 Overview and Scrutiny Committee 1 December 2015		Agenda Item No. 5
Title	Call-in of Executive Decisions	
For further information about this report please contact	Lesley Dury, Democratic Services	
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Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	The report to the Executive 4 November 2015 is not private but confidential Appendices are included as a Part B report	
Date and meeting when issue was last considered and relevant minute number	Joint Scrutiny 3 November 2015 and Executive 4 November 2015	
Background Papers	Reports to Executive 4 November 2015, Minutes of Executive 4 November 2015 and Joint Scrutiny 3 November 2015	

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 (Ref 688)
Equality & Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	18/11/15	Chris Elliott
Head of Service		
CMT	17/11/15	Andrew Jones
Section 151 Officer	18/11/15	Mike Snow
Monitoring Officer	17/11/15	Andrew Jones
Finance	18/11/15	Mike Snow
Portfolio Holder(s)		
Consultation & Community Engagement		
Rose Winship and Pdraig O'Herlihy for information purposes only.		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. **SUMMARY**

- 1.1 On 4 November 2015, the Executive made a decision on a report: items 3 and 8 "Leisure Development Programme". In accordance with the Council's call in procedure, three or more Councillors have called-in the decisions to the Overview & Scrutiny Committee for consideration.

2. **RECOMMENDATIONS**

- 2.1 That in respect of the resolutions made by the Executive on the "Leisure Development Programme" at its meeting of 4 November 2015, the Overview and Scrutiny Committee takes one of the following actions:
1. to allow the decision to be implemented without further delay;
 2. to refer the decision back to the Executive together with the observations of the Overview & Scrutiny Committee;
 3. to request the Executive to allow further time for the Overview and Scrutiny Committee to consider the issue and make observations at a later date; or
 4. to seek the advice of the Monitoring Officer and/or the Chief Finance Officer as to whether the decision is contrary to, or not wholly in accordance with, the policy framework or the budget and, if applicable, to refer the matter to the Full Council for a final decision.

3. **REASONS FOR THE RECOMMENDATIONS**

- 3.1 The recommendations are in line with the procedure set out in the Council's Constitution under Council Procedure Rules for call-ins.

4. **POLICY FRAMEWORK**

- 4.1 A call-in is simply the referral of a decision made, but not yet implemented, to the Overview and Scrutiny Committee. It is a key way of holding the Executive to account. A called-in decision cannot be implemented until it has been considered by the Overview and Scrutiny Committee, which can examine the issue and question the decision maker on the reasons for the decision.

5. **BUDGETARY FRAMEWORK**

- 5.1 There are no budgetary framework implications as a consequence of this report.

6. **ALTERNATIVE OPTION(S) CONSIDERED**

- 6.1 There is no requirement for alternative options because a call-in requires that a set procedure is followed.

7. **BACKGROUND**

- 7.1 On 3 November 2015, the Joint Finance and Audit Committee and Overview and Scrutiny Committee considered a report that would be decided by the Executive the following day. This was listed on the Executive agenda as:

Item 3 – Leisure Options – Part A; and
Item 8 – Leisure Options – Part B.


- 7.2 The comments made by Joint Scrutiny is attached as Appendix 3.
- 7.3 On 4 November 2015, the Executive met and made its decision on the report (see Appendix 2). Appendix 4 is an extract of the public minutes of the meeting which shows the decisions made by the Executive in respect of the report. For the confidential minutes, please see the relevant item on the Executive Agenda for the 2 December 2015.
- 7.4 On 11 November 2015, Councillors called-in the report. (See Appendix 1 for a list of councillors who made the call-in and the reasons why.)
- 7.5 The call-in is in respect of the decisions in respect of procuring a partner to manage the leisure centres (recommendations 2.6 to 2.9 in the report that went to the Executive on 4 November). It is not in respect of decisions regarding the refurbishment and expansion of the leisure centres.

Recommendation 2.2 cannot be part of the call-in process as the decision in respect of this must be made by Council.

Appendix 1 – Call-in

Executive Agenda Item Number	Report Title	Councillors who called-in the report	Reasons
3	Leisure Development Programme	Councillors: Barrott Naimo Quinney	<p>(In respect of recommendations 2.6 to 2.9 in the report to Executive 4 November and the subsequent decision that evening.)</p> <ol style="list-style-type: none"> 1. The decision is contrary to the Fit for the Future Policy: <p style="margin-left: 40px;">The Council usually examines thoroughly all options in determining the way forward on any matter of significance which this is. The Council has not done this in this case by failing to fully explore the option of a Trust or of allowing staff to being retained in house to allow a trial period to see if they can deliver the level of income alleged to be able to be delivered by outside bodies. Nor has the Council consulted on this issue with the public or staff.</p> <p style="margin-left: 40px;">This means that the decision was not rational, reasonable or proportionate.</p> 2. There is no funding for the proposal in an agreed budget/capital programme. 3. The decision was not reasonable within the common meaning of the word, i.e. rational, based on sound judgement. 4. The decision was not proportionate, i.e. the action was not proportionate to the desired outcome. 5. The decision was not taken on the basis of due consultation. 6. It was not clear what alternative options (if any) were considered. 7. It was not clear why the alternative options were not chosen. 8. More information/clarification is required.

Appendix 2 – Report to Executive 4 November 2015

	EXECUTIVE 4th November 2015	Agenda Item No. 3
Title For further information about this report please contact	Leisure Development Programme Rose Winship 01926 456223 Rose.winship@warwickdc.gov.uk Paddy Herlihy 01926 456228 Padraig.herlihy@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?	The report is not private but confidential Appendices are included as a Part B report	
Date and meeting when issue was last considered and relevant minute number	Executive, 9th October, 2013 Finance & Audit Scrutiny Committee, 1st September, 2014 Overview and Scrutiny Committee, 1st September, 2014 Executive, 5th November, 2014	
Background Papers	Visions and Principles – Oct 2013 Sport and Indoor Facilities Strategy – April 2015 Playing Pitch and Outdoor Sports Strategy – April 2015 Neil Allen Associates Facilities Audit - 2013	

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 (688)
Equality & Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive	16/10/15	Chris Elliott
CMT	16/10/15	Chris Elliott, Bill Hunt, Andrew Jones
Section 151 Officer	16/10/15	Mike Snow
Finance	16/10/15	Maqsood Ahmed, Andy Crump, Sue Simmonds
Monitoring Officer	16/10/15	Andrew Jones
Heads of Service	16/10/15	Rose Winship, Mike Snow, Andy Thompson, Tracy Darke, Rob Hoof, Richard Hall

