Executive

Minutes of the meeting held on Wednesday 29 July 2015 at the Town Hall, Royal Leamington Spa at 6.00 pm.

Present: Councillor Mobbs (Chairman); Councillors Cross, Coker, Gallagher, Grainger, Phillips, Shilton and Whiting.

Also present: Councillors Ashford and Mann (observing).

Apologies for absence were received from Councillor Barrott, Chair of Finance & Audit Scrutiny Committee, Councillor Boad, Chair of Overview & Scrutiny Committee and Councillor Mrs Falp, Whitnash Residents' Association (Independent) Observer.

Prior to the commencement of the meeting, the Leader acknowledged the apologies from the Scrutiny Chairs and reminded those present that the comments provided by both Scrutiny Committees would be given due weight.

20. **Declarations of interest**

Minute Number 24 – Exemption from the Code of Procurement Practice – Provision of Support and Re-settlement Service

Councillor Shilton declared a pecuniary interest because he was a Warwickshire County Councillor and left the room whilst the item was discussed.

Minute Number 28 – Rural / Urban Capital Improvement Scheme (RUCIS) Application

Councillor Whiting declared an interest because he was president of the club in question and left the room whilst the item was discussed.

21. **Minutes**

The minutes of the meeting held on 16 June 2015 were agreed as written and signed by the Chairman as a correct record.

The minutes of the meeting held on 1 July 2015 were agreed with the following amendments;

To remove Councillor Gallagher from the list of Councillors present because she had submitted her apologies for that meeting; and to remove the final bullet point of resolution (1) to Minute Number 10.

Part 1
(Items on which a decision by Council is required)

22. **Budget Review to 30 June 2015**

The Executive considered a report from Finance which updated Members on the latest financial position. The Council's Medium Term Financial Strategy had been updated since the 2015/16 Budget was agreed in February of this year in light of later Government announcements and other known changes. Various changes to 2015/16 budgets had been identified and were now presented to Members for approval.

The Council needed to find financial savings of £1.1m over the next five years for the General Fund as detailed elsewhere in the report. Officers reviewed current year budgets on a monthly basis at the same time as considering implications for the medium term. As a consequence, Members were updated on a quarterly basis.

The report outlined the latest variances to the General Fund 2015/16 that had been identified by managers. Where the variance was not self-explanatory, further detail was provided and included information on salaries and the New Homes Bonus returned monies.

The report went on to explain the details of the current year Contingency Budgets and the balance remaining and were shown in Appendix A to the report.

Information relating to the salary vacancy factor, Revenue Slippage-Earmarked Reserves, the Housing Revenue Account and Capital budget was provided in section 3 of the report.

The Medium Term Financial Strategy (MTFS) was addressed in section 3.7 of the report and encompassed Business Rated Retention, New Homes Bonus Returned, Revenue Support Grant (RSG) and other funding liabilities.

Monitoring expenditure and income and maintaining financial projections was good financial management and part of good governance. Therefore, no alternative options had been considered.

Rather than fund most of the projected revenue shortfall for the current year now, using the £250,800 appropriated as part of the Final Accounts, it was possible to continue to leave this shortfall unfunded. However, given the size of the shortfall and the main driver (NHB Returned), this position was not likely to change and to leave it may be regarded as imprudent.

The Council could choose to leave the Coventry and Warwickshire Business Rates Pool. This would exclude the Council from any future benefit from the additional retained levy, and the Council would need to repay the Safety Net payment.

The Council could choose to leave the Council's credit ratings criteria un-amended. This would limit the Council's future investment opportunities and potentially reduce the investment returns.

The Finance & Audit Scrutiny Committee noted the report.

The Portfolio Holder for Finance, Councillor Whiting, addressed Members, highlighted a number of sections of the report and advised that performance was broadly in line with expectations.

He reminded Portfolio Holders of the significance of recommendations 2.5 and 2.6, advising that finances were set to deteriorate significantly. As a consequence, he reminded them to work with their relevant Heads of Service to plan accounts and remain vigilant with their budgets, encouraging a focus on 'buildings, equipment and ICT'.

