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DATE: 29 January 2021

To: Members of the
EXECUTIVE

Councillor Colin Smith (Chairman)

Councillors Graham Arthur, Peter Fortune, William Huntington-Thresher, Kate Lymer, Peter Morgan and Diane Smith

A meeting of the Executive will be held on **WEDNESDAY 10 FEBRUARY 2021 AT 6.30 PM**

PLEASE NOTE: This is a 'virtual meeting' and members of the press and public can see and hear the Committee by visiting the following page on the Council's website:

<https://www.bromley.gov.uk/councilmeetingslive>

Live streaming will commence shortly before the meeting starts.

MARK BOWEN
Director of Corporate Services

Copies of the documents referred to below can be obtained from
<http://cds.bromley.gov.uk/>

A G E N D A

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

3 QUESTIONS

In accordance with the Council's Constitution, questions that are not specific to reports on the agenda must have been received in writing 10 working days before the date of the meeting - by 5pm on Wednesday 27th January 2021.

Questions specifically relating to reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that questions specifically on reports on the agenda are received by the Democratic Services Team by **5pm on Thursday 4th February 2021.**

4 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 13 JANUARY 2021
(Pages 5 - 14)

- 5 **2021/22 COUNCIL TAX**
(Pages 15 - 54)
- 6 **CAPITAL PROGRAMME MONITORING Q3 2020/21 AND CAPITAL STRATEGY 2021-25**
(Pages 55 - 82)
- 7 **MODEL LONDON LETTINGS ENFORCEMENT POLICY**
(Pages 83 - 100)
- 8 **CONTRACT PROCEDURE RULES: DELEGATED AUTHORITY ARRANGEMENTS FOR CONTRACT EXTENSIONS**
(Pages 101 - 108)
- 9 **DIGITAL INFRASTRUCTURE WORK PLAN**
(Pages 109 - 118)
- 10 **ORPINGTON TOWN CENTRE REGENERATION**
(Pages 119 - 126)
Orpington ward
- 11 **ADDITIONAL RESTRICTIONS GRANT- PHASE 2**
(Pages 127 - 146)
- 12 **PROPERTY ACQUISITION SCHEME PROPOSAL (PART 1)** (Pages 147 - 164)
- 13 **CONTRACT AWARD FOR ESSENTIAL HOUSEHOLD GOODS (PART 1)**
(Pages 165 - 174)
- 14 **LEARNING DISABILITY RESPITE CONTRACT AWARD (PART 1)**
(To follow)
- 15 **LEARNING DISABILITY SUPPORTED LIVING CONTRACT AWARD (PART 1)**
(To follow)
- 16 **BLenheim SHOPPING CENTRE - FREEHOLD DISPOSAL (PART 1)**
(Pages 175 - 182)
Penge and Cator ward
- 17 **CONSIDERATION OF ANY OTHER ISSUES REFERRED FROM THE EXECUTIVE, RESOURCES AND CONTRACTS POLICY DEVELOPMENT AND SCRUTINY COMMITTEE**

18 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

<u>Items of Business</u>	<u>Schedule 12A Description</u>
19 EXEMPT MINUTES OF THE MEETING HELD ON 13 JANUARY 2021 (Pages 183 - 184)	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
20 PROPERTY ACQUISITION SCHEME PROPOSAL (PART 2) (Pages 185 - 186)	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
21 CONTRACT AWARD FOR ESSENTIAL HOUSEHOLD GOODS (PART 2) (Pages 187 - 192)	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
22 LEARNING DISABILITY RESPITE CONTRACT AWARD (PART 2) (To follow)	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
23 LEARNING DISABILITY SUPPORTED LIVING CONTRACT AWARD (PART 2) (To follow)	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
24 BLENHEIM SHOPPING CENTRE - FREEHOLD DISPOSAL (PART 2) (Pages 193 - 206) Penge and Cator ward	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
25 CAPITAL PROGRAMME MONITORING - APPENDIX F (Pages 207 - 208)	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

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EXECUTIVE

Minutes of the virtual meeting held on 13 January 2021 starting at 6.30 pm

Present:

Councillor Colin Smith (Chairman)
Councillors Graham Arthur, Peter Fortune,
William Huntington-Thresher, Kate Lymer, Peter Morgan
and Diane Smith

Also Present:

Councillor Robert Evans, Councillor Simon Fawthrop and
Councillor Angela Wilkins

156 APOLOGIES FOR ABSENCE

There were no apologies for absence.

157 DECLARATIONS OF INTEREST

There were no declarations of interest.

158 QUESTIONS

No questions had been received.

159 MINUTES OF THE MEETINGS HELD ON 12TH FEBRUARY AND 19TH MARCH 2020

RESOLVED that the minutes of the meetings held on 12th February 2020
and 19th March 2020 be confirmed as a correct record.

160 DRAFT 2021/22 BUDGET AND UPDATE ON THE COUNCIL'S FINANCIAL STRATEGY 2021/22 TO 2024/25

Report FSD21001

The Executive received a report on the initial draft 2021/22 Budget including the full year effect of changes agreed as part of the 2020/21 Council Tax report and savings approved during the year with the resultant impact on the Council's medium term "budget gap."

A key part of the financial strategy was to highlight the budget issues that would need to be addressed by the Council over the coming financial years, by forecasting the level of available resources from all sources and budget pressures relating to revenue spending. Details of the capital programme would be reported separately to the next meeting of the Executive.

Executive
13 January 2021

The views of PDS Committees views would also be sought and reported back to the next meeting of the Executive, prior to the Executive making recommendations to the full Council meeting on 1st March on the 2021/22 Council Tax and Adult Social Care precept levels.

The report provided details of the Provisional Local Government Finance Settlement 2021/22 which was published on 17th December 2020 and represented a one year settlement only. The Director of Finance reported that the Mayor of London had announced a provisional 9.5% increase in his precept for 2021/22 – a final decision would be announced on 25th February.

The longer-term Spending Review had been postponed until 2021. The outcome of the Fair Funding Review and Devolution of Business Rates, which could have a significant impact on future funding, had been delayed by one year until at least 2022/23, meaning that there was considerable uncertainty about the longer term outlook.

Members noted that, due to the risks of the ongoing impact of the pandemic on London Businesses, arrangements for a London Business Rate Pool would cease in 2021/22.

There were still outstanding issues and areas of uncertainty remaining. Any further updates would be included in the 2021/22 Council Tax report to the next meeting of the Executive.

The Portfolio Holder for Resources, Commissioning and Contract Management, Cllr Graham Arthur, commented that the one year settlement made longer term planning difficult, and there were numerous different grants that needed to be understood. The short-term priority remained to be prudent and control growth pressures, while in the longer term investment in better provision for housing would be key to the Council's financial stability.

In response to a question from the Portfolio Holder for Public Protection and Enforcement, Cllr Kate Lymer, the Director of Finance updated Members on the Redmond Review. The Government had accepted many of the Review's recommendations which would result in changes to the external audit regime, especially around deadlines for closing of accounts and on the fee structure. A report on the Redmond Review had been considered by the Audit Sub-committee and General Purposes and Licensing Committee in November.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee on 6th January 2021 and the Committee supported the recommendations.

RESOLVED that

(1) The initial draft 2021/22 Budget detailed in Appendix 7 to the report, including continuation of the iBCF hospital discharge funding reserve and setting aside New Homes Bonus funding for housing investment, be agreed.

(2) The initial draft 2021/22 Budget for each portfolio be referred to the relevant PDS Committees for consideration.

(3) The financial projections for 2022/23 to 2024/25 be noted.

(4) It is noted that there are still areas of financial uncertainty which will impact on the final 2021/22 Budget.

(5) The setting of the schools' budget, mainly met through Dedicated Schools Grant, be delegated to the Children, Education and Families Portfolio Holder, allowing for consultation with the Schools Forum (see section 11 of the report).

(6) It is noted that the outcome of consultation with PDS Committees will be reported to the next meeting of the Executive.

(7) The proposed contribution of £247,274 in 2021/22 to the London Boroughs Grant Committee be agreed (see section 10 of the report.)

(8) The outcome of the Provisional Local Government Financial Settlement 2021/22 be noted as detailed in the report.

(9) The budget gap remaining of an estimated £14.1m per annum by 2024/25 and that any decisions made for the 2021/22 Budget will have an impact on the future year projections be noted.

(10) It is noted that any final decision by Executive on recommended Council Tax and Adult Social Care Precept levels to Council will normally be undertaken at the next meeting of Executive.

(11) It is noted that, due to the risks of the ongoing impact of the pandemic on London Businesses, arrangements for the London Business Rate Pool will cease in 2021/22.

161 EMPTY HOMES PREMIUM
Report FSD21003

The Executive considered proposals to increase the Empty Homes Premium from April 2021 to the maximum premium permitted under the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018. A public consultation exercise had been carried out, the results of which were set out in the report. Although Members considered that there was a strong case for increasing the premium it was considered that, given the impact of the pandemic, now was not the right time to do so.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee on 6th January 2021 and the Committee supported the recommendations.

RESOLVED that

(1) The responses to the public consultation exercise at Appendix 1 to the report be noted.

(2) The Equality Impact Assessment at Appendix 2 to the report be noted.

(3) The proposed increase to the Empty Homes Premium to 100% for properties empty longer than 2 years, increasing to 200% where the property has been empty for five years and 300% when the property has been empty over ten years, be noted.

(4) In view of the uncertainty on owners' ability to sell or bring the empty property back into occupation due to the impact of the pandemic, the decision to make any changes to the current levels of premium be deferred for one year.

162 OPERATIONAL BUILDING MAINTENANCE BUDGETS AND PLANNED PROGRAMME 2020/21 AND 2021/22

The Executive considered the proposed maintenance budgets and planned programme for 2021/22. The report also detailed a request for additional budgetary provision of £2m for essential works in each of the years 2021/22 and 2022/23, to be drawn down as required.

The Portfolio Holder for Resources, Commissioning and Contract Management commented that the additional funding was justified to tackle the maintenance backlog, and there was an accommodation strategy that would be presented to Members in the next few months with further detail. The Portfolio Holder for Renewal, Recreation and Housing agreed that there were likely to be additional maintenance needs identified in the coming months.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee on 6th January 2021 and the Committee supported the recommendations, subject to suggesting that requests to draw down the additional funding should be submitted to Members.

RESOLVED that

(1) Subject to the Council agreeing the budget, overall expenditure of £2.188m for the Building Maintenance budget in 2021/2022 be approved.

(2) Authority be delegated to the Director of Housing, Planning, Property and Regeneration to vary the programmes to accommodate any change in the approved budget or where such action is considered necessary to either protect the Council's assets or make the most effective use of resources.

(3) Additional provision of £1m in each of the next two financial years 2021/22 and 2022/23 be approved to be set aside in the Infrastructure Investment earmarked reserve to fund essential and statutory works.

(4) Where urgent works are needed in the current financial year, funding should be drawdown from Central Contingency in 2020/21 and the additional provision of £1m in 2021/22 will be reduced by an equal amount.

(5) Any requests for drawdown of the additional funding should be subject to scrutiny by the Executive, Resources and Contracts PDS Committee.

163 CONSIDERATION FOR AGREEMENT TO EXEMPT FROM TENDERING: SERVICE FOR CO-OCCURRING MENTAL HEALTH, ALCOHOL AND DRUGS CONDITIONS
Report ACH20-088

Services for co-occurring mental health, and alcohol and/or drug use conditions (COMHAD) were delivered locally by Oxleas Foundation Trust as part of the local NHS Mental Health contract held by Bromley Clinical Commissioning Group (BCCG). The COMHAD part of the contract was funded and paid for directly by the Council and formed part of the Section 75 arrangement between the Council and the BCCG.

BCCG had now become part of the wider South East London Clinical Commissioning Group. Local provision was crucial to the client group being served, and it has been agreed that the COMHAD element would be disaggregated from the BCCG contract. The report set out the case for a direct award of a contract, via an exemption from tendering, to be granted to Oxleas.

The report had been scrutinised via email circulation to all members of the Adult Care and Health PDS Committee and by the Executive, Resources and Contracts PDS Committee at its meeting on 6th January 2021 and the Committees supported the recommendations.

RESOLVED that the direct new award of contract be approved, via an exemption to competitive tendering, to Oxleas NHS Foundation Trust for a period of 3 years from 1st April 2021 (with the option to extend for up to a further two years) at an annual value of £87,000 (average) and a whole life value of £432,000.

164 UPDATE ON THE TRANSFER OF CRYSTAL PALACE PARK
Report HPR2020/046

In order to meet the requirements of the Council's Regeneration Plan for Crystal Palace Park, the Crystal Palace Park Trust (the Trust) had made strides to establish itself since its incorporation in May 2018.

Officers were preparing for a phased handover of responsibility for the park, working closely with the Environment and Public Protection Department and idverde. It was anticipated that this would begin with a transfer of management, maintenance and events from April 2022 (for which a separate report would be brought forward in Summer 2021). In order to develop the detail of this transfer and present the recommended option(s) to the Executive, specialist legal resources were required.

The report had been scrutinised by the Renewal, Recreation and Housing PDS Committee on 16th December 2020 and the Committee supported the recommendations.

RESOLVED that the draw-down of £40,000 from the Central Contingency for specialist legal resources to establish the trust governance model for Crystal Palace Park be approved.

165 AUTHORITY TO CREATE GRANT MECHANISM IN EVENT PERMITS FOR CRYSTAL PALACE PARK
Report HPR/2020/047

Members considered a report providing an update on the development of the Crystal Palace Park Trust, setting out how the Trust would obtain seed funding through events in Crystal Palace Park. It also requests Members to consider waiving the hire fee for the use of the park for events by the allocation of a grant.

The allocation of a grant would form part of the Council's event permit to the Trust. The Trust could not sign its contract with the two event promoters until the permit was agreed. Signing the contract had been delayed while details within the permit had been decided. Therefore it was now urgent that the permits and contracts were signed to secure the events and seed funding for the Trust – the need for urgency was accepted by members at the meeting.

The report had been scrutinised by the Renewal, Recreation and Housing PDS Committee on 16th December 2020 and the Committee supported the recommendations.

RESOLVED that

(1) A grant mechanism be authorised within the Festival Republic event permit that allows the hire fee of £50,000 to be paid to the Trust per annum for up to six years in accordance with the grant terms set out in paragraph 4.4 of the report.

(2) A grant mechanism be authorised within the Winterstow Ltd. event permit that allows the hire fee of £20,000 to be paid to the Trust per annum for five years in accordance with the grant terms set out in paragraph 4.4 of the report.

(3) Authority be delegated to the Chief Officer (Director of Housing, Planning and Regeneration) in consultation with the Director of Environment and Public Protection, and the Portfolio Holder for Renewal, Recreation and Housing, to make decisions on the inclusion of grant mechanisms in further event permits between the Council and the Crystal Palace Park Trust or associated bodies, including its trading subsidiary, Crystal Palace Park Events Limited (CPPEL.)

**166 FUTURE OF CRYSTAL PALACE PARK CONCERT PLATFORM
(PART 1)
Report HPR2020/048**

The Executive received a report on the tendering process for proposals for the future use of the Concert Platform in Crystal Palace Park, which had been largely redundant for over 10 years and had fallen into disrepair. The marketing created an opportunity to invite competitive proposals that provided a sustainable future for the Platform, providing benefits for the park, the local community and enhanced public recreation.

The report recommended granting a lease in principle to one of the bids received - further details were set out in the part 2 report and minutes.

The report had been scrutinised by the Renewal, Recreation and Housing PDS Committee on 16th December 2020 and the Committee supported the recommendations.

RESOLVED that a lease in principle be granted as set out in the part 2 minutes.

**167 LAND APPROPRIATION - BUSHELL WAY, CHISLEHURST
AND ANERLEY TOWN HALL (PART 1)
HPR2020/051**

The Executive considered a report concerning the appropriation of land at Anerley Town Hall Overflow Car Park and Bushell Way, Chislehurst, following the planning permissions granted for housing schemes at the sites in December 2020.

These projects were now moving from the planning phase into the delivery phase including dealing with overriding of easements and rights. Further details were set out in a part 2 report.

The report had been scrutinised by the Renewal, Recreation and Housing PDS Committee on 16th December 2020 and the Committee supported the recommendations.

RESOLVED that:

(1) The Council exercises its powers of appropriation pursuant to section 226 of the Town & Country Planning Act 1990.

(2) It is the intention of the Council to appropriate the relevant land for planning purposes in order to engage section 203 of the Housing and Planning Act 2016 to override any easements and other rights to enable the Council to carry out the developments at Anerley Town Hall Overflow Car Park and Bushell Way.

(3) Delegated authority be given to the Director of Housing, Planning and Regeneration, in consultation with the Portfolio Holder for Renewal, Recreation and Housing and the Director of Corporate Services, to approach any affected parties to agree statutory compensation and ensure that all appropriate legal documents are completed.

(4) It is noted that the valuations of the sites for appropriation to the Housing Revenue Account are £470k for Anerley Town Hall Car Park and £1,350k for Bushell Way.

**168 CONSIDERATION OF ANY OTHER ISSUES REFERRED FROM
THE EXECUTIVE, RESOURCES AND CONTRACTS POLICY
DEVELOPMENT AND SCRUTINY COMMITTEE**

There were no additional items referred from the Executive, Resources and Contracts PDS Committee.

**169 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE
LOCAL GOVERNMENT (ACCESS TO INFORMATION)
(VARIATION) ORDER 2006 AND THE FREEDOM OF
INFORMATION ACT 2000**

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters involving exempt information**

**170 EXEMPT MINUTES OF THE MEETING HELD ON 12 FEBRUARY
2020**

The exempt minutes of the meeting held on 12th February 2020 were confirmed as a correct record.

**171 FUTURE OF CRYSTAL PALACE PARK CONCERT PLATFORM
(PART 2)**

The Executive noted exempt details relating to the Crystal Palace Park Concert Platform, and awarded a lease in principle.

**172 LAND APPROPRIATION - BUSHELL WAY, CHISLEHURST
AND ANERLEY TOWN HALL (PART 2)**

The Executive noted confidential details relating to the schemes at Anerley Town Hall overflow car park and Bushell Way, Chislehurst, and agreed the exercise of the Council's powers of appropriation.

The Meeting ended at 7.10 pm

Chairman

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Report No.
FSD21008

London Borough of Bromley

PART 1 - PUBLIC

Decision Maker: **Executive**

Date: **10th February 2021**

Decision Type: Non-Urgent Executive Key

TITLE: **2021/22 Council Tax**

Contact Officer: Peter Turner, Director of Finance
Tel: 020 8313 4338 E-mail: peter.turner@bromley.gov.uk

Director: Director of Finance

Ward: Borough wide

REASON FOR REPORT

- 1.1 A key part of the financial strategy is to highlight the budget issues that will need to be addressed by the Council over the coming financial years, by forecasting the level of available resources from all sources and budget pressures relating to revenue spending. Details of the capital programme are reported elsewhere on this agenda.
- 1.2 The Provisional Local Government Finance Settlement 2021/22, which covers 2021/22 only, provides the second year (following 10 years of austerity) of real increases in funding although this is mainly reliant on the utilisation of the ASC precept to support cost pressures in social care. It has also provided funding towards the cost of the Covid pandemic continuing in part of 2021/22.
- 1.3 Although the settlement is to be welcomed there remains uncertainty around the level of Government funding for 2022/23 and beyond, particularly as the Government will need to address the significant increase in public debt due to the pandemic. The longer-term Spending Review has been postponed for a further year (until 2022/23) together with the outcome of the Fair Funding Review and Devolution of Business Rates.
- 1.4 This report identifies the final issues affecting the 2021/22 revenue budget and seeks recommendations to the Council on the level of the Bromley element of the 2021/22 Council Tax and Adult Social Care precept. Confirmation of the final GLA precept will be reported to the Council meeting on 1st March 2021. The report also seeks final approval of the 'schools budget'. The approach reflected in this report is for the Council to not only achieve a legal and financially balanced budget in 2021/22 but to have measures in place to deal with the medium term financial position (2022/23 to 2024/25).

- 1.5 With the Government reductions in funding since austerity measures began, the burden of financing increasing service demands falls primarily on the level of council tax and share of business rate income. The financial forecast assumes that the level of core grant funding will remain unchanged in future years.

2. RECOMMENDATIONS

2.1 The Executive is requested to recommend to Council that it:

- (a) Approves the schools budget of £79.506m which matches the estimated level of Dedicated Schools Grant (DSG), after academy recoupment;
- (b) Approves the draft revenue budgets (as in Appendix 2) for 2021/22;
- (c) Agrees that Chief Officers identify alternative savings/mitigation within their departmental budgets where it is not possible to realise any savings/mitigation reported to the previous meeting of the Executive held on 13th January 2021;
- (d) Approves a contingency sum of £14,925k (see section 6);
- (e) Approves the following provisions for levies for inclusion in the budget for 2021/22;

	£'000
London Pension Fund Authority*	464
London Boroughs Grant Committee	247
Environment Agency (Flood defence etc.) *	262
Lee Valley Regional Park *	321
Total	1,294

* Provisional estimate at this stage

- (f) Notes the latest position on the GLA precept, which will be finalised in the overall Council Tax figure to be reported to full Council (see section 12);
- (g) Considers the “Bromley element” of the Council Tax for 2021/22 to be recommended to the Council, including a general increase and the Adult Social Care Precept, having regard to possible ‘referendum’ issues (see section 16);
- (h) Approves the approach to reserves outlined by the Director of Finance (see Appendix 4);
- (i) Notes that any decision on final council tax levels will also require additional “technical” recommendations, to meet statutory requirements, which will be completed once the final outcome of levies are known at the full Council meeting (see 16.9);
- (j) Agrees that the Director of Finance be authorised to report any further changes directly to Council on 1st March 2021.

Impact on Vulnerable Adults and Children

1. Summary of Impact: None arising directly from this report
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Corporate

Policy Status: Existing Policy
BBB Priority: Excellent Council

Financial

1. Cost of proposal: N/A
 2. Ongoing Costs: Recurring costs – impact in future years detailed in Appendix 1
 3. Budget head/performance centre: Council wide
 4. Total budget for this head £175m Draft 2021/22 Budget (excluding GLA precept)
 5. Source of funding: See Appendix 2 for overall funding of Council's budget
-

Personnel

1. Number of staff (current and additional): total employees – full details will be available with the Council's 2021/22 Financial Control Budget to be published in March 2021
 2. If from existing staff resources, number of staff hours – N/A
-

Legal

1. Statutory requirement: The statutory duties relating to financial reporting are covered within the Local Government Act 1972; the Local Government Finance Act 1998; the Local Government Act 2000; the Local Government Act 2002 and the Accounts and Audit Regulations 2015.
 2. Call-in is applicable
-

Procurement

1. Summary of Procurement Implications: None arising directly from this report
-

Customer Impact

Estimated number of users/beneficiaries (current and projected) - the 2021/22 budget reflects the financial impact of the Council's strategies, service plans etc. which impact on all of the Council's customers (including council taxpayers) and users of the services.

Ward Councillors Views

1. Have ward councillors been asked for comments? N/A
2. Summary of Ward Councillor comments: Council wide

3. PREVIOUS REPORTING TO MEMBERS

- 3.1 The 'Draft 2021/22 Budget and Update on the Council's Financial Strategy 2021/22 to 2024/25' was reported to the Executive on 13th January 2021. Key matters reflected in the report included:

(Please note appendices and sections shown below refer to the report to the meeting of the Executive on 13th January 2021)

- (a) Approach to Budgeting, Financial Context and Economic Situation which can impact on Public Finances (Section 3 and Appendix 1);
- (b) Provisional Local Government Finance Settlement 2021/22 (Appendix 2);
- (c) Council Tax Levels and Government Funding per Head (Appendix 3);
- (d) Latest Financial Forecast (Section 5 and Appendices 5-6);
- (e) Changes since the 2020/21 Budget that impact on the Financial Forecast (Section 6);
- (f) Detailed Draft 2021/22 Budget (Section 7 and Appendix 7);
- (g) Options being undertaken with a "One Council" approach including Transformation (Section 8);
- (h) Future Local Authority Landscape (Section 9);
- (i) The Schools' Budget (Section 11);
- (j) Consultation (Section 16);
- (k) Position by Portfolio – Key Issues/Risks (Section 17 and Appendix 8).

All of the above should be considered with this report as part of finalising the 2021/22 Budget and council tax levels.