Legal Services	21/10/15	Victoria Newbold, Kate Hiller (WCC)
Portfolio Holder(s)	14/10/15	Councillor Mrs Sue Gallagher
Consultation & Community Engagement		
Community Consultation on leisure provision – May 2015		
Community consultation on leisure centre activity programme – Spring/Summer 2014		
Final Decision?		No
<p>The next steps will be that, should the Executive agree to the procurement of an external provider of the Leisure Service (Recommendation 2.6), the recommended procurement process will be overseen by way of the delegations sought and on the outline programme set out in this Report.</p> <p>Further reports to follow re: investment in facilities and car parking arrangements at relevant facilities (Recommendations 2.1 and 2.4).</p>		

1 SUMMARY

- 1.1 This report asks 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 are based on strengthening the Council's facilities, service offering and income. The report addresses two significant issues that Members will need to determine.
- 1.2 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 include: 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 is a significant risk that these major leisure facilities will no longer be fit for purpose, resulting in a reduction in usage and a potential increase in public subsidy. There is also robust evidence supported by the Sport England Facilities Planning Model to support the view that without this investment the facilities will be insufficient for the growing population of the District.
- 1.3 Secondly, deciding what is 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 needs 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.

2 RECOMMENDATIONS

That the Executive:

- 2.1 Agrees to the refurbishment and expansion of the Newbold Comyn and St Nicholas Park Leisure Centres 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.

- 2.2 Subject to agreement of recommendation 2.1, the Executive recommends to Council that it approves the funding of £550,000 (included in the £12m referred to in 2.1) 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.
- 2.3 Subject to agreement of recommendations 2.1 and 2.2, delegate authority 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.
- 2.4 Delegate authority to 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 referred to in recommendation 2.1.
- 2.5 Note that the further report referred to in recommendation 2.1 will 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.
- 2.6 Agree that:
- i) 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, should Recommendation 2.1 be agreed; and
 - ii) a budget of £30,000 is allocated from the Contingency Budget to fund the cost of the procurement exercise.
- 2.7 Subject to Executive agreeing recommendation 2.6, to:
- (i) note the principles of the draft Service Specification at Appendix 1 which details the future service standards that will be delivered at the Council's leisure centres and dual-use facilities (subject to necessary consents by dual-use partners); and
 - (ii) delegate 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.
- 2.8 Subject to agreeing recommendation 2.6, to agree that the current Members' Working Group that has been overseeing the Leisure Development Programme

to date extend its role to provide oversight of the procurement process and risk logs.

- 2.9 Subject to agreeing recommendation 2.6, that the current level and process of liaison and consultation with staff and their representative bodies continue.

3 REASONS FOR THE RECOMMENDATIONS

A *First Issue*

3.1 Investment

3.1.1 The Council has 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 manage dual use centres at Kenilworth School and Myton School which are available for community-use outside of school hours. Over time investment has been made in the centres, adding new elements and updating the internal finishes, ensuring that the facilities have remained in good condition and are 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 also 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.

3.1.2 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 was under-used nor that there were parts of the District that did not have reasonable access to facilities. The model also 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).

3.1.3 However, following receipt of the Planning Inspector's Local Plan letter early this summer and the subsequent development of the sub regional Memorandum of Understanding about housing numbers, officers have 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 are now required in the District. However, having undertaken an initial desk-top exercise using the model, the data suggest that the additional houses will not change the outcome of the FPM significantly and that the approach of extending and refurbishing current facilities remains valid.

3.1.4 The NAA report strongly supports the proposals for significant expansion of the health and fitness element of the facilities (gyms and studios). It is

acknowledged that this is a strong and commercially significant element of the leisure sector and one which is 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.

- 3.1.5 Aware of the levels of potential investment being proposed, set against the volatile nature of the health and fitness sector, officers have undertaken a review of the status of health and fitness provision locally (Appendix 2). It has concluded that, whilst there are some local gyms that were not identified in the NAA report, there remains a strong case for expansion of the Council's facilities to offer a modern and accessible health and fitness product that will have the capacity to attract new members and increase levels of physical activity across all sectors of the community.
- 3.1.6 The investment recommendations in this report relate only to the leisure centres in Leamington and Warwick. The situation in Kenilworth is 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 is 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 have for their leisure provision. Discussions have been held, and continue, with both bodies. Coventry's plans relating to the replacement of the Fairfax Street 50m pool and sports centre are acknowledged but due to the travel time from the District are not considered relevant to Warwick District's facility planning exercise. However, Warwick University are reviewing their campus master-plan and this process includes a review of sports and leisure provision. Whilst any changes made at the University site have a broad relevance to the whole District they are 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.
- 3.1.7 In the light of these issues officers have 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 is that it would be premature to recommend an investment programme for the Kenilworth facilities until the Local Plan has 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 is 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.

3.1.8 In developing the investment proposals to RIBA Stage 2 (Appendix 3), project managers, Mace Ltd, and their professional colleagues such as architects and Mechanical & Electrical (M&E) consultants have produced a cost model (see Appendix 1 in the Part B report elsewhere on the Agenda). The model includes 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 has already been spent in reaching RIBA Stage 2. Should the Executive approve Recommendations 2.1 – 2.5 which enable the project to progress to RIBA Stage 4, the design plans will be refined and a comprehensive cost model developed. Invasive surveys of the existing buildings will be carried out in order to provide certainty that the designs being prepared can be successfully built. The designs will be prepared for a planning application and the application will be submitted towards the end of RIBA Stage 4 as can be seen in Table 1 below:

Table 1: Milestones for Investment Proposals

ID	Task Name	Start	Finish	01 July 08/06	21 November 26/10	11 April 04/01	01 September 14/03	21 January 23/05	11 June 01/08	01 November 10/10	21 19/12	21 27/02	21 08/05	21 17/07	21 25/09	21 04/12	21 12/02
0	Leisure Development Programme	Wed 04/11/15	Fri 26/05/17														
1	1 RIBA Stage 2 Sign Off	Wed 04/11/15	Wed 04/11/15														
2	2 RIBA Stage 3	Wed 11/11/15	Fri 04/03/16														
3	3 Planning	Mon 08/02/16	Fri 12/08/16														
4	4 RIBA Stage 4	Mon 07/03/16	Fri 27/05/16														
5	5 Council Decision on Investment	Mon 30/05/16	Mon 13/06/16														
6	6 Two Stage Tender Process (OJEU)	Mon 23/11/15	Fri 24/06/16														
7	7 St Nicholas Park Construction	Mon 27/06/16	Fri 03/02/17														
8	8 Newbold Comyn Construction	Mon 27/06/16	Fri 26/05/17														

3.1.9 It should be noted that the investment proposals have 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 is included in paragraph 5.7 of this report.