Councillor Whiting also stated the importance of remaining in the Coventry and Warwickshire Business Rates Pool for 2016/17, which allowed the Council to pay back a lower proportion of business rates as a result. Councillor Whiting proposed the recommendations as laid out.

This was duly seconded and the Executive therefore

Recommended to Council that

(1) the latest projected variance for the General Fund for 2015/16 of £270,600 adverse, is noted and the budget changes detailed in paragraph 3.1 of the report, in respect of the General Fund totalling £270,600, funding of £250,800 from the General Fund Balance, are agreed and that £19,800 will currently be unfunded;

(2) the changes to the HRA budget, outlined in paragraph 3.5 of the report, are agreed, and the contribution to the Housing Revenue Account Capital Investment Reserve is reduced;

(3) the slippage in the Other Services Capital Programme as outlined in paragraph 3.6.2 of the report, is agreed;

(4) the changes to the Housing Investment Programme outlined in paragraph 3.6.3/3.6.4 of the report, financed from the Major Repairs Reserve, are agreed;

(5) the updated Medium Term Financial Strategy and the forecast required recurrent savings of £1.1m for the General Fund which will be addressed in a further report to Executive in September, are noted;

(6) Portfolio Holders and Heads of Service review all planned and potential demands for future

revenue or capital funding so that the Council's financial projections are as inclusive and accurate as possible;

(7) the Council should remain in the Coventry and Warwickshire Business Rates Pool for 2016/17 and that the Head of Finance, in consultation with the Finance Portfolio Holder, agrees any change to the Memorandum of Understanding; and

(8) the Council's use of Support and Viability ratings in determining suitable credit rating criteria for its investment counterparties is discontinued with immediate effect and that the current Treasury Management Practices are suitably amended. All other credit rating criteria to remain as approved in the 2015/16 Treasury Management and Annual Investment Strategies.

(The Portfolio Holder for this item was Councillor Whiting)
(Forward Plan reference 694)

Part 2

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

23. **Gypsies and Travellers – update on the progress of the Development Plan Document to allocate sites**

The Executive considered a report from Development Services which informed Members of the current position with regard to the preparation of the Draft Development Plan Document.

The report also updated Members on opportunities for working with a housing provider to bring forward sites; the funding opportunities through the Homes and Communities Agency (HCA); enabled consideration of applying for HCA funding and working with a housing provider and possible future need for Council investment to deliver sites; enabled consideration of a previously approved approach to seeking Green Belt land; and enabled consideration of invoking the Council's powers of Compulsory Purchase Order to secure land for sites.

In March 2015 the Executive approved a new approach to the identification of Gypsy & Traveller sites by considering land currently within the Green Belt that could be removed from the Green Belt through the Local Plan process, so freeing up a suitable site for further consideration. To date, this search had not yielded any additional, suitable, potential sites, even if that land were to be excluded from the Green Belt.

Furthermore, the Government had tightened up the guidance on the allocation of sites within the Green Belt to accommodate Gypsies and Travellers and the 'exceptional circumstances' required to allocate such land did not include the lack of non-Green Belt sites (Planning Policy for Traveller Sites, 2012).

It was therefore recommended that given officers' fruitless search for Green Belt sites and the tightening of Government guidance, further resource should not be deployed in exploring this as an option.

However, previously reported and identified Green Belt land at Oaklands Farm, Birmingham Road, Budbrooke was still felt to be worthy of further consideration. It had the potential to accommodate 15 pitches, was currently for sale on the open market and discussions had taken place in the past with the landowner with a view to the provision of a Traveller site there.

At that same March 2015 meeting, the Executive approved that officers make an approach to the HCA with regard to potential funding for a Gypsy and Traveller site(s). Officers had since met with a representative from the HCA to discuss possible funding options.

An alternative option was to not allocate sites for Gypsies and Travellers, but this would be contrary to national policy and the Development Plan Document would be found unsound without a commitment to meeting the need demonstrated by the GTAA.

Another option would be to not consider using Compulsory Purchase Order powers to purchase land. There were known risks to the procedure outlined in paragraphs 3.4 and 6.3 of the report. There was therefore a high risk of failure with this strategy but it may also be the only way to deliver acceptable sites outside the Green Belt.

The Finance & Audit Scrutiny Committee supported the recommendations in the report but had concerns about the wording of recommendation 2.4 regarding the use of compulsory purchase orders.

