:00	05:00-06:00
Total	149	69	25	8	7	6
Rateable Value Band A	4	1				
Rateable Value Band B	88	44	23	4		3
Rateable Value Band C	34	16	3			1
Rateable Value Band D	7	3	2			
Rateable Value Band E	16	14	6		3	2
Percentage excluded (Regulated entertainment or late night refreshment)	29%	32%	56%	nil	nil	50%
Estimated percentage potentially to receive a 30% reduced levy	12%	18%	26%	nil	nil	50%
Estimated Gross Income (excluding costs of system introduction, administration, monitoring or contribution to police)	£166,021	£76,021	£6021	£4021	£3253	£1760
Estimated cost of system introduction, administration of the system, monitoring (excluding addition staffing costs & service complaints)	£43,000*	£43,000*	£43,000*	£43,000*	£43,000*	£43,000*
Estimated 70% proportion to Police	£86,114.70	£23,114.70	**	**	**	**
Estimated Net Income to WDC (excluding addition staffing costs & service complaints)	£36,906.30	£9,906.30	-£15,979	-£36,979	-£39,747	-£41,240

*Estimated on administration and monitoring costs of £22,000 per year + the first year of estimated implementation costs. (average of other local authorities costs)

** Proportion still may be payable to the police despite negative net income.

Appendix B: Estimated income from LNL – Current picture including estimated 20% businesses varying their hours to operate outside LNL hours in period during which a Variation can be made free of charge

Number of business open between (accumulative)	00:00-06:00	01:00-06:00	02:00-06:00	03:00-06:00	04:00-06:00	05:00-06:00
Estimated Gross Income (excluding costs of system introduction, administration, monitoring or contribution to police)	£132,816.80	£60,816.80	£4,816.80	£3,216.80	£2,602.40	£1,408
Estimated cost of system introduction, administration of the system, monitoring (excluding addition staffing costs & service complaints)	£43,000*	£43,000*	£43,000*	£43,000*	£43,000*	£43,000*
Estimated 70% proportion to Police	£62,871.76	£27,171.76	**	**	**	**
Minor Variations free of charge (income loss to service area and staff costs)	£4,515.20	£2,115.40	£755.50	£302.20	£151.10	£151.10
Estimated Net Income to WDC (excluding addition staffing costs & service complaints)	£22,429.84	-£11,470.36	-£38,938.70	-£40,085.40	-£40,548.70	-£41,743.10

*Estimated on administration and monitoring costs of £22,000 per year + the first year of estimated implementation costs. (average of other local authorities costs)

** Proportion still may be payable to the police despite negative net income.

Appendix C: Year 2 estimated income from LNL.

Current picture

Number of business open between (accumulative)	00:00-06:00	01:00-06:00	02:00-06:00	03:00-06:00	04:00-06:00	05:00-06:00
Estimated Gross Income (excluding costs of system introduction, administration, monitoring or contribution to police)	£166,021	£76,021	£6021	£4021	£3253	£1760
Estimated cost of system introduction, administration of the system, monitoring (excluding addition staffing costs & service complaints)	£22,000*	£22,000*	£22,000*	£22,000*	£22,000*	£22,000*
Estimated 70% proportion to Police	£100,814.70	£37,814.70	**	**	**	**
Estimated Net Income to WDC (excluding addition staffing costs & service complaints)	£43,206.30	£16,206.30	-£15,979	-£17,979	-£18,747	-£22,240

Current picture including 20% businesses with Free of charge Minor Variations in first year

Number of business open between (accumulative)	00:00-06:00	01:00-06:00	02:00-06:00	03:00-06:00	04:00-06:00	05:00-06:00
Estimated Gross Income (excluding costs of system introduction, administration, monitoring or contribution to police)	£132,816.80	£60,816.80	£4,816.80	£3,216.80	£2,602.40	£1,408
Estimated cost of system introduction, administration of the system, monitoring (excluding addition staffing costs & service complaints)	£22,000*	£22,000*	£22,000*	£22,000*	£22,000*	£22,000*
Estimated 70% proportion to Police	£77,571.76	£45,416.80	**	**	**	**
Estimated Net Income to WDC (excluding addition staffing costs & service complaints)	£33,245.04	£6,600	-£17,183.20	-£18,783.20	-£19,397.60	-£20,592

*Estimated on administration and monitoring costs of £22,000 per year. (average of other local authorities costs)

** Proportion still may be payable to the police despite negative net income.

Current picture including 20% businesses with Free of charge Minor Variations in first year and a further 20% businesses varying their hours in second year.

Number of business open between (accumulative)	00:00-06:00	01:00-06:00	02:00-06:00	03:00-06:00	04:00-06:00	05:00-06:00
Total number of businesses	100	42	16	5	5	4
Estimated Gross Income (excluding costs of system introduction, administration, monitoring or contribution to police)	£106,253.44	£48,653.44	£3,853.44	£2,573.44	£2,081.92	£1,126.4
Estimated cost of system introduction, administration of the system, monitoring (excluding addition staffing costs & service complaints)	£22,000*	£22,000*	£22,000*	£22,000*	£22,000*	£22,000*
Estimated 70% proportion to Police	£58,977.41	£18,657.41	**	**	**	**
Estimated Net Income to WDC (excluding addition staffing costs & service complaints)	£25,276.03	£7,996.03	-£18,146.56	-£19,426.56	-£19,918.08	-£20,873.6

*Estimated on administration and monitoring costs of £22,000 per year. (average of other local authorities costs)

** Proportion still may be payable to the police despite negative net income.