

Executive

Minutes of the meeting held remotely on Tuesday 17 November 2020 at 6.00pm, which was broadcast live via the Council's YouTube Channel.

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

Also Present: Councillors: Boad (Liberal Democrat Group Observer), A Dearing (Green Group Observer), Mangat (Labour Group Observer), Milton (Chair of Overview & Scrutiny Committee) and Nicholls (Chair of Finance & Audit Scrutiny Committee).

47. **Declarations of Interest**

Minute Number 49 – Hours of Flying Model Planes on St Mary's Lands, Warwick

Councillor Grainger declared an interest because she was a Warwick Town Councillor and had been on the St Mary's Lands Working Party since its conception.

48. **Minutes**

The minutes of the meeting held on 1 October 2020 were taken as read and signed by the Chairman as a correct record.

Part 2

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

49. **Hours of Flying for Model Planes on St Mary's Lands, Warwick**

The Executive considered a report from the Chief Executive. At the 29 November Executive meeting, Members considered a recommendation to amend the model aeroplane flying hours at St Mary's Lands, Warwick. The initial request to amend the hours had arisen from the model flyers in 2016, who requested that flying hours were extended to allow for longer periods of flying.

It was agreed by the Executive that before the flying hours could be extended, an assessment of potential ecological, noise and health and safety impacts needed to be undertaken, and if that assessment showed no significant issues, then a formal public consultation would also be undertaken. The results of that work would be brought back in a report to the Executive for a final decision.

The report summarised the outcome of the work undertaken to date since November 2017, and sought Members' views on the amended hours of flying.

The outcome of the work above, which was approved by the Executive, concluded that:

- i. a satisfactory health and safety risk assessment had been completed;

- ii. an assessment of background noise had not been completed, as the move to silent electric flight had largely removed the disturbance to local residents. The extended hours would be linked to a ban on petrol (noisy engine) model aircraft for electric battery powered, silent models only; and
- iii. two sets of flying times were proposed, by an independently appointed ecologist and supported by the wildlife group, and by the model flyers and supported by a majority of the Working Party.

In preparing the assessment, the ecology report recommended that additional measures should be implemented to reduce the impact of disturbance and trampling of ground nesting birds, through the use of temporary barriers to protect nesting sites during the breeding season. Members of the Executive were also asked to note the recommendation that that Working Party should prepare an access strategy to protecting ground nesting birds, and identify any additional maintenance costs for subsequent Committee approval.

St Mary's Lands was a large public open space on the western side of Warwick, lying between the edge of town and the countryside leading to the A46. It was an area that fell wholly within the town's Conservation Area, housed a Grade II Listed Building with the also listed Hill Close Gardens immediately adjoining, and was partly a Local Nature Reserve, which could be seen in Appendix 2 to the report.

St Mary's Lands was also home to a variety of uses and activities, many of which were historic in nature, such as a racecourse, golf course, football, local community use (Corps of Drums), walking, running, and dog walking. In addition, the area had, for over 90 years, been used as an area in which people could use to fly model aircraft. This made it one of the oldest venues, if not the oldest, in the country for flying of model aircraft.

The improvement of St Mary's Lands area was one of the Council's key projects, and the Council agreed in August 2017 to a Master Plan for the area, as well as a delivery plan which was being implemented. The Working Party that brought together the organisations involved with the area was focusing on the implementation of the Master Plan. Since July 2017, the local association of model aircraft flyers had been represented on the Working Party. In October 2017, a presentation to the Working Party was given by the model flyers' representative, in support for a re-introduction of the more extensive hours of operation that used to operate prior to the last consideration of this issue by the Council in 2004.

The main issue previously was the impact of noise on nearby residents and trying to manage the risk of aircraft falling and hitting people or property. The local group outlined that 99.9% of model aircraft flown was battery driven, rather than petrol as was previously the case, and therefore was very quiet and would mean that noise nuisance was no longer an issue. The Council's records concurred with this, as there had been no noise nuisance complaints registered in the previous five years. Similarly, there had been no recorded incidents of any crashes affecting people or property in recent times.

St. Mary's Lands was an important site for wildlife, recognised by its Local Nature Reserve status. A key objective of the masterplan was increasing

the site's wildlife value and overall biodiversity. The model aircraft were flown over areas that were used as breeding grounds by ground nesting birds. Whilst it was an offence to intentionally or recklessly disturb at, on or near an 'active' nest under the Wildlife and Countryside Act 1981, the wildlife group had witnessed unintentional disturbance and the nesting populations at St. Mary's Lands was, at best, stable.

Following the November 2017 Executive approval, an ecology study was commissioned immediately afterwards. The ecologist undertook three site visits over a seven-month period and reported on its findings in August 2018. The findings were inconclusive, in that it could not identify any adverse impacts of model flying, but could not confirm that they did not exist. The wildlife group were also concerned that whilst three site visits were undertaken, none of these coincided with the beginning of the breeding season, which was mid-February to early March. Consequently, it was agreed that a more extensive ecological evaluation, covering a full 12-month period would be required. A revised brief for the new survey was agreed and the works tendered. The ecologist was appointed in February 2019, an interim report was issued in the summer of 2019, and a final report after the 12-month study in March 2020.

The ecology report, as set out at Appendix 3 to the report, identified the site as having high-ecology value for nesting birds, and these were affected by a cumulative impact from various disturbances. It identified the model flying having a low to medium disturbance impact. A higher level of disturbance was made by dogs running into the nesting sites. The cumulative effect of both the model flying and dogs was seen to be detrimental to nesting birds. The report recommended some physical restrictions should be made to prevent dogs from being able to access the sensitive breeding sites, and that the model flying hours should be adjusted to give a beginning and end of day periods without interruption from flying.

The majority of the Working Party members were supportive of the model flyers request. The Working Party's recommendation was that the increased hours should be adopted for a trial period of 12 months, with additional ecological monitoring over that period, and the use of temporary barriers to protect the areas most sensitive to disturbance during the bird nesting season. This would allow for further evaluation prior to adopting the revised hours.

Contact was made with the revived Lammas & District Residents Association (LADRA) in 2017. Many comments from residents, and responses to them from the model flyers were received to aid the preparation of the 2017 Executive report. As the final ecology report was received in March 2020, just before the national lockdown began, no wider public consultation beyond the Working Party members had been undertaken.

In summary, the issues raised were:

1. Potential of noise nuisance to nearby residents was unlikely.
2. Potential of health and safety issues for other users of the area were considered and were deemed to be very low risk.
3. Impact on the local ecology, bearing in mind the flying area overlapped a Local Nature Reserve, had been assessed and the impact of the model

flying was considered to be low to medium, but the cumulative affect with dog disturbance was detrimental to the wildlife importance.

4. Policing of any restrictions.

There was little recorded evidence of the first two issues being problems. However, prohibiting petrol driven aircraft completely and preventing drones being used would further mitigate these issues, and this would be contained in the revised conditions of use.

In respect of point three, it was proposed that a combination of measures should be adopted to protect the nesting sites, with a differentiation in flying hours during the more critical bird nesting season and improved barriers to control dogs and walkers from disturbing nesting sites. This would not restrict access in any designated public rights of way.

Regarding point four, policing of the existing restrictions relied on the model plane flyers themselves and others in the area being aware of any breaches, and the same situation would apply in any revised scenario. The current roping off of bird nesting sites offered little protection from dogs, and the use of temporary physical barriers, combined with site notices, would assist in identifying and managing the nesting sites.

It was suggested that an assessment of the potential type and extent of barrier restrictions should be undertaken and developed with the Working Party, before the next breeding season started in mid-February 2021. Once that information was collected, and it demonstrated no significant issues, then a formal public consultation could be carried out, based around site notices and information displays.

This approach would allow all the issues to be properly examined and considered, and this was important given the potential risks that could arise.

In terms of alternative options, the Council could decide not to agree to any change, but there did appear to be evidence that a change in technology could mean that longer hours could be acceptable at certain times of year, and could be combined with other measures to address the cumulative impacts on the local ecology.

The Chief Executive advised Members of further correspondence received since the publication of the report. In response to the letters of concern that he had received, he clarified that the proposal was to extend the hours of flying model planes, but he reaffirmed this would be for electric powered aircraft only, which would deal with some of the noise concerns raised. He also explained that there would be a review after a year to assess any impacts on health and safety or ecology. He also explained to Members that he received feedback from Ashow and Stoneleigh Parish Council in support of the proposal. There were also two representations from the Friends of St Mary's Lands who raised concerns relating to recommendation 3, which was a recommendation that the Council would draft a plan of how better to protect the nesting sites of bird species, which they thought did not fall within the provisions of the Warwick District Act 1984. These responses were circulated to Members prior to the meeting, and with the approval of the Chairman, the Chief Executive invited Mr Endell, Senior Solicitor at Warwickshire County Council, who had given the Council legal advice on

this issue, to attend the meeting, and answer any questions from Members of the Executive.

Mr Endell explained to Members that although the Friends of St Mary's Land's view that the purpose of the Warwick District Act 1984 was to preserve the common in its present state, he did not agree with this interpretation. He stated that he had extensive experience considering the Act, and in his view, its primary use was to give Warwick District Council powers to manage St Mary's Land, rather than to limit powers. He felt that erecting fencing for purposes such as nature preservation was well within the powers that the Act allowed to the District Council. In response to a question, Mr Endell clarified that there was not anything in the recommendations that caused him any concern from a legal perspective or in the application of the Act.

Councillor Grainger felt that the proposal was a long time coming, and noted that the Flying Club had been particularly agreeable and patient. She then proposed the report as laid out.

Resolved that

- (1) a review of the options for the flying hours of model aircraft, as set out in Appendix 1 to the report, and the recommendation from the Working Party to adopt the hours recommended by the model flyers, with the Working Party's recommended amendment to review the impact after a year, be agreed;
- (2) the hours of operation be made known via the Council website and on-site signage; and
- (3) the results of the St Mary's Lands Working Party's assessment of access be reported back to the Executive for a decision on controlling access to sensitive breeding areas, including the costs of additional barriers / site notices.

(The Portfolio Holder for this item was Councillor Grainger)

Part 1

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

50. Fees and Charges

The Executive considered a report from Finance detailing the proposals for discretionary Fees and Charges, in respect of the 2021 calendar year. It also showed the latest Fees and Charges 2020/21 income budgets, initial budgets for 2021/22 and the actual out-turn for 2019/20.

The Council was required to update its Fees and Charges in order that the impact of any changes could be fed into the setting of the budget for 2021/22. Discretionary Fees and Charges for the forthcoming calendar year needed to be approved by Council.

In the financial climate, and with the impact of COVID-19, it was important that the Council carefully monitored its income, eliminated deficits on service specific provisions where possible, and minimised the forecast future General Fund revenue deficit.

