

# Executive

Minutes of the meeting held on Wednesday 27 September 2017 at the Town Hall, Royal Leamington Spa, at 6.00 pm.

**Present:** Councillor Mobbs (Leader); Councillors Grainger, Phillips, Rhead, Thompson and Whiting.

**Also present:** Councillors; Mrs Falp (Chair of Overview & Scrutiny Committee and Whitnash Residents' Association (Independent) Group Observer); Naimo (Labour Group Observer); and Quinney (representative of Finance & Audit Scrutiny Committee).

## 55. **Declarations of Interest**

### Minute 58 - Business Improvement District (BID) Leamington – Renewal Process

Councillor Naimo declared a personal interest because she worked for BID Leamington.

### Minute 60 - Shared Environmental Enforcement with Rugby Borough Council (RBC)

Councillor Mrs Falp declared a personal interest because her son worked in Neighbourhood Services.

## 56. **Minutes**

The minutes of 31 August 2017 were taken as read and signed by the Leader as a correct record.

### **Part 1**

(Items on which a decision by Council on 20 September 2017 was required)

## 57. **Fees & Charges 2018/19**

The Executive considered a report from Finance that detailed the proposals for Fees and Charges in respect of the 2018 calendar year. It detailed the latest Fees and Charges income 2017/18 budgets, initial 2018/19 and the actual out-turn for 2016/17.

The Council was required to update its Fees and Charges in order that the impact of any changes could be fed into the setting of the budget for 2018/19. Discretionary Fees and Charges for the forthcoming calendar year had to be approved by Council.

In the current financial climate, it was important that the Council carefully monitored its income, eliminated deficits on service specific provisions where possible and therefore minimised the forecast future General Fund revenue deficit.

Some additional fees had been created to generate additional income for the service areas concerned and others in response to new legislation. These were highlighted in Appendix A. Other charges had been deleted due to legislation changes or changes in the way the service was provided. A 2% increase in Fees and Charges income had been allowed for in the Medium Term Financial Strategy (MTFS). Estimates suggested that the changes recommended in the report would increase the related income by 3.25%.

The Regulatory Manager had to ensure that licensing fees reflected the current legislation. The fees charged should only reflect the amount of officer time and associated costs needed to administer them.

New cremation fees were proposed to meet potential new or differing customer requirements.

Land Charges and Building Control fees were ring fenced accounts: Income levels for Land Charges were high and it was recommended that fees should not increase to avoid creating a large surplus on the Building Control Account, which should break even. Building Control was subject to competition from the private sector and had to set charges that were competitive otherwise they would lose customers.

A report was submitted to August's Executive detailing proposals for the Parking Service and the findings from that report had been incorporated into this report.

Management of the Council's Leisure Centres was handled by Everyone Active. The contract required Everyone Active to review the core products and prices in September of each year and submit any proposed changes to the Authority for approval. The revised prices were shown at Appendix B, to the report.

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

Fees and Charges for 2018/19 remained static i.e. remained at the same level as for 2017/18, which would increase the savings to be found over the next five years unless additional activity could be generated to offset this

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

**Recommended** to Council that

- (1) the Fees and Charges proposals set out in Appendix A to the report, to operate from 2 January 2018 unless stated otherwise;

- (2) it approves any resident who is unable to pay for waste containers shall have the charges waived if they were eligible for maximum council tax reduction as well as being in receipt of either Attendance Allowance, Disability Living Allowance or Personal Independence Payment'. This will be subject to any request being limited to one every two years. Outside of this, charges may only be waived where the Council is satisfied that the household would experience exceptional financial hardship; and
- (3) it approves Everyone Active's request to increase 'Core' fees and charges by 2% in the 2018 calendar year.

(The Portfolio Holder for this item was Councillor Whiting.)  
Forward Plan reference 849

## **Part 2**

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

### **58. Business Improvement District (BID) Leamington – Renewal Process**

The Executive considered a report from Development Services that updated it on the process for the renewal ballot for the Business Improvement District (BID) within Leamington town centre and to seek delegated authority to deal with elements of the process.

