

SUMMONS TO ATTEND A MEETING OF THE
NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

Time/Date 6.30 pm on TUESDAY, 21 NOVEMBER 2017
Location Council Chamber, Council Offices, Coalville
Officer to contact Democratic Services (01530 454512)



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Chief Executive

All persons present are reminded that the meeting may be recorded and by attending this meeting you are giving your consent to being filmed and your image being used. You are kindly requested to make it known to the Chairman if you intend to film or record this meeting.

The Monitoring Officer would like to remind members that when they are considering whether the following items are exempt information under the relevant paragraph under part 1 of Schedule 12A of the Local Government Act 1972 they must have regard to the public interest test. This means that members must consider, for each item, whether the public interest in maintaining the exemption from disclosure outweighs the public interest in making the item available to the public.

AGENDA

Item	Pages
PRAYERS	
1. APOLOGIES FOR ABSENCE	
2. DECLARATION OF INTERESTS	
Members are reminded that any declaration of interest should be made having regard to the code of conduct. In particular, members must make clear the nature of the interest and whether it is 'pecuniary' or 'non pecuniary'.	
3. CHAIRMAN'S ANNOUNCEMENTS	
4. LEADER'S AND PORTFOLIO HOLDERS' ANNOUNCEMENTS	
Members are reminded that under paragraph 11.1 of part 4 of the Constitution, questions can be asked of the Leader and Cabinet Members without notice about any matter contained in any address. Questions shall be limited to five minutes in total for each announcement.	



5. QUESTION AND ANSWER SESSION

To receive questions from members of the public under procedure rule no.10. The procedure rule provides that members of the public may ask members of the Cabinet any question on any matter in relation to which the Council has powers or duties which affect the District, provided that three clear days' notice in writing has been given to the Head of Legal and Support Services.

6. QUESTIONS FROM COUNCILLORS

To receive members' questions under procedure rule no.11. The procedure rule provides that any member may ask the chairman of a board or group any question on any matter in relation to which the Council has powers or duties which affect the District, provided that three clear days' notice in writing has been given to the Head of Legal and Support Services.

7. MOTIONS

To consider the following motion submitted by Councillor S Sheahan:

“(a) That this Council:

- i. notes the National Joint Council (NJC) pay claim for 2018, submitted by UNISON, GMB and Unite on behalf of council and school workers and calls for the immediate end of public sector pay restraint with claims referred to an appropriate sector pay review body;
- ii. recognises the sacrifice made by public sector workers during seven years of wage restraint and the ongoing cuts to local government funding and calls on the Government to provide additional funding to fund a decent pay rise for NJC employees and the pay spine review.

(b) That this Council therefore resolves to:

- i. call immediately on the LGA to make urgent representations to the Government to fund the NJC claim and the pay spine review and notify us of their action in this regard;
- ii. write to the Prime Minister and Chancellor seeking additional funding to fund a decent pay rise and the pay spine review;
- iii. meet with local NJC union representatives to discuss the pay claim and the pay spine review.”

8. PETITIONS

To receive petitions in accordance with the Council's Petition Scheme.

9. MINUTES

To confirm the minutes of the meeting of the Council held on 12 September 2017.

Item	Pages
10. NORTH WEST LEICESTERSHIRE LOCAL PLAN	
Report of the Interim Strategic Director of Place Presented by the Leader	13 – 18 Plus additional booklet
11. POLICY DEVELOPMENT GROUP ANNUAL REPORT	
Report of the Chief Executive Presented by the Chairman of Policy Development Group	19 - 36
12. UPDATE TO THE COUNCIL'S CONSTITUTION	
Report of the Head of Legal and Support Services Presented by the Corporate Portfolio Holder	37 - 78
13. LEISURE SERVICES PROJECT	
Report of the Interim Strategic Director of Place Presented by the Community Services Portfolio Holder	79 - 156

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MINUTES of a meeting of the COUNCIL held in the Council Chamber, Council Offices, Coalville on TUESDAY, 12 SEPTEMBER 2017

Present: Councillor V Richichi (Chairman)

Councillors R Adams, G A Allman, R Ashman, R D Bayliss, R Blunt, R Boam, J Bridges, R Canny, J Clarke, N Clarke, J Cotterill, J G Coxon, D Everitt, T Eynon, F Fenning, J Geary, S Gillard, T Gillard, L Goacher, D Harrison, G Hoults, J Hoults, R Johnson, G Jones, J Legrys, S McKendrick, K Merrie MBE, T J Pendleton, N J Rushton, A C Saffell, S Sheahan, N Smith, A V Smith MBE, M Specht, D J Stevenson and M B Wyatt

Officers: Mr A Hunkin, Mr G Jones, Mrs M Long, Mrs M Meredith, Mrs B Smith and Miss E Warhurst

29. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor P Purver.

30. DECLARATION OF INTERESTS

Councillor S Sheahan declared a pecuniary interest in item 7, Motions, due to the proximity of his house to the now declared route of HS2.

Councillor R Blunt declared a pecuniary interest in item 7, Motions, as the HS2 route went through land owned by his family.

Councillor T J Pendleton declared a pecuniary interest in item 7, Motions, due to the proximity of his daughter's accommodation to the route.

Councillor J G Coxon declared a pecuniary interest in item 7, Motions, as the route went through land in his ownership.

31. CHAIRMAN'S ANNOUNCEMENTS

With great sadness, the Chairman announced the recent passing of former Councillor Ted Purver. A one minute's silence was observed in his memory.

Councillor R Blunt spoke in memory of Councillor Ted Purver. He recounted his energy during his time as Chairman of the Council and recalled his enthusiasm, passion, curious mind and sparkle of mischief in his eye, which had not lessened with age. He added that this rare quality was a lesson to all. He commented that Councillor Ted Purver was a person of a life well lived and he would be very sadly missed.

Councillor J Legrys spoke in memory of Councillor Ted Purver and expressed deep sadness at his passing. He recalled his welcoming and polite nature, and that he was a true old fashioned gentleman, who did not take political stature into account and was genuinely there for local people. He added that he would be sadly missed.

Councillor S D Sheahan commented that Councillor Ted Purver was a decent man and his family could be proud of him and what he did for the Council.

Councillor D Everitt spoke in memory of Councillor Ted Purver. He recalled his lack of dogma, his interest in people and in making things better. He stated that he would be missed.

Councillor M Specht spoke in memory of Councillor Ted Purver. He recalled the support he had given him when standing to be elected for the Bardon ward and the confidence he had instilled in him. He stated that he would be sadly missed by all.

Councillor N Smith stated that he was honoured to be able to say a few words about Councillor Ted Purver who was a good friend and a fellow Councillor. He recalled that as far as Ted was concerned, group decisions were none existent as he voted for what he felt was right for his constituents and would not toe the party line if he thought it was wrong. He recounted his achievements in sprinting and construction engineering and stated that his family could look back on these with pride.

The Chairman thanked all members who had attended the recent charity dinner which had been very well attended.

The Chairman announced that Max Nissons would be shaving his head on 24 September at the Co-Operative in Ashby de la Zouch in aid of Macmillan and the fire and rescue service. He urged members to offer their support.

32. LEADER'S AND PORTFOLIO HOLDERS' ANNOUNCEMENTS

Councillor R Blunt stated that Bev Smith had settle in very well since her appointment as Chief Executive and was a breath of fresh air. He referred to the appointments taking place for senior management positions and added that a period of uncertainty was coming to an end.

Councillor R Blunt made reference to the major investment in the Ashby cultural quarter in conjunction with Ashby Town Council. He stated that this space would be a multipurpose area and demolition would be commencing shortly. He advised that liaison with neighbours and car park users was ongoing.

Councillor R Blunt announced that new plans for Marlborough Square were being progressed in conjunction with Leicestershire County Council. Members would be briefed in detail in the coming week. He added that the private sector were becoming more interested in Coalville than ever before.

Councillor R Blunt reported that plans for the former bus depot on Ashby Road had stalled, however alternative plans were being progressed.

Councillor R Blunt announced that the Colour Run would be taking place on Sunday 17 September with an increased number of participants than in the previous year.

Councillor R Blunt welcomed the news that work had commenced on the start of the construction of the Kegworth bypass. He referred to the great change this would make to the village.

Councillor M Specht expressed admiration for the Chief Executive for attending a recent parish council meeting.

Councillor T J Pendleton welcomed the Leader's comments in respect of the Kegworth bypass and added that the work was being completed at no cost to ratepayers.

Councillor S D Sheahan stated that he was pleased the Chief Executive was committed to working with all members. He emphasised the importance of ensuring due diligence was undertaken in respect of the former bus depot site.

Councillor R Blunt responded that in reality, anybody could purchase a piece of land in Coalville and the council could only encourage progress by seeking to engage with land owners.

Councillor A V Smith made reference to the report to Cabinet in March relating to the withdrawal of recycling credit payments. She advised that officers had put together an in-house bid with the objective to retain the income from the sale of materials. She announced that the council had been successful in securing a 7 year contract which would generate £7,000,000 worth of income over the life of the project.

Councillor N Clarke welcomed the news that the council had secured the recycling contract and felt it was important to recognise the work of the officers who had put together a bid at quite short notice.

In response to a question from Councillor R Blunt, Councillor A V Smith advised that to her knowledge, North West Leicestershire was the only district council which had been successful in making a bid.

Councillor M Specht congratulated the Portfolio Holder and the officers on winning this contract.

33. QUESTION AND ANSWER SESSION

There were no questions received.

34. QUESTIONS FROM COUNCILLORS

Councillor T Eynon put the following question to Councillor T J Pendleton:

“Residents in my ward, living in Coalville and Hugglescote's traditional Victorian terraced properties, rely on finding on-street residential parking for the vehicles they need to participate in the local economy.

"Residents are experiencing the loss of public garage spaces and on-street residential parking due to new housing developments.

"I understand from County Highways that the Planning Authority is responsible for determining local planning policy regarding the loss on on-street parking and its mitigation.

"What options for retaining, replacing or improving access to on-street residential parking are available to this Authority and what are the barriers and enablers to adoption?"

Councillor T J Pendleton gave the following response:

“The Council as local planning authority takes in to account issues relating to highway safety when determining proposals for development. This is not just about the access to a site but what impact will the proposed development have on the wider highway network. In forming a view on this matter, regard is had to the comments of the County Council as the highway authority. A planning application can only be refused for evidenced, legitimate planning reasons. Possible reasons to refuse a planning application therefore might include highway safety. Where no issues have been raised by the highway authority it would be extremely difficult to successfully defend a reason for refusal on planning grounds.

On-street parking might be lost as a result of creating a new access where vehicles currently park or where it is necessary, in highway safety terms having regard to the views of the highway authority, to introduce restrictions (for example double yellow lines). It

should be appreciated that there is no right to be able to park on the highway. It may, in some circumstances, be possible to secure the provision of off-street parking for existing residents as part of a proposed new development, for example through the provision of rear accesses to existing properties. In instances where proposals would result in the loss of on-street parking, this would need to be a balanced against all other considerations, and it would be inappropriate to have a blanket approach to such cases as it will depend upon the circumstances of the application, for instance the scale, shape, levels or layout of the site may not facilitate the provision of any additional off-street car parking.

It is worth bearing in mind that some of the older residential areas were built at a time when car ownership was not widespread, and particularly in terraced streets this can result in on-street parking pressure. Changes to the built environment, which take place over time and on their own do not make much difference, can nonetheless have a cumulative impact on the availability of parking. One example of such a change is a growing trend for subdivision of houses, to accommodate multiple households. There are planning and other mechanisms to manage the impacts of this, and we will carefully consider the optimal policy approach as part of a review of the local plan. Robust empirical evidence concerning these issues is not available, and until it is, we are not able to implement a policy”.

Councillor T Eynon stated that she was surprised at the quality of the response. As a supplementary question, she asked if the Portfolio Holder was aware of the requirements in the guidance note published by the Chartered Institute of Highways Engineers in 2014 and the National Planning Policy Framework which required local authorities to implement a residential parking policy and to take account of expected car ownership levels and opportunities for public transport in setting the policy. She commented that the lack of empirical evidence had not prevented other local authorities from implementing a policy.

Councillor T J Pendleton responded that he was well aware of the requirements set out in the National Planning Policy Framework, however evidence was still being gathered and he assured Councillor T Eynon that once enough evidence had been gathered, the Planning Department would be considering further methods to control the particular parking issue she was referring to. He added that he would continue to liaise with Leicestershire County Council on this matter.

Councillor J Legrys put the following question to Councillor A V Smith:

“Mantle Lane Rail Bridge Coalville – Improvement to Environment

Despite previous questions relating to poor environmental outlook on Mantle Lane in the vicinity of the rail bridge and cuttings, there is little improvement that the public can see.

I accept that the bridge, retaining walls & highway belong to Network Rail & Leicestershire County Council. But litter, overgrowing vegetation, vermin mess and general deterioration leaves this key access into Coalville Town Centre an unpleasant and off-putting feature for all.

I am asking the Portfolio Holder to seek out third party grants to fund (at least) removal of vegetation, jet wash the bridge structure and internal tiling. Also, could funding found to paint the bridge structure with suitable bright colours showing Coalville Town Centre features?”

Councillor A V Smith gave the following response:

“I agree that Coalville should benefit from the best possible entrances to town, and that includes along Mantle Lane. It is the case that there is no easy fix to the issues that you have identified in your question, I am sure you will agree that periodic action is required to improve and maintain the quality of the environment related to the bridge.

The Council has been working with Network Rail in relation to the condition of the area around Mantle Lane Bridge since 2010. The Council has undertaken a number of initiatives which are summarised below:

- The Street Environment Officers arranged a big clean-up of the steps including removal of rubbish and cutting back of shrubs etc.
- Liaison with Network Rail resulted in Network Rail undertaking various works in the autumn and winter months of 2013. It culminated in the bridge being treated with a pigeon deterrent chemical (this makes the bridge look like it is on fire to the pigeons) and also the footpath side of the bridge being totally enclosed to prevent pigeons roosting under the bridge and fouling the footpath below. The final part of this enclosure work was completed in November 2013 and the bridge was monitored for a period of a few months after this to ensure the pigeons had not returned. At the time it appeared that the work had been very successful and the footpath had never looked so clean
- The Big Spring Clean organised by the Street Environment Officers, which has taken place over the last 2 years, always includes Mantle Lane Bridge steps and surrounding area of Thornborough Road and Baker Street
- The Environmental Protection Team has been working with East Midlands Housing in 2017 to improve the housing area frontage, leading up to the bridge from the clock tower as bins were being left out
- To cleanse the area under the bridge requires traffic management and in March 2017 during the Spring Clean the road was closed so that street cleansing operatives were able to clean the area
- Community Focus staff visited a number of local businesses prior to the Spring Clean 2017, to encourage them to get involved, but unfortunately no such support was forthcoming
- Discussions have taken place with Network Rail with a view to brightening up the area including planting hanging baskets which was well received, but never progressed by Network Rail

There are things that Network Rail can still do to brighten up the area including the plants or painting the bricks.

The current position is that we have been working behind the scenes to secure some improvements, however we have recently received some information about the Litter Innovation Fund (LIF), is a £450,000 programme, funded by the Department for Environment, Food and Rural Affairs (Defra) and the Department for Communities and Local Government (DCLG) which aims to reduce litter by funding innovative approaches to pilot, implement and evaluate small scale local research projects that could be replicated more widely.

<http://www.wrap.org.uk/content/litter-innovation-fund>

If you are interested to apply to the grant, we can support you to put an application together”.

Councillor J Legrys thanked Councillor A V Smith for the positive response to his question. He expressed support for the new initiatives such as the Litter Innovation Fund.

As a supplementary question, he asked when an application to the Litter Innovation Fund could be progressed.

Councillor A V Smith thanked Councillor J Legrys for his question and agreed that the state of the bridge was appalling. She advised that a litter pick and clean-up of the bridge had been arranged before the next large event in the town centre on remembrance Sunday. She added that officers would work to support the Coalville Special Expenses Working Party to make a grant application.

35. MOTIONS

Having declared a pecuniary interest in this item, Councillors R Blunt, J G Coxon, T J Pendleton and S Sheahan left the meeting and took no part in the discussion or voting thereon.

Councillor N Clarke moved the following motion:

“That this Council –

- a) Reviews its position on HS2 in light of the declared final route through North West Leicestershire and Government’s decision not to proceed with electrification of the Midland Mainline, north of Kettering.
- b) Commits to engage with affected communities, businesses and other organizations along the North West Leicestershire section of the route, to help co-ordinate bids for community level mitigation or compensation.”

