

# Executive

Minutes of the meeting held on Wednesday 31 October 2018 at the Town Hall, Royal Leamington Spa, at 6.00 pm.

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

**Also present:** Councillors: Boad (Liberal Democrat Group Observer), Mrs Falp (Chairman of Overview & Scrutiny Committee); Quinney (Chair of Finance & Audit Scrutiny Committee); and Naimo (Labour Group Observer).

## 76. **Declarations of Interest**

### Minute 78 –Kenilworth School Loan and Land Purchase

Councillor Whiting declared an interest because his wife was a governor of the school. He therefore left the room whilst the item was discussed.

### Minute 90 –Kenilworth School Loan and Land Purchase – Private & Confidential

Councillor Whiting declared an interest because his wife was a governor of the school. He therefore left the room whilst the item was discussed.

## 77. **Minutes**

The minutes of the meetings held on 27 June, 25 July, 30 August and 26 September 2018 were taken as read and signed by the Chairman as a correct record.

In addition to the minutes detailed on the agenda, the Leader agreed to the inclusion of the minutes from 4 January and 7 February 2018 for consideration. These were circulated to Members prior to the meeting and agreed and signed by the Chairman as a correct record.

### **Part 1**

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

## 78. **Kenilworth School Loan and Land Purchase**

The Executive considered a report from Deputy Chief Executive (AJ) regarding Kenilworth School Loan and Land Purchase. The report asked Members to agree a loan to Kenilworth School and the purchase of land at Rouncil Lane in Kenilworth, thereby helping to facilitate the relocation of Kenilworth School and Sixth Form and providing an opportunity for the Council to develop a house-building programme.

Since the Executive considered a report on this matter at its meeting of 31 May 2018, not all elements of the relocation project had progressed as

smoothly as would have been hoped: Whereas parts of the planning application work had progressed and Warwick District Council officers had developed a sound case for the purchase of the School's land at Rouncil Lane and the advancing of a loan to enable the School to continue with its planning application preparation, the landowner at South Crest Farm had not agreed a sale price with the School for their land and so the purchase had not been completed. Consequently, officers had to instruct Counsel to provide Compulsory Purchase Order (CPO) advice in the hope of convincing the landowner to reach an agreement.

Officers and the landowner met at the Council's offices late last month, accompanied by relevant professional advisors, and it was hoped that a negotiated settlement could be reached. Should this not have been successful, officers would have no alternative but to begin formal CPO proceedings which would involve a report to this Committee to seek agreement to the CPO process. The consequence of this was that the School's aspiration of being on its new site for the September 2021 academic year was at risk. Although Counsel's advice was that the Council had a strong case for a CPO, if the landowner decided to argue the matter, the length of the process was difficult to determine as an Inquiry would need to take place.

Notwithstanding the aforementioned, the School Governors' position was that they wished to push ahead with the relocation project recognising the risk but in the belief that it was not "if" relocation would take place but "when".

Executive had agreed that Officers could enter into negotiations with the School's representatives for the in-principle purchase of the land allocated in the Local Plan for housing at Rouncil Lane (currently the School's Sixth Form site and defined as allocation H12 in the Plan). Officers duly instructed the Council's valuers Bruton Knowles (BK) to provide valuation advice in respect of the site and that advice could be seen at Appendix One in the private and confidential (p&c) report relating to this matter. Based on this advice, an offer had been made to the School and this offer had been accepted. The amount offered was detailed in the confidential report (Executive Item 15) along with a commentary to support the level of offer. Members were asked to agree the Heads of Terms (HoT) for the purchase of this land at Appendix Two to the confidential report. It would be noted that the HoT was constructed in such a way that the option to purchase part or the entire Rouncil Lane site existed. The former option was in case the School was ultimately thwarted in its planned move, for whatever reason.

In tandem with negotiations around purchasing Rouncil Lane, Executive had asked officers to explore whether it would be possible to advance a loan of circa £1m to the School to enable it to proceed with its planning application and assist with funding the upfront capital costs of the scheme. That work had confirmed that a loan of that amount could be secured by taking a charge on part of the land at Rouncil Lane which could be developed even with the School still in situ.

Appendix A to the public report included a site plan of the School's land at Rouncil Lane. It was considered that the hatched green area of the site could be developed even if the school remained in situ. Officers had taken advice from a Highway consultant regarding access (Appendix B to the public report) and the Council's solicitors had advised that there would be no impediment to gaining access as a consequence of land title. Officers had therefore instructed the Council's solicitors to draft a Loan Agreement to which the School had agreed. The key element of the agreement from the Council's perspective was security for the loan. This would be achieved by way of a land charge on the site which would be placed on the part of the land that could be developed even with the School in situ. An option agreement would be entered into for this part of the land contemporaneously with the execution of the loan Agreement. Members were asked to note the draft Loan Agreement, as currently proposed at Appendix Three to the confidential report and agree that the final document was agreed under delegated authority, in consultation with the Leader.

Whether the Council ultimately would end up owning the entire site with the potential for 130 dwellings (Local Plan allocation number) or just part with the potential for 70 dwellings, the Council would be afforded the opportunity to begin a house building programme. Members were aware that a report entitled 'Bid for Local Authority Housing Programme' was agreed at the August Executive which sought approval for increasing the Council's borrowing headroom to bring forward such housing schemes. Whilst the financing of the purchase(s) proposed in this report was not dependent on the bid, a successful outcome would give the Council greater capacity to explore further opportunities.

As an alternative option, the Council could decide to play a less active role in the project, however, the likely consequence of this was that the relocation of the School would be delayed and the Council would miss the opportunity to develop a Council house-building programme. For those reasons, the option was rejected.

The Finance & Audit Scrutiny Committee supported the recommendations in the report and noted the confidential appendix.

Councillor Mobbs proposed the report and stated that the Council were pleased to be able to help Kenilworth School in this move.