The committee therefore recommended that recommendation 2.4 be amended so that it was explicit that Compulsory Purchase Options should only be a last resort.

The Overview & Scrutiny Committee noted the report.

Councillor Phillips addressed Members and outlined his concerns regarding recommendation 2.3 (b) which related to land off Birmingham Road (Oaklands Farm). He advised that due to the issues raised by local residents, he would abstain from voting on this item.

Overall, Members felt unable to support the recommendation put forward by the Finance & Audit Scrutiny Committee because they felt that recommendation 2.4 was indicative of the situation the Council was in.

Members agreed that the Council had a duty to provide permanent and transit sites for Gypsies and Travellers and needed to relieve the existing problems caused by illegal encampments. In addition, Members were mindful that any decision on potential compulsory purchase orders would have to be agreed by the Executive and would automatically be scrutinised by both committees as part of the decision making process.

The Executive therefore agreed to dismiss the recommendation from the Finance and Audit Scrutiny Committee.

The Portfolio Holder for Development Services, Councillor Cross, endorsed the report and supported the wording of recommendation 2.4 remaining as written. He empathised with concerned residents who had suffered from poor experiences in the past and hoped that permanent sites would help give officers an element of control.

The Leader encouraged Members to pass any correspondence from concerned residents to the Executive to ensure all points of view had been considered.

The Executive therefore

Resolved that

(1) the latest position in respect of Green Belt Gypsy and Traveller site provision, is noted and officers should not take any further proactive steps to identify potential Gypsy and Traveller sites in the Green Belt;

(2) the funding that may be available from the Homes and Communities Agency and a housing association, is noted and business cases for site delivery that involve the use of Council funds, will be considered;

(3) officers will progress Gypsy and Traveller options at the following sites:

a. Harbury Lane (Leamington Football Club) (see plan at Appendix 1);
b. Land off Birmingham Road (Oaklands Farm) (see plan at Appendix 2); and

(4) the policy position in the Draft Local Plan that should any further non-Green Belt sites be identified as potential for Gypsy & Traveller provision is affirmed, any business case can include the option of Compulsory Purchase Order (CPO) and officers should reconsider non-Green Belt sites that were previously

discounted on the grounds that the owner would not sell;

(5) the opportunity for a Gypsy & Traveller site (either permanent or transit) on land to the east of Europa Way (see plan at Appendix 3) is noted and officers will develop respective business cases for such provision with full details being brought to a future Executive meeting.

(The Portfolio Holder for this item was Councillor Cross)
(Forward Plan reference 705)

24. **Exemption from the Code of Procurement Practice – Provision of Support and Re-settlement Service**

The Executive considered a report from Housing and Property Services which sought approval for an exemption from the Code of Procurement Practice to extend the arrangements for the provision of a Support and Re-settlement Service to provide housing related support to homeless families, or those families at risk of becoming homeless, provided by Bromford Support until 31 March 2016.

The Support and Re-settlement Service to homeless families was funded primarily from Housing Related Support (Supporting People) resources provided by Warwickshire County Council (WCC) to Warwick District Council (WDC). WCC commissioned WDC to provide the service, which WDC had opted to do by outsourcing it to a third party. A three year contract to provide the service was let to Bromford Support in April 2012.

WCC had, since 2014, been reviewing the future of Housing Related Support (Supporting People) funding. As this work progressed, it was increasingly clear that there was little intention to continue funding for the Support and Re-settlement Service beyond March 2015.

WDC was however advised on the 31 March 2015 by WCC that the County Council was to extend funding for the Support and Re-settlement Service for a period of up to 12 months, expiring in March 2016.

The report therefore recommended that an exemption to the Code of Procurement Practice be granted to allow for the extension of the current contract for the provision of the Support and Re-settlement Service, to no later than 31 March 2016.

Members were also asked to note that the extension of the current contract was dependent on the continued provision of Housing Related Support (Supporting People) funding from Warwickshire County Council.

An alternative option was to not continue with the service beyond March 2015, however, this would have brought to an end a service that was helpful to the overall provision of services, reduced the opportunity to

maintain the current services and would have contravened the spirit of the agreement with WCC.