Budget Managers were tasked with seeking to achieve additional income of 15%. However, for some Fees and Charges, legislation and other factors made it unviable to achieve this, and so these had been set in accordance with such legislation, and service knowledge provided by the managers. This was intended to make a contribution towards the savings that the Council needed to make in its overall budget over future years, with the timeline for making significant savings being significantly reduced due to the impact of Covid-19

As a result of this, the Fees and Charges, outlined in Appendix A to the report, presented an overall forecast increase in income of 9% (£647,000).

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

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

Land Charges and Building Control fees were ring fenced accounts. Income levels for Land Charges had reduced, due to the transfer of the LLC1 fee to the Land Registry Service. There had been a corresponding fall in staffing costs and payments to Warwickshire County Council to reflect this. Income and expenditure was carefully monitored to avoid creating a large surplus (or deficit) on the Land Charges Control Account, which needed to break even. Building Control was subject to competition from the private sector and had to set charges that were competitive within this market.

Management of the Council's Leisure Centres was by Everyone Active. The contract definition stated that 'The Contractor shall review the (following) core products and prices each year and submit any proposed changes to the Authority for approval (the "Fees and Charges Report")'. Everyone Active were expected to request an increase on some of these prices, in line with the Retail Prices Index (RPI). Previously, when the leisure centres were operated by the Council, most years the charges were increased by around RPI. It was recommended that, provided the changes proposed by Everyone Active to the core products and prices were within the September RPI, that the Heads of Culture and Finance, in consultation with the relevant Portfolio Holders, could accept the changes. In reviewing the proposed increases, officers would consider previous years increases to avoid automatic year on year increases in prices.

Linear car parking charges were to be removed, to be replaced with charges covering specified stay durations. Sunday charges were also to be in place at all car parks from 4 January 2021, and parking for electric vehicles would be free.

New fees were included to reflect the increase in products and services offered as part of the Lifeline service.

The revenue effects of the proposed fees and charges were summarised in the following table (ring fenced accounts were removed).

| General Fund Services | Actual 2019/20 | Original Budget 2020/21 | Forecast 2020/21 | Forecast 2021/22 | Change 2020/21 Original to 2021/22 % |
|------------------------------------|-----------------------|--------------------------------|-------------------------|-------------------------|---|
| | £ | £ | £ | £ | |
| Chief Executive's Office | 62,726 | 45,000 | 30,000 | 47,300 | 5.11% |
| Culture | | 209,600 | 39,600 | 229,400 | 9.45% |
| | 237,511 | | | | |
| Development | 1,338,974 | 1,337,700 | 1,071,900 | 1,364,000 | 1.97% |
| Health & C.P. | 2,000 | 6,800 | 6,800 | 7,400 | 8.82% |
| Housing | 0 | 84,800 | 0 | 0 | |
| Neighbourhood | | 5,503,900 | 4,436,500 | 6,186,700 | 12.41% |
| | 5,005,386 | | | | |
| Total General Fund Services | 6,646,597 | 7,187,800 | 5,584,800 | 7,834,800 | 9.00% |
| Housing Revenue Account | 413,491 | 443,700 | 430,000 | 445,000 | 0.29% |

Increased income from fees and charges sought to generate income to cover the costs of the provision of respective services. Any increases would reduce the ongoing savings target within the Financial Strategy.

The forecasts for 2020/21 and 2021/22 would be reviewed within both the Base Budget Report in December 2020, and the Budget Setting Report in February 2021. Managers would also continue to review their projections on a monthly basis.

In terms of alternative options, the various options affecting individual charges were outlined in sections 8 to 16 of the report.

Fees and Charges for 2021/22 could remain at the same level as for 2020/21, which would increase the savings to be found over the following five years, unless additional activity could be generated to offset this. This was not a realistic option, given the position of the Financial Strategy, and the level of savings required.

An addendum circulated prior to the meeting advised Members *both new and renewal applications will no longer receive the concession for reduced fees for HMO licensing for landlords with multiple dwellings.*

The addendum also advised Members of an update to Appendix A to the report, where the proposed increase in the price of a season ticket at Linen Street Car Park, which was set out on page 65, was included in error and should have read:

| | | |
|--|--------------------|-----------------------------|
| Linen Street Multi Storey (100 spaces) | Charge from 2/4/20 | Proposed Charge from 4/1/21 |
| - Per Annum | £521.50 | £521.50 |

| | | |
|--|--------------------|-----------------------------|
| Linen Street Multi Storey (100 spaces) | Charge from 2/4/20 | Proposed Charge from 4/1/21 |
| - Per Month | £62.00 | £62.00 |

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

Councillor Hales thanked the Finance and Audit Committee and the Programme Advisory Board for their advice. He then proposed the report as laid out and subject to the addendum as circulated and detailed above.

Recommended to Council that

- (1) the Fees and Charges proposals, as set out in Appendix A to the minutes, to operate from 4 January 2021, be agreed; and
- (2) provided the changes proposed by Everyone Active to the core products and prices from January 2021 are within the September RPI, the Heads of Culture and Finance, in consultation with the relevant Portfolio Holders, be authorised to accept these charges.

(The Portfolio Holder for this item was Councillor Hales)
Forward Plan Reference 1,138

51. Sherbourne Resource Park – Proposal to become a Partner Council

The Executive considered a report from the Deputy Chief Executive (BH) and Neighbourhood Services proposing that the Council invest in the opportunities presented by the development of a regional Materials Recycling Facility (MRF) and formally join the following local authorities as a Partner Council in the project:

- Coventry City Council (CCC)
- Stratford District Council (SDC)
- Rugby Borough Council (RBC)
- Nuneaton & Bedworth Borough Council (NBBC)
- North Warwickshire Borough Council (NWBC)
- Solihull Metropolitan Borough Council (SMBC)
- Walsall Council (WC)

Warwick District Council (WDC) was collecting approximately 10,000 tonnes of dry mixed recyclate (DMR) materials under its waste collection contract. This was sorted, processed and taken to market by its contractor, with their costs and with a risk premium, reflecting the risk of fluctuations in the value of the processed materials, reflected in the contract price. Under the proposals in the report, the Council would in future send all of its DMR to the MRF.

Evidence from recent procurement exercises in Coventry and in neighbouring Warwickshire authorities had demonstrated an upward trend

in the contract costs associated with material recycling. Within the current group of Partner Councils, the gate fees for disposal of recyclates were above £65p/t and these costs, plus the additional haulage costs of transporting waste to recycling facilities, were reflected back in contract prices. Market intelligence indicated that further substantial rises were likely as the private sector continued to move the risk of reducing end market prices, and the likelihood of future additional costs arising from new legislation on recycling to local authorities. It was anticipated that the removal of risk from, and the reduction of cost for the contractor, resulting from the use of the MRF, would reduce the future costs of the proposed new waste collection contract, which was the subject of a separate report considered by the Executive on the 17 November 2020 at Minute Number 56 (Waste Contract Renewal – Update Report).

In 2017/18 an initial feasibility study was undertaken, led by Coventry City Council (CCC), to consider the technical and economic viability of developing a MRF to serve CCC, neighbouring local authorities and commercial businesses across the region. This study indicated a positive business case, subject to more detailed information. That business case had subsequently been developed further and concluded that a MRF with a capacity of processing between 120,000 and 175,000 k/tonnes per annum, with c90,000 k/t, rising to c120,000 k/t from local authorities, would be commercially viable. This base case was prepared on conservative assumptions and sensitivities had been run through the financial modelling, to measure the economic and commercial considerations of additional Partner Councils and third party commercial dry mixed recyclate, and the benefit to each Partner Council.

In order to make the construction of the MRF financially viable and allow both risk and reward to be shared across the local government sector, a formal agreement (the Joint Working Agreement) was put in place between CCC, NBBC, NWBC, RBC, SMBC and WC, who would become Partner Councils in the project, based on the principle of joint decision making, with any formal voting decision weighted on each partner's proportionate stake in the project. Each Partner Council would become a shareholder in a wholly owned arms-length company that would construct and operate the MRF, with their stake based on the principle of proportionality, represented as a percentage stakeholding equivalent to their proportion of the total tonnage of DMR to be provided to the MRF by all the partners. SDC were subsequently offered the opportunity to become a Partner Council, and chose to do so in October 2019.

WDC were offered the same opportunity to join the project as a full Partner Council but chose to join at an advanced stage. A planning application was submitted for the MRF on a site allocated for such a facility within the CCC Local Plan, adjacent to the existing Waste to Energy Plant at Bar Road, Coventry, and was due to be considered by the CCC Planning Committee on 12 November 2020. An OJEU compliant procurement exercise was undertaken by CCC (the Procuring Authority) on behalf of the other Partner Councils, as provided by the Joint Working Agreement. To minimise risk, separate packages were procured for a Design and Build civil engineering contract and the fit-out contract, and was subject to a competitive dialogue phase of negotiations prior to final bid submissions being made. The securing of planning consent and the final tender submission prices would allow the project to be brought to 'financial close' on 1 March 2021.

The existing partners made it clear to WDC that a formal decision on whether the Council wished to join the project was required by the end of November 2020, so that the necessary arrangements could be made without compromising the indicative timetable of works. The timetable had been designed to allow contract awards to be made on 1 March 2021, with development to then commence, commissioning of the completed facility to begin in late 2022, and the facility to become fully operational in summer 2023. The key milestone dates in the indicative programme were set out at confidential Appendix Three to the report.

This deadline was driven by the need for all the Partner Councils to understand and budget for their financial contribution to the project. At the financial close of this phase of the project, the Partner Councils would be required to establish jointly an arms-length company (AssetCo), which would enter into the contracts to deliver the recycling solution, funded through loans from the partners.

In agreeing the recommendation to join the project the Council would be:

- committing to its share of the costs of the construction, development and operation of the MRF;
- committing the recycling tonnage of dry material recyclate (DMR) collected within its District for the next 20 years; and
- committing to establishing, being represented on and being bound by the decisions of Assetco, who would control operation of the MRF for 40 years.

In so doing the Council was, along with the other Partner Councils, potentially committing to remain a project partner for 40 years. Once the Joint Working Agreement had been signed, this Council, or any successor body, could only leave the project if:

- the gate fee for use of the MRF was calculated to exceed the agreed maximum gate fee, as specified in the Joint Working Agreement, at confidential Appendix Five to the report, when the final Business Case was assessed at financial close;
- all partners agreed not to proceed with the project, prior to financial close;
- all partners agreed to dissolve AssetCo;
- AssetCo was formally wound-up;
- WDC's shareholding was transferred to another public sector body who took on WDC's responsibilities under the agreements (for example, were changes to be made to the current local government structure within Warwickshire).

The financial business case for WDC to join the project was based on the detailed cashflow modelling set out in confidential Appendix One to the report, and the overall conclusion on project viability was set out in confidential Appendix Two to the report. This modelling was underpinned by the assumption that all DMRs from each of the Partner Councils would be committed to the project. This guaranteed supply of materials made the MRF cost effective, whilst leaving tonnage headroom within its handling capacity for either growth in the future needs of the Partner Councils, as recycling rates increased, or commercial growth and/or the addition of more Partner Councils.

