# Cabinet

Minutes of the meeting held on Thursday 12 August 2021 in the Town Hall, Royal Leamington Spa at 6.00 pm.

**Present:** Councillors Day (Leader), Bartlett, Cooke, Grainger, Hales, Matecki and Rhead.

**Also Present:** Councillors: B Gifford (Liberal Democrat Group Observer), Nicholls (Labour Group Observer), Milton (Chair of Overview & Scrutiny Committee) and Nicholls (Chair of Finance & Audit Scrutiny Committee).



## 29. Apologies for Absence

An apology for absence was received from Councillor Falp.

## 30. Declarations of Interest

Minute Number 36 – Closure of Linen Street Multi-Storey Car Park

Councillor Grainger declared an interest because as Leader of Warwick Town Council she had been involved in discussion and input regarding Linen Street.

Minute Number 39 - Compulsory Purchase Order – Land at Kenilworth Wardens, Glasshouse Lane, Kenilworth

Councillor Hales declared an interest because he was previously on the Committee at Kenilworth Wardens from 2008 to 2016.

## 31. Minutes

The minutes of the meeting held on 8 July 2021 were taken as read and signed by the Chairman as a correct record.

**Part 1**

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

## 32. Q1 Budget Report

Following our consultations and on advice of the Chief Executive, the report was withdrawn from the agenda. The urgent aspect on the Housing Revenue Account would be dealt with using emergency powers, given time constraints.

A revised report would be circulated for our consideration in September, which would be accompanied by a separate report on proposals for Green Waste Charges

## 33. Final Accounts 2020/21

The Cabinet considered a report from Finance. The 2020/21 Accounts were in the process of being finalised, with the draft Statement of Accounts published on the Council’s website on 16 July (ahead of the 2020/21 statutory deadline of 1 August). External Audit was then due to commence its Audit from 19 July, alongside which the period for public inspection and review would run. Subject to the outcome of the Audit, it was intended that the Finance and Audit Scrutiny Committee would formally approve the Audited Statement of Accounts on the 22 September 2021.

The report provided a summary on the draft 2020/21 outturn with the appendices to the report, with the draft Statement of Accounts (available on the website) providing a detailed analysis.

The Cabinet was asked to note the financial position for 2020/21 as detailed in the report, and the decisions made under delegated authority.
The final outturn positions upon closure of the Accounts were as follows.

| | **Latest Budget £'000's** | **Actual £'000's** | **Variation £'000's** |
|---|---|---|---|
| General Fund | 9,599 | 9,358 | -241 |
| HRA | -2,565 | -4,359 | -1,794 |
| Capital Programme | 78,645 | 44,760 | -33,885 |

The outturn for the General Fund Revenue Services for 2020/21 presented a favourable variation of £0.241m. Should there be any change to the variation as a result of the ongoing External Audit, Members would be updated accordingly.

The significant General Fund variations were as follows.

| **Description** | **Variation £'000's** | **Favourable / Adverse** |
|---|---|---|
| Employee Costs | -119 | F |
| Benefits | -25 | F |
| Corporate R&M | -41 | F |
| Car Parking Income | 364 | A |
| Investment interest income | -123 | F |
| Bereavement Services | -160 | F |
| Building Control Income | -67 | F |
| Planning Fee Income | 98 | A |
| Postponed PCC Elections May 2020 | 19 | A |
| Legal Fees | -67 | F |
| Waste Collection Income | -187 | F |
| Member Allowances Pay Award | 16 | A |
| Catering Contract | 38 | A |
| Court Fee Income | 29 | A |

An analysis by Portfolio was shown at Appendix A to the report. IAS19 adjustments and capital charging had been excluded from the variations below as these were reversed out of the Net Expenditure position.

Net Business Rates Retained Income to the General Fund was £10.771m above the revised Budget. This apparently favourable variance was due to the way that Government had compensated Councils through S31 grants for administering its Covid-19 support programmes, primarily in the form of Business Rates Reliefs and Business Grants. This additional income had been allocated to the Business Rate Retention Reserve (BRRVR), so temporarily increasing the Council’s level of reserves.

This was a technical anomaly, and primarily a timing issue, as these grant payments were not anticipated when NNDR1 (the return submitted to Central Government in January 2020) set business rates shares for 2020-21 and were instead paid to the General Fund later in the year as the Government developed its pandemic response. The reliefs therefore sat in Earmarked Reserves at year end.

This might give a false impression of some authorities’ financial health, masking the very serious financial challenges that many District’s including WDC were facing. It was important that this position was not misunderstood as the extra funding from the BRRVR would be needed to balance the Business Rates Account for 2021/22.

Investment Interest was higher than that budgeted. Delays in various programmed expenditure as discussed within the report, meant that there had been more balances to invest which had led to this favourable variation rather than it being due to higher interest rates. The Annual Treasury Management Report had been presented to Finance and Audit Scrutiny Committee alongside the Final Accounts 2020/21 report on 11 August and provided more information on the 2020/21 performance. The Table below summarised the HRA and GF position.

| | **Latest Budget £'000's** | **Actual £'000's** | **Variation £'000's** |
|---|---|---|---|
| General Fund | -447 | -570 | -123 F |
| HRA | -155 | -225 | 70 F |
| **Total Interest** | **-602** | **-795** | **-193 F** |

Employee costs were underspent by £119k in 2020/21. The key driver of this was staffing vacancies totalling £300k across a number of services, in particular Assets, Benefits & Customer Services, Development Services and Housing Services. Vacancies had been offset with additional staffing costs (overtime, agency staffing) where necessary, at a cost of £198k.