4. 2021/22 DRAFT BUDGET AND CHANGES SINCE LAST MEETING OF THE EXECUTIVE

- 4.1 The last report to the Executive identified a balanced budget in 2021/22, assuming an increase in council tax and adult social care precept of 4.99%, and a 'budget gap' of £14.1m by 2024/25. The main updates are shown below:

- (a) The final Local Government Financial Settlement 2021/22 is still awaited (expected mid February 2021) and any updates will be provided at the meeting;
- (b) Various government grant allocations are still awaited. This includes, for example, Rough Sleepers Initiative, Better Care Fund, Independent Living Fund and Public Health Grant. Any changes to be announced, compared with the 2021/22 Budget, will be reflected in an updated 2021/22 Central Contingency Sum;

5. LATEST FINANCIAL FORECAST

- 5.1 A summary of the latest budget projections is shown in Appendices 1 and 2 and are summarised in the table below:

Variations Compared with 2020/21 Budget	2021/22	2022/23	2023/24	2024/25
	£m	£m	£m	£m
Changes in Government Core Funding	-0.4	-0.4	-0.4	-0.4
Cost Pressures				
Increased costs (2% per annum)	5.5	11.3	17.1	23.1
Reinstatement of highways maintenance (previously capitalised)	0.0	2.5	2.5	2.5
Total Additional Costs	5.5	13.8	19.6	25.6
Income / Savings				
Interest on balances	0.0	1.0	1.5	1.5
Release general provision in contingency for significant uncertainty/variables	-1.7	-3.7	-3.7	-3.7
Savings from children's social care linked to invest to save funding	-0.3	-0.3	-0.3	-0.3
Adult social care and children's social care grant	-0.3	-0.3	-0.3	-0.3
Homelessness Prevention grant	-0.3	-0.3	-0.3	-0.3
Transformation Savings	-3.6	-6.0	-6.3	-6.4
Freedom pass saving/reduced usage in 2020/21	-2.2	-3.3	-1.8	0.0
Total Income / Savings	-8.4	-12.9	-11.2	-9.5
Other Changes (includes use of non-recurring funds)				
Real Changes and other Variations	0.3	1.1	0.6	0.9
Carbon Neutral Initiatives Fund	-0.9	-0.9	-0.9	-0.9
Total Other Changes	-0.6	0.2	-0.3	0.0
COVID Funding				
Additional cost pressures - COVID impact in 2021/22	8.0	0.0	0.0	0.0
Additional Funding to support further COVID cost impact in 2021/22	-8.0	0.0	0.0	0.0
	0.0	0.0	0.0	0.0
Council Tax				
Assumed increase in council tax base number of prop. offset by increase in council tax support claimants	0.0	0.0	0.0	-0.7
Increase in cost of Council tax support (funded by grant)	2.3	0.0	0.0	0.0
Government funding towards additional council tax support costs	-2.3	0.0	0.0	0.0
Increase in council tax (assume 1.99% per annum)	-3.3	-6.7	-10.2	-13.7
Impact of Adult Social Care Precept (assume 3% per annum)	-5.0	-5.0	-5.0	-5.0
Projection of future year collection fund surplus	0.0	-2.0	-1.0	0.0
Provision for unrecoverable 2020/21 council tax collection losses - COVID	2.2	2.2	2.2	0.0
Government funding for 2020/21 council tax collection losses - COVID	-1.6	-1.6	-1.6	0.0
Total Council Tax	-7.7	-13.1	-15.6	-19.4
Growth/Cost Pressures including mitigation (see Appendix 6)				
Education	0.9	1.2	1.6	1.9
Children's Social Care	2.8	2.2	2.9	3.4
Adult Social Care	5.5	7.4	9.5	11.7
Housing	1.7	0.2	-1.2	-1.7
Environment	2.3	2.1	1.6	1.1
Reduction in investment property income	1.2	1.1	1.2	1.4
Building Maintenance	1.0	1.0	0.0	0.0
Part funding for loss of fees and charges income (COVID)	-0.5	0.0	0.0	0.0
Total growth/cost pressures	14.9	15.2	15.6	17.8
Sub-total	3.3	2.8	7.7	14.1
Use of previous Collection Fund Surplus to meet budget gap	-3.3	-2.7	-5.1	0.0
Remaining "Budget Gap"	0.0	0.1	2.6	14.1

5.2 The above table shows, for illustrative purposes the impact of a council tax increase of 4.99% in 2021/22 (including adult social care precept). Each 1% council tax increase generates on-going annual income of £1.7m. The financial forecast assumes that any future increases in the Adult Social Care precept cease beyond 2021/22. It should be

noted that the current legislation only provided powers for this precept until the end of 2021/22.

- 5.3 These variations are subject to any final decision on Council Tax levels. Appendix 2 derives an illustrative 'Bromley element' Council Tax of £1,327.86 (1.99% general increase plus 3% adult social care precept) and Appendix 3 includes the Draft 2021/22 Central Contingency Sum. Appendix 2 is based on draft portfolio budgets, the draft contingency provision and the latest assumptions for levies. This sum excludes the GLA precept.
- 5.4 Appendix 1 highlights that the Council, on a roll forward basis, has a "structural deficit" as the on-going budget has increasing costs relating to inflation, service pressures and potential future loss of Government grants. These changes are not being fully funded by a corresponding growth in income. The above projection includes savings previously agreed to reduce the 'budget gap' and the situation has improved following the 2020 Spending Review.
- 5.5 The above table highlights that, although it has been possible to achieve a potential balanced budget for the next two years even after allowing for significant cost pressures there remains a "budget gap" of £2.6m in 2023/24 rising to £14.1m per annum in 2024/25. The projections in later years have to be treated with some caution, particularly as the Government's 'Fair Funding' review and Spending Review (multi year) combined with the awaited outcome of the review of business rates income is expected to be implemented from 2022/23 which will include the revised levels of funding for individual local authorities.
- 5.6 In considering action required to address the medium term "budget gap", the Council has taken significant action to reduce the cost base while protecting priority front line services and providing sustainable longer-term solutions. Significant savings of over £100m were realised since 2011/12. Our council has to balance between the needs of service users and the burden of council tax on council taxpayers. With the Government having placed severe reductions in the level of grant support, the burden of financing increasing service demand falls primarily upon the level of council tax and business rate income.
- 5.7 Further changes will be required, prior to the report to full Council on 1st March 2021 for the finalisation of the Council Tax, to reflect latest available information on levies and the final GLA precept.
- 5.8 Even though the draft budget would be broadly balanced next year, the future year's budget gap is projected to increase to £14.1m per annum by 2024/25. Without any action to address the budget gap in future years, reserves will need to be used with the risk of the budget gap increasing in future years and becoming unsustainable.
- 5.9 The reasons for the budget gap by 2024/25 include, for example:
- (a) inflation pressures partly offset by assumed council tax increase (1.99% per annum) and social care precept (2021/22 only) of 3% leaving a balance required of £4.4m;
 - (b) Growth/cost pressures of £51.7m, partly offset by mitigation of £33.9m, resulting in a net additional cost of £17.8m;
 - (c) Impact of reinstatement of highways maintenance of £2.5m per annum to revenue budget (previously capitalised);
 - (d) Full year effect of the Phase 1 Transformation Savings (£1.5m in 2021/22 increasing to £2.0m per annum in 2024/25);

- (e) Phase 2 Transformation Savings of £2.1m in 2021/22 increasing to £4.4m per annum in 2024/25;
- (f) Savings from reduction in the Council's provision for risk/uncertainty held within the Central Contingency Sum (saving of £3.7m per annum);
- (g) Other variations of £0.5m (income).

5.10 The above variations assume that there will not be Government funding reductions over the next four years and that the planned mitigation of growth pressures (see (b) above) is realised.

5.11 In the financial forecast, after allowing for inflation, council tax income and other changes, there is an unfunded budget gap from 2023/24 due to net service growth/cost pressures and the fall out of one-off funding. This highlights the importance of scrutinising growth and recognition that corresponding savings will need to be found to achieve a statutory balanced budget. It is timely as we all must consider what level of growth the council can afford and the need for significant mitigation or alternative transformation options.

6. DRAFT 2021/22 CENTRAL CONTINGENCY SUM

6.1 Details of the 2021/22 Draft Contingency Sum of £14,925k have been included in Appendix 3. This sum includes a provision for risk/uncertainty in the future included in the base budget. There remains a need to consider a significant provision in the central contingency sum to allow for unforeseen costs, prevent drawing from reserves to fund overspends, to reflect the impact of new burdens introduced after the budget was set, to cover the impact of savings and mitigation of growth not realised and, as in the past, enable funding of key initiatives and investment opportunities.

6.2 It is important to recognise that this sum also includes various significant costs not allocated to Portfolio budgets at this stage. Therefore, there may be further changes to the Central Contingency to reflect allocations to individual Portfolio Budgets which will be reflected in the 2021/22 Financial Control Budget. This will ensure that budget holders will have all their individual budgets updated early in the financial year. Such changes will not impact on the Council's overall 2021/22 Budget.

6.3 The updated financial forecast assumes the release of £1.7m in 2021/22 and £3.7m per annum from 2022/23 to directly support the revenue budget.

7. GENERAL AND EARMARKED RESERVES

7.1 Appendix 4 of this report highlights the Council's approach to utilising reserves and the significant value in retaining reserves. The level of reserves needs to be adequate to ensure the longer-term stewardship of the Council's finances remain effective and the Council maintains 'sustainable' finances in the medium term. Medium term planning remains absolutely key in recognition of the ongoing 'structural' budget deficit facing the Council. Inflation, new burdens, growth/cost pressures and previous reductions in Government funding has created the structural budget deficit. Reserves are one off monies and do generate income and should only be used where no other savings/efficiencies can be identified or to plug the gap (short term) for the phasing of savings.

7.2 The Council will have retained previous year's collection fund surpluses as well as a financial management and risk reserve (both included within earmarked reserves) which can support any planned transition in delivering significant savings to meet the budget gap. However, any medium or longer term utilisation of one off resources and

reserves to support the revenue budget are unsustainable and place the council at greater financial risk in the future.

- 7.3 If the existing general reserves are released now to fund service initiatives, delay savings or reduce council tax, there would be a resultant “opportunity cost” relating to a corresponding loss in interest earnings/investment opportunities and the resultant exhaustion of reserves which is not recommended. Any increase in service levels or initial protection would only be very short term. Reserves can only be used as a one-off contribution to revenue spending and would not provide a sustainable solution to maintaining local government services.
- 7.4 The Council had estimated general reserves remaining of £19.9m as at 31/3/2021. A full breakdown of reserves, including earmarked reserves, is detailed in Appendix 4.

8. 2020/21 BUDGET MONITORING AND COVID IMPACT

- 8.1 The key challenge is the cost of the impact of Covid-19 and the extent to which the Government funds the net cost to the Council. Examples of the financial impact include:
- (a) Additional costs relating to direct support, enhancements to contract prices during this interim period (where necessary), additional staffing support, provision of new services, mortuary costs etc;
 - (b) Planned budget savings which cannot be delivered during this period;
 - (c) Loss of income which includes, for example, car parking and enforcement, business rates, council tax collection, rent income from investment properties and treasury management.
- 8.2 The latest financial monitoring position reported to the Leader, following pre scrutiny by Executive, Resources and Contracts PDS Committee on 18th November 2020, showed an overall net overspend of £1,538k within portfolio budgets and a £2,595k credit variation (savings/income) on investment income, central items and prior year adjustments. This represents the impact of the first six months of the financial year and the full year impact of 2019/20 outturn. The most significant financial risk to the Council is the Covid-19 impact.
- 8.3 The Draft 2021/22 Budget report to the previous meeting provided details of the latest Covid financial position. The financial impact will continue to be monitored on a monthly basis and the Council will continue to seek additional Government funding to reduce the impact on local council tax. The 2021/22 Draft Budget includes specific net additional costs/income losses of £4.1m relating to Covid, compared with the 2020/21 Budget plus additional costs of £2.3m to reflect increased council tax caseloads (funded by Government) and a general provision of £7.8m to meet any further costs not specifically identified in the Draft 2021/22 Budget at this stage – the sum of £7.8m matches the level of additional Government funding provided to meet these uncertain costs. There will be the costs relating to the Covid impact in 2021/22 as well as the impact of the ‘new normal’ following the Covid situation. The longer-term impact is expected to result in additional cost pressures, in part, to reflect the impact of a global recession. There will be a global recovery but realistically that may not materialise until at least 2022/23. Apart from the additional costs arising from a recession which can range from council tax support and additional services for vulnerable residents etc, there is likely to be a significant impact on the Council’s income. The Council has sought funding support on the ‘new normal’ impact for future years as reported to the previous meeting of the Executive. The financial impact in 2021/22 (as well as future years) remains unclear at this stage. This will need to be monitored closely.

9. THE SCHOOLS BUDGET

- 9.1 Since 2003/04, the Council has received funding for the 'Schools Budget' element of Education services through a ring-fenced grant, more recently through the Dedicated Schools Grant (DSG).
- 9.2 The implementation of the National Funding Formula (NFF) began in 2018/19. Funding has been split into four blocks, Schools, High Needs, Early Years and Central Spend DSG. The funding splits are detailed in the table below:-

PROVISIONAL DSG FUNDING					
	Schools	High Needs	Early Years	Central	Total
	£'000	£'000	£'000	£'000	£'000
2020/21	218,401	53,042	23,055	1,920	296,418
2021/22	237,832	58,729	23,343	2,134	322,038
Variation	19,431	5,687	288	214	25,620

- 9.3 The Schools Block has risen by £19.4m. This is due to an increase in the per pupil unit of funding and increases in the population figures. There is also an element (around £11m of the increase) that relates to teachers pay and pension increases that were paid through specific grants and are now integrated into the overall Schools DSG block calculation.
- 9.4 The High Needs Block is seeing pressures coming through the system. Nationally the Government were seeing some authorities building up high levels of deficit reserves. This particular funding issue was acknowledged, and funding was committed for 2021/22. The DSG allocation resulted in an increase in high needs block funding of £5.7m for Bromley. This was due to the increases in per pupil funding and the increase in pupils themselves. £939k of the increase relates to pay and pension increases that were paid through specific grants and are now integrated into the overall High Needs block calculation.
- 9.5 Although there are increases in funding, predictions for expenditure are rising at a faster rate. This is due to growth in pupil numbers in this area, with the Government extending the scope of the High Needs Block from ages 5 to 19 to 0 to 25 and historical baseline funding adjustments. Moreover, future funding levels have not yet been announced and so there is uncertainty as to what funding levels will be from 2022/23.
- 9.6 Early Years funding has increased by £288k. This is due to increases in the allowances for hourly rates payable. Last year's population figures are being used. Early Years DSG is adjusted in year to take account of take up during the year, so the figure will change as the year progresses.
- 9.7 The Central Block has increased by £214k. Although the per pupil rate fell by 2.5% (the equivalent of a loss of £48k), £242k of additional grant was received due to the pay and pension specific grant allocation for centrally employed teachers now being integrated into the DSG. The remaining increase of around £20k is due to the increase in pupil numbers. There continues to be pressures in the Central Schools DSG due to funding shortfalls. Last year the Council used £360k of core LBB funding to underpin this expenditure. A further £50k is being proposed for 2021/22 bringing the total Council core funding to £410k.

- 9.8 The use of DSG is subject to consultation with the Schools Forum and this was reported to the Children, Education and Families Budget Sub-Committee on the 19th January 2021. At the time of writing this report, this is subject to the formal agreement of the Children, Education, and Families Portfolio Holder.

10. LEVIES

- 10.1 Miscellaneous levies must be charged to the General Fund and shown as part of Bromley's expenditure on the Council Tax bill. The levy figures in Appendix 2 are based on the latest information but many are still provisional. Any changes will be reported at the meeting of the Council on 1st March 2021. The London Boroughs Grants Committee is required to apportion its levy on a population basis but the other levying bodies must use the Council Tax base.

11 COLLECTION FUND

- 11.1 It is a statutory requirement to maintain a Collection Fund at arm's length from the remainder of the Council's accounts.
- 11.2 The forecast assumes that the collection fund surplus in 2018/19 of £5.9m has been used to support the revenue budget in 2022/23 and 2023/24.
- 11.3 The collection fund had a non-recurring surplus of £6.5m reflected in the 2019/20 Provisional Final Accounts report to the Executive, Resources and Contracts PDS on 27th May 2020. The surplus was achieved mainly through good debt recovery levels, an increase in new properties in the borough and the ongoing impact of actions in response to the data-matching exercise on single person discounts. A sum of £5.15m will be allocated to the Council, with the £1.35m going to the Greater London Authority. The financial forecast assumes that the surplus will be used towards reducing the Council's budget gap in 2021/22 (£3,242k) and in 2023/24 (£1,911k) – this reflects an approach adopted previously to smooth out future years budget gaps.
- 11.4 As a result of the financial pressures associated with the Covid 19 pandemic (including irrecoverable losses through payment failure and an increase in support claimants), the Council is likely to face a worsening financial position on the 2020/21 collection fund. In recognition of this, the government has agreed that deficits arising only in 2020/21 will be spread over the following three years rather than the usual period of a year. On this basis, the draft budget recognises estimated irrecoverable council tax losses of £2.191m for each of the next three years, though this will be compensated by government at a rate of 75% resulting in an estimated net loss of £548k per annum, after funding.
- 11.5 The financial forecast also assumes additional income of £2m in 2022/23 reducing to £1m by 2023/24, with no additional income in 2024/25.
- 11.6 There have been no changes to the council tax base since the previous meeting of the Executive.

12. THE GREATER LONDON AUTHORITY PRECEPT

- 12.1 The GLA's 2021/22 Draft Budget has been issued for consultation and the Mayor of London announced a proposed increase of 9.5% in the existing GLA precept levels for 2021/22. This will be subject to confirmation from government that such increases will fall within referendum limits. The final GLA precept for 2021/22 is expected to be announced after the Assembly has considered the Mayor's draft consolidated budget on 25th February 2021.

13. UTILISATION OF GENERAL RESERVES, COUNCIL'S CAPITAL PROGRAMME AND BUILDING MAINTENANCE

- 13.1 The latest estimated general fund (revenue) balance at 31st March 2021, as shown in the 'Budget Monitoring 2020/21' report, considered by the Leader, following pre scrutiny by E,R&C PDS on 18th November 2020

	2020/21 Projected Outturn £Million
General Fund Balance as at 1 st April 2020	20.0
Impact of net projected underspends reflected in the 2020/21 budget monitoring report	+1.1
Adjustment to Balances: Carry forwards (funded from underspends in 2019/20)	-1.2
Estimated General Fund Balance at 31 st March 2021 (end of year)	19.9

- 13.2 Bromley's Capital programme is mainly funded by external government grants, contributions from TfL and from general capital receipts. Site G will be funded through internal borrowing on the basis that a significant capital receipt will be realised at a later date to repay the internal loan.
- 13.3 The latest capital programme funding projections indicate that the Capital Programme will not require significant levels of funding from the Councils General Fund reserves until 2024/25.
- 13.4 Alongside the introduction of the prudential code for capital spending, the Director of Finance is required to report to the council on the appropriateness of the level of reserves held by the council and the sustainability of any use of reserves to support the revenue budget. The detailed advice is contained in Appendix 4.

14. CONSULTATION

- 14.1 Executive, at its meeting on 13th January 2021, requested that the 'Draft 2021/22 Budget and Update on Council's Financial Strategy 2021/22 to 2024/25' report proposals are considered by individual PDS Committees. PDS Committee comments relating to the report in January will be circulated separately. Such consideration will enable the Executive to take into account those views as part of agreeing its final recommendations to the Council meeting on 1st March 2021 where the 2021/22 Budget and Council Tax will be agreed.
- 14.2 The use of DSG was subject to consultation with the Schools Forum and this also went to the Children Education and Families Budget Sub Committee on the 19th January 2021. At the time of writing this report, this is subject to the formal agreement of the Children, Education, and Families Portfolio Holder.
- 14.3 Consultation papers have been sent to Bromley Business Focus, Federation of Small Businesses (Sevenoaks & Bromley Branch) and the 20 largest business ratepayers in the borough. At the time of writing this report no responses have been received.
- 14.4 Other examples of consultation will include consultation on specific budget proposals.

15. POSITION BY DEPARTMENT – KEY ISSUES/RISKS

- 15.1 There remain risks in meeting the ‘budget gap’ arising from budget savings, mitigation options to address cost pressures, as well as ongoing cost pressures arising from new burdens, the ongoing Covid situation (with uncertainty on the ‘new normal’) and the impact of Government policy changes. Action will need to be taken to contain, where possible, these cost pressures, managing the implementation of savings or seeking alternative savings where required. The Council’s Corporate Risk Register shows that ‘Failure to deliver a sustainable financial strategy which meets Building a Better Bromley priorities and failure of individual departments to meet budget’ is the highest risk the Council is facing.
- 15.2 Details of the potential risks which will be faced in future years, as part of finalising the 2021/22 Budget, were reported to the previous meeting of the Executive. The level of balances held and provisions set aside in the central contingency provide significant safeguards against any adverse financial pressures.

16. COUNCIL TAX LEVEL 2021/22

- 16.1 The updated GLA’s 2021/22 Draft Budget includes proposals for an increase of 9.5% in existing GLA precept levels for 2021/22. The final GLA Precept for 2021/22 is expected to be announced after the Assembly has considered the Mayor’s draft consolidated budget on 25th February 2021.
- 16.2 The current overall Council Tax (Band D equivalent) includes the “Bromley element” relating to the cost of the council’s services and various levies of £1,264.77 in 2020/21 and a further sum of £332.07 for the GLA precept (providing a total Band D equivalent Council Tax of £1,596.84).
- 16.3 For 2021/22, every £1m change in income or expenditure causes a 0.6% variation in the ‘Bromley element’ of the Council Tax. Each 1% council tax increase generates ongoing annual income of £1.67m.
- 16.4 As part of the Localism Act, any council tax increase of 2% or above in 2021/22 will trigger an automatic referendum of all registered electors in the borough. If the registered electors do not, by a majority, support the increase, then the Council would be required to meet the cost of the rebilling of approximately £100k. The one-off cost of a referendum is estimated to be £700k.
- 16.5 The Government has enabled the Council in 2021/22 to have a council tax precept of up to 3% per annum to specifically fund adult social care (a 3% increase in council tax equates to £5m additional income per annum). Councils are able to levy the precept on top of the existing freedom to raise council tax by up to 1.99% without holding a referendum. Therefore, the Council could potentially have a council tax increase of just below 5% without the need for a council tax referendum. The financial forecast assumes the precept could not continue beyond 2021/22. The Council’s ability to raise income through an increase in the council tax and the adult social care precept is reflected in the overall level of Government funding received by the Council.
- 16.6 If the Council chose to agree a Bromley element of a 4.99% council tax increase, including the 3% Adult Social Care Precept, and the GLA Precept was increased by 9.5% there would be an overall combined council tax increase of around 5.93%. This would equate to an overall Council Tax (Band D equivalent) of £1,691.52 consisting of the Bromley element of £1,327.86 and GLA precept of £363.66.

- 16.7 The table below identifies the changes required to the draft 2021/22 Budget to achieve different levels of increases in the Bromley element of the council tax. An increase of 4.99%, including 3% for the Adult Social Care Precept, has been assumed in the 2021/22 Draft Budget at this stage.

Bromley Element % Increase in 2021/22 including Adult Social Care Precept	Additional Income 2021/22 £'m
Freeze	NIL
1.0	1.7
2.0	3.3
3.0	5.0
3.99	6.6
4.99*	8.3
6.0#	10.0

*Assumed in draft 2021/22 Budget. Adult social care precept of 3% equates to additional income of £5m per annum. # Would be subject to a council tax referendum

- 16.8 Any decision on council tax levels will need to be based on a medium term view and therefore not only consider the financial impact on 2021/22 but also the longer term impact over the four year forecast period.
- 16.9 The Council Tax Referendum Principles are expected to be confirmed as part of the final Local Government Finance Settlement 2021/22. Any final recommendations on council tax levels will need to take into account any changes to statutory requirements.
- 16.10 Bromley has the second lowest settlement funding per head of population in 2021/22 for the whole of London. Despite this, Bromley has retained the third lowest council tax in outer London (other low grant funded authorities tend to have higher council tax levels). This has been achieved by having a below average cost per head of population in outer London. Further details were reported to the previous meeting of the Executive.
- 16.11 Members are asked to consider the impact of the latest draft budget on the level of Council Tax for 2021/22, having regard to all the above factors including the Director of Finance comments in Sections 18.7 to 18.11 and Appendix 4.

17. FUNDING SETTLEMENT

- 17.1 Details of the Council's representation on the response to the 'Comprehensive Spending Review Representation' were reported to the previous meeting of the Executive. The Council's response to the Provisional Local Government Finance Settlement 2020/21 is provided in Appendix 5. The Council will continue to engage local MPs and Government ministers to secure a better funding deal for the Council and its residents.
- 17.2 Although the Local Government settlement for 2021/22 represents an improvement in funding from Government (compared with period 2009/10 to 2019/20) it remains a one year settlement only.

18. MEDIUM TERM FINANCIAL PLANNING

- 18.1 Local Government funding arrangements are set to experience their most significant reform for over two decades. The outcome of the Fair Funding Review (a revised formula for local government funding allocation), the business rates review and the Spending

Review (provides the plan on how the Government money will be allocated across years determining the financial quantum for local authorities) will not be known until autumn 2021. In addition, there are likely to be transitional arrangements that will impact on any 'winners' and 'losers' amongst Councils.