This business case modelling was undertaken on WDC's behalf by KPMG and then analysed thoroughly by WDC's Finance team. It demonstrated that joining the project should deliver significant financial benefits to the Council.

The commitment to the project was potentially for 40 years (the lifespan of the MRF), the loan facility was for 20 years, mirroring the length of the Waste Supply Agreement, and the contracts that Partner Councils would enter into with AssetCo. The financing of the second 20-year period would, therefore, be a decision for the Partner Councils (or their successor bodies) to make.

The use of the MRF allowed the Council to mitigate the known risk of the costs of recycle processing continuing to rise, and this being passed on to the Council through increased waste collection contract prices. The MRF was designed to provide a flexible solution, capable of producing high quality recycle, with built-in redundancy to evolve with future changes in waste legislation and targeted material streams. On completion it would be the most advanced facility of its type in the UK, placing WDC and the other Partner Councils in the advantageous position of being at the forefront of change.

The project also offered an opportunity to use WDC's investment power to reduce the long term cost of a key statutory service whilst potentially improving the quality of the recycling service this Council offered and reducing the impact of climate change.

In joining the project, a decision from full Council was needed to provide the authority to add the project to the Council's capital programme, make provision to subscribe for ordinary shares in AssetCo and contribute cash to AssetCo, in accordance with the Joint Working Agreement, and make provision to fund the loan facility that this Council would be required to make available to the AssetCo. The provisions within this recommendation provided the necessary legal and financial approvals for this.

In making the decision to join the project, the Council needed to make provision for payment of a share of the costs of developing the project to financial close. These costs were shared by the existing partners, with their respective cost shares determined by the ratio of their 2018/19 DMR tonnages. In joining the project, WDC would be required to pay a proportion of the 'sunk' costs of developing the project up to financial close, with the other Partner Councils share reducing proportionately. This payment would be made to the Procuring Partner, CCC, that had borne the costs of the project work to date.

The detailed of the cost to WDC, not exceeding £300,000, was set out in confidential Appendix Two to the report. It was proposed that this was funded through a Public Works Loan Board (PWLB) loan.

The Council needed to make provision for a one-off payment to subscribe for ordinary shares in AssetCo, at the point of the financial closure of the project. The details of the cost to WDC, not exceeding £100,000, was set out in confidential Appendix Two to the report. It was proposed that this was funded through a PWLB loan.

The appointment of representatives to outside bodies was a decision for full Council, and recommendation 2.2.5 to Council sought a delegation from full Council to the Chief Executive, in consultation with the Leader.

Subject to Council approving recommendation 2.2, the Executive needed to exercise its powers under Section 12 of Local Government Act 2003 and Section 1 of the Localism Act 2011 to establish the AssetCo, the 'arms-length' trading company, that would be structured to accommodate both local authority and, through a Teckal compliant subsidiary company, private sector trading. Therefore, for ease it was proposed that the Chief Executive was delegated authority to enter into the relevant legal agreements and associated documents.

Additionally, as set out in paragraph 5.2 of the report and confidential Appendix Two to the report, the Council would need to make provision within its Capital programme for up to a maximum of £400,000 of up-front funding for the delivery of the project.

Prior to the establishment of the AssetCo and the final decision to proceed with the project, the Partner Councils were bound by the terms of the Joint Working Agreement.

To join the project, the Council was required to sign the Deed of Adherence, as set out at confidential Appendix Four to the report, which provided for WDC to be added as a signatory to the Joint Working Agreement, as set out at confidential Appendix Five to the report.

In making their decision on this recommendation, Members considered the contents of the Warwickshire Legal Services advice note, set out at confidential Appendix Six to the report.

The business case for the project, required each Partner Council to make available a minimum loan provision to the AssetCo. The level of the provision required to be made by each Partner Council was based on its future shareholding stake in the AssetCo. The level of that stake was, in turn, derived from its proportion of the total tonnage of DMR to be provided by all the Partner Councils, based on 2018/19 actual tonnages. For WDC, the percentage stake of its future proposed shareholding in the AssetCo was set out in confidential Appendix Nine to the report, and the minimum loan provision was set out in confidential Appendix Two to the report.

However, Council was recommended to make a larger loan provision of up to a maximum of £6m available to AssetCo. This higher level of loan facility would protect the Council against the impact of any price fluctuations generated by the appraisal of the final contract bid submissions on the final Business Case, prior to sign off at financial close.

It was, therefore, proposed that the final level of loan should be determined under delegated authority and should be reported to Council as part of the February 2021 Budget Setting report.

The future governance of the AssetCo would be set out in a future Shareholders Agreement that would be signed by all the Partner Councils prior to contract award.

The current draft of this Agreement was attached at confidential Appendix Seven to the report. It was proposed that the final version would be agreed under the delegated authority, as set out in recommendation 8, with further detailed advice sought from Warwickshire Legal Services, allowing comments to be fed into the drafting process as appropriate.

The Council also needed to commit to the future supply of its DMR to be directed to the MRF for the 20-year period, as set out in the Waste Supply Agreement, that would be signed by all the Partner Councils prior to contract award.

The current draft of this Agreement was attached at confidential Appendix Eight to the report. It was proposed that the final version would be agreed under the delegated authority as set out in recommendation 9, with further detailed advice sought from Warwickshire Legal Services, allowing comments to be fed into the drafting process as appropriate.

The project was managed by a Project Team, comprising officers seconded from Coventry City Council. External, independent advice on legal, financial and the technical aspects of the project, had been procured from Pinsett Mason LLP, KPMG, and Wardle Armstrong respectively. The Project Team reported to a Project Board, comprised of senior officer representatives from each of the Partner Councils. Since the Leadership Coordination Group indicated in-principle support for WDC to become a Partner Council, officers were afforded observer status on the Project Board and the Finance and Legal sub-groups, which were developing the Waste Supply and Partnership Agreements respectively. These governance arrangements would remain in place until the financial close and the formal establishment of Sherbourne Recycling Limited, the AssetCo.

However, when AssetCo was established, it required new governance arrangements.

The members of the AssetCo Board would be the managing directors of Sherbourne Recycling Limited, and would have legal responsibilities to the Company, rather than directly to their respective Councils. It was, therefore, critical that the WDC Board Member was aware of the political priorities of the Council so they could ensure that these were properly reflected in Board discussions.

Given the prominence and financial importance of the MRF to the Council and in recognition that this was first time the Council had participated in a jointly managed but wholly local government owned arms-length company, it was proposed that regular briefings were provided to the named Members by the Board Member, so they could receive appropriate guidance on what outcomes this Council sought to achieve through the operation of the AssetCo. How this was done would be a member decision, and alternative options to the arrangement proposed in recommendation 10 were considered.

Members noted that where a decision of the Board could be made under the reserved matter arrangements, as set out in the Shareholders Agreement, a report would be presented to Executive or Council, as appropriate (and mirror reports would be taken through the governance structures of the other Partner Councils), so the Council's views would be

determined in advance of any Board decision, and the Board Member would be requested to have regard to the decision when voting.

In addition to the proposal in the recommendation above, it was proposed that the Neighbourhood PAB would receive regular reports on both the operation of the MRF and the implementation and performance of the proposed new joint waste contract with Stratford District Council, that was the subject of a report considered by the Executive on 17 November 2020, at Minute Number 56 - Waste Contract Renewal – to which it was fundamentally linked.

The proposed reporting to the PAB was to ensure backbench Members were engaged in the Council's decision-making processes and were able to see when and where their views and suggestions had shaped or influenced outcomes.

Soft market testing of the proposed joint waste contract, provided strong evidence that the removal of kerbside sorting of recyclates, and the guarantee that the DMR materials would be purchased by the MRF for a set gate fee, increased the likelihood of competing and competitive bids being received through an external procurement exercise.

In terms of alternative options, not becoming a Partner Council in the MRF project was not recommended as it would deliver none of the benefits set out in the report, expose the Council to the financial risks arising from either placing the responsibility for making suitable alternative arrangements for DMR processing on the waste collection contractor or taking on that direct responsibility, and would effectively mean that the proposed joint waste contract with SDC could not be progressed without the risk of higher prices being loaded into tender returns, and/or no contractors submitting a tender, because there was not unanimity of recyclate processing arrangements over the whole geography covered by the contract.

The option of deferring a decision to allow the Council to request further information was not recommended, given the time constraints for decision making. However, the Council would be joining a well-established project, nearing financial close, and the range of information available to allow the evaluations underpinning the recommendations was considerable and sufficient to allow an informed decision to be made.

Alternative options were available to provide guidance to the Council's Board representative on AssetCo, for example, replacing the recommended three named members with a group of alternative membership, or dispensing with the arrangement entirely and leaving this function to the Neighbourhood PAB. These options were not recommended because of the prominence and financial importance of the MRF to the Council.

The Overview and Scrutiny Committee considered this report alongside the report at Minute Number 56 – Waste Contract Renewal – Update Report, because they both dealt with waste management. It noted and accepted the contents of both reports. The comments it made focussed on service delivery and therefore have been recorded in the minutes for that item.

The Committee expressed its thanks to the Portfolio Holder, Councillor Grainger and Julie Lewis, the Head of Neighbourhood Services

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

Councillor Grainger thanked both of the Scrutiny Committees and proposed the report as laid out.

Recommended to Council that

- (1) the project be added to the to the Council's approved capital programme;
- (2) a loan facility of up to a maximum of £6m to be made available to Sherbourne Recycling Limited (AssetCo), that will own and operate the MRF, on appropriate commercial market terms funded from Public Works Loan Board (PWLB) borrowing, be approved;
- (3) a one-off payment be made of up to £300,000 to the Procuring Authority during financial year 2020/21, funded from PWLB borrowing, as this Council's contribution to the development costs of the project up to financial close-down, in accordance with the terms of the Joint Working Agreement, be approved;
- (4) a one-off payment be made of up to £100,000 during financial year 2020/21, funded from PWLB borrowing, to subscribe for ordinary shares in AssetCo and contribute cash to AssetCo in accordance with the Joint Working Agreement, be approved; and
- (5) authority be delegated from the Council to the Chief Executive, in consultation with the Leader of the Council, to appoint an officer as representative of the Council as a director of AssetCo.