The Executive, therefore,

**Recommended that**

- (1) the latest position as it relates to Kenilworth School and Sixth Form's decision to relocate to land at South Crest Farm, Kenilworth, which has been allocated in the Warwick District Local Plan for educational uses, is noted;

- (2) the latest position in respect of the negotiations and discussions between officers and the School in respect of advancing a loan and purchasing the School land at Rouncil Lane, is noted;
- (3) the Heads of Terms for the purchase of the School land at Rouncil Lane at Appendix Two to the private & confidential report on this matter, having noted both the Council's valuation advice at Appendix One and offer price at paragraph 3.2 of the report, are agreed;
- (4) the release of the necessary funding from the Housing Revenue Account Capital Investment Reserve is agreed;
- (5) the draft Loan Agreement at Appendix Three to the private & confidential report is noted; and
- (6) a final document is agreed by the Deputy Chief Executive (AJ) and Head of Finance in consultation with the Leader and recommends to Council that the precise source of funding of the loan is agreed by the Head of Finance and included within the updated Capital Budget, is agreed.
- (7) A final document is agreed by the Deputy Chief Executive (AJ) and Head of Finance in consultation with the Leader and the precise source of funding of the loan is agreed by the Head of Finance and included within the updated Capital Budget.

(The Portfolio Holders for this item were Councillors Coker, Mobbs, Phillips and Rhead)  
Forward Plan Reference 972

## **79. Code of Procurement Practice**

The Executive considered a report from Finance regarding proposed amendments to the Code of Procurement Practice.

The Council's Code of Procurement Practice was last formally reviewed and amended in 2016. It was recognised good practice to keep this document under review and make amendments as necessary to meet the changing environment in which the authority, its services and its finances operated.

The revisions to the Code of Procurement Practice had been developed by Warwickshire County Council's Head of Procurement, as the Council's Strategic Procurement Partner. The proposals had been considered at length by the Procurement Board (Senior Management Team), and the Procurement Champions.

The needs of councils were changing and councils needed to be innovative, flexible and agile in order to be able to respond quickly and efficiently in order to maximise opportunities as and when they arise. Councils therefore needed to have in place a procurement framework which supported innovation, agility and flexibility but at the same time provided the appropriate level of control, safeguarding and scrutiny that would be expected in an organisation spending public money. This was the context within which the review had been undertaken and a revised Code proposed.

The current Procurement Code of Practice (the Code) generally included the elements that would be expected to be seen in a document of this type. However, because the Code had been built up over time, some elements had become confused, overly complex and in some places contradictory.

The level of detail contained in the Code also varied significantly between sections. Some sections were light touch focusing on the more strategic procurement principles that the Council was seeking to achieve, whereas other sections went into great detail about the actual processes that officers needed to follow to satisfy both statutory and local procurement requirements. This mixed level of detail coupled with the confused, complex and in some places contradictory elements made it difficult for officers to comply with their obligations. The revised code was therefore seeking to:

- Focus on what needed to happen in relation to procurement rather than how procurement was done. The 'How' would be covered in procurement guidance issued by WDC Procurement via the Intranet. This approach had the benefit of allowing the 'how' to be more flexible and more easily amended to reflect experience, good practice and legislation as it would not be formally part of the Code and therefore not part of the Council's Constitution. The Code did, however, have the teeth to force officers to follow any procurement guidance issued.
- Ensure that the Council's statutory obligations in relation to procurement were satisfied through the Code with local policy and practice requirements communicated to officers through supporting procurement guidance.
- Provide a structure for the document that was more aligned to how the procurement process happened and therefore the Code should be easier for officers to follow and comply with.
- Provide the necessary information in a clear concise way that was detailed enough for officers to know their obligations but short enough as to be manageable. As a consequence of the review, the proposed Code was much shorter than the current version – down from 43 pages to 25 pages.

It was clear from the review undertaken that awareness of the Code was high and Officers were familiar with the general look and feel of the Code. However, the revised Code contained some new/different requirements and therefore, once agreed, the new Code would need to be formally re-launched. In support of this, the Council had already reviewed its procurement training offer to incorporate the changes proposed in the revised Code. The intention was that once the revised Code had been formally adopted by Council, training content could be finalised and training delivery could commence.

There were a number of specific Proposed Changes to note within the proposed Code regarding: Minimum Requirements; Legal Compliance; Scope of the Revised Code; Roles & Responsibilities; Collaboration; The Gateway Process; Local Supply; Constructionline; Social Value (SV); Role of the Executive; E Procurement; and Types of Contract. Where it was proposed in the new Code to remove prior agreement from Members for lower level decisions, these decisions would still be reported retrospectively to members as they were currently. It was considered that this approach coupled with more clarity around roles, responsibilities and accountabilities would enable Members to focus on the more significant procurement issues impacting on the Council.

In terms of alternative options, Members may wish to retain the existing Code of Procurement Practice or propose alternative changes. However, as explained in Section 3, the proposals were intended to present a sound foundation under which to progress good procurement across the Council.

The Finance & Audit Scrutiny Committee supported the recommendations in the report with a number of modifications as agreed with officers. An addendum was circulated prior to the meeting in order to answer questions from the Scrutiny Committee.

The Overview & Scrutiny Committee noted the report and thanked Mr White, Procurement Officer from Warwickshire County Council, for attending their meeting and answering questions

The Portfolio Holder for Finance agreed the amendments as proposed by Councillor Rhead and advised that a revised wording would be issued prior to submission at Council.

The Executive therefore,

**Recommended** that Council adopts the updated Code of Procurement Practice as detailed in Appendix One to the minute, subject to an amendment to page 13 of the report, to bullet point four to read "*the exemption must be agreed by the Head of Finance and Executive, prior to any **contract being entered into***". These changes will be made prior to submission to Council.

(The Portfolio Holder for this item was Councillor Whiting)  
Forward Plan Reference 960

## **Part 2**

(Items upon which the approval of the Council was not required)

### **80. Adoption of a Plastics Policy**

The Executive considered a report from Health & Community Protection which sought approval of a Plastics Policy which aimed to minimise, if not eliminate, the procurement of plastics by the Council, to improve the recycling of plastic items where these could not be avoided. This was an initial Stage One policy position outlining the aims of the Council, taking into account what could currently be accomplished. It was acknowledged that further work could be achieved, particularly around the Council's education role which was to be developed further.

The Plastics Policy recognised that the Council had an impact on the environment from the use and disposal of plastic, and identified how this impact could be reduced.