3.2 RIBA Plan of Work

3.2.1 The plans and costs included in this report 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 progresses 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 has the opportunity to continue with the proposals or halt the project. In order to achieve this, £550,000 is required to fund the Project and Programme Management, planning applications and surveys.

3.2.2 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 has 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 authorises officers to produce detailed proposals for the investment and thereby progress the scheme to RIBA Stage 4, consideration needs to be given to the most appropriate way of procuring the relevant services.

- 3.2.3 Officers have sought advice from the Procurement Manager and Head of Finance on the most appropriate approach to this next stage that minimises costs and ensures continuity of the project to RIBA Stage 4. Officers will therefore continue 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 will continue as project managers until the end of the construction phase.
- 3.2.4 It is 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 will ensure that the planning process can be undertaken in time to begin work on site in accordance with the agreed programme, subject to permission being granted. Delegated authority is 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 (Recommendation 2.3).
- 3.3 Sources of Funding
- 3.3.1 It is anticipated that the investment proposals will be funded from a number of sources, some of which are already secured, and others which have yet to be confirmed. Further details are included in 5.2.4.
- 3.3.2 It is proposed that officers seek to access funding from the Sport England Strategic Facilities Fund (SFF). Due to the way in which Sport England manage this fund, there is no indication at this stage as to whether an application would be successful. Recommendation 2.4 seeks the relevant delegation to the appropriate officer and Member to progress any application.
- 3.3.3 The Sport England SFF is designed to direct capital investment to local authority projects that have been identified through a strategic needs assessment and that have a maximum impact on growing and sustaining community sport participation. Projects that are funded from this source are promoted as best practice in the delivery of quality and affordable facilities and are able to demonstrate long term efficiencies. Projects also need to be able to demonstrate that they are bringing together a number of partners, with input from public and private sectors, and have the support of national governing bodies of sport.
- 3.3.4 Applications to this fund are on a "solicited-only" basis, meaning that the Council has to be invited by Sport England to make an application. Consequently, officers have been working closely over the last 12 months with Sport England, and with the County Sports Partnership who has an overview of the regional strategic picture of facility provision, to get to a point where Sport England will hopefully invite an application for the improvements at Newbold Comyn and St Nicholas Park Leisure centres.
- 3.3.5 In the event that the Executive approve Recommendations 2.1 – 2.5, officers will confirm to Sport England the Council's commitment to the investment proposals and will 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 Appendix Z of the Part B report shows the impact of the Council being unsuccessful in securing Sport England funding.

3.4 Car Parking considerations

- 3.4.1 A fundamental consideration in finalising the detail of the investment proposals for Newbold Comyn and St Nicholas Park Leisure Centres is the impact of increased customer visits to these sites and the additional pressure that this will place on the car parking provision. If facilities are expanded and insufficient parking provision is made, business models will not be deliverable and customer satisfaction levels will be reduced.
- 3.4.2 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 (see Appendix 4).
- 3.4.3 In summary, the surveys came to the following high level conclusions:
- 3.4.4 St Nicholas Park Leisure Centre:
- This site has historically experienced issues with car parking provision which has had an impact on leisure centre users.
 - The car park currently operates at capacity late morning/early afternoon on a weekday and a Saturday in summer but demand exceeds capacity at certain times within this range.
 - The expansion of the leisure centre would lead to a peak shortfall in parking of around 44 spaces. Shortages would occur between 11am – 3pm Monday to Friday in the summer and 11am - 4pm on Saturdays in the summer.
 - The report recommends that further work is undertaken to consider the opportunities of a revised layout, and revised charging strategies for this car park and Myton Fields (summer only) which could reduce or alleviate the pressure at key times.
- 3.4.5 Newbold Comyn Leisure Centre:
- Spare capacity currently exists even at peak times of the week/year
 - Taking into account the loss of the car park closest to the current facilities (for the construction of the sports hall) alongside lining of parking bays in the car parks to the north of the road onto the Comyn, there would be a net gain of 44 spaces available for leisure centre users, thus ensuring sufficient capacity for the increased visitor numbers.
- 3.4.6 Officers of Cultural Services and Neighbourhood Services have considered the findings and recommendations of the Atkins surveys and have concluded that car parking provision at Newbold Comyn is satisfactory for the extended facilities proposed for this site. In respect of St Nicholas Park it is clear that, whilst the current parking provision could meet demand at most times of the day/week, there are some times when demand would exceed capacity. Officers have 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 is proposed that the outcome of this work is reported to the Executive alongside the further report referred to in Recommendation 2.1. It is believed that the car parking issues at St Nicholas Park Leisure Centre are not severe enough to question the decision to invest in

the facilities. Nonetheless, any mitigation will be advantageous to the future performance of the Centre and the user experience more broadly.

- 3.4.7 As part of the planning process Green Travel Plans will be developed for both facilities and this will help to alleviate pressure on car parking.

B Second Issue

3.5 Management Options

- 3.5.1 The recommendation that tenders should be invited for the management of all the Council's leisure and dual use facilities (subject to agreement by dual use partners), takes into consideration the Business Plan (Appendix 2 in Part B of the Agenda) and the confidential Prospectus (Appendix 3 in Part B of the Agenda and circulated prior to the meeting) submitted by the in-house team. It also considers the report from Strategic Leisure (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).
- 3.5.2 Due to the commercial sensitivity of this information, the full details of the in-house proposal is included in Part B of the Agenda. The proposal is considered to be a robust and comprehensive Business Plan and Prospectus that has been developed from first principles and has included forensic challenge of all aspects of the business.
- 3.5.3 The Business Plan has been written to address two scenarios. Firstly, and referred to hereafter as **Option 1**, there is 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 relies 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.
- 3.5.4 The alternative, **Option 2**, is based on Executive agreeing to invest in the region of £12m in the Newbold Comyn and St Nicholas Park Leisure Centres, and so relies 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.
- 3.5.5 The Prospectus describes in detail how the in-house team intends to approach the service improvement that is essential for both Option 1 & 2 to be successful. It highlights 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.
- 3.5.6 In order to get an independent assessment of the in-house proposals, Strategic Leisure was asked to produce an evaluation report which is included in full as Appendix 4 on Part B of the Agenda. Strategic Leisure highlighted a number of areas which they believe warrant detailed consideration when comparing the in-house v external model for both Options 1 & 2. A financial analysis of the two models is 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.