Resolved that

- (1) the proposal to become a full Partner Council in the Sherbourne Resource Park, Materials Recycling Facility (MRF) project, be supported;
 - (2) the implications of joining the project, as set out at paragraphs 3.1.5 and 3.1.6 in the report, be noted;
 - (3) the financial appraisal of the project proposals and the implications for this Council, as set out in confidential Appendices One and Two, be
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noted;

- (4) this Council will be required to confirm to the current Partner Councils whether or not it wishes to become a full investing partner in the project no later than 26 November 2020, be noted;
- (5) the indicative programme for the financial close of the project, contract award and the subsequent construction and fit-out periods, as set out at confidential Appendix Three to the report, be noted;
- (6) subject to Council on 25 November agreeing the proposed recommendations above, the use of the Council's powers under Section 12 of the Local Government Act 2003 and Section 1 of the Localism Act 2011 be approved to (but not limited to):
 - (a) authorise the Deputy Chief Executive (BH), in consultation with the Portfolio Holder for Neighbourhood and the Leader of the Council, to negotiate, agree and enter into all relevant legal agreements and associated documents necessary to give effect to the proposal;
 - (b) acquire shares in AssetCo, (Sherbourne Recycling Limited, the wholly owned company to be established by the Partner Councils) funded by Public Works Loan Board (PWLB) loan finance as set out in Section 5 and confidential appendix Two to the report;
 - (c) negotiate and agree a loan facility of up to a maximum of £6m to be made available to AssetCo on appropriate commercial market terms;
 - (d) negotiate and agree variations to the terms of the loan facility;
 - (e) enter into the relevant legal agreements and associated documents necessary to manage and operate AssetCo (the Shareholders Agreement);
 - (f) enter into a Waste Supply Agreement with AssetCo, committing the Council's dry material recycle tonnage for 40 years;
 - (g) agree to provide upfront funding for the project of up to £400k, as set out in

confidential Appendix Two, including the one-off payment to the Procuring Authority as set out in paragraph 2.2.3 and the cash contribution to AssetCo as set out in paragraph 2.2.4, and this be included in the Capital Programme and funded from PWLB borrowing, or other appropriate funding as determined by the Head of Finance in accordance with the Council's Code of Financial Practice.

- (7) subject to Council on 25 November agreeing the proposed recommendations above, the signature of the Deed of Adherence to commit the Council to the Joint Working Agreement with the other Partner Councils, as set out at confidential Appendices Four and Five respectively, noting the legal advice from Warwickshire Legal Services set out at confidential Appendix Six to the report, be approved;
- (8) subject to Council on 25 November agreeing the proposed recommendations above, authority be delegated to the Deputy Chief Executive (BH) and Head of Finance, in consultation with the Finance Portfolio Holder to determine the level of loan to be provided to AssetCo, up to the maximum threshold of £6m;
- (9) subject to Council on 25 November agreeing the proposed recommendations above, current draft of the Waste Supply Agreement, as set out at confidential Appendix Eight to the report, and authority be delegated to the Deputy Chief Executive (BH) and Head of Neighbourhood Services, in consultation with the Neighbourhood Portfolio Holder and Leader of the Council to finalise the Agreement, be noted;
- (10) subject to Council on 25 November agreeing the proposed recommendations above, the Board of the future AssetCo will be comprised of one appropriately trained senior officer from each Partner Council, be noted;
- (11) the Leader of the Council and the Finance and Neighbourhood Portfolio Holders will receive feedback from and provide guidance to the officer representative on the AssetCo Board, be approved and that where a formal Board decision is required that would impact on the partners an appropriate Executive report would be brought forward;

- (12) oversight of, and guidance on the future operation of the MRF will also available through the Neighbourhood Programme Advisory Board (PAB), be noted; and
- (13) the potential beneficial impact of the approach proposed is subject to the proposed joint waste contract that is the subject of the Waste Contract Renewal Update Report (Minute Number 56), and that the overall financial position will not be known until the proposed waste collection tenders have been analysed in summer/autumn 2021, at which point the Council's Medium Term Financial Projections will be updated.

(The Portfolio Holder for this item was Councillor Grainger)
Forward Plan Reference 1,151

Part 2

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

52. **Newbold Comyn – Final Masterplan and Funding for Cycling Facilities**

The Executive considered a report from Neighbourhood Services which presented Members with a proposed final masterplan for Newbold Comyn, and sought approval for funding to enable the progression of a bid to British Cycling for the capital funds for the costs of the cycling facilities contained within the plan. The report also updated Members of the estimated total project costs.

Following the closure of the 18-hole golf course in 2017, the Council considered the future of Newbold Comyn. Work had been undertaken, through consultation and engagement with stakeholders, to identify a mix of facilities which met local needs, increased resident engagement/usage with the site and importantly, attempted to secure a long-term financially sustainable solution. This work resulted in the creation of a draft masterplan which included both free-to-access and paid-for facilities.

Between March and June 2020 the Council undertook its third public consultation on the proposals for the Comyn. A total of 2215 responses were received from the online survey. Email responses were also obtained from various stakeholder groups, including the political parties.

In summary, the feedback from the online consultation showed strong support for the masterplan as consulted upon. When asked to rate overall support for proposals, where 5 is 'support' and 1 is 'do not support', 70% of respondents indicated that they supported the proposed mix of facilities and their location as follows:

| | 5 | 4 | 3 | 2 | 1 |
|---|-------|-------|-------|----|------|
| Considering all of the facilities together, do you support the proposed mix | 42.3% | 27.7% | 15.4% | 7% | 7.6% |

| | | | | | |
|--|--|--|--|--|--|
| of facilities and their location? (5 = support and 1 = do not support) | | | | | |
|--|--|--|--|--|--|

Individually, all of the proposed facilities within the masterplan received strong levels of support, with only a minority of respondents stating that they would not use or support the facilities. A summary of the consultation feedback could be found at Appendix A to the report.

Whilst the responses to the online questions showed high levels of support, a number of questions and concerns were flagged in the survey comments and also through the consultation with the stakeholder groups.

These concerns centred on:

- The inclusion of the commercial elements of the masterplan (in particular, the activity centre) and their impact both in terms of the potential to turn Newbold Comyn into a destination venue and also the resultant increased traffic and requirement for more parking spaces. Some consultees felt that the draft masterplan proposal was contrary to the objectives of the Council’s Climate Emergence Action Programme (CEAP).
- A desire to see improved site linkages with cycle and pedestrian routes beyond the site.

Discussions with the Member Steering Group at its meeting on 28 July 2020 reached a conclusion that the Comyn should not be developed as a destination venue and that future development should be aimed primarily at residents living within the District.

Responding to the concerns about the commercial facilities and parking requirements, a number of revisions were made to the proposed masterplan.

Further work would need to be undertaken as part of the next phase of work to understand the impact in terms of an appropriate number of parking spaces. This would involve undertaking a full traffic and parking assessment and consultation with Warwickshire County Council transport planning team. The feedback about the wider linkages to the site would also need to be addressed by officers, including the Council’s Climate Change Programme Director, as the project progressed.

In addition to the consultation carried out in Spring 2020, a soft market testing exercise was also conducted by the Council’s consultants SLC, between July and September. The purpose of this work was to understand the appetite operators had in managing the facilities proposed in the masterplan. The results of this work were summarised in a report, included in Appendices C and C.1 to the report.

The findings showed a disappointing response, reflecting the current situation regarding Covid-19, which had impacted the leisure operator market nationally. Of the 34 separate operators contacted, responses were received from five. There was interest from one operator in whole site management. However, it was felt that this option would be fettering future

options for the Council, given the current economic uncertainties and the potential benefits to the Council in using a mixed management model for the site. The remaining respondents expressed an interest in the operation of the artificial turf pitch, but there was no interest in activity centre, golfing facilities or visitor centre.

Accepting that the online consultation responses showed strong support for all of the facilities, the market testing results, along with some of the concerns fed back from stakeholder groups, prompted a number of revisions to the masterplan. In addition, it was also noted that since the masterplan was designed, the Covid-19 pandemic had a significant impact on the economy, including the sports and leisure markets, and this changing context had also been taken into account.

The lack of current appetite from operators to manage the activity centre and golfing facilities had meant that these specific activities were removed from the masterplan. The absence of operator interest certainly challenged the long term sustainability of these facilities. However, in recognition of the consultation feedback and the project's objectives to provide facilities which visitors found attractive and increased engagement with the site, it was proposed that the areas previously allocated for the activity centre and golf were retained for alternative activities, to be identified at a later date.

The proposed final masterplan was shown at Appendix B to the report. For reference, the original masterplan (as consulted upon during Spring 2020) was also included at Appendix D to the report. The proposed amendments were summarised below:

- a) removal of high ropes/climbing activity centre. The area would be "zoned" and retained for outdoor activity, the type and nature of which would be reviewed by Spring 2022, in approximately 18 months later. This amendment was made due to the lack of sufficient operator interest in operating the proposed facility at Newbold Comyn. It also responded to consultation feedback, which expressed a desire that the Newbold Comyn should not become a destination venue;
- b) removal of proposed zip wires. The area would be "zoned" and retained for outdoor activity, the type and nature of which would be reviewed by Spring 2022, approximately 18 months later. The reason for this amendment was as set out in paragraph 3.14a of the report;
- c) removal of adventure golf. The area would be "zoned" and retained for outdoor activity, the type and nature of which would be reviewed by Spring 2022, approximately 18 months later. The reason for this amendment was due to the lack of sufficient operator interest;
- d) removal of 9-hole pitch and putt. The area would be "zoned" and retained for outdoor activity, the type and nature of which would be reviewed by Spring 2022, approximately 18 months later. The reason for this amendment was set out in paragraph 3.14c of the report;
- e) inclusion of a learn to ride area to enable young children to learn to ride and develop cycling skills. Two options for the location of this facility were explored as shown at number six and adjacent to number three on the masterplan, shown in Appendix B to the report.. The reason for this inclusion responded to British Cycling feedback that a purpose built learn to ride area would complement the other cycling facilities proposed for the site, allowing beginners to progress onto the trails. The location of both options would ensure that the new facility would be convenient for access to toilets and refreshments;

- f) the barns (behind the Newbold Comyn Arms) would be considered as a potential alternative location for visitor centre if it proved unviable to progress with the proposed location for the visitor centre (adjacent to area eight). There was also the potential for remaining barn space to be let to local enterprises for commercial rent. The reason for the inclusion of this additional option was to enable the Council to explore the potential benefits and impacts of an alternative location for the visitor centre, including the mitigation of planning risks, re-use of a listed building and income generation through the commercial letting of space to local businesses. Reference would also be made to work of the Council-wide Strategic Asset Review in determining the suitability and viability of the barns for this purpose;
- g) parking spaces (P4) – this area would be retained for additional parking as required. The amount of parking spaces would be determined by the emerging masterplan and full traffic and parking assessment in consultation with Warwickshire County Council transport planners, to be undertaken in next phase of work; and
- h) landscaping to new nature reserve – a number of revisions to the landscaping were included, with the purpose of maximising biodiversity through the creation of additional grassland areas, pond and ditch improvements and tree planting, achieved through direct planting and natural regeneration.

The removal of the activity centre and golf facilities addressed the concerns raised about the commercialisation of the site. However, it was noted that this would remove an income stream which could contribute to covering the Council’s costs of maintaining the Newbold Comyn.