Over recent months, national and global awareness of the impact that plastic was having on the environment had been strengthened as a result of two influences:

- In October 2017, the Sir David Attenborough Blue Planet II television series showed images of plastic in our seas from across the globe, including remote and uninhabited areas.
- In January 2018, the Beijing government enacted a waste import ban which resulted in the UK no longer being able to export waste to China. Although this was not an issue for the authority, the impact on the wider waste sector had been large and had resulted in more being done to minimise plastic waste, increase plastic recycling and overall had heightened national awareness of plastic use and disposal.

According to the national charity Waste Resources Action Programme (Wrap), plastics were entering the natural environment at an alarming rate and approximately 5,000 items of marine plastic pollution could be found per mile of beach in the UK.

The Government launched a Strategy "A Green Future: Our 25 Year Plan to Improve the Environment", advising that it would eliminate all single use plastics by 2042, although many supermarkets and other organisations were working towards earlier targets, and in particular the elimination of black plastics which were not largely recyclable.

The Plastics Policy was developed working with departments from across the authority and was shown in Appendix One to the report. The policy identified the things the authority could do to minimise its own impact in

relation to plastic use and also recognised the leadership role the Council had by supporting local communities in this area.

There had already been work in the area of plastics reduction by the Elections team who had found an organisation that would recycle the plastic seals on ballot boxes. The Elections Team had also been exploring the elimination of single use plastic bottles for the election count. In addition, Cultural Services had taken steps to eliminate plastic straws, some plastic bottles and single use plastic cups from the Town Hall, Royal Pump Rooms and the Royal Spa Centre. There were also local organisations taking positive actions in this area including Clean Up Britain and the Plastic Free Leamington and Warwick group.

The Plastics Policy commitments would be embedded within the Sustainability Approach and the Sustainability Officer Group action plan which was being reviewed on a regular basis. The policy statements were realistic at this point in time and as the commitments became embedded, these could be stretched further where it considered further actions were achievable.

There was not a single organisation that could solve the problems associated with plastic and organisations must work together; the policy supported this collaborative approach. The officers' work could have an influence locally as well nationally by encouraging other local authorities to also take positive action in this area.

In terms of alternative policy options, Waste Resources Action Programme (Wrap) had launched a 'Plastic Pact' scheme with a number of plastic targets associated with it, aimed at large organisations such as Marks & Spencer, Asda and Coca-Cola. The targets were aimed at reusing plastic packaging, eliminating single use plastic packaging, using recycled plastics and recycling plastic packaging by 2015. Wrap advised that local authorities may have a supportive role in this but it was not suitable for them to sign-up to the Pact. Some local authorities had signed up to motions, but there was nothing non-politically specific that the authority could sign-up to.

Alternatively, the Council could choose not to adopt a Plastics Policy.

The Overview & Scrutiny Committee supported the recommendations in the report. The Committee discussed what could be done to reduce the use of plastic at events held in the District and requested an update in twelve months' time to review progress with the Policy and the difference it had made. Suggestions were made for some amendments to the wording in the Policy and Councillor Thompson asked Councillor Davison to liaise with him over the changes, which he had done.

The Executive, therefore,

**Resolved** that the Plastic Policy is approved as shown in Appendix One to the report, subject to an amendment to Appendix One, page 6 of the report, first paragraph, to read:



*"Plastics can be very useful in everyday life, but there is increasing evidence that plastics are seriously harming our environment both on land and in particular the marine life in our seas. **As plastics may take centuries to degrade, these environmental impacts could be very long lasting.**"*

(The Portfolio Holder for this item was Councillor Thompson)  
Forward Plan Reference 956

## 81. **Adoption of Revised Enforcement Policy**

The Executive considered a report from Health & Community Protection that sought the Council's adoption of the revised enforcement policy covering a range of the Council's regulatory services.

The Enforcement Policy had been reviewed and updated to reflect the inclusion of additional Council regulators and relevant enforcement powers. It was last reviewed in 2014, following the introduction of the Regulators code.

The main changes were:

- Inclusion of additional enforcement areas within the scope of the policy. Namely: Anti-Social Behaviour, Dog Control and Planning.
- Inclusion of the approved Development Services enforcement policy as appendix to overarching corporate Enforcement Policy.
- Updates to legislation and governing guidance for relevant enforcement activities. e.g. Simple Cautions.
- Updated wording to provide additional clarity and understanding throughout the document.

As this was a statutory duty, the Council needed to adopt an effective enforcement policy.

Alternative content could be considered. However, the proposed version reflected the Government's recommended approach. Also, there was no requirement to produce a single Council-wide policy and Members could prefer service-specific policies rather than the associated appendix which outlined variations of specific powers which were not detailed within the corporate Enforcement Policy.

The Finance & Audit Scrutiny Committee and the Overview & Scrutiny Committee did not consider this item.

The Executive, therefore,

**Resolved** that the Enforcement Policy and its associated appendices are adopted as set out in Appendix One to the report.

(The Portfolio Holder for this item was Councillor Thompson)  
Forward Plan reference 952

## 82. **Regulation of Investigatory Powers Act policy**

The Executive considered a report from Finance which sought approval of the amended Regulation of Investigatory Powers Act (RIPA) policy.

The Regulation of Investigatory Powers Act 2000 (RIPA) provided the circumstances in which a local authority may use surveillance techniques in order to prevent and detect crime. Each local authority should have a policy in place in order to set out the circumstances in which these powers may be used and the procedure to be followed.

The Investigatory Powers Commission (IPCO) were responsible for providing independent oversight of the use of investigatory powers by public bodies which were undertaken under the RIPA and were responsible for undertaking inspections to ensure compliance.

A desktop RIPA inspection was recently undertaken by the IPCO, who were satisfied that the Council demonstrated a level of compliance removing the need for a physical, on-site inspection.

Paragraph 4.47 of The Home Office revised code of practice, published in August 2018, recommended that *"Elected members of a local authority should review the authority's use of the 1997 Act and the 2000 Act and set the policy at least once a year. They should also consider internal reports on use of the 1997 Act and the 2000 Act on a regular basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose"*.

The report noted that RIPA had not been used for a number of years. However, it remained that the Council had certain powers which may be used, should it be necessary.

