

Cabinet

Minutes of the additional meeting held on Wednesday 15 May 2024 in Shire Hall, Warwick at 5.30pm.

Present: Councillors Davison (Leader), Billiald, Chilvers, J Harrison, Kennedy, King, Roberts, Sinnott and Wightman.

Also Present: Councillors: Milton (Liberal Democrat Group Observer & Chair of Overview & Scrutiny Committee), Day (Conservative Group Observer), and Falp (Whitnash Residents Association Group Observer).

134. **Apologies for Absence**

There were no apologies for absence.

135. **Declarations of Interest**

There were no declarations of interest made.

Part 1

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

136. **Adoption of Net Zero Carbon DPD and associated SPD**

The Cabinet considered a report from Place, Arts & Economy which provided an update on the Main Modifications consultation and the subsequently published Inspector's Report, in which the Inspector concluded, through Examination that the Development Plan Document was 'sound' and had been prepared in accordance with legal and procedural requirements. The report therefore sought agreement from Cabinet to recommend to Council to adopt the Net Zero Carbon Development Plan Document. If adopted, it would become part of the Development Plan for the area. The report also sought Cabinet approval to adopt an associated Supplementary Planning Document that would provide advice and guidance to applicants and decision makers.

Since its declaration of a Climate Emergency in 2019, the Council had developed a Climate Emergency Action Plan (CEAP), setting targets and actions to tackle climate change and mitigate its impacts. The production and adoption of the Net Zero Carbon Development Plan Document (DPD) was considered to be a critical part of the Climate Change Action Programme and a key tool in meeting the Council's climate change targets.

The DPD, once adopted, would form part of the Development Plan for Warwick District and was one of the first to be produced by a local authority in England on this subject matter and therefore was pioneering in many respects.

The DPD specifically focused on minimising carbon emissions from existing and new buildings (of all uses) within the District to support the achievement of national and local carbon reduction targets.

To work towards this aim, the DPD was designed to ensure that new development's contribution to the District's carbon deficit was minimised and that new homes did not add to the significant number of existing buildings in the District that would need a costly and disruptive retrofit as part of the local and national transition to achieve net zero carbon. By bringing forward performance standards equivalent to the Future Homes Standard, in advance of its national introduction, the new homes should not need future retrofit, and by collecting carbon offset payments the DPD would raise funds to deliver other vital but currently underfunded actions necessary for the national and local transition to net zero – such as additional renewable energy, retrofit of other existing buildings, or creation of woodland.

At its meeting on 10 August 2022, Cabinet agreed to the submission of the Net Zero Carbon Development Plan Document (DPD) to the Secretary of State for its examination alongside a schedule of proposed revisions arising from the second of two public consultations on the emerging policy document.

Subsequently, Council endorsed the submission of the document on 7 September 2022.

On 17 October 2022, the DPD was submitted to the Secretary of State (through the Planning Inspectorate (PINS)). In order to submit the DPD, the Council were also required to appoint a Programme Officer to assist the Inspector in the administration of the examination.

On 7 November 2022, PINS appointed Mr McCormack as the Inspector to hold an independent examination of the DPD.

Mr McCormack wrote to the Council on 8 December 2022, confirming that he had undertaken an initial review of the Plan, the supporting evidence and representations made on it prior to its submission and from this was satisfied that the examination of the Plan could progress.

Council officers and Mr McCormack engaged in further correspondence and three days of public Examination hearing sessions were arranged commencing on 7 March 2023.

The Council were represented at the hearing sessions by Council officers alongside specialist consultants that supported the production of the DPD. Other interested parties also attended and contributed to the hearing sessions.

On 30 March 2023 Mr McCormack wrote to the Council with a 'post hearing letter' outlining the next steps for the DPD Examination. He also praised the Council's management of the sessions stating "*...I would like to thank the Council's Team for the way in which the hearing sessions were approached, arranged, and conducted. This enabled the hearing sessions to take place as smoothly, effectively, and efficiently as possible and for that I am grateful*".

In his letter, the Inspector requested further information to be submitted and indicated that Main Modifications to the DPD would be required for reasons of 'soundness' in accordance with Paragraph 35 of the National

Planning Policy Framework (NPPF). As such, it would be necessary to undertake a period of public consultation on the modifications.

Mr McCormack provided an indicative timetable for the next stages of the Examination that would see his final report being anticipated by the end of September 2023 (he subsequently revised this to 'end of October 2023').

The following sections provided more recent updates including on Main Modifications, a further public consultation and findings of the Inspector's Report.