Councillor N Clarke spoke to the motion and stated that it had been well publicised that North West Leicestershire would gain little from HS2 however would benefit from the electrification of the Midland Mainline. He felt it was important that the council review its position in light of the decision not to proceed with the electrification. He emphasised the importance of the facilitation and co-ordination of bids for compensation.

Councillor A V Smith seconded the motion and reserved her comments.

Councillor M Specht stated that he was somewhat surprised by the motion and made reference to a presentation received by the Policy Development Group. He expressed support for the motion however he felt the points raised were already being addressed.

Councillor D Everitt expressed concerns about the erosion of transport services in general and that the HS2 project may never come to fruition.

The Chairman reminded Councillor D Everitt to confine his comments to the subject of the motion only.

Councillor T Eynon expressed support for the motion. She made reference to the information received by the Policy Development Group and in particular the table which highlighted that a journey from Coalville to London would take 1 hour and 9 minutes longer following the implementation of HS2. She felt it was important to refer to the electrification of the Midlands Mainline and the lack of connectivity which would leave Coalville further behind. She added that mitigating measures needed to be considered.

Councillor J Legrys welcomed the support for the motion from all sides. He felt strongly that elected members should represent their communities on this matter and he felt it was right and proper that the council took the lead.

Councillor G Hoult offered her sincere thanks to the Chief Executive for her prompt actions in arranging a meeting to discuss and identify mitigation measures for the communities affected when the final route was announced.

Councillor N J Rushton stated that the council's policy was to support HS2 because of the ultimate benefits, however the economic benefits in the whole of Leicestershire relied upon the electrification of the Midlands Mainline. He stated that the need for mitigation measures had been recognised and felt the council's policy was sound.

Councillor A C Saffell expressed support for the motion and agreed with the comments made by Councillor N J Rushton. He added that electrification of the Midlands Mainline would be preferable to HS2.

Councillor A V Smith agreed with the comments made in respect of the electrification of the Midlands Mainline. She highlighted that the council had been in touch with approximately 40 businesses affected by the proposals and meetings were taking place.

The motion was then put to the vote and declared CARRIED. It was therefore

RESOLVED THAT:

This Council –

- a) Reviews its position on HS2 in light of the declared final route through North West Leicestershire and Government's decision not to proceed with electrification of the Midland Mainline, north of Kettering.
- b) Commits to engage with affected communities, businesses and other organizations along the North West Leicestershire section of the route to help co-ordinate bids for community level mitigation or compensation.

Councillors R Blunt, J G Coxon, T J Pendleton and S Sheahan returned to the meeting.

36. PETITIONS

No petitions were received.

37. MINUTES

Consideration was given to the minutes of the meeting held on 27 June 2017.

It was moved by Councillor V Richichi, seconded by Councillor J Clarke and

RESOLVED THAT:

The minutes of the meeting held on 27 June 2017 be approved and signed by the Chairman as a correct record.

38. INTERIM REVIEW OF POLLING DISTRICTS AND POLLING PLACES

Councillor N J Rushton presented the report to members. He advised that the next review of polling districts and polling places was not due to be completed until May 2020 after the next district council elections and therefore members were asked to support an interim review which was aimed to be completed by November 2018.

Councillor T Eynon stated that she wholly supported the interim review and referred to the comments made regarding access at a recent meeting of the equality group. She stated that she was pleased this would take place before the next elections.

Councillor S D Sheahan supported the comments made relating to access issues and added that consideration needed to be given to communities isolated from their polling places and felt a pop up polling station would be useful in such communities.

Councillor J Legrys expressed support for the review and emphasised the importance of informing the community and maximising publicity.

Councillor N J Rushton stated that the access issues would be considered and he would undertake to advertise the consultation as widely as possible.

It was moved by Councillor N J Rushton, seconded by Councillor T Gillard and

RESOLVED THAT:

- a) An interim review of polling districts and polling places for North West Leicestershire be commenced;
- b) The final recommendations be considered by Council no later than November 2018;
- c) The revised polling districts and polling places order be implemented ahead of the 2019 local elections.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 7.30 pm

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**COUNCIL - TUESDAY, 21 NOVEMBER 2017**

Title of report	NORTH WEST LEICESTERSHIRE LOCAL PLAN
Contacts	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Interim Strategic Director of Place tony.galloway@nwleicestershire.gov.uk</p> <p>Head of Planning & Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p> <p>Planning Policy Team Manager 01530 454677 ian.nelson@nwleicestershire.gov.uk</p>
Purpose of report	To adopt the North West Leicestershire Local Plan
Council priorities	<p>Business and Jobs</p> <p>Homes and Communities</p> <p>Green Footprints Challenge</p>
Implications:	
Financial/Staff	The cost of preparing the Local Plan has been met from within existing budgets.
Link to relevant CAT	None
Risk Management	A risk assessment of the project has been undertaken. As far as possible control measures have been put in place to minimise these risks, including monthly Project Board meetings where risk is reviewed.
Equalities Impact Screening	An Equalities Impact Assessment of the Local Plan has been undertaken
Human Rights	None discernible
Transformational Government	Not applicable
Comments of Head of Paid Service	The report is satisfactory
Comments of Deputy Section 151 Officer	The report is satisfactory

Comments of Monitoring Officer	The report is satisfactory.
Consultees	Local Plan Project Board
Background papers	<p>The Town and Country (Local Planning) England (Regulations) 2012 which can be viewed at The Town and Country Planning (Local Planning) (England) Regulations 2012</p> <p>Leicester & Leicestershire Housing and Economic Development Needs Assessment which can be viewed at Housing and Economic Development Needs Assessment (HEDNA) - North West Leicestershire District Council</p> <p>Minutes and reports of meetings of the Local Plan Advisory Committee which can be viewed at http://minutes-1.nwleics.gov.uk/ieListMeetings.aspx?CId=251&Year=0</p>
Recommendations	<p>THAT COUNCIL:</p> <ul style="list-style-type: none"> (I) ACCEPTS THE INSPECTOR'S REPORT AND HIS RECOMMENDATIONS TO MAKE THE LOCAL PLAN SOUND, AS SET OUT IN APPENDIX A OF THIS REPORT; (II) APPROVES THE ADDITIONAL MODIFICATIONS AS SET OUT IN APPENDIX C OF THIS REPORT, SUBJECT TO ANY AMENDMENTS RECOMMENDED IN APPENDIX D OF THIS REPORT; (III) DELEGATE AUTHORITY TO THE STRATEGIC DIRECTOR OF PLACE IN CONSULTATION WITH THE PORTFOLIO HOLDER FOR REGENERATION AND PLANNING TO MAKE ANY FURTHER ADDITIONAL MODIFICATIONS TO ADDRESS TYPOGRAPHICAL ERRORS OR FACTUAL CORRECTIONS; (IV) THAT THE POLICIES MAP BE AMENDED TO TAKE ACCOUNT OF ANY CONSEQUENTIAL CHANGES ARISING FROM THE MAIN OR ADDITIONAL MODIFICATIONS; (V) ADOPTS THE NORTH WEST LEICESTERSHIRE LOCAL PLAN AS SET OUT IN APPENDIX E OF THIS REPORT; (VI) THAT AN ADOPTION STATEMENT AND THE FINAL SUSTAINABILITY APPRAISAL REPORT BE ISSUED IN ACCORDANCE WITH REGULATIONS 17 AND 26 OF THE TOWN AND COUNTRY PLANNING (LOCAL PLANNING) REGULATIONS 2012; AND (VII) AUTHORISES OFFICERS TO COMMENCE WORK ON A REVIEW OF THE LOCAL PLAN WITHIN 3 MONTHS OF THE ADOPTION OF THE LOCAL PLAN

1.0 BACKGROUND

- 1.1 Members will recall that publication of the Local Plan was approved by Council at its meeting on 28 June 2016. Following a 6 week consultation the Local Plan was formally submitted for Examination on 6 October 2016.
- 1.2 A number of examination hearing sessions were held by the appointed Planning Inspector in January and March 2017. The Inspector has now issued his final report which he considers to be 'sound' (subject to a number of Main Modifications) and so the Council can now adopt the Local Plan.
- 1.3 A copy of the Inspectors Report is attached at Appendix A of this report.
- 1.4 In approving the Local Plan for publication, Council also agreed that the appointed Inspector be requested to recommend modifications to the Local Plan as submitted if it was considered necessary to make the Local Plan 'sound'.
- 1.5 Following the Examination hearing sessions the Inspector requested that the Council undertake consultation on a number of Main Modifications required to make the Local Plan sound in the light of new documentary evidence provided since the Local Plan was submitted for examination. This was without prejudice to the Inspector's ultimate conclusions and recommendations on the Local Plan and whether there would be any further hearings after the public consultation.
- 1.6 Consultation on the Main Modifications took place between 12 June and 24 July 2017. In addition to the Main Modifications, consultation also took place in respect of a revised Sustainability Appraisal and the Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA). The latter document was formally published after the initial hearing sessions in January 2017 and whilst it was discussed at the hearing sessions in March 2017, it had not been the subject of any formal public consultation.
- 1.7 Comments made in response to the consultation were considered by officers and the Council's response, together with the comments made, were forwarded to the Inspector.
- 1.8 The Inspector has had regard to the consultation responses together with the Council's comments, in coming to his conclusions in his report. He has made some amendments to the detailed wording of the Main Modifications, none of which he considers significantly alters the content of the modifications as published for consultation or undermines the participatory processes and Sustainability Appraisal that has been undertaken.
- 1.9 The schedule of Main Modifications recommended by the Inspector is attached at Appendix B of this report.
- 1.10 A number of Additional Modifications which were of a more minor nature and would not materially affect the policies of the Local Plan or were required to rectify factual matters, were also published alongside the Main Modifications. The Inspector is not required to consider these Additional Modifications and so they are not referenced in his report. The schedule of Additional Modifications is attached at Appendix C of this report whilst a summary of the comments made in respect of the Additional Modifications and officer's responses is attached at Appendix D.
- 1.11 A copy of the Local Plan as proposed to be adopted (incorporating the Main and Additional Modifications (as amended following the consultation)) is attached at Appendix E of this report.

2.0 MAIN MODIFICATIONS

- 2.1 As noted above, the new Leicester and Leicestershire HEDNA was published during the Examination. This has had an impact upon both the housing and employment land requirements of the Local Plan as submitted and as a consequence has led to the need for a significant number of Main Modifications, including amending the Objectively Assessed Need for housing to 481 dwellings per annum and the employment land requirement to 66 hectares. These are both allowed for in Main Modification 9 which amends Policy S1.
- 2.2 As submitted the Local Plan included a commitment to a review should the results of the HEDNA or joint working with the other Leicester and Leicestershire authorities result in the need for additional housing provision in the district.
- 2.3 Prior to the hearing sessions, Leicester City Council advised all of the Leicester and Leicestershire authorities that it was unable to accommodate all of the city's needs within the city boundaries, although they were unable to identify the exact scale of unmet need or when it would be likely to occur. In addition, Oadby and Wigston Borough Council had also identified that they would be unlikely to be able to accommodate their needs, although the scale was quite small at 161 dwellings up to 2031 (the end date for the Local Plan).
- 2.4 The issue of unmet need elsewhere is not one which this Council can address on its own. Instead as part of the Duty to Co-operate there is a need to reach agreement across Leicester and Leicestershire as to how this unmet need can be accommodated. To this end, as Members are aware, the Leicester and Leicestershire authorities are currently working on the preparation of a Strategic Growth Plan which, amongst other matters, will agree the distribution of new housing and employment development with the HEDNA providing the starting point. This is due to be finalised by early 2018.
- 2.5 The employment land requirement identified in the HEDNA is different to that used to inform the submitted Local Plan. As a result there is a shortfall in employment land provision.
- 2.6 The issue of unmet housing need, together with the shortfall in employment land reinforces the need for an early review of the Local Plan. However, during discussions at the Examination the Inspector advised that he considered that more certainty was required in terms of when such a review would commence, but also be completed. Main Modification 9, therefore, provides a commitment to commence a review of the Local Plan within 3 months of its adoption.
- 2.7 In view of the short timescales before such a review commences, rather than submitting a separate report to a future meeting recommendation (vii) above allows for officers to formally commence this review without the need for any further reports.
- 2.8 Altogether 46 Main Modifications are recommended by the Inspector. The majority of these are as a consequence of changes resulting from the HEDNA and/or as a result of the need to update the base date for the plan from October 2015 to October 2016. A number of other Main Modifications are required in order to improve the policy to ensure that they are compliant with national policy or to meet concerns expressed through representations.

3.0 NEXT STEPS

- 3.1 In accordance with Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 the Council is required to make available the Local Plan, together with the Sustainability Appraisal report and adoption statement as soon as reasonably practicable after adoption.
- 3.2 Under s113 of the Planning and Compulsory Purchase Act 2004 any person aggrieved by the adopted Local Plan may within a six week period from the date of adoption of the Local Plan (this takes effect immediately on resolution of the Council) make an application to the High Court challenging the Council's decision. The two grounds for appeal are that the "document is not within the appropriate power" or that a "procedural requirement has not been complied with".
- 3.3 When adopted the Local Plan will replace the 2002 North West Leicestershire Local Plan in its entirety and will provide the basis for future planning decisions and have full weight under Section 38 (6) of the Planning and Compulsory Purchase Act 2004.
- 3.4 There are a number of existing Supplementary Planning Documents/Guidance which were prepared to support policies in the 2002 Local Plan. It will be necessary to consider which of these can remain in place or whether they need to be reviewed or rescinded. A report will be taken to a future meeting of Cabinet to deal with this.

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**COUNCIL - TUESDAY, 21 NOVEMBER 2017**

Report Title	POLICY DEVELOPMENT GROUP ANNUAL REPORT
Contacts	Chief Executive 01530 454500 bev.smith@nwleicestershire.gov.uk Chairman of the Policy Development Group Councillor Michael Specht 01530 817544 michael.specht@nwleicestershire.gov.uk
Purpose of report	To present on an annual basis the items and reports considered by PDG and to gauge its impact on Council business, and its effectiveness.
Council priorities	All
Implications:	
Financial/Staff	None
Link to relevant CAT	None
Risk Management	None
Equalities Impact Screening	None
Human Rights	None
Transformational Government	None
Comments of Head of Paid Service	The report is satisfactory.
Comments of Deputy Section 151 Officer	The report is satisfactory.
Comments of Deputy Monitoring Officer	The report is satisfactory.
Consultees	None
Background papers	Previous PDG Agendas and Reports
Recommendations	THAT THE ANNUAL REPORT BE RECEIVED AND ENDORSED.

1.0 INTRODUCTION

- 1.0 As part of the process of improving the effectiveness of scrutiny at the Council, a report has been prepared setting out the issues and reports that PDG has considered in 2016/17. This can also be used to gauge PDG's impact on Council business, and its effectiveness.
- 1.1 The Annual Report of North West Leicestershire District Council's Policy Development Group for 2016/17 was considered by the Policy Development Group at its meeting on 20 September 2017 and is attached at Appendix A.
- 1.2 The minutes of the Policy Development Group meeting are attached at Appendix B.
- 1.3 The Chairman of the Policy Development Group for 2016/17 was Councillor M Specht. He will be invited to speak on the Annual Report at the meeting.

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

POLICY DEVELOPMENT GROUP - WEDNESDAY, 20 SEPTEMBER 2017

Report Title	ANNUAL REPORT
Contacts	Councillor Michael Specht 01530 817544 michael.specht@nwleicestershire.gov.uk Director of Resources 01530 454833 andrew.hunkin@nwleicestershire.gov.uk
Purpose of report	To present on an annual basis the items and reports considered by PDG and to gauge its impact on Council business, and its effectiveness.
Council priorities	All
Implications:	
Financial/Staff	None
Link to relevant CAT	None
Risk Management	None
Equalities Impact Screening	None
Human Rights	None
Transformational Government	None
Comments of Head of Paid Service	Report is satisfactory
Comments of Section 151 Officer	Report is satisfactory
Comments of Monitoring Officer	Report is satisfactory
Consultees	None
Background papers	Previous PDG Agendas and Reports
Recommendations	THAT PDG NOTES THE ANNUAL REPORT FOR PRESENTATION TO COUNCIL ON 21 NOVEMBER 2017.