BID Leamington Ltd was initially established in 2008 with Warwick District Council (WDC) acting as the billing authority. The current term concluded in June 2018. The Board of BID Leamington had decided it to proceed with a renewal ballot and would notify WDC and the Secretary of State accordingly in November. This was in line with the mandatory notice period of 126 days before the ballot date.

The Board of BID Leamington Ltd was currently developing a new business plan that would be presented to the business community and other occupiers in 2018. This would be for another five year term (running 2018 – 2023). Appendix One to the report showed the timeline for the renewal process for the BID.

The BID Regulations (2004) required every BID to have a Baseline Agreement with the local authority for the area that set out the services that the Council would deliver. This Agreement ensured that the BID Levy was used to provide 'additional value' services for the business community and was not used to pay for core services provided by the Council. The Baseline Agreement put in place for the 2013 renewal covered the provision of street cleansing, Christmas Lights and grounds maintenance. It was proposed that a broader Baseline Agreement, covering the full range of council services, was put in place at this time. The proposed

Baseline Agreement was set out at Appendix Two but delegated authority was requested in the event that there was a need to make any minor changes prior to the commencement of the ballot process.

Electoral Reform Services (ERS) was an independent supplier of ballot and election services. It was the contractor for printing of Electoral Registration and elections materials (e.g. ballot papers and postal votes) for this Council and was the supplier that was used in 2008 for the original vote that created BID Leamington Ltd, albeit on behalf of the Council as the electoral authority for which it remained. The Chief Executive would remain the Returning Officer.

Previously, BID Leamington Ltd reimbursed the District Council for all costs incurred by ERS being retained to deliver the voting process. This was not in line with BID Legislation (2004) Regulation 20, which stipulated that the Local Authority must pay for the voting costs.

The BID Legislation (2004) required that the proposal document and Business Plan must be submitted to the local authority (as the Accountable authority) for sign-off, ensuring the Plan was compliant with the respective legislation.

The Operating Agreement had been reviewed by Warwickshire County Council (WCC) Legal Services and amended to reflect the actual steps of the BID levy process. The Operating Agreement formed part of the BID Business Plan and, although good progress had been made, it was not yet agreed and there was insufficient time to bring the Operating Agreement to Executive for separate approval prior to needing to be incorporated into the Business Plan. As such, delegated authority was sought to approve the Operating Agreement.

A final report would be brought to Executive in January 2018 with the completed Business Plan, a review of the completed milestones and a recommendation regarding the Council's voting position.

The Executive could alternatively decide not to approve the renewal. This was not considered because of the significant impact on the business community and the Council's reputation.

The Executive recognised the need to support BID Leamington as it provided a key link to its vision for Town Centres and contribution to supporting business.

**Resolved** that:

- (1) BID Leamington Ltd will serve notice of its intention to seek a renewal ballot to the Secretary of State and Warwick District Council (WDC) in November 2017, triggering the proposed process and timelines set out at Appendix One, be noted;

- (2) the proposed Baseline Agreement, set out at Appendix Two to the report, be approved and delegates authority to the Heads of Development Services and Neighbourhood Services, in consultation with the Business and Neighbourhood Portfolio Holders, to agree any minor changes to the Agreement;
- (3) the Chief Executive is the Returning Officer for the ballot, is noted, the cost of which will be borne by the Council, and approves the engagement of the Electoral Reform Services (ERS) to carry out the renewal ballot on behalf of the Council in accordance with the BID Regulations (2004);
- (4) the principle of Council acting as the collection authority for the BID levy in the event of a yes vote, is approved subject to the future agreement of an Operating Agreement with the BID;
- (5) the Deputy Chief Executive (BH), be delegated authority, in consultation with the Business Portfolio Holder, to agree an appropriate Operating Agreement with the BID; and
- (6) a further report be presented to the January 2018 Executive providing details of BID Leamington's proposal document and Business Plan.