Following a response from the Council to Mr. McCormack's letter of 30 March in which he had requested additional information, he subsequently wrote to the Council again on 12 May 2023 confirming that he was satisfied with the content of additional documents that the Council had provided. A Schedule of Proposed Main Modifications (and minor changes, referred to as Additional Modifications) were produced by the Inspector and asked for further work to be completed by the Council by 22 May 2023.

On 22 May 2023, officers wrote to the Inspector with a final list of proposed Main Modifications, Final Schedule of Additional Modifications, a Sustainability Appraisal/Habitat Regulations Assessment update, and a composite version of the DPD showing all proposed modifications indicated in the schedules.

On 5 June 2023, the Council commenced a statutory six-week Main Modifications consultation that ended on 17 July.

A Consultation Statement summarising the Main Modifications consultation responses was produced by officers and sent to the Inspector on 26 July (Appendix 5 to the report).

There were 13 responses to the public consultation, comprising of responses from statutory consultees (six), individual residents (five), land promoters and developers (two). At its Cabinet meeting on 5 July 2023, this Council also endorsed the Main Modifications and confirmed that they did not wish to make any representation to the consultation.

The Main Modifications consultation was solely to consider issues of soundness and legal compliance. Having considered the representations made in response to the consultation, the Council confirmed to the Inspector that it believed that the comments did not raise any issues of soundness or legal compliance.

Unfortunately, owing to illness at PINS, there were delays to the anticipated October release of the Inspector's Report. In the intervening period, a Written Ministerial Statement (WMS) relating to 'Local Energy Efficiency Standards' was made on 13 December 2023 and the National Planning Policy Framework (NPPF) was updated on 19 December 2023. The Inspector wrote to the Council on 9 January 2024 with regards to these changes to the national policy context and requested that the Council undertook a further consultation specifically relating to these matters, whilst also requesting the Council's response. The consultation was open to all those that had made representations to the Regulation 19

consultation on the DPD and ran from 9 January 2024 until 24 January 2024. A total of six representations were made to the consultation including one from the Council, two from individuals and three from housebuilders. The representations were sent to the Inspector for consideration ahead of publication of his final report.

Local Plans were examined to assess whether they had been prepared in accordance with legal and procedural requirements, and whether they were sound. Paragraph 35 of the NPPF set out the tests of soundness as and Plans were 'sound' if they were:

- a) Positively prepared.
- b) Justified.
- c) Effective.
- d) Consistent with national policy.

On 9 April 2024, the Council received the Inspector's Report on the Examination of the Warwick Net Zero Carbon DPD (Appendix 1 to the report). The Inspector had concluded that the DPD *"provides an appropriate basis for the planning of the district with regard to attaining net zero carbon development and minimising carbon emissions in new and existing development, provided that a number of main modifications [MMs] are made to it"*.

The Inspector's Report found that the Plan had complied with the legal duty to co-operate requirement and he concluded that *"I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis with its neighbouring authorities and appropriate relevant agencies in the preparation of the DPD"*.

The Inspector confirmed that the Plan had been prepared in accordance with all other legal and procedural requirements and concluded that: *"In conclusion, subject to the main modifications, the DPD provides an appropriate overarching strategy in response to Warwick's declared climate emergency that is positively prepared, justified, effective and consistent with national policy"*.

In light of the Inspector's report, the Council now had to decide whether it wished to formally adopt the plan as local planning policy forming part of the Development Plan for the District. In doing so, the Council could only adopt the plan with the changes, the agreed Main Modifications, recommended by the Inspector along with the agreed Additional Modifications.

In the time between publication of the Inspector's Report and adoption of the DPD, consideration should be given to the weight that could be given to the policies of the Plan, prior to a formal decision whether to adopt the DPD was taken.

Paragraph 48 of the National Planning Policy Framework (NPPF) stated that:

"Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) *The stage of preparation of the emerging plan (the more advanced its preparation, the greater weight that may be given);*
- b) *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater weight that may be given); and*
- c) *The degree of consistency of the relevant policies in the emerging plan to this Framework (the NPPF) (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)".*

As the DPD had been through public consultation and examination and the Inspector's Report had been published and he had found the DPD to be sound and consistent with national policy, it was considered that it should be afforded significant weight in the determination of planning applications. Indeed, significant weight had already been given to the DPD in relation to a number of planning applications determined since receipt of the Inspectors report, including for major housing developments.

At its meeting on 5 July 2023, Cabinet noted that a Supplementary Planning Document (SPD) was to be produced, as set out in the Council's Local Development Scheme, to assist with the smooth implementation of the DPD and gave delegated authority to the Head of Place, Arts and Economy and the Portfolio Holders for Climate Change and Place to agree on a version of the Supplementary Planning Document that the Council would consult upon and agree the dates for that consultation, and that Cabinet noted that the SPD would ultimately come before them for their consideration as to whether to adopt it.