- 18.2 The detailed approach of the Council towards budgeting over the medium to longer term was reported to Executive on 13th January 2021 and the Draft 2021/22 Budget and future years' forecasts reflect the impact of this approach.
- 18.3 With the future funding uncertainty together with ongoing cost/growth pressures, the continuation of long term financial planning as part of the Medium Term Financial Strategy remains essential to ensure that any future service changes are managed effectively.
- 18.4 For financial planning purposes, the financial forecast assumes a council tax increase of 1.99% per annum over the following three years to compensate for funding reductions, to meet inflationary costs on social care and provide funding to meet increasing social care costs and demographic cost pressures. As part of the Local Government Finance Settlement 2021/22, the Government's reported 'Spending Power' of local government assumes that Councils will raise alternative funding, to partly determine grant calculations, from council tax increases and utilisation of the Adult Social Care precept. The financial forecast reflects that approach.
- 18.5 The Budget Strategy has to be set within the context of continuing cost pressures while Government funding remains at 'standstill' levels from 2022/23 – transformation savings will be required to offset such cost pressures to ensure a balanced budget. There is also a need to build in flexibility in identifying options to bridge the budget gap as the gap could increase further. The overall updated strategy has to be set in the context of the national state of public finances, recognising that local authorities funding from Government remains 'unprotected' compared with NHS and other 'protected' services. It is therefore likely that, even if funding levels are maintained, the ongoing demographic and other cost pressures are unlikely to be matched by corresponding increases in Government funding. The wider context includes the Government taking measures, in the medium and longer term, to address the rising national debt due to the Covid pandemic.
- 18.6 The Council has had to take significant action to reduce the cost base while protecting priority front line services and providing sustainable longer term solutions. Council Tax has been kept low compared with other Councils. A combination of front loading of savings in previous years, pro-actively generating investment income and prudent financial management together with an improved financial settlement have provided an opportunity to provide a balanced budget for the following two years. To illustrate the benefit of the investment approach the Council has undertaken, budgeted income totaling £13.8m from a combination of treasury management income (£3.6m) and rents from investment and operational properties (£10.2m). Without this income, equivalent service reductions may be required. Utilisation of the remaining uncommitted Growth and Investment Fund monies will be prioritised for housing and local economic recovery. There remains the need to reduce the significant cost pressures on homelessness and the opportunities to help the local economy recover from this pandemic. The Council will continue to explore using low cost treasury management monies to support future joint venture opportunities with the aim to generate investment returns over a 3 to 5 year period. This could include, for example, funding of joint venture opportunities to support land disposal/key investments. The Council has already undertaken secure lending to a developer which generates interest income of 6% per annum and also supports a homelessness initiative. The Council remains debt free and has resources to encourage and invest in innovation and new types of investment for the future.

- 18.7 Section 25 of the Local Government Act 2003 requires the Council's Section 151 Officer to report on the robustness of the budget calculations and the adequacy of reserves as part of the budget and council tax setting decision. The background to the impact of real reductions in government funding within the local authority landscape was reported to the last meeting of the Executive. Bromley has delivered savings of over £100m since 2011 and has a below average cost base which makes further savings more challenging. At best, there is expected to be a 'standstill' position on future government funding. Therefore future government funding is not expected to meet future year cost pressures and new burdens which will continue over the next four years.
- 18.8 It is essential that action continues to mitigate the significant cost pressures – the 2021/22 Budget and 2022/23 to 2024/25 forecast assumes net growth pressures of £51.7m offset by mitigation of £33.9m (net increase of £17.8m). In addition transformation savings of £6.4m per annum have been assumed by 2024/25. Without delivery of the combined mitigation and transformation savings of £40.3m per annum by 2024/25, the budget gap would in future years increase – this clearly must be monitored closely with corrective action taken to avoid any significant increase in the budget gap. There is also a risk if the growth pressures assumed in the forecast increase further compared with current projections. Although the 2021/22 Central Contingency Sum and balances (one-off monies) provide a short term 'buffer' it is essential to take action to deliver a sustainable ongoing financial – the Council has a statutory duty to have a balanced budget.
- 18.9 CIPFA has provided advice to local authorities on the financial stress warning signs:
- Running down reserves – a rapid decline of reserves;
 - A failure to plan and deliver savings in service provision to ensure a council lives within its resources;
 - Shortening medium-term financial planning horizons – perhaps from four to three years to two years or even one year – this would indicate lack of strategic thinking and unwillingness to confront tough decisions;
 - Greater 'still to be found' gaps in saving plans – identifying savings for the next financial year only and not beyond;
 - Growing tendency for departments to have unplanned overspends and/or carrying forward undelivered savings in the following year.
- 18.10 The Council is 'better placed' than many other authorities due to remaining debt free, has retained adequate level of reserves and maintained adequate provisions in the Council's revenue budget for unforeseen costs and risks. The Council has maintained four year financial planning despite the future funding uncertainty (awaited Spending Review, Fair Funding review and review of business rates from 2022/23) and it remains essential that action is taken to address any in year overspends, recognising that there could be a full year impact which could increase the 'budget gap' further. Continuing the One Council Transformation approach as reported to the previous meeting of the Executive, delivering planned mitigation and transformation savings as well as minimising any further cost/growth pressures are essential to identify options from 2022/23 to address the medium term budget gap and ensure the Council can continue to 'live within its means'. It also remains essential that Chief Officers identify mitigating action to address any in year cost pressures/new burdens to remain within their 'cash envelope'. Commentary on the level of reserves and robustness of the 2021/22 Budget are provided in Appendix 4.

- 18.11 Stewardship and delivering sustainable finances are increasingly important whilst cost pressures and the Government's fiscal squeeze continues. The strategy needs to remain flexible and the Council's reserves resilient to respond to the impact of volatile external events and the structural budget deficit.

19. IMPACT ON VULNERABLE ADULTS WITH CHILDREN

- 19.1 The Draft 2021/22 Budget reflects the Council's key priorities which includes, for example, supporting vulnerable adults with children and being ambitious for all our children and young people.

20. POLICY IMPLICATIONS

- 20.1 The Draft 2021/22 Budget enables the Council to continue to deliver on its key priorities and the financial forecast enables medium term financial planning allowing for early decisions to be made which impact on the medium term financial plan. The Council continues to deliver key services and lives within its means.

21. PERSONNEL IMPLICATIONS

- 21.1 Staff, departmental and trade union representatives will be consulted individually and collectively on any adverse staffing implications arising from the Draft 2021/22 Budget. Managers have also been asked to encourage and facilitate staff involvement in budget and service planning.

22. LEGAL IMPLICATIONS

- 22.1 The Council is required to fix its Council Tax by the 11th March in any year. The Local Authorities (Standing Orders) (England) Regulations 2001 and the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) deal, amongst other things, with the process of approving the budget. Under these provisions and the constitution, the adoption of the budget and the setting of the council tax are matters reserved for the Council upon recommendation from the Executive. Sections 31A and 31B to the Local Government Finance Act 1992 (as amended by sections 73-79 of the Localism Act 2011) set out the way in which a billing authority calculates its budget requirement and basic amount of Council Tax. The main change being replacing the need to calculate a budget requirement for a financial year with the obligation to calculate a Council tax requirement. These calculations are required to be presented to and be subject to formal resolution by the Council.

- 22.2 Schedule 5 to the Localism Act 2011 inserted a new section 52ZB in the 1992 Act which sets out the duty on billing authorities, and precepting authorities to each determine whether their relevant basic amount of council tax for a financial year is excessive. If an authority's relevant basic amount of council tax is excessive, the provisions in relation to the duty to hold a referendum will apply (see Section 16 of the Report). This replaced the previous power of the Secretary of State to "cap" local Authority budgets.

- 22.3 The introduction of the Education Act 2005 has changed the procedure for the setting of schools budgets. The Act has introduced the concept of a funding period, which allows for the introduction of multiple year budgets rather than the setting of financial year budgets.

- 22.4 The Schools Finance (England) Regulations 2005 introduced under the provisions of the new Section 45AA of the School Standards and Framework Act 1998, place a requirement on the LEA to determine schools budgets by the 31st March. Notice of a

schools determination must be given to maintained schools governing bodies. Contained within the regulations is a designated procedure that allows the LEA to predetermine schools budget and the individual schools budget. There is also a provision allowing amendment to the determination, but any reduction in budget can only be proportionate to any reduction in the dedicated schools grant that has been received.

- 22.5 The making of these budget decisions is a statutory responsibility for all Members. Section 106 of the Finance act 1992 provides that Members who are present and who are 2 months or more in arrears with their Council Tax must declare this to this meeting and the budget meeting and not vote on budget recommendations.
- 22.6 The Local Government Act 2003 included new requirements to be followed by local authorities, which includes the CIPFA Prudential Code. This includes obligations, which includes ensuring the adequacy of future years' reserves in making budget decisions.
- 22.7 In setting the proposed budget, due regard has been necessary to relevant considerations including equality, human rights, proportionality, reasonableness, need to maintain our statutory obligations, legitimate expectation and the Council's priorities The Public Sector Equality Duty, at section 149 of the Equality Act 2010, requires public bodies such as the Local Authority to consider all individuals when carrying out their day to day work – in shaping policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities. The Act covers discrimination because of a 'protected characteristic' which includes age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 22.8 In fulfilling our equalities duty, and in particular the specific equalities duty, regard has been had to the impact of budget proposals and savings options on those with 'protected characteristics' including the potential for cumulative impact on some groups from separate work streams arising from this budget. As part of the budget setting process where appropriate impact assessments have been performed at service level where service managers and frontline staff will be involved in implementing the changes and fully understand the customer base and likely impact on them. Where any proposals are found to have a disproportionate impact on a particular group, the Council will consider what actions can be taken to avoid or mitigate the impact.
- 22.9 In some instances detailed analysis will be undertaken after the budget has been set but before a policy arising from the budget is implemented. In these instances the council will comply with its legal obligations including those relating to equalities and consultation and if a proposal is deemed to be unsustainable after such detailed work or where a disproportionate impact on a protected group is identified consideration will be given to any necessary mitigation, rephrasing or substitution of the proposed service changes.

Background documents	<p>Treasury Management – Annual Investment Strategy 2021/22 and Quarter 3 Performance 2020/21, Executive, Resources and Contracts PDS Committee and Council, 3rd February 2021 and 1st March 2021 respectively</p> <p>Capital Programme Monitoring Q3 2020/21 and Capital Strategy 2021 to 2025, Executive, 10th February 2021.</p> <p>Draft 2021/22 Budget and Update on Council’s Financial Strategy 2021/22 to 2024/25, Executive, 13th January 2021</p> <p>Budget Monitoring 2020/21, Leader following pre scrutiny by E,R&C PDS on 18th November 2020</p> <p>Insurance Fund – Annual Report 2019/20, E,R &C PDS Committee, 18th November 2020</p> <p>Transforming Property – Creation of a £30m Disposal Programme, Leader following pre scrutiny by E,R&C PDS on 10th September 2020</p> <p>2019/20 Provisional Final Accounts. Leader following pre scrutiny by E,R&C PDS on 27th May 2020</p> <p>2020/21 Council Tax, Executive 12th February 2020</p>
Financial Considerations	<p>Covered within overall report</p>

	2020/21 £'000	2021/22 £'000	2022/23 £'000	2023/24 £'000	2024/25 £'000
Bromley's Budget Requirement in 2020/21 (before funding from Formula Grant) @	207,409	207,409	207,409	207,409	207,409
Formula Grant and Business Rate Share	-40,426	-40,426	-40,426	-40,426	-40,426
	166,983	166,983	166,983	166,983	166,983
Changes in Government Core Funding		-448	-448	-448	-448
Cost pressures					
Increased costs (2.0% per annum)		5,585	11,262	17,117	23,113
		5,585	11,262	17,117	23,113
Reinstatement of highways maintenance (previously capitalised)		0	2,500	2,500	2,500
Total additional costs		5,585	13,762	19,617	25,613
Income/Savings					
Interest on balances		0	1,000	1,500	1,500
Release general provision in contingency for significant uncertainty/variables		-1,749	-3,749	-3,749	-3,749
Savings from children's social care linked to invest to save funding		-250	-250	-250	-250
Additional Funding for Social Care in Local Government Settlement 2021/22		-340	-340	-340	-340
Additional Homelessness Prevention Grant		-271	-271	-271	-271
Transformation Savings (full year effect of approvals in 2020/21)		-3,627	-5,942	-6,333	-6,409
Reduction in freedom pass costs to reflect reduced usage in 2020/21		-2,160	-3,312	-1,791	0
		-8,397	-12,864	-11,234	-9,519
Other changes					
Fall out of Contribution to Carbon Neutral Initiatives Fund		-875	-875	-875	-875
Real Changes and Other Variations		282	1,132	639	903
		-593	257	-236	28
COVID Funding					
Provision for additional cost pressures / increase losses (COVID in 2021/22)		7,795	0	0	0
Additional Government Funding towards these (see above)		-7,795	0	0	0
		0	0	0	0
Council Tax					
Increase in cost of Council Tax support to be funded by Government Grant		2,300	0	0	0
Government funding towards additional council tax support costs		-2,300	0	0	0
Estimated increase in council tax base		0	0	0	-750
		0	0	0	-750
Growth/Cost Pressures including mitigation (see Appendix 6)					
- Education		852	1,212	1,572	1,922
- Children's Social Care		2,752	2,249	2,866	3,394
- Adults Social Care		5,522	7,374	9,536	11,698
- Housing		1,735	253	-1,245	-1,701
- Environment		2,300	2,100	1,600	1,100
Building Maintenance		1,000	1,000	0	0
Reduction in investment property income		1,215	1,061	1,242	1,433
Part government funding for loss of fees and charges income (COVID)		-500	0	0	0
Total growth/cost pressures		14,876	15,249	15,571	17,846
Budget Requirement		178,006	182,939	190,253	199,753
2021/22 Council Tax Income	-166,983	-166,983	-166,983	-166,983	-166,983
Increase in council tax (assume 1.99% per annum)		-3,320	-6,712	-10,169	-13,694
Increase in Adult Social Care Precept (assume 3% per annum)		-5,009	-5,009	-5,009	-5,009
Budget Gap before use of collection fund surplus		2,694	4,235	8,092	14,067
Provision for unrecoverable council tax collection losses - COVID (allocated over 3 years)		2,191	2,191	2,191	0
Government funding for contribution towards losses @75% - COVID (allocated over 3 years)		-1,643	-1,643	-1,643	0
Collection Fund surplus 2019/20		-5,153	0	0	0
Collection Fund surplus 2019/20 to meet future years budget gap		1,911	0	-1,911	0
Collection fund 2018/19 set aside to meet future years budget gap		0	-2,700	-3,200	0
Projection of future years collection fund surplus		0	-2,000	-1,000	0
		-2,694	-4,152	-5,563	0
Revised Budget Gap		0	83	2,529	14,067

1) The above forecast assumes a council tax increase of 4.99% per annum in 2021/22 (including ASC precept) and 1.99% from 2022/23

2) Assumes continuation of the following income set aside as an earmarked reserve:

(a) In 2020/21 the Budget assumed that the one off money relating to IBCF due to fall out in 2020/21 was utilised to support hospital discharge costs impact on social care costs. As that funding is still available it is proposed that these monies continue to be set aside (£1.68m)

(b) New Homes Bonus monies are estimated at £707k and it is assumed that these monies will continue to be set aside for housing projects

3) The forecast above includes the outcome of the Provisional Local Government Settlement announced on 17th December 2020. There are various elements of funding still awaited including for example public health, better care fund, rough sleepers and troubled families funding.

SUMMARY OF DRAFT 2021/22 REVENUE BUDGET - PORTFOLIO

2020/21 Final Budget £'000	Portfolio/Item	2021/22 Draft Budget £'000	2021/22 Band "D" Equivalent £
85,837	Education	94,789	717.96
Cr 79,506	Less costs funded through Dedicated Schools Grant	Cr 87,281	Cr 661.09
6,331	Sub total	7,508	56.87
35,876	Childrens Social Care	38,416	290.97
69,416	Adult Care and Health	73,985	560.38
31,136	Environment & Community Services Portfolio	31,750	240.49
2,434	Public Protection and Enforcement	2,505	18.97
14,889	Renewal, Recreation and Housing	15,064	114.10
34,424	Resources, Commissioning & Contracts Management	34,472	261.10
1,870	Non Distributed Costs & Corporate & Democratic Core	1,888	14.30
196,376	Total Controllable Budgets	205,588	1,557.18
9,341	Total Non Controllable Budgets	11,445	86.69
Cr 853	Total Excluded Recharges	Cr 903	Cr 6.84
204,864	Portfolio Total	216,130	1,637.03
Cr 7,794	Reversal of Net Capital Charges	Cr 9,878	Cr 74.82
Cr 3,591	Interest on General Fund Balances	Cr 3,591	Cr 27.20
875	Contribution to Carbon Neutral Initiatives Fund	-	-
1,612	Contribution to Utilisation of New Homes Bonus for Housing	707	5.36
5,873	Utilisation of Prior Year Collection Fund Surplus/Set Aside	1,911	14.47
11,799	Central Contingency Sum	14,925	113.05
	Levies		
447	- London Pensions Fund Authority*	464	3.51
248	- London Boroughs Grants Committee	247	1.87
252	- Environment Agency *	262	1.99
309	- Lee Valley Regional Park *	321	2.43
214,894	Sub Total	221,498	1,677.69
Cr 40,426	Business Rate Retention	Cr 40,874	Cr 309.59
Cr 5,873	Collection Fund Surplus	Cr 5,153	Cr 39.03
-	Collection Fund Losses (net of grant)	548	4.15
Cr 1,612	New Homes Bonus	Cr 707	Cr 5.36
166,983	Bromley's Requirement (excluding GLA)	175,312	1,327.86

* Final allocations awaited

2021/22 CENTRAL CONTINGENCY SUM

	£'000
General	
Provision for Unallocated Inflation	3,546
General provision for risk/uncertainty	3,500
Provision for risk/uncertainty relating to volume and cost pressure	1,819
Increase in Cost of homelessness/impact of welfare reforms	1,825
Universal credit roll out - impact on claimant fault overpayment recoveries	750
Tackling Troubled Families Grant Expenditure	628
Tackling Troubled Families Grant Income	Cr 628
Growth for Waste services	587
Homeless Prevention funding	Cr 424
Set aside for Homeless Prevention Initiatives	424
Rough Sleeping Initiative - funding	Cr 104
Rough Sleeping Initiative	104
Adult Social Care Expenditure	210
Deprivation of Liberty	118
Planning appeals - changes in legislation	60
Property Valuation	100
Legal support - childcare and adults social care	170
Provision of agency workers contract saving	Cr 260
Provision for increase in National Living Wage	100
<u>COVID Related Cost Pressures / Income Losses</u>	
Adult Placement growth - impact of COVID	1,400
Provision for potential loss in Car Parking income	1,000
Property income recovery/rent variations	500
Loss of fees and charges income - government funding	Cr 500
Additional cost pressures	7,795
Additional cost pressures - government funding	Cr 7,795
	<u>14,925</u>

There will be further changes to the Central Contingency to reflect allocations to individual Portfolio budgets prior to publication of the Financial Control Budget.

LEVEL AND USE OF RESERVES AND ROBUSTNESS OF THE 2021/22 BUDGET

1. Background

With the introduction of the prudential approach to capital investment, Chief Financial Officers in local authorities are required to have full regard to affordability when making recommendations about the local authority's future capital programme. Such consideration includes the level of long-term revenue commitments. In considering the affordability of its capital plans, councils are required to consider all of the resources available to it/estimated for the future, together with the totality of its capital plans and revenue forecasts for the forthcoming year and the following two years. This requires clear and objective attention to the levels and application of the Council's balances and reserves. The level of balances and reserves needs to be adequate to ensure that the longer term stewardship of the Council's finances remains effective and the Council maintains 'sustainable' finances in the medium term. Medium term planning becomes absolutely key in recognition of the ongoing "structural" budget deficit facing the Council.

2. General Reserves

- 2.1. Bromley has estimated general reserves of £19.9 million as at 31st March 2021 (as reported to Leader following Executive, Resources & Contracts PDS Committee on 18th November 2020), as well as earmarked reserves (Section 3). Key to any financial strategy is the retention of sufficient reserves (including earmarked reserves) for the following reasons:
- (a) To provide some contingency reflecting the financial risks facing the Council (e.g. Covid pandemic), the scale of mitigation/savings and associated impact, the need to manage effectively action to reduce the longer term 'budget gap' and recent government changes which include the transfer of risks from central to local government provides significant new risks for longer term planning purposes;
 - (b) To provide alternative one off funding to offset the impact of any overall large overspends facing the Council;
 - (c) To provide adequate resources for spend to save initiatives which, following investment, can provide real longer term financial and service benefits;
 - (d) To provide support in financing the capital programme, particularly to assist in funding key initiatives;
 - (e) To provide financial support (income) to the revenue budget through interest earnings, which will reduce as balances are gradually reduced;
 - (f) To utilise short term monies available from any 'front loading' of savings to assist in managing the key risks facing the Council and fund key initiatives preventing the further deterioration in the 'sustainability' of the Council's finances;
 - (g) To provide investment to seek a long term alternative to current income streams;
 - (h) To provide funding (e.g. severance costs) to enable the release of longer term ongoing savings;
 - (i) To set aside income available, that does not provide a permanent income stream, towards one off investment in the community for schemes that meet the Council's priorities;
 - (j) To buy time to identify further savings needed whilst avoiding 'knee jerk' actions to deal with future budget deficits;
 - (k) To assist the Council to achieve as much stability as possible for both longer term service delivery and planning the moving of resources to areas of agreed priority.

- 2.2 In order to assess the adequacy of unallocated general and earmarked reserves when setting the budget, account must be taken of the strategic, operational and financial risks facing the authority. This is an important aspect of Bromley's approach to risk management. An 'Annual Governance Statement' signed by the Chief Executive and the Leader of the Council covers, for example, the processes to fully underpin the Council's system of internal control.
- 2.3 Setting the level of reserves is just one of several related decisions in the formulation of the medium term financial strategy and the budget for a particular year. Account needs to be taken of the key financial assumptions underpinning the budget alongside a consideration of the authority's financial management arrangements.
- 2.4 Bromley's reserves had reduced from £131m to £54m (general reserves) between 1997 and 2011. The Council had previously agreed to set aside part of these reserves towards an Invest to Save Fund and to fund the Growth Fund and Investment Fund. The latest projected level of general reserves remaining is £19.9m.
- 2.5 The most significant gain to balances was following the housing transfer to Broomleigh in 1992 (now part of Clarion). Opportunities to generate additional capital resources and reserves through disposal of surplus assets should continue to be vigorously pursued, however, there are unlikely to be opportunities to again generate the very substantial level of reserves held in the past.
- 2.6 Latest projections in the capital programme indicate that there will be no requirement to fund capital expenditure from revenue balances until 2024/25 which should enable the current level of balances to be retained. This position depends on the cost of any future proposed scheme not currently included in the capital programme and is also affected by the Council's ability to realise future sales/disposals to generate capital receipts to avoid seeking funding from the Council's revenue budget or reserves.
- 2.7 If the existing general reserves are released now to fund continuing service initiatives and/or significantly reduce council tax then there would be a resultant 'opportunity cost' relating to the corresponding loss in interest earnings and depletion of reserves which is not recommended by the Director of Finance, particularly at this time of financial uncertainty. Funding for any increases in service levels would only be in the short term. If the reserves were used to just balance the budget they would be fully spent in the next few years resulting in greater budget cuts in the future. Using this money to fund services is not a sustainable approach as these reserves are not budgets that are renewed every year. Similar to a savings account – once it is spent, it is gone. Retaining a significant level of reserves provides a major opportunity to fund any transformation/spend to save programmes in future years, as well as provide an ongoing source of significant revenue income to the Council. It becomes increasingly more critical with the future business rates and 'Fair Funding' review as well as other risks (e.g. medium term recession) and the organisation moving to become more 'self-sufficient'.
- 2.8 Executive previously agreed that the following principles be applied to determining the use of reserves:
- (a) As a prudent working balance, the Director of Finance continues to recommend a minimum sum of £20m to reflect the significant financial uncertainty facing the Council and the need to address the medium term 'budget gap' with higher amounts being retained for specific purposes;

- (b) Any support for the capital programme to be focused on areas that can generate business efficiencies and maintain and enhance the Council's core infrastructure. The programme should be driven by the Council's asset management plan, which in turn should be derived from the key priorities of the Council;
- (c) Any support for the revenue budget will need to be modest and sustainable in the medium term and the impact of any withdrawal built into future financial plans. From 2008/09, Members agreed to eliminate the continuing use of reserves to support the revenue budget;
- (d) The Council has limited scope to utilise general fund reserves for capital spending in excess of the current capital programme and will need to continue to progress a programme of asset disposals. Given the substantial pressures on the revenue position of the council it would be sensible to focus the spending of general reserves in excess of the basic level on investments to increase the efficiency of the Council, provide income and reduce the cost base.

2.9 Balancing the annual budget by drawing on general reserves is a legitimate short-term option. However, where reserves are to be deployed to finance recurrent expenditure, this needs to be explicitly considered including the sustainability of this measure over the lifetime of the medium term financial plan.

2.10 In the context of Bromley's current financial position, options need to be explored to ensure that the recommended minimum sum of general reserves are retained to provide adequate flexibility during the financial forecast period. However, the important issue to consider is planning the future use of reserves in the context of the authority's medium-term financial plan and not to focus exclusively on short-term considerations.