The masterplan represented a key policy document setting out the Council’s aspirations for the site. It was also recognised that the masterplan set out the outline design for Newbold Comyn and that significant further work was required to progress the detailed design for each facility, in preparation for future planning permission(s).

Agreeing the masterplan was important as this would enable the Council to progress in a phased manner on a number of key elements (e.g. development of the cycle trails, nature reserve and football facilities) as funding became available.

The total estimated cost to deliver the masterplan based on the high level design was between £8,441,622 and £10,276,904. A cost breakdown was set out in the table below.

| Facility | Scenario A: Original masterplan (as consulted in Spring 2020) | Scenario B: Proposed final masterplan (excluding activity centre and golf offer) |
|------------------------------------|--|---|
| Built Facilities | | |
| Visitor Centre / Football Pavilion | £2,710,200 | £2,710,200 |
| Repurposed former golf shop | £200,000 | £200,000 |
| Outdoor Facilities | | |
| External Works and Landscaping | £950,000 | £950,000 |

| Facility | Scenario A: Original masterplan (as consulted in Spring 2020) | Scenario B: Proposed final masterplan (excluding activity centre and golf offer) |
|---|--|---|
| 3G Artificial Turf Pitch | £850,000 | £850,000 |
| Cycle Trails / Pedestrian Routes | £504,600 | £504,600 |
| Outdoor Activity Centre (High Ropes, climbing, zip wires) | £630,000 | - |
| Adventure Golf course | £250,000 | - |
| Reinstatement of Pitch and Putt | £275,000 | - |
| Adventure Play Area (and refurbished Toddler Play Area) | £330,000 | £330,000 |
| Relocated Grass Pitches | £15,000 | £15,000 |
| Woodland Craft kiosk | £30,000 | £30,000 |
| Sub total | £6,744,800 | £5,589,800 |
| Contingency (10%) | £675,000 | £559,000 |
| Professional fees (16%) and surveys | £1,283,000 | £984,368 |
| Furniture, Fittings and Equipment | £22,800 | £22,800 |
| Inflation to construction midpoint (Q2 2023) | £1,551,304 | £1,285,654 |
| Total development cost | £10,276,904 | £8,441,622 |

It was noted that these costs were estimated and would change as the design was developed. The design was currently at RIBA 1 stage and would need to be progressed to RIBA 4 before greater cost certainty could be achieved. Scenario A provided an estimated cost for the total project, including the now discounted activity centre and golf offer. For comparison, Scenario B showed the total cost excluding those elements. Should suitable facilities be identified at a future date to replace the activity centre and golf course, this would inflate the total budget required, and therefore Scenario A was provided to indicate a potential budget cost.

The cost breakdown excluded a budget for the creation of the nature reserve. This Council was aware of a number of grant opportunities and dialogue was ongoing with Warwickshire Wildlife Trust about the future creation and management of the proposed new reserve. The Trust would also have access to grant funding.

The cost break down excluded a budget allowance for the additional option of refurbishing the barns to enable the buildings to be used for a visitor centre and/or business lets. Previous feasibility work had indicated that this could cost in the region of approximately £2 million.

Additional work was undertaken by SLC to explore the external grant funding opportunities available to the Council. This study, included in Appendix E to the report, indicated that there was the potential for the Council to secure between £1.24 million and £2.9 million capital funding. Clearly, the Council's ability to obtain this funding would be dependent on many factors, including capacity within the Neighbourhood Services team to pursue grants. Should the Council be successful, this would reduce the amount of capital required to deliver the masterplan to between £6.98 million and £5.3 million based on scenario B facilities being delivered.

The implementation of the masterplan would be undertaken in phases. The approval for an initial budget would be considered as part of the February 2021 budget report to Council, in order that the Newbold Comyn budget requirements could be submitted alongside other corporate priorities. Subject to approval, the budget could take the form of a Council Reserve designated for the phased implementation of the masterplan.

Following on from confirmation of a budget in February for project delivery, further work from officers would be required to identify a phased implementation timetable based on availability of internal and external funding.

The masterplan included the provision of cycling facilities, including three cycling trails (family trail, a skills orientated based trail and a cross country trail), a learn-to-ride area and a bike hire and maintenance facility located in the former golf shop. The trails and learn-to-ride area would be free to use.

The estimated cost based on high level designs to construct these facilities was approximately £850k. This excluded an additional estimated £55k fees for design development to produce detailed designs, commission surveys and obtain planning permissions.

The Council had been successful in its stage 1 funding application to British Cycling for Places to Ride (PTR) funding for the cycle facilities. The Council had been invited to submit a stage 2 application, which, if successful, could result in the Council being awarded 50% of the capital costs for the construction of the facilities, currently estimated at £425k.

As part of the full application for the cycling facilities, the deadline of which was 15 January 2021, the Council was required to commit to provide the remaining 50% funding through written confirmation, to ensure that the project was deliverable.

In addition, the Council also needed to:

- complete the detailed design for all facilities; trails, learn to ride area and bike hire building;
- submit planning applications and listed building consent (if required);
- obtain pre-tender estimates; and
- devise a cycling development plan, based on further consultation to design and run a programme of activities including coaching, recreational sessions and events.

The Neighbourhood Services Programme Team would undertake the work to develop the stage 2 bid and, subject to the outcome, manage the construction of the facilities. However, at the time, there was not the officer capacity to undertake the work to devise and oversee the cycling development programme. (The cycling development programme was a British Cycling requirement as part of the funding scheme.) The Council therefore needed to identify a viable solution to deliver this work. A number of options were explored. These included:

- Partnership working with local cycle clubs. There were further opportunities to link this work with the operation of the proposed bike hire facility.
- Partnership working with Everyone Active to engage sports development resource.
- Recruitment of an intern, marketing opportunity through links with local universities, colleges and sporting bodies.

The masterplan funding strategy report provided by SLC identified the potential to secure additional external funding for the cycle facilities:

- Sport England Community Asset Fund – up to £50k;
- FCC Community Foundation Action Fund – up to £100k; and
- HS2 The Community and Environmental Fund - up to £75k.

Further work was required to assess the likelihood of success with applications to these funds.

The pressing deadline for the application would require officers within the Neighbourhood Programme team to prioritise this project.

The budget required to meet the grant match funding would be met from CIL amounts received by the Council, with the Section 123 List being amended to include Newbold Comyn, with up to £425k allocated in 2020/21, in consultation with the Section 151 Officer.

The design development costs were not included in the British Cycling, Places to Ride grant scheme. The report therefore recommended funding of £55k from CIL amounts to progress the current high level designs for the trails and refurbishment of the golf shop to detailed plans, submit planning applications and provide tender estimates. This process would also involve the undertaking of a number of surveys. The Section 123 List would be amended to include Newbold Comyn, with a further £55k allocated in 2020/21, in consultation with the Section 151 Officer.

As stated in paragraph 3.31 in the report, there was considerable work to do to progress the cycling scheme, in readiness for the stage 2 application for the funding. It was recommended that authority was delegated to the Deputy Chief Executive (AJ), as project sponsor, and S151 Officer, in consultation with the Neighbourhood Services and Finance Portfolio Holders, to oversee the work of the project team to achieve this.

It was understood that planning permissions would be required for the cycle trails and the learn-to ride-area. Whilst the works to the former golf shop were intended to minimise alterations to this grade II listed building, there was a reasonable possibility that planning permission and other consents (e.g. listed building and building control) would also be required.

In terms of alternative options, there was the option to delay agreeing the masterplan until budget decisions could be made. However, it was felt important to get timely agreement on the masterplan and the facilities contained within it, in order that individual elements could be progressed in a phased manner as funding opportunities become available, for example, the cycling and football facilities.

There was also the option to terminate the progression of the application for British Cycling funding for the cycling facilities. However, the opportunity to access 50% external funding (c£425k) was positive and would significantly improve the viability of delivering cycling facilities in the Comyn, which the consultation showed was well supported by the community.

Councillor Grainger proposed the report as laid out, and thanked Members for their support.

Resolved that

- (1) the results of the public consultation on the draft masterplan carried out in Spring 2020, as set out at Appendix A to the report, be noted;
- (2) the proposed masterplan, as set out at Appendix B to the report, for the re-development of Newbold Comyn, noting the results of the recent market testing exercise, be agreed;
- (3) the current estimated costs to deliver the masterplan, and an initial budget required to implement the masterplan in phases will be proposed alongside costs for other priority corporate projects to be set out in the Council's February budget report, be noted;
- (4) a stage 1 application to British Cycling for funding towards the cycling facilities contained within the masterplan has been successful, and the Council has been shortlisted to make a stage 2 application, which if successful may result in an award of the maximum funding of 50% (c£425k) towards the capital costs, be noted;
- (5) a written confirmation be provided to British Cycling at the point of submitting a stage 2 application for funding (January 2021) that the Council will meet any shortfall for the capital project of up to 50% of costs, currently estimated at c£425k, if the application is successful. Those costs (and those at (6) below) are met from Community Infrastructure Levy (CIL) amounts received by this Council with the Section 123 List being amended to reflect this and the profile of CIL funding to be determined by the Section 151 Officer, be agreed;
- (6) £55k to undertake the detailed design of the cycling facilities, required for the stage 2 application for British Cycling funding and that these costs are to be met from CIL amounts received by the Council, with the Section 123 List being amended to reflect this and the profile

of CIL funding to be determined by the Section 151 Officer, be approved; and

- (7) authority be delegated to the Deputy Chief Executive (AJ) and Section 151 Officer, in consultation with the Neighbourhood and Finance Portfolio Holders, to progress the bid application and its financing, and seek planning and any other consents (e.g. listed building and building control) necessary to implement the cycle trails and conversion of the golf shop.

(The Portfolio Holder for the item was Councillor Grainger)
Forward Plan Reference 1,144

53. **Creative Quarter: Spencer Yard**

The Executive considered a report from Development Services seeking approval on fundamental elements of the Spencer Yard project, which formed part of the wider Creative Quarter regeneration initiative.

In March 2019, the Executive approved the vision (including indicative projects) for the Creative Quarter, as set out in the 'Big Picture' document, which had been subject to public consultation. This was followed by approval of the 'Phase One Report' by the Executive in November 2019. The report set out some high level proposals and principles relating to the projects identified in the 'Big Picture'. Approval was given for projects at Spencer Yard, Bath Place and Court Street, and in doing so, the Council agreed that Phase One of the Collaboration Agreement between Warwick District Council and Complex Development Projects Ltd (CDP) had been signed off.

The Creative Quarter partnership with CDP in respect of these projects had moved into Phase Two of the Collaboration Agreement. This involved:

- 1) the testing and refining of the high level proposals and options set out in the Phase One Report;
- 2) assessing any other – complementary – uses that may emerge as part of this work;
- 3) further stakeholder engagement as needed; and
- 4) the detailed planning and design of both the delivery and ongoing management of schemes.