The policy had been updated to incorporate legislative changes and to provide more specific details in respect of the Court process for the approval of RIPA requests by a Justice of the Peace. Appendix One to the report had also been added to the policy, which covered the use of social media and set out the circumstances when a RIPA authorisation would be required. It would be necessary for Members to review and agree the policy annually in the future.

The report did not present any alternative options.

The Executive, therefore,

**Resolved** that

- (1) a recently undertaken RIPA inspection undertaken by the Investigatory Powers Commissioners Office, is noted; and
- (2) the amended RIPA policy is agreed.

(The Portfolio Holder for this item was Councillor Whiting)  
Forward Plan reference 966

**83. East of Kenilworth Development Brief – Supplementary Planning Document (SPD)**

The Executive considered a report from Development Services which sought approval of the Draft East of Kenilworth Development Brief and the details of the subsequent public consultation on the document.

The Warwick District Local Plan 2011-2029 adopted in September 2017 included significant housing, education and employment allocations to the east of Kenilworth. Local Plan Policy DS15 'Comprehensive Development of Strategic Sites' applied to housing allocations H06 and H40 to the east of Kenilworth and required proposals, to represent a comprehensive development scheme for the entire site to be demonstrated by the submission of either a Development Brief or a Layout and Design Statement as appropriate.

At the Executive Committee on 3 August 2017, Warwick District Council committed to a proactive approach by approving the preparation of a Development Brief to support the development of the proposed housing, education and employment allocations to the east of Kenilworth.

Extensive collaborative work had been undertaken involving internal departments of the Council and external partners including Warwickshire County Council to inform the draft Development Brief. Further stakeholder engagement meetings had been undertaken with the Kenilworth Development Forum and with Kenilworth Town Council to assist in the preparation of the Development Brief.

The Development Brief at Appendix One was the culmination of the above engagement and specifically-commissioned technical work. Due to the size and printing costs of this document, an electronic link was provided to Members and hard copies were made available on request. The brief provided a coherent masterplan, and would help ensure that the developments on the land East of Kenilworth were integrated well with the town, providing much needed housing, open space, employment and land and community facilities.

The Council's 'Statement of Community Involvement' (SCI) adopted in January 2016, as outlined in Table Two of the appendix, provided guidance on community involvement in stages of the Supplementary Planning Document production. The SCI stated that once guidance such as the East Kenilworth Development Brief had been prepared, comments would be invited from all interested parties and the wider community. This

document had now reached this stage and consultation was required to progress the document.

A public consultation was proposed to commence following the Kenilworth Neighbourhood Plan Referendum, due to be held on 15 November 2018, to minimise confusion between the two planning documents. The public consultation and adoption of the Development Brief, however, was not impacted by the outcome of the Referendum.

The document, if adopted as a Supplementary Planning Document, would be a material consideration in the determination of planning applications in the area covered by the document.

As an alternative, the Executive could decide not to consult on the document and therefore not pursue the adoption of a Development Brief for land East of Kenilworth. However, this would have a significant detrimental impact upon the ability of the Local Planning Authority to ensure the comprehensive redevelopment of the area was achieved in accordance with key Local Plan Policy DS15 'Comprehensive Development of Strategic Sites'.

The Executive could decide to delay public consultation until a later date. However, this would jeopardise the Local Planning Authority's ability to influence planning applications and pre-application discussions as they came forward in the area and could potentially impact upon the ability to ensure the comprehensive redevelopment of the area in accordance with Local Plan Policy DS15.

The Executive, therefore,

**Resolved that**

- (1) the Draft East of Kenilworth Development Brief as set out in Appendix One to the report is approved for public consultation, be agreed;
- (2) the public consultation period will commence following the Kenilworth Neighbourhood Plan Referendum on 15 November 2018. The consultation will last a minimum of eight weeks and will accord with the Council's adopted Statement of Community Involvement (SCI); and
- (3) following the public consultation, a final version of the Development Brief will be brought before the Executive to be formally approved as a Supplementary Planning Document. The Development Brief will be accompanied by a summary of the representations received and relevant amendments.

(The Portfolio Holder for this item was Councillor Rhead)  
Forward Plan reference 937

**84. Discretionary Business Rates Relief as a Tool for Business Growth and Inward Investment**

The Executive considered a report from Development Services which sought agreement of a draft policy for incentivising the District's inward investment activities through discretionary business rates relief, to be shared for external consultation and business community engagement.

This policy was being proposed in response to the growing demand from businesses to provide them with support in moving into the District or in growing their business here.

Consideration had also been given to the fact that Warwick District was a more expensive location to be based within and, in offering this policy, the officers sought to ensure that the District remained competitive and clearly appeared to be 'business-friendly' and 'welcoming'.

It was proposed to take the draft policy out to consultation before making the final decision. The reason for this was to ensure that the policy was needed by business and would be the most appropriate mechanism to offer that support.

In addition, feedback would also be gathered from colleagues within the other local Districts and Boroughs to validate the comments from businesses and to ensure that the Policy sought the most beneficial commitments in return.

In terms of alternatives, there were a number of options considered:

- To implement a policy without consultation. It was decided not to proceed with this approach because it was important to ensure that the support Warwick District Council offered to its local businesses was in keeping with its actual, rather than perceived, needs.
- To implement a policy without a trial period. Given that this was a new approach for Warwick District Council to take, it was decided that a trial implementation period would provide the most suitable level of control over the Policy until the true effectiveness could be determined.
- To not put forward a policy for discussion by the Executive Committee. Following discussions between Officers it was felt that a definite position be agreed on the granting of discretionary business rate relief (or not). To be able to agree this position, it was felt that the bringing forward of an actual policy that sought to maximise the benefits for the District while minimising the risk would be the most appropriate mechanism to determine this position.

An addendum circulated prior to the meeting clarified that the Council would bear 20% of the cost of any change in business rates. If £500k was awarded in relief in total, the Council would pay £100k of this. The £125k in paragraph 5.6 of the report should be amended to £100k.

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

The Overview & Scrutiny Committee supported the recommendations in the report.

The Executive, therefore,

**Resolved** that

- (1) the draft policy attached as Appendix One to the report to be shared for a three-month period for external consultation and business community engagement as detailed in Appendix Three, be approved; and
- (2) the final proposed policy along with a summary of the consultation feedback will be brought back to the Executive Committee in March 2019, be agreed.