The Planned preventative maintenance (PPM) corporate repairs programme was funded through a combination of revenue and reserve funding from the Corporate Assets Reserve, in that order. In 2020/21, £188k had been drawn down from the Corporate Assets Reserve due to expenditure in year of £601k. Expenditure was significantly lower in year on the PPM programme than was originally set in as part of the Budget Setting Report in February 2020 (Where £1.1m of works had been agreed, supported by a £659k draw down from the Corporate Assets Reserve). The key driver of the reduction in expenditure in year were delays caused by Covid-19. As part of the Budget Setting for 2021/22, a number of these delayed works had been carried forward.

The Corporate R&M budget was underspent in 2020/21 by £41k due to a reduction in the number of works being completed as a result of disruption caused by Covid-19. It was expected that there would be a catch-up of works in 2021/22 as restrictions lifted, with access being improved and the use of some of the Corporate Assets increasing.

Bereavement Services had seen demand for its services increase as a result of the pandemic. In particular, there had been an increased demand for services at the Crematorium, with an increase in income over forecast of £160k.

Housing benefits presented an adverse net variance of £25k, driven by a reduction in the subsidy on benefit overpayments.

There had been a reduction in Court Fee income during 2020/21, as only one court session was held due to lockdowns. There were typically at least five sessions held in a year.

Rental income from Jephson Gardens Restaurant had not been received, resulting in an adverse variance of £38k.

Planning Fee Income budgets were reduced during the year as part of the Revised Budget Setting Process, to reflect the forecast impact of Covid-19. However, even with the reduction of £320,000, the forecast proved to be too optimistic, with income being a further £98k under budget. This was a combination of both planning fee income, and pre-application advice. Applications had been delayed, particularly in the first half of the year when restrictions in place were at their most severe, and applicants were taking a cautious approach.

On the other hand, Building Control income budgets were also reduced to reflect the anticipated impact of the pandemic on building works. This had been nowhere near as severe as expected and income had significantly exceeded the reduced budget by £67k.

Car parking income had seen an adverse variance of £364k, driven by the decline of use during January-March as a result of the third lockdown.

As a result of people in the District spending more time at home, due to lockdown restrictions and people moving to remote working, the demand for waste collection services had increased. Collections had increased, and with that, recycling credit income. There had also been an increased demand for replacement bins. Income received as part of waste collection services had been £187k above budget.

The postponed PCC Elections in May 2020 resulted in WDC being liable for the costs relating to venue hire at Stoneleigh Park, at £19k.

Within the budget setting process, budget was not provided for the Members' pay award that was received (in line with Officers), totalling £16k.

The Latest Budget for the HRA allocated £2.565m to be appropriated to the HRA Capital Investment Reserve. The actual outturn for 2020/21 resulted in £4.359m being transferred, an increase of £1.794m. This was summarised in Appendix B to the report.

HRA employee costs had been underspent by £690k in 2020/21. This had been driven by vacancies across a number of services including Business Development, Housing Strategy, and William Wallsgrove House. Agency staffing and overtime had been used in some instances where absolutely necessary for service delivery. IAS 19 pension contributions had also reduced as a result of the vacancies within the HRA.

Delays to repairs and maintenance work due to issues with access and contractor availability as a result of Covid-19 had resulted in an adverse variation of £1.135m. Major and cyclical repairs had been affected by this, in particular some of the ongoing fire prevention works. A new Fire Safety Works manager had been appointed to ensure all works were completed in the new financial year but the requirement on this budget was expected to reduce in the year as most of the works now fell under a bigger capital scheme established for 2021/22.

The Depreciation charged on HRA assets, in particular properties, was below forecast expectations for the year, resulting in a favourable variance of £186k. The charge was driven by property valuations provided for by our contracted Actuary. This was charged as an expense to the HRA as per statutory guidelines, with the value being transferred to the Major Repairs Reserve (MRR). The MRR was ring-fenced to be used to fund capital improvements through the Housing Investment Programme or could be used to repay debt.

There had been a favourable variation on the Bad Debt Provision of £37k. Tenant Arrears had increased as a result of the impact of Covid-19 and due to the national phased implementation of Universal Credit in place of Housing Benefit to applicable HRA Tenants. However, due to national policy changes, such as the temporary increase to Universal Credit introduced last year and extensions to the furlough scheme, arrears had been lower than initially forecast. This, though, would be an area where continual reviews would take place going into the new year as restrictions eased and some of the support policies began to be phased out.

Council tax charged while properties were vacant had increased in 2020/21, resulting in an adverse variance of £54k. Delays in being able to carry out property inspections, and then carry out and complete any subsequent repairs before being rented out again due to Covid-19 had resulted in the increased charge to the HRA.

There had been a favourable variance on Investment Interest of £70k, which was discussed and shown in the General Fund. Delays to Housing purchases and construction projects had helped offset reductions in interest. It had resulted in the HRA retaining higher than forecast reserve balances, which were invested to generate interest.

Officers would be monitoring these budgets in 2021/22 and reviewing the budgets where necessary to ensure appropriate resource allocation going forward.