Spencer Yard was identified by CDP, and agreed by the Council, to be the first priority project within those contained within the Phase One Report. As an underutilised area that was already home to several creative organisations, there was an opportunity to build on this and provide additional grow on space for businesses.

Since November 2019, CDP had commissioned a number of surveys on the buildings, to inform their design work and assess the viability for each building. Although those surveys were not yet complete due to restricted access to all areas, the design work had commenced which indicated the following for each building (representative examples of the latest draft

proposed plans were included in confidential Appendix One to the report):

- The Old Dole Office would undergo light refurbishment work. Externally, it would require an update of the building envelope, such as replacement of windows and doors, as well as an over clad solution to protect the building from the elements, and also make the building more thermally efficient, whilst improving the overall look. Internally, the existing open spaces would remain but would incorporate support spaces such as toilets, kitchenettes and stores. On the second floor, a new light weight addition could be added following the floor layout of the floor below adding an additional floor to the building.
- The former Nursery would require the same level of refurbishment work internally, together with a small extension to adapt the layout and make it more efficient for office use. Externally, the building envelope needed to be made waterproof and more attractive.
- The former United Reformed Church (URC) building was to be converted into an open plan office space with a common social area that could be shared by the officer users. It was also proposed for the basement level to be refurbished and remodelled following structural investigation. The basement could be linked to the upper floors through a central staircase which would be opened up to bring natural light into the crypt.

Initial surveys to the buildings indicated thermal efficiency performance was poor. The Council worked closely with CDP as part of the development proposals and the plans being submitted were to ensure that wherever possible, the buildings were developed to a carbon neutral standard. The following were some of the options that the Council looked to pursue:

- improved building fabric on the old Dole Office and former Nursery;
- new thermally efficient windows, although due to the listed status of the URC, this may not be possible on the single glazed stain glass windows;
- ground source heat pumps to be installed where possible, subject to ground investigations, or if not, then air source heat pumps would also be pursued;
- solar panels would be encouraged as part of the development, subject to Conservation Area considerations, notwithstanding the type and position of the roof may have an impact on the effectiveness, and this would need to be assessed carefully as part of the planning process; and
- complete removal of gas heating and replacement with renewable energy generation where possible.

The Council's objectives around sustainable development would be pursued in more detail as specific proposals were drawn up and submitted as formal planning applications.

The open yard area and car park presented an opportunity to increase footfall to the area by installing the basic infrastructure, which would allow the space to easily be used for pop up events and markets. The space would need to be flexible to maintain existing delivery and emergency vehicle routes. Members noted that discussions with the Loft Theatre to reach an agreement on how to mitigate impact of increased activity in the yard on their performance/rehearsal schedule, were ongoing.

The focus of CDP's work was on preparing and submitting a formal planning application for the buildings and the yard area at Spencer Yard before the end of 2020. A pre-application planning meeting was undertaken on Tuesday 6 October, which included colleagues from Development Management and the Conservation Officer. A Stakeholder Forum consultation event was undertaken on Friday 16 October, and a public consultation run by CDP was due to take place as an online event for two weeks, commencing on 2 November 2020. This would be a separate exercise to the formal consultation relating to any future planning application(s).

The principles by which CDP would bring forward projects within the Creative Quarter, and the broad shape of these, was agreed by the Council when it approved the Phase One Report. The decisions that the Council needed to make were around the details of how these projects would be brought forward, the nature of any disposals and any other relevant matters that impacted on the Council's future involvement with, or control of, projects. It had been established through the Collaboration Agreement between the Council and CDP, that this would be achieved through a Development Agreement.

In respect of the proposals for Spencer Yard, the Phase One Report agreed the following:

- the schemes were progressed on the basis that creative workspace/ office use was accepted in principle;
- survey work was undertaken on the assets, in order that detailed cost and design work could take place;
- in accordance with the Collaboration Agreement, a Development Agreement was entered into between WDC and CDP in respect of these assets, which would give CDP exclusivity to develop the assets, and would set out the terms of any cost and revenue shares between the parties;
- WDC and CDP explored the opportunities to work with WDC's Enterprise Service;
- WDC granted licenses to CDP and/or events companies as required, on terms to be agreed, for use of the yard and parking areas for pop-up events and markets (as set out in paragraph 3.7 of the report); and
- ownership of specific assets may transfer from WDC to CDP on a freehold or long leasehold basis, subject to consideration of a detailed Business Case and development appraisal.

At the time of the report, the heads of terms were being negotiated and would include:

- The Properties: To include the former URC, The former Nursery and the Old Dole Office.
- Tenure: CDP would purchase a long leasehold interest in each of the properties.
- The Development: The properties would be refurbished to provide office space with ancillary uses.
- Conditionality for completion of the transfers: for example, project viability, planning permission and listed building consent being obtained, funding being secured and vacant possession of the buildings.
- Planning: details in relation to the planning application to be submitted.

- Development Works: requirements to ensure, for example, that CDP carry out the works with relevant statutory consents.
- Access: The Council would allow CDP access to the site as required to complete the design work on two days' notice.

It was proposed that the Heads of Terms would be agreed under delegated authority, as set out in recommendation 2 in the report, following the receipt of appropriate legal and commercial advice and discussions with the Leadership Coordination Group. For information, only a draft of the current iteration of the Head of Terms was attached as confidential Appendix Two to the report. This was the subject of legal and commercial scrutiny and could yet change significantly. The final iteration would be discussed with the Leadership Coordination Group, subject to the exercise of the delegated authority.

It was noted that the land at Spencer Yard, which was being considered for event space, was not included within the proposed transfer to CDP. CDP proposed that investment would take in this area to create an improved landscaped area, but that the ownership and management of this space remained with the Council. CDP asked (within the Development Agreement) that WDC granted it the right to hold a certain number of events on key days, but otherwise, WDC would be free to host other events. CDP indicated that works on Spencer Yard would require grant funding in order for it to be viable. Investment to create an events space was included within the recent Future High Streets Fund bid that was agreed by Council on 5 August, and subsequently submitted to the Government. CDP would apply to the Council as landowner for any consent to carry out events in the Yard.

Further work was needed to explore any collaboration between CDP and the Council's Enterprise Service. This could either be done on a leasehold basis back to the Council, or on a management agreement between both parties. Once planning permission was granted, the viability for each party would be looked at in more detail.

CDP submitted a sustainability statement as part of the planning application, which detailed what energy efficiency measures were available for each building. This statement could not be produced yet as there was still outstanding survey work which needed to take place for the assessment to be made.

The method for disposal of assets from the Council to CDP was set out in the Collaboration Agreement, a legal document signed by both parties at the start of the project in 2017. This stated that any freehold or leasehold disposal would be detailed in the development agreement. CDP were in the process of preparing the detailed Business Cases for the individual properties listed in paragraph 3.4 of the report, to enable these decisions to be made, after discussion with the Leadership Coordination Group and formal sign off by the Project Board, of which the Leader of the Council and the Finance and Business Portfolio Holder were members. The indications were that the emerging Business Cases would not demonstrate a need for freehold disposals.

The Council had commissioned independent commercial advice on appropriate valuations for the properties, and these were used to determine

the validity of the assumptions within the final Business Cases, and further commercial advice would be sought in relation to finalising the heads of terms.

Any capital receipts accruing from a future long leasehold disposal of the buildings would, ideally, be ring-fenced to the Creative Quarter initiative and re-cycled to add value to the projects proposed in the report or future initiatives. However, Members were aware that the 2021/22 Budget setting process needed to reflect the revised Medium Term Financial Strategy projections and a parallel review of the capital resources available to the Council. It was, therefore, proposed that receipts were initially ring-fenced as appropriate, pending the outcome of the review process.

In terms of alternative options, the Council could choose not to pursue the negotiation on the draft Heads of Terms, or choose not to agree them following that negotiation. However, in so doing it could be considered to be acting unreasonably, which would be a breach of the terms of the Collaboration Agreement. In such a scenario, CDP could claim for all costs incurred to date in getting the proposals to the stage they were at the time, which would amount to a considerable amount.

Additionally, failure to agree Heads of Terms for the Spencer Yard properties would impact adversely on the delivery of the overall Creative Quarter project and place at risk the delivery of its strategic objectives, designed to benefit the District and its residents.

The Overview and Scrutiny Committee considered the report and accepted its contents.

The Finance & Audit Scrutiny Committee recommended to the Executive that authority be delegated to the Deputy Chief Executive (BH) in consultation with the Chair of the Finance & Audit Scrutiny Committee, the Leader of the Council and the Portfolio Holder for Finance and Business, to further investigate and look in detail at the proposed Heads of Terms included in Confidential Appendix 2 to the report. Given the Council's unanimous support of the Climate Emergency Action Plan, Members asked that detailed terms on the environmental standards of the proposals be considered, and whether it was sensible to include environmental conditions into the lease. Members felt that the efficacy of those conditions was something the Programme Advisory Board should look at and monitor.

Members of the Executive were required to vote on this because it formed a recommendation to them.

Councillor Rhead, as the Portfolio Holder for Environment, stated that he was in support of the comments from the Finance and Audit Scrutiny Committee, but requested an amendment to the recommendation to ensure it would not affect the viability of the scheme.

Councillor Hales thanked officers for their time and efforts, and welcomed the input from both Scrutiny Committees. He was happy to accept the recommendation from the Finance and Audit Scrutiny Committee.

Councillor Nicholls, the Chair of the Finance & Audit Scrutiny Committee, agreed to the suggested amendment to the recommendation from the

Finance and Audit Scrutiny Committee, to include "subject to not adversely affecting the viability of the scheme".

Councillor Day proposed the report as laid out, subject to the additional amended recommendation from the Finance and Audit Scrutiny Committee.

Resolved that

- (1) the work that Complex Development Projects Ltd (CDP) have undertaken in partnership with the Council since the approval of the "Phase One Report" in November 2019, be noted;
- (2) negotiations are in progress on the draft Heads of Terms in relation to the principles of the Development Agreement between the Council and CDP in relation to Spencer Yard, be noted, and authority be delegated to the Deputy Chief Executive (BH), in consultation with the Leader of the Council and the Finance & Business Portfolio Holder, to agree the heads of terms and sign off the final agreement, after receipt of legal advice and discussion with the Leadership Co-ordination Group;
- (3) any capital receipts received in relation to the Spencer Yard assets are placed in an appropriate ring-fenced Creative Quarter account and their future use is considered as part of an overall review of Council reserves and capital financing resources, be agreed; and
- (4) authority be delegated to the Deputy Chief Executive (BH) in consultation with the Chair of the Finance & Audit Scrutiny Committee, the Leader of the Council and the Portfolio Holder for Finance and Business, to further investigate and look in detail at the proposed Heads of Terms included in Confidential Appendix 2 to the report. Given the Council's unanimous support of the Climate Emergency Action Plan, Members ask that detailed terms on the environmental standards of the proposals be considered, and whether it is sensible to include environmental conditions into the lease, subject to not adversely affecting the viability of the scheme. The efficacy of those conditions be looked at and monitored by the Programme Advisory Board.