3 Earmarked Reserves

3.1 As part of developing a medium term financial plan and preparing the annual budget Members need to consider the appropriate use of reserves for specific purposes and the levels at which these should be set. Further details on the utilisation of earmarked reserves together with general reserves are provided in section 2.1. The current specific (earmarked) reserves and their estimated uses are:

Description	Balance at 01/04/20	Estimated Net Movement	Estimated Balance at 31/03/21	Estimated Movement	Estimated Balance at 31/03/22
	£'000	£'000	£'000	£'000	£'000
EARMARKED BALANCES					
LPSA/LAA Reward Grant Investment Fund	231	0	231	0	231
Technology Fund	5,117	-313	4,804	68	4,872
Town Centre Improvement Fund (LABGI)	55	0	55	0	55
Transformation Fund	1,658	-73	1,585	-400	1,185
Investment to Community (Resources)	325	-20	305	0	305
Works to Property	100	0	100	0	100
Planning Services Charging Account	25	-266	-241	0	-241
Government Grants (c/fwd from previous years)	5,267	-2,966	2,301	-413	1,888
Invest to Save Fund	18,195	334	18,529	0	18,529
One off Member Initiatives	858	-364	494	-327	167
Infrastructure Investment Fund	1,426	-266	1,160	-70	1,090
Commissioning Authority Programme	365	0	365	0	365
Health & Social Care Initiatives – Promise Programme	3,953	0	3,953	0	3,953
Housing Strategy Trading Account	25	0	25	0	25
Community Right to Bid & Challenge	46	0	46	0	46
Investment Fund	6,148	-6,148	0	0	0
Winter Pressures Reserve	2,010	0	2,010	0	2,010
Refurbishment of War Memorials	13	0	13	0	13
Key Health & Social Care Initiatives	1,700	0	1,700	0	1,700
Integration of Health & Social Care Initiatives	1,614	0	1,614	0	1,614
Collection Fund Surplus Set Aside	25,919	5,873	31,792	1,911	33,703
Healthy Bromley Fund	3,815	0	3,815	0	3,815
Glaxo Wellcome Endowment	113	-21	92	-21	71
Cheyne woods & Cyphers Gate	141	-1	140	0	140
Public Halls Fund	5	0	5	0	5
Future Repairs of High Street Properties	67	12	79	12	91
Parallel Fund	2,903	0	2,903	0	2,903
Growth Fund	21,420	-100	21,320	0	21,320
Health & Social Care Integrated Commissioning Fund	3,550	-520	3,030	0	3,030
Financial Planning & Risk Reserve	10,000	0	10,000	0	10,000
Bromley Welfare Fund	639	-221	418	-175	243
Payment in Lieu Reserve for Temporary Accommodation	149	0	149	0	149
Business Rate Risk Reserve	4,200	0	4,200	0	4,200
Sub Total B/fwd	122,052	-5,060	116,992	585	117,577

Description	Balance at 01/04/20	Estimated Net Movement	Estimated Balance at 31/03/21	Estimated Movement	Estimated Balance at 31/03/22
	£'000	£'000	£'000	£'000	£'000
Sub Total C/fwd	122,052	-5,060	116,992	585	117,577
Crystal Palace Park Improvements	26	-26	0	0	0
Various Joint Schemes and Pump Priming Investments	2,291	452	2,743	-18	2,725
Transition Fund	2,560	0	2,560	0	2,560
Environmental Initiatives	500	-54	446	0	446
Planning/Planning Enforcement	119	-119	0	0	0
Apprenticeship Scheme	171	-40	131	-118	13
Civic Centre Development Strategy	271	-11	260	-3	257
Future Professional Advice for Commissioning	147	-5	142	0	142
Utilisation of New Homes Bonus	2,256	0	2,256	0	2,256
Future Pensions Risk on Outsourcing	897	173	1,070	175	1,245
West Wickham Leisure Centre & Library Development	624	0	624	-624	0
Income Equalisation Reserve	3,790	0	3,790	0	3,790
Capital Funding for Property Disposal/Feasibility Works	78	-78	0	0	0
Biggin Hill Airport Project	124	-51	73	-62	11
Transformation Programme	488	-109	379	0	379
Housing Investment Fund	18,840	-5,413	13,427	-10,440	2,987
High Street & Parks Improvement Fund	71	-71	0	0	0
Contribution to YES Funding	45	-45	0	0	0
Day Centre Rent Relief	6	-6	0	0	0
Housing Invest to Save	3,409	0	3,409	0	3,409
Health Facilities Fund	993	0	993	0	993
Health & Social Care Transformation Fund	1,500	0	1,500	0	1,500
Housing feasibility and viability	250	-250	0	0	0
Walnut development	0	40	40	-40	0
Provision for Education Risk Reserve	0	500	500	0	500
IBCF Hospital Discharge Funding Reserve	0	1,677	1,677	1,677	3,354
Carbon Neutral Initiatives Fund	0	875	875	0	875
Utilisation of New Homes Bonus for Housing	0	1,612	1,612	707	2,319
Sub Total	161,508	-6,009	155,499	-8,161	147,338
PROVISIONS					
Insurance Fund	4,396	30	4,426	30	4,456
OTHER					
School Budget Share Funds	1,739	0	1,739	0	1,739
Total Estimated Reserves	167,643	-5,979	161,664	-8,131	153,533

3.2 The report highlights the medium term 'budget gap' (see 5.1 of main report) which results in the Council, on an ongoing basis, having a "structural deficit". To respond to this, Members have agreed over the last few years to create new earmarked reserves to support longer term investment and provide a more sustainable longer term financial position. The need for these reserves include setting aside resources to support the Council's future transformation programmes (invest to save), invest to save to include housing the homeless initiatives, support acquisition of investment properties, where appropriate, to generate sustainable income and the funding to support economic development and employment within the borough whilst generating income opportunities. These measures are important to provide sustainable solutions in the longer term.

3.3 A summary of other significant areas are:

- School Balances - these are unspent balances of budgets delegated to individual schools and these are legally only available to schools.
- Insurance Reserves – self-insurance is a mechanism used by a number of local authorities including Bromley. In the absence of any other statutory basis, sums held to meet potential and contingent liabilities are reported as earmarked reserves or provisions.
- Technology Fund - this represents IT budgets that have been put into a reserve in previous years to allow projects to be carried out across the boundaries of financial years and the utilisation of this will become increasingly important over the next few years.
- Health and Social Care (various) – there are monies set aside as part of a Section 256 agreement with previous Bromley Clinical Commissioning Group (now South East London CCG) for the funding of future transformation / integration of health and social care and to contribute towards the financial sustainability of local health services that impact on social care.

3.4 In addition there is the pensions reserve – this is a specific accounting mechanism used to reconcile the payments made for the year to various statutory pension schemes in accordance with those schemes' requirements and the net change in the authority's recognised liability under IAS19 – employee benefits, for the same period. An appropriation is made to or from the pensions reserve to ensure that the bottom line in the income and expenditure account reflects the amount required to be raised in taxation. This effectively prevents any deficit on the pension fund needing to be made good from taxation in one year.

3.5 The outcome of the actuarial valuation as at 31/3/19 was reported to Pensions Investment Sub Committee on 30st January 2020 and General Purposes and Licensing Committee on 11th February 2020. The Council's pension fund is now fully funded. The triennial actuarial valuation impacts on the budget from 2020/21 to 2022/23. The Council has received national awards recognising the outstanding investment performance of its pension fund.

4 Budget Assumptions

4.1 Treatment of Interest Rates and Inflation

4.1.1 Despite the previous decrease in the Bank of England base rate from 0.75% to 0.25% and then to 0.1%, there has been only a marginal short term impact on the interest income that the Council is obtaining from lending to banks. The decline in the base rate will mean that any options with regard to the reinvestment of maturing deposits have become seriously limited following bank credit rating downgrades and the general low interest rate environment. However, the Council remains Page 42 to several fixed-

rate two-year lending deals that will yield a higher rate of return until they mature during either 2021/22 or 2022/23. The treasury management strategy had previously been revised to enable alternative investments of £100m which will generate additional income of around £2m compared with lending to banks. The contribution of higher risk and longer term investments within Treasury Management have contributed towards the Council being in the top decile performance (top 10%) against the local authority benchmark group. Further details are included in the 'Treasury Management – Annual Investment Strategy 2021/22 and Quarter 3 Performance 2020/21' report to Executive, Resources and Contracts PDS Committee on 3rd February 2021.

4.1.2 A general allowance of 2% per annum has been built into the Draft 2021/22 Budget and financial forecast with an assumed 2% in future years.

4.2 Level and Timing of Capital Receipts

4.2.1 Details of the level and timing of capital receipts are included in the 'Capital Programme Monitoring Q3 2020/21 and Capital Strategy 2021 to 2025' report elsewhere on the agenda.

4.3 Budget and Financial Management and 'Demand Led' Budgets

4.3.1 Bromley has for many years operated multiyear budget planning. The need to meet budget savings has reduced the frequency of budget monitoring. The budget has been prepared to reflect commissioning plans of service areas but also recognising the need to identify mitigation action, where possible, recognising the 'budget gap' for the Council.

4.3.2 There remain significant cost/growth pressures impacting on education, housing, adults and children's social care as well as opportunities for the mitigation of costs. There are additional costs relating to building maintenance as well as the impact of future losses in income, compared with the 2020/21 Budget. Income losses include car park income and rent income mainly due to the Covid impact. The financial forecast elements are summarised below with more details reported to the previous meeting of the Executive.

	2021/22 £'000	2022/23 £'000	2023/24 £'000	2024/25 £'000
Growth/cost pressures	28,037	35,735	42,863	51,713
Mitigation	-12,661	-20,486	-27,292	-33,867
Net additional costs *	15,376	15,249	15,571	17,846

* There is government grant of an estimated £0.5m for loss of fees and charges income due to Covid in first quarter of 2021/22 which has been excluded from the above.

4.3.3 It remains essential that there is the ongoing scrutiny and review of growth/cost pressures, which are mainly unfunded beyond 2023/24 with options to help achieve a balanced budget, including any mitigation over the financial forecast period.

4.3.4 The draft 2021/22 Budget includes reasonable estimates of likely changes in activity in the next financial year. It is important that Chief Officers identify mitigating action to address any in year cost pressures or other mitigation savings not realised to remain within their 'cash envelope'.

4.4 Financial Standing of the Authority

- 4.4.1 Long-term Council Tax collection rates have been consistently high at around 98/99%, prior to the Covid pandemic. Other external debt collection was also high. The Covid pandemic has created new challenges and the Government has only partly funded consequential income losses. The Council will seek to take measures to assist in maximising the recovery of income, where possible. Maximising income recovery is essential to assist in funding key services. As a debt free authority, Bromley has relatively limited exposure to interest rate movements and changes in interest earnings on external investments have been reflected in the budget based upon likely use of reserves and current interest rates.

4.5 Financial Information and Reporting

- 4.5.1 The arrangements for finance staff to report to the Director of Finance, in place since April 2002, have produced far greater clarity of roles and responsibilities. The Council will need to continue with the Transformation programme process to be able to generate savings as part of future years' budgets, as well as provide service improvements. The main issue remaining is to ensure that service managers continue to develop even greater ownership of their budgets and have more sophisticated activity and performance information on the service which they are providing. Any overspending should require compensating savings to be identified.

4.6 Virement Procedures

- 4.6.1 Currently, Bromley does not routinely allow the carry forward of under-spending (and overspending) by service departments as part of its year-end procedures. The Director of Finance remains satisfied however, that the current virement rules allow sufficient flexibility within the year for officers/Members to manage the budget to enable them to contain overspending within overall budgets.

4.7 Risk areas

- 4.7.1 Details were reported to the previous meeting of the Executive.

4.8 Link with other plans/strategies

- 4.8.1 A budget is a service plan/strategy expressed in financial terms and there will be linkages with other strategies and plans across the Council. The proposed budget also takes into account the outcomes of the Public Sector Equality Duty on the Council's proposals (see legal considerations of main report).

4.9 Insurance Fund

- 4.9.1 The insurance fund is protected by the existence of external catastrophe insurance, which meets large claims. There is a significant financial stop loss that prevents the council from having to meet losses in excess of this amount on liability claims in any one year. The 'Insurance Fund – Annual Report 2020/21', considered by the Resources, Commissioning and Contracts Management Portfolio Holder at the meeting of the E,R&C PDS Committee on 18th November 2020, gives more background information.

4.10 Funds and the adequacy of provisions

- 4.10.1 As is discussed above, the Council has both general and earmarked reserves and continues to take a prudent approach to limiting the scope of future year's capital expenditure and other commitments. It is essential that an adequate level of reserves is maintained to reflect the impact of the future years budget gap of £14.1m by 2024/25, 'balance sheet' liabilities combined with the ongoing cost/growth pressures facing the Council. The "budget gap" may increase or reduce as a result of a number of variables in future years. Bad debt provisions are reviewed each year as part of the closure of accounts and are subject to audit by the council's external auditors.
- 4.10.2 The scale of the medium term "budget gap", coupled with the significant financial uncertainty arising from the review of local government finance makes it important to maintain an adequate level of reserves to ensure the Council has sufficient resilience, flexibility and stability for longer term service delivery. Apart from the need to retain reserves to address risks and uncertainty there are specific reserves to fund invest to save as well as investment in the future towards economic development within the borough, housing invest to save opportunities and other investment options whilst generating sustainable income and savings to help reduce the future years budget gap. This helps ensure that key measures of sustainable finances and stewardship in the medium term can be realised. The funds retained are adequate to meet the needs of the Council in the medium term. The level of reserves will continue to be kept under review during the Medium Term Financial Planning period.

4.11 Council's Investment Income contributing to supporting key services

- 4.11.1 Historically the Council has acquired investment properties. More recently, since 2011/12 the Council created an investment and growth fund. Background on the use of these funds are reported quarterly to the Executive. At its meeting on 19th July 2017, Executive approved the following new property investment criteria:
- Provides a net investment return of 5%;
 - Provides a suitable mix of portfolio to mitigate against risks of "all eggs in one basket" i.e. variation in investment portfolio to cover void risk;
 - Ability to sell the asset at a future date within a reasonable turnaround period of less than one year;
 - Mitigates against problematic tenancy risks e.g. secured tenancy etc ;
 - Mitigates against significant repair liabilities which have a downward impact on the investment return i.e. seek full repairing leases from tenants;
 - Mitigate against capital value risk – purchase in places where capital values are unlikely to fall in the longer term;
 - That opportunities should be explored in economic growth areas as well as the South East. This would be the cities of Manchester and Leeds together with other areas such as Cardiff, Bristol and the Midlands;
 - That the lot size should be in excess of £5m;
 - That multi-let investment opportunities which provide suitable income protection and covenant should be considered taking into account management costs.
- 4.11.2 The strategy of generating additional investment income provided funding for key services thus enabling a corresponding reduction in the Council's budget gap.

4.11.3 The Council's investment income of £13.8m, assumed in the 2021/22 Budget, is shown below:

	£'m
Investment properties and rental income	10.2
Treasury Management Income	3.6
Total investment income	13.8

4.11.4 The Council has used existing resources in acquiring investment properties and has not utilised the option of borrowing. A combination of ensuring the criteria above is met, decisions by Executive taking into account the professional advice from Cushman and Wakefield and not utilising borrowing to fund the acquisitions helped ensure that the primary driver of sustainable income is met which is critical to support key services. The Council being prepared to retain the investment assets through any future recession period significantly reduces the longer term capital risk of the investment. Utilisation of the remaining uncommitted Growth Fund and Investment Fund will be prioritised for housing investment and regeneration/growth in local economy at this stage.

4.11.5 Details of the approach to treasury management is being reported to Executive, Resources and Contracts PDS meeting on 3rd February 2021. The Treasury Management Strategy has previously been revised to enable alternative investments of £100m which will generate additional income of around £2m compared with lending to banks. The contribution of higher risk and longer term investments within Treasury Management has previously contributed towards the Council being in the top decile performance (top 10%) against the local authority benchmark group. The approach to addressing Security, Liquidity and Yield is addressed in that report.



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Local Government Finance Settlement Team
Ministry of Housing, Communities and Local Government
2nd Floor, Fry Building
2 Marsham Street London SW1P4DF

16th January 2021

Email: LGFsettlement@communities.gov.uk

Dear Sir/Madam

Provisional Local Government Finance Settlement 2021/22

The London Borough of Bromley welcomes the opportunity to comment on the Provisional Local Government Finance Settlement 2021/22. It is important that this response is considered in the wider context of historic local government funding challenges and increasing demand for our services.

In 2020/21, Bromley has the 2nd lowest level of settlement funding in the whole of London despite having the 6th highest population (excluding City of London). We are the largest London Borough in terms of geographical size, have the highest proportion of older people and the largest road network. The associated cost implications are not reflected in our settlement funding. If we received the average level of grant funding, our income would increase by £64m in 2021/22. It is essential that MHCLG reflect an adjustment to the Council's baseline funding position to address historic low funding levels in the future local government settlement, following the Spending Review 2021.

During the period 2010/11 to 2019/20 we have faced government core grant reductions of around £77m per annum and delivered savings of £100m per annum. Although we have delivered further savings, any ongoing funding reduction (or standstill funding position) would become unsustainable for a low cost authority. Bromley has managed its finances extremely efficiently despite having a low level of government funding and has managed to maintain a low council tax. Bromley has created a low-cost base through many pioneering measures taken including outsourcing on a large scale, transfer of housing stock, creation of leisure trust and relentless cost control. However, this provides a further challenge as our scope to achieve savings through efficiencies is significantly reduced compared with other high cost authorities.

If there were no future cost pressures, then maintaining the level of Government funding and allowing flexibility in raising Council Tax would be financially sustainable. However, it is important to be realistic and recognise that the real challenge is dealing with increasing costs/income losses arising from new burdens not fully funded and increasing demand for services, immense pressure

on adult and children's social care costs, rising population levels, the significant impact of homelessness pressures, meeting inflation costs and the ongoing impact of Covid-19 (i.e. 'New Normal'). To meet these challenges there needs to be a fairer level of funding to Bromley. This would be essential to provide a medium and longer term sustainable financial solution. This would enable the Council to meet the key services that matter to our residents and taxpayers.

We welcome the continuation of the second year of no overall funding reductions, following 10 years of significant funding reductions and the recognition that further financial support is needed for local authorities to deal with the Covid situation in 2021/22, given its impact on local government. The early indications from the Spending Review 2020 of the likely outcome of the Local Government Settlement was also helpful. We welcome how the Government has adapted to address the funding of the Covid situation impacting on local government but this must continue to be kept under regular review because of the financial risk inadequate funding creates.

We recognise the difficulty in providing a longer term financial settlement, given the current economic position and the uncertainty relating to the impact of Brexit and the 'new normal' following the Covid situation. However, a one year settlement does create uncertainty in future financial planning whilst other key organisations e.g. NHS are provided with a longer term financial settlement.

There is a national recognition that Social Services is underfunded. One of Bromley's high cost pressure relates to adult social care and it remains essential that a fundamental solution is found to address funding. The Council received minimal additional funding for social care, despite the significant cost pressures that must be met, and the main flexibility provided was to fund these costs through the Adult Social Care precept. There should be more Government funding provided rather than a reliance on local taxpayers to meet the significant costs. The NHS is receiving substantial increases in funding and there remains an interdependency between social care and NHS services which would require more funding for social care to ensure the NHS can deliver its key requirements.

New burdens doctrine was expected to be transparent in recognising and funding additional cost pressures for local authorities arising from changes in government policy. Some of the cost pressures include new burdens such as, for example, no recourse to public funds, automatic enrolment, various changes from the Social Work Act, extended support to care leavers to the age of 25 years old, the previous lifting of the public sector pay cap, indexation and equalization of guaranteed minimum pensions, deprivation of liberty, changes to national insurance costs, national living wage and, more recently, the Homelessness Reduction Act which have only been part funded. Many new burdens have not been adequately funded, if at all. MHCLG have recognised some of the pressures on adult social care and provided some limited flexibility to use grant funding for children's social care as well as the continuation of the Adult Social Care Precept for 2020/21. However, the further cost pressures on children's social care and homelessness (consequence of welfare reform, impact of limiting local housing allowances and potential implications of universal credit including benefit cap) have not been fully recognised and have resulted in a significant additional cost burden which is not recognised by the funding provided. To illustrate the activity behind the cost pressure on homelessness facing Bromley, the total number housed in temporary accommodation is around 1,800 and up to September 2020 there was an increase of 9 per month in temporary accommodation requirements – this is now running at an increase of 25 per month.

We welcome the review of children's social care launched by the Education Secretary this week which 'will set out to radically reform the system' and ask that this thoroughly considers the costs pressures on children's social care and the need for adequate funding to improve children's lives.

We recognise that the Government will continue to work with local authorities to undertake the Fair Funding Review and other significant changes, including the business rate review, which could have a significant impact on future finances for local authorities – the awaited outcome of this work also creates significant financial uncertainty in future financial planning to support key services. We recognise that this review is an opportunity to resolve the long-term funding of local government and ensure we have the flexibility in place to make the best use of our resources for our residents.

Key asks for the Spending Review 2021 and Fair Funding Review and its associated impact on funding for Bromley are summarised below:

- It should result in a mechanism to reward more efficient authorities (e.g. financial incentives in the system).
- It should recognise low cost authorities like Bromley - something we have repeatedly raised. We have kept council tax low despite continued low levels of funding. We have done this by keeping our costs low. The funding mechanism should include a factor that recognises below average cost authorities having a lesser reduction in SFA or some degree of 'protection' to lessen the impact on that basis.
- The negative revenue support funding adjustment is clearly not 'fit for purpose' and should continue to be removed if it is necessary for the existing funding formula to continue whilst the outcome of the Fair Funding Review is awaited.
- It needs to recognise higher London costs which impacts on service costs and the financial impact of need. Bromley has one of the lowest Area Cost Adjustments for the London area and this needs to be reviewed more closely to reflect that, for example, costs in Bromley are as high as the South West of London.
- It should recognise that authorities with a low-cost baseline should not have to face a higher proportion of cuts to funding as part of any future austerity and thus recognised/compensated in any future funding arrangements.
- Remove restrictions that prevent local authorities from raising or spending their own resources - we need more flexibility in place to make the best use of our resources for our residents.
- Social Care responsibilities (Improved Better Care Fund) should be determined by adult social care formula (e.g. Bromley had lost significant additional funding as a result of the revised formula).
- We are experiencing increased pressures on our homelessness budgets through rising demand and higher costs. The impact of the benefit cap and LHA levels remaining low means that private rented accommodation is unaffordable for low-income households. Although we have been successful in developing innovative opportunities with external partners to deliver temporary accommodation to help meet increasing demand, this is still not enough. Government must consider how this serious and increasing pressure is managed and funded in the long term. The Spending Review outcome should recognise Bromley's (as well as a few other areas) cost pressures relating to homelessness.
- Bromley's population is expected to increase by more than the national average by 2030 - funding is currently not reallocated based on population growth and Bromley has a higher increase in over 65 years of age (18.9%) compared with rest of London (12.1%). Using GLA central estimates, between 2017 and 2037 over 65's are expected to increase by 44.4% and over 90's by 123.8% with an overall population increase of 18.8% during that period.

- Should have mechanisms in place to ensure new burdens are adequately funded.
- Benefits data which is used in determining needs assessment does not reflect low level of take up (can it be adjusted to reflect lower take up compared with rest of country?) or the impact of higher housing costs in London. Measuring deprivation levels after housing costs gives a more realistic assessment of disposable income.
- We have previously raised our concerns about the complexity and lack of transparency within the current local government finance system as well as the continued ring-fencing of some funding streams (including schools) which reduces flexibility to re-divert resources according to local priorities. We believe it is critical that these points are addressed as part of the future Fair Funding Review. It remains essential that any whole solution that provides a sustainable platform for the future includes resource equalisation and transitional arrangements.
- We request that the changes made by previous governments to give local authorities more control over the funding be reconsidered. This includes education funding and various other grant funding. The national formula funding for education reduced flexibility of funding for special educational needs and, whilst the additional High Needs funding is welcomed, there remains a risk of longer-term potential costs being ultimately met by the council taxpayer rather than through schools funding. Extension of legal duties, without additional funding being provided, has increased the cost pressure for the high needs service. This is coupled with the anomaly where the council taxpayer is required to fund special educational needs transport costs of around £6m per annum which should logically be funded through education funding as it is part of the overall SEN package of costs.
- Recognises the true financial impact of essential highways maintenance and repair in a geographically large borough with an extensive road network.
- The relative size of the Needs and Resource amounts are ultimately set by MHCLG on the basis of judgement - can some of the unique factors for Bromley be reflected in this to ensure low cost-efficient authorities are not penalised?
- Recognition of the medium and longer term impact of Covid-19 on local government costs (expected to increase) and income (expected to reduce). There would be further cost pressures arising from any recessionary impact on the economy from the Covid-19 situation as well the changes arising from the 'New Normal'. This has had a significant detrimental effect on the Councils budget challenges.