Capital Expenditure showed a favourable variance against the latest budget of £33.885m. This was comprised of the Housing Investment Programme and Other Services. The table below summarised Budget and Expenditure by Fund, with further details within Appendix D to the report.

| | **Latest 2020/21 £'000** | **Actual 2020/21 £'000** | **Variance 2020/21 £'000** |
|---|---|---|---|
| Housing Investment Programme | 62,365 | 34,482 | -27,883 |
| Other Services | 16,280 | 10,278 | -6,002 |
| **Total Capital** | **78,645** | **44,760** | **-33,885** |

The key drivers of the variations were:

Slippage due to delays in delivering agreed programmed works and projects commencing late. The Budget to be carried forward to 2021/22 for these specific planned works totalled £27.011m on the Housing Investment Programme, and £6.042m for Other Services. Whilst this showed as a variation in the table above and in the appendices to the report, it was not an underspend or saving. In particular, a number of the delays had been as a direct result of Covid-19, with reduced access to sites and housing for contractors and developers. On the Housing Investment Programme, there had also been planning issues causing delays to the commencement of one of the large housing projects. These were currently being reviewed with the scheme being revised as necessary.

Appendix D to the report provided a comprehensive breakdown of the variations and their drivers, and the level of budget to either be returned to reserves or slipped to 2021/22.

In November 2016 (Budget Review Report), Members approved that any surplus or deficit on the General Fund balance was to be appropriated to or from the General Fund Balance. Under this agreed delegation, £0.241m. had been allocated.

Similarly, it was agreed for the Housing Revenue Account that the balance be automatically appropriated to/from the HRA Capital Investment Reserve. £1.794m had been transferred in 2020/21.

As part of the Final Accounts process, requests had been approved under delegated authority by the Head of Finance for Revenue Earmarked Reserves. These were for previously agreed projects where it had not been possible to complete as budgeted within 2020/21 and would therefore need to carry forward budget to 2021/22.

These totalled £1.416m for the General Fund and £0.650m for the HRA and were outlined in detail in Appendix C to the report. Requests were considered against budget outturn within the specific projects and services, with requests approved only where there was sufficient budget available.

Members noted this was a considerable sum. Key Earmarked approvals for the General Fund included ongoing work relating to the new waste contract, the Commonwealth Games and the continuation of grant payments from the Community Economic Recovery Fund (CERF) in 2021/22. For the HRA the main approval was to support the rolling programme of external decorating of assets.

It was recommended that the Cabinet should note the position on Revenue slippage. As in previous years, expenditure against these Budgets would be regularly monitored and reported to the Cabinet as part of the Budget Review Process.

In terms of alternative options, the report was a statement of fact however, how the outcomes might be treated could be dealt with in a variety of ways, mainly the alternatives were to not allow any, or only allow some of the earmarked reserve requests to be approved.

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

Councillor Hales thanked the Strategic Finance Manager and the Head of Finance Services for the amount of time and effort in producing the report. He also thanked Group Leaders and Councillors because although it had been a challenging 12-18 months, where cross-party work had been crucial. There were a number of challenges ahead, notably business rates and car parking, and regarding the Chesterton Gardens appeal there had been a mitigation put into the accounts. If it had not been for the work of the Cabinet and Group Leaders, the costs could have been in excess of £300,000, so he wished to place on record his thanks to the Cabinet and Group Leaders. He then proposed the report as laid out.

**Recommended** to Council that

(1) the final revenue outturn positions of the General Fund (GF) and the Housing Revenue Account (HRA), being £0.241m and £1.794m favourable respectively, be noted;

(2) the Capital Programme shows a variation of £33.885m under budget and the level of slippage carried forward to 2021/22 as set out in Appendix D to the report, be noted;

(3) the allocations of the revenue surpluses which have been appropriated to the General Fund Balance Reserve and HRA Capital Investment Reserve under delegated authority, be noted; and

(4) the final position for Revenue Slippage, be noted and the Earmarked Reserve (EMR) requests of £1.416m General Fund and £0.650m HRA (Appendix C to the report), be approved, with the requests having been approved under delegated authority by the Head of Finance in

conjunction with the Finance Portfolio Holder.

(The Portfolio Holder for this item was Councillor Hales)
Forward Plan Reference 1,187

**Part 2**

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

34. **Equality & Diversity Task & Finish Group**

The Cabinet considered a report from Councillor Mini Mangat which set out the recommendations from the Task & Finish Group, supported by the Overview & Scrutiny Committee, in respect of equalities issues relating to the internal practice and policies, and the experiences of employees of WDC with a Black, Asian and Minority Ethnic (BAME) background.

In June 2020, the Council approved a motion, as part of the international response following the death of George Floyd, and as a result of that motion the Overview & Scrutiny Committee was asked to establish a Task and Finish Group. The Task and Finish Group was charged with undertaking a review of the Council's approach to equality and diversity, especially with regard to race. Its report to the Committee would include an action plan with a view to the Cabinet adopting the Committee's recommendations in the report and its action plan. The progress and outcomes of the action plan would be monitored by the Overview & Scrutiny Committee, with the expectation that measurable improvements would be made by 2023.

The Overview & Scrutiny Committee supported the request and appointed a Task & Finish Group at its meeting on 22 July 2020, along with its Scope as set out at Appendix 1 to the report.

The Group met on 11 occasions and spent time collecting a considerable amount of information, as set out at Appendix 2 to the report. This work involved meeting with officers of Warwick District Council, officers of Warwickshire County Council (as the Council's appointed equality advisor), as well as representatives from Investors in People, a Trade Union and West Midlands Employers. On completion of that research phase, interviews were conducted with a number of BAME employees at WDC. The interviews were anonymised and conducted by an independent third party.

A significant amount of evidence was provided to the Group, as well as further background reading and research. A list of data provided appeared in Appendix 2 to the report, with a very brief summary of ethnicity data in Appendix 3 to the report.

The Group was aware of the partnership work with Stratford-on-Avon District Council, which it was anticipated would see all employee policies aligned. Therefore, it was vital that the recommendations and this work was also adopted by Stratford-on-Avon District Council and so discussions to this effect would be required. Without this, it would be significantly harder to bring forward these changes and enable broader cultural change.