3.5.7 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 needs to consider a wider number of issues, not all of which are financial. These are set out in Table 2 below:

Table Two - Leisure Development Programme Scenarios

INVESTMENT - £4m investment (maintenance and services only)	
Advantages	Disadvantages
<p>Less borrowing requirement on the Council leading to lower repayment charges</p> <p>Less disruption to service as no major refurbishment or new facilities</p> <p>No teething or snagging problems as no new buildings</p>	<p>Buildings remain old-fashioned and inefficient, leading to loss of income and increase in public subsidy</p> <p>Insufficient indoor sports provision for growing population</p> <p>Lost opportunity to capture the income from new health and fitness facilities</p> <p>Runs risk of creating an opportunity for a major new operator to set up in the District with its own modern facilities that takes customers and income</p> <p>Doesn't achieve Medium Term Financial Strategy savings if operated in-house</p>
INVESTMENT - £12m investment – (refurbishment and significant extension)	
Advantages	Disadvantages
<p>Significantly enhanced buildings will increase income and thus reduce subsidy in the medium term</p> <p>Provides sufficient indoor sports provision for growing population</p> <p>Captures income from health and fitness market</p> <p>Dissuades commercial operators from setting-up in opposition</p> <p>Refurbished buildings are cheaper to run as more efficient</p>	<p>Increased borrowing requirement leads to higher repayment charges and more pressures on budgets initially</p> <p>Disruption to service whilst work is carried out (although neither centre will close completely at any time)</p> <p>Potential risk that costs may rise if project risks are realised</p> <p>Teething or snagging problems possible with new buildings</p>
MANAGEMENT – In-house option	
Advantages	Disadvantages
<p>Leisure staff remain part of the District Council team and the Council is better able to retain its operational capacity</p> <p>Retains greater flexibility over management of the facilities by the Council</p> <p>The Council receives positive comments due to the success of the</p>	<p>Modelling suggests that the in-house option does not achieve the Medium Term Financial Strategy savings</p> <p>Budgets suffer if the significant income increases are not achieved when resources are already under pressure</p> <p>External management offers a better financial situation at less risk</p>

service

No costly and time-consuming procurement exercise for an external contractor

No opportunity to produce further savings through addressing support service costs

MANAGEMENT – External operator option

Advantages

Achieves Medium Term Financial Strategy savings and more

Less risk to Council if income targets not met or costs rise

Council does not bear the cost if income figures not achieved
Further savings may be achieved if WDC addresses support service costs

Disadvantages

Requires a robust client-side role to ensure relationship with contractor remains strong

Council may get less credit for investment in the new facilities as linked to contractor

Loses some flexibility over management of the facilities by the Council
Procurement exercise takes time and money

3.5.8 This assessment brings out the following issues:

a. Track record of the in-house offer

It is 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, is a major step-change on what has previously been delivered by the in-house team. Consequently, the Option 2 business plan which increases income by some £2m could be a major challenge for the Council in-house team to sustain. The contrast with a commercial operator is 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 is the case, though, that if the current position has largely been driven by one individual there is a significant risk to the business if that individual leaves the organisation, or falls ill or is otherwise prevented from performing as now.

b. Financial Impact

Strategic Leisure's view is 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 this 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.

c. Impact on staff

This is 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 is likely to continue to do so. This is 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.

- d. Impact of procuring an external provider on the rest of the Council
No modelling has 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 will detail the areas where it is considered that further savings could be made and will also address any other possible consequences.
- e. Certainty of benefit of procuring an external provider
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 is 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 is by going to the market.
- f. Best Value
The Public Services (Social Value) Act 2012 places a requirement on the Council to consider overall value, including economic, environmental and social value, when reviewing service provision. These elements will be integrated into the evaluation methodology for the tenders for both the management and the construction and refurbishment projects.

Procurement

3.5.9 Taking into careful consideration the recommendations from Strategic Leisure, it is recommended that:

- a. The Council procure 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 is the Competitive Procedure with Negotiation, as this 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;
- b. As part of the procurement process, the Council would set down minimum requirements which it is seeking from any proposal in the Service Specification. Bidders will be invited to submit proposals which, amongst other things, are deliverable, financially acceptable to the Council and best fit with the Council's requirements.
- c. The timing of the procurement process will be heavily influenced by the construction programme should this be approved and it is proposed that the two processes dovetail to cause minimum interruption for service users, staff and management. Accordingly, the provisional procurement timetable would be as follows:

Activity	Target Date
Procurement process commences	1 st July 2016
Selection of preferred partner	1 st October 2016
Negotiation with preferred partner	1 st October 2016–1 st February 2017
Contract award	1 st February 2017

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

- a. The financial and other benefits of what the market can offer compared to an in-house model, which is capable of being clearly articulated to all interested parties,
- b. That Council officer time and costs will be incurred in undertaking the procurement process, as well as increased costs of contract monitoring and risk of contract failure,
- c. That the procurement procedure will 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
- d. To mitigate (but not remove) this risk, it is 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 will not be liable for any of the bidders' costs in submitting a bid.

3.5.11 If the decision is made by the Executive to procure a provider to manage the Council's leisure centre management service, it is recommended that the Executive delegate authority to the Head of Cultural Services, in consultation with the Portfolio Holder for Culture, to finalise the Service Specification (see paragraph 3.6 below), 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 will be brought back to the Executive before any decision is made.

3.6 Service Specification

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

3.6.2 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 are programmed to accommodate a wide range of users.

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

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

3.6.5 The draft Service Specification is attached as Appendix 1. The Council must recognise that there are many variables in the provision of leisure services which officers will need to work through in more detail should the Executive agree Recommendation 2.6. This will 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.

3.7 Members' Working Group

3.7.1 The cross-party Members' Working Group has played a crucial role in steering the Programme to date. As the Programme enters the new phase it is 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 are also able to feed-back to their political Groups to ensure that Councillors remain up to date as the programme develops.