The above does not reflect all the asks and we recognise that the Government will continue to work with local authorities to undertake the Fair Funding Review and other significant changes, including the business rate review, which could have a significant impact on future finances for local authorities – the awaited outcome of this work also creates significant financial uncertainty in future financial planning to support key services. We recognise that this review is an opportunity to resolve the long-term funding of local government and ensure we have the flexibility in place to make the best use of our resources for our residents.

We appreciate the ongoing support of Bromley's local MP's who have highlighted concerns about an ongoing poor financial settlement for Bromley and the need for a fairer system that rewards efficient low-cost councils and provides a 'fairer' level of funding in recognition of the needs of residents and council taxpayers.

There were 1,335 statutory duties as at June 2011, identified by the National Audit Office. There has been no overall reduction in statutory duties to date despite overall significant funding reductions. This provides a greater challenge for a low-cost authority like Bromley. This highlights the importance of considering the full impact of any changes affecting local government. The Government should consider reviewing the role and duties of local government to match the potential resources available.

Bromley had previously supported Government policy towards meeting austerity, seeking to generate economic growth through investing (and contributing to UK PLC) and keeping public sector costs low whilst driving out more efficiency. We also have the highest proportion of schools converted to academies.

We welcomed the settlement for 2021/22 as providing much needed stability and an initial step towards a more sustainable financial settlement. If this year's Spending Review and future Fair Funding enables a more sustainable funding approach it would be welcomed and enable the Council to provide key services to its residents, support the Government's objectives and support the local economy with a resultant benefit on national economic growth which is key to providing revenues to Government to support services that matter to tax payers and council tax payers.

Responses to specific questions raised through the consultation are attached.

To allow for enough time to meet statutory council tax deadlines and our annual billing deadlines, it is important that the final 2021/22 Local Government Finance Settlement is published before the end of February to enable sufficient time for final key decisions to be made.

Both Members and Officers remain keen to work with the Government to help find positive solutions that work for our residents and taxpayers to meet future service priorities in the shorter term as well as the longer term. Bromley Council appreciates the opportunity to respond to the consultation on the 2021/22 Provisional Local Government Finance Settlement.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Peter Turner', written in a cursive style.

Peter Turner
Director of Finance

Responses to specific questions

Question 1: Do you agree with the Government's proposed methodology for the distribution of Revenue Support Grant in 2021-22?

Given the limited timescale and the awaited Fair Funding Review, we recognise that the proposed approach to distributing RSG is a reasonable interim measure. Low cost and well run authorities should not be penalised with a negative RSG requirement and we are pleased that this is recognised in the provisional settlement. The Fair Funding Review reforms are essential to the effective delivery of important services to the public and must provide a robust system for ensuring that resources are allocated accordingly.

Question 2: Do you agree with the proposed package of council tax referendum principles for 2021-22?

Bromley continues to oppose the 'capping' of council tax increases through the mechanism of referendum principles. Council tax is the only locally determined tax and local authorities must have full flexibility in how it is used as well as how it is set that strikes the appropriate balance between local resources and needs. 'Capping' restricts local decision making.

If there is to be a continuation of the ASC precept in future years, we would urge the Government to allow flexibility for it to be spent on both adult and children's social care as most London boroughs are experiencing large funding pressures in children's social care as well as in adults.

Question 3: Do you agree with the Government's proposals for the Social Care Grant in 2021-22?

The additional funding for social care is welcome and much needed. We also welcome the fact that the Social Care Grant will not be ringfenced, and conditions or reporting requirements will not be attached.

However, Bromley disagrees with the proposed method for distributing funding for both children and adult social care using solely the adult social care RNF. If the intention is for this funding to alleviate pressure on both adult and children's social care, it's distribution should reflect relative levels of needs in both services. We urge the Government to set out why it is not using the existing children's social care RNF.

There is an inconsistency in the proposed allocation method for the Social Care Grant, which is partly reduced for Bromley to reflect equalization for what can be raised in the Adult Social Care Precept. If the precept remains solely for adult social care, and the support grant for both children's and adult social care, this is effectively reducing the funding available for children's social care pressures.

This settlement represents a short-term approach to social care funding and await the outcome of the Government's commitment to set out its long-awaited visions for social care reform in 2021 and would wish to actively engage in that process.

Question 4: Do you agree with the Government's proposals for iBCF in 2021-22?

Bromley welcomes the continuation of the iBCF funding which supports social care.

Question 5: Do you agree with the Government's proposals for New Homes Bonus in 2021-22?

We welcome the continuation of funding of New Homes Bonus allocations in 2021/22 but are disappointed with the phasing out of legacy payments. There has been a long series of adjustments over the years that have reduced the incentive provided by the bonus. The number of years for which New Homes Bonus payments are made has been reduced from 6 to 4 years combined with the introduction of a national baseline for housing growth of 0.4% of council tax base from 2017/18 which further reduced any incentive.

We welcome the commitment to consult widely on any future reforms to the New Homes Bonus and would urge the Government to provide certainty over the future of the scheme as soon as possible and retain a realistic incentive to local authorities if the scheme continues in the medium to longer term – this would also assist in financial planning.

Question 6: Do you agree with the Government's proposal for a new Lower Tier Services Grant, with a minimum funding floor so that no authority sees an annual reduction in Core Spending Power?

We welcome the Lower Tier Services Grant and agrees to the no loss principle that a minimum funding floor provides.

Question 7: Do you agree with the Government's proposals for Rural Services Delivery Grant in 2021-22?

Bromley disagrees with the provision of additional funding to rural areas, through this mechanism. The existence of the Rural Services Delivery Grant is based on an unclear evidence base. All funding allocated through this separate grant could otherwise have been distributed more fairly across all local authorities in England on the basis of proven need. Bromley requests that the evidence base behind this decision is shared openly.

Question 8: Do you have any comments on the Government's plan not to publish Visible Lines?

Bromley has no comment to add.

Question 9: Do you have any comments on the impact of the proposals for the 2021-22 settlement outlined in this consultation document on persons who share a protected characteristic, and on the draft equality statement published alongside the consultation document? Please provide evidence to support your comments.

Bromley has no comment to add.

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Report No.
FSD20099

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: Executive
Council

Date: Executive 10th February 2021
Council 1st March 2021

Decision Type: Non-Urgent Executive Key

Title: CAPITAL PROGRAMME MONITORING Q3 2020/21 & CAPITAL
STRATEGY 2021 TO 2025

Contact Officer: Katherine Ball, Principal Accountant
Tel: 020 8313 4792 E-mail: Katherine.Ball@bromley.gov.uk

Chief Officer: Director of Finance

Ward: All

1. Reason for report

This report updates the Council's Capital Strategy. It also summarises the current position on capital expenditure and receipts following the third quarter of 2020/21 and presents for approval the new capital schemes in the annual capital review process. The Executive is asked to consider the updated Capital Strategy and approve a revised Capital Programme.

2. **RECOMMENDATION(S)**

2.1 **The Executive is requested to:**

- (a) **Note the report, including a total re-phasing of £3,764k from 2020/21 into future years, and agree a revised Capital Programme;**
- (b) **Approve the following amendments to the Capital Programme:**
 - (i) **Increase of £290k to the Disabled Facilities Grant (see para 3.3.1)**
- (c) **Recommend to Council:**
 - (i) **The inclusion of the new scheme proposals listed in Appendix C in the Capital Programme (see section 3.6)**

2.2 **Council is requested to:**

- (a) **Agree the inclusion of the new scheme proposals listed in Appendix C in the Capital Programme (see section 3.6)**

Corporate Policy

1. Policy Status: Existing Policy: Capital Programme monitoring and review is part of the planning and review process for all services. Capital schemes help to maintain and improve the quality of life in the borough. Effective asset management planning (AMP) is a crucial corporate activity if a local authority is to achieve its corporate and service aims and objectives and deliver its services. For each of our portfolios and service priorities, the Council reviews its main aims and outcomes through the AMP process and identifies those that require the use of capital assets. The primary concern is to ensure that capital investment provides value for money and matches the Council's overall priorities as set out in "Building a Better Bromley".
 2. BBB Priority: Excellent Council
-

Financial

1. Cost of proposal: Estimated Cost: Total net increase of £6.4m over the 5 years 2020/21 to 2024/25, mainly due to the additional capital bids outlined in this report
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: Capital Programme
 4. Total current budget for this head: Total £144.7m over 5 years 2020/21 to 2024/25
 5. Source of funding: Capital grants, capital receipts and earmarked revenue contributions
-

Staff

1. Number of staff (current and additional): 1fte
 2. If from existing staff resources, number of staff hours: 36 hours per week
-

Legal

1. Legal Requirement: Non-Statutory - Government Guidance
 2. Call-in: Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1 Capital Expenditure

3.1.1 This report sets out proposed changes to the Capital Programme following a detailed monitoring exercise carried out after the 3rd quarter of 2020/21 and seeks approval for the new capital schemes submitted as part of the 2020 annual capital review process. The report is divided into two distinct parts; the first (sections 3.2 – 3.4) looks at the Q3 monitoring exercise and the second (sections 3.5 & 3.6) includes details of the capital strategy update and proposed new schemes.

3.1.2 Appendix A sets out proposed changes to the Capital Programme. The base position is the revised programme approved by the Leader on 18th November 2020, as amended by variations approved at subsequent meetings. If all the changes proposed in this report are approved, the total Capital Programme 2020/21 to 2024/25 would increase by £6,375k, mainly due to new capital bids. Estimated expenditure in 2020/21 will reduce by £5,351k due to £3,764k re-phasing of expenditure from 2020/21 into future years, the net reduction of £1,877k previously approved by the Leader and the increase of £290k to the DFG budget (see para 3.3.1 below). Details of the monitoring variations are included in Appendices A and B, and the proposed revised programme, including the additional funding provided, is summarised in the table below.

	2020/21	2021/22	2022/23	2023/24	2024/25	TOTAL 2020/21 to 2024/25
	£000	£000	£000	£000	£000	£000
Programme approved by the Leader 18/11/20	51,417	55,095	31,420	2,240	0	140,172
Variations approved by the Leader at subsequent meetings	Cr 1,877	0	0	0	0	Cr 1,877
Approved Programme prior to 3rd Quarter's Monitoring	49,540	55,095	31,420	2,240	0	138,295
Variations requiring the approval of the Executive (Appendix A)						
Disabled Facilities Grant	290	135	0	0	0	425
Variations not requiring approval of Executive:						
Net rephasing from 2020/21 into future years	Cr 3,764	3,156	329	279	0	0
Total Q3 Monitoring variations	Cr 3,474	3,291	329	279	0	425
New Schemes (Appendix C)	0	2,485	1,225	0	2,240	5,950
TOTAL REVISED CAPITAL PROGRAMME	46,066	60,871	32,974	2,519	2,240	144,670
Assumed Further Slippage (for financing purposes)	Cr 15,000	Cr 25,000	Cr 5,000	25,000	20,000	0
Assumed New Schemes (to be agreed)	0	0	3,500	3,500	3,500	10,500
	Cr 15,000	Cr 25,000	Cr 1,500	28,500	23,500	10,500
Total revised expenditure to be financed	31,066	35,871	31,474	31,019	25,740	155,170

3.2 Variations approved by the Leader at subsequent meetings (£1,877k total net decrease)

Following pre-decision scrutiny at the meeting of the Renewal, Recreation and Housing PDS Committee on 25th November 2020, the Leader has approved revised capital estimates for three housing schemes. At the meeting an additional £476k for Housing Supply in Burnt Ash Lane was agreed, as well as a reduction of £2,153k for the Housing Supply schemes in Anerley & Chislehurst (Bushell Way). Furthermore, at its meeting on November 18th, the Executive, Resources and Contracts Policy Development and Scrutiny Committee agreed that the capital programme for a replacement financial system capital scheme would be reduced by £200k to reflect an anticipated reduction in the required budget.

3.3 Variations requiring the approval of the Executive (£425k net increase)

3.3.1 Disabled Facilities Grant (DFG) (£290k increase to 2020/21 budget)

This extra DFG funding is to help support local authorities to deliver more home adaptations for those people with disabilities who qualify for a DFG, and approval is sought to add this to the capital programme.

3.3.2 Section 106 receipts (uncommitted balance) (net increase of £135k in 2021/22)

In July 2015 the Executive agreed that the Capital Programme budget should reflect the total amount of s106 receipts available to fund expenditure. The Executive is asked to agree a net increase of £135k in the capital programme for Education s106 in respect of additional receipts received since the last report.

3.4 Scheme Re-phrasings

3.4.1 As part of the 3rd quarter monitoring exercise, a total of £3,764k has been re-phased from 2020/21 into 2021/22 and later years to reflect revised estimates of when expenditure is likely to be incurred. The largest element of these is £2.4m relating to the Basic Need Scheme.

3.4.2 Other schemes rephased into future financial years include the Glebe School expansion programme (£382k), the Capital Maintenance in School (£200k), the Seed Challenge Fund (£100k) and the Customer Service IT System Replacement (£465k). This has no overall impact on the total approved estimate for the capital programme. Further details and comments are provided in Appendix B.

3.5 **Capital Strategy update and Annual Capital Review – new scheme proposals**

Capital Strategy update

3.5.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) Prudential Code 2017 introduced the setting and revising of a capital strategy. The Prudential Code laid out:

- Governance Procedure – the setting and revising of the capital strategy and prudential indicators will be done by the same body. For this Council it is the Executive and full Council.
- Determining a Capital Strategy – the Capital Strategy should demonstrate that the Council takes capital expenditure and investment decisions in line with service objectives.
- Prudence & Affordability – each local authority should ensure that all its capital, investment (and any borrowing) are prudent and sustainable.

3.5.2 As required, this Council's strategy includes capital expenditure, investments and treasury management and the Council's Capital Strategy is linked to the Treasury Management Strategy which reports and monitors the Council's Prudential Indicators. In addition, the Director of Finance reports on affordability and risks in the annual budget setting reports.

3.5.3 An annual review of the Capital Programme is undertaken as outlined in section 3.6. The Council's Capital Programme is intended to maintain and improve the quality of life in the borough and help meet its overall priorities as set out in "Building a Better Bromley", and with a four year plan, assists the longer-term planning for capital expenditure and the use of resources to finance it.

3.5.4 In recent years, the Council has steadily scaled down new capital expenditure plans and has transferred all the rolling maintenance programmes to the revenue budget. General (un-earmarked) reserves, established from the disposal of housing stock and the Glades Site, have been gradually spent and have fallen from £131m in 1997 to £44.4m (including unapplied capital receipts) as at 31st March 2020. The Council's asset disposal programme

has diminished, and as set out in section 3.8, it is currently projected that these balances will be around £13.8m by 2028.

- 3.5.5 It is therefore likely that any significant future capital schemes not funded by grants/contributions, future disposals or from revenue, may have to be funded from external borrowing. Prior to any consideration of external borrowing, the Council will review its assets to ensure all opportunities to generate capital receipts as alternative funding have been fully explored.
- 3.5.6 The Council's policy for borrowing and the investment of balances are set out in the Treasury Management Strategy Statement which will be considered by Executive, Resources & Contracts PDS Committee on February 3rd 2021, prior to submission for Council approval on March 1st 2021.
- 3.5.7 In addition to Treasury Management investments, the Council also has an alternative investment strategy for the acquisition of investment properties. To ensure that these investments are made prudently, and that the income generated remains sustainable, the Council has to date funded the property from its own resources rather than utilise any external borrowing.
- 3.5.8 This combination of lower risk Treasury Management investments and a separate longer-term investment strategy in the form of property acquisitions (generating higher yields and risks) provides a balanced investment strategy.

3.6 Annual Capital Review: new scheme proposals - (£5,950k total net addition)

3.6.1 As part of the normal annual review of the Capital Programme, Chief Officers were invited to present bids for new capital investment. Apart than the regular annual capital bids (TfL-funded Highway and Traffic schemes and Feasibility Studies) three other bids were submitted, which are summarised in paras 3.6.2 to 3.6.4 below, and outlined in Appendix C. The total amount of funding required from Council resources is £3,750k. New Invest to Save bids were particularly encouraged, but none were received and it is assumed that any such bids will be submitted in due course to be funded through the earmarked reserve that was created in 2011.

3.6.2 Winter Maintenance Service - £350k

This capital estimate will continue the programmed replacement of gritting vehicles and various equipment used for winter service and snow clearance. The selection of suitable equipment will initially focus on replacing three front-line gritters that will further update the fleet, to become compliant for the London Low Emission Zone. This proposal underpins the provision of an effective response to winter weather conditions in the Borough in order to meet statutory duties and to ensure the highway provides a safe means of travel for all users and residents in the borough. No external funding has been identified for this programme, and therefore the Council's own resources will need to be used to finance the scheme.

3.6.3 HR/Payroll System Replacement - £1,650k

This capital estimate will cover the cost to procure and implement a new integrated HR/Payroll System to replace the existing Resourcelink, HR Self Service System & Reporting Functionality. The current HR/Payroll software and support contract ends in June 2023 however to allow for time for parallel run testing of payroll results in new software, any new system needs to be ready for January 2023. No external funding has been identified for this programme, and therefore the Council's own resources will need to be used. The provisional sum of £1,650k has been set aside in the capital programme for planning purposes, however the release of these monies will be subject to a future report to the Executive for approval of the final scheme. Further details are provided in Appendix H.

3.6.4 Civic Centre Improvement - £1,710k

This capital estimate will cover essential works to the building fabric to ensure continued enjoyment of the accommodation. Roofing, windows and pavements are essential to ensure the continued smooth operation of the Civic Centre for staff and visitors and fire detection and prevention works will ensure continued safety. No external funding has been identified for this programme, and therefore the Council's own resources will need to be used to finance the scheme. The provisional sum of £1,710k has been set aside in the capital programme for planning purposes, however the release of these monies will be subject to a future report to the Executive for approval of the final scheme. Further details are provided in Appendix H.

3.7 Capital Receipts

3.7.1 Details of the receipts forecast in the years 2020/21 to 2023/24 are included in Appendix F to this report to be considered under Part 2 proceedings of the meeting. The latest estimate for 2020/21 has increased to £1,045k compared to what was reported in November (excluding "other" capital receipts). The estimate for 2021/22 has decreased by £1.950m in comparison to what was reported in November. A total of £5m per annum is assumed for receipts yet to be identified in later years.

3.7.2 There are a number of sites (Burnt Ash Lane, Bushell Way, Anerley car park, York Rise, West Wickham car park & Chipperfield Road) that were previously assumed for disposal, but the intention is now to transfer these to the Housing Revenue Account and for them to be used for housing purposes. This will lead to additional headroom for capital expenditure in the General Fund, being equivalent to a capital receipt of that value.

3.8 Financing of the Capital Programme

3.8.1 A capital financing statement is attached at Appendix D and the following table summarises the estimated impact on balances of the revised programme and revised capital receipt projections which, as noted above, reflect prudent assumptions on the level and timing of disposals. Total balances would increase from £44.4m (General Fund £20.0m and capital receipts £24.4m) at the end of 2019/20 to £50.9 by the end of 2022/23 and then reduce to £13.8m by the end of 2027/28. It is therefore likely that any significant future capital schemes not funded by grants/contributions or revenue, may have to be funded from external borrowing.

	2020/21	2021/22	2022/23	2023/24	2024/25	Total
	£'000	£'000	£'000	£'000	£'000	£'000
Total Capital Expenditure	31,066	35,871	31,474	31,019	25,740	155,170
Financed by:						
Usable Receipts	1,365	6,144	10,050	28,490	3,211	49,259
Revenue Contributions	8,266	4,882	329	329	329	14,135
Government Grants	11,122	20,346	2,500	0	0	33,967
Other Contributions	10,314	4,500	2,200	2,200	2,200	21,414
Internal Borrowing			16,395			16,395
General Fund	0	6 0	0	0	20,000	20,000
Total	31,066	35,871	31,474	31,019	25,740	155,170

General Fund
Capital Rece

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A

summary of how the capital programme will be financed is shown in the table below with further detail provided in Appendix D.

3.9 Section 106 Receipts

3.9.1 In addition to capital receipts from asset disposals, the Council is holding several Section 106 contributions received from developers. These are made to the Council as a result of the granting of planning permission and are restricted to being spent on capital works in accordance with the terms of agreements reached between the Council and the developers. These receipts are held as a receipt in advance on the Council's Balance Sheet, the balance of which stands at £8,516k as at 31st December 2020 as shown in the table below, and will be used to finance capital expenditure from 2020/21 onwards:

Specified Capital Works	Balance 31/03/2020 £'000	Receipts 2020/21 £'000	Receipts 21/22 £'000	Balance 31/12/2020 £'000
Housing	3,407	0	0	3,407
Education	4,037	135	0	4,172
Local Economy	932	0	0	932
Community Facilities	0	0	0	0
Highways	0	0	0	0
Other	6	0	0	6
Total	8,382	135	0	8,517

3.9.2 The Council's budgets are limited and, where a developer contribution (S106) can be secured, this will be required as a contribution towards projects, notwithstanding any other allocation of resources contained in the Council's spending plans.

3.10 Investment Fund and Growth Fund

3.10.1 To help support the achievement of sustainable savings and income, the Council has set aside funding in the Investment Fund earmarked reserve (formerly known as the Economic Development and Investment Fund) to contribute towards the Council's economic development and investment opportunities. To date, total funding of £84.50m has been placed in the Investment Fund earmarked reserve, with a further £20.3m of capital receipts earmarked to supplement this, and £39.2m placed in the Growth Fund earmarked reserve. Appendix E provides a detailed analysis of the Funds dating back to their inception in September 2011. To date, schemes totalling £119m have been approved (£92.3m on the Investment Fund, and £26.5m on the Growth Fund), and the uncommitted balances as at the

end of October 2020 stand at £12.5m for the Investment Fund and £12.7m for the Growth Fund.

3.11 Feasibility Works – Property Disposals

3.11.1 At its meeting on 24th May 2017, the Executive agreed to the creation of a new Earmarked Reserve with an initial allocation of £250k to be funded from the Growth Fund to allow feasibility works to be commissioned against specific sites so as to inform the Executive of sites' viability for disposal or re-development and potential scheme optimisation together with an appraisal as to worth.

3.11.2 Members requested that an update from the Strategic Property Service be included in quarterly capital monitoring report, this is provided in Appendix G.

3.12 Post-Completion Reports

3.12.1 Under approved Capital Programme procedures, capital schemes should be subject to a post-completion review within one year of completion. These reviews should compare actual expenditure against budget and evaluate the achievement of the scheme's non-financial objectives. Post-completion reports on the following schemes are due to be submitted to the relevant PDS Committees:

- Langley Park Boys School (BFS)
- The Highway Primary
- Universal Free School Meals
- The Woodland Improvements Programme
- Upgrade of Core Network Hardware
- Replacement of Storage Area Network
- Rollout of Windows 7 and Office 2000
- Replacement MD110 Telephone Switch
- Windows Server 2003 Replacement Programme
- Beacon House Refurbishment
- Banbury House Demolition/Site Prep
- Review of Corporate Customer Services IT System
- Upgrade of MS Dynamics CRM System
- Care Homes- improvements to environment for older people
- Performance Management/Children's Services IT scheme
- Manorfield- Temporary Accommodation
- Carbon Management Programme (Invest to Save funding)

4. POLICY IMPLICATIONS

4.1 Capital Programme monitoring and review is part of the planning and review process for all services.

5. FINANCIAL IMPLICATIONS

5.1 These are contained in the main body of the report and in the appendices. Attached as Appendix D is a capital financing statement, which gives a long-term indication of how the revised Programme would be financed if all the proposed changes were approved and if all the planned receipts were achieved. The financing projections assume approval of the revised capital programme recommended in this report, together with an estimated £3.5m per annum for new capital schemes and service developments from 2022/23 onwards.