The Group was generally reassured with the position the Council was in, in terms of equalities, and that a significant amount of work had been undertaken over a number of years on equalities in general. The HR department provided a significant amount of information including policies, procedures and data that was held by WDC, and additional data held by WCC. WDC collected and monitored the diversity of its staff to better understand its profile compared with local and national data and to ensure that the workforce was reflective of the communities served. Compared with data from the 2011 Census, WDC's Black, Asian and minority ethnic (BAME) representation of 10.32% was roughly representative of BAME communities within Warwickshire (11.8%). At June 2020, 58 out of 512 WDC employees were BAME, while 46 officers had chosen not to record their ethnicity (disclosure of ethnic background was optional for staff and Members). The Group was disappointed that more recent local data could not be provided to show the ethnicity of Warwick District residents to provide a more accurate comparison with the community the Council served, but recognised this would be updated when the 2021 census data was published.

WDC's BAME employees were not evenly spread across the organisation, nor were they evenly spread across pay bands, as set out within the Ethnicity Pay Gap report that was considered by Council. As at 31 March 2020, the highest concentration of BAME employees was in the lower middle quartile (15.5%), although a small increase had been seen in the middle and upper quartiles since 2018. WDC was to be praised for having reported on the Ethnicity Pay Gap ahead of many other Councils and organisations. However, although the gap had reduced significantly in recent years, there was an 8.9% pay gap between the mean hourly rate for BAME employees and those White British/unknown at 31 March 2020, and an 11.2% pay gap between the median hourly rate. In view of this evidence, the Group felt there was a need to introduce proactive measures to try and increase the racial and ethnic diversity representation within senior management.

There was a commitment at WDC to having a diverse and inclusive workforce, and strategies had already been adopted that should result in greater recruitment of BAME employees as well as better opportunities for development. Input from West Midlands Employers regarding recruitment for Head of Service level and above had already resulted in the adoption of 'anonymising' candidates to remove unconscious bias in selection, and the Group strongly endorsed this approach; the Group believed further recommendations could be adopted to widen the media channels used so more BAME applicants were attracted.

Following the research phase, it was clear that further evidence was needed from the point of view of WDC's BAME employees, to ascertain the extent to which policies were embedded in practice. The Group appointed WME to conduct interviews, and nine WDC staff of BAME background provided their (anonymous) experience. While the Group acknowledged that the sample was small (nine out of an estimated BAME workforce of 58), and that their views might not be wholly representative of BAME staff in general, the small sample should not in any way detract from the findings. Put simply, although two thirds felt valued and respected, one third did not; around half believed they did not have the same opportunities as their white counterparts, and two thirds felt that the selection process for roles was not transparent. In general, it was felt that the correct policies were in place, but that having a diverse workforce was not promoted by the organisation's culture and equality was not being led from the top and that there were no promises or commitments to promote the Equality agenda from the Senior

Management Team. These findings, taken alongside employment data and the ethnicity pay gap, had convinced the Group that further racial equality initiatives were needed, together with strategies such as adoption of the Race Equality Code and application of the Rooney Rule.

The research undertaken identified that there was a wider community and cultural aspiration for promoting diversity within the workplace, and that a body of 'best practice' strategies had been developed. A number of models existed to illustrate the embedding of inclusive practice, and while WDC had shown commitment to this, there was opportunity to improve. In order for WDC to develop inclusion 'maturity', the Group believed it should adopt best practice from examples such as the Race Equality Code 2020 and the Race at Work Charter. Other Local Authorities (Birmingham City Council, for example) had worked towards the adoption of the Code. It did not create new obligations but provided one set of standards and an overarching accountability framework based on four principles:

- Reporting – it's time to report on race;
- Action – it's time to demonstrate accountability from the top;
- Composition – it's time to get to define the right targets; and
- Education – it's time to provide psychologically safe places.

Adoption of the Code would help to further develop a culture of inclusivity within the Council.

Adopting the Race at Work Charter introduction would demonstrate a commitment from the Council in the most senior Leadership roles to undertake service and leadership transformation, then building in expectations and the right culture regarding equalities, diversity and inclusion, especially racial equality. From the WME reports it was clear that leadership of equality was not the job of HR, and in order to further improve the culture of and inclusiveness, commitment from top leadership was essential.

The Task and Finish Group welcomed the production and publicity of an ethnicity pay gap report and the commitment from the Council to continue to publish this data annually alongside the gender pay gap report. This had been specifically highlighted as one of the positive steps the Council had taken in promoting equality generally and being open with its community. The Group was also aware that there would be ongoing monitoring of the recruitment process to identify applications being made to the Council, how these were progressing and the diversity within the Council overall.

Within the information provided to the Group, no member of SMT identified as BAME, which was not reflective of the wider organisation and community. It was recognised that to promote engagement with the wider community and to encourage a more diverse workforce, the community and applicants would look to see themselves within senior positions. The lack of BAME representation in senior management was considered to have a direct effect on the wider recruitment and engagement from and with the community. A positive change of culture was needed within the Council to help achieve a more diverse and inclusive workforce. This focus on recruitment and talent development processes would itself be dependent on data collection and analysis; fostering safe, open and transparent dialogue; mentoring, support and sponsorship; and working with a more diverse set of suppliers and partners.

