

Executive

Minutes of the meeting held remotely on Thursday 18 March 2021 at 6.00pm, which was broadcast live via the Council's YouTube Channel.

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

Also Present: Councillors: Boad (Liberal Democrat Group Observer), Davison (Green Group Observer), Mangat (Labour Group Observer), Milton (Chair of Overview & Scrutiny Committee) and Nicholls (Chair of Finance & Audit Scrutiny Committee).

98. **Declarations of Interest**

There were no declarations of interest.

99. **Minutes**

The minutes of the meeting held on 11 February 2021 were taken as read and signed by the Chairman as a correct record.

Part 1

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

100. **HMO Licensing and Planning Permission**

At the beginning of this item, the Leader informed Members that, the addendum which was circulated prior to the meeting included an additional recommendation, the report which was a request to Council to update the Constitution. As a result of this, if approved that request would need to be passed to Council on 14 April 2021.

The Executive considered a report from Housing proposing a policy which linked the granting of licences for houses in multiple occupation (HMO) with the need to have planning permission for HMOs within Leamington Spa, and for larger HMOs within Warwick District (seven or more occupants).

References to planning permission in the report also included a certificate of lawful development. This would be granted by the Planning Enforcement Team if a property had been operating continuously as an HMO from before 1 April 2012, or for a period of at least 10 years for larger HMOs.

HMO licensing and planning permission had legally been two separate pieces of legislation and one could not be used to enforce the other. The Government had subsequently given guidance to help resolve this issue and together with case law and specialist Counsel's opinion meant that the proposed policy was now available to resolve the conflict between HMO licensing and planning permission.

Consultation was carried out on the following options to link HMO licensing and planning permission. 180 responses were received, a summary of which could be found at Appendix B to the report.

- Option 1 - HMO licence applications would not be processed until planning permission had been obtained for the property – 86.6% in favour of this option.
- Option 2 - HMO licences would be granted for one year to allow time for planning permission to be applied for and a decision made on the application 13.4% in favour of this option.

For the new policy to be effective, enforcement action had to be available for landlords of HMOs that required a licence and continue to operate without applying for planning permission.

So that the policy could be applied quickly and efficiently, once adopted, it was proposed that the Head of Housing Services should be granted the authority to decide on the most appropriate enforcement action.

In terms of alternative options, the Executive could choose not to take the opportunity, that was now available to resolve the previous long-standing conflict between HMO licensing and planning permission. Given the reasons set out in section 6 in the report, this was not a viable option.

An addendum circulated prior to the meeting advised Members of proposed revisions to the Policy, appended to the report, following several requests for clarification. Furthermore, it had not been identified that the recommendation for the delegated authority required the Executive to make a recommendation to Council.

Following suggestions made prior to the meeting by the Head of Housing Services and the Portfolio Holder for Housing and Culture, the Overview and Scrutiny Committee recommended that the wording in Appendix A to the report and Recommendation 2.3 in the main report, should be amended to read, as follows with the additions in bold:

"Appendix A "Warwick District Council HMO Licensing and Planning Permission Policy – Private Sector Housing", section 3.0 – Implementation"

When an HMO licence application is received for the first time or in advance of an HMO licence being renewed the Private Sector Housing Team will check the planning status of the property with the Planning Enforcement Team.

Where planning permission is needed the landlord will be required to apply for planning permission within the following **time** scales:

- Landlords making an HMO licence application for the first time **where there are no current residents will be advised to obtain planning permission before their licence can be issued.**
- **Landlords making an HMO licence application for the first time where residents are currently in occupation to be given two months to submit a valid planning application before enforcement action is taken.**
- **Landlords making an HMO licence application who submit a planning application within the required time but then who fail to provide any required documentation within a two month period will be subject to enforcement action.**

- Landlords of properties where an HMO licence needs to be renewed, must submit a valid planning application **in time for this to be considered** before the current licence expires. **A new licence will not be issued without planning permission being in place**

Recommendation 2.3 in the report

Note that landlords of relevant properties that require an HMO licence, **where those properties have residents occupying and using the premises as an HMO**, and do not have planning permission will face enforcement action if they do not apply for permission **within the required timeframe**.

Recommendation 2.4 in the report

That, subject to approval of recommendation 2.1, Executive approves the delegation of authority to the Head of Housing Services to take appropriate action under this policy to ensure compliance with all its requirement, including the need to obtain planning permission, and asks Council to update the Constitution to reflect this change."

The addendum also advised of a general observation, following advice received from the Head of Housing Services the following day, "license" should be spelt "licence", and it was suggested by the Overview and Scrutiny Committee that this correction should be made to the policy document.

Councillor Matecki thanked the Overview and Scrutiny Committee for their useful recommendations, and the members of the public who had shown an interest in the report and for their depth of knowledge. He accepted the recommendations from the Overview and Scrutiny Committee and proposed the report as laid out.

Recommended to Council that the Constitution be amended to record the delegated authority from the Executive as follows: authority be delegated to the Head of Housing Services to take appropriate action under this policy to ensure compliance with all its requirement, including the need to obtain planning permission.

Resolved that

- (1) the policy contained at Appendix A to the report, subject to the revisions set out above, (not to process relevant HMO license applications unless planning permission has been obtained) and for it to come into force on 1 April 2021, be approved;
- (2) the outcome of the HMO license and planning permission consultation, be noted; and
- (3) landlords of relevant properties that require an HMO licence, where those properties have

residents occupying and using the premises as an HMO, and do not have planning permission will face enforcement action if they do not apply for permission within the required timeframe, be noted.