An SPD had subsequently been produced by officers and their consultants and a public consultation on the SPD commenced on 18 October 2023 and ran for six weeks until 29 November 2023.

A total of 26 responses were received from a range of stakeholders including local authorities, Town and Parish Councils, housebuilders and other planning agents, individuals, and statutory bodies. The responses were largely positive and various suggestions were made to improve the document.

In light of the representations received through the consultation, officers had made a number of changes to the SPD as set out in Appendix 10 to the report – Schedule of Proposed Modifications to the Published Warwick Net Zero Carbon SPD. These amendments had been made to the SPD with a final version included as Appendix 8 to the report.

Recommendation 4 sought Cabinet approval to adopt the SPD. As the parent policy document for the SPD was the DPD, the SPD could only be formally adopted after (or at the same time) as the DPD.

In the interim, although not benefitting from the weight of being an adopted policy document, the SPD could still be used as a guide for applicants and decision makers as to what would need to be produced and submitted to address the policy requirements.

A new permanent post of 'Sustainability and Energy Officer' had been factored into the Council's Medium-Term Financial Strategy (MTFS) and

had been created to provide the technical expertise required to assess energy statements and other technical information submitted as part of planning applications as a direct result of the DPD policies.

The Council had advertised this position in March-April 2024 and as there were no suitable candidates, the post would be re-advertised in the near future.

£30,000 had also been agreed from the Service Transformation Reserve for consultancy and training support in the current financial year until a suitable person was appointed.

Three successful tailored training events had been held separately with officers and members and a further session was being arranged for planning agents. The aim of the sessions was to inform and upskill Development Management and Policy officers but also to provide training for Councillors and planning agents/applicants to aid understanding of the requirements of the DPD and highlighting the support that the SPD offered.

Arrangements relating to the local Carbon Offsetting fund would be finalised with Warwickshire County Council over the coming weeks, although it was recognised that offsetting was a last resort option in the DPD.

For the avoidance of doubt and to manage expectations, the DPD would only be able to be applied to new planning applications – either full or outline applications (and subsequent reserved matters that benefitted from an outline permission after the DPD was adopted/afforded significant weight). Any developments that already had the benefit of outline permission at the time of the publication of the Inspector's report and subsequently had reserved matters approvals could not be required to comply with the new policies.

In terms of alternative options, Cabinet could recommend to Council not to adopt the DPD. However, the Council's choices were binary: to adopt the DPD or abandon it. The latter would mean that the Council would miss a clear opportunity to make a huge stride in meeting its ambitions set out in the Climate Change Action Programme and would result in greater carbon emissions and more buildings that would need costly and disruptive retrofit in future to achieve net zero carbon buildings. It would also mean that significant resources would have been wasted on the development of this net zero planning policy document.

Cabinet could choose not to adopt the SPD or adopt an amended version to that in Appendix 8 to the report. However, officers considered that it was important to adopt the SPD at the same time as the DPD to ensure that the detailed guidance could be relied upon and given full planning weight. Furthermore, it was considered that the modifications to the SPD following its consultation were proportionate and appropriate in light of the representations received.

Councillor Kennedy proposed the report as laid out.

Recommended that Council adopt the Net Zero Carbon Development Plan Document (Appendix 2 to the report), in accordance with Section 23 of the Planning and Compulsory Purchase Act 2004; and that Cabinet note that the adopted Net Zero Carbon Development Plan Document will be the Plan submitted on 17 October 2022 as amended by the schedule of Main Modifications and Additional Modifications (Appendices 3 and 4 to the report).

Resolved that

- (1) the Inspector's Report on the Examination of the DPD (Appendix 1 to the report), be noted, and specifically that he has concluded that the plan meets the tests of soundness and has been prepared in accordance with legal and procedural requirements and thus is 'capable of adoption';
- (2) the adoption statement and final sustainability appraisal report is published on or before Monday 20th May 2024 in accordance with regulations 17 and 26 of the Town and Country Planning (Local Planning) Regulations 2012 (as amended), be noted;
- (3) the statement of public consultation (Appendix 9 to the report) and Schedule of Proposed Modifications to the SPD (Appendix 10 to the report) be noted, and the adoption of the amended Net Zero Carbon Supplementary Planning Document (Appendix 8), to be formally adopted contemporaneously with the parent DPD, subject to Recommendation 2 and the subsequent decision of Council.