3.8 Staff Implications

3.8.1 Throughout the course of the programme, sports and leisure staff and Unison representatives have 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.

3.8.2 If the management of the service is 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 will work closely with the Programme Manager to ensure that appropriate pension arrangements are in place. They will also identify other support staff that may be subject to TUPE by virtue of their duties as they relate to the Leisure Service. This will ensure the necessary work in this area is progressed in line with Council policies, and that staff are fully consulted at the appropriate times.

4 POLICY FRAMEWORK

4.1 Fit for the Future (FFF)

4.1.1 The FFF Programme is designed to help deliver the Sustainable Community Strategy (SCS) for Warwick District and to that end it contains a number of significant projects one of which is the Leisure Development Programme.

4.1.2 The FFF Programme has 3 strands and the impact of this report's proposals in relation to each of them is as set out below:

Maintain or Improve Services – the recommendations will see two leisure centres significantly extended and enhanced in Phase I, which will in turn lead

to a better quality of service for customers. There is recognition that proposals for facility enhancement in Kenilworth will be brought forward as Phase II of the project.

Achieve and maintain a sustainable balanced budget – the recommendations will help the Council address its financial revenue situation by making better use of its physical assets and reducing the level of subsidy for these discretionary services.

Engage and Empower staff: The development of the “in-house proposal” has been underpinned by input from staff across all sites. Each leisure centre now has its own Improvement Action Plan which identifies the contribution made by staff to achieving the aims of the service. Whether or not the service remains in-house, this process will have empowered staff and prepared them for a more competitive approach to the delivery of the service in the future.

4.2 Sustainable Community Strategy (SCS)

4.2.1 The Council has approved a Sustainable Community Strategy for Warwick District (SCS) which has 5 key objectives. The programme contributes to these in the following ways:

4.2.2 Health & Wellbeing

- Increasing opportunities for all to engage in sports and physical activity
- Contribution to reducing levels of obesity in the local community
- Increasing opportunities for people to learn new skills

Successful delivery of the programme will also allow the Council to contribute to the Warwickshire Health & Wellbeing Board’s Strategy by ensuring that appropriate facilities exist to serve the District, and that these facilities are managed in a way that allows all sectors of the community access to the activities on offer.

4.2.3 Prosperity

- Ensuring that the right infrastructure is available
- Making best use of public sector assets
Attracting visitors to spend within the district

The delivery of the new facilities in accordance with the Indoor Facilities Strategy will ensure that the right infrastructure is available in Leamington and Warwick and fit for purpose for the next 30 years. Phase II of the work will provide the same service for Kenilworth.

4.2.4 Sustainability

- Our community has actively minimised environmental impacts

The design of the new works at Newbold Comyn and St Nicholas Park Leisure Centres has been rigorously scrutinised in order to minimise the environmental negative impact. The fuels to be used in the new boiler plant have been selected on both environmental and practical grounds.

4.3 Local Plan

4.3.1 The Council has agreed a strategy statement “The future and sustainable prosperity for Warwick District” which amongst other things seeks to:

- Support the growth and development of the local economy
- - providing for the growth of, and changes within, the local population
- - a strong development management framework including high quality of design

This project will support the growth of the leisure market within the local economy, provide new sports and leisure facilities for the growing size of the population and contribute to strong development through producing two significant extensions to two important local buildings using high quality design.

4.4 Corporate Asset Management Plan

4.4.1 The investment proposals described in this report are aligned to the Corporate Asset Management Plan in that they look to make best use of Council assets and do so in such a way that reduces cost. The proposals also take account of the current and anticipated future maintenance liabilities of these facilities.

4.5 Indoor Sports Strategy

4.5.1 This strategy guides the future provision and management of built sporting facilities in the District. The relationship between the Indoor Sports and Leisure Strategy and the proposed developments has been demonstrated elsewhere in this report and in previous reports.

5 BUDGETARY FRAMEWORK

5.1 The structure of this section

5.1.1 This section of the report examines in detail the financial aspects of the proposals for the investment in the improvements at Newbold Comyn and St Nicholas Park Leisure Centres and the recommendation to procure an operator for the Council's leisure facilities. The section is divided into three sub-sections. The first part covers the decision as to whether or not to invest in the refurbishment and extension of two leisure centres. The second part considers the financial aspects of the decision as to whether the leisure centres should be operated in-house or externally. These are two separate decisions. However, the third section considers both decisions and their influence on each other.

SECTION ONE

5.2 Investment proposals

5.2.1 The proposed investment in the two leisure centres is estimated to cost £12m in total (including fees and the feasibility work to date). This cost has been prepared by Mace Ltd, the project management company that has been appointed by the Council to get the project to this point i.e. end of RIBA Stage 2.

5.2.2 The Cost Estimate (Appendix 1 Part B report) provides a detailed breakdown of the costs of the proposals, including construction, professional fees for further design work, an estimate for inflation, and an allowance for further surveys that may be required.

5.2.3 The Cost Estimate and RIBA Stage 2 report have been considered by officers in Housing and Property Services who have confirmed that these documents are robust and reflect a realistic approach to the investment.

5.2.4 The works would be funded from a variety of sources:-

i. s106 funding

The s106 agreements in place provide for a total of £2.7m payable by developers towards indoor sports facilities. Confirmation has been provided by officers in Development Services that the contributions are eligible for the works proposed. To date, £172k of this income has been received by the Council. The receipt of the remainder of this money is dependent on the speed with which the developments are constructed. A likely profile of this income is shown at Appendix 6 of this report. There is a risk that some income will not be forthcoming if the developments do not proceed. Within the modelling discussed below, just over £1.3m s106 income has been assumed in the "central case", received over the next eight years. No allowance has been made at this stage for any Community Infrastructure Levy contributions that the Council will receive for future developments.

ii. Sport England Funding

As discussed in paragraphs 3.3.2 to 3.3.5 of this report, it is possible that Sport England funding may be available for the project. The fund in question is a solicited fund, and therefore the Council will work with Sport England to attempt to persuade them to solicit an application. The cost model assumes £2m will be available, due in 2017/18, which is the maximum funding that Sport England will make available. Alternative scenarios are also considered below. The outcome of the application for Sport England funding will be known before Members are asked to commit to the borrowing needed to progress the capital works in 2016.

iii. Borrowing.