(The Portfolio Holder for this item was Councillor Butler)  
Forward Plan reference 899

#### 59. **Weston Close Parking**

The Executive considered a report from Housing Services that set out the results of a survey of residents in Weston Close, Warwick following concerns raised about parking in the Close and in particular about parking bays adjacent to the highway that were owned by Warwick District Council and managed by Housing Services.

Over the past two years Warwick District Council had received a number of complaints from residents about the parking in Weston Close. The County Council had added some double yellow lines on corners to improve the situation. Warwick District Council had improved signage on its land.

Officers from Warwick District Council had been working with officers from Warwickshire County Council and had met with them on a number of occasions to discuss the situation and options for improvement.

Checks had been undertaken earlier this year to count the availability of spaces in the parking bays over a two week period, this checked availability on different days and different times of the day. The survey of available parking spaces indicated that there were on average 4.4 available spaces in Weston Close parking bays during the mornings and on average 8.1 spaces in the evening. This would be in addition to any space available for parking on the road. This would indicate that although the parking could be difficult and on some occasions very difficult, on average there were usually spaces to park in the street. The Council was aware of other locations where the parking situation was more severe.

Following the meetings with Warwickshire County Council and the survey of available spaces; Warwick District Council commissioned a survey of residents of Weston Close. This was to seek residents' views and three options were put to residents. The options for improvement were considered deliverable and could improve the parking situation. However, the option of no works required as the suggested works that we could undertake could have a negative effect in that any restriction on the use of the parking bays could lead to more parking on street and overall make matters worse.

The options that were included in the survey were as follows:

Option1: Improved signage and marking of the parking bays.

Option2: Introduce a controlled parking scheme in the parking bay areas

Option3: No works are required

The full results of the survey were attached in appendix 2 to the report. In summary, 53 survey forms were sent out, to all residents of Weston Close. 23 residents completed the survey and a further six residents refused to complete the survey saying that they supported an alternative action.

Warwick District Council also had a sheltered scheme at James Court in the street; these residents had their own parking facilities. Only one resident of the scheme currently had a car. Plans to improve the marking and signage in Weston Close would also include improved parking signage to the scheme.

Of the 23 respondents to the survey, 20 responded to the options question.

Option 1	Improved signage and marking of the parking bays	15	75%
Option 2	Introduce a controlled parking scheme in the parking bay areas	3	15%
Option3	No works are required	2	10%
Total		20	100%
Skipped this question		3	

Given that 75% of respondents to the survey supported improved signage and marking of the parking bays it was recommended to move ahead with this option.

Six residents sent in letters saying that they would not complete the survey. This followed a long correspondence with two residents of Weston Close who had argued that the parking bays should solely be used by the residents of the properties that were directly adjacent to the parking bays. Whilst this approach would benefit a small number of residents, some of whom did not have a car nor had visitors with a car, it would mean that other residents of Weston Close would not be able to find a parking space. This suggestion would also leave Housing Services with the enforcement of the parking bays and Housing Services would have difficulties to police parking in the area. Therefore, one of the options, option 2, proposed a controlled parking scheme where Warwick District Council's parking enforcement team could control the parking with permits and enforcement with fines as part of a parking control order. From the survey results this was only supported by three residents. If the six residents who sent in letters were added, then this was still many less than supported option 1.

All residents had been sent the survey results and had been advised that the results would be considered by Executive at its next meeting. Housing Services would write again to all residents with the decision by Executive.

Once approved the Council would look to complete the works this financial year.

A range of actions had been considered and these had been discussed with Warwickshire County Council. The concerns and opinions of residents had been sought and considered. Three options had been suggested to residents and the Council was recommended to accept the majority opinion, believing that the proposal would improve matters and responded proportionately to the problems identified

**Resolved** that

- (1) the results of the survey carried out in Weston Close, be noted; and
- (2) the preferred option 1, to improve the signage and marking of three parking bays in Weston Close, be approved.