Another alternative was to retender the service, however, without clarity over long term funding this would result in a number of complex issues which were detailed in full at paragraph 7.2.1 of the report.

The Finance & Audit Scrutiny Committee expressed disappointment in another request for an exemption to the procurement practice. While it noted the late decision by Warwickshire County Council (WCC) on this matter, it felt this report could have come forward to the Executive earlier.

The Committee recognised that if the WCC removed this funding there would be tough choices on this area of work. That said the Committee supported the recommendations of the report.

Councillor Whiting addressed Members and highlighted the comments raised at Finance and Audit Scrutiny Committee. He felt the Committee's criticism had been harsh because exemptions should be used for exactly this situation.

The Portfolio Holder for Housing and Property Services, Councillor Phillips, thanked Councillor Whiting for his support and outlined the reasons for continuing with the existing supplier.

The Executive therefore

Resolved that

(1) an exemption to the Code of Procurement Practice, is granted, to allow for the extension of the current contract for the provision of the Support and Re-settlement Service, to no later than 31st March 2016; and

(2) the extension of the current contract is dependent on the continued provision of Housing Related Support (Supporting People) funding from Warwickshire County Council. The service will end when WCC's funding ends, unless alternative funding can be sourced.

(The Portfolio Holder for this item was Councillor Phillips)
(Forward Plan reference 715)

25. **Exemption from the Code of Procurement Practice – Cost Management Services**

The Executive considered a report from Housing and Property Services which sought an exemption from the Code of Procurement Practice to extend the contract with Impart Links for open book cost management services to support the Council's housing repairs and maintenance service.

In 2012 the Council re-procured its principal housing repair and maintenance contracts. Partnering contracts, using an open book cost model, were procured for an initial five year term commencing on 1 April 2013 and expiring on 31 March 2018 with options to renew for two further five year periods.

To limit the disruption to the management of the partnership contracts and to enable training of staff, Housing & Property Services procured a contract for cost management services based on a twelve month call-off arrangement with an estimated value of £100,000.

The report explained that the Council needed to retain the specialist skills of a commercial cost consultant, with specific experience of open book target cost models, if it was to effectively complete the remaining three quarterly reconciliations for 2015-2016 and the annual final accounts of the open book contracts. The Council therefore had two options available; Re-procurement or extending the current contract.

The option of undertaking a procurement exercise had been considered. For the reasons offered in Section 3 of this report this option was not recommended.

The Council could decide not to extend the current contract and also not to re-procure the service, discontinuing the cost management support services. However, this would expose the Council to the risk of increased costs resulting from the inability to perform and reconcile annual account audits. If this was the preferred option, the Council would need to accept this risk and acknowledge that there may be increases in costs for repairs and maintenance that may not be justifiable.

In addition, Housing & Property Services were undertaking a review of contract pricing models that would determine the future of the open book contracts. The review was programmed to be completed in November 2015. If this review concluded that open book cost models should remain in place either for the remaining duration of the repairs and voids contracts, or for a period of transition to a different cost model, then re-procurement of cost management services for the appropriate period would be undertaken at that time, to cover works ordered from 1 April 2016 onwards until such time as the open book cost model came to an end.

The Finance & Audit Scrutiny Committee was of the opinion that this should have been identified from the Housing & Property Services contract register earlier and ideally before the contract expired in May 2015.

That said the Committee supported the recommendations of the report.

The Portfolio Holder for Housing and Property Services, Councillor Phillips, endorsed the report and felt it was the best option to remain with the existing supplier because they had the expertise to continue.

The Executive therefore

Resolved that

(1) an exemption to the Code of Procurement Practice is approved under item 6.2.3 of the Code, to extend the Contract for open book cost management with Impart Links to 16 October 2016, to cover the reconciliation and final account of the 2015/2016 open book contracts; and

(2) Housing & Property Services are currently undertaking a review of contract pricing models that will determine the future of the open book contracts. The review is programmed to be completed in November 2015.

(The Portfolio Holder for this item was Councillor Phillips)
(Forward Plan reference 723)

26. **Pump Room Gardens Parks for People Project**

The Executive considered a report from Neighbourhood Services which updated Members on the Pump Room Gardens restoration project and sought approval to proceed with a second round Heritage Lottery Fund (HLF) Parks for People bid. The report provided an overview of the project, highlighting the financial implications and the benefits of the project.