(The Portfolio Holder for this item was Councillor Matecki)
Forward Plan Reference 1,179

Part 2

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

101. Community Infrastructure Levy (CIL) Projects List for 2021/22

The Executive considered a report from Development Services which set out the proposed CIL Projects list for 2021/22 as the basis for focusing the distribution of CIL receipts collected during the year.

In March 2020, the Council had agreed the current list of projects (the CIL Projects List) that was to be funded from anticipated CIL receipts in 2020/21. This had formed the basis on which CIL contributions received had been distributed in the last year. In November 2020, the Executive had agreed that an additional project (Newbold Comyn) would be added to the 2020/21 list. In February 2021, Executive had agreed that £6 million would be allocated from CIL to fund the Kenilworth Castle Farm Leisure Centre.

Table 1 below identified those CIL projects contained within the current CIL Projects List, indicated how much CIL income was allocated to each project in 2020/21, and then set out how much it was estimated would be spent by the end of March 2021.

Table 1: Spending on CIL Projects in the 2020/21 CIL Projects List		
	Expected CIL spending in 20/21 (£)	
Infrastructure Project	Agreed	Actual or estimated
Destination Parks	Nil	Nil
Bath Street Improvement Scheme	150,000	50,000
Emscote Road Multi Modal Corridor Improvements	115,000	Nil
Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre	5,000,000	Nil
Medical facilities - N Leamington (Cubbington/Lillington)	Nil	Nil
Wayfinding in Leamington, Kenilworth and Warwick	105,000	105,000
Europa Way bridge	Nil	Nil
Whitnash Civic Centre and Library	250,000	250,000
Newbold Comyn	55,000	55,000
PLUS CIL Administrative charge	£65,000	65,000
Total	5,740,000	525,000

The reason why CIL contributions were unlikely to be fully spent during this year was clear from the table. The Kenilworth Leisure project had not progressed at the pace originally envisaged, and this had been separately reported to Members. The two highway schemes (Bath St and Emscote Road) were both County Council projects, and the County Council's capacity to progress these had been impacted upon by the Covid-19 pandemic.

In terms of understanding how much money the Council was likely to have available from CIL contributions to fund projects over the next five years, it was possible to estimate this using the latest Local Plan housing trajectory, published by the Council in 2020. If the Housing Trajectory was achieved, CIL was predicted to deliver the following, as set out below in table 2. It was important to remember that a proportion of CIL receipts (15% or 25%) needed to be distributed to Town and Parish Councils to spend within their areas and therefore was not available to the District Council to allocate.

Table 2: Estimate of future CIL income to Warwick District Council			
	Total (£)	If 15% passed to parish councils (£)	If 25% passed to parish councils (£)
2021/22	3,700,000	3,145,000	2,775,000
2021 - 2026	30,720,000	26,112,000	23,040,000

To this income should be added an estimated £3,062,000 of CIL income that had been collected but would remain unspent as at 31 March 2021 (taking account of all spending estimates in the 2020/21 CIL Projects List in table 1). Therefore, the amount of money available for projects within the CIL Projects List was predicted to be in the range of £5,837,000 to £6,207,000 for 2021/22 and £26,101,000 to £29,173,000 for the period 2021 to 2026.

It should have been noted that the actual amount of CIL received was not easy to predict accurately. CIL was payable within 60 days of developments starting on site, and so was entirely dependent upon the rate at which new development came forward. Nevertheless, the above figures were the best estimate the Council could provide at the present time for likely future level of CIL income.

The process that the Council had followed for arriving at the proposed CIL Projects List contained in the report was broadly the same as had been undertaken in all previous years. This had involved consulting with infrastructure providers including Warwickshire County Council, NHS South Warwickshire Foundation Trust, the Clinical Commissioning Group, the Police, and other services within Warwick District. These providers had submitted proposals for consideration for inclusion in the list for 2021/22. A full description of all submitted proposals was set out in Appendix 2 to the report.

The agreed criteria on which proposals were assessed had been previously agreed by the Council and was as follows:

1. Identified benefits of project:
 - Relationship to development proposed within the Local Plan;

- Extent to which project addresses current and projected issues; and
 - Anticipated impact on infrastructure capacity once project completed.
2. Identification of the project within the Council's Infrastructure Delivery Plan (IDP);
 3. The extent to which the project could support the Council's commitments as set out in its climate emergency;
 4. Overall cost of project;
 5. Required level of funding from CIL (taking account of other sources of funding and the degree to which these were committed); and
 6. State of progress (was the scheme clearly planned and deliverable within the timescale envisaged?).

These criteria had been included within the forms that infrastructure providers had been asked to complete and had also been used to assess proposals. An analysis of the submitted proposals against these criteria had been undertaken and was set out in Appendix 3 to the report.

The schemes set out in Appendices 2 and 3 to the report totalled potentially in excess of £37m. There was clearly insufficient projected income to fund all of these projects and so an element of prioritisation was needed. It was predicted that between £26,101,000 and £29,173,000 would be available for the period 2021 to 2026. In line with the approach taken in previous years (and recognising the risk that development might not come forward in line with the Housing Trajectory), it was advised that the Council only committed funds in line with the more cautious estimate (i.e. assuming that 25% of all CIL receipts were handed over to Parish Councils). Therefore, a minimum of £26,101,000 was estimated to be available to fund CIL projects between 2021 and 2026

On this basis, it was recommended that two of the projects for which bids had been made were not included in the CIL Projects List for 2021/22.