(The Portfolio Holders for this item were Councillors Kennedy and King).
Forward Plan Reference 1,378

Part 2

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

137. Newbold Comyn Cycle Trails

The Cabinet considered a report from Safer Communities, Leisure & Environment which sought approval from Cabinet to commence the procurement of an external operator for the cycle trails at Newbold Comyn, to advertise for a cafe operator for a commercial lease on the cafe in the Hub at the cycle trails, and to note the allocated funding to complete the fit out of the Hub.

The trails officially opened in October 2023 and had been managed with the support of specialist contractors, a local cycle club and British Cycling. The "Hub" based in the adjacent grade II listed barns had been completed

but as yet not “fitted out”. There was further work required to ensure that the Hub buildings were secure before the current hoarding could be removed, and landscaping completed.

Construction of the cycle trails formed one component of the Newbold Comyn Masterplan that was formally approved by the Cabinet in November 2020. The project was made possible by a successful bid to the British Cycling/Sport England “Places to Ride” funding stream and was seen as a valuable addition to the outdoor sports opportunities in the District providing a free to use facility for all levels of cyclists.

Construction of the trails, conducted by On Track, commenced in Summer 2022 and was completed in summer 2023. Works to the old “golf shop” section of the barns was completed in late 2023 to provide a shop area and café to work in conjunction with the trails.

The trails construction project was overseen by the Newbold Comyn Project Board who approved the approach taken and use of the funding available from Sport England and the Council’s Community Infrastructure Levy (CIL) funds.

In early 2023, a short procurement exercise was undertaken to identify an external operator who would take on the responsibility for the trails for 24 months, allowing the trails to be opened as soon as possible, and allowing the Council to understand more about the requirements for the longer-term operation of the site. This procurement activity was unsuccessful with no operator coming forward. Feedback from this exercise informed the Council that the short-term nature of the contract and the short turn around required was not attractive to the market.

In late summer 2023, to complete works so that the trails could be officially opened, specialist contractors were engaged to support officers in terms of monitoring the trails, undertaking maintenance and repairs, and to advise the Council on best way to operate a safe facility. Royal Leamington Spa Cycling Club also provided on the ground monitoring of the trails and gather feedback from users.

In November 2023, approval was granted for additional officer resource to plan and undertake supplementary soft market testing and if appropriate lead on a procurement exercise to appoint an external contractor for the facility as per the approach defined by the Newbold Comyn Project Board.

Since the Trails opened, they had been well used and officers had received positive feedback about the facility.

The main trails had stood up remarkably well given the extremely wet winter and had remained open throughout. There had been a small number of incidents where it was suspected that intentional vandalism had taken place, with obstructions placed on the trails, but these had been identified and remedial action taken to ensure the trails were safe.

The Learn to Ride (LTR) area had suffered with drainage issues from mid-December, forcing the Council to close the area. On Track returned to site to address these issues in late January and the LTR area re-opened in early February.

Works to the 4 Cross area, the old BMX track, were completed in late summer 2023 and the track was now open. There had been some incidents of vandalism in the area adjacent to the 4 Cross area which officers were aware of and were working on measures to deter this in the future.

Trail counters were installed on the main trails and the LTR area in January 2024, which would allow officers to monitor usage of the trails. There were currently four counters installed, picking up usage of key routes. The table at 1.2.5 in the report showed the number of rides counted for January to April 2024.

Weekends showed significant peaks in usage together with New Years Day 2024. Officers were investigating the validity of the data for the LTR area given that it was officially closed for most of January, however many riders ignored the "trails closed" signage and hazard tape and used the facility regardless.

The Council was subject to grant conditions associated with the funding provided from Sports England. The terms and conditions the Council signed required over the next 15 years the Council to:

- deliver cycle trails, cycling facilities, and a cycle hub building;
- deliver the Development Plan: required to review and update the Operations Plan every 24 months, ensuring it aligned with the Programme and incorporated feedback from Sport England and British Cycling; and
- ensure that the Facility achieved and maintained key performance indicators (KPIs) (within 18 months of opening) and provided them to Sport England.

The Council had discussions with Sports England in terms of the grant conditions in March 2024. This conversation centred on the releasing of the final element of grant funding and required evidence of decision taken by the Project Board on the agreed approach for service delivery, namely, to procure a contractor, the timeline for operator procurement and estimated commencement date of the new operator.

Given the change in the cycling market since inception and the unsuccessful previous procurement exercise officers considered it important to undertake a detailed soft market testing (SMT) exercise was required to fully understand the state of the market in terms of potential operators for the cycle trails, shop, and café within the Hub.

Prior to undertaking the SMT, officers engaged with Sport England, British Cycling, and a range of other cycle trail facilities to understand how such facilities were being managed elsewhere and what the viable solutions for Newbold Comyn might look like. This allowed a range of informed and pertinent questions posed during the SMT process.