Non-Applicable Sections:	Legal, Personnel & Procurement Implications, Impact on Vulnerable Adults and Children
Background Documents: (Access via Contact Officer)	<p>Approved Capital Programme (Leader 18/11/20)</p> <p>Treasury Management – Annual Investment Strategy 2020/21 (Executive and Resources PDS Committee 03/02/21)</p> <p>The Prudential Code for Capital Finance in Local Authorities (2017 edition) CIPFA publication</p> <p>List of potential capital receipts from strategic property as at 19.01.2021</p> <p>List of Feasibility monies for property disposal from strategic property as at 19.01.2021</p>

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APPENDIX A - VARIATION SUMMARY

CAPITAL PROGRAMME MONITORING - FEB 2021 - SUMMARY OF VARIATIONS FROM APPROVED PROGRAMME

Variations on individual schemes	Date of Portfolio meeting	Revised 2020/21 £'000	Revised 2021/22 £'000	Revised 2022/23 £'000	Revised 2023/24 £'000	Revised 2024/25	TOTAL 2020/21 to 2024/25 £'000	Comments / reason for variation
Current Approved Capital Programme								
Programme approved by Leader 18/11/2020	18/11/2020	51,417	55,095	31,420	2,240	0	140,172	
Housing Supply in Burnt Ash Lane	25/11/2020	476	0	0	0	0	476	
Housing Supply in Anerley & Chislehurst	25/11/2020	Cr 2,153	0	0	0	0	Cr 2,153	
Financial System Replacement	18/11/2020	Cr 200					Cr 200	
Approved Programme prior to 3rd Quarter's Monitoring		49,540	55,095	31,420	2,240	0	138,295	
Variations in the estimated cost of approved schemes								
<i>(i) Variations requiring the approval of the Executive/Council</i>								
Disabled Facilities Grant		290	0	0	0	0	290	See section 3.3.1
s106 - unallocated Education			135				135	See section 3.3.2
		290	135	0	0	0	425	
<i>(ii) Variations not requiring approval</i>								
Net rephasing from 2020/21 into future years		Cr 3,764	3,156	329	279		0	See section 3.4 and Appendix B
		Cr 3,764	3,156	329	279	0	0	
TOTAL AMENDMENT TO CAPITAL PROGRAMME		Cr 3,474	3,291	329	279	0	425	
Add: Proposed new schemes			2,485	1,225	0	2,240	5,950	See section 3.5 and Appendix C
		0	2,485	1,225	0	2,240	5,950	
TOTAL REVISED CAPITAL PROGRAMME		46,066	60,871	32,974	2,519	2,240	144,670	
Less: Further slippage projection		Cr 15,000	Cr 25,000	Cr 5,000	25,000	20,000	0	
Add: Estimate for further new schemes				3,500	3,500	3,500	10,500	
TOTAL TO BE FINANCED		31,066	35,871	31,474	31,019	25,740	155,170	

CAPITAL PROGRAMME MONITORING - FEB 2021 - SUMMARY OF VARIATIONS FROM APPROVED PROGRAMME - SCHEME REPHASING

Variations on individual schemes	2020/21	2021/22	2022/23	2023/24	TOTAL	Comments/reason for variation
	£'000	£'000	£'000	£'000	£'000	
Rephasing of schemes						
Glebe School expansion	Cr 382	382	0	0	0	Re-phased from 2020/21 into future years to reflect the latest estimates of when expenditure is likely to be incurred
Seed Challenge Fund	Cr 100	100	0	0	0	Scheme has ended. Following reconciliation any remaining fund needs to transfer to capital maintenance
Schools Access Initiative	Cr 76	76	0	0	0	Scheme now funded via Basic Need. Any remaining funds to be transferred to Basic Need.
Security Works	Cr 46	46	0	0	0	Scheme has ended. Remaining projects at Poverest and Downe Schools to be delivered in 2021/22
Capital maintenance in schools	Cr 200	200	0	0	0	2020 summer works delayed due to late DfE announcement and Covid. £909k set aside for works at Marjorie McClure to be delivered by DfE in relation to relocation of school.
Basic Need	Cr 2,400	2,400	0	0	0	Current figure does not reflect full year spend although there will be some rephasing.
Financial Systems Replacement	Cr 95	45	50		0	Re-phased from 2020/21 into future years to reflect the latest estimates of when expenditure is likely to be incurred
Customer Services IT System Replacement	Cr 465	Cr 93	279	279	0	Delays were experienced in technical solution sign off and final costings. However, the project is now in a good position to proceed with immediate effect, as scoping, solution analysis and business process mapping have been completed.
TOTAL REPHASING ADJUSTMENTS	Cr 3,764	3,156	329	279	0	

APPENDIX C - NEW SCHEMES

CAPITAL PROGRAMME REVIEW 2021 - RECOMMENDED TO EXECUTIVE 10/02/21

Capital Scheme/Project	Priority	TOTAL £'000	21/22 £'000	22/23 £'000	23/24 £'000	24/25	Revenue effect		Comments
							Running £'000	Financing £'000	
Winter Maintenance Service	HIGH	350		350					
HR/Payroll System Replacement	MED	1,650	775	875					
Civic Centre Improvement	HIGH	1,710	1,710						
Transport for London (Highways and Traffic Schemes)	HIGH	2,200				2,200	0		0 Further Highways and Traffic schemes to be fully funded by TfL on the basis of the bid in the Borough Spending Plan (BSP). The Capital Programme currently includes estimates for 2021/22 to 2023/24 and these will all be adjusted to reflect any subsequent changes in approvals/allocations.
Feasibility studies - block provisions	HIGH	40				40	0		0 Provision for 2021/22 - 2023/24 already in Capital Programme to fund feasibility works in respect of potential new schemes.
GRAND TOTAL NEW CAPITAL BIDS		5,950	2,485	1,225	0	2,240	0	0	

COST TO THE COUNCIL (LBB RESOURCES)	20/21	22/23	23/24	24/25	TOTAL
	£'000	£'000	£'000	£'000	£'000
Grand total new bids above	2,485	1,225	0	2,240	5,950
External funding for new bids					
Transport for London (Highway Schemes)	0	0	0 Cr	2,200 Cr	2,200
Funding from Council's resources	2,485	1,225	0	40	3,750

100% TFL funding

CAPITAL FINANCING STATEMENT - EXECUTIVE FEBRUARY 2021 - ALL RECEIPTS

(NB. Assumes all capital receipts - see below)

	2019-20	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28
	Estimate	Actual	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Summary Financing Statement										
Capital Grants	12,074	9,851	11,122	20,346	2,500	0	0	0	0	0
Other external contributions	8,248	7,050	10,314	4,500	2,200	2,200	2,200	2,200	2,200	2,200
Usable Capital Receipts	909	6,601	1,365	6,144	10,050	28,490	3,211	3,433	3,540	3,540
Internal Borrowing	0	0	0	0	16,395	0	0	0	0	0
Revenue Contributions	4,662	Cr 58	8,266	4,882	329	329	329	107	0	0
General Fund	0	0	0	0	0	0	20,000	0	0	0
Borrowing (external)	0	0	0	0	0	0	0	0	0	0
Total expenditure	25,893	23,444	31,066	35,871	31,474	31,019	25,740	5,740	5,740	5,740
Usable Capital Receipts										
Balance brought forward	29,313	29,313	24,438	27,068	32,674	30,874	2,684	80	4,450	8,399
New usable receipts	3,580	1,727	3,995	11,750	8,250	16,200	607	8,298	7,489	8,906
	32,893	31,040	28,433	38,818	40,924	47,074	3,291	8,378	11,939	17,305
Capital Financing	Cr 909	Cr 6,602	Cr 1,365	Cr 6,144	Cr 10,050	Cr 28,490	Cr 3,211	Cr 3,433	Cr 3,540	Cr 3,540
Repayment of Internal Borrowing	0	0	0	0	0	Cr 15,900	0	Cr 495	0	0
Balance carried forward	31,984	24,438	27,068	32,674	30,874	2,684	80	4,450	8,399	13,765
Internal Borrowing										
Balance brought forward	0	0	0	0	0	Cr 16,395	Cr 495	Cr 495	0	0
Capital Financing	0	0	0	0	Cr 16,395	0	0	0	0	0
Repaid from new Capital Receipts	0	0	0	0	0	15,900	0	495	0	0
Balance carried forward	0	0	0	0	Cr 16,395	Cr 495	Cr 495	0	0	0
General Fund										
Balance brought forward	20,000	20,000	20,000	20,000	20,000	20,000	20,000	0	0	0
Less: Capital Financing	0	0	0	0	0	0	Cr 20,000	0	0	0
Less: Use for Revenue Budget	0	0	0	0	0	0	0	0	0	0
Balance carried forward	20,000	20,000	20,000	20,000	20,000	20,000	0	0	0	0
TOTAL AVAILABLE RESERVES	51,984	44,438	47,068	52,674	50,874	22,684	80	4,450	8,399	13,765
Anticipated Capital Financing Requirement (CFR)										
Non housing Housing		9,600	Cr 1,000	Cr 1,600	Cr 2,200	Cr 2,800				
Housing		0	10,000	10,000	10,000	10,000				
Total CFR		9,600	9,000	8,400	7,800	7,200				
Movement in CFR		8,400	Cr 600	Cr 600	Cr 600	Cr 600				
<p>The future transfer of land from the General Fund to the HRA does not result in a capital receipt, as the HRA is not a separate legal entity but the effect would be similar in that it would mean that the Council can incur more capital expenditure without needing to borrow. Although the accounting arrangements are 'technical' in order to meet statutory accounting requirements the effective transfer of land has the same impact as generating a capital receipt of an equivalent value and therefore the equivalent value can be used to fund future capital schemes.</p>										
Assumptions:										
New capital schemes - £3.5m p.a. from 2021/22 for future new schemes.										
Capital receipts - includes figures reported by Property Division as at 24/01/20 - as shown in Appendix F										
Current approved programme - as recommended to Executive 12/02/20										
Internal Borrowing to fund until Capital Receipts pay Back - Site G										

APPENDIX E - INVESTMENT FUND GROWTH FUND

INVESTMENT FUND & GROWTH FUND - 10 February 2021

<u>Investment Fund</u>	<u>£'000</u>
<u>Revenue Funding:</u>	
Approved by Executive 7th September 2011	10,000
Approved by Council 27th February 2013	16,320
Approved by Council 1st July 2013	20,978
Approved by Executive 10th June 2014	13,792
Approved by Executive 15th October 2014	90
Approved by Executive 26th November 2014 (Transfer to Growth Fund)	Cr 10,000
New Home Bonus (2014/15)	5,040
Approved by Executive 11th February 2015 (New Homes Bonus)	4,400
Approved by Executive 10th June 2015	10,165
Approved by Executive 2nd December 2015 (New Homes Bonus)	141
Approved by Executive 10th Feb 2016 (New Homes Bonus)	7,482
Approved by Executive 6th December 2017	3,500
Approved by Executive 21st May 2018	2,609
	84,517
<u>Capital Funding*:</u>	
Approved by Executive 11th February 2015 (general capital receipts)	15,000
Approved by Executive 10th February 2016 (sale of Egerton Lodge)	1,216
Approved by Executive 7th November 2017 (Disposal of 72-76 High Street)	4,100
	20,316
Total Funding Approved:	104,833
<u>Property Purchase</u>	
Approved by Executive 7th September 2011 (95 High St)	Cr 1,620
Approved by Executive 6th December 2012 (98 High St)	Cr 2,167
Approved by Executive 5th June 2013 (72-76 High St)	Cr 2,888
Approved by Executive 12th June 2013 (104 - 108 High St)	Cr 3,150
Approved by Executive 12th February 2014 (147 - 153 High St)	Cr 18,755
Approved by Executive 19th December 2014 (27 Homesdale)	Cr 3,938
Approved by Executive 24th March 2015 (Morrisons)	Cr 8,672
Approved by Executive 15th July 2015 (Old Christchurch)	Cr 5,362
Approved by Executive 15th July 2015 (Tilgate)	Cr 6,746
Approved by Executive 15th December 2015 (Newbury House)	Cr 3,307
Approved by Executive 15th December 2015 (Unit G - Hubert Road)	Cr 6,038
Approved by Executive 23th March 2016 (British Gas Training Centre, Thatcham)	Cr 3,666
Approved by Executive 15th June 2016 (C2 and C3)	Cr 6,394
Approved by Executive 14th March 2017 (Trinity House)	Cr 6,236
Approved by Executive 1st December 2017 (54 Bridge Street, Peterborough)	Cr 3,930
	Cr 82,869
<u>Other Schemes</u>	
Approved by Executive 20th November 2013 (Queens's Garden)	Cr 990
Approved by Executive 15th January 2014 (Bromley BID Project)	Cr 110
Approved by Executive 26th November 2014 (BCT Development Strategy)	Cr 135
Approved by Executive 2nd December 2015 (Bromley Centre Town)	Cr 270
Approved by Executive 15th June 2016 (Glades Shopping Centre)	Cr 400
Approved by Executive 11th January 2017 (Disposal of Small Halls site, York Rise)	Cr 46
Approved by Executive 10th July 2019 (Modular Homes at York Rise Site)	Cr 3,500
Approved by Executive 2nd August 2019 (Provision of Housing in Burnt Ash Lane)	Cr 3,286
Valuation for 1 Westmoreland Rd	Cr 5
Valuation for Biggin Hill - West Camp	Cr 10
Growth Fund Study	Cr 170
Crystal Park Development work	Cr 200
Civic Centre for the future	Cr 50
Strategic Property cost	Cr 258
Total further spending approvals	Cr 9,430
Uncommitted Balance on Investment Fund	12,534
*Executive have approved the use of specific and general capital receipts to supplement the Investment Fund	

APPENDIX E - INVESTMENT FUND GROWTH FUND

<u>Growth Fund:</u>	£'000
<u>Funding:</u>	
Approved by Executive 26th November 2014 (Transfer from Investment Fund)	10,000
Approved by Executive 2nd December 2015	6,500
Approved by Executive 23rd March 2016	6,000
Approved by Executive 15th June 2016	7,024
Approved by Executive 22nd March 2017	4,000
Approved by Executive 14th June 2017	3,311
Approved by Executive 21st May 2018	2,319
Total funding approved	39,154
<u>Schemes Approved and Committed</u>	
Approved by Executive 24th March 2015 (Housing Zone Bid (Site G))	Cr 2,700
Approved by Executive 24th March 2015 ((Site G) - Specialist)	Cr 200
Approved by Executive 18th May 2016 (Feasibility Studies and Strategic Employment Review)	Cr 180
Approved by Executive 18th May 2016 (Broadband Infrastructure Investment)	Cr 50
Approved by Executive 20th Jul 2016 (BID - Penge & Beckenham)	Cr 110
Approved by Executive 1st Nov 2016 (19-25 Market Square)	Cr 10,705
Approved by Executive 1st Nov 2016 (63 Walnuts)	Cr 3,804
Approved by Executive 22nd March 2017 (Bromley Town Centre Public Realm Improvement Scheme)	Cr 2,844
Approved by Executive 7th November 2017 (Bromley Town Centre and Public Realm)	Cr 464
Approved by Executive 17th October 2018 (Bromley Town Centre - Mirrored Canopies & Shops)	Cr 415
Approved by Executive 22nd March 2017 (Project Officer cost Bromley Town Centre Public Realm improvement)	Cr 40
Approved by Executive 22nd March 2017 (Community Initiative)	Cr 15
Approved by Executive 24th May 2017 (Feasibility Works/Property Disposal)	Cr 250
Renewal Team Cost	Cr 310
Approved by Executive 28th November 2018 (Housing Development Feasibility)	Cr 100
Approved by Executive 27th March 2019 (West Wickham BID)	Cr 75
Approved by Executive 21st May 2019 (Specialist advice for setting up local Housing company)	Cr 100
Noted by Executive 12th February 2020 - £1.5m of s106 to replace Growth Fund allocation for Bromley Town Centre capital scheme	1,500
Approved by Executive 1st April 2020 - Consultancy services for advice on urban design scheme	Cr 50
Approved by Executive 1st April 2020 - Bromley High St improvements	Cr 800
Noted by Leader May 2020 - £2m of s106 to replace Growth Fund allocation for Bromley Town Centre capital scheme	2,000
Total further spending approvals	Cr 19,712
<u>Schemes Approved, but not committed</u>	
Approved by Executive 26th November 2014 (for Biggin Hill and Cray Valley)	Cr 6,790
Uncommitted Balance on Growth Fund	12,652

APPENDIX G - FEASIBILITY WORKS

CAPITAL PROGRAMME MONITORING - FEB 2021

Location	Estimated Feasibility / Viability Cost (£'000)	Description	January 2021 Status
West Wickham Leisure Centre	0	Redevelopment of Facility	Scheme now being progressed by Regeneration Team
The Glades Department Store RENAME to Feasibility to re-purposing of High Street Assets	50	Works to identify re-purposing of Investment Properties held as High Street Assets	Options being considered and feasibility studies being costed
The Walnuts Centre	0	Redevelopment of Facility	Scheme now being progressed by Regeneration Team
Old Town Hall/Civic Centre	0	Option to utilise Old Town Hall as Council Offices	Old Town Hall sold
Depots Review - Disposal Options	25	Disposal of surplus Depots	Awaiting final list of sites to be declared surplus.
Biggin Hill Aviation College - Alternative	0	Creation of an aviation college at BH	BHAL granted consent by Executive awaiting implementation by BHAL
Libraries (Chislehurst model roll out)	0	Redevelopment of Facility	Scheme now being progressed by Regeneration Team
Lease standardisation	0	Lease standardisation	Most leases now in standard modern format
	75		

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Part 1

A. PROJECT SPECIFICATION

1. Project title and description Civic Centre Improvement – essential works to the building fabric to ensure continued enjoyment of the accommodation and internal refurbishment to staff welfare and office areas

2. Total estimated capital cost £1.71m

3. Proposed start date 2021/23

4. Justification for “early” start (i.e. before 2022/23), if applicable

Repairs to external areas – roofing, windows, pavements etc – are essential to ensure the continued smooth operation of the Civic Centre for staff and visitors. Internal areas are dilapidated in part. New floor coverings and decoration to committee rooms, the chamber and associated areas – plus staff kitchens, toilets and office space, will improve the working environment and functionality. Fire detection and prevention works will ensure continued safety.

5. Proposed completion date March 2022

B. POLICIES AND OBJECTIVES

6. What are the aims and objectives of the project?

To ensure continued safe and effective operation of Civic Centre buildings, to provide improved accommodation for Members, staff and public.

7. Which objective(s) of the Council’s Plans and Strategies (specifically Building a Better Bromley, Corporate Operating Principles, Portfolio/Service Plans and Asset Management Plan) will be met by the project, and how?

Under Corporate Operating Principles, these works will help to create a better and more modern working environment for staff and, in part, reduce running costs incurred from maintaining assets beyond their economic lifespan.

8. What are the expected additional outputs and outcomes from the proposed project? (including increase in service users, additional jobs, etc.)

Improvements to the working environment display commitment to staff welfare and engender trust and respect between the Council and employees. New large equipment i.e. council chamber lift will ensure continued functionality of the space.

9. What, if any, statutory requirement or government initiative(s) will the project contribute towards?

Fire safety, energy efficiency, disabled access (lift works).

10. What, if any, partnership working will be involved, and how?

A mixture or working with the incumbent FM provider (Amey) and potentially direct engagement with quality local suppliers.

11. Who are the interested stakeholders and what consultation has taken place with them?

Members, staff and public. No formal consultation, however commitments have been given to staff over the last 5 years that improvements would be made to the Civic Centre accommodation offering.

C. FINANCIAL CONSIDERATIONS

12. Total estimated capital cost £1.71m

13. Analysis of capital cost (including elements to be funded by other bodies).

	2021/22 (early start)	2022/23	2023/24	2024/25	TOTAL
	£000	£000	£000	£000	£000
Land / Property acquisition					
Construction/Works (main contractor)	£1560				
Furniture & equipment					
Consultants' Fees	£150				
Other (please specify)					
TOTAL	£1710				

14. Analysis of potential external funding (see also Q16 re ring-fencing of external funding).

e.g. Government grants, other local authorities, private sector, other (please specify)	2021/22 (early start)	2022/23	2023/24	2024/25	TOTAL
	£000	£000	£000	£000	£000
TOTAL					

15. Revenue implications of capital expenditure. (Note: Given the Council’s financial outlook, COE has indicated that bids of an “invest to save” nature will be especially welcome).

	2021/22 (early start)	2022/23	2023/24	2024/25	TOTAL
	£000	£000	£000	£000	£000
Capital financing (leave blank)					
Employees					
Building maintenance	£1710				
Energy costs					
Rates					
Other (please specify)					
Less: Income					
TOTAL	£1710				

16. Is the external funding in 14 above ring-fenced? If not, please provide a justification for allocating the funding to cover this proposal in preference to allocating to cover general capital expenditure.

N/A

17. Will any capital receipt arise from the proposal? If so, please give details

N/A

D. RISK MANAGEMENT

18. Please identify any potential risks associated with the project. (These could include risks associated with land acquisition, planning, development, management, marketing, etc.)

Programme slipping due to access/scheduling difficulties. Cost creep owing to unforeseen repairs with older elements of the buildings.

19. What contingency arrangements would be in place to address these risk factors?

Specific project management, careful planning and information sharing, cost contingency built in for unplanned expenditure.

20. What, if any, would be the consequences of not undertaking the project?

a) At all?

Increased costs for repair to external building elements. Statutory compliance failure.

b) In the proposed timescale?

As above, continuing steady failure of building elements, internal finishes and welfare facilities.

E. SUSTAINABILITY

21. Has any consideration been given to social, environmental and financial outcomes arising from the project? Please provide details.

N/A

22. Have the whole life costs of the scheme been fully considered (i.e. have all the key stages of the scheme been considered, from design through to potential disposal), and have the social, environmental and economic impacts and costs, both positive and negative, been identified? Please provide details.

The total comprises 25+ individual building and refurbishment projects. The works represent essential maintenance and repair with improvement to the working environment and statutory compliance.

F. GENERAL

23. VAT IMPLICATIONS

Are there any VAT implications arising from the proposed scheme? (These will need to be signed off by Maria Wiles before the bid can progress).

None

24. ASSESSMENT OF PRIORITY

What would you assess the overall priority for this project to be? (please tick as appropriate).

	High	Medium	Low
--	------	--------	-----

Departmental	X		
Public	X		
Council Members	X		

25. PROJECT MANAGER / RESPONSIBLE OFFICER

Name Job Title Date **Civic Centre works - indicative calculation****Civic Centre - Works****Budget Estimates**

Replace lift to council chamber	£60,000
Repairs/decorations to colonnade to old palace	£50,000
Dormer windows to old palace	£60,000
Upgrade covered ways	£25,000
New windows to former telephone exchange	£25,000
Re-line mark St Blaze staff car park	£10,000
Kitchens in Stockwell	£30,000
Toilets in Stockwell	£30,000
Kitchens in North Block	£30,000
Toilets in St Blaze	£30,000
Kitchens in St Blaze	£30,000
East / West wing - put toilets on main supply	£15,000
East / West wing coping stones	£10,000
East / West wing doors onto roof	£5,000
Fire doors - general across site	£50,000
Upgrade lighting - general across site	£250,000
Emergency lighting - general across site	£50,000
Fire alarms - general across site	£50,000
Council Chamber roof	£90,000
Roofing - general across site	£40,000
Change doors to Rochester entrance/lobbies	£30,000
Change doors to Stockwell entrance/lobbies	£30,000
Handrail to steps and cleaning - rear old palace	£10,000
Decorations - general across site	£250,000
Flooring - general across site	£250,000
West Wing - refurbishment of committee rooms 1-6, members room and cloakroom, west wing corridor, council chamber and associated areas	£176,000
Pavement repairs	£20,000
Total	£1,706,000

Part 2

A. PROJECT SPECIFICATION

6. Project title and description

HR/Payroll System Replacement

7. Total estimated capital cost

£1.65ma

8. Proposed start date

October 2021

9. Justification for “early” start (i.e. before 2022/23), if applicable

The current HR/Payroll software and support contract ends in June 2023 however to allow for time for parallel run testing of payroll results in new software, any new system needs to be ready for January 2023.

10. Proposed completion date

January 2023

C. POLICIES AND OBJECTIVES

8. What are the aims and objectives of the project?

To procure and implement a new integrated HR/Payroll System to replace the existing Resourcelink, HR Self Service System & Reporting Functionality. To investigate whether a fully integrated ERP system could be introduced to join the HR and Payroll functions with Finance to create greater efficiencies and easier reporting and access to management information.

9. Which objective(s) of the Council’s Plans and Strategies (specifically Building a Better Bromley, Corporate Operating Principles, Portfolio/Service Plans and Asset Management Plan) will be met by the project, and how?

This will help to ensure we have a fit for purpose HR/Payroll system to support in the continued delivery of effective HR and Payroll services to help meet our priority of being an Excellent Council.

9. What are the expected additional outputs and outcomes from the proposed project? (including increase in service users, additional jobs, etc.)

- A fully supported, more flexible HR/Payroll system with greater integration with the Council’s financial system
- Increased resilience by removing the reliance on and risks of using an on-premise data centre (it is anticipated that it will be hosted in the Cloud)
- Ability to implement new reporting functionality to aid internal management reporting, including clearer establishment reporting and production of the Council’s statutory returns
- Improve processes for management and control of Council’s post and establishment data
- Ability to improve self-service functionality for HR/Payroll.

12. What, if any, statutory requirement or government initiative(s) will the project contribute towards?

13. What, if any, partnership working will be involved, and how?

This will involve working with the Council's IT partner, BT, the Council's Payroll and Pension function partner, Liberata, as well as a specialist system implementer

14. Who are the interested stakeholders and what consultation has taken place with them?

The Council's HR Teams, Liberata Payroll and Pensions, Finance, Audit and all Managers and Employees from a HR Self Service perspective.
 Discussions have taken place with finance and IT regarding proposals.
 Wider consultation with relevant staff has not yet taken place; however, this will be undertaken to help determine any areas that could be improved etc

G. FINANCIAL CONSIDERATIONS

23. Total estimated capital cost

£1.65m

24. Analysis of capital cost (including elements to be funded by other bodies).

	2021/22 (early start)	2022/23	2023/24	2024/25	TOTAL
	£000	£000	£000	£000	£000
Land / Property acquisition					
Construction/Works (main contractor)					
Furniture & equipment					
Consultants' Fees (System Integrator)	350	350			700
Other (please specify)					
Software	60	130			190
IT Costs BT/3 rd Party	50	80			130
Staffing	215	215			430
Contingency	100	100			200
TOTAL	775	875			1,650

At this stage it's difficult to gauge the final costs however more detailed analysis would be included in a full report to be presented at a future meeting. There may be potential savings which would also be considered as part of the detailed report.