1.0 BACKGROUND

- 1.1 As part of the process of improving the effectiveness of scrutiny at the Council, a report has been prepared setting out the issues and reports that PDG has considered in 2016/17. This can also be used to gauge PDG's impact on Council business, and its effectiveness.
- 1.2 This report will be presented to Council on 21 November 2017. In this future years this annual report will be aligned with other annual reports.

2.0 ISSUES AND REPORTS CONSIDERED

1 JUNE 2016

The Effectiveness of Scrutiny at the Council

- 2.1 The Leader attended the meeting.
- 2.2 There had been some frustration amongst PDG members and according to the minutes of the previous meeting, "scrutiny was toothless, positive recommendations were seldom made, and were not acted upon when they were made".
- 2.3 The Leader stressed the important role PDG had in holding the Cabinet to account and in taking an overview of policy development in line with the Council's priorities. He made some suggestions that would provide PDG with a greater level of involvement – and these were accepted:
- The Chair to have a single point of contact from the Corporate Leadership Team – and that contact to be the Director of Resources.
 - The Labour Group's Scrutiny Lead Member to meet with the Chair and the Director of Resources to move things forward.
 - PDG Members to bring forward, at an agreed frequency, potential items and issues for policy development and scrutiny; and those agreed to be worked up into proposals for inclusion in the work programme along with timescales and the resources that would be required.
 - The Leader and Chief Executive to meet with the Chair to informally discuss the work programme.
- 2.4 The single point of contact has been set up and regular discussions on the work programme, and briefing meetings are held. This has helped to scope the work programme and prepare for PDG meetings.
- 2.5 The Labour Group's Scrutiny Lead Member met with the Chair and the Director of Resources to move things forward. As a consequence, a single document was developed that sets out PDG's role and purpose, and gives clarity to call-in arrangements (Appendix 1) and a process for scoping and prioritising reviews was developed (Appendix 2).
- 2.6 Whilst the number of items considered by PDG is not the sole measure of success it is pleasing to note that the number of items considered by PDG has risen, with 16 items being considered in the four meetings (including the June 2017 meeting) since the new arrangements have been put in place, compared to 12 for the previous four meetings. The process for scoping and prioritising reviews has been used once (small grants

review). Members also added to the work programme, items on ICT security and the balance of the local economy.

- 2.7 The leader and Chief Executive has met with the PDG Chair.

Waste Services Recycling Performance and Targets Update

- 2.8 The Head of Community Services presented the report to Members highlighting how recycling performance was measured, comparisons with other local authorities in Leicestershire and issues that affect recycling levels. He also set out the next steps to move towards 50% recycling by 2020.

28 SEPTEMBER 2016

Parking Strategy Update

- 2.9 PDG received a presentation on the Daft Parking Strategy from officers and the Council's consultants White Young Green. The Head of Community Services informed Members this was the Council's first Parking Strategy and that it related to the whole of the District. Comments made by PDG were reported to Cabinet when it considered the Parking Strategy.

Implications for HS2 for the District

- 2.10 The Head of Planning and Regeneration reported that expert consultants, SLC Rail, had been engaged to provide advice and assistance in narrowing down the Council's options. He highlighted the proposed strategy which included both proactive and reactive elements, as well as the Council's role regarding business focus and public protection.
- 2.11 The report was endorsed for consideration by Cabinet.

Update on New Build Council Homes Programme

- 2.12 PDG received an update on progress with the Council's housing new build programme in respect of potential schemes at Linford Crescent, Verdon Crescent and Cropston Drive in Coalville; and Smedley Close and Staley Avenue in Ashby. Comments on the report were considered by the Housing Portfolio Holder and the Director of Housing.

11 JANUARY 2017

Local Policing Update

- 2.13 The Local Policing Unit Commander gave an update to Members on matters including current resources and demand, crime rates, strategic priorities and performance.

HS2 – Presentation from SLC Rail.

- 2.14 PDG received a presentation from SLC Rail, which had been engaged by the Council to provide technical and other know-how to guide the Council and assist in narrowing down options and priorities. The presentation set out the current position for Phase 2 of HS2 and the next steps available to the Council.

Draft General Fund Revenue Budget Proposals and Capital Programmes 2017/18

- 2.15 PDG was invited to scrutinise the General Fund and Capital Programme proposals and provide any comments for Cabinet to take into account when it agreed final recommendations.

Housing Revenue Account Budget Proposals for 2017/18

- 2.16 PDG was invited to scrutinise the Housing Revenue Account Budget Proposals and provide any comments for Cabinet to take into account when it agreed final recommendations.

ICT Services Update

- 2.17 The Audit and Governance Committee had raised a concern on the arrangements the Council had or was putting in place for the security of its systems and data. In particular there was a concern if these arrangements involved the use of 'cloud technology'. The matter had been referred to PDG for consideration. The ICT Manager explained that the Council was embarking on a modernisation of its ICT arrangements and this included improving the security of its systems and data by moving its servers and infrastructure away from the main Council offices, into a managed secure private data centre. He set out the benefits this would bring and explained that a procurement exercise was being run and a contract would be awarded following consideration by Cabinet.

8 MARCH 2017

Review of Small Grants

- 2.18 PDG received a Topic Suggestion Form to help scope the review of small grants and agreed to consider annually a report setting out the small grants awarded throughout the year, and to invite a manageable number of grant recipients to future meetings to discuss how the grant had been spent.

Review of Housing Policies

- 2.19 The Head of Housing presented the report explaining that policies were periodically reviewed and updated to provide officers with a framework for delegated decision making when delivering services. He presented policies on: anti-social behaviour, tenancy, compensation and the homeless duty. PDG's comments were considered by Cabinet when approving the policies.

Draft Safer North West Community Safety Partnership Strategy 2017-20

- 2.20 The Head of Community Services presented the report to Members, highlighting the three themes for 2017-20 of the Safer North West Community Safety Partnership. The Stronger and Safer Communities Team Manager went through the three proposed priority areas for the action plan from the strategic assessment and the Community Safety Team Leader presented the draft Safer North West ASB Action Plan. PDG commented on and noted the strategy and associated plans.

How Leicestershire's Roads, Pavements and Verges could be managed in the future – LCC Consultation

- 2.21 The Council had a received a consultation document from the County Council on its Highway Maintenance Policy and Strategy. Due to highway matters being a regular cause for residents' comments, PDG was asked to comment on the consultation document and inform the Council's response.

3.0 SUMMARY AND FUTURE DEVELOPMENTS

- 3.1 PDG has discussed and scrutinised a number of very important items to the Council. As a matter of course, PDG's comments are appended to Cabinet reports and referred to at Cabinet.
- 3.2 Members are referring more items to PDG and are using the scoping document to scope the more difficult or resource-intensive proposed items.
- 3.3 The Work Programme will continue to be updated to include more items making up the Council's Policy and Budget Framework including: the Council Delivery Plan, the End of Year Report, the Medium Term Financial Strategy and quarterly performance reports.
- 3.4 In order to allow this, an amendment to increase the scheduled number of PDG meetings from four to six is being proposed. In line with the current Constitution, additional meetings can still be arranged if required.

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POLICY DEVELOPMENT GROUP

PURPOSE

The scrutiny function is carried out by PDG. It supports the work of the Cabinet and the full Council. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

PDG also monitors Cabinet decisions and can 'call-in' a decision which has been made but not yet implemented. This enables it to consider whether the decision is appropriate.

PDG may be consulted by Cabinet or the Council on forthcoming decisions and the development of policy.

TERMS OF REFERENCE

PDG will undertake or request reviews of policy.

PDG is not able to take decisions but makes recommendations to either Cabinet or Full Council.

There are two elements to the work of PDG:

- Able to "call-in" executive decisions taken but not implemented by Cabinet or portfolio holders, in line with the call-in procedure set out in the Scrutiny Procedure Rules.
- Able to undertake detailed reviews of issues either within or outside the Council.

GENERAL ROLE OF PDG

Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision making process. PDG has a key function in holding the Cabinet to account.

PDG's role in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

Within its terms of reference, PDG will:

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions other than development control and other quasi-judicial matters;
- make reports and/or recommendations to Full Council and/or Cabinet in connection with the discharge of any functions;
- consider any matter affecting the district or its inhabitants;
- exercise the right to call-in, for reconsideration, executive decisions made but not yet implemented by Cabinet or portfolio holders;
- take an overview of policy development in line with the priorities of the Council; and
- exercise powers for the Community Call for Action;
- In accordance with the Crime and Disorder (Overview and Scrutiny) Regulations 2009, act as the crime and disorder committee of the Council.

PDG may, in relation to matters within its terms of reference, hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist it in this process. It may go on site visits, conduct public surveys, hold public meetings,

commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

CO-OPTees

PDG shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

MEETINGS

There shall be no more than four meetings of PDG per municipal year. In addition, meetings may be called from time to time to consider matters called in.

REPORTS FROM PDG

Once it has formed recommendations on proposals for development, PDG will prepare a formal report and submit it to the Proper Officer for consideration by Cabinet if the proposals are consistent with the existing budgetary and policy framework; or to Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

If PDG cannot agree on one single final report to Council or Cabinet, then up to one minority report may be prepared and submitted for consideration by Council or Cabinet with the majority report.

MEMBERS AND OFFICERS GIVING ACCOUNT

PDG may monitor and review decisions made or actions taken in connection with the discharge of any Council functions, insofar as they relate to matters within its terms of reference. As well as reviewing documentation, in fulfilling the monitoring role, it may require any member of Cabinet, the Head of Paid Service and/or any officer of principal level or above to attend before it to explain in relation to matters within their remit:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and/or
- their performance.

And it is the duty of those persons to attend if so required.

ATTENDANCE BY OTHERS

PDG may invite people other than those people referred to above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

CALL-IN

Call-in should only be used in exceptional circumstances. These are where members of PDG have evidence which suggests that Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

When a decision is made by Cabinet or a group of the Cabinet, or a key decision is made by an officer with delegated authority, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 7 days of being

made. The PDG Chairman will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless any two members (or more) objects to it and require in writing that the decision be called in.

During that period, the Head of Legal and Support Services shall call-in a decision for scrutiny by PDG and shall then notify the decision taker of the call-in. A meeting of PDG shall be convened to consider the call-in. The Head of Legal and Support Services, in consultation with the Head of Paid Service and Section 151 Officer, may reject a request for call-in if, in their opinion, it is repetitious, vexatious or fails to set out any grounds which might reasonably cause Cabinet to change their decision.

If, having considered the decision, PDG is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Council. If referred to the decision maker they shall then reconsider, amending the decision or not, before adopting a final decision.

If the matter was referred to Council and Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, Council will refer any decision to which it objects back to the decision making person or body, together with Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by Cabinet the matter will be referred to the next scheduled meeting. Where the decision was made by an individual, the individual will reconsider the decision within 10 working days of Council's request.

Exceptions

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- that PDG may only call-in 4 decisions per year;
- once a member has signed a request for call-in, he/she may not do so again until a period of 3 months has expired.

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POLICY AND DEVELOPMENT GROUP TOPIC SUGGESTION FORM

Suggested topic for PDG review:		
Reasons for suggesting the topic:		Please consider: <ul style="list-style-type: none"> • Why should there be a review on this? • How does it link to the Council's priorities? • What benefits to local people could result?
Supporting evidence:		Please consider: <ul style="list-style-type: none"> • What evidence is there to support the above reasons? • What are the facts?
Desired outcome:		Please consider: <ul style="list-style-type: none"> • What would you wish to see happen as a result of any review? • Why do you think the desired outcome is achievable?
The topic (please tick appropriate box):		
<input type="checkbox"/>	Is my suggestion	<input type="checkbox"/> Was suggested to me by a member of the public
<input type="checkbox"/>	Other (please specify)	
Name:	Signature:	Date:

Note 1: Review for review

Why should the topic be reviewed?

How does it link to the Council's priorities?

What are the benefits of the review?

Note 2: Evidence

What evidence is there to suggest a review is necessary (i.e. public concern / media coverage / poorly performing service)?

What are the facts?

Has the topic been looked at before? Why was that not successful?

Attach details if necessary.

Note 3: Desired outcome

What would you wish the outcome of the review to be?

POLICY AND DEVELOPMENT GROUP REVIEW SCORING GUIDE AND PRIORITY GRID

Score	Importance Indicator	Impact Indicator
0	No evidence that the topic is linked to the Council's key priorities	No identified benefits likely to result as a result of a review
1	No evidence of links to the Council's priorities, but an ongoing area of public concern that falls within the Council's remit	Minor potential benefits affecting one ward / customer / client group
2	Some evidence of links to the Council's priorities but they may be indirect and /or the topic is not related to current Council priorities	Minor potential benefit affecting two or more wards / customer / client groups; or moderate potential benefit affecting one ward / customer / client group Potential benefit to an individual service area within the Council
3	Good evidence linking to the Council's priorities and / or evidence of public concern	Moderate potential benefit affecting two or more wards / customer / client groups; Or substantial potential benefit affecting one ward / customer / client group Potential benefit to a department within the Council
4	Strong evidence of links to the Council's priorities and a high level of public concern	Substantial potential benefits for a significant proportion of the community Substantial potential benefits for the Council

Priority Grid

		Amber		Green			
High IMPORTANCE Low	4	Possible topic for PDG but not a priority		Priority topic for PDG			
	3	Reject topic for PDG		Possible topic for PDG but not a priority			
	2						
	1						
	0	Red		Amber			
		Low	1	2	3	4	High
			IMPACT				

Key

A topic scoring 3 for Importance and 3 for Impact would be seen as green, indicating it as a priority.

Similarly, a topic scoring 1 for Impact and 1 for Importance would fall within red, indicating rejection.

Topics falling within amber would indicate possible topics for PDG, but not a priority. A selection of amber topics would depend on capacity within the work programme to accommodate them.

In exceptional circumstances where for example a review would be prejudicial to the Council's interests, the Chief Executive / Director / Monitoring Officer may advise PDG that it would be best not to proceed with the review.

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EXTRACT of the MINUTES of a meeting of the POLICY DEVELOPMENT GROUP held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 20 SEPTEMBER 2017

Present: Councillor M Specht (Chairman)

Councillors N Clarke, T Eynon, J Geary, D Harrison, G Hault, P Purver, V Richichi, A C Saffell and N Smith

In Attendance: Councillor J Legrys

Portfolio Holders: Councillor A V Smith MBE

Officers: Mr C Brown, Mr D Gill, Ms K Greenbank, Mr A Hunkin and Mrs R Wallace

23. ANNUAL REPORT

The Interim Director of Resources presented the report to Members highlighting the regular meetings with the Chairman and Councillor J Geary as the Labour Group's scrutiny lead representative, the scoping report and proposed changes to the meeting schedule.

In response to a question from Councillor D Harrison, the Deputy Monitoring Officer explained that there was a provision within the Council's Constitution to co-opt individuals to the Policy Development Group with non-decision making powers. It was required for assistance in making decisions or if the committee needed particular expertise. This was not a new addition to the scrutiny procedure rules but as it was rarely used Members may not have been aware of it.

Councillor T Eynon commented that she believed there had been an improvement to the level of scrutiny since it had been questioned and thanked officers for the report.

By affirmation of the meeting it was

RESOLVED THAT:

The annual report for presentation to council on 21 November 2017 be noted.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 7.28 pm

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL - TUESDAY, 21 NOVEMBER 2017

Title of report	UPDATE TO THE COUNCIL'S CONSTITUTION
Contacts	<p>Councillor Nicholas Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk</p> <p>Chief Executive 01530 454500 bev.smith@nwleicestershire.gov.uk</p> <p>Head of Legal and Support Services 01530 454762 elizabeth.warhurst@nwleicestershire.gov.uk</p>
Purpose of report	To seek Council's approval of the proposed amendments to the Constitution.
Council Priorities	All.
Implications: Financial/Staff Link to relevant CAT Risk Management Equalities Impact Screening Human Rights Transformational Government	<p>None.</p> <p>A clear and up to date Constitution will minimise the risk of the Authority failing to comply with statutory requirements and assist in delivering its priorities and objectives.</p> <p>Not applicable.</p> <p>Not applicable.</p> <p>Clear and robust governance arrangements and procedures assist with the effective and efficient delivery of services and proper decision making.</p>
Comments of Head of Paid Service	The report is satisfactory.
Comments of Section 151 Officer	The report is satisfactory.
Comments of Monitoring Officer	The report is satisfactory.
Consultees	<p>Chief Executive Head of Legal and Support Services Policy Development Group</p>

Background papers	<p>Report to Policy Development Group – 20 September 2017, as Appendix A to this report.</p> <p>Minutes of Policy Development Group – 20 September 2017, as Appendix B to this report.</p>
Recommendations	<p>1. MEMBERS APPROVE THE AMENDMENTS TO THE CONSTITUTION SET OUT IN PARAGRAPH 3.6, 4.8 AND 4.12 AND AS SET OUT IN APPENDICES 1-3 OF THE REPORT TO PDG</p> <p>3. THAT COUNCIL AUTHORISES THE HEAD OF LEGAL AND SUPPORT SERVICES TO MAKE THE AGREED AMENDMENTS AND ANY CONSEQUENTIAL AMENDMENTS TO THE CONSTITUTION AND RE-ISSUE THE DOCUMENT.</p>

1.0 INTRODUCTION

- 1.1 The Local Government Act 2000 requires each Local Authority to prepare, keep up to date and publicise the document known as the Constitution.
- 1.2 The Constitution should be logical, integrated and accessible to members, officers, local people and anyone else interested in the way a local authority makes its decisions. There is also a statutory requirement on the Council’s Monitoring Officer to keep the Constitution up to date, and accordingly the update of the Constitution is an on-going process.