(The Portfolio Holders for this item were Councillors Day and Hales)
Forward Plan Reference 1,147.

54. **Transfer of Bust of Sir Henry Cooper**

The Executive considered a report from Cultural Services. A bronze bust of British heavyweight boxer Sir Henry Cooper by William Redgrave was acquired by Leamington Spa Art Gallery & Museum (LSAG&M) in 1970. At the time of the report, it was valued at £900. It did not fall under the Council's Collections Development Policy and had never been displayed.

LSAG&M wished to dispose of the bust by transferring it to a more appropriate public collection.

The recommendation followed a review of the bust's relationship to Warwick District Council's (WDC) Collections Development Policy, which set out the principles, standards and legislation for responsible and ethical acquisition and disposal of collections. The Policy was last reviewed and approved by the Executive in 2018.

The bust was purchased by a private individual in December 1969 from the Grosvenor Gallery, London, and donated to LSAG&M in 1970. It appeared to have been selected due to the significance of boxing in Leamington Spa's sporting history. Sir Henry Cooper was born and lived in London, and had no connection to Leamington Spa. Artist William Redgrave was born in Essex, worked mainly in St Ives, Cornwall, and also had no connection to Leamington Spa.

LSAG&M had a permanent display of local boxer Randolph Turpin and a substantial collection of related material in store. The bust of Sir Henry Cooper was not relevant to the display or to the stored collection.

LSAG&M also had a small collection of sculpture. The collection included works by artists with local connections, and by internationally significant artists. Works from the collection were regularly included in the main Art Gallery displays and in temporary exhibitions of fine art.

The bust of Sir Henry Cooper had never been displayed, and the curators could not foresee any circumstances in which it would be displayed at LSAG&M, either in the context of local history or fine art.

The storage space at LSAG&M was very limited, and the allocated space for sculpture in the Fine Art Store was at capacity, with limited room to accommodate new acquisitions.

The Curatorial team had carried out an extensive search to find a museum with a collection which would be a more appropriate home for the bust. The British Sporting Art Trust (BSAT) were approached in July 2019 and had expressed an interest in the bust. The BSAT were building a collection of British sporting art at Palace House Gallery, Newmarket, and also organised exhibitions at other public galleries. The BSAT collection focused on fine art with sporting subjects, including boxing. The BSAT also cared for the British Council's collection of sporting art. BSAT staff had the relevant curatorial expertise to make best use of the bust for public benefit, and the resources to store and care for it appropriately in the long term.

The Collections Development Policy stated that '*the museum will only dispose of objects for curatorial reasons*'. The criteria for disposal included:

'Falls outside the Collections Development Policy', and 'Public benefit better served by transfer to another institution.'

Such a disposal required the consent of the Executive: 'The decision to dispose of material from the collections will be taken by the governing body only after full consideration of the reasons for disposal. Other factors including public benefit, the implications for the museum's collections and collections held by museums and other organisations collecting the same material or in related fields will be considered.'

If disposal was approved, the Collections Development Policy stated that preference should be given to transfer to an Accredited Museum: *'Once a decision to dispose of material in the collection has been taken, priority will be given to retaining it within the public domain. It will therefore be offered in the first instance, by gift or sale, directly to other Accredited Museums likely to be interested in its acquisition.'* The BSAT was an Accredited Museum.

Taking into account the above, it was the view of the Collections & Engagement Manager that there were sound curatorial reasons and it was to the public benefit for the Council to present the bust of Sir Henry Cooper to the BSAT. This would allow it to be displayed in context with other related objects, and ensure it was properly cared for by specialist staff.

In terms of alternative options, the bust could be retained by LSAG&M, which would be detrimental to its use for the public benefit and would increase pressure on storage space.

Councillor Grainger proposed the report as laid out.

Resolved that the presentation of the bust of Sir Henry Cooper as a gift to the British Sporting Art Trust, be approved.

(The Portfolio Holder for this item was Councillor Grainger)
Forward Plan Reference 1,150.

55. **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 was 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. A very useful source of guidance on the responsibilities of Members and officers, with regard to risk management, came from the Audit Commission in its management paper "Worth the risk: improving risk management in local Government":

"Members need to determine within existing and new leadership structures how they will plan and monitor the Council's risk management arrangements. They should:

- *decide on the structure through which risk management will be led and monitored;*
- *consider appointing a particular group or committee, such as an audit committee, to oversee risk management and to provide a focus for the process;*
- *agree an implementation strategy;*
- *approve the council's policy on risk (including the degree to which the council is willing to accept risk);*
- *agree the list of most significant risks;*
- *receive reports on risk management and internal control – officers should report at least annually, with possibly interim reporting on a quarterly basis;*
- *commission and review an annual assessment of effectiveness: and*
- *approve the public disclosure of the outcome of this annual assessment, including publishing it in an appropriate manner.*

The role of senior officers is to implement the risk management policy agreed by Members.

It is important that the Chief Executive is the clear figurehead for implementing the risk management process by making a clear and public personal commitment to making it work. However, it is unlikely that the Chief Executive will have the time to lead in practice and, as part of the planning process, the person best placed to lead the risk management implementation and improvement process should be identified and appointed to carry out this task. Other people throughout the organisation should also be tasked with taking clear responsibility for appropriate aspects of risk management in their area of responsibility."

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

- Funding – the ongoing impact of the Covid-19 pandemic continued to cause great uncertainty for the Council and its operations. The situation was monitored on a near daily basis, and communications between the political and managerial leadership of the Council remained very strong. Members and officers were in the process of producing a revision to the Council's change programme to prepare it as well as possible for what lay ahead.
- Brexit – already recognised as a potential trigger to some of the Council's existing risks, this issue would be kept under review so that as details emerged of exactly what the Country's new trade and political relationships may mean, generally for local government and specifically for this Council, the implications for the Council's risk environment could be considered further.

The report was not based on "project appraisal", so no alternative options were considered.

The Finance & Audit Scrutiny Committee recommended to the Executive to review Environmental Risk 16 on the Risk Register, "Failure to meet the

District's ambition to be carbon neutral within specified timeframes", to more clearly indicate if this risk referred to the ambition to become carbon neutral as a Council, District or both together. Members felt that as it stood, this was unclear and would benefit from being broken down into different aspirations and their risks, or making it more clear if it was an overarching risk for the whole programme.

Members of the Executive were required to vote on this because it formed a recommendation to them.

Councillor Rhead suggested an amendment to this recommendation, to clarify that there were two separate targets, one for the District and one for the Council.

Councillor Nicholls, the Chair of the Finance & Audit Scrutiny Committee, agreed to Councillor Rhead's suggested amendment, to include "Failure to meet the District's ambition to be carbon neutral within specified timeframes, be split in two risks that refer to the ambition to become carbon neutral as a Council and as a District".

Councillor Day proposed the report as laid out, subject to the additional amended recommendation from the Finance and Audit Scrutiny Committee.

Resolved that

- (1) the Significant Business Risk Register, attached at Appendix 1 to the report, was reviewed and any further actions should be taken to manage the risks facing the organisation were considered;
- (2) the emerging risks identified in section 9 of the report, be noted; and
- (3) Environmental Risk 16 on the Risk Register, "Failure to meet the District's ambition to be carbon neutral within specified timeframes", be split in two risks that refer to the ambition to become carbon neutral as a Council and as a District.

(The Portfolio Holder for this item was Councillor Day)
Forward Plan Reference 1,137

56. Waste Contract Renewal – Update Report

The Executive considered a report from Neighbourhood Services. The Warwick District Council (WDC) waste collection contract would end on 31 March 2021. A tender process for a replacement contract was undertaken in 2020 but, as reported to the Executive at its 24 August meeting, the evaluation of the outcomes concluded that it was untenable to continue with the procurement process and re-let the contract. Officers were duly authorised to negotiate a contract extension with the incumbent contractor for a maximum 30-month period.

Members were made aware that the costs of the contract extension posed a significant challenge to the Council's finances and it was, therefore, preferable to minimise the period of the extension as much as was practical. In making their decision to extend the existing contract, the Executive noted that it would be sensible to recommence the procurement process afresh and as soon as possible, having revisited the parameters upon which the process was launched, to determine whether a less expensive long-term contract could be achieved. Councillors also agreed to use the contract extension period to explore options around changes to the collection regime, the use of the proposed sub-regional Materials Recovery Facility (MRF) to process dry recyclates collected within the District, and the option of a joint waste collection contract with Stratford District Council (SDC).

The report proposed that a joint waste contract should be procured with SDC, utilising a revised waste collection regime, which would allow the WDC contract extension to be terminated on 31 July 2022. A report at Minute Number 51 - Sherbourne Resource Park – Proposal to become a Partner Council - made recommendations in respect of the MRF.

In July 2020, WDC and SDC agreed a statement on a jointly commissioned review of local government across South Warwickshire and the wider county area and agreed to explore:

- sharing of senior management posts across the two authorities;
- shared contracts across the two authorities; and
- a Joint Core Strategy/Local plan review.

Exploration of a shared waste collection contract was particularly pertinent to both Councils, as WDC had entered into an extension of their current contract (for a maximum period of 30 months from April 2021) and the SDC contract was due to end on 31 July 2022, allowing the possibility of a new shared contract to be implemented from that date. Considerable work had, therefore, been undertaken on the potential for a joint waste collection contract.

Comprehensive soft market testing suggested that there were considerable advantages to procuring one joint waste contract, with several contractors citing that such a contract would be attractive to the market due to its scale and size, hence the recommendation of a single contract operated by an external contractor.

WDC and SDC currently operated their waste collection services by an external contractor and this was considered to be the optimum delivery mechanism for the future. Appendix One to the report detailed a number of alternative delivery options that were considered in making this decision and outlined the benefits of an outsourced service.

It was envisaged that the joint contract would be entered into by both authorities acting individually, with each being jointly and severally liable, rather than one Council being the lead authority. In this scenario, the Councils would sign a Memorandum of Understanding (MoU), governing disputes relating to the contract prior to its award. However, further legal advice was taken on the contract liabilities and would be considered by the joint Project Board, referenced in section 3.4 of the report.

It was recommended that the Council adopts the EU procurement route of Competitive Procedure with Negotiation, due to the complex nature of the service requirements surrounding waste collection services, sustainability issues, and the collaboration arrangement being proposed. The Council was permitted to apply this procedure under the Public Contract Regulations 2015 (Chapter 2, section 3, item 26 (4) (iii)).