- Medical facilities (Leamington town centre): This scheme (up to £6.35m requested) would potentially be suitable and eligible for CIL, in particular, recognising that there was significant population growth in Leamington town centre and that this was taking place on a large number of sites. The scheme was, however, at a very early stage (no site had been identified at this stage and little feasibility and design work had been undertaken) and so the project required further development before it could be considered further. Also, other sources of project funding had yet to be fully explored.
- Destination Parks: This funding (£5m requested) was required to support improvements to Abbey Fields in Kenilworth and St Nicholas Park in Warwick. Whilst this project would be suitable for inclusion on the CIL Projects List (and indeed was included on the current list), these proposals were at an early stage of development and currently no funding from the Council or elsewhere had been committed to them.

Table 3 below listed the prioritised infrastructure projects which were recommended for inclusion in the List for 2021/22.

Table 3: Proposed CIL Projects for inclusion on the Projects List for 2021/22		
Infrastructure Project	Proposed 21-26	Comment
Bath Street improvement scheme	£3.795m	
Emscote Road multi modal corridor	£1.992m	Note that in addition to the main project this included £500,000 to support the delivery of a cross town-centre route as part of the Future High Streets Fund bid.
Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre	£6m	Note that this was agreed by Executive in February 2021 in advance of this report.
Medical facilities - N Leamington (Cubbington/ Lillington)	£2.74m	
Wayfinding in Warwick town centre	£0.035m	Wayfinding projects for Leamington and Kenilworth town centres are being funded from CIL funds in 20/21.
Europa Way bridge link	£1m	
St Mary's Land, Warwick	1.343m	New scheme for 2021/22
Newbold Comyn	3.254m	This included £425,000 that was committed by Executive in November 2020 to support the early work following the completion of the masterplan.
Warwick Gates Community Centre	0.15m	New scheme for 2021/22
Europa way spine road cycleway/ footpath link	1.053m	New scheme for 2021/22
Relocation of athletics facility and creation of Commonwealth Park	1.8m	New scheme for 2021/22
Commonwealth Park bridge	0.25	New scheme for 2021/22
Relocation of Kenilworth Wardens	2.5m	New scheme for 2021/22
PLUS CIL Admin charge	0.365m	
Total	£26.278m	

Included in the above table was the CIL Administrative charge. CIL charging authorities were entitled under regulations to take up to 5% of CIL income as an administrative charge. In order to implement and deliver CIL, the Council had to employ a full-time CIL Administrative Officer and had to invest time and resources changing its systems and procedures. Whilst it was not proposed that the Council would take its full 5%, an administrative charge of £365k (i.e. £73k per year) was considered reasonable. This was a small increase from the £65,000 agreed in 2020, which had been built into the Council's Medium Term Financial Strategy.

Taken together, the above list of schemes brought the total amount committed within the CIL Projects List to £26,278,000. This was against a project CIL income of £26,101,000. Whilst there was a small potential funding shortfall identified, this was not considered to be significant, particularly noting that the projected income was based on a conservative scenario whereby 25% of all CIL receipts were passed to Parish Councils. This had not happened to date and would be extremely unlikely to happen over the next five years.

It was estimated that between £5,837,000 to £6,207,000 would be available from CIL contributions to spend in 2021/22. Whilst there was sufficient projected income over the next five years to support all projects on the List, the rate at which CIL was projected to be received would not support the delivery of projects against the project profiles set out in bids. For this reason, some projects had to have their funding re-profiled. In some cases, this would mean that projects could not progress at the rate they would ideally have wished; in others it might mean that to support the early delivery of projects, the infrastructure provider would have to find money from other sources (including borrowing) until the CIL income was eventually received.

Table 4 below set out the proposed distribution of CIL income for 2021/22. In doing so, it was in line with the lower (more cautious) estimate of likely CIL income for 2021/22.

Table 4 proposed a number of projects for which Executive was being asked to commit CIL funding for 2022/23. This was the first time for Warwick District Council that the CIL Projects List report had done this. It was included because some of the projects that were proposed to be supported in 2021/22 would entail the awarding of contracts by the infrastructure provider. The provider had therefore asked whether the Council could give greater certainty to any future funding which was required to complete the project.

Table 4: Proposed distribution of CIL contributions in 2021/22 and partial distribution in 2022/23		
Infrastructure Project	Proposed 21/22	Proposed 22/23 (*)
Bath Street improvement scheme	95,000	
Emscote Road	626,043	1,365,957
Kenilworth Leisure (Phase 2): Castle Farm Recreation Centre	3,000,000	3,000,000
Medical facilities - N Leamington (Cubbington/ Lillington)	840,000	1,900,000
Wayfinding in Warwick town centre	35,000	
Europa Way bridge link	Nil	
St Mary's Land, Warwick	8,000	
Newbold Comyn	425,000	
Warwick Gates Community Centre	150,600	
Europa way spine road cycleway/ footpath link	Nil	
Relocation of athletics facility and creation of Commonwealth Park	Nil	

Table 4: Proposed distribution of CIL contributions in 2021/22 and partial distribution in 2022/23		
Infrastructure Project	Proposed 21/22	Proposed 22/23 (*)
Commonwealth Park bridge	Nil	
Relocation of Kenilworth Wardens	Nil	
PLUS CIL Admin charge	73,000	73,000
Total	5,252,643	6,338,957
* It should be noted that those projects for which funding in 2022/23 was being confirmed now were those for which contracts of work may be let in 2021/22 which would run over two financial years. Where there was no money allocated against a project in 22/23, this did not mean that no CIL funding would be given during 22/23, only that the Executive was not being asked to commit to this at the present time.		