25. Analysis of potential external funding (see also Q16 re ring-fencing of external funding).

e.g. Government grants, other local authorities, private sector, other (please specify)	2021/22 (early start)	2022/23	2023/24	2024/25	TOTAL
	£000	£000	£000	£000	£000
TOTAL					

26. Revenue implications of capital expenditure. (Note: Given the Council's financial outlook, COE has indicated that bids of an "invest to save" nature will be especially welcome).

	2021/22 (early start)	2022/23	2023/24	2024/25	TOTAL
	£000	£000	£000	£000	£000
Capital financing (leave blank)					
Employees					
Building maintenance					
Energy costs					
Rates					
Other (please specify)					
Less: Income					
TOTAL					

27. Is the external funding in 14 above ring-fenced? If not, please provide a justification for allocating the funding to cover this proposal in preference to allocating to cover general capital expenditure.

N/A

28. Will any capital receipt arise from the proposal? If so, please give details

No

H. RISK MANAGEMENT

29. Please identify any potential risks associated with the project. (These could include risks associated with land acquisition, planning, development, management, marketing, etc.)

Lack of internal resources/inability to recruit additional resources to support the project including effective end-user training.
 Potential slippage.
 Risk of inaccurate/no payments if improperly implemented/tested
 Risk of inaccurate/delayed information provided to HMRC
 Risk of inaccurate/delayed HR/Payroll Management information if improperly implemented.

30. What contingency arrangements would be in place to address these risk factors?

Ensure sufficient staff with knowledge of HR and Payroll processes and technical knowledge are involved throughout and backfilling their current roles if required.
 Ensure an experienced LBB project manager is involved
 Allow sufficient time in project timescales for parallel payroll run testing e.g. January to June 2023

31. What, if any, would be the consequences of not undertaking the project?

c) At all?

In order to address and minimize future risks to a critical system, it is important for us to look at a cloud system to give greater flexibility and support agile working.

d) There is currently limited functionality to improve system processes further and a risk of loss of knowledge and expertise of the current system and reporting requirements

As above

I. SUSTAINABILITY

32. Has any consideration been given to social, environmental and financial outcomes arising from the project? Please provide details.

There may be additional cashable and non-cashable benefits as a result of additional/more efficient processes etc, such as the potential introduction of an integrated ERP system with finance which would improve processes and improve the ability to produce management information, potentially reduced costs of future upgrades, improved self-service functionality, automated workflows etc, however these are not quantifiable at this point

33. Have the whole life costs of the scheme been fully considered (i.e. have all the key stages of the scheme been considered, from design through to potential disposal), and have the social, environmental and economic impacts and costs, both positive and negative, been identified? Please provide details.

Yes

J. GENERAL

23. VAT IMPLICATIONS

Are there any VAT implications arising from the proposed scheme? (These will need to be signed off by Maria Wiles before the bid can progress).

No

24. ASSESSMENT OF PRIORITY

What would you assess the overall priority for this project to be? (please tick as appropriate).

	High	Medium	Low
Departmental	X		
Public			X
Council Members		X	

25. PROJECT MANAGER / RESPONSIBLE OFFICER

Name

Job Title

Date

Agenda Item 7

Report No.
ES20062

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: Executive on 10th February 2021

Date: For pre-decision scrutiny by the Public Protection and Enforcement PDS Committee on 19th January 2021

Decision Type: Non-Urgent Executive Key

Title: Model London Lettings Enforcement Policy

Contact Officer: Rob Vale, Head of Service, Trading Standards & Commercial Regulation
Tel: 020 8313 4785 E-mail: rob.vale@bromley.gov.uk

Chief Officer: Colin Brand, Director of Environment and Public Protection

Ward: (All Wards);

1. Reason for report

This report seeks to fulfil the requirements set out in Section 6.2 of the *Mandatory client money protection for property agents – Enforcement guidance for local authorities* in order to avoid any legal deficiencies in the event of any enforcement action which may be identified.

2. **RECOMMENDATION**

That the Public Protection and Enforcement PDS Committee approve the Model London Lettings Enforcement Policy for adoption by the Executive on the 10th February 2021.

Impact on Vulnerable Adults and Children

1. Summary of Impact: There are a number of vulnerable groups who can be impacted by the actions of unscrupulous landlords and letting agents, including persons vulnerable by virtue of age, on a low income, people with complex health conditions and those at risk of harassment or eviction.
-

Corporate Policy

1. Policy Status: Not Applicable
 2. BBB Priority: Children and Young People Excellent Council Safe Bromley Supporting Independence Vibrant, Thriving Town Centres Healthy Bromley:
-

Financial

1. Cost of proposal: No Cost
 2. Ongoing costs: NA
 3. Budget head/performance centre: Trading Standards £333k
 4. Total current budget for this head: NA
 5. Source of funding: The London Trading Standards (LTS) Lettings project, which has been funded by National Trading Standards (NTS)(insert source of funding)
-

Personnel

1. Number of staff (current and additional): One
 2. If from existing staff resources, number of staff hours: NA
-

Legal

1. Legal Requirement: Statutory Requirement: The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 as amended by the Tenant Fees Act 2019
 2. Call-in: Applicable
-

Procurement

1. Summary of Procurement Implications: N/A
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All Wards
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 The London Trading Standards (LTS) Lettings project has been funded by National Trading Standards to assist London boroughs to fulfil their duty to enforce the requirement for letting agents that handle client money, which accounts for the vast majority, to belong to an approved Client Money Protection (CMP) scheme to protect this money should the business fail. This has been a statutory requirement under the Client Money Protection Schemes for Property Agents Regulations (Requirement to Belong to a Scheme etc.) Regulations 2019 since 1st April 2019. However, despite evidence of widespread non-compliance, there has been very little enforcement action to date.
- 3.2 A failure to belong to a CMP scheme attracts a penalty of up to £30,000, and non-compliance for transparency e.g. not publishing the CMP certificate on a business' website is up to £5,000. There is a statutory appeal process.
- 3.3 In Bromley, though other related work e.g. membership of a redress scheme had been carried out in 2018/19, this pre-dated the introduction of these Regulations and this work did not result in formal enforcement action. The scope of the project was approved by the PP&E PDS Committee on Thursday 27 September 2018 ([ES18068](#)); as agreed, the subsequent results were presented back to the committee on 26th June 2019 ([ES19039](#)), whereby Members were advised that 25 businesses had been brought into compliance as a result of the project.
- 3.4 This current project, which is funded until the end of March 2021, aims to identify ten agents based in the borough, and who have been the subject of general complaints and/or having regard to the size of the business. A contractor, who is one of a small team commissioned by LTS (who will carry out work for all participating boroughs), will carry out the preliminary work including contacting the schemes that offer CMP, preparing notices for the Council to enforce and assisting with any representations.
- 3.5 In addition to the Public Protection Enforcement Policy, the attached Model Policy (pages 9-13 relate to CMP) has been produced. The adoption of this policy is not a legal requirement, but the statutory guidance (see *Mandatory client money protection for property agents – Enforcement guidance for local authorities*) states under section 6.2 that **“Enforcement authorities are expected to develop and publish their own policy on determining the appropriate level of financial penalties to impose which may be part of a pre-existing enforcement policy.”**
- 3.6 This report seeks to fulfil the requirements set out in Section 6.2 of the guidance in order to avoid any legal deficiencies in the event of any enforcement action which may be identified.

Benefits to the London Borough of Bromley

- 3.7 In the short term, the project addresses key non-compliance in the borough with minimal operational resources. There is also the opportunity to publicise the work that will be carried out in the next quarter in due course, which conceivably has the added, indirect advantage of securing further compliance in Bromley.
- 3.8 The ability to confidently issue penalties coupled with the experience gleaned from the project is in accordance with Trading Standards priorities and will allow Officers to continue with intelligence led enforcement. Any funds arising from penalties are retained by the Council.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 There are a number of vulnerable groups who can be impacted by the actions of unscrupulous landlords and letting agents, including persons vulnerable by virtue of age, on a low income, people with complex health conditions and those at risk of harassment or eviction.

5. FINANCIAL IMPLICATIONS

5.1 There is no cost of adopting the model enforcement policy as the Council has been assisted by the LTS Lettings project funded by National Trading Standards with minimal officer time input required.

5.2 Potential penalties for non-compliance are significant. However, service managers anticipate that businesses are unlikely to remain non-complaint given the potential penalties.

5.3 Any penalties levied would be retained by the Council and represent additional revenue income. This activity will be kept under review as part of the budget monitoring process.

6. POLICY IMPLICATIONS

6.1 This policy is in alignment with the Public Protection Enforcement Policy.

7. LEGAL IMPLICATIONS

7.1 Legal Requirement: Statutory requirement. The Redress Schemes for Lettings Agency Work and Property Management Work Requirement to Belong to a Scheme etc) Order 2014; The Consumer Rights Act 2015, sections 83-88; The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019

Non-Applicable Sections:		PERSONNEL IMPLICATIONS PROCUREMENT IMPLICATIONS
Background Documents: (Access via Contact Officer)		<p>ES18068 PLANNED ENFORCEMENT OF LEGISLATION WHICH REGULATES THE LETTING AGENTS AND PROPERTY MANAGEMENT SECTOR 27th September 2018</p> <p>ES19039 LETTING AGENTS ENFORCEMENT 26th June 2019</p> <p>Mandatory client money protection for property agents - Enforcement guidance for local authorities</p> <p>LONDON TRADING STANDARDS Model London Lettings Enforcement Policy</p>

LONDON TRADING STANDARDS

Model London Lettings Enforcement Policy

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LONDON TRADING STANDARDS

Model London Lettings Enforcement Policy

Introduction

London's population has grown rapidly over the last decade to a record 9.0 million people by mid-2019. The proportion of households renting privately has also increased significantly from around 15% at the turn of the century to 27% by 2019 and of London's 3.6 million households almost a million are now renting privately, representing more than a fifth of all privately renting households in England.

London has a higher rate of population "churn" than other areas due to its higher levels of outward and inward migration, and more transient population. The high influx of working age population means that London has a younger population than England as a whole.

Occupancy levels are also particularly high in the private rented sector, with average floor area per person falling from 31m² to 25m² over the past 25 years and is now less than for any other tenure.

At the same time, average private rents in London have risen by 43% since 2005, by far the largest increase of any English region.¹ In the year to March 2020, the median rent for a privately rented home in London was £1,425 per calendar month, more than twice as high as the median in England as a whole (£700). London's rents are so much higher than those of other regions that the median monthly rent for a one-bedroom home in the capital (£1,204) is almost as high as the national median monthly rent for a home with four bedrooms or more (£1,300).²

With the expansion of the private rented sector, a large letting agent industry has grown in the Capital which accounts for around 40% of all letting agents in England. It is estimated that there are 10,000 such agents, now operating in London.

There is also evidence of widespread non-compliance with legal requirements in the sector. Recent (2018-19) enforcement data from the London boroughs suggests that only around a half (54%) of London letting agents were fully compliant with the law when inspected by Trading Standards Officers.

In this context **the London Borough of Bromley** ("the authority") has prepared an enforcement policy which sets out the decision-making process to be used by the local authority in relation to enforcement action for breaches of the following lettings legislation:

- a. The Enterprise and Regulatory Reform Act 2013 (in relation to The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014);
- b. The Consumer Rights Act 2015 (sections 83-88);
- c. The Tenants Fees Act 2019;

¹ Office for National Statistics ("ONS") Experimental Index of Private Housing Rental prices

² ONS, Private Rental Market summary statistics

- d. The Housing and Planning Act 2016 (in relation to The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019).

This policy is not statutory guidance. It has been prepared by reference to the primary legislation, applicable statutory and non-statutory guidance, the Regulators' Code and, where applicable, the Code for Crown Prosecutors. In preparing this policy the authority has also considered the extensive body of First and Upper Tier Tribunal rulings under the above legislation relating specifically to the London market.

The policy has been made in consultation with the lead enforcement authority.

The relevant sections of the above legislation mainly concern civil breaches, albeit with potential criminal offences arising from them, accordingly, where appropriate, reference is made to the overarching principles of criminal law, such as culpability, harm, aggravating and mitigating features, and proportionality.

When considering the culpability of letting agents attention is drawn to the professional status of the sector, the extensive guidance provided by, and available from, industry bodies, and the requirements for compliance provided by statutory redress schemes.

Redress Schemes

Legislation

The Enterprise and Regulatory Reform Act 2013 sections 83-88 and The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 ("the Redress Schemes Order 2014").

The requirement

It has been a requirement since 1 October 2014 for lettings and property management agents to be a member of a government approved redress scheme.³

This provides clients of these businesses, both tenants and landlords, with an independent form of redress to resolve complaints.

There are currently two schemes approved by the government:

- a. The Property Ombudsman ("TPO"); and
- b. The Property Redress Scheme ("PRS").

Sanction for breach of the requirement

The requirement is enforced by local authority Trading Standards or Housing Services.

A failure to join a scheme is enforced by a civil penalty process with a **maximum penalty of £5,000**.

The breach must be proved on "the balance of probabilities", i.e. to the civil standard of proof.⁴

³ The Redress Schemes Order 2014, Part 2

For both tenants and landlords, the consequence of a business not being a member of a redress scheme can be significant in that they lose an important method of resolving complaints without having to take recourse to legal action (which can be both time consuming and expensive). This is true even if a business later joins a scheme as the membership is not retrospective and clients who contracted with an agent prior to the date of membership are still not covered.

Trading Standards consider this an important access to justice issue and a very serious breach because of the potential collective harm to both tenants and landlords. It is also an indicator of poor professional standards within the sector.

Determining the level of financial penalty

The Ministry for Housing Communities and Local Government (“MHCLG”)⁵ has issued guidance for local authority housing officers on *Improving the Private Rented Sector and Tackling Bad Practice - A Guide for Local Authorities*.⁶ Annex C - *Letting Agents Redress Scheme Guidance* provides:

*The expectation is that a £5,000 fine should be considered the norm and that a lower fine should only be charged if the enforcement authority is satisfied that there are extenuating circumstances”.*⁷

The guidance also makes clear that it will be up to the enforcement authority to decide what such circumstances might be.

In having regard to the guidance issued by MHCLG, the expectation is that a £5,000 penalty should be considered the norm. Due to the serious detriment associated with lack of membership of a redress scheme, the lack of professional standards it indicates and the particulars of the London Lettings market, the authority is adopting the policy that when issuing an initial notice (notice of intent) against an agent, **the monetary penalty will usually start at £5,000.**

The notice of intent provides the agent with the option to submit representations to the authority within 28 days. The authority shall consider the representations and may reduce the monetary penalty if appropriate.

This approach has been accepted by Judges in the First Tier Tribunal.

In considering whether to vary, withdraw or confirm a monetary penalty after the notice of intent has been served, the authority will take into account any representations provided by the agent. The following non-exhaustive list of factors will be considered in either mitigation or aggravation, as appropriate in each case:

- The severity of the breach (i.e. the length of breach, has membership just lapsed or has the agent never been a member of a redress scheme)
- The financial impact of the breach on tenants and landlords (this may be difficult to assess)

⁴ Ibid. Article 8

⁵ Formerly the Department for Communities and Local Government

⁶

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/412921/Improving_private_rented_sector.pdf, published March 2015,

⁷Ibid. pp.53-54

- How long the legislation and requirements have been in force
- The agent's history of compliance and/ or non-compliance
- Any complaints against the agent
- The attitude of the agent and/ or co-operation with the authority in its investigation
- Whether the breach was rectified promptly
- Steps that the agent has or has not taken to ensure compliance
- Personal or health issues that may have had or be having an effect on the agent's business (e.g. impacting on the period of breach or ability to pay)
- Any other factors that could amount to extenuating circumstances.

Where applicable the authority shall consider the affordability of the proposed penalty, including the financial status of the agent and/ or the agent's ability to pay.

Simply correcting a breach after receiving a notice will not nullify the proposed penalty and if an agent would like a reduction to be considered, in the first instance, representations/ objections should be made to the Council in the 28 days allowed.

Publicise relevant fees and required information

Legislation

Consumer Rights Act 2015 ("CRA") sections 83-88.

The requirement

Section 83 CRA makes it a requirement for all letting agents in England to publicise details of their relevant fees and other required information. Sections 83 to 88 CRA contain detailed disclosure requirements.

Sanction on breach of the requirement

Where the authority is satisfied on the balance of probabilities that a letting agent has breached the above duty it may impose a penalty under section 87 CRA.

The amount of the financial penalty may be determined by the local authority but **must not exceed £5,000.**⁸

Determining the level of financial penalty

In line with the statutory guidance issued by the MHCLG: *Improving the private rented sector and tackling bad practice: a guide for local authorities. Annex D – Guidance on Letting Agent Fees*, **the authority will normally issue the financial penalty for the maximum of £5,000 and a lower penalty will only be considered if the authority is satisfied that there are extenuating circumstances.**⁹

⁸ CRA, s. 87(7)

⁹ <https://www.gov.uk/government/publications/improving-the-private-rented-sector-and-tackling-bad-practice-a-guide-for-local-authorities>, published 13 March 2015, p.60

In considering whether to vary, withdraw or confirm a monetary penalty after a notice of intent has been issued the authority will take into account any representations provided by the agent.

Each of the following non-exhaustive factors will be considered, as possible mitigation, in the authority's decision of whether to vary, withdraw or confirm a penalty:

- The severity of the breach
- The financial impact of the breach on tenants and landlords
- How long the legislation and requirements have been in force
- Whether a letting agent was in breach of some but not all aspects of the requirements (with respect to displaying fees, client money protection and redress scheme information).
- The period of non-compliance (e.g. was a technical error on a website causing a breach for a matter of hours or was there an extended period of non-compliance)
- Whether the breach was rectified promptly
- Steps that the agent has or has not taken to ensure compliance
- The attitude of the agent and/ or co-operation with the authority in its investigation
- Personal or health issues that may have had or be having an effect on the letting agent's business (e.g. impacting on the period of breach or ability to pay)
- Any other factors that could amount to extenuating circumstances.

Where applicable the authority shall consider the affordability of the proposed fine, including the financial status of the agent and/ or the agent's ability to pay.

Mitigating factors advanced by the agent in representations shall be weighed up against all of the facts of the case as well as wider factors where relevant, including the following points:

- How long the legislation and/ or requirements have been in force
- The agent's history of compliance and/or non-compliance
- Whether an agent was in breach of other lettings requirements (e.g. client money protection or redress scheme membership)
- Steps the agent has or has not taken to ensure compliance
- The size of the business and number of staff
- Any other relevant factors

The authority can issue a penalty *per breach*, therefore if an agent is in breach on their website **and** in their office this would amount to two separate breaches. If an agent has multiple branches, then a penalty of £5,000 may be imposed separately against each non-compliant branch.

For continued non-compliance further penalties of £5,000 can be issued for the same breach over a different period.¹⁰ It is therefore of utmost importance that breaches are corrected by the agent as soon as possible after notification to avoid further penalties. There is no limit to the number of penalties that can be imposed for a continued breach. However, no further penalties can be issued if the letting agent appeals to the Tribunal until the end of 28 days

¹⁰ CRA s.87(6A)

beginning the day after the day on which the appeal is finally determined, withdrawn or abandoned.

Simply correcting a breach after receiving a notice will not nullify the proposed penalty and if an agent would like a reduction to be considered, in the first instance, representations/objections should be made to the Council in the 28 days allowed.

Prohibited payments

Legislation

Tenant Fees Act 2019 (“TFA”)

Requirement

Under the TFA it is now unlawful for a landlord or letting agent to require a relevant person to make a ‘*prohibited payment*’ in relation to a tenancy agreement. Tenancy Agreements include Assured Shorthold Tenancies (“ASTs”), student accommodation and licences to occupy housing (with limited exception). All payments are prohibited unless they are one of the permitted payments listed in Schedule 1 TFA. Sections 1, 2 and 3 TFA give further details on the specific breaches by a landlord or letting agent.

Sanction

Section 8 TFA provides local authorities with the power to impose a civil penalty in situations where a breach of the TFA has been identified.

Each separate ‘*prohibited payment*’ represents a separate breach of the TFA.

The TFA sets out maximum penalties that the Council may impose on agents and landlords that breach the above prohibition¹¹, namely:

- a. £5,000 where a landlord or agent has required a tenant or landlord to make a ‘prohibited payment’;
- b. £30,000 where a landlord or agent has required a tenant or landlord to make a ‘prohibited payment’ within 5 years of a previous conviction or imposition of a Civil Penalty [as an alternative to instigating prosecution proceedings];
- c. £5,000 where a landlord or agent is in breach of the requirement to repay the holding deposit.

If a further breach is committed within five years of the imposition of a financial penalty or conviction for a previous breach, this will be a criminal offence under section 12 TFA. Upon conviction, the penalty is an unlimited fine. This offence is also a banning order offence.¹²

Accordingly, an offence is committed contrary to section 12 TFA, the Council may either impose a financial penalty of up to £30,000 **or** prosecute the landlord or letting agent. For the avoidance of doubt where a financial penalty is imposed this does not amount to a criminal conviction.

¹¹ Tenant Fees Act 2019, s. 8

¹² Housing and Planning Act 2016, s. 14

Schedule 3 TFA sets out the procedure in relation to notices, appeals and the recovery of prohibited payments.

The Government has issued statutory guidance: *Tenant Fees Act 2019 Statutory Guidance for Enforcement Authorities*.¹³ The Council has regard to this guidance in the exercise of its functions in respect of civil penalties and other enforcement action.

Decision to Prosecute

A decision to prosecute for an offence under section 12 (and/or section 13) will be made, subject to the above-mentioned statutory guidance, the Code for Crown Prosecutors, and our enforcement policy.

We will consider the following general principles when deciding whether to prosecute a landlord or agent:

- a. whether there is sufficient admissible and reliable evidence that the offence has been committed;
- b. whether there is a realistic prospect of conviction;
- c. whether the enforcement authority believes that it is in the public interest to do so.

Additionally, the following non-exhaustive list of factors will be considered when deciding whether to prosecute:

- The agent and/ or landlord's history of compliance/non-compliance
- Whether the first or previous penalties were paid
- The severity of the breach
- Deliberate concealment of the activity and/or evidence
- Knowingly or recklessly supplying false or misleading evidence
- The intent of the landlord/agent, individual and/or corporate body
- The attitude and level of cooperation of the landlord/agent
- The deterrent effect of a prosecution on the landlord/agent and others
- The extent of any financial gain as a result of the breach

Simply correcting a breach after receiving a notice will not nullify the proposed penalty and if an agent would like a reduction to be considered, in the first instance, representations/objections should be made to the Council in the 28 days allowed.

Determining the level of financial penalty

In accordance with section 8 TFA the financial penalty may be of such amount as the authority determines, subject to the maximum figures stated above.

Below is a list of some, but not all factual elements that provide the context of the breach and factors relating to the Landlord or Agent that may be considered as a part of the Council's decision-making process. The Council will identify whether any combination of

¹³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819633/TFA_Statutory_Enforcement_Guidance_190722.pdf

these, or other relevant factors, should result in an upward or downward adjustment when determining the level of penalty.

Factors increasing seriousness

Aggravating factors:

- Previous breaches of the TFA
- Previous convictions, having regard to the nature of the offence to which the conviction relates and its relevance to the current breach and the time that has elapsed since the conviction
- A landlord or agent with a history of failing to comply with their obligations and/or their actions were deliberate and/ or they knew, or ought to have known, that they were in breach of their legal responsibilities
- Level of harm caused to the tenant
- Established evidence of wider/community impact
- Motivated by or evidence of financial gain
- Deliberate concealment of illegal nature of activity
- Obstruction of the investigation
- Refusal of advice or training or to become a member of an Accreditation scheme
- Failure to act quickly in rectifying breach once notified by enforcement authority
- Failure to act quickly in rectifying breach once notified by another person such as a tenant or someone acting on their behalf

Factors reducing seriousness

Mitigating factors

- No previous or no relevant/recent breaches or complaints
- No previous convictions or no relevant/recent convictions
- Steps voluntarily taken to remedy problem
- High level of co-operation with the investigation, beyond that which will always be expected
- Good record of relationship with tenants
- Self-reporting
- Acceptance of responsibility and/ or admission of guilt
- Good character and/or exemplary conduct
- Mental disorder or learning disability, where linked to the commission of the breach
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence (affecting reasonable compliance and affecting someone integral to the business such as a Director or manager and particularly relevant in small businesses where there may not be the resources to put alternative arrangements easily in place)
- Prompt repayment of prohibited charge to tenant
- Whether landlords or agent's primary trade or income is connected with the private rented sector

The final determination of any financial penalty will be considered alongside the general principle that a penalty should be fair and proportionate and, in all instances, act as a deterrent and remove any gain as a result of the breach.

Other factors to be considered

- a. Totality principle – if issuing a financial penalty for more than one breach, or where the landlord or agent has already been issued with a penalty, we will consider whether the total financial penalties are just and proportionate to the breaches.
- b. Affordability issues – impact of the financial penalty on the landlord or agent's ability to comply with the law and whether the penalty is proportionate to their means
- c. Impact of the financial penalty on the business – if the penalty would be disproportionate to the turnover/scale of the business or would lead to the agent going out of business

A record of each decision and the reason for determining the financial penalty will be kept.