Adopted in 2003, the Rooney Rule was a USA National Football League policy requiring every team with a head coaching vacancy to interview at least one or more diverse candidates. In 2009, the Rooney Rule was expanded to include general manager jobs and equivalent front office positions. The introduction of the Rooney Rule was considered appropriate for the Council to promote a more inclusive senior management team. Application of the Rule for key managerial positions required a racially diverse set of candidates for consideration and would widen the talent pool.

The work undertaken by WME with colleagues within the Council highlighted some areas of concern. It was recognised that although a limited number of staff participated, it identified, along with examples of best practice considered by the Group, that there was significant progress to be made in developing the Council's overall maturity in relation to race equalities. The view of one of the interviewees summarised the current position succinctly: 'The WDC culture was 'treating everyone the same' when this was not the solution, and it was about giving people equal opportunities and addressing the imbalance.' To achieve this, an action plan needed to be drawn up that set out what steps would be taken, and the Council needed to be realistic about its current level of available resources for this. This would need the support of an expert, and under current resource constraints it was considered this would not be possible. However, an action plan could be developed as part of the transformation process for the possible merger with Stratford, which would see a cultural shift for both Councils. As well as the above, the specialist could review the work and findings of this Group and develop a wider action plan for consideration by Senior Management and Members.

With this action plan there was a need to look for evidence of engagement and change within the Council over time. It may be considered advisable to bring forward focussed inclusion groups for employees within the Council but this would need careful consideration to ensure appropriate engagement. For these reasons it was considered that a specialist in this area of work was needed to help the Council move forward.

It was important for the Committee to monitor progress on the recommendations. Considering the detail of these, it was important that sufficient time was provided to bring these forward.

The recommendations were reported to the Overview & Scrutiny Committee at its meeting on 6 July 2021. Some aspects of the report were also relevant to the Employment Committee and therefore these would also be reported to it at its next meeting on 7 September 2021.

No alternative options were considered.

An addendum circulated prior to the meeting provided Members with appendices 4 and 5 to the report, which were to follow on the agenda page, and appendix 6 which was the Equality Impact Assessment.

Councillor Hales proposed the report as laid out, and that the Transformation PAB take the work forward from the Group with partners at Stratford-on-Avon District Council. The proposal was amended so that in respect of recommendation 2.4, the Cabinet asked the Overview & Scrutiny Committee to consider moving the proposed work on the second part of the Task & Finish Group to the Transformation PAB for consistency reasons. When put to a vote, the proposal was approved.

Councillor Day was grateful for the hard work of the Task & Finish Group and looked forward to the working with the Overview and Scrutiny Committee going forward.

**Resolved** that

(1) the Transformation PAB take the work forward from the Group with our partners at Stratford-on-Avon District Council; and

(2) the Overview & Scrutiny Committee is asked to consider moving the proposed work on the second part of the Task & Finish Group to the Transformation PAB for consistency reasons.

(The Portfolio Holder for this item was Councillor Day)
Forward Plan Reference 1,235

## 35. Risk Management Annual Report 2020/21 Strategy

The Cabinet considered a report from Finance which presented the annual report for risk management and updated the Risk Management Strategy for implementing and embedding risk management in Warwick District Council.

As part of their responsibility for overseeing the organisation's risk management arrangements, Members were responsible for the Council's Risk Management Strategy and for developing risk management within the Council.

There were no alternative options considered.

The Finance & Audit Scrutiny Committee supported the recommendations in the report. Members wished to make clear that section 9.2 of the report should be clarified to reflect that the merger of Warwick District Council and Stratford-on-Avon District Council had not yet happened and was a possible merger at this stage.

Councillor Hales was happy to accept the amendment from the Finance & Audit Scrutiny Committee to section 9.2 of the report to read "**Proposed** Merger of Warwick District Council and Stratford-on-Avon District Council", and he then proposed the report as laid out with the above amendment.

**Resolved** that

(1) the Council's Risk Management Strategy, including confirming the responsibilities of Members to oversee the risk management framework (Appendix A to the report), be approved; and

(2) the existing risk management activities and culture in the Council (Appendix B to the report), be approved.

(The Portfolio Holder for this item was Councillor Day)
Forward Plan Reference 1,192

36. **Project Funding for Castle Farm Leisure Centre and Abbey Fields Swimming Pool**

The Cabinet considered a report from Cultural Services. The current focus of the Warwick District Leisure Development Programme was the two leisure facilities that the Council owned in Kenilworth, being Castle Farm Recreation Centre and Abbey Fields Swimming Pool.

In February 2021, the Executive gave permission to begin the procurement processes for the demolition and construction contractors for these two facilities. Permission was also granted to let a demolition contract and a construction contract for each of these facilities with the preferred contractors, provided that the agreed costs were within the limits set out in the appropriate report.

Progress towards obtaining Planning Permission for these two facilities, and towards procuring the contracts for demolition and construction, had been delayed by various factors and this had resulted in additional expenditure by the Council in progressing these two projects. Other additional expenditure had also been identified that was likely to be needed to deliver this project successfully. It was proposed that these additional amounts should be taken from the project contingency once the project was capitalised. However, until the project was capitalised it was necessary to identify a revenue source for such expenditure in case the capitalisation did not occur. The report therefore sought approval to ring-fence these sums within the Service Transformation Reserve, should the scheme not proceed, and capitalisation not occur. This ring-fencing could end once the projects were capitalised and provided that both projects reached this stage.

The initial submissions of the planning applications for the Castle Farm Leisure Centre and the Abbey Fields Swimming Pool were made on 28 January 2021. The applications were advertised in the Press on 12 February 2021. As well as many comments from the general public and other stakeholders, most of the statutory consultees replied with detailed questions concerning the schemes.