2.0 BACKGROUND

- 2.1 Full Council regularly considers items relating to updates to the Constitution. The updates are generally required due to legislative and organisational changes or to clarify and improve processes within the Authority to reflect best practice. Members may recall that, in response to comments and suggestions made by members at Council, it was agreed that:
- (i) the Constitution underwent one main annual review - around the time of Annual Council;
 - (ii) any remaining changes or matters arising after this date would be dealt with by way of one mid year review;
 - (iii) further reviews or changes would only be suggested outside this process if legislation or national guidance required it;
 - (iv) there was some “scrutiny” of the main annual review report whilst in draft and prior to its publication;
 - (v) there would be informal consultation / engagement with members on the mid year and other reviews.

3.0 CHANGES TO THE CONSTITUTION

The Role of Policy Development Group (Scrutiny)

- 3.1 Every local authority that operates Executive arrangements is required by Section 9F of the Local Government Act 2000 is required to appoint one or more committees of the authority to review or scrutinise decisions made or other action taken in connection with the discharge of any functions which are the responsibility of the executive.
- 3.2 This review function includes the right to 'call-in' a decision for review.
- 3.3 At this Council the scrutiny function lies with Policy Development group (PDG).
- 3.4 Currently the constitution specifies that PDG will hold four meetings per year, with an additional facility to arrange ad-hoc meetings in the event that a call-in cannot be dealt with at a previously scheduled meeting.
- 3.5 As a matter of routine PDG is asked to consider and comment in advance on decisions to be made by Cabinet and Council, for example on budget proposals and constitutional changes. The cycle of PDG meetings is not always synchronised with the decision making process for example and this can cause both delays in reports being submitted to PDG and a heavy workload at meetings.

Recommendation

- 3.6 It is proposed that the number of meetings of PDG be increased from 4 to 6 and that where possible 'call-in's' will be dealt with at the next scheduled meeting although the ability to call an extra meeting to consider a call-in is retained.**

The proposed amendment to the constitution is attached at Appendix 1 to the report to PDG.

4.0 Contract Procedure Rules

- 4.1 In 2015 as a result of the enactment of the Public Contracts Regulations 2015 the Council reviewed and updated its Contract Procedure Rules which set out the procedures that officers should consider when procuring goods and services.
- 4.2 Officers now consider it appropriate that further amendments are made to reduce the administrative burden on officers and members and to streamline the procedures to make them more effective and efficient.
- 4.3 Arising from this review members attention is drawn to the following points:

4.4 Key Decisions

- 4.5 The Constitution currently defines a key decision as a decision whereby the Council will either incur expenditure or result in a saving of £100,000. This value has not been increased for at least 10 years.
- 4.6 Unless there is a pre-existing delegation Key decisions must be made by Cabinet.
- 4.7 As a result of the fact that the financial value has not been increased the number of requests for Cabinet approval for contracts where the aggregated value over the term of the contract exceeds £100,000 is increasing, when in reality those contracts are 'business as usual'.

Recommendation

- 4.8 It is proposed therefore that whilst the financial value of a Key Decision is maintained at £100,000 a mechanism is adopted that excludes contracts from the definition of a key decision where:

The expenditure is in relation to a contract for goods or services and:

- 1) The term of the contract is for more than 1 year and less than 5 years, and:*
- 2) The aggregated value of the contract does not exceed more than £250,000 over its term, and:*
- 3) The value of the contract does not exceed £100,000 in any one year of the term*

A copy of the proposed amendments to the constitution is attached as Appendix 2 to the PDG report.

4.9 Contracts

- 4.10 The Council currently has three types of contract, Small, Medium and Large, each with different procurement requirements.

4.11 Small – Current requirement

Currently the process for spending anything above £0 to £999.00 requires that three verbal quotes are obtained. As a result the rules are onerous for trivial purchases, and can create a culture of ignoring the rules when officers are spending small amounts (of say up to £100.00). The rule is also difficult to enforce.

Medium sized purchases

Purchases between £1,000 and £10,000 require three verbal quotes and purchases between £10,000 and £24,999 require three written quotes against a specification. The constitution also requires that appropriate officers are authorised signatories for incurring expenditure. The level of authorisation is determined by the Head of Finance in conjunction with Internal Audit and will vary dependent upon the seniority of the officer. Currently officers who are authorised to incur expenditure may not be authorised to enter into formal contracts and creates uncertainty amongst staff about the correct authorisation procedures and creates more bureaucracy. The proposed amendment to the procedure will empower staff to make practical decisions and reduce unnecessary bureaucracy.

4.12 Recommendations

That small and medium contracts be merged within the constitution

All spend below £999.00 is delegated to the budget holders professional judgement which will be auditable by reference to the purchase order which will also provide sufficient finance and governance oversight.

That officers who are authorised signatories are also authorised to enter into contracts up to the level of the authorisation (except where other provisions in the contract procedure rules prohibit it).

A copy of the proposed amendments to the constitution is attached as Appendix 3 to the PDG report.

- 4.13 That the Monitoring Officer is authorised to make any consequential amendments

required to the constitution

5.0 COMMENTS FROM POLICY DEVELOPMENT GROUP

5.1 The draft Council Report was considered by Policy Development Group 20 September 2017. The report is attached at Appendix A.

5.2 Comments of members of Policy Development Group on the proposed amendments to the constitution are contained within the draft minutes attached at Appendix B.

6.0 Recommendations

6.1 Members are asked to approve the recommendations set out in Paragraphs 3.6, 4.8 and 4.12

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4. MEETINGS OF THE POLICY DEVELOPMENT GROUP

There shall be no more than ~~four~~ **six** meetings of the Policy Development Group per municipal year. In addition, meetings may be called from time to time to consider matters called in.

13. CALL-IN

Call-in should only be used in exceptional circumstances. These are where members of the Policy Development Group have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

(a) When a decision is made by the Cabinet or a group of the Cabinet or a key decision is made by an officer with delegated authority, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 7 days of being made. The Chairman of the Policy Development Group will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

(b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless any two members (or more) objects to it and require in writing that the decision be called in.

(c) During that period, the Head of Legal and Support Services shall call-in a decision for scrutiny by the Policy Development Group if so requested by any two members (or more), and shall then notify the decision taker of the call-in.

A meeting of the Policy Development Group shall be convened to consider the call-in or it could be considered at the next appropriate scheduled meeting of the Policy Development Group, if time scales permit. The Head of Legal and Support Services, in consultation with the Head of Paid Service and Section 151 Officer, may reject a request for call-in if, in their opinion, it is repetitious, vexatious or fails to set out any grounds which might reasonably cause Cabinet to change their decision.

The above addition makes it consistent with the paragraph below

15. PROCEDURE AT THE POLICY DEVELOPMENT GROUP MEETINGS

(a) The Policy Development Group shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest (including whipping declarations);
- (iii) consideration of any matter referred to the Group for consideration in relation to call-in of a decision;
- (iv) responses of the Cabinet to reports of the Policy Development Group;
- (v) the business otherwise set out on the agenda for the meeting; and
- (vi) dealing with any petitions to hold an officer to account received under the Council's adopted petition scheme.

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ARTICLE 13 - DECISION MAKING

13.01 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.02 Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) explaining what options were considered and giving the reasons for the decision.

13.03 Types of Decision

- (a) Decisions reserved to Council

Decisions relating to the functions listed in Part 3 will be made by the full Council and not delegated.

- (b) Key decisions

- (i) A “key decision” means a decision taken by the Cabinet, a committee of the Cabinet, an area or joint committee in connection with the discharge of a function which is the responsibility of the Cabinet and which is likely:

- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Authority’s budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District.

- (ii) For the purposes of (a) above

a) ~~£100,000~~100,000 shall be regarded as significant in terms of ~~expenditure~~
expenditure except where:

The expenditure is in relation to a contract for goods or services and:

1) The term of the contract is for more than 1 year and less than 5 years,
and:

2) The aggregated value of the contract does not exceed more than
£250,000 over its term, and:

3) The value of the contract does not exceed £100,000 in any one year of the
term ~~or~~

And

b) £100,000 shall be regarded as significant in terms of savings

(iii) savings.—For the purposes of (b) above ~~and~~ any issue which, in the opinion of the Leader, is likely to have an impact on people shall be regarded as significant in terms of impact on communities. In deciding whether an issue is significant the Leader shall have regard:

to whether the decision may incur a significant social, economic or environmental risk

to the likely extent of the impact of the decision both within and outside the District

to whether the decision is likely to be a matter of political controversy

to the extent to which the decision is likely to result in substantial public interest

a decision taker when making a decision may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

13.04 Decision Making by the Full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision Making by the Cabinet

Subject to Article 13.08, the Cabinet will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision Making by Scrutiny

The Policy Development Group will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.07 Decision Making by Groups Established by the Council

Subject to Article 13.08, other Council groups will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

13.08 Decision Making by Council Bodies Acting as Tribunals

The full Council, the Cabinet or anybody, group or committee, or any councillor or an officer acting as a tribunal, or in a quasi judicial manner, or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

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4.7: CONTRACT PROCEDURE RULES

Rule	Subject
1:	Introduction
2:	Value for Money
3:	Special Circumstances (Waiver and Exemption)
4:	Framework Agreements
5:	Selecting a Procurement Route
6:	Conducting a Procurement Exercise
7:	Contracts to which the Public Procurement Regulations Apply
8:	Types of Tender for Band C<u>B</u> Contracts
9:	Specifications
10:	Submission of Tenders and Evaluation
11:	Opening and Acceptance of Tenders
12:	Tender Evaluation and Award of Contracts
13:	Contract Conditions
14:	Contract and Performance Management

1. INTRODUCTION

Purpose of these Standing Orders

- 1.1 These Standing Orders are made pursuant to s135 of the Local Government Act 1972. These Standing Orders have been prepared in accordance with the Public Contracts Regulations 2015, the Authority's policies and to facilitate small and medium enterprises in the local area the opportunity to enter the Authority's supply chain.
- 1.2 These Standing Orders set out how the Authority will invite tenders, obtain quotations and award contracts for supplies, services or works. Their role is to ensure that contracts are appropriate for their purpose, provide the right balance between price and quality and are procured in an open way that demonstrates probity and compliance with the Authority's policies and the law. It is important that they are viewed as an aid to good management and compliance and not as a hindrance.

Contracts outside the scope of these Standing Orders

- 1.3 Where the Authority is disposing of goods, officers shall seek advice from the Head of Finance and have regard to the provisions of the Financial Procedure Rules.
- 1.4 These rules do not apply to contracts between other local authorities for the joint delivery of services or discharge of functions, save the obligation to secure value for money for the Authority. These rules do not apply to transactions for the sale, purchase or lease of land or property.

Probity and Compliance

- 1.5 Responsibility for compliance with these Standing Orders remains at all time with officers. It shall be the responsibility of the Directors to ensure that staff within his or her directorate comply with these Standing Orders.
- 1.6 No contract shall be entered into unless adequate budgetary provision has been made for the award of that contract.
- 1.7 Any officer, whether a direct employee of the Authority or engaged through an external organisation or supplier who is engaged to work on behalf of the Authority shall, if they become aware of any relationship (current or past), whether pecuniary or not, with any supplier or potential supplier, make a Declaration of Interest to the relevant Head of Service at the earliest opportunity.
- 1.8 An officer with an interest in a contract shall take no part in advising on the Authority's dealing with that contract. If the officer is present at a meeting when the contract is discussed, he or she shall forthwith declare that interest

and withdraw from the meeting while it is under discussion, unless the chair of the meeting invites him or her to remain.

- 1.9 The Chief Executive shall record in a book, to be kept for the purposes of recording any notice given by an officer of the Authority, under 1.7 above and/or Section 117 of the Local Government Act 1972 and the book shall be open during office hours to the inspection of any member of the Council.

2. VALUE FOR MONEY

Value of the Contract Opportunity and Aggregation

- 2.1 The Authority is under a duty to ensure that funds are spent in a way that achieves “value for money” for the Authority. Officers involved in procuring supplies, services or works should be mindful of this duty.
- 2.2 When an officer has identified the need to procure supplies, services or works, the relevant Head of Service shall assess the value of the proposed arrangement. The value is the total amount that the Authority expects to pay for the contract over a rolling period, either in a single sum or periodically over time. Unless the exact duration of a contract is known, It is suggested that officers should use a 4 year period as the nominal duration of a contract when considering aggregating spend.
- 2.3 Purchases should be aggregated to make the best use of the Authority’s purchasing power. Where a recurring pattern of purchases can be identified for similar supplies, services or works across the Authority, consideration shall be given to whether one contract would represent better value in terms of price, service, invoicing or other administrative costs. It is the Head of Services’ responsibility to have due regard to the aggregation of contract values.
- 2.4 The principles of aggregation in EU procurement law are designed to ensure that authorities do not deliberately split contracts which have similar characteristics into separate contracts so that they fall below the relevant thresholds (unlawful disaggregation).
- 2.5 Notwithstanding this, procuring officers shall consider the sub-division of procuring supplies, services or works into lots, facilitating access for small and medium enterprises. Where the decision is taken not to sub-divide a procurement into lots, the reasons shall be recorded.

The Procurement Hierarchy

- 2.6 When an officer has identified a need to procure new supplies, services or works, they shall first consider these options in turn (the Procurement Hierarchy):

- 2.6.1 any current arrangements in existence in-house;
 - 2.6.2 any existing contracts entered into by the Authority; and
 - 2.6.3 any provision available through other third party contracts or framework agreements, including those provided by public sector buying consortia, where they can be shown to offer value for money for the Authority.
- 2.7 Where the officer determines that no provision is available from the sources in the Procurement Hierarchy or that in the circumstances they do not represent value for money, they shall have regard to these Standing Orders in determining which procurement option is the appropriate one to follow.
- 2.8 The Head of Finance is responsible for maintaining a schedule of the Authority's planned procurements. Head of Services shall be responsible for ensuring that all contracts proposed to be entered into by the Authority in the coming financial year are notified to the Procurement Team for inclusion in the procurement plan.

3. SPECIAL CIRCUMSTANCES (EXEMPTION AND WAIVER)

Exemption

- 3.1 Notwithstanding the provisions of these Standing Orders and subject only to the requirements of law:
- 3.1.1 exemption from any of the provisions of these Standing Orders may be granted by the Council acting through the Chief Executive (or where appropriate, Acting or Deputy Chief Executive), in consultation with the Chief Finance Officer and the Monitoring Officer, upon it being shown to their satisfaction that there are **special circumstances** justifying such exemption. Such special circumstances shall fall under at least one of the following two categories:
 - (a) only one supplier is available for technical or artistic reasons and no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing of the parameters of the procurement;
 - (b) extreme urgency exists for unforeseen reasons which are not attributable to the Authority and the various time limits cannot be met. Inadequate forward planning would not constitute special circumstances and an exemption shall not be permitted in such circumstances,

- 3.1.2 any request under 3.1.1 above shall be made in writing on the approved form which shall be certified by the officers specified in 3.1.1 above; and
- 3.1.3 the Cabinet shall be informed of the exercise of any authority pursuant to this Standing Order by the Directors or Chief Executive and any such report will include confirmation that the officers —specified in 3.1.1 have been consulted and such exemption granted

Waiver

- 3.2 If, in exceptional circumstances, authority is sought from Cabinet to waive these Standing Orders, the report to Cabinet must give adequate reasons and specify precisely the procedures to be waived and must first be approved by the Monitoring Officer.
- 3.3 Where specific legislation requires the Authority to let a contract differently from as set out in these Standing Orders, these Standing Orders shall be deemed waived without recourse to Cabinet, Council or the Statutory Officers.