(The Portfolio Holder for this item was Councillor Phillips)

60. **Shared Environmental Enforcement with Rugby Borough Council**

The Executive considered a report from Neighbourhood Services that set proposals for a shared service approach, the indicative cost, the time scale, and the scope of the enforcement activities.

The proposed shared service would be a trial for 18 months up until April 2019, with a further report provided to Executive in October 2018, provided an update on actions, costs etc. alongside a proposed way forward. The proposal allowed for the shared service to start almost immediately pending approval.

A report entitled "Environmental Enforcement Service Delivery Options" was presented to the July 2017 Executive. The report stated that it was clear, that following a review of the legislation actively used within Warwick District Council (WDC), the areas dealing with waste offences were not presently actively enforced and recent increases in the levels of these incidents had prompted a review of this position.

The Executive agreed that the preferred option to be pursued was a shared service with a neighbouring local authority.

The option of a shared service with Rugby Borough Council (RBC) would enable enforcement activities within WDC to commence in a shorter period of time and was cost effective as it enabled services to be called upon when required. The shared service could be trialled without any long term commitment to allow other options to be considered if it was unsuccessful. The collaborative approach between WDC and RBC would be formalised through a signed Service Level Agreement (SLA).

The legislation allowed WDC to arrange for functions to be discharged by another authority, therefore with this delegation RBC would have the ability to undertake environmental enforcement within Warwick District. Through this delegation RBC would enforce on behalf of WDC and make recommendations in line with the "Regulators Code." This code was referred to by both RBC's and WDC's Enforcement Policy and allowed for consistency of approach across both Councils.

A Fixed Penalty Notice (FPN) was a means to give a person who had committed a relevant offence the opportunity to pay a fine and in so doing discharge their liability to conviction. The FPN legislation enabled local authorities the flexibility to set the level of a fixed penalty charge. RBC already had agreed penalty charges for FPN's and for clarity and consistency it was appropriate that Warwick District Council approved the same level of charges for the relevant FPN's. This allowed RBC to issue the same notices and payment options without developing a bespoke process for WDC that would come at a cost.

If the recommendations were approved, there was an expectation that the shared service with RBC would start immediately. The requested budget was an estimate based on discussions with RBC, its hourly rate and an anticipation of the potential workload. It included an amount for set up costs and legal fees. Every investigation that RBC carried out would be different and the approach was to monitor the value of money that WDC was receiving and report back to the Executive in October 2018. The payment of fines associated with FPN's would be managed by RBC and payments would be deducted from the charge for delegation, which was £75 per hour.



Guidance by DEFRA, entitled "Fixed Penalty Notices – Guidance on the Fixed Penalty Notice Provisions of the Environmental Protection Act 1990, the Clean Neighbourhoods and Environment Act 2005 and other legislation", recommended that "authorities considering issuing fixed penalty notices for the first time allow a well-publicised lead-in period before any notices were issued. This should help ensure public support for fixed penalties. During this time, when an offence was committed, enforcement officers should not issue any fixed penalties; if the offence was serious they should report the offender with a view to prosecution; in other cases they should issue a warning that in future similar offences might lead to fixed penalty notices (or prosecution) This would help raise awareness within the community and should help to manage the public perception." This approach would be reflected in the proposed Communication Strategy.

The resource available from RBC would be limited and therefore any enforcement would need to be targeted and intelligence led. There would be regular liaison meetings between the two authorities to agree the way forward.

The issue of fly-tipping and untidy alleyways/front yards had been identified as the priority for the delegated enforcement to RBC and this would be led by the number of complaints received by Neighbourhood Services. The approach to these issues was detailed in section 7 of Appendix A to the report. Although these were the priorities, the nature of such infringements could include other offences, such as breaches of the waste duty of care. Table 2 in Appendix A, to the report, reflected this possibility in covering other FPN's that potentially could be served during this trial period.