At its meeting of 10 July 2013, the Executive approved a first round application to the Heritage Lottery Fund (HLF) for funding to restore the Pump Room Gardens. Following this successful application, a development grant was awarded by the HLF. This had been used to progress detailed plans and proposals for the Pump Room Gardens and to develop the Council's second and final round application, which was due to be submitted by 31 August 2015.

Due to the unique nature of the Pump Room Gardens, significant funding was required to bring it up to the standard expected for an English Heritage Grade II Listed Garden.

The Friends of the Pump Room Gardens had worked in partnership with Warwick District Council and Warwickshire County Council to develop the detailed plans and proposals for restoring the Pump Room Gardens, with its members sitting on the Pump Room Gardens Project Steering Group and also the Pump Room Gardens Project Board.

The detailed plans and proposals had been informed by a robust evidence base. This had included extensive public consultation and engagement feedback, historical research, and a full range of site specific surveys, such as topographical, ecological and arboricultural surveys.

The information gathered had been used to develop the following which were needed to support the Council's second round bid application: Master plan drawings; a conservation management plan; a ten year costed management and maintenance plan; an activity plan and a cost plan.

A breakdown of the project costs and funding for the second round application was provided at paragraph 5.2 of the report and a timetable outlined the key milestones to be reached over the next two years. A decision on the second round bid would be available in December 2015.

An alternative option was that the Council could decide to stop the project and not apply to HLF for funding and deal with the significant repairs and maintenance problems facing the Gardens on an ad hoc basis. However, given the condition of the Gardens including the bandstand, footpaths and other infrastructure, this was not a feasible option if the Gardens were to be kept open to the public over the longer term. Furthermore, the Council would miss out on the opportunity to secure £912,200 of HLF and other external funding.

The Council could deliver a smaller project with no bid to HLF. This would include doing a basic makeover of the park with all of the capital and on-going revenue costs being met by the Council. This option gives little overall benefit other than to retain the park at its current offer. Again this option would miss the opportunity of external investment. It would however allow the gardens to remain open to the public.

The Portfolio Holder for Neighbourhood Services, Councillor Shilton, addressed Members and thanked the Friends of Pump Room Gardens for attending the meeting. He stated that the second funding bid had his full support and reminded Members that improvements to the Gardens would attract more visitors to the area and would benefit the District as a whole.

In addition, the Leader requested that the Friends of the Pump Room Gardens be formally thanked for their work and commitment to the project.

The Executive therefore

Resolved that

(1) the Pump Room Gardens project designs and plans are approved. A Pump Room Gardens Masterplan showing the various capital improvements is included at Appendix A to the report;

(2) the Head of Neighbourhood Services, in consultation with the Neighbourhood Services Portfolio Holder, is authorised to finalise the details to the project designs and plans between now and the submission date;

(3) a submission for a second round Heritage Lottery Fund (HLF) Parks for People bid to be submitted by 31st August 2015, is approved; and

(4) the Friends of the Pump Room Gardens are formally thanked for their work and commitment to the project.

(The Portfolio Holder for this item was Councillor Shilton)
(Forward Plan reference 718)

27. **Significant Business Risk Register**

The Executive considered a report from Finance which set out the latest version of the Council's Significant Business Risk Register for review by the Executive. It had been drafted following discussions between the Leader of the Council, Chief Executive, Monitoring Officer, Section 151 Officer, and the Audit & Risk Manager.

The Significant Business Risk Register (SBRR) was based on the Council's corporate priorities and key strategic projects that were reflected in Fit for the Future. The Fit for the Future programme was also based on an agreed set of values amongst which were the ones of openness and honesty.

The SBRR was reviewed quarterly by the Council's Senior Management Team and the Council Leader and then, in keeping with Members' overall responsibilities for managing risk, by the Executive. The latest version was set out at Appendix 1 to the report. In addition, a summary of the risks and their position on the risk matrix was attached at Appendix 2 and the scoring criteria were set out at Appendix 3 to the report.