4. FRAMEWORK AGREEMENTS

- 4.1 Where it is determined to use a framework agreement to meet the identified need of the Authority, the officer shall seek the advice of the Procurement Team and Legal Services in relation to the use of such framework and the contractual arrangements.
- 4.2 When calling-off supplies, services or works under a framework agreement, the selection procedure, including award criteria, from within the framework agreement shall be used. Officers must comply with all rules and regulations set out within a framework agreement in relation to direct call-off of contracts (direct award) and re-opening of competition between providers appointed on to that framework (mini-competition).

5. SELECTING A PROCUREMENT ROUTE

Initial Considerations

- 5.1 In relation to any contract for the supply of supplies, services or works to the Authority the functions described in Section 17(4) of the Local Government Act 1988 shall be exercised without any reference to any of those matters set out in Section 17(5) of that Act. (Section 17.4 describes the functions to which this legislation applies and Section 17.5 details what is regarded as non commercial issues that must be ignored when entering into a contract for the supply of supplies, services or works). This shall at all times be subject to the provisions of 5.2 below.

5.2 In relation to any contract for the supply of services not through an existing framework or existing arrangement, the officer shall have regard to the considerations set out in the Public Services (Social Value) Act 2012. Specifically, the officer must consider how the services might (in addition to the service requirement) improve the economic, social and environmental well-being of the district and how the procurement itself might be conducted to secure that improvement.

5.3 All procurement documents (including business questionnaires, specifications and contracts) shall be completed prior to advertising the contract opportunity.

Procedures for Determining Which Procurement Option to Follow

5.34 Where an officer has reasonably determined not to use any available options in the Procurement Hierarchy, the following provisions shall apply.

5.45 When the officer has assessed the value of the proposed arrangement (see above), the appropriate procurement route shall be determined in accordance with the Threshold Table (below).

5.56 Notwithstanding the provisions in the Threshold Table, lower value procurements can be conducted using a more sophisticated process as long as it remains objectively reasonable and proportionate to do so and secures open, transparent and fair competition.

Threshold Table

Contract Value		Process	Award Procedure based on	Advertise Contract Opportunity	Documentation
From	To				
Minor Purchases					
£0	£999	N/Ao prescribed process	N/AOfficer's discretion	N/A	Purchase Order
Band A (Minor)					
£999£10K Band B (Small)	£25,000 £24,999	Quotation Written Quotation	Seeking a minimum of three written quotations Seeking a minimum of three written quotations	N/A Source from preferred supplier solution in first instance	Budget holder to record details when authorising order. Must be based on a written specification provided to the supplier
Band B					
£25K	EU—	Formal Tender	Full Tender Process	Source Leics NWL Web site	ITT documentation using NWL E-tendering Portal

<p style="color: red; margin: 0;">Band C (Large)</p> <p style="font-size: small; margin: 5px 0;">NOTE: the EU threshold is a figure set out by the EU and varies from time to time. Please seek advice from the Procurement Team.</p> <p style="color: blue; margin: 5px 0;"><u>Band C (EU)</u></p>			Contracts Finder		
<u>Band C</u>					
EU	Above	Formal Tender	Full Tender Process	OJEU Source Leics NWL Web site Contracts Finder	ITT documentation using NWL E-tendering portal

Authority to award contracts

5.67 Officers may only enter into a contract if they have sufficient authority to do so. Legal advice in respect of authority to award contracts can only be given to the extent that such authority is set out in the Constitution. Officers are responsible for knowing the extent of any delegated authority they may have and ensuring they do not exceed that.

5.78 The Authority's Constitution contains the Scheme of Delegation, which sets out what decisions can be made by which body, individual or group of individuals. For the purposes of awarding contracts, the following Authorisation Table provides an initial indication of where those decisions sit. However, officers should take advice from Legal Services as to the appropriate source of authority to award where they are unsure.

Authorisation Table and Signatories

5.89 It is for individual Officers to ascertain the limits of their authority to sign-award contracts and orders. Some Officers have unlimited authorisation levels, please see Paragraph 11 – Designated Authorised Officers of Section 7 – Scheme of Delegation to Staff, Council and Executive Functions. An officer may award a contract provided that the value of that contract does not exceed their level of financial authorisation (see paragraph D.5 of the Financial Procedure Rules). The below table provides a guide for Officers in salary bands A-I, who should check with their line managers and/or the finance department as to what they are and are not authorised to commit the Council to.

5.10 The authority to award a contract (i.e. decide that the contract should be given to a particular supplier) is separate from authority to sign the contract. Contracts valued up to £25,000 may be signed by any officer (or awarded by issuing a purchase order) provided that the contract value does not exceed their financial authorisation. All contracts above £25,000 must be signed by the Head of Legal and Support Services or their appointed nominee.

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

	Approval	Reference in Constitution
£100,000 and above <u>(unless term is less than 5 years and contract does not exceed £100k in any one year in which case threshold is £250k)</u>	Cabinet (Financial Key Decision)	Section 4 (2)(31)
Up to £250,000 <u>(where term is less than 5 years and contract does not exceed £100k in any one year)</u>	<u>Chief Executive or Relevant Director</u>	<u>Scheme of Delegation paragraph 3(iv)</u>
Up to £99,999	Chief Executive or Relevant Director	Scheme of Delegation paragraph 3(iv)
Up to £49,999	Heads of Service	As set by the Statutory Officers <u>(paragraph D.5 of the Financial Procedure Rules)</u>
Up to £24,999	Team Managers	As set by the Statutory Officers <u>(paragraph D.5 of the Financial Procedure Rules)</u>
Up to £9,999	Officers in salary bands G, H and I, at the request of their Director or Head of Service	Dependent on individual post and as set by the Statutory Officers <u>(paragraph D.5 of the Financial Procedure Rules)</u>
Up to £4,999	Officers in salary bands D, E and F, at the request of their Director or Head of Service	Dependent on post and as set by the Statutory Officers <u>(paragraph D.5 of the Financial Procedure Rules)</u>
Up to £2,000	Officers in salary bands A, B & C, at the request of their Director or Head of Service	Dependent on post and as set by the Statutory Officers <u>(paragraph D.5 of the Financial Procedure Rules)</u>

6. CONDUCTING A PROCUREMENT EXERCISE

Band A (~~Minor~~) Contracts

6.1 For any single contract, not related to or part of any larger procurement, whose value is ~~less than £10,000~~between £1,000 and £24,999.00, three ~~verbal~~written quotations shall be obtained.

~~6.2 Officers shall first consult the Authority's preferred supplier list. If the officer is unable to obtain three suitable providers from the Authority's preferred supplier list, they may then seek quotations from other providers.~~

6.32 Where officers are seeking written ~~verbal~~ quotations:

6.32.1 Heads of Service shall ensure that the selection process used is fair and equitable and in accordance with these Standing Orders;

6.32.2 officers must select the quotation which offers value for money for the Authority. In ~~most~~ Band A (~~Minor~~) contracts, value for money will normally be shown by choosing the most economically advantageous quotation and in assessing this officers should be mindful of price, quality and the added economic, social and environmental benefits that could be obtained by procuring supplies, services or works in a particular way;

6.32.3 The Head of Service shall be responsible for keeping a record for audit purposes of:

(a) all those contractors that were requested to provide a quotation;

(b) the reasons why those particular contractors were selected to provide a quotation; and

~~(c) if applicable, the reasons why less than three contractors were selected to provide a quotation; and~~

~~(d)~~ the reason for selecting the winning quote;

6.32.4 notwithstanding where the supplies, services or works sought are a repetition of a previous procurement, subject to the rules above in relation to aggregation, new quotations should be obtained each time, to ensure the prices paid represent value for money for the Authority.

~~Band B (Small) Contracts~~

- ~~6.3 Subject always to the Council's duty to obtain value for money, where the relevant Head of Service is satisfied that there are sufficient reasons for three quotes not being obtained in respect of a Band A contract, that Head of Service may authorise the award of a Band A contract even though fewer than three quotes have been obtained.~~
- ~~6.4 For any single contract not related to or part of any larger procurement, whose value is more than £10,000, but less than £25,000, the officer shall produce a written specification for the supplies, services or works being sought and three written quotations shall be obtained.~~
- ~~6.5 Officers shall first consult the Authority's preferred supplier list. If the officer is unable to obtain three suitable providers from the Authority's preferred supplier list, they may then seek quotations from other providers.~~
- ~~6.6 Where officers are seeking written quotations:~~
- ~~6.6.1 Heads of Service shall ensure that the selection process used is fair and equitable and in accordance with these Standing Orders;~~
- ~~6.6.2 officers must select the quotation which offers value for money for the Authority. In most, but not all, Band B (Small) contracts, value for money will normally be shown by choosing the most economically advantageous quotation and in assessing this officers should be mindful of price, quality and the added economic, social and environmental benefits that could be obtained by procuring supplies, services or works in a particular way;~~
- ~~6.6.3 The Head of Service shall be responsible for keeping a record for audit purposes of:~~
- ~~(a) all those contractors that were requested to provide a quotation;~~
- ~~(b) the reasons why those particular contractors were selected to provide a quotation;~~
- ~~(c) if applicable, the reasons why less than three contractors were selected to provide a quotation; and~~
- ~~(d) the reason for selecting the winning quote;~~
- ~~6.6.4 notwithstanding where the supplies, services or works sought are a repetition of a previous procurement, subject to the rules above in relation to aggregation, new quotations should be obtained each time, to ensure the prices paid represent value for money for the Authority.~~

Band ~~C~~B (Large) Contracts

6.74 For any single contract, not related to or part of any larger procurement, whose value is £25,000 or more, but less than the relevant EU threshold, the officer shall conduct a formal tender using a template to be provided by the Procurement Team and accompanied by terms and conditions prepared with advice from Legal Services.

6.85 Where officers conduct a formal tender:

6.85.1 the opportunity shall be advertised on the Source Leicestershire website, Contracts Finder and the Authority's website, by the Procurement Team;

6.85.2 Heads of Service shall ensure that the selection process used is fair and equitable and in accordance with these Standing Orders;

6.85.3 officers must select the quote which offers value for money for the authority. In ~~some~~ Band ~~CB (Large)~~ contracts, value for money will normally be shown by choosing the most economically advantageous quotation and in assessing this officers should be mindful of price, quality and the added economic, social and environmental benefits that could be obtained by procuring supplies, services or works in a particular way;

6.85.4 Notwithstanding where the supplies, services or works sought are a repetition of a previous procurement, subject to the rules above in relation to aggregation, new tenders should be obtained each time, to ensure the prices paid represent value for money for the Authority.

6.96 The EU threshold is an amount set out by the EU and can vary year to year. The Cabinet Office confirms the amounts in Sterling. Please seek advice from the Procurement Team as to the current EU thresholds.

~~Preferred Supplier List~~

~~6.10 The Authority has a preferred supplier list which is managed by the Procurement Team. The preferred supplier list is a directory of businesses and shall be used in accordance with these Standing Orders.~~

~~6.11 Where an Officer is seeking quotations for Band A and Band B contracts from the preferred supplier list, they shall in the first instance restrict the selection of businesses to those based locally.~~

~~6.12 Details of the preferred supplier list are available from the Procurement Team.~~

7. CONTRACTS TO WHICH THE PUBLIC PROCUREMENT REGULATIONS APPLY (BAND ~~D-C~~ – EU)

- 7.1 For any contract whose value is more than the threshold amounts set out the Public Contracts Regulations 2015 (as amended from time to time), tenders shall be sought in accordance with those regulations.
- 7.2 The procuring officer must note that the Public Contracts Regulations 2015 contain minimum timescales for a procurement exercise and therefore it is imperative that advice is sought from both the Procurement Team [and](#) Legal [and](#) Services well in advance of the commencement of the procurement exercise.
- 7.3 The provisions of these Standing Orders shall continue to apply to such a contract only to the extent that they do not conflict with the provisions of the Public Contracts Regulations 2015.

8. TYPES OF TENDER FOR BAND ~~C-B~~ CONTRACTS

Open Tendering

- 8.1 This is a procedure by which a contract is let following publication of an advertisement inviting all those expressing an interest in the contract to submit a bid at the same time. This is a one stage procedure.
- 8.2 The advertisement shall:
- 8.2.1 specify details of the supplies, services or works the Authority is procuring;
 - 8.2.2 specify the contract duration and proposed commencement date;
 - 8.2.3 specify any other requirements for participating in the procurement;
 - 8.2.4 specify a contract reference number;
 - 8.2.5 specify a reasonable (in the circumstances of the contract opportunity) date and time, being not less than 21 days from the date of the advertisement, by which such expressions of interest are to be received by the Authority;
 - [8.2.6 specify the criteria against which submissions are to be evaluated;](#) and
 - 8.2.67 specify the appropriate electronic tender box code and details of how to access documentation.

Restricted Tendering

- 8.3 This is a two stage procedure by which a contract is let following publication of an advertisement seeking expressions of interest from tenderers to participate. Following evaluation of the pre-qualifying submissions, no fewer

than three qualified bidders shall be invited to tender for the contract. This route to the market is particularly suitable where a large response is anticipated. In relation to works, this procedure may only be used for where the value of the works exceeds the threshold in the Public Contracts Regulations 2015 for services. This procedure may not be used for procuring services or supplies save to the extent that such services fall within the scope of Schedule 3 (Social and Other Specific Services) of the Public Contracts Regulations 2015.

8.4 The advertisement shall:

- 8.4.1 specify details of the supplies, services or works the Authority is procuring;
- 8.4.2 specify the contract duration and proposed commencement date;
- 8.4.3 specify any other requirements for participating in the procurement;
- 8.4.4 specify a contact reference number;
- 8.4.5 specify a time limit, being not less than 21 days from the date of the advertisement within which such expressions of interest are to be received by the Authority;
- 8.4.6 specify a time limit, being not less than 21 days from the date of inviting shortlisted bidders to submit their tender, within which such tenders are to be received by the Authority;
- 8.4.7 specify the criteria against which submissions are to be evaluated;
and
- 8.4.78 specify the appropriate electronic tender box code and details of how to access documentation.

~~8.5 In relation to works only:~~

- ~~8.5.1 advertisements need not be placed in accordance with 8.4 (above) where no fewer than three bidders can be selected from the Authority's preferred supplier list and invited to tender;~~
- ~~8.5.2 in the event that less than three bidders can be selected, an advertisement shall be placed in accordance with 8.4 (above).~~

8.65 After the expiry of the period specified in the advertisement and following proper evaluation of the returned Standard Selection Questionnaire (SSQ)~~Pre- Qualification Questionnaires (PQQ)~~, in accordance with the criteria specified, invitations to tender for the contract shall be sent to:

8.65.1 not less than three of the persons or bodies who returned a satisfactorily completed [PQQ-SSQ](#) and has been shortlisted, selected by the Authority; —or

8.65.2 where fewer than three persons or bodies have applied or have satisfactorily completed the [PQQSSQ](#), those persons or bodies which the Authority consider suitable.

9. SPECIFICATIONS

- 9.1** Full tenders shall be accompanied by an appropriate specification, clearly setting out the Authority's requirements for the goods, works or services to be supplied.
- 9.2** Specifications should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the contract to be monitored and managed.
- 9.3** Where appropriate, officers shall take all necessary professional advice to ensure the specification sufficiently expresses the Authority's requirements and ensure the output of the contract represents value for money. Any third party engaged to support the preparation of the specification shall not be invited to bid for the substantive contract.

10. SUBMISSION OF TENDERS AND EVALUATION CRITERIA

Submission of Tenders for Band ~~C-B~~ (Large) Contracts

- 10.1** Where in pursuance of these Standing Orders invitation to tender is made, every invitation shall state the process for registering and submitting tenders and the signed Form of Tender using the NWL E-tendering portal.
- 10.2** No tender received after the time and date specified in the invitation shall be considered, unless the relevant Head of Service thinks it is reasonable to do so in the circumstances.
- 10.3** Every invitation to tender shall state:
- 10.3.1 that the Authority is not bound to accept any tender, including the lowest;
 - 10.3.2 the tender evaluation criteria, with full explanation;
 - 10.3.3 a statement that the Authority is obliged to comply with the Freedom of Information regime;
 - 10.3.4 closing date and time for receipt of tenders and the web address to which tenders should be sent; and
 - 10.3.5 a requirement that the tenderers accept full responsibility for ensuring compliance with the terms of these Standing Orders and that any failure to do so may render that tender liable to disqualification.

