 Executive 11 September 2013		Agenda Item No. 5
Title	Call-in of Executive Decision - Potential Recreation of Kenilworth Mere	
For further information about this report please contact	Graham Leach, Democratic Services Manager 01926 456114 or email graham.leach@warwickdc.gov.uk	
Wards of the District directly affected	Kenilworth Abbey	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	O & S and F & A Committees 18 June 2013, Executive 19 June 2013, O&S Committee 10 July 2013 and Council 21 August 2013.	
Background Papers	Report to Executive 19 June 2013 "Potential Recreation of the Mere at Kenilworth Castle". Minutes of the meeting of the Executive 19 June 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 (Ref 435)
Equality & Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	28/8/2013	Chris Elliott
Head of Service		
CMT	28/8/2013	CMT
Section 151 Officer		
Monitoring Officer	28/8/2013	Andy Jones
Finance	28/8/2013	Mike Snow
Portfolio Holder(s)		
Consultation & Community Engagement		
Philip Clarke, Senior Projects Co-ordinator for information purposes only.		
Final Decision?		Yes unless the Executive revise their original decision in which case it could be called into Scrutiny for further consideration
Suggested next steps (if not final decision please set out below)		

1. **SUMMARY**

- 1.2 On 19 June 2013, the Executive made decisions on item 6 "Potential recreation of the Mere at Kenilworth Castle". In accordance with the Council's call in procedure, these decisions have been referred back to the Executive for consideration.

2. **RECOMMENDATIONS**

- 2.1 That in respect of the resolution 19 June 2013 made by the Executive on the "Potential recreation of the Mere at Kenilworth Castle", the Executive takes one of the following actions:
- (i) to confirm the decision made by the Executive on 19 June 2013 so it can be implemented without further delay; or
 - (ii) to make an alternative decision which would be subject to a further call in.

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 Council. It is a key way of holding the Executive to account. A called-in decision cannot be implemented until it has been considered by Council, which can examine the issue and question the decision maker on the reasons for the decision.

5. **BUDGETARY FRAMEWORK**

- 5.1 Budgetary implications have been detailed in the report that went to the Executive on 19 June 2013, as set out in Appendix 2.

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 18 June 2013, the Overview and Scrutiny Committee and the Finance and Audit Scrutiny Committee considered Item 6 – Potential recreation of the Mere at Kenilworth Castle that would be decided by the Executive the following day.
- 7.2 The Summary of the Scrutiny comments are attached as Appendix 3.
- 7.3 On 19 June 2013, the Executive met and made its decision on the both report as set out in Appendices 2 to this report. Appendix 4 is an extract of the minutes of the meeting which shows the decisions made by the Executive in respect of the report.

- 7.4 On 22 June 2013, Councillors called-in the Mere report. The reasons for the call-in are set out at Appendix 1 to the report. The reports were considered by Overview & Scrutiny Committee on 10 July 2013.
- 7.5 The Overview & Scrutiny Committee determined that "Item 6 – Potential recreation of the Mere at Kenilworth Castle" should be referred to Council for consideration because the Committee was extremely disappointed with the decision of the Executive because of the significant concerns raised by both itself and the Finance & Audit Scrutiny Committee. In the opinion of both Committees, neither the feasibility study nor the recreation of the Mere, which would cost in excess of £20m, represented good value for money. In addition, and more importantly, the consultation responses from Kenilworth residents clearly stated that they did not want this and that the Council should listen to the public.
- 7.8 At Council on 21 August 2013 the item was referred back to the Executive for further consideration. The Executive therefore are obliged to reconsider the decision and can either confirm their original decision or take an alternative decision. However it should be noted any revision to the previous decision would enable the decision to be called into Overview & Scrutiny Committee as set out with the Council procedure rules.