Given the limited resources available to the Council for investment in capital schemes, it would be necessary to borrow to pay for the bulk of the works. Given the nature of the works, and the likely life thereof (for example, the plant usually has a shorter life than the buildings), the borrowing has been based on a mix of 25 and 40 year annuity borrowing. The base modelling assumes that long term interest rates for borrowing from the Public Works Loans Board will be 4.25%, having factored in increases that are anticipated over the course of the project. Alternative interest rates have been modelled below.

iv. Temporary funding.

Given the timing of the receipt of the s106 and the Sport England funding, it will be necessary to make use of temporary funding. This may be the use of Council internal balances/reserves or temporary borrowing. Either way, this funding will have a cost attached to it which, based on projected interest rates, is estimated at 1.5%.

5.2.5 The estimated cost of the works at £12m excludes the cost of the new gym equipment which will be required for the extended gym facilities. The modelling within the in-house Business Plan allows for the cost of gym equipment by way of the inclusion of leasing costs. If the management is externalised, the contractor will be instructed to include the cost of leasing or buying this equipment within their tender price. The costs for these works were included in the in-house and external models considered by Strategic Leisure.

5.2.6 The estimated cost of the capital works is £12m. The net cost to the Council will depend on whether the gross cost varies from this figure and the s106 and Sport England funding available. At best, the net cost could reduce to £5.5m, or at worst increase to £13.5m. The "central case" being worked on is £8.5m with £2m Sport England funding, and £10.5m if the Sport England bid is unsuccessful. This net cost to the Council would be funded by borrowing.

5.2.7 Just as the net cost of the works to the Council may vary, the cost of borrowing may vary. Based on a "central case" of a net cost of £8.5m, the annual borrowing costs would amount to £486k per annum based on currently projected interest rates. If there is no funding from Sport England and the net cost to the Council amounts to £10.5m, the annual borrowing costs will be £600k per annum. The table below shows how these projected borrowing costs may vary. All borrowing costs are based on "annuity" costs.

Table 3: Potential Borrowing Costs

		£m	£m	£m	£m	£m	£m	£m			
		Net Cost	5.5	7.5	8.5	9.5	10.5	11.5	13.5		
% Rate Cost of Borrowing Net Cost	3.75%	0.295	0.402	0.455	0.509	0.563	0.616	0.723	Yearly Repayment Amount		
	4.00%	0.305	0.415	0.471	0.526	0.581	0.637	0.748			
	4.25%	0.315	0.429	0.486	0.543	0.601	0.658	0.772			
	4.50%	0.325	0.443	0.502	0.561	0.620	0.679	0.797			
	4.75%	0.335	0.457	0.518	0.579	0.640	0.701	0.823			

5.2.8 Depending on the timing of the receipt of the external funding, there will be additional short term borrowing costs. Each £1m funding that is delayed for a year will present the Council with an additional borrowing cost estimated at £15,000 (based on projected interest rates).

5.2.9 Modelling has been carried out to bring together the anticipated capital expenditure and funding receipts profiled over the expected time profile for the "central case" of net expenditure of £8.5m. On the basis of this, it has been possible to calculate the net revenue cost to the Council relating to the borrowing. Based on the assumptions used, the total revenue funding costs would peak in 2018/19 at £501k, and flatten out to £486k per annum from 2023/24.

5.2.10 This modelling has also been carried out on the basis of the net cost to the Council being £10.5, with no Sport England funding. In this scenario the on-going revenue cost relating to the borrowing is £600k.

5.2.11 Should the capital works not proceed beyond RIBA Stage 4, for whatever reason, it is likely that the costs currently proposed for this stage of the works will need to be written-off to revenue which will present an additional cost to the Council's limited revenue resources.

5.3 Additional Operating Income

5.3.1 The Management options are considered in the second section of this Budgetary Framework. It is considered that both options would produce an increase in the net income received by the Council.

5.4 Net Funding and Operating costs

5.4.1 For the investment in the leisure centres to break even, the net additional income must exceed the funding costs discussed in section 5.2.7. Appendix Z shows that the central case assumptions represent an additional cost to the General Fund in the short term. With Sport England funding, if the service is operated externally, from 2018/19 the service will represent a saving against the planned budget as reflected in the Medium Term Financial Strategy. Conversely, if operated internally, savings would accrue from 2020/21. The on-going net saving to the General Fund from the external model would give savings of £200,000 from 2020/21, over and above the £500,000 saving assumed by the Medium Term Financial Strategy. Based on net investment of £8.5m, this additional annual income represents a return of 2% per annum.

5.5. Sensitivity analysis

5.5.1 As stated in section 5.2.9, the above figures are based on the "central case" assumptions. The best case and worse case scenarios would represent a very different picture.

5.5.2 The best case scenario would include the following changes:-

- Reduced cost of the capital investment
- Increased funding from s106 or Community Infrastructure Levy
- s106 and Sport England funding received earlier
- Reduced borrowing costs from lower interest rates

Modelling these scenarios suggests that the annual funding costs would in this case reduce by £190k per annum. In addition, in the best case scenario, the income from the leisure centres would also increase. This could give a significant improvement on the trading position of the centres, with substantial additional net income to the General Fund.

5.5.3 Conversely, the worst case scenario would present additional net funding costs of £330,000 per annum, and income reducing substantially. This would mean the General Fund would have to find a significant additional sum per annum.

5.5.4 Given the overall funding position of the Council, it is not in a position to take on any increased revenue expenditure without commensurate reductions elsewhere. If the decision is taken to invest in the leisure centres, Members will need to be confident that all measures are taken to avoid the costs increasing from the "central case" position. This is discussed further in Section 6 – Risks.