The SMT process went live in mid-December 2023 and remained open until 12 January 2024. Officers ensured that potential interested parties were made aware of the opportunity to be part of the SMT process and included Sport England, British Cycling, local cycle organisations and

retailers, Sustrans, and leisure operators.

There was limited response to the SMT process, with only two local enterprises taking the opportunity to engage with the Council. Everyone Active expressed some interest, but on balance they decided that the trails were not something that they could support without having an impact on their core leisure centre business. The local Everyone Active team had stressed that they would be happy to collaborate with the Council and any future operator to promote the trails and cycle related activities.

Appendix A to the report summarised the roles and responsibilities of a trail's operator and the Council. Whilst Appendix B to the report summarised the main challenges to the operation of the trails during the soft market testing.

The outcome of the soft market testing was reported to the Project Board in January 2024. The Project Board was presented with three options:

- To retain the operation of the trails "in house" with a separate lease advertised for the café.
- To procure an operator for the cycle trails with a separate lease advertised for the café.
- To investigate the option to return the funding received from Sport England in order to remove commitments to funding conditions including the development plan, service level agreements with cycle club(s) and user groups, restrictions on spending and governance, marketing etc.

The "in house" option referred to Council officers managing and operating the trails. Within this option, officers would also deliver the grant funding conditions from Sports England.

This option would require significant additional resources over and above those currently available within the Sports and Leisure team. It was believed that two additional posts would be required, in order to provide a service which was open every day of the year and able to deliver the services outline in the grant condition performance indicators and delivery plan.

The above posts would be in addition to the 2FTE posts that incorporated the management of the trails at present. These existing posts were fixed term and expired within the next 12 months and the above posts would free up a small proportion of their capacity to return to original duties. However, both of these posts were required in order to provide resilience and management arrangements for the trails.

The current in-house team also lacked the expertise to deliver the "Development Plan" approved by British Cycling as part of the Places to Ride grant conditions, and the knowledge to operate the shop/information service based in the Hub. Therefore, the "in house" team would need to expand in terms of expertise which would clearly come at a cost. It was estimated that a training budget would be needed annually to ensure the necessary training for officers.

Officers were heavily reliant on specialist contractors to provide technical advice and undertake inspection and maintenance of the trails. There was no funding for this support beyond September 2024.

In addition, the in-house team would be looking for volunteers to assist with the trail's development plan.

There remained operational costs for delivering the service "in-house". This included those costs outlined in Appendix E to the report attributed to the operator. Namely, service charges, asset maintenance, cleaning, and compliance checks.

The costs of fitting out the hub would remain and had been dealt with in section 1.7 in the report onwards.

This option would also require a second lease for a small cycle shop, which could provide specialist cycling advice and courses. It was estimated that the rental income per annum for this would be £4,000-£6,000.

The risks associated with this option included:

- The ability to recruit suitably experienced officers, with experience of cycle trails, community engagement, specialist cycling knowledge and the ability to deliver cycling courses. Failure to do so would require the following option to be considered.
- Securing a cycle retail offering as a lease arrangement for the shop area who would also deliver learn to ride courses and provide specialist cycle knowledge.
- The recurring staffing and operational costs impact on the Council's General Fund and would increase the deficit of the Council.

This option was not recommended due to the high costs for the Council and the high risk of not being able to recruit specialist and skilled officers in order to deliver the development plan.

It was very clear during the soft market testing that there was no model that would see the cycle trails being run without a cost to the Council.

Until the procurement exercise had been completed it was impossible to specify the level of subsidy that the Council would need to make to the operation of the trails. Dependant on the timeline for procurement of the trails operator, the management fee for 2024/2025 would be adjusted accordingly.

The level of any income that the operator could generate from retail sales, cycle skills courses and events was unknown. Again, the only way to quantify these figures was to complete the procurement exercise.

Officers would be constructing the procurement exercise in such a way that potential operators would be required to outline a costed business plan for the contract term. This would allow them to demonstrate how the business would develop over the term of the contract, with the expectation that the cost to the Council would reduce over the contract

period.

Officers intend to draft the contract in such a way that a “income share” arrangement was established for income generated from courses and events, so that it would be in the interests of the operator and the Council to promote such activities. Further advice from legal colleagues was required to confirm the best approach.

The Council would require officers to oversee the contract management of this contract. It was believed that this would take a large proportion of the existing two fixed term contracts. However, prior to the outcome of the procurement exercise it was impossible to determine the FTE percentage. Therefore, the full cost figure of £106,500 was included for context and comparison. As stated in 1.2.5 in the report, these existing posts were fixed term and expired within the next 12 months.