It was highly likely that both Councils would face major cost increases in a new waste collection contract, mainly due to national living wage increases, changes and volatility in the recycling market, and other risks that sat with the existing contractors. A 123+ service design was proposed in order to reduce the extent to which the costs would rise, and would be the most effective system in minimising residual waste and maximising recycling. If efficiencies of scale and competitive bids were gained for a joint waste contract, the service design would need to be the same across WDC and SDC.

The proposed 123+ service design was detailed in Appendix Two to the report. The main benefits of the service were as follows:

- a) An easier system for residents to follow – recycling could be mixed in a wheeled bin; there was no requirement to sort recycling into different containers; and there was reduced risk of recycling not being collected due to it not being presented in the right way.
- b) Increased recycling rates – anticipated increase of up to 10% (according to a study carried out by WRAP in 2019 for WDC).
- c) Allowed more capacity for recycling within a new wheeled bin.
- d) Reduced litter and spillages as recycling would be contained within a lidded wheeled bin.
- e) Allowed additional items to be recycled such as juice cartons and large cardboard.
- f) Reduced complaints about loss or damage of recycling boxes and bags.
- g) Reduced manual handling risks for collection operatives.

An indicative timeline for procurement was shown at Appendix Three to the report. This was a tight but realistic programme, as a number of work streams had already been established and considerable work had already been undertaken on document preparation that could be tweaked following consideration by Council, and sign-off by the Project Board.

A joint Project Board was established in October 2020 to ensure joint delivery of the contract, and to individually ensure the interests of each Council was best represented. It consisted of officers from both Councils and had two joint sponsors; the Deputy Chief Executives from each Council who alternatively chaired the Board.

The Board would operate in accordance with a formal MoU between the two authorities. The current draft of the MoU was set out at Appendix Four to the report, and was in the process of being finalised after both Councils considered legal advice. It was, therefore, proposed that the final MoU was agreed under the delegated authority, proposed in recommendation 2.5 of the report.

The membership of the Board was set out in the MoU and ensured that appropriate officers from both Councils were involved in the contract re-

letting and implementation, with responsibilities for specific themes being shared on an equitable basis. This group of experienced officers had the necessary expert knowledge to deliver the proposed joint contract and were best placed to agree the specification for the contract. Ms Lewis, as the shared Head of Service of Neighbourhood Services (WDC) / Community & Operational Services (SDC), would be the operational project lead providing expert advice and driving individual work streams to ensure key decisions were brought to the Board for resolution and timescales were adhered to.

An existing Member Working Group (MWG) consisting of Portfolio Holders for Culture & Neighbourhood, Finance & Business and Housing & Property had been overseeing the contract extension process. It was proposed that this group continued to provide guidance to officers, so that WDC interests were fully understood and best represented in the Project Board discussions.

With regard to the introduction of low emission vehicles, it was not possible to commit to a specific solution or timescale at this stage, as there remained significant uncertainties regarding feasibility, technology development, infrastructure provision and cost, although the contract specification would ensure that future implementation was provided for.

The development of this element of the contract specification would need to take account of the parallel work being undertaken as a priority for the Climate Emergency Action Programme. This was exploring the feasibility of introducing electric and/or hydrogen infrastructure in to the District to support a range of vehicles including municipal vehicles. In addition, work was continuing with electric vehicle providers to explore issues around vehicle range and costs, taking account of the need for the service to operate over the whole of south Warwickshire. It was noted that technology for the provision of alternate fuel vehicles was in its infancy with regard to those required for waste collection.

When considering the detail of bids received for the waste collection contract, it might be the case that if the Council was to finance the purchase of vehicles, there could be a cost saving. Should the Council go down this route, there would need to be up-front capital financing. As the extent of any such potential financing was not known at this point, it was recommended that authority was delegated to the Head of Finance, in consultation with the Portfolio Holder for Finance, to determine whether it was appropriate, and if so, amend the capital programme accordingly, with Executive updated in a subsequent report.

In developing the proposals contained in the report, briefings were provided to Executive and Leadership Co-ordination Group (LCG), in addition to the oversight provided by the MWG. Subject to the recommendations being approved, it was proposed that further Member input and guidance was provided through the Finance and Neighbourhood Project Advisory Boards (PABs).

In particular, it was proposed that in providing guidance on the implementation of a new contract, the Neighbourhood PAB would undertake a crucial role in helping to create waste champions and community involvement in areas such as waste reduction and recycling.

To accommodate the change in collection methods, new recycling waste bins and food waste caddies would be required, estimated to cost £1.4m. It was proposed that these would be funded from PWLB borrowing, with the costs included within the Capital Programme. Further information on this funding requirement was included within section 5 of the report and the report on the MRF, Minute Number 51 - Sherbourne Resource Park – Proposal to become a Partner Council.

Ahead of the recent tender process for the waste, street cleansing and grounds maintenance contracts, an additional £2m was included in the Council's Medium Term Financial Strategy (MTFS) from 2021/22, to accommodate the anticipated increased costs from this contract. As reported to Members at the 24 August 2020 Executive meeting, a further recurring £1.863m was allocated to the waste contract budget within the MTFS on the back of the tender prices received. Taking into account an estimated income of £315k from the sale of recyclables, the net cost to the Council of the waste contract in the budget was £5.507m, but it was hoped that this amount would be reduced.

The proposals within the report and the separate report on the Materials Recycling Facility (MRF) were believed to present the best net financial position to the Council when the new contract was let. The revenue Budget of £5.507m needed to accommodate the following revenue costs of both sets of recommendations in the two linked reports. A summary of the costs that needed to be covered as a result of the recommendations in both reports was therefore set out in each report. The requirements would cover:

- WDC's share of the annual cost of the new joint waste collection contract, as determined from the tender process;
- debt charges from the PWLB borrowing requirement for new recycling bins and food caddies;
- debt charges from the PWLB borrowing to cover the MRF advance costs;
- debt charges from the PWLB borrowing to cover the Council's loan advance, less the value of the interest received from the AssetCo;
- MRF costs charged to the Council, notably gate fees; and
- subject to any use of the delegation, as set out in recommendation 2.7 of the report, debt charges from PWLB borrowing for vehicles and plant to be supplied to the new contractor, if this was the most financially beneficial option available to the Council.

Subject to the proposals in the two linked reports being approved, there would be more certainty over these figures over the course of 2021, as the MRF project reached financial close in March 2021, and the outcomes of the tender returns from the waste contract procurement process were evaluated in late summer/early autumn 2021. However, the feasibility work jointly commissioned by WDC and SDC to review waste collection options concluded that the recommendations in the report and the linked MRF report, presented the most financially advantageous options for the Council, and provided the potential for substantial savings to be achieved against the allocated budget in due course.

In terms of other options, the option of pursuing an alternative to an external tender process was not recommended for the reasons set out in

section 3.1 of the report and Appendix One to the report.

The option of pursuing a WDC-only contract rather than a joint contract was not recommended because of the desire to work together with SDC, and because of the efficiencies saved by procuring one joint contract.

The option of a start date later than 1 August 2022 was not recommended as the extension to the current WDC contract was very expensive and needed to be kept to an absolute minimum.

The option of a start date of 1 April 2022, at the end of the initial 12-month extension period had been discounted, as the procurement timelines made this extremely difficult to achieve and alignment with the end of the SDC contract on 31 July 2022 was the preferred solution that would make commencement of one new joint contract more operationally and financially effective.

The Overview and Scrutiny Committee felt that it would be important to bring residents on-board with the changes to the waste and recycling services. Effective communication and providing help to residents to manage the impact of the changes would be necessary and this would help link into the Council's wider Climate Emergency ambitions.

The Overview & Scrutiny Committee did raise concerns over the potential problem that could be posed by fly-tipping and asked that an effective strategy to counter this risk was put in place. Flexibility in the approach was key.

The Overview & Scrutiny Committee expressed its thanks to the Portfolio Holder, Councillor Grainger and the Head of Neighbourhood Services.

Councillor Grainger proposed the report as laid out.

Resolved that

- (1) the options considered in Appendix One to the report be noted, and the procurement of a joint waste contract with Stratford-on-Avon District Council (SDC) through an OJEU compliant process, be agreed;
- (2) the current waste collection arrangements be changed to a '123+' waste collection model, as detailed at Appendix Two to the report, and that the new joint contract is procured on this basis, be agreed;
- (3) the indicative procurement timetable as set out at Appendix Three to the report, be noted;
- (4) the final tender specification will be agreed by a Joint WDC and SDC Project Board, co-chaired by the WDC Deputy Chief Executive (BH) and the SDC Deputy Chief Executive, and operating under a Memorandum of Understanding (MoU)

signed by both authorities, be noted;

- (5) authority be delegated to the Deputy Chief Executive (BH) and the Head of Neighbourhood Services, in consultation with the Portfolio Holders for Neighbourhood, Finance and Housing & Property, to agree the final version of the MoU and, subsequently WDC's requirements for the specification, to be taken to the Project Board for agreement;
- (6) the procurement process will allow for the exploration of a future introduction of electric or hydrogen powered vehicles and for other carbon reduction measures to support the Council's Climate Emergency Action Plan, be noted;
- (7) authority be delegated to the Head of Finance, in consultation with the Portfolio Holder for Finance, to determine whether it would be more advantageous for the Council to purchase the vehicles necessary to deliver the contract and that, if this is to be the case, the capital programme is amended accordingly and reported to a subsequent meeting of the Executive;
- (8) the Finance Programme Advisory Board (PAB) will receive updates to allow it to monitor the progress and evaluation of the procurement process and the Neighbourhood PAB will subsequently receive updates on the implementation of the contract after it has been awarded, be noted; and
- (9) the cost of new recycling bins and food waste caddies, estimated at £1.4m, will be included in the Capital Programme and funded from Public Works Loan Board borrowing, as set out in section 5 of the report, be noted.

(The Portfolio Holder for this item was Councillor Grainger)
Forward Plan Reference 1,152

57. **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.

| Minute Numbers | Paragraph Numbers | Reason |
|----------------|-------------------|---|
| 58, 59, 60 | 3 | Information relating to the financial or business affairs of any particular person (including the authority holding that information) |

58. **Confidential Appendices to Item 4 – Sherbourne Resource Park – Proposal to become a Partner Council**

The Executive noted the confidential Appendices in relation to Agenda Item 4, Minute Number 51 – Sherbourne Resource Park – Proposal to become a Partner Council.

59. **Confidential Appendices to Item 5 – Newbold Comyn – Final Masterplan and Funding for Cycling Facilities**

The Executive noted the confidential Appendices in relation to Agenda Item 5, Minute Number 52 – Newbold Comyn – Final Masterplan and Funding for Cycling Facilities.

60. **Confidential Appendix 2 to Item 6 – Creative Quarter – Spencer Yard**

The Executive noted a confidential Appendix in relation to Agenda Item 6, Minute Number 53 – Creative Quarter – Spencer Yard.

(The meeting ended at 7.25pm)

CHAIRMAN
10 December 2020