SECTION TWO

5.6 Management Options

- 5.6.1 A key element of the Leisure Development Programme was the development of an in-house Business Plan (Appendix 2 of Part B report). It was acknowledged in the early phase of the Programme that an independent appraisal of the in-house proposals would be essential when Members were asked to consider the best option for the management of the Council's leisure centres in the future. Strategic Leisure was appointed to undertake this appraisal.
- 5.6.2 The in-house Business Plan presented the **2 options** discussed at paragraphs 3.5.3 and 3.5.4. The In-House team undertook a thorough exercise in working up income and expenditure budgets from first principles, seeking to strike a balance between a new approach to delivering the service and optimising the opportunities presented by the investment proposals in Option 2, whilst ensuring that both options were modelled from a position of reality and deliverability. Both options see a significant reduction in the subsidy for the service by the end of Year 5 (2020/21). In Option 1 the subsidy reduces by £397,000 (from 2015/16, including PPM) and Option 2 by £1,118,000 (2020/21) although this is before the borrowing cost of the improvement works is factored in.
- 5.6.3 The Strategic Leisure appraisal (Appendix 4 of Part B report) took the in-house Business Plan and Prospectus and compared it with industry benchmarks to come to a series of conclusions of how the in-house model compares with what would be expected of a commercial/private sector operator.
- 5.6.4 The Strategic Leisure appraisal summarises each option, benchmarks the proposal against industry standards and challenges assumptions made by the in-house proposals. The report also highlights the comparative position of the in-house and externalised models in respect of NNDR and VAT, compares the risks of each model and comments on the deliverability of each model.
- 5.6.5 Strategic Leisure has summarised the comparison of the in-house and externalised options as follows. "Without a formal procurement of the service it is difficult to confirm definitively the difference between an in-house operation and an external operator. SLL's comments and observations are based on the numerous bids we have seen from the operator market, our own in-house database, and industry benchmarks. Based on the information presented in the in-house Option 2 Facility and Service Improvement figures, and what we would expect to see from the market, there is a financial differential, although this is reduced substantially from Option 1. Of this financial differential over two-thirds relates to VAT and NNDR savings, which are not available to an in-house operator."
- 5.6.6 Officers have considered the Strategic Leisure appraisal and would ask Members to consider the comments made in Appendix 5 of this report when assessing all the information.

5.7 Pre-planned maintenance

- 5.7.1 A survey conducted by EH Harris in 2011 identified that the leisure centres were in a good condition for their age and use. However, they also identified a range of works that would be required in order to maintain the buildings in at least

their current state of repair. This work would be scheduled throughout a 30 year period as part of the Council's PPM Programme. The total cost over the 30 years, for the 4 leisure centres owned by the Council, was estimated to be around £3 million.

- 5.7.2 The first 5 years of this PPM has been scoped in detail. The total cost of the PPM for the 4 leisure centres for the next 5 years has been established as £836,000. The PPM is not currently funded.
- 5.7.3 As discussed at paragraph 3.1.9 of this report, the design team have identified a further range of works that need to be completed at Newbold Comyn and St Nicholas Park Leisure Centres in order to ensure that the facilities are fit for purpose and ready for their next period of use. The cost of these necessary works has been calculated as £3.9 million. To reiterate, if the Leisure Development Programme does not go ahead, these works will still need to be funded in order that the buildings can remain open and remain fit for purpose.
- 5.7.4 There are works totalling £397,000 that are common to the PPM and the Leisure Development Programme. If the Leisure Development Programme works do go ahead, this work will therefore be removed from the PPM.
- 5.7.5 There are also works totalling £439,000 that are included within the first five years of the PPM for the four leisure centres owned by the Council that are not included in the work proposed under the Leisure Development Programme. The cost of this work has been included in the in-house Business Plan. If the management process is externalised, the contract would require the contractor to carry out these works on the Council's behalf. The potential contractors would price for this when submitting their tender. The costs for these works were included in the in-house and external options considered by Strategic Leisure.
- 5.7.6 To ensure comparability in considering the investment opportunity, the cost of the PPM needed at Newbold Comyn and St Nicholas Park that is not included within the Business Plan or Strategic Leisure report has been assessed at £3.5m. This is the value of the additional work that would need to be carried out at these leisure centres if the investment does not progress. If the cost of this work is spread over 25 years, this would amount to an additional annual cost of £230,000. This cost has been factored in to the comparison of the options within Appendix Z.

5.8. Support Service costs and overheads

- 5.8.1 It will be noted from the Business Plan that the Council's support service costs have been excluded on the basis that these would apply to the in-house and external models, as support service costs would not automatically fall if the contract was externalised.
- 5.8.2 The Strategic Leisure modelling has made an allowance for "overheads" of an external contractor at 3% of income. These are significantly below the support service costs charged to the current leisure service, largely reflecting how an external operator would seek to "absorb" the extra leisure centres without having to increase their central overheads through economies of scale. As will have been noted above, even with the inclusion of the overheads, the external provider still provides improved financial performance when compared to the in-house model where the support service costs have not been included.

- 5.8.3 If the service is to be operated by an external provider, the Council should seek to reduce its support service costs. In the event of externalisation, all staff directly employed on providing the service at the centres automatically transfer to the new provider under TUPE. Whilst this will apply to all staff directly involved in the provision of the service, it may also apply to some staff indirectly supporting the service. In this respect there should be some reduction in the Council's support service costs, but this is not likely to be significant compared to the overall support service cost currently charged to the leisure centres.
- 5.8.4 Beyond the TUPE transfers, Service Areas should seek to reduce their cost, ideally proportionally, through natural wastage or potentially through staff restructures, which would generate further savings for the Council. If restructures are implemented there may, in due course, be an additional cost in terms of early retirement/redundancy costs. However, it is unlikely that it will be possible to reduce these support service costs by the amount that is currently charged to the leisure centres. This is because there will always be an element of our central costs that are relatively fixed. The fixed elements may include, for example, the need to maintain central ICT systems, the need to produce annual accounts and the management of required HR policies. As a minimum, the Council should seek to reduce its support service costs by at least the central overheads that would be assumed to be paid by the external operator otherwise the Council will in effect be paying twice for these services.

5.9 Comparison to external provider

- 5.9.1 The report from Strategic Leisure compares the in-house model to the potential performance of an external provider as discussed earlier. This analysis did not model the potential cost/income profile by year, and did not explicitly quantify some of the potential income sources, notably the health and fitness income. Officers have attempted to do this, as shown within Appendix Y on part B of this report.
- 5.9.2 It will be noted that the external operator should benefit from 80% mandatory relief for business rates, which has been factored into the projections. However, under the Business Rate Retention Scheme, the Council receives 20% of any change in business rate income due, and similarly bears the cost of 20% of any reduction. This has already been discussed and factored into the analysis by Strategic Leisure.