The Design Team had done a considerable amount of work to respond to the issues raised in the consultation to provide further explanation or information. A number of changes had been made to both schemes in response to comments received. The Design Team had then submitted additional information to the Council as the Local Planning Authority. The amount of additional material submitted had meant that the Council as Local Planning Authority had chosen to re-consult with the general public, stakeholders and the statutory consultees.

Following this additional consultation process, the Council intended to consider these two Planning Applications at the Planning Committee to be held on the 17 or 18 of August 2021, however this was now expected to be considered by the Planning Committee in September.

However, this process had taken longer than expected, and this had extended this period of the programme. This had meant that most members of the Design Team had been involved in more work than was expected, and this has led to an increase in the cost of employing these consultants to prepare the planning applications.

The procurement processes to identify the preferred contractor for the demolition of the two centres and the preferred contractor for the construction of the two new centres had also been subject to delays. Some of this delay had been the consequence of the delays to the planning applications, as it was not appropriate to conclude the procurement process until Planning Permission had been obtained. These elements of the delay did not create additional cost, as the appropriate legal and project management advisers could simply begin their work later.

However, this procurement process had proved more complex than was originally envisaged. Various procurement routes were examined in detail and these were compared to decide which was the most appropriate route for these important projects. The aim was to protect the legal and financial position of the Council and to reduce the length of the procurement process whilst ensuring the best value for money on these schemes. Once the preferred route was agreed by the Project Board, the work of preparing all the appropriate documentation was completed.

The delays to the procurement process had led to additional costs from the legal and project management advisers as they had done additional work on comparing the various procurement routes examined.

Furthermore, as the work had developed other likely costs had been identified. All this expenditure would be classified as capital expenditure if the projects did go ahead. However, it would be necessary to incur some of this expenditure before the project was capitalised and, in this situation, then provision would need to be made within the Council's revenue budget in case the projects did not subsequently go ahead as capital schemes. It was proposed that this was best done by ring-fencing the £350,000 required from within the uncommitted balance of £705,000 within the Service Transformation Reserve. If the projects did go ahead then they would be capitalised at the point of signing a contract with the main construction contractor and the demolition contractor, and at this point the ring-fencing could be removed and this portion of the Service Transformation Reserve could be used for other purposes.

A detailed breakdown of all the additional unfunded costs was provided in Table One below:

Table One – Unfunded pre-capitalised costs.

| Item | Cost |
|---|---|
| **Predictable expenditure for which permission had not been sought** | |

| | |
|---|---|
| Professional team fees to complete RIBA Stage 4 – procurement and planning (Jan to August 2021) | £126,337.33 |
| Discharge of planning conditions | £20,000 |
| Disconnection of utilities – advanced charges | £20,000 |
| Legal fees – procurement and contracts | £45,000 |
| Legal fees – leases for Everyone Active and Scouts and Guides | £20,500 |
| **Total predictable expenditure for which permission had not been sought** | **£231,837.33** |
| | |
| **Unexpected expenditure** | |
| Professional team prolongation for procurement and planning (Sept-Nov 2021) | £45,562.50 |
| Additional appointments required for planning | £51,662.00 |
| Client direct costs – temporary toilets, battery alarm for barn, lifting tree crowns and similar | £7,000 |
| Out of pocket expenses for Scouts and Guides move during works – legal, Planning Application costs for storage units, renting storage units | £12,000 |
| **Total unexpected expenditure** | **£116,224.50** |
| **Overall total additional project costs before capitalisation** | **£348,061.83** |

The figure of £126,337.33 represented expected fees for the work of the Design Team. The reason why funding was no longer available to meet this figure was because other urgent items had had an impact on the financial position of the programme, and this had meant these sums were no longer available for this purpose. It was accepted that this was poor budget management, but it had been important to agree this expenditure to keep the project development phase of the two projects progressing. The figure of £20,000 for the discharge of planning conditions was similarly predictable but had already been utilised on other items.

The figure of £20,000 for the disconnection of utilities was included here as a precaution. It was expected to commit to these items after capitalisation, but to ensure that the utilities did not delay the project, they were now included within the unfunded pre-capitalisation sums. The two sums for legal fees were included within the project costs for the first time.

The sums for prolongation and additional appointments had come about due to the additional time and effort that had to be expended on the planning and procurement elements. This had meant the Design Team had been working on these projects longer than expected, and more work had to be commissioned from consultants to provide required information.

In developing the projects and in discussions with stakeholders, several additional requirements had arisen, some of which would have to be paid for in the pre-capitalisation period, amounting to an estimated £7,000.

In negotiations with the Kenilworth Scouts and Guides concerning the surrender of their existing lease and their move to temporary accommodation during demolition and construction, the Council had agreed to fund certain elements of their costs during this period.

The total sums allocated within the existing capital budget for the two projects was shown in Table Two below.

Table Two – Project contingency sums in capital budget.

| **Project** | **Contingency sum** | **Percentage of total budget** |
|---|---|---|
| **Current budget** | | |
| Castle Farm Project Contingency | £738,788 | 5.9 |
| Abbey Fields Project Contingency | £728,046 | 7.4 |
| Total Programme Contingency | £1,466,834 | 6.6 |
| **Budget after unfunded pre-capitalisation costs paid (assuming equal distribution of costs between projects)** | | |
| Castle Farm Project Contingency | 564,757.09 | 4.5 |
| Abbey Fields Project Contingency | 554,015.09 | 5.6 |
| Total Programme Contingency | 1,118,772.18 | 5.0 |
| Note that the costs would be distributed accurately between projects, but they were divided equally here for illustrative purposes.<br><br>Note that this table assumed the costs paid were those shown in Table One and not the maximum requested in recommendation 2.2 of the report. | | |

The project contingency sums contained within the capital budget were to allow for unexpected items during the delivery of a project. The sums shown in Table One were, therefore, legitimate items to include within the contingency budget. However, it was not possible to access the capital budget until the project was capitalised. This took place when there was clear evidence that the Council had moved from the planning stage to the delivery phase. This was usually considered to be when the Council signed a contract with the construction contractor and the demolition contractor.