The risks associated with this option were:

- unknown value of management fee required from WDC to operator which was unfunded and would increase the Council’s deficit;
- lack of interest in the procurement exercise or unsuitable tenders received;and
- short-term nature of any contract and break clauses within the contract gave the Council no long term certainty on the operational model and exposing a risk of further procurement in short/medium term.

Given the feedback from the soft market testing, the costs and review of all of the options, the recommendation from officers and confirmed by the Newbold Comyn Project Board was that the Council should seek to procure an external operator for the trails.

The option involved approaching Sport England to negotiate the repayment of the grant funding which could free the Council from its obligations to use the Hub building in the prescribed manner and its delivery of the development plan.

The Funding terms defined the expected service and facility delivery for the £423,500k grant funding received.

Returning the funding or attempting to alter the terms and conditions of grant delivery was considered to be highly risky in terms of reputational damage to the Council with Sport England and those individuals who had been opposed to the scheme from its inception. The Council had enjoyed a positive relationship with Sport England for many years and had received significant sums of funding from in support of sport and leisure provision. Returning this funding could undermine the relationship with Sports England and the ability to secure future funding.

There would still be a need for an officer resource to manage the trails along with specialist contractors as per option one, as this was similar to the current operational position.

The need to provide a café, small shop, courses or develop cycling with the District would be removed if the grant were to be repaid. The Hub building could be used for other uses as outlined in the masterplan.

Officers believed that this option would not deliver the aims and ambitions of the Corporate Strategy and would reduce the benefits of the facility. The facility had a good reputation and there was a desire for the hub to open an offer the facilities and activities previously described.

The Risks associated with this option were:

- Reputational damage in the eyes of persons opposed to the trails and the decision to progress this project from the start.
- Reputational damage to the Council's relationship with Sport England who had been a valuable source of funding over many years and with who the Council enjoyed a good relationship.
- Further delay in confirming the use of the Hub building and potential risk to the Hub whilst it remained unoccupied and associated additional costs.
- Increased pressure on the officers to manage the trails with little or no support from British Cycling and or local clubs.
- Increased financial pressures on the Council.

This option was not recommended due to the costs of managing and operating the trails, the reputational damage to the Council from stakeholders and partners coupled with the additional pressure of repaying the grant.

Adaptation of the barn buildings, previously the golf shop and changing rooms, that would become the Hub and would house the small shop, café and toilets had been completed but areas within it had yet to be fitted out. It was originally envisioned that this work would be completed once the operators had been identified so that the fit out was appropriate for their use. However, it had become essential that the building was made secure as soon as possible in order that the unsightly hoarding could be removed, and members of the public can see what facilities would be provided in the near future. The removal of the hoarding also allowed works to the soft landscaping in front of the Hub to be completed as soon as possible.

Quotes from contractors suggested that a budget of £65,000 was required to complete a basic fit out the Hub, install appropriate security and safety systems, complete the soft landscaping and remove the hoarding around the building. This sum currently included some provisional sums for works that could not be finalised until an operator was appointed and details of fit out were confirmed. It was hoped that in practice the works could be delivered for less than this sum.

It should have been noted that some recurring maintenance costs would be incurred by the 'fit out works' which would need to be considered as part of the 2025/26 budget setting process. These would include annual testing of alarm systems, CCTV maintenance and statutory building

compliance activities.

In addition to the café and toilets, the Hub would include an area that would allow the running of a small cycle shop, selling consumable cycling equipment (helmets, gloves, spare parts etc), be an information point for customers wishing to use the trails, promote cycling courses at the site, and signpost visitors to other cycling opportunities in the area. The shop would also be the meeting point for volunteers working on projects on the trails.

The soft market testing suggested that there could be a market for a small bike hire operation from the Hub, but this required storage space to be identified on the site; officers were currently considering options for this.

Officers were conscious of the opportunities that the national cycle route 41 and other development in the local area linking cycling routes could offer in terms of bike hire for road riding as well. Thus, increasing the need for storage.

The recommended option would see the shop included in the procurement for a trails operator. However, if the alternative options were selected then a small shop lease could be advertised as outlined in 1.2.11 in the report with an annual rent payable to the Council.

From the inception of the project, the intention had been for a small café to operate from within the Hub, providing hot and cold drinks and snacks for cyclists and other visitors to the Comyn. The soft market testing was clear that this would not be a service that the cycle operator would provide, and in discussion with legal colleagues and based on experience of other park-based cafés within the District, it was considered that a commercial lease was advertised to run a small café from the Hub, with an annual rental payable to the Council each year.