(The Portfolio Holder for this item was Councillor Butler)  
Forward Plan reference 929

**85. Royal Pump Rooms – Catering & Events Investment**

The Executive considered a report from Cultural Services regarding the Royal Pump Rooms catering and events investment.

The report followed on from proposals, first brought to Executive for consideration on 31 May 2018, to improve the catering and events offer at one of the Council's key town centre assets in Royal Leamington Spa, the Royal Pump Rooms.

The report sought approval to draw down additional funds in order to enable the full scheme of refurbishment works required. Executive had previously approved a total allocation of up to £250,000 (£150,000 drawn from the Corporate Assets Reserve and £100,000 from the Service Transformation Reserve) in order to invest in the catering and events offer at the Royal Pump Rooms and to improve the building's public toilet facilities.

Since this report was first considered by Executive in May 2018, DarntonB3 Architecture had been appointed to design the scheme and oversee the project, further surveys of the Royal Pump Rooms catering

and events spaces had been carried out, and detailed negotiations with the incoming catering and events provider, Just Inspire, regarding the priorities of their proposed business model had taken place.

Detailed surveys of the catering and events spaces at the Royal Pump Rooms revealed a greater than expected level of dilapidation which would require extensive restoration and decorative work. It was now estimated that the total cost of the works required to restore the Council's asset to an acceptable level would cost up to £320,000. This meant that approval for an additional allocation of up to £70,000 was required.

Executive had previously agreed to allocate £100,000 from the Service Transformation specifically for investment into the catering and events spaces and £150,000 from the Assets Reserve specifically to refurbish the Royal Pump Rooms public toilets. In order for the funds to be best utilised, it was necessary for the Executive to agree that these funds may need to be combined and spent on any element of the project.

The Council currently had a catering concessions agreement incorporating events in place with Crown Holdings Limited (operating as 'Kudos Know How') at the Royal Pump Rooms and the Glasshouse in Jephson Gardens. The contract extension currently in place was due to expire on 28 February 2019. However, Kudos' management had made a formal request to the Council to exit the contract extension earlier than planned on 23 December 2018 after the Christmas trading period. While the Council was under no obligation to agree to this, Officers would support an early exit as it would allow the Council the opportunity to carry out necessary restoration work and invest in the operation before the new Catering & Events Provider, Just Inspire, was due to begin from site from 1 March 2018.

Trading levels during January and February were consistently much lower than the rest of the year as event bookings and building footfall dropped off significantly after the festive season. As a result, the loss of income paid to the Council from the catering and events commission would be relatively small and negated by the overall increase in income generated by the new business model over the three year contracted period. There were also currently only two confirmed, contracted events due to take place in the venues in January and February, which would normally accommodate a large number of high profile events throughout the remainder of the year. Closing the business for these two months in order to carry out investment works would both minimise the loss of income to the Council and cause the least disruption to the wider building and the programme of local events.

The new catering and events provider, Just Inspire, were able to take occupation from early January and begin trading from 1 March 2019. The detailed financial model they had provided to the Council was based upon the business beginning to trade in full from the first week in March. Any further delay would significantly affect their financial modelling and begin to reduce the Council's financial return. It was therefore essential that any

works to the building that would prevent Just Inspire from operating were completed by this date.

Both Complex Development Projects (CDP) and Just Inspire had identified that the Royal Pump Rooms catering offer required development, offering a place for the local community to use whilst 'emphasising good produce, sourced locally, prepared with care, served with pride and with quality and affordability very much at the forefront'. The performance of the Café in particular had declined in recent years. Just Inspire were of the firm belief that the current catering operation was failing to meet its full potential and that investment in the offer was required in order for it to be competitive in the local market and to generate higher levels of trade.

The proposal from Just Inspire detailing their own investment into the operation and the vision for the business was included in the Executive report 'Catering & Events Concessions Contract - Royal Pump Rooms and Jephson Gardens Glasshouse' brought to the Executive meeting on 31 May 2018.

An allocation of £100,000 from the Service Transformation Reserve was intended to assist with ensuring that the offer of the new provider was optimised and the financial returns to the Council were maximised. The proposed changes to the catering and events offer presented the Council with an opportunity to deliver investment in the Royal Pump Rooms and the Glasshouse in order to increase footfall and improve the overall offering and customer experience for residents and visitors to the district. This would begin to showcase the changes that the community could expect as the Creative Quarter developed and could potentially maximise the financial return from the new catering concessions contract.

A key element of Just Inspire's business model was to introduce additional capacity for the Café and attract greater numbers of customers. They had proposed increasing the number of covers both inside the Café and outside underneath the Colonnade, introducing more tables and chairs so that customers could be seated along the front of the building during the summer months.

Just Inspire also intended to re-open the entrances under the Royal Pump Rooms Colonnade at either end of the building and to reposition them as the primary routes into the Café and events spaces directly from the Parade. These changes would create focused 'arrival points', making the café offer more visible to the public, particularly to visitors from Jephson Gardens and the Parade, and ultimately drive up footfall. The use of these entrances would have the added benefit of also 'opening up' spaces within the building which were currently hidden from sight, allowing better circulation between the various spaces and revealing more of the original architectural features.

It was the intention to transform the current Café environment into an 'orangery' style with a simple, clean but high quality design and offer. As part of this, it was the intention to replace the current servery with a much smaller, more contemporary display and counter area. Customers



would continue to order at the counter, but meals would be freshly prepared in the kitchen and brought to the table, rather than being displayed and served directly from the server. The scheme would make a feature of the Café's abundance of natural light from the large windows and skylight and planters would be placed around the space to help create a more intimate atmosphere. These improvements would create a unique offer, reflect the status and heritage of the wider building and make the Café competitive within the local market.

It was also the intention to upgrade the light fittings throughout the catering and events spaces to be more in keeping with the Regency style and to increase energy efficiency.

Just Inspire also intended to use the Royal Pump Rooms spaces more flexibly and for multiple events to take place at the same time, as well as increasing the use of the Café space in the evenings for pop up events, pre-event dining or VIP receptions.