SECTION THREE

5.10 Overall Financial position

- 5.10.1 Appendix Z of this report sets out to compare the revenue cost of the current service provision, as reflected within the Council's Medium Term Financial Strategy, with the projected costs of the service being provided in-house or externally, with and without the capital investment in the facilities. The analysis also shows the net costs if the Sport England bid is unsuccessful and brings in the capital financing costs that are discussed in Section 5.2.
- 5.10.2 Compared to the Council's Medium Term Financial Strategy (MTFS), it will be noted that the projections under Option 1 (no capital investment) in-house team, will present an additional cost to the Council in future years. However, in

making this comparison to the MTFS, it should be noted, as discussed in Section 5.7, that the Pre-Planned Maintenance is not currently fully budgeted for, and as such, presents an additional cost on the MTFS.

5.10.3 As discussed elsewhere within the report, there are obviously risks attached to the projections, hence the various modelling that has been carried out. In terms of the management of the centres, as discussed in the Strategic Leisure report, the operation by an external provider should present less risk in terms of achieving the projected increased income and cost savings.

5.10.4 Members will note that, should they agree to the recommendations to invest in the two leisure centres and externalise the operation of the service, there will be an increased cost in the first three years. The options for meeting this include, in no particular order, use of expected New Homes Bonus funding (should the scheme continue), a review of the current capital programme or one-off savings from elsewhere. Should Members agree to proceed with the recommendations then the future report referenced in recommendation 2.1 will advise how this shortfall will be met.

5.11 MTFS and FFF

5.11.1 Members will be aware from the Fit For the Future report considered in September, that the Council needs to secure savings approaching £1m for 2016/17, increasing to £1.1m by 2020/21. A programme of projects to secure the necessary savings was agreed by Members. This programme included £500,000 savings from Leisure Option work, with £250,000 per annum from 2018/19 increasing by a further £250,000 per annum from 2019/20.

5.11.2 The above analysis shows that under the external model, the investment in the leisure centres could generate £200,000 extra savings from 2020/21, in addition to the £500,000 savings described in 5.11.1 above.

5.11.3 Should Members agree to recommendation 2.5 then £30,000 from the Contingency Budget will be required to undertake the procurement of an external management operator. Members should also be aware that a further funding request is likely to come forward in the next report to provide programme management for Phase II of the Leisure Development Programme.

6 **RISKS**

6.1 The table below summarises the key risks and mitigations relating to the proposals set out in this report. Members should note that the Programme Board has been using a comprehensive Risk Log to help guide its work which is included as Appendix 7 to this report.

Table 4: Risk and Mitigation

Risk (not in priority order)	Mitigation
Reduction in demand through competing new provision Depressed market	Strong marketing by operator; good initial design and sound management Demand report predicts stable demand
Insufficient resource to complete tendering process	Staff resource in place

<p>That the market does not respond to the procurement opportunity</p> <p>That, as a consequence of the Council undertaking a procurement exercise, it decides not to award a contract to an external provider</p> <p>The appointed partner will not enter into a contract on satisfactory terms to the Council at the conclusion of the procurement process</p> <p>Car parking at St Nicholas is inadequate for new business Modifications become necessary to the design due to unavailable utilities, existing but latent structural and filtration problems, or flood alleviation s106 Developer contributions do not materialise as anticipated</p> <p>Sport England Strategic Facilities funding application is unsuccessful</p> <p>Costs of new facilities higher than anticipated</p> <p>Works do not proceed beyond RIBA Stage 4, so project costs incurred need to be written off to revenue. Delay in the decision-making process significantly impacts on the deliverability of the programme</p> <p>Delay to Planning process</p>	<p>This was the reason for carrying out the soft market testing which confirmed that the market will respond positively to the procurement opportunity</p> <p>The Council plans a procurement procedure in such a way as to avoid the need for cancellations and avoid the risk of challenge from prospective suppliers</p> <p>A contract, with KPIs, will need to be drafted to ensure that the partner is fully bound at law to deliver what has been agreed. The contract will be included in the procurement documentation, and the risk will be minimised by ensuring (a) that the contract is very specific on the Council's requirements and (b) any issues or areas of concern are address during the negotiation stage of the procurement process. Further report to Executive</p> <p>RIBA Stage 3 and 4 will carry out more intensive surveys to identify and cost any additional issues before a final decision to go ahead is made. Calculations in section 5.2 are based on a suppressed figure of £1.3m rather than the full £2.7m</p> <p>Officers continue work with Sport England and information will be available before any final decision is made</p> <p>Robust project management using RIBA framework and regular value engineering Council maintaining adequate reserves.</p> <p>Ensure that reports are timely and comprehensive and officers fully engage with the Members' Working Group</p> <p>Ensure Planning Applications are thorough and work closely with Planning colleagues to resolve issues promptly</p>
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6.2 In view of the above mitigations, officers believe that the risks to the Council can be managed and should not prevent the Council from proceeding with this project. Any significant risk will be reported back to Executive for action.

7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 The report details the reasons why investment in Newbold Comyn and St Nicholas Park Leisure Centres is considered necessary (Section 3.1). However, a decision could be taken not to make the significant investment outlined in the report. If this 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.
- 7.2 A decision could be taken to invest on one but not both of the above venues. In this 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.

Appendices:

1. Draft Service Specification
2. Health & fitness – update on local provision
3. Investment proposals – extracts from RIBA Stage 2 report
4. Summary of parking surveys (SNPLC & NCLC)
5. Issues to consider when externalising the operation of WDC leisure centres
6. Phasing of s106 developer contributions
7. Risk Log

Appendices in Part B report i.e. Confidential:

1. Investment proposals – RIBA Stage 2 Cost Estimate
2. In-house Business Plan
3. In-house Prospectus – circulated separately
4. Strategic Leisure appraisal of in-house model
5. Commentary on Strategic Leisure appraisal
- Y. Potential operator comparisons
- Z. Costs and income - summary

Background Papers to go on Council Website:

1. Atkins parking report
2. Clip and Climb product
3. NAA Facility Audit

Appendix 3

Comments made on the Executive Agenda for 4 November 2015 by the Joint Finance & Audit Committee and Overview & Scrutiny Committee

Leisure Options

The Joint Scrutiny Committee recommends to the Executive that

- 1) recommendations 2.6, 2.7, 2.8 & 2.9 are removed, effectively retaining the Leisure Options in Council's management control and continuing under existing arrangements;
- 2) the Executive investigate the option of introducing a "Passport to Leisure" into the contract to enable access to leisure facilities for all members of the community; and
- 3) the Executive considers the Trust option and ensure they consider the Social Value losses and gains of all three options.

Appendix 4 – Extracts from the public draft minutes of the Executive 4 November 2015

10. 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)