It needed to be recognised that it was possible that actual CIL income during 2021/22 would be less than that projected. This occurred during 2020/21, in part owing to a slow-down in development (commencements on site) arising from the Covid-19 pandemic. Whilst it was hoped that development rates would bounce back, this could not be guaranteed. The latest housing trajectory for Warwick District (prepared in discussion with major developers) did suggest that over the next five years, Warwick District would continue to see the level of development (and therefore CIL income) that had previously been expected. It did suggest, however, that this housing growth would be re-profiled. In the event that income in 2021/22 did not meet best estimates, it was recommended that the amount given to the Kenilworth Leisure (Phase 2) project in 2021/22 was given first priority for funding, and that other projects were supported only once sufficient CIL contribution to support the Kenilworth Leisure project had been received. If this happened, however, any shortfall in payments in 21/22 for these other projects would be rolled over to 2022/23 (and, where relevant, added to the amount awarded to these projects in that year).

Where CIL income was to be distributed to external partners, legal agreements were put in place to set out when payments would be made and ensured that any CIL contributions was spent appropriately. For projects delivered by the Council, Service Level Agreements had been entered into with the relevant Head of Service.

The above CIL Projects List, and the proposed distribution in 2021/22 (and partial distribution in 2022/23) was discussed by the Development Programme Advisory Board on 26 January. The Board wished to thank officers for their work on this and gave its general support for the list of projects, but with some specific observations:

- Support for the cycle/pedestrian path from the Stadium (Fusilier's Way) through to Myton Road, and a desire for CIL funds to be made available to enable this project to be delivered earlier (in 2022/23 rather than 2023/24). Cllr Grey expressed concern on the naming of the spine road project (Community Stadium and Associated Developments) and that it was not included on the Projects list for 2021/22. (The name of this project had since been changed to avoid confusion.)

- Support for the Warwick Gates Community Centre Enhancement.
- Request for further information/clarification regarding the location of the Commonwealth Park Bridge and its wider role and purpose. (It had since been confirmed that the precise alignment of the bridge had not been fixed at the present time. It was anticipated that the location and design of the bridge would be agreed in due course as part of future plans for the redevelopment of the Riverside House site.)
- Wayfinding in Warwick – Suggested that implementation of this scheme was only progressed once there was clarity from Warwickshire County Council regarding its proposals for wider changes to the highway network in Warwick town centre. It was important to understand what the new layout of Warwick would look like before going ahead with different pedestrian wayfinding signs.

To summarise therefore, the Council was currently projecting and recommending the following:

Minimum projected income to the Council from CIL between 2021/2026 (including any receipts carried forward from 2020/21)	£26,101,000
Total value of schemes on which this income could be spent (2021/26) (including an allowance for a CIL admin fee)	£26,278,000
Total CIL projected income to the Council from CIL during 2021/22 (including any receipts carried forward from 2020/21)	£5,837,000
Total requested spend during 2021/22 from those infrastructure projects on the proposed CIL Projects list.	£5,252,000
Total requested spend during 2022/23 from those infrastructure projects on the proposed CIL Projects list.	£6,339,000

In terms of alternative options, Appendix 2 to the report set out the full range of proposals that had been put forward by infrastructure providers for inclusion in the 2021/22 CIL Projects list. From this it could be seen that a number of proposals had been excluded from the CIL Projects list. From this full range of proposals, Members could choose different priorities for inclusion, however this was not recommended.

The Finance & Audit Committee supported the report.

Councillor Cooke felt that it was a good idea that in addition to the Development Programme Advisory Board (PAB), matters of the CIL list should also go to the Finance PAB, which was suggested at the 17 March Finance & Audit Scrutiny Committee meeting. He recognised that a lot of good work had gone into producing the proposals, and he then proposed the report as laid out.

Resolved that

- (1) the amount spent during 2020/21 on CIL Projects from the current CIL Projects List and the anticipated level of CIL Contributions to be received by the Council in the next five years, be noted;
- (2) the CIL Projects List for 2021/22 set out in Appendix 1 to the report, be approved; and
- (3) paragraphs 3.16-3.18 of the report and table 4 in the report are used as the basis for distributing CIL receipts collected during 2021/22 and, where stated in table 4, 2022/23, be approved.

(The Portfolio Holder for this item was Councillor Cooke)
Forward Plan Reference 1,172

102. Response to Local Transport Plan Consultation

The Executive considered a report from Development Services setting out Warwick District Council's proposed response to the Key Themes consultation. The County Council was preparing a new Local Transport Plan (LTP). This would become the fourth LTP and would replace the existing 2011-2026 Plan. As part of preparing the Plan, the County Council had started a "Key Themes" consultation. The consultation period ended on 18 March 2021.

The County Council was of the view that the existing Local Transport Plan (LPT3 2011-2026) was out of date and needed to be replaced. Since LPT3 was adopted in April 2011 there had been significant changes at national, regional and local level including a more focused drive to address the climate emergency, advances in technology, significant housing growth and changing business demands and commuting patterns, not least as a result of the Covid-19 pandemic.