Evaluation Criteria

- 10.4** Evaluation criteria must be designed to secure an outcome providing value for money for the Authority on the basis of the Most Economically Advantageous Tender, expressed as the price/quality balance in percentage terms. Appropriate sub-criteria should also be included referring to relevant considerations and guidance should be given to tenderers on how their responses will be scored. Further advice can be provided by the Procurement Team.
- 10.5** Evaluation criteria must not include:
- 10.5.1 non-commercial considerations, save as expressly set out in these Standing Orders;
 - 10.5.2 matters which discriminate against suppliers from the European Economic Area; and
 - 10.5.3 a general provision allowing for the highest mark to be awarded for tenders which exceed the specification.
- 10.6** Within every invitation to tender there shall be reference made to the requirements on public bodies with regard to the Freedom of Information Act 2000. Such a reference shall include notice to the tenderer that:
- 10.6.1 the Authority has a duty of 'openness' under the act;
 - 10.6.2 it is the Authority and not the tenderer who makes the decision on the release of information within a tender;
 - 10.6.3 any claim by the tenderer that information within a tender is exempt under the act will be considered by the Authority. However, a simple assertion that any disclosure would prejudice commercial interests is not sufficient. The assertion must be supported by reasoned argument and where practical, by empirical evidence. Any decision to treat all or some information within a tender as exempt may be reviewed if any further requests are received over time;
 - 10.6.4 the Authority will consult with them before making any disclosure; and
 - 10.6.5 the Authority has a system for dealing with any appeals under the act.

Submission of Tenders for Band **D-C** (EU) Contracts

- 10.7** Tendering processes shall comply with the Public Contracts Regulations 2015. In the event of a conflict between these Standing Orders and the Public Contracts Regulations 2015, the latter shall take precedence.

11. OPENING AND ACCEPTANCE OF TENDERS

- 11.1 This Rule shall apply to Band ~~G-B~~ (Large) and Band ~~D-C~~ (EU) contracts
- 11.2 Tenders received under these Standing Orders shall be opened at one time and only following the date on which the receipt of tenders closed.
- 11.3 Tenderers shall be notified of the acceptance or rejection of their tenders.
- 11.4 Detailed feedback shall be provided to all unsuccessful bidders.

12. TENDER EVALUATION AND AWARD OF CONTRACTS

- 12.1 All tenders shall be properly evaluated by the relevant Director or their nominated officer in accordance with the published award criteria and in accordance with any specific requirements of any relevant EU Directive or English legislation. The Procurement Team shall be notified of any evaluations being conducted by procuring officers and a member of the Procurement Team may participate in the evaluation process if they consider it appropriate.
- 12.2 A tenderer's error in the computation of the pricing of their tender will be corrected and the tenderer asked to stand by the corrected tender or to withdraw the tender.
- 12.3 Post tender negotiations shall only be by exception and in accordance with the Public Contracts Regulations 2015. Authority to enter into post tender negotiations may only be granted by the Chief Executive ~~and or~~ relevant Director. Officers who are authorised to carry out post-tender negotiations shall ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 12.4 Where award is based on lowest or highest price, a tender other than the lowest tender if payment is to be made by the Authority or the highest tender if payment is to be received by the Authority shall not be accepted except where there are justifiable reasons for doing so, for instance:
 - 12.4.1 the procurement of a named product required to be compatible with an existing product, i.e. computer software;
 - 12.4.2 an alternative pre-tender evaluation criteria has been determined;in such circumstances the Statutory Officers shall be consulted and written confirmation of their agreement retained for audit purposes.
- 12.5 If the relevant Director considers the lowest priced tender, highest priced tender or most economically advantageous tender (as appropriate) to be

abnormal given the nature of the contract, the tenderer shall be asked to clarify in writing the reasons for its tender and the Director shall take that explanation into account in deciding whether the tender will be accepted.

- 12.6** All contract awards shall be notified promptly to the Procurement Team in order that the details can be recorded in the Contracts Register and inform the Procurement Plan.

13. CONTRACT CONDITIONS

- 13.1** Every procurement which exceeds £25,000 in value shall be a formal contract in writing and signed by the Head of Legal Services or their nominee. The procuring officer should seek the advice of Legal Services at the earliest opportunity in this regard.

- 13.2** Such contract shall, unless the Head of Legal and Support Services deems it disproportionate:

13.2.1 specify the supplies, services or works to be supplied or executed; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties or specified in these Standing Orders;

13.2.2 where a contract exceeds £200,000 and the Head of Finance deems appropriate, contain a requirement that a contractor give sufficient security for the due performance of the contract provided that this shall not apply where the goods and materials are supplied and payment is not made until completion of works;

13.2.3 include provisions for the termination and recovery of any sums paid where there has been evidence of bribery or corruption or any breach of the Bribery Act 2010 or section 117(2) Local Government Act 1972;

13.2.4 include provisions entitling the Authority to terminate part or all of the contract or to obtain substituted provision of the supplies, services or works to be supplied under the contract in the event of a breach of contract by or the insolvency of the contractor;

13.2.5 include prohibitions on the contractor from sub-contracting, assigning or otherwise transferring the contract without the prior written consent of the Authority and providing that the contractor shall remain liable to the Authority for any part of the contract that may be sub-contracted;

13.2.6 include provisions securing the contractor's compliance with relevant legislative requirements, including as a minimum in relation to:

- (a) Health and Safety;
- (b) Human Rights;
- (c) Freedom of Information;
- (d) Data Protection;
- (e) Confidentiality;
- (f) Bribery and corruption; and
- (g) Equalities and discrimination.

13.2.7 provide for indemnities in favour of the Authority for any breach of the above and for the acts and omissions of the contractor in carrying out the contract;

13.2.8 provide for compliance with those of the Authority's policies relevant to the provision of the supplies, services or works;

13.2.9 provide for the protection of the Authority's intellectual property rights, where appropriate;

13.2.10 provide for, where the supplies, services or works require it, appropriate restrictions or conditions precedent in relation to the protection of vulnerable persons, including requiring Disclosure and Barring Service checks;

13.2.11 provide for the Authority's right to monitor and audit the supplies, services or works under the contract and for the contractor's provision of assistance in such monitoring and in securing improvements in economy, efficiency and effectiveness, as specified in Section 3 of the Local Government Act 1999, where appropriate. Such assistance may include setting performance indicators, benchmarking implementing performance plans and/or periodically reviewing the services;

13.2.12 be governed by the laws of England and subject to the exclusive jurisdiction of the Courts of England;

13.2.13 comply with the laws of England and any applicable EU legislation or regulation.

13.3 Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current at the date of the tender, every contract shall require that all goods and materials used or supplied, and all the workmanship shall be at least of the standard required by the appropriate British Standard Specification or Code of Practice.

13.4 Every contract which exceeds £250,000 shall be in writing and under the Common Seal of the Authority.

- 13.5** Where a contract exceeds £50,000 in amount or value, provide for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified, where the appropriate Head of Service considers appropriate.
- 13.6** The provisions of these Standing Orders do not prevent the use of a formal contract for a procurement less than £25,000 where on receipt of advice from Legal Services the relevant Head of Service considers it appropriate.
- 13.7** It shall be a condition of any agreement between the Authority and any person (not being an officer of the Authority) who is required to supervise a contract between the Authority and a third party on the Authority's behalf that, in relation to such contract, he/she shall comply with the requirements of these Standing Orders as if he/she were an officer of the Authority.
- 13.8** In all areas of tendering, negotiating, letting or renewing, performing, reviewing, amending, discharging or terminating any contract to which the Authority is either a party or of which it is a beneficiary, regard shall be had to the requirements of economy, efficiency and effectiveness specified in Section 3 of the Local Government Act 1999.
- 13.9** Ensure compliance with Risk Management Guidelines on insurance levels and require such insurances as the relevant Head of Services determines appropriate in consultation with the Section 151 Officer.
- 13.10** Where a main contractor indicates in their tender submission the use of sub-contractors, the officer will ensure that:
- 13.10.1 the main contractor verifies they have vetted the sub-contractor to ensure that they meet the standards in all areas that the main contractor has undertaken to meet in their submission;
 - 13.10.2 the supplies, services or works they have been sub-contracted by the main contractor to provide, remains the responsibility of the main contractor.
- 13.11** Where a framework agreement is used to meet the Authority's need for supplies, services or works, this Standing Order shall only apply to the extent that the framework's call-off terms do not include these provisions and the framework agreement provides for a variation to such terms.

14. CONTRACT AND PERFORMANCE MANAGEMENT

- 14.1** Contract management arrangements shall be set out in any invitation to tender and incorporated into any subsequent contract.

- 14.2** An identified contract manager shall be appointed for each Band ~~C-B~~ and ~~D-C~~ contract.
- 14.3** The Head of Legal and Support Services may agree the variation or novation of any contract originally awarded under delegated authority. The variation or novation of a contract originally awarded by the Cabinet shall only be agreed by the Cabinet, save to the extent that such variation is of a minor nature or accounted for in the contract.
- 14.4** No contract entered into by the Authority may be extended by duration or value unless:
- 14.4.1 where the contract is a Band ~~D-C~~ (EU) contract, such extension was provided for in the original OJEU notice and contract documentation;
 - 14.4.2 where the contract is a Band ~~C-B (Large)~~ contract or of lesser value, such extension would not mean that, had it been included in the original contract, the overall value would have exceeded the EU threshold; and
 - 14.4.3 alternative options have been considered and the relevant Head of Service is satisfied that this option represents value for money and is in the best interests of the Authority in light of the contractor's performance.
- 14.5** All extensions to Band ~~C-B (Large)~~ and Band ~~D-C~~ (EU) contracts shall be promptly notified to the Procurement Team.
- 14.6** A contract is a live document. Contract managers and officers shall have regard to the provisions of the contract in observing and monitoring performance of the contract, handling disputes and terminating a contract. Where officers are unclear of the provisions or operation of a contract they should promptly seek advice from Legal Services.

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

POLICY DEVELOPMENT GROUP – 20 SEPTEMBER 2017

Title of report	UPDATE OF THE COUNCIL'S CONSTITUTION
Contacts	<p>Councillor Nicholas Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk</p> <p>Chief Executive 01530 454500 bev.smith@nwleicestershire.gov.uk</p> <p>Head of Legal and Support Services 01530 454762 elizabeth.warhurst@nwleicestershire.gov.uk</p>
Purpose of report	To seek Scrutiny's comments on and recommendation to Council on proposed amendments arising from the Annual Review of the Constitution
Reason for Decision	To comply with the Constitutional update procedure agreed by Council
Council Priorities	
Implications:	
Financial/Staff	None.
Link to relevant CAT	
Risk Management	A clear and up to date Constitution will minimise the risk of the Authority failing to comply with statutory requirements and assist in delivering its priorities and objectives.
Equalities Impact Assessment	Not applicable.
Human Rights	Not applicable.
Transformational Government	Clear and robust governance arrangements and procedures assist with the effective and efficient delivery of services and proper decision making.

Comments of Head of Paid Service	Report is satisfactory
Comments of Section 151 Officer	Report is satisfactory
Comments of Monitoring Officer	Report is satisfactory
Consultees	Strategy Group Statutory Officers. Head of Legal and Support Services. Head of Finance
Background papers	None
Recommendations	THAT POLICY DEVELOPMENT GROUP NOTE AND COMMENT ON THE SUGGESTED AMENDMENTS TO THE CONSTITUTION CONTAINED IN PARAGRAPHS 6.1, 7.8 AND 8.3 AND RECOMMEND THEM TO COUNCIL FOR APPROVAL

1.0 BACKGROUND

1.1 Full Council regularly considers items relating to updates to the Constitution. The updates are generally required due to legislative and organisational changes or to clarify and improve processes within the Authority to reflect best practice. Members may recall that, in response to comments and suggestions made by members at Council, it was agreed that:

- (i) the Constitution underwent one main annual review - around the time of Annual Council;
- (ii) any remaining changes or matters arising after this date would be dealt with by way of one mid year review;
- (iii) further reviews or changes would only be suggested outside this process if legislation or national guidance required it;
- (iv) there was some “scrutiny” of the main annual review report whilst in draft and prior to its publication;
- (v) there would be informal consultation / engagement with members on the mid year and other reviews.

2.0 ROLE OF SCRUTINY

2.1 Where amendments are identified and proposed Policy Development Group are asked to consider the draft Council report and comment on the suggested amendments.

3.0 PROCESS OF REVIEW

- 3.1 As indicated at 1.1 above updates are generally required due to legislative and organisational changes or to clarify and improve processes within the Authority to reflect best practice.
- 3.2 Each year a survey of Officers is undertaken and they are invited to submit proposed amendments for consideration by the Monitoring Officer which arise from legislative changes, organisational changes or for reasons of business efficiency
- 3.3 In parallel with this process the Legal Services Team review any proposed legislation which is likely to require amendments to the constitution.

4.0 DISCUSSION

- 4.1 The constitution is currently undergoing a periodic review of its content to reflect best practice and legislative changes.

5.0 CHANGES TO THE CONSTITUTION ARISING FROM THE REVIEW

The Role of Policy Development Group (Scrutiny)

- 5.1 Every local authority that operates Executive arrangements is required by Section 9F of the Local Government Act 2000 is required to appoint one or more committees of the authority to review or scrutinise decisions made or other action taken in connection with the discharge of any functions which are the responsibility of the executive.
- 5.2 This review function includes the right to 'call-in' a decision for review.
- 5.3 At this Council the scrutiny function lies with Policy Development group (PDG).
- 5.4 Currently the constitution specifies that PDG will hold four meetings per year, with an additional facility to arrange ad-hoc meetings in the event that a call-in cannot be dealt with at a previously scheduled meeting.
- 5.5 As a matter of routine PDG is asked to consider and comment in advance on decisions to be made by Cabinet and Council, for example on budget proposals and constitutional changes. The cycle of PDG meetings is not always synchronised with the decision making process for example and this can cause both delays in reports being submitted to PDG and a heavy workload at meetings.

Recommendation

- 5.6 It is proposed that the number of meetings of PDG be increased from 4 to 6 and that where possible 'call-in's' will be dealt with at the next scheduled meeting although the ability to call an extra meeting to consider a call-in is retained.**

The proposed amendment to the constitution is attached at Appendix 1.

6.0 Contract Procedure Rules

- 6.1 In 2015 as a result of the enactment of the Public Contracts Regulations 2015 the Council reviewed and updated its Contract Procedure Rules which set out the procedures that officers should consider when procuring goods and services.

6.2 Officers now consider it appropriate that further amendments are made to reduce the administrative burden on officers and members and to streamline the procedures to make them more effective and efficient.

6.3 Arising from this review members attention is drawn to the following points:

6.4 Key Decisions

6.5 The Constitution currently defines a key decision as a decision whereby the Council will either incur expenditure or result in a saving of £100,000. This value has not been increased for at least 10 years.

6.6 Unless there is a pre-existing delegation Key decisions must be made by Cabinet.

6.7 As a result of the fact that the financial value has not been increased the number of requests for Cabinet approval for contracts where the aggregated value over the term of the contract exceeds £100,000 is increasing, when in reality those contracts are 'business as usual'.

Recommendation

6.8 It is proposed therefore that whilst the financial value of a Key Decision is maintained at £100,000 a mechanism is adopted that excludes contracts from the definition of a key decision where:

The expenditure is in relation to a contract for goods or services and:

- 1) The term of the contract is for more than 1 year and less than 5 years, and:***
- 2) The aggregated value of the contract does not exceed more than £250,000 over its term, and:***
- 3) The value of the contract does not exceed £100,000 in any one year of the term***

A copy of the proposed amendments to the constitution is attached as Appendix 2

6.9 Contracts

6.10 The Council currently has three types of contract, Small, Medium and Large, each with different procurement requirements.

6.11 Small – Current requirement

Currently the process for spending anything above £0 to £999.00 requires that three verbal quotes are obtained. As a result the rules are onerous for trivial purchases, and can create a culture of ignoring the rules when officers are spending small amounts (of say up to £100.00). The rule is also difficult to enforce.

Medium sized purchases

Purchases between £1,000 and £10,000 require three verbal quotes and purchases between £10,000 and £24,999 require three written quotes against a specification.

The constitution also requires that appropriate officers are authorised signatories for incurring expenditure. The level of authorisation is determined by the Head of Finance in

conjunction with Internal Audit and will vary dependent upon the seniority of the officer. Currently officers who are authorised to incur expenditure may not be authorised to enter into formal contracts and creates uncertainty amongst staff about the correct authorisation procedures and creates more bureaucracy. The proposed amendment to the procedure will empower staff to make practical decisions and reduce unnecessary bureaucracy.