The current Annexe bar required a complete rebuild, which would help to address some of the venue's storage limitations. The Annexe itself required full redecoration.

The kitchens at the Royal Pump Rooms and the Glasshouse more generally, were in an acceptable state of repair and would not require investment. The outgoing catering and events provider was obliged to replace any missing or broken equipment and the new provider would purchase all other items required.

Currently, the catering and events areas within the Glasshouse and the Royal Pump Rooms were leased to Kudos on a 'maintain and repair' basis and no significant investment had been made by the Council into the fabric of the catering operation for a number of years. While Kudos were obliged by the terms of their lease to restore the Council's equipment and spaces to a comparable state of condition in which they were provided, it remained the Council's responsibility to maintain its asset in good order and an intervention would be required in order to bring the condition up to the standard expected by the public.

It was originally proposed that, separate from the changes to the catering and events offer, the Council invested in a re-modelling of the public toilets in the Royal Pump Rooms. Whilst this would be of benefit to the Café, the main driver was to support the goal of the Council's Arts Team to increase footfall and use of the building and position it as a 'creative hub' for the town, an ambition consistent with the wider goal of creating the Creative Quarter. Officers had explored the possibility of creating a fully accessible 'Changing Places' facility for disabled adults and children. However, it was not possible to accommodate this within the existing footprint of the public toilets or elsewhere within the building due to conservation limitations and the location of key services required. A maximum of £150,000 was originally allocated to renovate the Royal Pump Rooms public toilets, but it was now clear that only up to £60,000 of this fund would be required for these renovations specifically. It was

therefore proposed that the remainder be reallocated to the wider refurbishment of the catering and events spaces.

An extensive survey of the catering and events areas revealed that a higher than expected level of restoration work was required. Gradual dilapidation had occurred over the years as successive catering and events contracts had been in place and historic leaks in the roof had caused water damage to the décor. All public spaces within the catering and events areas required redecoration, some of which would require specialist, heritage contractors.

There were also unexpected additional costs early on in the project as it became clear that, given the range of specialist work involved and a lack of resources currently within the Council's Assets team, an external architect would be required to design and oversee the scheme if it were to keep within the timeframe necessary to limit the impact of the works. A full topographical and measured survey of the Royal Pump Rooms also had to be commissioned, as only paper plans existed, and digital plans were required to create the necessary schedule of works and to apply for Listed Building Consent.

The large proportion of works involved in this project could be delivered by the Council's own maintenance and decoration contractors. The project schedule had been drafted and was achievable within the timeframes, should Executive authorise the allocation of funds.

As an alternative, the Executive could instruct Officers to utilise the £250,000 already allocated from the Service Transformation Reserve and Assets Reserve to fund the necessary repairs and restoration work. This would only fund partially the works necessary to restore the catering and events areas to an acceptable level and would therefore dramatically reduce the ability of the new provider to deliver their business model and improve the level of service and the financial return to the Council. Without these restorative works it was also highly likely that the condition of the building would deteriorate further, at an increased cost.

The questions raised by the Finance & Audit Scrutiny Committee in the addendum were answered at the Scrutiny meeting.

The Finance & Audit Scrutiny Committee supported the recommendations in the report and noted the confidential appendix.

The Executive, therefore,

**Resolved** that

- (1) an additional allocation of up to £70,000 from the Corporate Assets Reserve in order to fund the refurbishment and restoration of the catering and events areas at the Royal Pump Rooms, is approved;



- (2) the use of these funds, and the funds allocated previously, to be utilised for the refurbishment of the public toilets, Assembly Room, Café, Annexe and associated circulation spaces as required, is allowed; and
- (3) authority is delegated to the Arts Manager and Head of Cultural Services, in consultation with the Portfolio Holder for Culture, to draw down these funding allocations to allocate to the project however it is required.

(The Portfolio Holder for this item was Councillor Coker)  
Forward Plan reference 976

## **86. Viability assessments in Planning**

The Executive considered a report from Development Services providing an update on national policy and guidance relating to the viability assessment following the publication of the update National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) in July 2018. It also proposed the approach the Council should take to requiring and publishing viability assessments in response to the Notice of Motion agreed at Council on 20 June 2018.

On 20 June 2018, the Council supported a Notice of Motion asking the Executive to set out clear viability criteria based on market value compared with land value and construction costs; to require viability assessments for developments of more than ten units where less than 40% of the development was affordable housing as part of the planning process and for these to be made public; and to require all information submitted for the viability assessment (including any which the Council agreed was commercially sensitive) to be made available to members of the planning committee and other Councillors on request, well in advance of determination of the planning decision. This was subject to a report brought to the Executive for them to consider on this matter so that Members were fully informed in respect of the Government's latest National Planning Policy Framework and the Planning Practice Guidance, and the implications of this for Warwick District Council and the delivery of the Local Plan.

Since then, the updated National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) had been published in July 2018. At paragraph 57 the NPPF stated:

"All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available."



The PPG provided detailed guidance to support this national policy. These parts of the PPG were lengthy and could not be reproduced in full but were summarised in the report.

Whilst it was recognised that the standardised inputs still required expert interpretation in the context of specific sites, they did provide a clear framework for the preparation of viability assessments that would be recognisable by decision makers and the public alike. This would aid clarity and transparency, particularly in the context of the requirement for an executive summary to be prepared in line with a standard national template.

The requirements and guidance provided by the new NPPF and PPG addressed many of the requirements suggested in the 20 June 2018 Notice of Motion. It was therefore proposed that the Council adopted the approach set out in the PPG and used the approach in relation to the next review of the Local Plan, applying the standardised methodology and guidance on publication in full for any viability assessments undertaken in support of planning applications once this was published.

These requirements would be placed on applicants who wished to submit a viability assessment in support of a planning application, as well as on independent reports prepared on behalf of the Council to assist with the consideration of planning applications. In most circumstances, the Council would expect viability assessments prepared by applicants and independent reports on behalf of the Council to be published in full. Exceptions to this may be applied in line with the PPG, but in all cases the executive summary would still be published.