The Key Themes consultation was at an early stage in the process to adopt a new LTP. Following the consultation, the County Council would embark on a period of more detailed engagement with stakeholders – particularly the District Council – to bring forward more detailed, local proposals which addressed the local needs of our communities within the strategic context emerging from the key themes consultation. As a result, the key themes document was inevitably high-level and did not incorporate any specific transport proposals for the District. It proposed the aim of the LTP should be to: *"Manage and maintain Warwickshire's transport network in a safe, sustainable and integrated way"*.

The consultation, which closed on the 18 March, proposed that the LTP focused on four key themes:

- a. **The Environment**- covering the following challenges: Noise pollution; Climate Change; Air Quality; Flooding and water management; and Loss of habitat and wildlife.
- b. **The Economy**- covering the following challenges: Impact and recovery from Covid-19; Brexit; Changing and flexible work patterns; Internet based working and shopping; Productivity and competitiveness; Access to education, training and skills; and Access to workforce, materials and markets.
- c. **Place**- covering the following challenges: Regional connections; National and international connections; Access between rural and urban areas; Public space and improvement of place and character; Rural isolation (lack of connections to wider areas and services); and Housing growth and development.
- d. **Wellbeing**-covering the following challenges: Access to healthcare and social care; Security and safety; Transport-related pollution; Road safety; Social inclusion; Mental health; and Supporting active lifestyles.

In preparing a response to the consultation, officers had taken a number of factors into account including:

- the existing Local Plan, proposed growth and ongoing pressures for housing and economic growth; the ambitions and projects set out in the Corporate Business Plan and Fit for the Future; the declaration of the Climate Emergency and the Climate Emergency Action Programme; the impact of Covid-19 on the District and opportunities for an economic recovery that was led by strong green growth and investment; ongoing issues relating to air quality in the District and particularly around the Air Quality Management Areas; and
- the importance of mobility and place in health and wellbeing.

In terms of alternative options, the Council choose not to respond to the Local Transport Plan consultation. However, this option was not proposed as the Local Transport Plan was important for the future of the District and Council services. The consultation provided an important opportunity to influence the Plan at an early stage and would provide the context for future, more detailed discussions with the County Council.

There were many alternatives relating to the content of the proposed response, including alternative approaches to the weighting/importance given to various options. Officers had sought to provide a response that was consistent with existing Council policy.

Councillor Rhead emphasised the amount of work that officers had put into this detailed report and hoped Warwickshire County Council would take the report on board as it would be an important contribution to the County's plans.

Councillor Cooke expressed his pride at the Council's response to the consultation. He stated that he had received responses from the Chairs of

the Finance & Audit Scrutiny Committee and the Overview & Scrutiny Committee in relation to the consultation, and he had a discussion with the Head of Development Services and agreed to propose an amendment to pages 15 and 16 of the Consultation Response, attached as Appendix 1 to the report, to read:

"Which of the following do you think are important to consider in the LTP when thinking about the place challenges above?

- *Reduce traffic in town centres*
- *Make town centre streets and spaces more attractive for pedestrians*
- *Reduce sign clutter and street furniture*
- *Make road verges and other spaces better places for nature*
- *Prevent or restrict through traffic on some residential streets*
- *Other (please specify)*

We believe that all of these can play a part in supporting and maintaining high quality places in addition to other suggestions made in this response, including improving wayfinding. Whilst some measures have a wider strategic benefit (for example reducing traffic in town centres) and others have more of a clearly local impact, all can play a role as part of a coordinated strategy to improve the quality of our places across the district".

The amendment was accepted by the Executive, and Councillor Cooke proposed the report as laid out, and subject to the above amendment.

Resolved that the responses to the Local Transport Plan Key Themes consultation set out in Appendix 1 to the report, be approved for submission to the County Council, subject to the inclusion of the amendment set out above.

(The Portfolio Holder for this item was Councillor Cooke)
Forward Plan Reference 1,173

103. **Baddesley Clinton Conservation Area Review**

The Executive considered a report from Development Services, which provided a review of the Baddesley Clinton Conservation Area, sought approval to undertake a three-week public consultation period and to adopt a Conservation Area appraisal for Baddesley Clinton Conservation Area if no material objections are received.

It was a requirement under Section 69(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that local planning authorities determined which parts of their area were areas of special architectural or historic interest, the character or appearance of which it was desirable to preserve or enhance, and to designate these areas as Conservation Areas. It was a further requirement under Section 69(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which explained that local planning authorities needed to review their conservation areas from time to time. Part of this exercise involved the adoption and review of existing conservation area appraisals.

The Council's Principal Conservation Officer had undertaken a review of the existing Conservation Area and had concluded that there was no reason to expand the boundary at that stage. However, no appraisal had been adopted for Baddesley Clinton Conservation Area since its designation as a Conservation Area in 2013. The only change therefore proposed was the adoption of a Conservation Area appraisal document set out in Appendix C to the report.

Conservation Area appraisals were documents that defined the special interest and significance of the area that merited Conservation Area designation. These documents also described and evaluated the contribution made by the different features that contributed towards their overall character and appearance. The appraisal also provided guidance on how the preservation or enhancement of the conservation area could be achieved.

Conservation Area appraisals were also useful for those considering investment in those areas for new development, in addition to planning officers, Council Members, the Planning Inspectorate and Secretary of State, all of whom were then able to assess the impact of proposals on the area's special interest, character and appearance. The appraisal would therefore become a material consideration in planning decisions affecting the area.