Appendix 1 –Reasons for call in to O&S Committee

Executive Agenda Item Number	Report Title	Councillors who called-in the report	Reasons
6	Potential recreation of the Mere at Kenilworth Castle	Councillors: Boad Copping Ms Dean Mrs Falp Mrs Gallagher Gifford Gill Heath Kirton Mrs Knight MacKay Mrs Syson Ms Weed	<ul style="list-style-type: none"> (i) Both cross-party Scrutiny Committees were not in favour of the study. (ii) It is not appropriate use of the Service Transformation Budget Reserve or any of Warwick District Council budgets. (iii) It has a lack of support from many Councillors. (iv) It is speculative. (v) Warwick District Council does not own the land. (vi) There is no commitment from the Land Owner to put in any finance. (vii) Considerable interest in the project is stated in the report, yet only a small minority agreed with the principle (57% to 43%) but no actual figures of how many people this was out of 100-1000? (viii) 64% against, 36% agreed to developments to support, again no idea percentage of what. (ix) If it is going to cost £120,000 for just the study, what cost will the whole scheme end up being. (x) A waste of money when residents in our area are struggling. (xi) A waste of money when our officers are looking to cut their budgets. (xii) With so much opposition, all councillors should be given the right to debate and state what they think about the scheme.

Appendix 2 – Report to Executive 19 June 2013

 Executive – 19th June 2013		Agenda Item No. 6
Title	Potential recreation of the Mere at Kenilworth Castle	
For further information about this report please contact	Chris Elliott Chief Executive 01926 456000 chris.elliott@warwickdc.gov.uk Philip Clarke Senior Projects Co-ordinator 01926 456518 Philip.clarke@warwickdc.gov.uk	
Wards of the District directly affected	Kenilworth Abbey	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Executive 26 th August 2009 Minute number 72c	
Background Papers		
Contrary to the policy framework:	No	
Contrary to the budgetary framework:	No	
Key Decision?	Yes	
Included within the Forward Plan? (If yes include reference number)	Yes (Ref 435)	
Equality & Sustainability Impact Assessment Undertaken	No	
Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	24 th May 2013	Author
Head of Service	24 th May 2013	n/a (Chief Executive's Department)
CMT	24 th May 2013	Chris Elliott, Andrew Jones, Bill Hunt
Section 151 Officer	24 th May 2013	Mike Snow
Monitoring Officer	24 th May 2013	Andy Jones
Finance	24 th May 2013	Mike Snow
Portfolio Holder(s)		Cllr. Hammon
Consultation & Community Engagement		
n/a		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1. **SUMMARY**

- 1.1 The purpose of this report is to seek approval for the Council to fund a feasibility study into the re-creation of the Mere at Kenilworth Castle.

2. **RECOMMENDATIONS**

- 2.1 That Executive supports the principle of undertaking a study to consider the feasibility of re-creating the Mere at Kenilworth Castle in accordance with the approach set out in para. 3.4 and paras. 3.7–3.12 below.
- 2.2 That Executive allocates £120,000 funded from the Service Transformation Reserve and agrees to procure consultants to undertake the whole study, but within this to only authorise stage 1 (up to a maximum of £25,000) to be undertaken now.
- 2.3 That officers be asked to report back once stage 1 is completed so that Executive can consider whether to release up to a further £95,000 of the budget to complete the subsequent stages of the study.
- 2.4 That Executive asks the Kenilworth Town Centre Steering Group to work with officers alongside the appointed consultants to manage the delivery of the feasibility study.

3. **REASONS FOR THE RECOMMENDATIONS**

- 3.1 There has been much public debate in Kenilworth over many years as to the costs and benefits of seeking to recreate the medieval Mere at Kenilworth Castle. This project has attracted considerable public interest in the past with strong views expressed both for and against the proposal. The proposal has had high level support in the past from within English Heritage (see **appendix A**).
- 3.2 Members will recall that the council has previously investigated the potential of funding a study to consider the feasibility of recreating the Mere. Back in 2009, it had been hoped that Advantage West Midlands, the (then) Regional Development Agency (RDA), would fund the study. This was ultimately unsuccessful and the RDA has now been wound up.
- 3.3 A feasibility study is considered important to enable the Council (and its partners) to take a more informed view as to whether it wishes to continue to support the Mere project. Officers have been seeking to scope the issues that a feasibility study would need to address and to get a broad indication of the likely costs.
- 3.4 Any feasibility study would need to consider the following issues:-
 - 1 Engineering, geological, hydrological and other technical matters that would inform the technical feasibility of creating the Mere; and in consequence inform an understanding of the Mere's size and appearance.
 - 2 The full range of planning issues (including ecological, heritage, transportation and landscape matters) that would need to be weighted in the balance as the council considers the proposal further