It was estimated that that the annual rental payable to the Council for such a lease would be £6,000.

Subject to Cabinet, approval of the funding as detailed in this report, it was intended to advertise the lease for the café as soon as possible, in parallel with the works to complete the fit out, and with the intention that there would be a café service available for the summer of 2024.

The toilets were intended to provide services to the café and the trails operator clientele. It was intended that the toilets would be part of the café and or the trails operator leases. Therefore, the toilets would open in conjunction with the opening of the café or trails operator.

There was a risk that there would not be any interest in leasing a café in this location. Therefore, an alternative option for a café offering could be to offer a 'consented pitch' for a mobile street trading unit to be placed close to the Hub subject to the relevant permissions being obtained. This offering would be similar to that offered temporarily in Abbey Fields.

Whilst this would slightly reduce the fitting costs within the hub building, it would also not afford the Council a similar income. It would however, free up space within the Hub building to be used for a greater bike shop/hire,

storage space for the operator or for a teaching space when courses were run at the trails or volunteers are working on the trails.

This option would require the toilets remain closed until the trails operator was appointed or be added to the existing public toilet contract. It was estimated that this would cost £8,000 annually.

The Overview & Scrutiny Committee held a good discussion regarding the process of procurement and how the contract would be managed moving forward.

The Committee has asked for Cabinet to consider the following points:

- the procurement process should include how resident feedback would be integrated and looking at measurables within the contract e.g. promoting courses and how often they are open;
- learning from previous procurement exercises should be included;
- the social value element should be a factor to be considered in determining the successful tender;
- at paragraph 1.6.7 in the report the first bullet point should stop after "reputational damage"; and
- the Committee asked to ensure that the tender is well publicised, particularly amongst local businesses, to maximise opportunity to respond

Andy Robson, representative of Secretary of British Cycling in the West Midlands Region, Member of Royal Leamington Spa Cycling Club, and representing Newbold Trails Crew, and Sean Russell addressed the Cabinet.

Councillor Sinnott proposed the report as laid out.

Resolved that

- (1) the procurement of an operator to manage, monitor and maintain the trails on a day-to-day basis along with ancillary roles to promote cycling, as set out within the Confidential Appendix E to the report, be agreed;
- (2) authority be delegated for the detail of the procurement to the Head of Safer Communities, Leisure and Environment in consultation with the Portfolio holder for Safer Healthier Communities based on the feedback from the January 2024 soft market testing exercise and discussions with British Cycling and Sport England;
- (3) there will be increased recurring costs for the maintenance of the security systems which will be identified for consideration

within the 2025/26 budget setting process, be noted;

- (4) to the advertisement of a commercial lease for a small café to be based in the Hub, be agreed.

(The Portfolio Holders for this item were Councillors Davison and Sinnott.)

138. Withdrawal of proposal for Artificial Turf Pitch at Newbold Comyn

The Cabinet considered a report from the Programme Manager. The Council had been preparing a proposal to locate a new Artificial Turf Pitch (ATP) for football on existing grass football pitches at Newbold Comyn. Approval to proceed with this project was provided by the Leadership Coordination Group on 18 September 2023.

As the project has been developed it had become clear that it would not be appropriate to locate an ATP in this location for the reasons shown in the report. It was therefore recommended that the proposal to locate a new ATP in this location was now withdrawn and other options were considered in the future for the provision of the Artificial Turf Pitches required in the District.

It was recommended that the proposal to locate a new Artificial Turf Pitch (ATP) for football at Newbold Comyn be withdrawn. This conclusion had been reached by officers following a balanced Gateway Review of the current situation with regard to the project. The key elements in the proposal to withdraw this proposal were as follows.

Support for the ATP from football clubs and the public had been lukewarm and mixed. This had not improved as the project had been developed over time, and the football clubs, in particular, remained very uncommitted to the proposal.

The location of the pitch was not considered by officers to be appropriate for several reasons. Grass pitches would be lost at the main site for football in the District. Managing the facility would be difficult in such a remote location. Providing First Aid cover and site supervision would be costly. Staff working at the site would be isolated and vulnerable. These issues had become clearer as the management arrangements for the proposal had been identified.

There were no examples nationally of ATPs in such an isolated location. There were additional costs for paths, cycleways, lighting, and security cameras that had become evident as the design had developed. These would be costly, and they contributed to making the proposal poor value for money.

The proposal would cost the Council in the region of £2,000,000, which was considered unaffordable. This cost had only been clarified as the project design had been developed. The Council had a maximum of £400,000 in funding available from Section 106 sources, and much of this had not yet been received from developers. Bridge funding would

therefore be required.