The timing of the publication was also important. The publication of these reports should always take place promptly to maximise the time available for members of the public and Councillors to take account of them in preparing comments and objections to applications. In most cases this would mean that any viability assessment submitted by the applicants would be published ahead of, or during, the three-week consultation period. However, there may be occasions when viability only became apparent as an issue during the application process (for instance as a result of Section 106 requests from consultees). On these occasions, the viability assessment would be published as early as possible and resulting supplementary comments and objections would be accepted up until the day of the decision. Viability reports prepared on the behalf of the Council as part of the consideration of the planning application would also be published promptly once they were completed. As these reports often took some time to prepare, the publication of these reports would often fall outside the three week consultation period. Supplementary comments and objections resulting from the publication of such reports would be accepted up until the day of the decision.

The Notice of Motion suggested that the Council *"requires all information submitted for the viability assessment (including any which the Council agrees is commercially sensitive) to be made available to members of the planning committee and other Councillors on request, well in advance of*

*determination of the planning decision."* It was anticipated that, except in rare cases of very specific circumstances, the processes set out in the report would be sufficient to ensure that members of the Planning Committee and other Councillors had access to all information relating to the viability assessments well in advance of determination of the planning application. Wherever possible, planning officers would require all viability information, including the Council's independent viability report to be provided and published ahead of the publication of the planning committee agenda. Only in rare exceptional cases, where unforeseen but important information was provided following the publication of the Planning Committee agenda would viability information be published after the completion of the officer's report to Planning Committee. In these circumstances, as with other considerations (such as highways data or responses from statutory consultees) the information would be published in a supplementary report in advance of the Committee.

Finally, the Notice of Motion suggested that the Council *"requires viability assessments for developments of more than ten units where less than 40% of the development is affordable housing as part of the planning process..."* This was already Council policy as set out in the Local Plan policies H2 (affordable housing) and DM2 (Assessing Viability). Development Services would continue to ensure compliance with these policies including ensuring viability assessments were required where applicants were seeking to justify a level of affordable housing provision that was below 40%.

An alternative option would be to develop bespoke criteria and process for address viability assessments. However, to do this, there would need to be clear local evidence as to why Warwick District Council should depart from national guidance. As no local evidence existed, this was not recommended.

Councillor Naimo thanked the Officers for the work they had put in.

The Executive, therefore,

**Resolved** that the adoption of the Viability Assessment process and guidance set out in the report, are agreed.

(The Portfolio Holder for this item was Councillor Rhead)  
Forward Plan reference 965

## **87. Funding for Norton Lindsey Village Hall Re-Build**

The Executive considered a report from the Chief Executive which sought authority to underwrite gap funding to allow the re-building of the Village Hall in Norton Lindsey without further delay. This would be in addition to the existing grant of £85,000 already given.

The existing Norton Lindsey village hall had been condemned and was unfit for use, leaving the village community without a facility in which to

meet or to enable community functions. Until recently, this facility had also been used by adjacent parishes of Wolverton and Claverdon.

The Village Hall Committee, with the support of Norton Lindsey Parish Council, had developed the concept of a new replacement village hall which would be eco-friendly and sustainable. A summary of the scheme was attached as part of Appendix One to the report, as were site location and related plans. The proposed site for the new hall would be that of the existing (and condemned) village hall site. Planning permission for the new village hall was granted on 26 May 2017 (reference Planning Application W/16/2330).

The construction had been tendered and was subject to an evaluation report; the scheme costs and current available funding were set out in Table One to the report. It should also be noted that the Norton Lindsey community, including the Parish Council, had pledged or initiated a total of more than £200,000 to date, which was a testimony to the community's resolve. This was especially pertinent as Norton Lindsey was within the Green Belt and no development was proposed in the Local Plan, so the parish could not reasonably expect to receive any S106 or CIL contributions toward the scheme.

The Village Hall Committee with the support of Norton Lindsey Parish Council had approached the District Council in respect of funding to help it construct this proposed new village hall in the village. The Council had previously awarded project costs up to a maximum of £85,000 towards the scheme.

The District Council had previously agreed its contribution of £85,000 on the understanding that this would allow the Village Hall Committee to demonstrate to another funder that it had raised at least half of the funds necessary and would give the funder confidence to invest the remainder. Sadly, this had not proved the case so there remained a significant gap in the funding though other bids as detailed in the report had been or were being made.

The Village Hall Committee and the Parish Council estimated that dismantling of the existing building could be undertaken in December 2018 and construction could begin in January 2019 and the works be completed by the end of July 2019. However, they could not commit to that timetable at present without more certainty of funding.

Therefore, a commitment by the Council to agree to underwrite a further £190,424 (as shown in Table One to the report) in case the other funding bids being made were not successful would, with the addition of the £85,000 already committed by the Council, meant that the Village Hall Committee and Parish Council could make definite plans and commitments to enter into a contract with the successful tenderer while such a tender remained valid. If in the worst case all the funding bids failed, the Council's underwriting guarantee would then have to be called upon. The other funding bids being made were listed at page eleven of Appendix One.

The financial risk to the Council ranged from only £12,424 if all the current funding bids were successful to £190,424 if none were successful. On a prudent basis, the District Council should, if it agreed this approach, be prepared to fund the whole amount being sought to underwritten.

The Council required such proposals for community investment to be supported by a business plan. It was attached at Appendix One to the report and it was considered realistic.

The District Council had taken the view that the New Home Bonus Scheme should not be used to support the general running costs of the Council but should be used to reinvest in the community in a variety of ways. The new community centre at Bishop's Tachbrook was a very similar example of community reinvestment. This scheme and the approach proposed were very similar to that one.

The Council recognised that the Norton Lindsey community had made significant contributions to date to re-open this important community asset. In a community wide survey, over 97% of the answers received thought the village hall created and maintained a sense of community and belonging among the village and its adjacent outlying communities. It was part of the Council's vision to ensure that its rural communities remained sustainable.

In agreeing to the funding/underwriting request, there were a number of practical questions that needed to be addressed, which were answered in the report, including questions about where the funding would come from, its availability, how payments would be made etc.

As an alternative, the Executive could choose not to support the funding request. However, it may be some time before the local community could raise enough funds to re-build the village hall, and thus deny the community a facility in which the community could meet.