6.12 Recommendations

That small and medium contracts be merged within the constitution

All spend below £999.00 is delegated to the budget holders professional judgement which will be auditable by reference to the purchase order which will also provide sufficient finance and governance oversight.

That officers who are authorised signatories are also authorised to enter into contracts up to the level of the authorisation (except where other provisions in the contract procedure rules prohibit it).

A copy of the proposed amendments to the constitution is attached as Appendix 3.

- 6.13 That the Monitoring Officer is authorised to make any consequential amendments required to the constitution

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EXTRACT of the MINUTES of a meeting of the POLICY DEVELOPMENT GROUP held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 20 SEPTEMBER 2017

Present: Councillor M Specht (Chairman)

Councillors N Clarke, T Eynon, J Geary, D Harrison, G Hoult, P Purver, V Richichi, A C Saffell and N Smith

In Attendance: Councillor J Legrys

Portfolio Holders: Councillor A V Smith MBE

Officers: Mr C Brown, Mr D Gill, Ms K Greenbank, Mr A Hunkin and Mrs R Wallace

24. UPDATE TO THE COUNCIL'S CONSTITUTION

The Deputy Monitoring Officer presented the report, drawing Members attention to the proposed changes regarding the increase in the number of Policy Development Group meetings, key decisions and contracts.

In response to a question from Councillor J Geary, the Deputy Monitoring Officer reported that there was a contracts register which was available for public viewing.

Councillor J Geary expressed concerns regarding the proposed changes to small contracts as he felt that obtaining three quotes was important to ensure that the Council was getting value for money. The Deputy Monitoring Officer explained that officers would still seek value for money, the change was intended to reduce the amount of unnecessary paperwork and give responsibility to officers. He assured Councillor J Geary that the appropriate checks would still be undertaken through the purchase order system and the finance team would also be monitoring. Councillor J Geary still believed a formal record of quotes obtained should be kept to ensure value for money.

Councillor J Geary drew officers' attention to paragraph 13.1 on page 64 of the report as it was not gender neutral because of a reference to 'her'. The Deputy Monitoring Officer acknowledged it and would make the amendment.

Councillor A C Saffell commented that the Council's Constitution was very lengthy and repetitive. He understood that it was a legal document but he would like to see the document shortened rather than growing with each amendment. The Deputy Monitoring Officer agreed that the document was lengthy but was generally due to change in legislation. He reported that it would be a large project to review the Council's Constitution in its entirety but it was something that could be done with Members involvement through a task and finish group. Councillor A C Saffell stated that he would be looking through the document and would let the Deputy Monitoring Officer have any comments. He agreed with the suggestion of a task and finish group.

Councillor T Eynon suggested that the Policy Development Group could review the Council's Constitution in sections throughout the year.

The Interim Director of Resources added that lots of people now searched the Council's Constitution on line so it was important that the information was in the right place. He felt this needed to be considered when reviewing the document.

It was moved by Councillor G Hoult, seconded by Councillor T Eynon and

RESOLVED THAT:

The report be noted.

RECOMMENDED THAT:

The proposed amendments to the Council's Constitution, as detailed within the report, be approved when considered by Council on 21 November 2017.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 7.28 pm

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL - TUESDAY, 21 NOVEMBER 2017

Report Title	LEISURE SERVICES PROJECT
Contacts	<p>Councillor Alison Smith MBE 01530 835668 alison.smith@nwleicestershire.gov.uk</p> <p>Tony Galloway Interim Strategic Director of Place 01530 4545555 tony.galloway@nwleicestershire.gov.uk</p> <p>Paul Sanders Head of Community Services 01530 454832 paul.sanders@nwleicestershire.gov.uk</p>
Purpose of report	To note the decisions made by Cabinet and to obtain approval to implement the required work to outsource the running of the Council's current leisure centres and proceed with the construction of a new facility on a new site to replace Hermitage Leisure Centre.
Council priorities	Value for Money Business and Jobs Homes and Communities Green Footprints Challenge
Implications:	
Financial/Staff	The financial details and implications for staff engaged on leisure contracts at Hood Park and Hermitage Leisure Centres are contained within the report and appendices.
Link to relevant CAT	None.
Risk Management	The risks are being managed by officers on the project team.
Equalities Impact Screening	The new leisure centre and the enhanced services will seek to attract more and diverse users and an enhanced offer of affordable, high quality, cost effective events, programmes and activities accessible to all residents including people with disabilities and those who suffer social or economic disadvantage. They will also seek to deliver increased levels of physical activity, reducing the levels of health inequality and improving the health and wellbeing of residents across the district.
Human Rights	None discernible.

Transformational Government	Not applicable.
Comments of Head of Paid Service	The report is satisfactory.
Comments of Deputy Section 151 Officer	The report is satisfactory.
Comments of Monitoring Officer	The report is satisfactory.
Consultees	
Background papers	<p>Cabinet Report – Leisure Project Update dated 25 July 2017 https://minutes-1.nwleics.gov.uk/ieListDocuments.aspx?CId=126&MId=1552&Ver=4</p> <p>The Sports Consultancy Report – 2016</p> <p>Cabinet Report (confidential) and minutes – Leisure Project Update dated 1 November 2017 https://minutes-1.nwleics.gov.uk/ieListDocuments.aspx?CId=126&MId=1854&Ver=4</p>
Recommendations	<p>THAT COUNCIL:</p> <ol style="list-style-type: none"> 1. APPROVES THE FINANCIAL AND AFFORDABILITY MODEL IN RESPECT OF THE PROJECT, INCLUDING THE REQUIREMENT TO BORROW EXTERNALLY AND CONSEQUENTIAL CHANGES TO THE BUDGET AND POLICY FRAMEWORK. 2. NOTES THE OUTCOME OF THE GROUND INVESTIGATIONS OF THE A511 SITE AND ENDORSES CABINET’S RECOMMENDATION THAT THE SITE BE APPROVED AS THE LOCATION FOR THE NEW LEISURE CENTRE.

1.0 GOVERNANCE

- 1.1 The scope and scale of this project means that its approval requires the highest level of oversight to maintain the good governance of the council. This project will affect the Council’s budget and how it carries out some of its functions for years to come. As such, it also triggers the Head of Paid Service’s duty under Section 4 of the Local Government and Housing Act 1989 to report to all members of the Council on changes to the exercise of Council functions.
- 1.2 This project has involved the exercise of executive functions held by Cabinet and also Council functions held by full Council. The decision making power of the Council is split as follows:

Cabinet has the power to:

- Award contracts in excess of £100,000
- Dispose of land (in the form of leases to the winning bidder and disposal of the existing Hermitage Leisure Centre site)
- Allocate budget to support the project
- Consider details about how the project is being developed and make recommendations to Council.

Full Council has the authority to:

- Approve changes to the Council's Budget and Policy Framework
- Receive the Head of Paid Service's report under Section 4 of the Local Government and Housing Act 1989

Decision making

1.3 At the meeting of Cabinet on 1 November the following decisions were made:

- "The authority to carry out a lawful procurement and award a contract to implement the project within affordability and agreed output parameters as set out in the report, be delegated to the Strategic Director of Place in consultation with the Community Services Portfolio Holder.
- The further financial commitment from General Fund Reserves as detailed within the report be approved to fund the legal and technical support required for the procurement process through to completion.
- Financial Construct B be approved as the Council's stance for negotiations with bidders through the competitive dialogue process and that it be noted that further analysis work would continue to ensure that the Council achieved the most economical advantageous financial construct through the process.
- The significant change to the staff establishment under Section 4 of the Local Government and Housing Act 1989 due to the transfer of staff from the Council to a leisure contractor be noted. The changes would be detailed by the Head of Paid Service in the report to Council at its meeting on 21 November 2017.
- Elected Members be engaged, briefed and updated on the progress and key milestone stages throughout the procurement process through the appropriate reporting forum, the Strategic Director of Place, the Chief Executive and Community Services Portfolio Holder".

1.4 Therefore Council is being asked to:

- Approve the financial and affordability model in respect of the project, including the requirement to borrow externally and consequential changes to the budget and policy framework.
- Note the outcome of the ground investigations of the A511 site and endorse Cabinet's recommendation that the site be approved as the location for the new Leisure Centre.

1.5 As members will be aware, a project of this kind requires Cabinet and Council to consider detailed financial and business information, some of which is commercially sensitive. Whilst wishing to maintain transparency in the decision making process, officers have

been mindful of protecting the Council's commercial interests and have taken care to maintain the necessary confidentiality so as not to prejudice the procurement process. A summary of the financial information is provided in the body of the report with further details in confidential Appendix A.

- 1.6 A copy of the confidential Cabinet report from its meeting on 1 November 2017 is attached at confidential Appendix B together with the public minutes (attached at Appendix C). The information presented to Cabinet in respect of matters within its purview was necessarily detailed. In the interests of transparency a summary of the matters which Cabinet considered in included in the body of this report.
- 1.7 It is understood that members will wish to have a full debate on this item as it represents a significant decision. To enable members to be clear about which matters it is recommended to be discussed in the public meeting and which parts should be discussed in confidential session, a list of the appendices are set out below.

Appendix A – Summary of financial information (confidential)
Appendix B – Report to Cabinet, 1 November 2017 (confidential)
Appendix C – Minutes of Cabinet, 1 November 2017 (public)
Appendix D – Site plan (public)

- 1.8 Members will note that the appendices have been grouped into public and confidential documents. If members wish to debate the information in a confidential appendix, it is recommended that the press and public are excluded from the meeting due to the likely disclosure of commercially sensitive information. Advice can be provided to members on this point before the meeting should it be required.

2.0 BACKGROUND

- 2.1 In 2015 a report was presented to Cabinet in which it was reported that the Hermitage Leisure Centre was reaching the end of its useful and viable life. The centre is 40 years old and has been incrementally extended several times during that period of time. As a result the centre has become disjointed, inefficient and inflexible and increasingly unable to meet the current and future demands of 21st century leisure facility users.
- 2.2 In response, in 2016, the Council commissioned The Sports Consultancy (TSC) to undertake an assessment of the Leisure and Cultural options for the Council. The conclusion of the TSC report was that further capital investment in the existing Hermitage Leisure Centre would not represent value for money and was not advisable. Their recommendation was to outsource the leisure centres at Hermitage and Hood Park and build a new leisure facility in Coalville.
- 2.3 In July 2016 Cabinet set aside £150,000 towards the project to be spent on exploring the feasibility of outsourcing the services and building a new facility, including a period of consultation on the proposals for a new leisure centre.
- 2.4 In July 2017 Officers presented an update report to Cabinet and were further charged with carrying out to establish:
- The affordability model and most likely financial position as a result of the outsourcing.
 - The suitability and viability of the A511 site located north of Stephenson Way and east of Thornborough Road in terms of ground conditions and pre-existing conditions as the proposed site for the new facility.

- An appraisal of the options and opportunities as part of the required disposal of the site currently occupied by the Hermitage Leisure Centre

Note - the outcome of the options appraisal is not covered in this report but will be the subject of a future report to Cabinet following a proper consultation process.

- 2.5 In 2016 the cost of building a new leisure facility in Coalville was estimated to be in the region of £18 million with the Council able to borrow from itself to pay for the capital spend and in revenue terms not spend any more money than is currently spent on leisure services.
- 2.6 The latest estimation for the cost of the new facility including the facility mix agreed at Cabinet on 25 July, is £19.475m. This current estimation takes into account both inflation since 2016 and future predicted inflation based on the estimated build start and completion dates for which operators are likely to price for within their bids.
- 2.7 It is important to note that final costs of the new facility will depend on the final agreed facility mix and the specification of the building put forward by bidders.
- 2.8 However, Members should also note that facility costs cannot and will not exceed the Council's affordability envelope as contained within this report, but the facility mix within that envelope could be further enhanced dependent on market conditions at the time of procurement.

Project Outcomes

- 2.9 The new leisure centre and the enhanced services it will provide will play a critical role in achieving the Council's vision, contributing to delivery of the Council's five priorities as set out in its Corporate Delivery Plan as well as being a major contributor to the Council's emerging Health and Wellbeing Strategy.
- 2.10 The new leisure centre and the enhanced services it will provide to residents will:
- **Help build confidence in Coalville** – by providing an affordable, accessible, high quality 21st Century facility that will be an iconic gateway to both Coalville and Whitwick, attracting more and diverse users into the district and boosting the local economy.
 - **Provide Value for Money (VfM)** – by delivering an enhanced offer of affordable, high quality, cost effective events, programmes and activities accessible to all residents including people with disabilities and those who suffer social or economic disadvantage.
 - **Support homes and communities** – by delivering an enhanced offer of events, programmes and activities focussed on increasing the levels of physical activity, reducing the levels of health inequality and improving the health and wellbeing of residents across the district.
 - **Support Business and jobs** – by looking to ensure that local businesses are included in the supply chain, the local labour force is engaged in the construction phase and beyond, that apprenticeship schemes (and where appropriate permanent employment) continues to be a key focus of the new contract for service delivery.
 - **Support Green footprints** – by designing and building a leisure facility that will be focussed on the principles of financial, operational and environmental sustainability

- 2.11 The services will focus on achieving specific health and wellbeing outcomes for the residents of North West Leicestershire.
- 2.12 The latest figures from Public Health England (2015/16) show that the levels of physical inactivity (not active in the last 28 days) amongst adults aged 19+ in the district is 32%, obesity levels amongst children in year 6 is 17% and adults classified as being overweight stands at 67%.
- 2.13 Improving these and a range of other key outcomes through carefully set performance indicators and regular monitoring, will be a key target for the service provided from the new leisure centre.
- 2.14 Members are also reminded that the Hood Park Leisure Centre in Ashby is also included in the proposed outsourcing exercise. As such the new operator will also be responsible for the operational management and business development of the building, staff, programmes and activities at the Hood Park Leisure Centre under council direction and monitoring.
- 2.15 Officers will ensure that as part of the dialogue stage of the procurement process, potential operators will be asked to provide the council with their proposals for capital investment in Hood Park Leisure Centre during the 25 year life of the proposed new contract.
- 2.16 This investment will ensure that Hood Park Leisure Centre can continue to meet the current and future demands of its customers and that the facility will play a full and equal role in contributing to the delivery of the councils five corporate priorities and the emerging Health and Wellbeing Strategy.
- 2.17 The operator will need to satisfy the council that there will be an ongoing programme of capital and revenue investment at Hood Park the objective of which will be the continual development and improvement of the centre and its leisure offer to users.
- 2.18 The Leisure offer at Hood Park is very different from that at the current Hermitage site. The Lido at the Hood Park leisure Centre is a unique and iconic leisure facility in the district and is one of only a handful of such pools still operating in the country.
- 2.19 It provides a leisure experience to the residents and visitors to the district that very few local authorities are able to provide. Its preservation and future will be a key consideration for any incoming operator.
- 2.20 Here too operators will be asked to provide suggestions and proposals as to how they might be able enhance the facility to ensure its future and continued use.
- 2.21 In addition the council has also secured a number of S106 contributions which are allocated for development work at the leisure centre. A condition of these s106 agreement is that the funds must be committed and used by September 2019.
- 2.22 This timescales do not allow for a preferred operator to develop a potential scheme. Therefore officers will consider options to develop and improve the centre using these funds in advance of the contract being awarded to the new operator.
- 2.23 Care will need to be taken to ensure that any proposal for the interim development of Hood Park Leisure Centre prior to award of contract does not compromise the council's negotiating position with potential operators.