At that stage, the sums shown in Table One could be met from the contingency sums shown in Table Two of the report. However, some of these expenses would need to be incurred before capitalisation took place, to prepare the projects for delivery. In this case, the Council needed to make revenue provision for these sums, in case one or both projects did not reach the point of being capitalised.

It was therefore proposed that £350,000 was ring-fenced within the Service Transformation Reserve in case this Reserve was required to pay for any items within Table One that were expended on either the Abbey Fields Swimming Pool or Castle Farm Leisure Centre projects in the situation where either or both projects did not subsequently become capitalised, i.e they did not proceed to creating a completed capital asset.

On previous capital projects within Warwick District Council, contingency had only been considered to apply to the demolition and construction phase. However, it was accepted practice within the industry for contingency to apply to the project development phase as well, as was being proposed here.

However, it was noted that if the items contained in Table One were accepted as legitimate contingency items, the demolition and construction phases would begin with less contingency to use. However, as shown by Table Two, even after these sums were removed, the contingency remaining for the programme was still more than £1,000,000. At 5% of budget costs, this was considered an appropriate percentage at this stage in the project.

In terms of alternative options, it would be possible to not undertake any improvements to the facilities at Castle Farm and Abbey Fields. If this decision was to be made then these two buildings would not have the same sort of aspirational, successful and modern facilities as were expected by customers. These two facilities would not be contributing to encouraging the District's residents to adopt an increasingly healthy lifestyle in the same way as the two refurbished facilities. Income from the contract with Everyone Active would not be maximised because attendance and income would not be enhanced by newer facilities. The opportunity would be lost to bring the buildings up to modern design standards, particularly with regard to sustainability. The buildings would not be prepared for use for another 30 years.

It would be possible to freeze the current design process for the two facilities until the financial impact of the Covid-19 pandemic on the Council was known in more detail. However, to delay the project in this way would lead to increased costs for prolongation and for inflation. If the freeze was for more than a few weeks, the current Design Team would probably be re-deployed onto other projects, leading to a lack of continuity and additional re-start costs.

The Finance & Audit Scrutiny Committee supported the recommendations in the report. Members noted the undertaking to align the categories of risk in the project risk register with the agreed categorisation of, and approach taken to, risks adopted by the Council in its Risk Strategy, and also noted that the project comprised of two separate contracts for Abbey Fields and Castle Farm.

Councillor Bartlett thanked the Finance & Audit Scrutiny Committee for a good debate and for the pertinent questions it raised. He then proposed the report as laid out.

**Resolved** that

(1) the planning applications for the new Castle Farm Leisure Centre and the new Abbey Fields Swimming Pool are now fully submitted to the Council as Local Planning Authority, the applications will be decided at a meeting of the Planning Committee and that the procurement processes for the demolition and construction processes for these two facilities are now underway, but that both these elements of the programme have taken longer than expected, be noted; and

(2) a sum of £350,000 be ring-fenced within the Service Transformation Reserve until the Castle Farm Leisure Centre and Abbey Fields Swimming Pool projects are capitalised in case additional expenditure, being expended on the projects, cannot be capitalised, with these revenue sums being replaced from the capital contingency already allocated to this programme by Executive in February 2021 if the projects go ahead to the point of capitalisation, be agreed.

(The Portfolio Holder for this item was Councillor Bartlett)
Forward Plan Reference 1,229

37. **Closure of Linen Street Multi-Storey Car Park**

The Cabinet considered a report from Neighbourhood Services which requested that funding be made available so that alternative provision could be made for occupiers of 31 spaces currently in the basement of the Linen Street carpark who had a legal right to be re-provided with secure parking.

Furthermore, it recommended that officers should bring forward an options appraisal for the Linen Street site and make available funding so that work could take place.

Following consultation with the Portfolio Holder for Climate Change and the broader Cabinet membership, it was agreed that Linen Street Multi-Storey Car Park (LSMSCP) needed to close as soon as possible due to significant health and safety concerns.

As a recap, an intrusive survey was commissioned in June 2019, which involved concrete testing and resulted in repairs being undertaken. Further, the report recommended that the carpark needed significant investment within two years. A further survey was carried out in March 2021, which indicated further significant deterioration requiring immediate maintenance and repairs but specifically highlighting major health and safety issues. It was these issues which led the Cabinet to agree that officers should close the car park as soon as possible and that options for the future use of the site were brought forward. Until the site was redeveloped, a monthly internal and external site inspection would be carried out by an expert surveyor and essential repairs completed to ensure the building was not a danger to the public.

Following comprehensive stakeholder engagement and publicity in relation to alternative parking options, Linen Street Multi Storey Car Park (LSMSCP) closed to the public on 18 July 2021. Season ticket holders and the Printworks permit holders had all been successfully displaced to other nearby carparks and the publicity campaign had centred on encouraging carpark users to utilise the available spaces at Vittle Drive and Hampton Road. Pricing had been amended to incentivise long stay users to park “out of town” and usage would be closely monitored to determine whether any further investment was required in the Council’s long stay carparks.