- 3 The likely broad cost of reinstating the Mere, together with the running costs thereof.
 - 4 leisure, economic and tourism opportunities that could potentially be created by the Mere. What would be the benefits, implications and broad costs of these opportunities?
 - 5 Details of the funding opportunities to reinstate the mere, and to pay for any running costs.
 - 6 the key delivery issues that the Council and its partners would need to consider in moving the project forward.
 - 7 Alongside all the assumptions on which the feasibility is based, the risks of the project also need to be analysed.
- 3.5 Officers have sought informal advice from two leading planning consultancies on the approximate likely cost of undertaking a feasibility study of this scope and breadth. This has indicated that the cost of the study is likely to be between £100,000 and £120,000.
- 3.6 It is considered, however, that it would be sensible to adopt a staged approach to undertaking the study. This would allow for further information to be gathered and for the possible level of support for recreating the mere to be tested before committing the council (and possibly other funding partner organisations) to the full cost of the study.
- 3.7 It is therefore recommended that Executive approves a budget of up to £120,000 for commissioning the full study now, but that the study is commissioned on a staged basis, with only stage 1 (see below) being initially undertaken. It will be made clear to the successful tenderer that approval of subsequent stages will only be given by the Council following receipt and consideration of the stage 1 report and that if the council chooses not to continue to fund the study, it will cease at the end of stage 1. Such an approach avoids the time and cost of having to procure separately for each stage of the study but retains the Council's control over whether it wishes to proceed from stage 1 to stage 2 and then onto stage 3.

Stage 1: Scoping (estimated cost £25,000)

- 3.8 This stage would seek to identify as much information as possible on the likely issues associated with the creation of a mere at this location, the technical work that will be required at the feasibility stage (stage 2 – see below) and at implementation (stage 3) – should the project progress that far. The Scoping Study would consider:-
- How the project aligns with existing strategies and action plans both of the council and key stakeholders (for example English Heritage)
 - What other planning and transportation issues are raised by the proposal and what, overall, are the issues that the Council would have to weigh in the balance in considering the appropriateness of the proposal
 - What tourism and leisure opportunities may be available.
 - What are likely to be the key delivery issues taking the project forward. This will include (in very broad terms) identifying the costs of any tourism and leisure opportunities and identifying any opportunities for match funding.

- 3.9 This stage would include a workshop session to carry out a high level options exercise to explore some of the above in more detail.

Stage 2: Technical feasibility (estimated cost c£80,000)

- 3.10 This stage would consider in more detail the detailed technical feasibility of the various options identified under stage 1. Here regard will be given to the need for the Council to consider the costs associated with not only the physical construction of the mere (and associated works) but also its long term management. Conclusions will be drawn and recommendations on a preferred option made. Details will be provided on how the project could be procured, managed and delivered.

Stage 3: Detailed design and implementation (estimated cost TBD)

- 3.11 This would be a necessary third stage following on from, and dependent upon, the output of stage 2. The precise scope and cost of this would be determined depending on the output to stage 2 above.
- 3.12 In addition to the above, the council may wish to retain the successful consultancy team to undertake further work on our behalf. We would accordingly ask the consultancy team to set out their rates for further work and commit to being available to undertake this.
- 3.13 In terms of managing the production of the feasibility study, and ensuring that there is good local understanding and support of the study, it is proposed that the Kenilworth Town Centre Steering Group (KTCSG) be asked to help manage the commissioning and implementation of the study. The KTCSG is a cross party councillor group including members of the county, district and town councils.

4. POLICY FRAMEWORK

- 4.1 The recreation of the Mere offers potential tourism and leisure opportunities and as such fits into the shared vision set out in Warwick District's Sustainable Community Strategy 2009 – 2026 which states that "Warwick District, a great place to live, work and visit...". Furthermore, the "Fit for the Future" programme identifies a number of benefits which the council is trying to bring about, one of which is "a thriving tourist industry". One of the identified ways of delivering this is through "supporting more innovative tourism.....activities".
- 4.2 In the Local Plan Preferred Options (May 2012) the Council set out its support for protecting, enhancing and restoring Strategic Green Infrastructure and identified Kenilworth Mere as an emerging opportunity within this (policy PO15).