The report advised that six months ago there were five risks in the "red zone" and it had been previously advised that two of those would have reduced scores taking them out of the red zone. Since then, an additional risk (Risk 4 – Risk of corporate governance arrangements not maintained effectively) had had its score reduced to move it out of the red zone.

The two remaining risks in this area were summarised in paragraph 10 and included a risk of insufficient finances (Risk 6) and a risk of the Local Plan being delayed (Risk 16).

This report was not concerned with recommending a particular option in preference to others so there were no alternative options proposed.

The Finance & Audit Scrutiny Committee asked the Executive to reconsider the wording on the register item for the Local Plan, because it had been found as unsound and there were risks now associated with this which should be recorded.

Members felt that the discussions at Scrutiny had centred around the wording of the description of the risk rather than the risk itself and agreed that it was the mitigation measures which were important.

In response to the comment from Finance and Audit Scrutiny Committee, it was agreed that officers would look at the wording relating to the description of Risk 16, to ensure clarity.

Councillor Mobbs endorsed the report and the Executive therefore

Resolved that the Significant Business Risk Register attached at Appendix 1to the report is noted and no further actions should be taken to manage the risks facing the organisation.

(The Portfolio Holder for this item was Councillor Mobbs)
(Forward Plan reference 717)

28. **Rural / Urban Capital Improvement Scheme (RUCIS) Application**

The Executive considered a report from Finance which provided details of a Rural/Urban Capital Improvement Scheme grant application by Kenilworth Tennis, Squash and Croquet Club.

The Council operated a scheme to award Capital Improvement Grants to organisations in rural and urban areas. The grant recommended was in accordance with the Council's agreed scheme and would provide funding to help the project progress.

The report advised that Kenilworth Tennis, Squash and Croquet Club submitted an application to refurbish five tennis courts that had reached the end of their life span. The project works included resurfacing of two courts, colour coating of three courts, new fencing installation, new gate installation, gate replacement and raising the height of the existing fencing.

The Club had committed funds to the project from its cash reserves which had been evidenced through its annual accounts and bank statements. An application had also been submitted to Kenilworth Town Council requesting a £100 contribution toward the project and was awaiting a decision. The Club had not previously had a RUCIS grant.

The report therefore recommended that the Executive approve an award of a Rural/Urban Capital Improvement grant for 50% of the total project costs up to a maximum of £28,995.

The Council only had a specific capital budget to provide grants of this nature and therefore there were no alternative sources of funding if the Council was to provide funding for Rural/Urban Capital Improvement Schemes. However, Members could choose not to approve the grant funding, or to vary the amount awarded.

The Finance & Audit Scrutiny Committee asked the Executive that as there would be a significant underspend for this year, therefore would the Executive confirm whether this money would be rolled over to next year's budget?

In response, the Executive agreed that in light of the earlier budget report, and as it was only July, it would be premature to confirm that any monies would be rolled over to next year's budget.

Having considered the recommendations in the report, the Executive

Resolved that a Rural/Urban Capital Improvement Grant from the urban cost centre budget is approved for Kenilworth Tennis, Squash and Croquet Club of 50% of the total project costs to refurbish five tennis courts that have now come to the end of their life span, as detailed within paragraphs 1.1, 3.2 and 8.1 of the report, up to a maximum of £28,995 excluding VAT.

(The Portfolio Holder for this item was Councillor Whiting)

29. **Public and Press**

Resolved that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following items by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Minute No.	Para Nos.	Reason
31	1	Information relating to an Individual
31	2	Information which is likely to reveal the identity of an individual
30	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
30	5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

The full minutes for the following items would be set out in the confidential minutes of the meeting.

Part 2

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

30. **The Judicial Review of 2 Planning Decisions – Land at Plestowes Farm**

The Executive considered a report from Development Services.

The Executive

Resolved that the contents of the report, and the use of the Chief Executive's delegated powers (CE4), are noted.

(The Portfolio Holder for this item was Councillor Cross)

31. **Minutes**

The confidential minutes of the meetings held on 1 July 2015 were agreed as written and signed by the Chairman as a correct record with the following amendment:

To remove Councillor Gallagher from the list of Councillors present because she had submitted her apologies for that meeting.

(The meeting ended at 6.56 pm)