3.0 FINANCIAL IMPLICATIONS

- 3.1 Due to the commercially sensitive nature of the financial implications associated with the outsourcing business case, detailed financial information is included within a restricted appendix accompanying this report (Appendix A). Information contained within the main body of this report therefore seeks to provide a summary of the financial modelling undertaken and the affordability of the project over both the proposed DBOM contract period (25 years) and useful life of the new facility (40 years).
- 3.2 At its meeting on 25 July 2017, Cabinet was presented with an indicative affordability model intended to demonstrate the 'worst case' scenario under an outsourcing arrangement including a new build facility. The financial assessment technique used to assess this affordability position was 'net present value', a measurement of surplus or deficit calculated by subtracting the present values of cash outflows from the present values of cash inflows over a period of time. The estimated financial impact of the leisure project at this time was a break even position and a net present value of +£334k over 40 years, provided that a saving of £200k per annum was achieved by the Council in respect of internal corporate overheads, and that funding for the project could be sourced entirely from internal funds. Estimates therefore presented a financial position where the Council would spend no more on its leisure centres than it currently spends and could expect to gain £334k over 40 years by outsourcing the existing and new facility.
- 3.3 Since the July Cabinet meeting, Ernst & Young LLP (EY) have been engaged to assess the affordability position for the Council in respect of the outsourcing (to ascertain whether the Council can afford the project) and the likely financial position (for both the Council and the operator) achievable through a Design, Build, Operate and Maintain (DBOM) procurement exercise. Work previously undertaken with the Council's treasury advisors Arlingclose to estimate the likely level of internal funding available for the project has also been revisited.
- 3.4 The detailed financial modelling undertaken has considered the likely value and timing of funding and cash inflows and outflows in respect of business as usual compared to an outsourcing arrangement. A number of core assumptions are built into these projections including estimates originally developed by The Sports Consultancy in 2016 in respect of the cost of, and demand for, membership and throughput of the new facility.
- 3.5 As with any financial model, assumptions about future business conditions drive the anticipated financial performance of the business as usual and outsourcing cases.
- 3.6 In respect of the business as usual case, the assumptions are based on current operational costs of the service with varying inflationary increases applied to individual components of expenditure and income based on historical analyses of trends. Specifically, future life cycle costs in respect of maintaining the existing Hermitage and Hood Park sites is based on known future asset management costs. It is important to note that the business as usual cost assumptions of Hermitage do not include the anticipated cost of redeveloping the existing facility. Work undertaken in 2013/14 to understand the capital investment required to improve the financial viability of the centre, was fed into The Sports Consultancy report and estimated the level of investment at £1.4m.
- 3.7 The outsourcing case takes assumptions developed in respect of income (derived from membership and throughput forecasts), life cycle costs, NNDR and VAT as developed by The Sports Consultancy in 2016 and the current operational cost of

the service under business as usual, with varying rates of inflation then applied to reflect the likely future financial position.

- 3.8 The outsourcing case also assumes that the Council will save £200k per annum in internal corporate overheads. Members should note that these proposed savings are proposed to be met by seizing opportunities to reduce the central support service through natural wastage (e.g. not recruiting to vacancies, voluntary leavers or staff seeking to reduce the hours).
- 3.9 Following receipt of an actuarial evaluation of the Council's employer pension contributions for staff expected to transfer under TUPE to the preferred supplier, it has been confirmed that there will be no increase in employer contributions required. Additional pension contributions payable by the Council have therefore been set to nil in the financial model.
- 3.10 The financial model assumes a contract start date of 1 April 2019, with an 18 month construction period and operational start of the new facility on 1 October 2020. During this period, the operator will manage existing operations.
- 3.11 At its meeting on 1 November, Cabinet approved a preferred 'financial construct' in respect of risk and reward to be used as a stance for negotiations with contractors. Full details of the two scenarios considered can be found in Appendix A, however in summary the preferred financial construct is as follows:
- a) The Council receives an annual payment from the operator.
 - b) The operator retains 100% of profits up to 8% of income, with profits above this level shared with the Council on a 50:50 basis.
 - c) The operator suffers all losses.
- 3.12 In assessing the Council's forecast position in respect of internal funding available for the project, it has been identified that the project will utilise a mixture of internal funding and other capital receipts, with external borrowing to be used to fund the residual value of funding required for the construction of the new facility.
- 3.13 Using net present value (as explained in 2.2) to assess the affordability of the project based on the assumptions as outlined in paragraphs 2.3 to 2.11, the estimated financial position of the Council is that subject to minor fluctuations, the Council would breakeven as a result of the project over 25 years and be £3.086m better off over 40 years.
- 3.14 The financial modelling projections developed by EY and presented throughout this report will be used within the procurement process via calculated affordability key performance indicators (KPIs). These affordability KPIs will be shared with bidders and used to assess the affordability of bids received.
- 3.15 In July 2016 Cabinet approved the expenditure of £150,000 for exploring the feasibility of the project further. To date, £97,600 has been spent. Cabinet agreed to commit expenditure of up to a further £350,000 from unallocated reserves to fund sufficient external technical and legal resources to see the project through to completion, including costs associated with the disposal of land off Cropston Drive (estimated at £30.5k).

4.0 LEGAL IMPLICATIONS

Property – the proposed site of the new Leisure Centre

4.1 The proposed site is the land on the A511 owned by the Council located north of Stephenson Way and east of Thornborough Road. Legal Services have investigated the Council's title to the land to determine whether there are any legal issues that need to be overcome in constructing the Leisure Centre on the site and have advised Cabinet accordingly. The details of the property matters are contained within confidential Cabinet report at Appendix B. In summary:

- The site can be used for recreational purposes. This will be reflected in the contract to the new leisure supplier.
- There are some minor property issues to be resolved with HM Land Registry, the National Coal Board and Leicestershire County Council. Such issues are usual in a project such as this and Cabinet endorsed officers working to resolve them.
- Initial site investigations revealed no mineshaft entrances on the site.

The site plan is attached at Appendix D.

4.2 The Contract and Procurement

At its meeting on 25 July 2017, Cabinet decided that the project should be progressed by way of a Design, Build Operate and Maintain (DBOM) arrangement under which a single leisure contractor is procured (under a single contract) to manage existing facilities and build the new facility. The procurement of a leisure contractor will be carried out using the industry-standard Sport England toolkit. This includes a detailed template contract based on established public sector principles of risk allocation. The report to Cabinet for its meeting on 1 November 2017 contained a summary of the risk profile of the Sport England template contract. Council is asked to note Cabinet's decision to proceed with the project using the Sport England template contract which officers will tailor to the Council's project specific needs.

5.0 THE A511 PREFERRED SITE - SITE INVESTIGATIONS

5.1 In arriving at a decision to proceed with the A511 site, Cabinet had regard to the following information derived from detailed site investigations and surveys carried out by CBRE (specialist building consultancy group):

- The Local Plan
- Intrusive ground investigations
- Ecological assessments
- Traffic surveys, highways and vehicular access

5.2 Cabinet commissioned this work to be satisfied that the project could proceed and to give some confidence to the Council to enable this report to be considered and the next key decisions in the project to be made.

6.0 WORKFORCE IMPLICATIONS

- 6.1 The report to Cabinet on 25 July 2017 documented the workforce and staffing implications of the proposals, which essentially would lead to a “Transfer of Undertaking (Protection of Employment)” (TUPE) situation for the employees engaged on Leisure contracts at Hood Park and Hermitage Leisure Centres.
- 6.2 Arrangements under a TUPE transfer are governed by the law and the process places significant emphasis upon the engagement and consultations with employees and their trade union representatives. The Council’s recognised Trade Unions will accordingly be engaged in these processes as soon as the procurement processes permit. We will be seeking to establish the early engagement of the successful contractor in the transfer process to ensure there is a smooth transition.
- 6.3 The TUPE transfer of the staff will occur ahead of the completion date of the new centre. It is anticipated that the employee transfer process will commence in the spring of 2019.
- 6.4 A significant proportion of the current Leisure employees are engaged on casual or zero hours contracts. A review of all individual contracts of employment will be undertaken internally before the TUPE transfer process commences to ensure the contracts accurately reflect the work being undertaken by each employee.
- 6.5 The transfer of a significant proportion of the Council’s workforce to an external provider will result in a significant change to the Council’s establishment and how it carries out its functions. Accordingly, this report and its background papers (in particular paragraph 3 (Staff Implications) of the report to Cabinet on 25 July 2017 constitutes the Head of the Paid Service’s report to the Council in satisfaction of the requirements of Section 4 of the Local Government and Housing Act 1989.
- 6.6 Some current “Leisure” employees will remain in the employment of the Council, notably those engaged in the provision of Leisure activities in other Centres (such as Castle Donington Community College), the grounds maintenance service and employees engaged in Sports Development work in communities. The Council will also retain a client/contractor role in managing a new relationship with a new provider. The exact split of those employees directly affected would be determined prior to any transfer to an external provider.
- 6.7 A robust and comprehensive communications and engagement plan is being developed which will, amongst other matters, pay particular attention to workforce engagement. The plan will ensure timely engagement and consultation with all impacted staff throughout the entire project and expressly as part of the TUPE process.

7.0 FACILITY MIX

7.1 At the meeting of Cabinet on 25 July 2017 it was proposed that the facility mix for the new leisure centre should be as follows:

- 8 court sports hall
- 8 lane x 25m pool
- 15m x 8.5m learner pool with moveable floor
- 150 station health and fitness suite
- Multi-activity studio, large enough to be sub-divided to 2 x separate rooms
- 1 spin studio
- squash courts
- Vending area(s)
- Café / bar
- External area for 250 car park spaces

7.2 It is recommended that the above is used as a suggested baseline of core facilities in order to engage the market. The exact facility mix may be amended as part of the negotiations and dialogue with the preferred contractor to help ensure the leisure centre meets current and future needs of residents and will operate with maximum efficiency.

8.0 NEXT STEPS

8.1 Subject to the approval of full Council the procurement work will commence immediately thereafter.

8.2 The project team will undertake a fully compliant Official Journal of the European Union (OJEU) tender process leading to the appointment of a 'preferred bidder' by December 2018.

8.3 The Leisure Project Team will report its ongoing progress to the Leisure Project Board on a regular and timely basis.

8.4 The Chief Executive and Strategic Director of Place in consultation with the Cabinet Member for Community Services will provide timely updates and briefings to elected Members at key milestone stages throughout the procurement process up to and including the appointment of the preferred bidder.

8.5 A comprehensive and robust communications plan is being developed to ensure appropriate and timely consultation and engagement of all key stakeholders throughout the procurement process.

8.6 It is anticipated that following formal award of contract, works will start on site in the spring of 2019. Whilst the completion date of the build will be influenced and determined by the size / complexity of the building, it is suggested that an 18 month build programme be allowed. This would result in a proposed completion date of autumn 2020.

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EXTRACT of the MINUTES of a meeting of the CABINET held in the Board Room, Council Offices, Coalville on WEDNESDAY, 1 NOVEMBER 2017

Present: Councillor R Blunt (Chairman)

Councillors R D Bayliss, T Gillard, T J Pendleton and A V Smith MBE

In Attendance: Councillors R Adams, J Bridges, J Clarke, J G Coxon, D Everitt, T Eynon, J Geary, G Houlst, R Johnson, J Legrys and M Specht

Officers: Ms T Ashe, Mr T Galloway, Mr G Jones, Mrs B Smith, Mrs R Wallace and Miss E Warhurst

60. EXCLUSION OF PRESS AND PUBLIC

RESOLVED THAT:

In pursuance of Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the remainder of the meeting on the grounds that the business to be transacted involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act and that the public interest in maintaining this exemption outweighs the public interest in disclosing the information.

Reason for decision: To enable the consideration of exempt information.

61. SPORTS AND LEISURE PROJECT

The Community Services Portfolio Holder presented the report to Members.

It was moved by Councillor A V Smith, seconded by Councillor T Gillard and

RESOLVED THAT:

- a) The financial and affordability model in respect of the project, including the requirement to borrow externally and consequential changes to the budget and policy framework be noted, and recommended to Council for approval at its meeting on 21 November 2017.
- b) The outcome of the ground investigations of the A511 site be noted and recommended to Council for approval as the site for the new leisure centre at its meeting on 21 November 2017.
- c) The authority to carry out a lawful procurement and award a contract to implement the project within affordability and agreed output parameters as set out in the report, be delegated to the Strategic Director of Place in consultation with the Community Services Portfolio Holder.
- d) The further financial commitment from General Fund Reserves as detailed within the report be approved to fund the legal and technical support required for the procurement process through to completion.
- e) Financial Construct B be approved as the Council's stance for negotiations with bidders through the competitive dialogue process and that it be noted that further analysis work would continue to ensure that the Council achieved the most economical advantageous financial construct through the process.
- f) The significant change to the staff establishment under Section 4 of the Local Government and Housing Act 1989 due to the transfer of staff from the Council to a

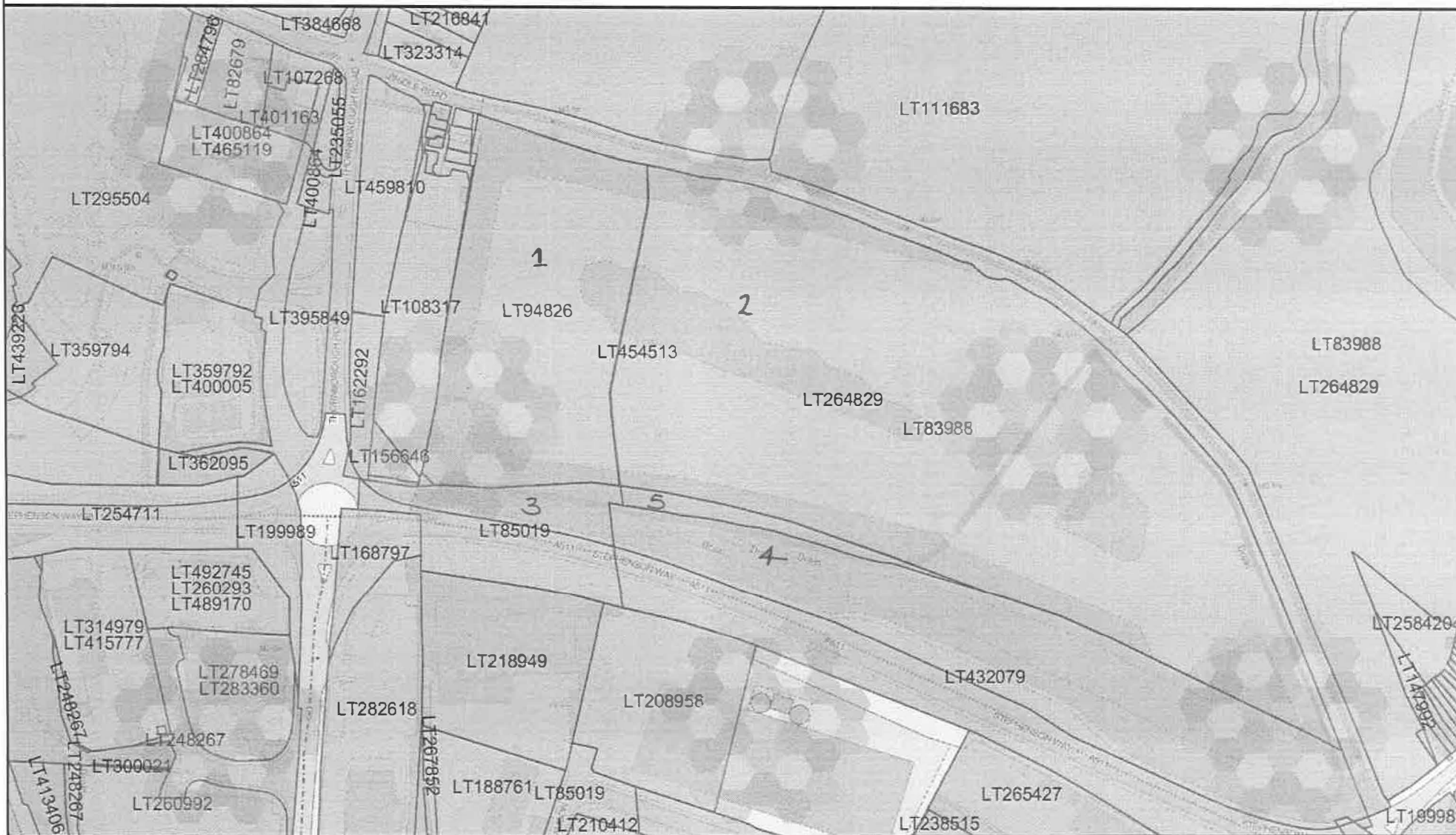
leisure contractor be noted. The changes would be detailed by the Head of Paid Service in the report to Council at its meeting on 21 November 2017.

- g) Elected Members be engaged, briefed and updated on the progress and key milestone stages throughout the procurement process through the appropriate reporting forum, the Strategic Director of Place, the Chief Executive and Community Services Portfolio Holder.

Reason for decision: to provide officers with delegated authority to implement and deliver the project within approved parameters.

The meeting commenced at 5.00 pm

The Chairman closed the meeting at 5.32 pm



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0 10 20 30 40 50 60 70 80 100m

Map scale 1:2500

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Data last updated 10:00pm 15 AUGUST, 2017

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