The Council had been working with the Football Foundation for over a year on the proposals at Newbold Comyn. The Football Foundation had indicated that it was minded to provide a substantial grant to the project, provided that certain criteria were met.

These criteria, whilst perfectly reasonable, would add to both the capital and revenue costs of the project. The Football Foundation would require that at least two of the changing rooms in the pavilion were refurbished to modern standards. They would prefer that all the changing rooms were refurbished to the same standard. Refurbishing the 12 changing rooms that officers believe were required at this site would cost around £2,000,000, which was more than the Council was able to allocate to this project.

The Football Foundation would also require that the facility was staffed during all opening hours. As the facility was over 600 metres away from the Newbold Comyn Leisure Centre this would mean that a specific member of staff would need to be present at all opening times, which would increase costs and reduce profitability.

The Football Foundation had indicated that a withdrawal from the grant application process this late in the process would mean that they would have to charge the Council for various expenses that they had incurred. They did inform the Council of this when the previous decision was made to go ahead. This sum had not yet been assessed, but it was likely to be between £10,000 and £20,000. This sum would have to be found from Section 106 funding.

The pavilion at Newbold Comyn served the football teams using the grass pitches at the site. It also served the participants in the weekly Parkrun on the site, and several other community groups that used the site. It needed some immediate maintenance to comply with various regulatory requirements. This work was being commissioned at the present time. It would also be preferable if some additional refurbishment was undertaken to the existing building to improve conditions for its users.

However, it was considered that a full-scale strip and refurbish, along with an extension, which would be necessary to produce the 12 changing rooms that were required by the existing teams to full Football Foundation recommended standards would be unaffordable. This had been quoted at around £2,000,000 and the Council did not have sufficient funds to allocate that amount to this work.

It was therefore proposed that officers survey the existing building and come forward with a costed proposal for appropriate refurbishment of the existing facilities that improved the existing building within the limited funding available for this work.

The cost of this work would be ascertained when the proposals were prepared. There were several ways to approach this task and there might be some external funding available. The recommendation therefore requested that the proposals were brought back to the Newbold Comyn Project Board for approval, and only brought back to Cabinet if the level of

funding needed required it.

The Council had retained Pick Everard to provide project management services for the major refurbishment and extension of the pavilion. Their services would no longer be required for the more modest refurbishment now proposed. They would be paid for their services to date. This was expected to be between £7,500 and £21,000. This would need to be found from Section 106 funding.

In addition, the Council had paid for early architectural designs, two ecology studies and a traffic survey in connection to the project. The total for these works was £10,982.60. This would also need to be found from Section 106 funding.

In terms of alternative options, it would be possible to continue with the proposal and with the application for grant funding from the Football Foundation. However, the Gateway Review had demonstrated that this would not be an appropriate location for an ATP, and the Council was not able to spend the necessary amount to fully refurbish and extend the pavilion to the extent that would be required.

There were emerging proposals for new sporting facilities in the District. These were in the very early stages, but it was possible that they might eventually lead to new proposals for an ATP to serve the north Leamington area. Councillors and officers would engage in the organisations developing these proposals and monitor their progress as part of the assessment of how best the Council might provide an ATP for this area of the District.

Withdrawing the proposal for a new ATP at Newbold Comyn would free up Section 106 monies for other projects that would encourage people to adopt healthy lifestyles.

Sean Russell, public speaker, addressed the Cabinet.

Councillor Davison proposed the report as laid out, subject to the following amendment to recommendation 3:

“That Cabinet asks officers to bring forward costed proposals for the refurbishment of the pavilion at Newbold Comyn to the Newbold Comyn Project Board and the Cabinet if necessary to ensure that it is viable for use for the next to 5-10 years”.

Resolved that

- (1) the proposal to locate a new Artificial Turf Pitch at Newbold Comyn be withdrawn, and officers to keep the provision of appropriate artificial and natural facilities for football under review;
- (2) the application to the Football Foundation for grant funding to support the proposal to locate a new Artificial Turf Pitch at

Newbold Comyn be withdrawn; and

- (3) officers to bring forward costed proposals for the refurbishment of the pavilion at Newbold Comyn to the Newbold Comyn Project Board and the Cabinet if necessary to ensure that it is viable for use for the next to 5-10 years.

(The Portfolio Holder for this item was Councillor Davison).

139. 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 paragraph of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Minutes Numbers	Paragraph Numbers	Reason
140	3	Information relating to the financial or business affairs of any particular person (including the authority

140. Confidential Appendix to Item 4 – Newbold Comyn Cycle Trails

The confidential Appendix was noted.

(The meeting ended at 6.40pm)

CHAIR
10 July 2024