5. BUDGETARY FRAMEWORK

- 5.1 Within the Fit For the Future reports presented in April and October 2012, funding for the Kenilworth Mere feasibility was provisionally allowed for at an indicative £250,000 to come from the Service Transformation Reserve. This funding was subject to Executive approval to agree the funding following a more detailed business case. As discussed in paragraph 3.5, the cost of this feasibility work should be below £120,000.
- 5.2 The unallocated balance on the Service Transformation Reserve is £979,000. This will reduce to £859,000 after allowing for the Kenilworth Mere feasibility works.

- 5.3 The likely cost of reinstating the Mere will be substantial. The Feasibility reports need to consider the costs of the mere, both upfront and on-going. Alongside this, funding opportunities need to be explored, on the basis that the Council would be unable to finance the up-front costs alone, nor the capacity to absorb any increased running costs.

6. ALTERNATIVE OPTION(S) CONSIDERED

- 6.1 The Council could decide not to continue to investigate the opportunities for re-creating the Mere. Carrying out a feasibility study is considered to be an essential first step to helping the Council understand whether it wishes to do further work to promote the Mere project. The Council could decide not to undertake this work now and therefore to abandon the project (at least for the time being). This is not supported given the level of public interest that has been generated by the project (including most recently by the public consultation undertaken by Kenilworth Town Council (see para. 7.4 below)) and the references made to it in documents such as the Local Plan and the Council's "Fit for the future" programme.
- 6.2 A further alternative option would be for the Council to not undertake the feasibility study on a staged basis but to commission the full study now. This is also not supported for the reasons set out in para. 3.6 above.

7. BACKGROUND

- 7.1 Kenilworth Castle once stood at the heart of a 1,600-ha (4,000-acre) hunting ground, and was surrounded on two sides by a vast man-made lake. The Castle was originally established in the 1120s but was added to in subsequent years, notably in the early 13th century where King John added an outer circuit of stone walls, and the earthworks to create the "Great Mere".
- 7.2 The Mere was an integral part of the Castle defences until this capability was destroyed by Parliamentary edict shortly after the English Civil War. The Mere was eventually drained in the 17th century but is considered important in understanding the history and significance of the Castle.
- 7.3 The castle is owned by Kenilworth Town Council on behalf of local residents and has been managed by English Heritage since 1984. There has been considerable local interest and speculation surrounding the possible re-creation of the Mere since 2008, and it has been widely reported in the local press. However, to date, no comprehensive feasibility study has been undertaken of the costs and implications of re-creating the Mere.
- 7.4 As recently as late 2012, Kenilworth Town Council sought the views of residents on the merits of recreating the Mere. This consultation asked two questions. Firstly, it sought views on the general principle of recreating the Mere to enhance the setting of the Castle, bring an added tourist attraction to Kenilworth and control flooding. A small majority (57%) agreed (or strongly agreed) with the proposal and 43% disagreed (or strongly disagreed). Secondly, the consultation sought local views on possible developments that could help support the viable delivery of the Mere proposal; specifically a hotel, a small holiday park or a nature reserve / public recreation facility. To this question, 36% agreed (or strongly agreed) that the Mere project should proceed on this basis, and 64% disagreed (or strongly disagreed).

Appendix 3

Extracts from the Summary of Comments made on the Executive Agenda for 19 June 2013 by the Overview and Scrutiny Committee and the Finance and Audit Scrutiny Committee

6. Potential recreation of the Mere at Kenilworth Castle

The Finance and Audit Scrutiny Committee noted that some residents supported reintroduction of the Mere on its own, but that they appeared not to be supportive of any other developments which might go with that. Members felt that in the current state of austerity, such spending was frivolous and therefore the Committee did not support the recommendations in the report and made the following recommendation to the Executive.

The Finance and Audit Scrutiny Committee made the following recommendation:

That, in light of the current economic climate and financial pressures on the Council, the project is not pursued at the present time.

**The Executive are required to vote on this
because it forms a recommendation to them.**

The Overview and Scrutiny Committee recommended that the money is not allocated for a feasibility study. This was unanimously supported by all Members present. In times of austerity, this gives completely the wrong message to the public and the Service Transformation Reserve is not the right fund to use.