The confidence to delegate the appropriate enforcement powers to RBC was based on the fact that the enforcement policies of both authorities were based on the Regulators Code and as such any investigation and/or enforcement on issues was based on nationally recognised standards. Approval was sought on reflecting the same level of Fixed Penalty Notice (FPN's) that RBC had into the WDC statute and this again provided continuity in enforcement and allowed the same levels of fines and notices to be issued.

Any charges raised as a result of FPN's would be deducted from the routine delegation payments.

Alternative options considered were set out in the previous Executive Report entitled "Environmental Enforcement Service Delivery Options" dated 26 July 2017; at this stage no alternative options were therefore considered.

The Overview & Scrutiny Committee supported the recommendations in the report but proposed that the Communication Strategy should include consultation with letting agents, local businesses, Town and Parish

Councils (possibly via Warwickshire Association of Local Council's), and residents in social housing.

The Committee also sought assurance that in practice, officers in consultation with Legal, would ensure that the most appropriate individual/organisation would be served with any notice.

The Executive welcomed the report and the proposals within it. It thanked the Scrutiny Committee for its considered comments and debate on the previous evening. It recognised that the communications strategy should be amended as proposed.

**Resolved** that

- (1) the Council enters into an agreement with Rugby Borough Council (RBC) for an 18 month period to undertake a range of enforcement activities, with the power to undertake investigations delegated to that Council, under the terms of section 1 of Local Authorities (Goods and Services) Act 1970 RBC can contract with WDC to provide, among other things, administrative, professional or technical services;
- (2) the fines for the appropriate Fixed Penalty Notices (FPN's) as set out in Table 2 of Appendix A to the report as recommended to Council as part of minute 57, be noted;
- (3) the cost of the shared service of £62,000 for the 18 month period, be noted, which can be accommodated within existing budgets for the remainder of 2017/18 and would be built into an increased base budget for 2018/19 as set out in paragraph 5.5 of the report;
- (4) a further report will be presented in October 2018 to review effectiveness of shared service to date and making recommendations as to future arrangements from April 2019 when it is due to end; and
- (5) the Communication Strategy be amended to include consultation with letting agents, local businesses, Town and Parish Councils (possibly via Warwickshire Association of Local Council's), and residents in social housing.

(The Portfolio Holder for this item was Councillor Grainger)  
Forward plan 893

61. **Risk Management Annual Report 2016-17**

The Executive considered a report from Finance that updated the Risk Management Strategy, as set out at Appendix A to the report, for implementing and embedding risk management throughout the organisation.

The report also contained details of an external review that was performed during the year. The review provided an independent assessment of the Council's risk management arrangements leading to the identification of areas for improvement that provides the basis of an action plan.

The responsibilities of the Finance and Audit Scrutiny Committee included consideration of the effectiveness of the Authority's risk management arrangements.

An alternative option was not given in the report because this report was not concerned with recommending a particular option in preference to others, so this section of the report was not applicable.

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

**Resolved** that

- (1) the report be noted, in particular that which sets out members' responsibility for risk management;
- (2) the Council's Risk Management Strategy as set out at Appendix A to the report be confirmed; and
- (3) the progress being made in embedding risk management in the Council, noting the progress made to date in completing the current Risk Management Strategic Action Plan, as set out at Appendix B to the report, and supplementary activities undertaken during the year that help to embed risk management, as set out at Appendix C to the report be endorsed.

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

62. **Public and Press**

**Resolved** that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following items by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local

Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Minute Nos.	Para Nos.	Reason
63	1	Information relating to an Individual
63	2	Information which is likely to reveal the identity of an individual
63	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

(The details of the following item will be recorded within the confidential minutes of the meeting.

63. **Confidential Minutes**

The confidential minutes of 31 August 2017 were taken as read and signed by the Leader as a correct record.

(The meeting ended at 6.12pm)