An explanatory letter would be served upon Baddesley Clinton Joint Parish Council, Ward Councillors and residents within the Conservation Area boundary, in order to make comments on the document. All material representations received during this period would be considered and consideration given to amending the appraisal as appropriate.

In terms of alternative options, Members could choose not to adopt the Conservation Area Appraisal. This would, however, mean that the Conservation Area would only benefit from limited recognition and therefore a gradual erosion of the character of the Conservation Area could eventually arise.

Councillor Cooke proposed the report as laid out.

Resolved that

- (1) a three-week public consultation period in order to invite representations from residents, Baddesley Clinton Parish Council and Ward Councillors on the adoption of a Conservation Area appraisal, be authorised; and
- (2) if no material objections are received, during the consultation, then the appraisal, be adopted.

(The Portfolio Holder for this item was Councillor Cooke)
Forward Plan Reference 1,185

104. **Draft - Sexual Entertainment Policy**

The Executive considered a report from Health and Community Protection which presented the reviewed draft Sexual Entertainment Establishment Policy, which was applicable to all Sexual Entertainment Establishments within the Warwick District Boundary.

The proposed policy was considered by the Licensing and Regulatory Committee at its 8 February meeting, where it was agreed to recommend the document to Executive for adoption.

The current Sexual Entertainment Policy was adopted on 2 June 2016. It was used to outline the Council's approach to sexual entertainment applications and premises within the district. The Policy had been reviewed by the Licensing Team.

A review of the policy had been undertaken by the Licensing Team Leader. A review of applications received during the period had confirmed that there were no corrective measures to be made.

There had been no enquiries or complaints received from licence holders, members of the public or any responsible authorities during the period which confirmed that there were no corrective measures to be made.

Legal Services had been consulted on this review and had not requested any changes to the documents.

Legal Service were asked whether the draft policy would require a full public consultation and advised that the changes were so minimal that it would not be required.

The proposed policy was attached as Appendix 1 to the report, and a summary of the main alterations was included as Appendix 2 to the report.

In terms of alternative options, the Executive could request a public consultation on the draft policy before making comment, however Legal Services had advised that this was not necessary.

The Executive could also choose not to adopt the proposed policy. However, the purpose of the policy was to provide clear guidance for officers and Councillors on what matters should be taken into account when determining applications, and it would be more difficult to ensure consistent application of the law to applicants without a policy to work with.

Councillor Falp proposed the report as laid out.

Resolved that the reviewed policy, as set out at Appendix 1 to the report, be adopted.

(The Portfolio Holder for this item was Councillor Falp)
Forward Plan Reference 1,185

105. **Review of Significant Business Risk Register**

The Executive considered a report that set out the latest version of the Council's Significant Business Risk Register for review. It had been drafted following a review by the Council's Senior Management Team and the Leader of the Council.

The report sought to assist Members fulfil their role in overseeing the organisation's risk management framework. A very useful source of guidance on the responsibilities of Members and officers with regard to risk management came from the Audit Commission in its management paper, "Worth the risk: improving risk management in local government":

"Members need to determine within existing and new leadership structures how they will plan and monitor the council's risk management arrangements. They should:

- decide on the structure through which risk management will be led and monitored;*
- consider appointing a particular group or committee, such as an audit committee, to oversee risk management and to provide a focus for the process;*
- agree an implementation strategy;*
- approve the council's policy on risk (including the degree to which the council is willing to accept risk);*
- agree the list of most significant risks;*
- receive reports on risk management and internal control – officers should report at least annually, with possibly interim reporting on a quarterly basis;*
- commission and review an annual assessment of effectiveness: and*
- approve the public disclosure of the outcome of this annual assessment, including publishing it in an appropriate manner.*

The role of senior officers is to implement the risk management policy agreed by members.

It is important that the Chief Executive is the clear figurehead for implementing the risk management process by making a clear and public personal commitment to making it work. However, it is unlikely that the chief executive will have the time to lead in practice and, as part of the planning process, the person best placed to lead the risk management implementation and improvement process should be identified and appointed to carry out this task. Other people throughout the organisation should also be tasked with taking clear responsibility for appropriate aspects of risk management in their area of responsibility."

The report was not based on 'project appraisal' so no alternative options were considered.

The Finance & Audit Scrutiny Committee noted the report.

Councillor Rhead was concerned about the risk process, as none of the risks shown in the risk register had moved, which he felt showed the mitigations were not being addressed sufficiently. He requested to see these arrows on the risk register to see the movements were going the right way, rather

than having no movement at all.

Councillor Hales, the Portfolio Holder for Finance, stated that he had a meeting with the Audit & Risk Manager about the arrows on the risk register. There had been no movement in the risks since the register was last reported and therefore no direction of travel had been included. These arrows would appear in future reports. He also explained that at the Finance & Audit Scrutiny Committee meeting on 17 March, it was agreed that he would meet with Chair of Finance & Audit Scrutiny Committee, Head of Finance and the Chief Executive in June to look at the strategy behind the risk. It was important to make sure the Council recognised the different challenges coming forward, and that the Council set a strategy that officers and Councillors could work through. Councillor Day felt that in the light of nearly 12 months since the first national lockdown, one of the best ways the Council had managed risks was the genuine shared working across political groups and extra efforts and goodwill officers had shown. In the most challenging of financial years, the Council had still managed to find money for the Climate Action Fund despite being prevented from holding the referendum as hoped. He welcomed Councillor Hales' work with officers, and the Chair of the Finance & Audit Scrutiny Committee in making sure the Council remained sharp and focused on the strategic risks. He then proposed the report as laid out.