There were 31 spaces in the basement of LSMSCP used by owners who had an agreement in place providing a right to replacement parking if the existing carpark was no longer available. The Council was now working with those affected and relevant agents to relocate them off site.

The temporary displacement arrangement for the basement users would be a secure compound at West Rock carpark which would be erected during Autumn 2021. The cost of this would be in the region of £60k and would include lighting, fencing and a secure gate system.

Notwithstanding the plans described above, work was still ongoing with the Council’s surveyors to determine whether it would be safe for the basement users to remain in situ. There was no doubt that the remainder of the carpark was unsafe, but should the surveys prove positive, the Council would be able to avoid the cost of reprovision for the time being. However, should Members ultimately conclude that LSMSCP needed demolishing then alternative provision would still need to be arranged.

During the pandemic and the consequent Government instruction to work from home, it had been noticeable that there had been minimal use of LSMSCP. It remained to be seen whether behaviours would return to pre-pandemic norms and consequently what the demand for parking would be in Warwick town centre. It was hoped that by encouraging carpark users to park in the out-of-town carparks, then demand would fundamentally shift. However, this was speculation and so it was recommended that officers should undertake an options appraisal for the site, considering the needs of town centre businesses, visitors and local residents, and bring forward a further report for Members’ consideration. It was estimated that the cost of the appraisal would be approximately £50k and that this sum would be released from the General Fund Balance.

In terms of alternative options, none were considered as it was essential that the carpark was closed to the public and officers had been working on a mitigation strategy over a long period of time in readiness for a negative report from the Council's surveyors.

Councillor Rhead stated that the Council's priority was to look after the safety of residents, and this was being done. A survey of the basement was being undertaken, and alternative options were being considered by Legal officers. He then proposed the report as laid out.

**Resolved** that

(1) the release of £60k from the General Fund Balance so that should funding be needed, it can be made available for the construction of a secure carpark compound at West Rock carpark, to ensure that the Council's legal obligations are fulfilled, be agreed, and if the final cost is higher than this, authority is delegated to the Joint Head of Financial Services, in consultation with their Portfolio Holder, to agree any increased cost; and

(2) officers will bring forward an options appraisal for the future use of the site, and that £50k is released from the General Fund Balance so that professional advisers can be procured in relation to design consultants, quantity surveyors, valuers etc, be agreed.

(The Portfolio Holder for this item was Councillor Rhead)
Forward Plan Reference 1,230

38. **Procurement Exemption for Occupational Health Contract**

The Cabinet considered a report from Human Resources which sought the agreement for the direct award for the occupational health contract for Warwick District Council.

The Council's Code of Procurement Practice required a competitive process for all contract spend above £25,000. However, the Light Touch Regime within the Public Contract Regulations 2015 (PCR2015) provided flexibility procuring contracts with a total spend below £663,540, giving discretion to the Council to award without going out to competition if it was deemed not beneficial to do so as long as the decision-making process was fair, open and transparent. The provision of Health Services that were person dependent was categorised as CPV 85100000-0, which was subject to the Light Touch Regime under PCR2015. As such, it was lawful for the Council to choose to direct award this contract, although an exemption from the Council's own Code of Procurement Practice was required.

The current WDC contract for Occupational Health was awarded by competition in 2018 and due to end in May 2021. To help align the contract to the end date of SDC's contract it was decided to vary the contract end date to 31 August 2021 instead of exercising the right to extend built into the contract; in summary, a three-month extension and then a tripartite agreement. The contract value (SDC/WDC) equated to £180,000 with the WDC element costs at £150,000 over six years (three years with option to extend for six years).

WDC had only worked with Washington House for two years, having switched from the provider appointed by WCC. The improvements in the level of service provided by switching provider had been noticeable, however, making the switch created a fair amount of upheaval.

The reasons for proposing an exemption for direct award under the light touch regime for the joint contract were as follows:

- The requirement for on premise support limited the number of suppliers to those within a reasonable locality.
- The high risk associated with changing supplier during such a critical time due to Covid-19 and the proposed merger.
- The potential added resource needed to switch supplier when resources were already stretched with the proposed merger.

Although the competitive route was the default route for all procurements over £10k at WDC, it was recognised that for this service any financial benefits from competition might be limited due to the small pool of suitable local suppliers and even then, they might be eclipsed by the risks identified above. Also, the fact that these services could be covered under the light touch regime demonstrated that the public contract regulations recognised that for people-based services, sometimes greater flexibility was needed to allow for the human factor when awarding contracts which were not so easily accounted for in a tender process.

It was for these reasons that WDC procurement agreed that in this instance an exemption to stay with the incumbent should they offer a competitively priced and acceptable proposal would be in the best interests of the Council over going out to competition.

Councillor Day propose the report as laid out.

**Resolved** that an exemption to the Code of Procurement Practice to enable direct award to Washington House from 1 September 2021 with a contract value of £150,000 over six years (three years with option to extend for three years), be approved.

(The Portfolio Holder for this item was Councillor Day)

39. **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 |
| --- | --- | --- |
| 40 | 3 | Information relating to the financial or business affairs of any particular person (including the authority holding that information) |
| 41 | 1 | Information relating to an individual |

40. **Proposed Compulsory Purchase Order – Land at Kenilworth Wardens, Glasshouse Lane, Kenilworth**

The Cabinet considered a confidential report from Development Services.

The recommendations in the report were approved.

41. **Use of Delegated Powers – Afghan Locally Employed Staff (LES) Relocation Scheme**

The Cabinet considered a confidential report from Housing.

The recommendations in the report were approved.

(The meeting ended at 6.55pm)

CHAIRMAN

23 September 2021