**The Executive are required to vote on this
because it forms a recommendation to them.**

Appendix 4 – Extracts from the approved minutes of the Executive 19 June 2013

10. POTENTIAL RECREATION OF THE MERE AT KENILWORTH CASTLE

The Executive considered a report from the Chief Executive and Development Services which sought approval for the Council to fund a feasibility study into the re-creation of the Mere at Kenilworth Castle.

There had been much public debate in Kenilworth over many years as to the costs and benefits of seeking to recreate the medieval Mere at Kenilworth Castle. This project had attracted considerable public interest in the past with strong views expressed both for and against the proposal. The proposal had also had high level support in the past from within English Heritage.

The report asked that Members allocate £120,000 funded from the Service Transformation Reserve and agree to procure consultants to undertake the whole study, but within this to only authorise stage 1 (up to a maximum of £25,000) to be undertaken now. It was recommended that officers be asked to report back once stage 1 had been completed so that the Executive could consider whether to release up to a further £95,000 of the budget to complete the subsequent stages of the study.

The report also recommended that the Executive ask the Kenilworth Town Centre Steering Group to work with officers alongside the appointed consultants to manage the delivery of the feasibility study.

The Council could decide not to continue to investigate the opportunities for re-creating the Mere. However, officers advised that carrying out a feasibility study was considered to be an essential first step to helping the Council understand whether it wished to do further work to promote the Mere project. The Council could decide not to undertake the work now and therefore to abandon the project (at least for the time being). This was not supported given the level of public interest that had been generated by the project (including most recently by the public consultation undertaken by Kenilworth Town Council, as detailed in the report and the references made to it in documents such as the Local Plan and the Council's "Fit for the future" programme).

A further alternative option would be for the Council to not undertake the feasibility study on a staged basis but to commission the full study now. This was also not supported because to do so would exclude the option of gathering further information and for the council to test any possible level of support.

The Finance and Audit Scrutiny Committee noted that some residents supported reintroduction of the Mere on its own, but that they appeared not to be supportive of any other developments which might go with that. Members felt that in the current state of austerity, such spending was frivolous and therefore the Committee did not support the recommendations in the report and made the following recommendation to the Executive.

That, in light of the current economic climate and financial pressures on the Council, the project was not pursued at the present time.

The Overview and Scrutiny Committee recommended that the money was not allocated for a feasibility study. This was unanimously supported by all Members present. In times of austerity, this gave completely the wrong

message to the public and the Service Transformation Reserve was not the right fund to use.

In response, the Portfolio Holder expressed his disappointment at the lack of support from the scrutiny committees. He reminded them that this had been a project that had been talked about for some time and felt that the Council had a duty to look to the future vision of the District. He also highlighted that at this stage, the funding would only be for the feasibility study which would decide if the project was feasible or not.

Members debated the implications of investing in the future, encouraging tourism and potentially providing employment opportunities for the health and wellbeing of the community against the public perception that this was a frivolous waste of money.

The Portfolio Holder for Development Services hoped that the project would encourage English Heritage and Kenilworth Castle to find ways to share business and the benefits that the project could bring.

With regard to the Overview and Scrutiny Committee's comment that the Service Transformation Reserve was not the right fund to use, the Portfolio Holder for Finance advised that both he and the Section 151 Officer were happy with this arrangement.

The Executive did not accept the recommendations from either scrutiny committee because they felt it was vital to invest in the long term vision for Warwick District, to encourage tourism and to look to the future for both residents and visitors to the town.

Having read the report and considered the comments made by the Scrutiny Committees, the Executive agreed the recommendations as written.

RESOLVED that

- (1) the principle of undertaking a study to consider the feasibility of re-creating the Mere at Kenilworth Castle in accordance with the approach set out in paragraph 3.4 and paragraph 3.7–3.12 of the report, is supported;
- (2) a £120,000 allocation is funded from the Service Transformation Reserve and consultants are procured to undertake the whole study, but within this to only authorise stage 1 (up to a maximum of £25,000) which is to be undertaken now;
- (3) officers will report back once stage 1 is completed so that the Executive can consider whether to release up to a further £95,000 of the budget to complete the subsequent stages of the study; and
- (4) the Kenilworth Town Centre Steering Group are asked to work with officers alongside the appointed consultants to manage the delivery of the feasibility study.

(The Portfolio Holder for this item was Councillor Hammon)
(Forward Plan ref 435)