Resolved that

- (1) the Significant Business Risk Register, attached at Appendix 1 to the report, be noted; and
- (2) the emerging risks identified in section 9 of the report, be noted, and that an additional risk be included in future relating to the proposed merger with SDC.

(The Portfolio Holder for this item was Councillor Day)

106. Step Back Review Task & Finish Group on the Council's response to Covid 19

The Executive considered a report from the Deputy Chief Executive (BH) which brought forward the recommendations from the Overview & Scrutiny Committee, as a result of the work of the Step Back Review Task & Finish Group of the Council's response to Covid 19 pandemic, undertaken by Councillors Ashford, A Dearing, Jacques, Kohler, Milton and Nicholls.

At its 18 August 2020 meeting, the Overview & Scrutiny Committee appointed six Councillors to undertake a Step Back Review to consider the Council's response to Covid-19, based on the following five principals:

- initial response to move the Council from HQ based to working from home;
- liaising and working with other authorities;
- change in service delivery (for example green bins);
- communications to the wider community; and

- how the business of the Council (as opposed to day to day services) was managed, specifically on how decisions made during the hiatus were open to scrutiny.

The intention had been to complete the review as swiftly as possible to identify any potential learning for the Council in the way it responded in case of either a local or national lockdown occurred. This was an ambitious timescale based on the demands upon officers both still responding to the pandemic and tentatively returning services back to normal, recognising the significant change in cultural/working practices of the Council with most officers working from home.

Officers collated feedback from across the Council on the work that had been undertaken during the first national lockdown, based upon the five themes. These were set out in Appendices 2 to 9 to the report. The information was then shared with the review Group of Councillors, except Councillor Ashford who could not participate due to personal circumstances at the time.

The Group met on Monday 2 November 2020 to review the information and from this came to the conclusions and recommendations as set out at Appendix 1 to the report.

The report and its appendices were considered by the Overview & Scrutiny Committee at their 9 February 2021 meeting, who endorsed the report and recommendations, and passed them to Executive for approval.

In terms of alternative options, no alternative proposal had been considered to the recommendations as these were developed through discussion based on the evidence provided to the Working Party. The Executive could amend or dismiss these recommendations, but this then moved the risks identified above to issues which would need to be addressed.

Councillor Day proposed the report as laid out.

Resolved that

- (1) the findings of the Step Back Review Group, be noted;
- (2) the recommendations for officers to act upon as set out at Appendix 1 to the report, be approved; and
- (3) the comments of the Corporate Management Team set out at Appendix 10 to the report, be noted.

(The Portfolio Holder for this item was Councillor Day)

107. Protection of Nesting Birds and associated issues at St Mary's Lands, Warwick

The Executive considered a report from the Chief Executive, that brought forward a number of updates on the work of the Council on its work at St Mary's Lands Warwick.

At its 17 November 2020 meeting, the Executive had agreed the following:

"That the Executive reviews the options for the flying hours of model aircraft as set out in Appendix 1 of this report and considers the St Mary's Lands working Party recommendation to adopt the hours recommended by the model flyers with the Working Party's recommended amendment to review the impact after a year.

Subject to recommendation 2.1 above being agreed, that the hours of operation are made known via the Council website and on-site signage.

That the results of the St Mary's Lands Working Party's assessment of access be reported back to the Executive for a decision on controlling access to sensitive breeding areas, including the costs of additional barriers / site notices."

This report followed up on this decision.

St Mary's Lands was a large public open space on the western side of Warwick, lying between the edge of town and the countryside leading to the A46. It was an area that fell wholly within the town's Conservation Area; housed A Grade II Listed Building with also the listed Hill Close Gardens immediately adjoining; and, was partly a Local Nature Reserve.

St Mary's Lands was also home to a variety of uses and activities, many of which were historic in nature; e.g. racecourse, golf course, football, local community use (Corps of Drums), walking, running, dog walking, wildlife watching, etc. In addition, the area had for over 90 years been used as an area in which people could use to fly model aircraft. This made it one of the oldest venues, if not the oldest, in the country for flying of model aircraft. It was also one of the oldest locations for a golf club in the country and was the third oldest racecourse in the world.

The improvement of St Mary's Lands area was one of the Council's key projects, with the Council having agreed in August 2017 to a Master Plan for the area, as well as a delivery plan which was now being implemented. A significant amount of the elements of the masterplan had been implemented. The Working Party brought together the organisations involved with the area and was now focusing on the implementation of the Master Plan. Since July 2017, the local association of model aircraft flyers had been represented on the Working Party. In October 2017, a presentation to the Working Party was given by the model flyers' representative in support for a re-introduction of the more extensive hours of operation that used to operate prior to the last consideration of this issue by the Council in 2004.

St. Mary's Lands was an important site for wildlife, recognised by its Local Nature Reserve status. A key objective of the masterplan was increasing

the site's wildlife value and overall biodiversity. The model aircraft were flown over areas that were used as breeding grounds by ground nesting birds. Whilst it was an offence to intentionally or recklessly disturb at, on or near an 'active' nest under the Wildlife and Countryside Act 1981, the Wildlife Watching group had witnessed unintentional disturbance and the nesting populations at St. Mary's Lands was, at best, stable. There had been very recent news articles in the Times newspaper on this very issue nationally.