An alternative of funding the new village hall by way of a loan from the Council was explored but was found to be financially unsustainable. There was also an issue of the inability to offer any collateral other than the hall itself which was not deemed appropriate.

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

Councillor Whiting highlighted that village halls were thriving venues, providing a very necessary focus in the life of the village. Councillor Whiting congratulated the Village Hall team and Councillor Rhead for a great job and supported the application enthusiastically.

The Executive, therefore,

**Resolved** that

- (1) the Business Plan relating to the rebuilding of the Village Hall at Norton Lindsey, detailing how the future running costs will be met and how genuine community access is ensured, attached at Appendix One to the report, is noted;
- (2) meeting the request of the Norton Lindsey Village Hall committee with the support of Norton Lindsey Parish Council to underwrite up to a further £190,424 in addition to the £85,000 of funding previously approved to allow the re-building of the Village Hall in Norton Lindsey, is agreed;
- (3) the abovementioned sum should be funded from the New Homes Bonus Scheme award to be received in 2019/20, to be agreed as part the 2019/20 Budget Setting process, is agreed;
- (4) (1), (2) and (3) are subject to the following conditions:
  - a. The funding/underwriting is only available for 24 months (from the date of this Executive) before being drawn down in whole;
  - b. Payments are only to be made on supply of verified Architect's Certificates and invoices of work in proportion to Council / overall funding;
  - c. An ongoing schedule of funding bids being agreed and that the Council is kept up to date with progress of those bids;
  - d. The Parish Council and the Village Hall Committee agreeing that public acknowledgement of the District Council's support for the scheme is given in publicity about the scheme at all stages; and
  - e. That the date for the commencement of the drawdown of agreed funds is agreed by no later than 1 December 2018.

(The Portfolio Holder for this item was Councillor Whiting)  
Forward Plan reference 973



## 88. **Significant Business Risk Register**

The Executive considered a report from Finance setting out the latest version of the Council's Significant Business Risk Register for review by the Executive. It had been drafted following a review by the Council's Senior Management Team and the Leader of the Council.

The report sought to assist Members fulfil their role in overseeing the organisation's risk management framework. In its management paper, "Worth the risk: improving risk management in local government", the Audit Commission set out clearly the responsibilities of Members and officers with regard to risk management.

Any movements in the risk scores over the last six months were shown on the risk matrices in Appendix One to the report. There had been no movement in any of the risk scores in the past two quarters and no risks were currently in the red zone.

As part of the process of assessing the significant business risks for the Council, some issues had been identified which at this stage did not necessarily represent a significant risk or even a risk at all, but as more detail emerged could become one. These had been mentioned in previous reports but as their status had not changed, they were included again for completeness.

The EU referendum result, already recognised as a potential trigger to some of the Council's existing risks, would be kept under review so that as details emerged of exactly what Brexit meant – generally for Local Government and specifically for this Council – its implications for the Council's risk environment could be considered further.

The Government had started consultations around changes to the Business Rate Retention scheme by Local Government and the Fair Funding Review, with both these changes due to be effective from 2020/21. Depending on how these proposals developed, there could be a substantial impact upon the Council's finances.

In respect of the first point above, as the country moved closer to the departure date, there was concern as to what the Council ought to be considering by way of contingency planning for potential impacts on services or the local community. That had been, and remained, difficult to do without knowing the nature of the basis for the country leaving the EU. It was hoped that more would be known after the forthcoming summit and the next quarter's report on the SBRR should provide a more explicit update.

One service issue that had already had been identified related to the potential need to set up a Port Health Authority for Coventry Airport. The extent and impact of this would depend on the detail of the exit agreement. By way of explanation, Coventry Airport was currently a postal hub and was not classed as a Border Inspection Post. However, the implications of the exit from Europe may require the establishment of a

Port Health Authority in order to deliver the range of controls which were required. These would include inspection, monitoring and implementation of: risks from sick passengers/staff, insects and rodents on board aircraft, food and sanitation waste, imported food controls, noise, dust, water and air quality and civil contingency responsibilities.

In terms of alternatives, the report was not concerned with recommending a particular option in preference to others.

The Finance & Audit Scrutiny Committee noted the report.

The Executive, therefore,

**Resolved** that

- (1) the Significant Business Risk Register attached as Appendix One to the report, is noted; and
- (2) the changing risks and the emerging risks identified in sections 9 and 10 of the report, are noted.

(The Portfolio Holder for this item was Councillor Mobbs)

**89. 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 item 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.

Item Nos.	Para Nos.	Reason
90	1	Information relating to an Individual
90	2	Information which is likely to reveal the identity of an individual
91, 92 and 93	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The items below were considered in confidential session and the full details of this were included in the confidential minutes of this meeting.

90. **Kenilworth School Loan and Land Purchase – Private & Confidential**

The Executive considered a report from Deputy Chief Executive (AJ) accompanying the public report entitled *Kenilworth School - Loan and Land Purchase*. The report contained confidential information that was commercially sensitive to both Warwick District Council and Kenilworth School and Sixth Form.

An addendum circulated prior to the meeting provided answers to the questions raised by the Finance & Audit Scrutiny Committee.

The recommendations in the report were approved, subject to an amendment to recommendation 2.4 of the report relating to the inclusion of Stamp Duty Land Tax.

(The Portfolio Holders for this item were Councillors Coker, Mobbs, Phillips and Rhead)

Forward Plan reference 972

91. **Appendices to Royal Pump Rooms – Catering & Events Investment**

The Executive considered the confidential appendices to Royal Pump Rooms – Catering & Events Investment.

The appendices to Royal Pump Rooms – Catering & Events Investment, were noted.

(The Portfolio Holder for this item was Councillor Coker)

Forward Plan reference 976

92. **Review of Final Accounts**

The Executive considered a report from the Chief Executive following the failure to complete the closure of the 2017/18 accounts by the statutory deadline. The report sought to understand what happened and to put things in place to make sure it did not happen again.

The report requested that Members note the contents of the report attached as Appendix 1 to the report and agree the action plan contained within it.

The recommendations in the report were noted.

93. **Minutes**

The confidential minutes of the meetings held on 27 June, 25 July 2018, 30 August and 26 September 2018 were agreed and signed by the Chairman as a correct record.

(The meeting ended at 7.04pm)