Following the November 2017 Executive approval, an ecology study was commissioned. The ecologist undertook three-site visits over a seven-month period and reported on its findings in August 2018. The findings were inconclusive in that it could not identify any adverse impacts of model flying, but could not confirm that they did not exist. The wildlife group were also concerned that whilst three-site visits were undertaken, none of these coincided with the beginning of the breeding season (mid-February-early-March). Consequently, it was agreed that a more extensive ecological evaluation covering a full 12-month period would be required. A revised brief for the new survey was agreed and the works tendered. The ecologist was appointed in February 2019, an interim report was issued in the summer of 2019 and a final report after the 12-month study in March 2020.

The ecology report identified the site as having high-ecology value for nesting birds and these were being affected by a cumulative impact from various disturbances. It identified the model flying having a low to medium disturbance impact. A higher level of disturbance was being made by dogs running into the nesting sites. The cumulative effect of both the model flying and dogs were seen to be detrimental to nesting birds. The ecologist's report therefore recommended some physical restrictions should be made to prevent dogs from being able to access the sensitive breeding sites and that the model flying hours were adjusted to give a beginning and end of day periods without interruption from flying. The previous roping off of bird nesting sites offered little protection from dogs and the use of temporary physical barriers, combined with site notices, would assist in identifying and managing the nesting sites.

It was agreed in November 2020 that an assessment of the potential type and extent of barrier restrictions should be undertaken and developed with the Working Party, before the next breeding season started in mid-February 2021. Once that information had been collected and demonstrated no significant issues, then a formal public consultation would be carried out based around site notices and information displays. It was felt at the time that this approach would allow all the issues to be properly examined and considered and this was important given the potential risks that might arise.

However, working up suitable proposals took longer than anticipated and draft proposals were not able to be put to the Working Party until 12 January 2021. The proposal that emerged set out on Plan 1, attached as an appendix to the report, showed a relatively small area of the St Mary's Lands that would be subject to a temporary barrier for a set period of time. Associated signage was also attached as an appendix to the report. However, this process meant that there was insufficient time to be able to undertake a formal public consultation prior to undertaking the works. Given the impending nesting season, the Chief Executive authorised the

operational works to be undertaken. It was however, proposed that the Council should review the effects of this proposal with the Working Party, report back and consider proposals for the year 2022 onwards.

Although a wider public consultation was not undertaken, there was extensive discussion both at the Working Party meeting in January and by email subsequently. With the exception of the Friends of St Mary's Lands, all the other member organisations to the Working Party agreed the proposals, and this included the nature conservation interest.

The Friends position had been to deny that there was a problem. It did subsequently raise a different response which was to propose to move the nesting birds site to the "Straight" part of the racecourse, which was west of the Gog Brook. This land was not in the control of the Council and the Jockey Club which did control that land, pointed out the conflict it would have operationally with their use of that land, so it was not felt to be a feasible option. It was also doubtful whether the nesting site could be moved as was being suggested. The Friends group had nevertheless continued to raise objections. The Friends had declined an offer for its Management Committee to discuss this and other matters with the Leader of the Council and the Chief Executive. The Friends were suggesting it would undertake a public consultation of its own volition.

This suggestion however, and the comments coming from it could not be taken as credible since the members of the Management Committee of the Friends, other than the Secretary, were not disclosed. This raised a wide issue and so it was proposed, that in order that the Working Party representation was clearly accountable, that all groups participating would be recognised and organised by Company or Charitable law or similar legal arrangements, or, where that was not the case, by disclosing their management arrangements to the Council.

It was felt timely that after operating since late 2015, the Working Party review its Terms of Reference, its mode of operation, and that how public participation was organised and managed, for consideration and approval by the Executive.

In terms of alternative options, the Council could decide to take out the measures, but given that the breeding season had started this was unadvisable. The Council could stick with roping off the area, the measures that it had previously adopted, but the ropes were often ignored and proved to be insufficient for the purpose.

Councillor Rhead shared a sentence from a press release with Members which stated that "early evaluations indicate that recent measures taken by Warwick District Council to provide a site for endangered grass nesting birds to breed on St Mary's Land appear to be working", which he felt was great credit to the ideas that were put forward in the report. He also thanked Councillor Bartlett for his work in promoting this work. He then proposed the report as laid out.

Resolved that

- (1) the results of the St Mary's Lands Working Party's assessment of access, be noted, and the

measures for controlling access to sensitive breeding areas, be supported;

- (2) a review after the breeding season be undertaken, involving the St Mary's Lands Working Party, and the review findings be reported back;
- (3) the basis of participation of groups on the St Mary's Lands Working Party was reviewed; and
- (4) the St Mary's Lands Working Party's Terms of Reference, mode of working, and the basis for public participation, be reviewed and submitted to the Executive for approval.

(The Portfolio Holder for this item was Councillor Rhead)

108. **Public and Press**

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

Item Numbers	Paragraph Numbers	Reason
109, 110	1	Information relating to an individual
109, 110	2	Information which is likely to reveal the identity of an individual
109, 110	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

109. **Confidential Appendices to Item 9 - Step Back Review Task and Finish Group on the Council's response to Covid-19**

The Executive noted the confidential appendices in relation to Agenda Item 9, Minute Number 106 – Step Back Review Task and Finish Group on the Council's response to Covid-19.

110. **Minutes**

The confidential minutes of the meeting held on 11 February were taken as read and signed by the Chairman as a correct record.

(The meeting ended at 7.01pm)

CHAIRMAN
22 April 2021