Client money protection

Legislation

The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 (“CMP Regulations”)

The requirement

From 1 April 2019 property agents in the private rented sector in England that hold client money must obtain membership from a Government approved or designated Client Money Protection Scheme.¹⁴

Property agents must also comply with the “transparency requirements” in regulation 4 of the CMP Regulations, for example, they must display, publish and produce the certificate of membership (if the scheme administrator provides a certificate) and give notice to clients if the agents membership of the scheme is revoked.¹⁵

Mandatory client money protection is intended to give landlords and tenants confidence that their money is safe when it is being handled by an agent. Where an agent is a member of a Government approved Client Money Protection Scheme, it enables a tenant, landlord or both to be compensated if all or part of their money is not repaid.

“Client money” means money received by a property agent held on behalf of another person in the course of English letting agency work within the meaning of section 54 of the Housing and Planning Act 2016 or English property management work within the meaning of section 55 of that Act. This does not include money held in accordance with an authorised tenancy deposit scheme within the meaning of Chapter 4 of Part 6 Housing Act 2004.¹⁶ However, “Client Money” includes deposits paid to a letting agent before they are protected and unprotected deposits at the end of a tenancy, before they are returned/paid to the tenant or landlord.

Sanctions

¹⁴ CMP Regulations, Regulation 3(1)

¹⁵ Ibid. Regulation 4(2) & 4(3)

¹⁶ Ibid. Regulation 2

The CMP Regulations provide that enforcement authorities may impose a financial penalty at such a level as the Council determines but **not exceeding £30,000** where it is satisfied beyond reasonable doubt that a property agent is engaging in letting agency or property management work and is required to be a member of an approved client money protection scheme but has failed to join one.¹⁷

Trading Standards considers this a very serious breach because of the potential for extreme harm with potentially devastating consequences to both tenants and landlords. It is also an indicator of poor professional standards within the sector.

A full list of client money protection schemes can be found at the link below. The list of schemes is kept up to date by the MHCLG:

<https://www.gov.uk/client-money-protection-scheme-property-agents>

The CMP Regulations provide that enforcement authorities may impose a financial penalty at such level as the Council determines **but not exceeding £5,000**, where it is satisfied beyond all reasonable doubt that a regulated property agent has failed to:

- a. **Display** a certificate of its membership of an approved Client Money Protection Scheme prominently in their office(s) (where the scheme administrator of the approved scheme provides a certificate);
- b. **Publish** a copy of the certificate on their website (if any); and
- c. **Produce** a copy of the certificate to any person who may reasonably require it, free of charge.¹⁸

The right to impose a financial penalty in respect of the transparency requirements does not apply if the agent has taken all reasonable steps to obtain a copy of a certificate confirming the agent's membership of the approved or designated client money protection scheme and the scheme administrator has not provided it.¹⁹

A financial penalty may also be imposed at such level as the Council determines **but not exceeding £5,000**, where it is satisfied beyond reasonable doubt that a regulated property agent has failed to notify each client in writing within 14 days of:

- the agent's membership of an approved or designated client money protection scheme being revoked; or
- the agent ceasing to be a member of a particular approved or designated client money protection scheme and becoming a member of a different approved or designated client money protection scheme.²⁰

In such circumstances the notification must give the name and address of the new scheme which the agent joins.²¹

A breach of each of the transparency requirements above would account for a separate breach.²² Therefore, where an agent has breached more than one of these requirements,

¹⁷ Ibid. Regulation 6

¹⁸ Ibid. Regulation 4 & 7

¹⁹ Ibid. Regulation 7(3)

²⁰ Ibid. Regulation 4(2) & 7

²¹ Ibid. Regulation 4(3)

²² See MHCLG statutory guidance, Mandatory client money protection for property agents , Enforcement guidance for local authorities

they will be liable for a separate financial penalty in respect of each breach. For example, in the event that an agent fails to display their membership certificate and also fails to provide a copy of these certificates free of charge to anyone who reasonably asks these are two individual breaches with two separate potential financial penalties.

Simply correcting a breach after receiving a notice will not nullify the proposed penalty and if an agent would like a reduction to be considered, representations/objections should be made in the 28 days allowed (as detailed on the back of the notice of intent).

Determining the level of financial penalty

Although the Council has a wide discretion in determining the appropriate level of financial penalty in any particular case, in creating this policy regard has been given to the statutory guidance and non-statutory guidance, the Regulators' Code and where applicable the Code for Crown Prosecutors. This policy has been made in consultation with the lead enforcement authority.

STEP 1: Determine starting point

In determining the appropriate financial penalty where an agent is not a member of a client money protection scheme the authority will start by taking into account the size of the company and apply a penalty as follows:

- Property Agent Business turnover below £75,000: penalty starting point £10,000
- Property Agent Business turnover between £75,000 - £150,000: penalty starting point £20,000
- Property Agent Business turnover over £150,000: penalty starting point £30,000

The above figures will be applied before serving the notice of intent. The company's turnover shall be assessed by reference to the turnover of the company stated in the most recent accounts submitted to Companies House. If the business is not a company or no accounts indicating turnover have been submitted to Companies House or the accounts are more than 18 months old, then the maximum of £30,000 may be applied until the Council has a better indication of the business' financial status, in practice this may be after the notice of intent is served and financial documents have been supplied by the agent.

STEP 2: Adjust starting point to reflect aggravating and mitigating features

Having selected the appropriate starting point for determining the financial penalty, the authority will then adjust the financial penalty imposed up and down in light of the following aggravating and mitigating factors:

Aggravating factors

- Extended period of breach
- Previous civil penalties being issued against the agent and/ or a record of non-compliance with relevant legislation
- Agent has made no reasonable attempts to comply with the Regulations

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/800548/CMP_enforcement_guidance.pdf, p. 10

- Failure to act quickly in rectifying any breach once notified by the authority (or to take reasonable steps to do so)
- The agent has previously received advice and guidance from the authority in relation to joining a CMP scheme
- Actual Harm caused to tenants or landlord (or evidence of a loss of client money in respect of previous tenants or landlords)
- Potential harm caused to tenants or landlords
- Complaints received relating to client money or otherwise
- Where an agent has been expelled from an approved scheme and has not taken immediate action to join another scheme or ensure it is not holding client money
- Lack of co-operation / obstruction of the investigation

Mitigating factors

- Co-operation with the investigation
- The agent has a good reputation with no previous breaches or complaints
- Early admission of the breach and taking all reasonable steps to quickly join a scheme
- Evidence that the agent has made every reasonable effort to join an approved client money protection scheme but is unable to do so for issues outside of their control
- Production of up to date full accounts showing for example that the agent's turnover is significantly less than that stipulated on the most recent companies house accounts or that the fine would cause severe financial hardship or would be likely to put the agent out of business
- Mental disorder or learning disability, where linked to the commission of the breach
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence (affecting reasonable compliance and affecting someone integral to the business such as a Director or manager and particularly relevant in small businesses where there may not be the resources to put alternative arrangements easily in place)

STEP 3: Consider other factors

Deterrence

In order to deter agents from breaching the CMP regulations and to deter other agents from committing similar breaches the penalty should be such as to have a real financial impact on the business.

Totality principle

If issuing a financial penalty for more than one breach, or where the agent has already been issued with a penalty, the authority will consider whether the total financial penalties are just and proportionate to the breaches.

Affordability issues

Impact of the financial penalty on the agent's ability to comply with the law and whether it is proportionate to their means.

Impact of the financial penalty on the business, the penalty should not be disproportionate to the turnover and scale of the business and/ or would lead to the agent going out of business.

The final determination of any financial penalty will be considered alongside the general principle that a penalty should be fair and proportionate but, in all instances, act as a deterrent and remove any gain as a result of the breach.

In practice, step 2 and 3 are likely to take place after the Council have issued a notice of intent after an agent has made representations.

A record of each decision and the reason for determining the financial penalty will be kept.

A breach of the CMP Regulations does not give rise to a criminal offence under the CMP Regulations, however in the event that an agent is displaying a client money protection certificate to a scheme to which they do not belong (or have been expelled from) the authority will consider taking criminal enforcement action against the agent under the Consumer Protection from Unfair Trading Regulations 2008.

The Mayor of London's Rogue Landlord and Agent Checker

The Council may publicise details of landlords and agents who are prosecuted or who are issued with a financial penalty under any of the above legislation on the Mayor of London's Rogue Landlord and Agent Checker, operated by the Greater London Authority (GLA).

In relation to civil penalties once an agent has been issued with a Final Notice, if the agent does not appeal or is unsuccessful with their appeal, then the details of the breach and the level of the penalty will be publicised. Penalties can be publicised on the public tier if the penalty is £500 or greater (there is no threshold on the private tier).

If an agent is issued with multiple penalties these will be publicised as separate entries.

For full details of the policies and procedures for the Rogue Landlord and Agent Checker please see the following link: https://www.london.gov.uk/sites/default/files/190515-policies_and_procedures_update_clean_1.pdf

Report No.
ACH21-
008

London Borough of Bromley

PART 1 - PUBLIC

Decision Maker: Executive with pre-decision scrutiny from Adult Care & Health Policy & Development Scrutiny Committee

Date: 10th February 2021 with pre-decision scrutiny on 20th January 2021

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **CONTRACT PROCEDURE RULES: DELEGATED AUTHORITY ARRANGEMENTS FOR CONTRACT EXTENSIONS**

Contact Officer: Laurence Downes, Assistant Director Governance & Contracts
Tel: 020 83134805 E-mail: laurence.downes@bromley.gov.uk

Chief Officer: Kim Carey, Director of Adult Social Care

Ward: N/A

1. Reason for report

- 1.1 At its meeting of 24th November 2020, the Adult Care & Health Policy & Development Scrutiny Committee (Adult Care & Health PDS) requested further information on arrangements for the delegation of authority to Officers to extend contracts. A decision by the Leader, on behalf of Executive, in relation to Report ACH20-067 (concerning delegated authority to the relevant Chief Officer to approve a formal contract extension option in due course) was deferred pending a further report to ACH PDS in January 2021.

2. **RECOMMENDATION(S)**

2.1 It is recommended that:

- i. **Adult Care & Health PDS note this report and recommend to Executive that a deferred recommendation in Report ACH20-067(Direct Payments Support & Payroll Contract Award) is Approved, specifically the granting of delegated authority to the Director of Adult Services to apply the extension option for this contract, subject to Agreement with the Portfolio Holder and relevant Officers as determined by the Contract Procedure Rules.**
- ii. **Executive approve a deferred recommendation within the report ACH20-067.**

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Excellent Council.
-

Financial

1. Cost of proposal: N/A
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: N/A
 4. Total current budget for this head: £N/A
 5. Source of funding: N/A
-

Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory requirement.
 2. Call-in: Call-in is not applicable.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 On 24th November 2020, a Contract Award report was submitted for Leader decision with pre-decision scrutiny from Adult Care & Health PDS. The report (ACH20-067) concerned the award of contract for the Direct Payments & Payroll Support Service contract.
- 3.2 The report recommended an award of contract for a period of five years with an option to extend for up to two years. The estimated annual value of the contract was £202k, the estimated value of the initial contract term being £1,010k and the estimated value of the extension period being £404k (estimated whole life value of £1,414k).
- 3.3 The report recommended that delegated authority be granted to the Director of Adult Social Care to approve the extension option in due course, in Agreement with the Portfolio Holder and relevant Officers as determined by the Contract Procedure Rules.
- 3.4 Members of Adult Care & Health PDS queried the request for delegated authority for the extension option. In response, the Leader approved the award of contract but deferred a decision on the delegation of authority for the extension option to allow further investigation into the circumstances under which such authority is routinely delegated to Officers with a report to be presented to Adult Care & Health PDS at its January 2021 meeting.

Delegated Authority Arrangements

- 3.5 It is well established in both custom and practice and within the processes of the Council's Contract Procedure Rules that, at the point of Award of Contract, delegated authority to a suitable Chief Officer can be sought from Members to apply any extension options relevant to the contract. Such delegated authority is normally subject to Agreement with the relevant Portfolio Holder, the Assistant Director of Governance and Contracts, the Director of Corporate Services and the Director of Finance.
- 3.6 It has been normal practice for several years to request Chief Officer delegated authority for extensions; it is exceptional not to do so.
- 3.7 This is illustrated by considering all Contract Award reports submitted for Executive or Leader decision in the past three calendar years. Full details are provided in Appendix 1, but are summarised as follows:
 - 26 Contract Award reports, where extension options were relevant, were submitted for decision between January 2018 and September 2020;
 - 24 of the 26 Contract Award reports submitted sought delegated authority to the relevant Chief Officer to approve the available extension option. All were approved;
 - Delegated authority was sought for a wide variety of extension options. The smallest duration of extension option was one year; the largest was eight years;
 - Delegated authority was sought for a wide variety of contract values. The smallest value of extension option was £236k; the highest was £34M;
 - The Contract Award reports covered all Portfolios in the Council with the highest number coming from the Adult Care & Health Portfolio with 10 requests for delegated authority, all approved;
 - Only two Contract Awards did not request delegated authority for the extension option. These were:

- the Contract Award for Environmental Services due the length and value of the extension option (eight years at £255M);
- the Contract Award for Housing Services due to the contract being awarded via exemption (although delegated authority was granted to apply variations to the contract up to £1.5M).

Contract Procedure Rules and Governance Arrangements

- 3.8 Delegated authority to a Chief Officer for extension options is covered within the Council's Contract Procedure Rules in paragraph 13.4. Delegated authority is permissible provided:
- The delegated authority for the extension is sought and agreed at the point of Contract Award;
 - The extension is subject to Agreement with the Portfolio Holder, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance;
 - That required Contract Monitoring Reports have been completed;
 - That the extension option is Approved with at least six months left on the existing contract term;
 - That the extension is notified to Audit Sub-Committee as part of the bi-annual report on contract extensions, exemptions and variations.
- 3.9 Delegated authority is not assumed. It must be requested at the point of Contract Award and the decision maker, whether at Portfolio Holder or Executive level, must specifically approve the granting of delegated authority.
- 3.10 Similarly, delegated authority for the extension may be referred back to Member decision – for example, where the conditions of the delegated authority have not been met or where Contract Monitoring reports suggest greater scrutiny is required.
- 3.11 Where delegated authority has been granted, Members continue to have oversight of the contract (and the status of the extension option) via the following mechanisms:
- Annual Contract Monitoring Reports. As per 23.2 of the Contract Procedure Rules, all contracts with a whole life value of £500k or more are subject to an annual monitoring report submitted to the Portfolio Holder via the relevant PDS.
 - Quarterly Contract Database reports. Each PDS receives a quarterly report on all contracts with a whole life value of £50k or higher. The report includes a commentary setting out the status of each contract. The commentary typically notes where an extension option is available and where delegated authority has been granted to approve the extension.
 - Audit-Sub reports. All extensions with a value (cumulative) of £50k or higher are subsequently reported on a bi-annual basis to Audit-Sub Committee.
- 3.12 Where a decision on an extension has been delegated to Chief Officer then governance processes still apply as per the Contract Procedure Rules. A decision on an extension is subject to a formal Gateway report with input from Procurement, Legal and Finance. Agreement must be sought from the Assistant Director Governance & Contracts, the Director of Corporate Services, the Director of Finance and, finally, the Portfolio Holder, before a decision is made.

Non-Applicable Sections:	Policy Implications Financial Implications Legal Implications Personnel Implications
Background Documents: (Access via Contact Officer)	Report ACH20-067 24 th November 2020

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Delegated Authority Arrangements for Contract Extensions
APPENDIX 1

Portfolio	Date	Report Title	Extension Delegated Authority Sought / Approved?	Initial Term (Duration)	Extension (Duration)	Initial Term (Value)	Extension (Value)
Adult Care & Health	10/07/2020	Contract Award (Exemption): Public Health Service Level Agreements with General Practices	Yes	3 Years	2 Years	£2,100,000	£840,000
Adult Care & Health	10/07/2020	Contract Award: Infrastructure Support Services to Voluntary, Community and Social Enterprise Sector	Yes	5 Years	2 Years	£779,305	£311,722
Executive, Resources & Contracts	10/07/2020	Contract Award: Provision of Agency Workers	Yes	2 Years	2 Years	£25,000,000	£25,000,000
Children Education and Families	22/05/2020	Contract Award: Social Care Case Management System	Yes	5 Years	2 Years	£1,500,000	£236,000
Children Education and Families / Adult Care and Health	17/04/2020	Contract Award: Passenger Transport Services Framework	Yes	5 Years	2 Years	£35,000,000	£14,000,000
Adult Care & Health	17/04/2020	Contract Award: Dementia Post Diagnosis Support	Yes	5 Years	2 Years	£3,430,000	£980,000
Renewal & Recreation	17/04/2020	Contract Award: Provision of Housing Services	No	2 Years	1 Year	£3,000,000	£1,500,000
Executive, Resources & Contracts	12/02/2020	Contract Award: Legal Alliance Framework Agreement	Yes	3 Years	1 Year	£900,000	£300,000
Adult Care & Health	27/11/2019	Contract Award: 0-19 Public Health Nursing Service	Yes	5 Years	2 Years	£20,245,000	£8,098,000
Executive, Resources & Contracts	16/10/2019	Contract Award: Customer Services Software	Yes	4 Years	15 Years	£168,000	£630,000
Children Education and Families	16/10/2019	Contract Award: Education Management Information System	Yes	N/A	5 Years	N/A	£450,000
Public Protection and Enforcement	10/09/2019	Contract Award: Mortuary Service	Yes	3 Years	3 Years	£539,100	£539,100
Executive, Resources & Contracts	02/08/2019	Contract Award: Exchequer Services	Yes	8 Years	4 Years	£68,500,000	£34,300,000

Delegated Authority Arrangements for Contract Extensions
APPENDIX 1

Adult Care & Health	10/07/2019	Contract Award: Mental Health Flexible Support Service	Yes	3 Years	2 Years	£1,179,000	£826,000
Children Education and Families	21/05/2019	Contract Award: Adoption Services	Yes	6 Years	4 Years	£2,316,000	£1,544,000
Executive, Resources & Contracts	27/03/2019	Contract Award: Insurance Policies	Yes	5 Years	3 Years	£3,150,000	£1,890,000
Children Education and Families	13/02/2019	Contract Award: Step Up to Social Work	Yes	2 Years	2 Years	£1,200,000	£1,200,000
Public Protection and Enforcement	16/01/2019	Contract Award: CCTV Monitoring	Yes	5 Years	4 Years	£1,441,000	£1,152,000
Public Protection and Enforcement	16/01/2019	Contract Award: CCTV Maintenance	Yes	5 Years	4 Years	£691,000	£553,000
Environment & Community Services	28/11/2018	Contract Award: Environmental Services	No	8 Years	8 Years	£255,400,000	£255,400,000
Environment & Community Services	28/11/2018	Contract Award: Arboriculture Services	Yes	8 Years	8 Years	£4,270,000	£4,270,000
Adult Care & Health	21/05/2018	Contract Award: Supported Living Services	Yes	5 Years	2 Years	£2,616,760	£1,046,704
Adult Care & Health	21/05/2018	Contract Award: Substance Misuse Services	Yes	3 Years	2 Years	£4,047,000	£2,698,000
Environment & Community Services	20/04/2018	Contract Award: Highway Maintenance	Yes	8 Years	1 Year	£64,800,000	£8,100,000
Adult Care & Health	28/03/2018	Contract Award: Nursing Beds	Yes	7 Years	3 Years	£17,374,000	£7,446,000
Adult Care & Health	09/01/2018	Contract Award: Advocacy Services	Yes	3 Years	2 Years	£858,000	£572,000

Report No.
DRR20/017

London Borough of Bromley
PART ONE - PUBLIC

Decision Maker: EXECUTIVE
WITH PRE-DECISION SCRUTINY BY RENEWAL, RECREATION
AND HOUSING POLICY DEVELOPMENT AND SCRUTINY
COMMITTEE

Date: Tuesday 2 February 2021

Decision Type: Non-Urgent Non-Executive Non-Key

Title: DIGITAL INFRASTRUCTURE WORK PLAN

Contact Officer: Timothy Mackellar, Renewal Project Officer
E-mail: timothy.mackellar@bromley.gov.uk

Chief Officer: Assistant Director Culture and Regeneration

Ward: All Wards

1. Reason for report

- 1.1 Digital connectivity is critical for the ongoing social and economic prosperity of Bromley. Interventions can be explored to support the roll out of gigabit capable connectivity (internet speeds of over 1 gigabit per second), notably through facilitating the development of:
 - Full-fibre to the premises broadband (FTTP)
 - 4G and 5G mobile networks
- 1.2 This report succeeds a report submitted to this committee in April 2020 titled 'Approach to Digital Infrastructure' that was deferred and has a refined scope and additional detail about the Digital Infrastructure Work Plan.
- 1.3 This report recommends that the Council agrees to a Digital Infrastructure Work Plan as the mechanism to coordinate the interventions that are required to improve digital infrastructure, this is comprised of the Bromley Digital Infrastructure Toolkit and the Memorandum of Understanding with Openreach.

2. **RECOMMENDATION(S)**

Members of the Renewal, Recreation and Housing Policy Development & Scrutiny Committee are asked to note and comment on the content of the report, prior to the Executive being asked to:

- Agree to the Digital Infrastructure Work Plan (DIWP) as the primary document covering the facilitation and development of digital infrastructure in the borough and that the actions within this document are supported.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Improved digital infrastructure will create opportunities with regards to work and education.
-

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Excellent Council Quality Environment Supporting Independence Vibrant, Thriving Town Centres Healthy Bromley Regeneration
-

Financial

1. Cost of proposal: None at this stage
 2. Ongoing costs: n/a
 3. Budget head/performance centre: Regeneration Team
 4. Total current budget for this head: £162k
 5. Source of funding: Future investment will be sourced from grant funding
-

Personnel

1. Number of staff (current and additional): 1
 2. If from existing staff resources, number of staff hours: 0.4 FTE
-

Legal

1. Legal Requirement: None
 2. Call-in: Applicable
-

Procurement

1. Summary of Procurement Implications: There are no implications for Procurement associated with any of the work streams discussed in this report.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All persons in Bromley who use internet products and services including in the workplace and at home.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? The report has been circulated to Members of the Environment and Community Services Pre-Decision Scrutiny Committee for their comments given the scope of the work and implications for highways resources

3. COMMENTARY

National and Local Context

- 3.1 Digital connectivity is a growing necessity, with better access to high speed and reliable broadband and mobile connections, residents can access public services more conveniently and purchase goods online at a lower cost. People can work from home, reducing the necessity for travel and commuting; business can grow, become more productive and make goods available online. Improved connectivity is also linked to improved tourism, as people can find out more information about local places, share experiences on social media. Areas identified with improved digital connectivity are also likely to be places identified by new businesses and developers for more investment.
- 3.2 At a national level, the Government has set out its ambitions to build 'a world-class digital infrastructure' and has committed to rolling out nationwide full fibre broadband coverage by 2033 and increase geographic mobile coverage to 95% of the UK by 2022. The government has made clear its commitment to supporting gigabit capability across the UK and its desire that every home and business can access gigabit services as soon as possible, stating that they want 15 million homes to be connected by 2025 with coverage across the whole country by 2033.
- 3.3 In August 2020 government ministers called on local authorities to help ensure people can access better broadband and fast and reliable mobile connectivity and that this is crucial to the UK's recovery from Coronavirus. The expectation from Central Government is that local authorities will work proactively to secure investment in digital infrastructure within their area.
- 3.4 This report sets out the local context, providing a work plan for Bromley's Digital Connectivity.

Bromley's Digital Connectivity

- 3.5 Gigabit capability will increase the efficiency and productivity of businesses, allow new digital services and products and enable residents to work remotely, ultimately strengthening and diversifying Bromley's economy.
- 3.6 In developing Digital Connectivity, Bromley can play a key role as a facilitator, rather than delivering the infrastructure itself. The Council cannot directly commission organisations to install or improve connectivity services, but rather rely on networks and organisations to understand demand in our Borough and identify need. Therefore, how we position ourselves to be opening to this kind of infrastructure is likely to be the primary key to success.
- 3.7 Currently, Bromley underachieves compared to Outer London Boroughs with regards to full fibre broadband connectivity, with just 1% of premises in Bromley connected by full fibre broadband compared to the average of 14% for Outer London Boroughs.
- 3.4 Being digitally inclusive means barriers to digital access are broken down for all social groups and access and use of information and communication technologies are experienced by all.

- 3.5 This includes access to civic participation, education, healthcare, skills, training and generally communicating with others. Greater digital connectivity allows for enhanced communication with potentially vulnerable, isolated and quarantining family and friends.
- 3.6 With services (including the Council's) increasingly moving online, access to fast and reliable internet connections is a social issue as well as an economic one, with insufficient provision of infrastructure having potentially detrimental effects on individuals and households.
- 3.7 Physical separation and isolation created during the COVID-19 pandemic has made access to means of online communication more important than ever.
- 3.8 Exclusion of any of these can cause significant and obvious social disadvantages, known as digital poverty.

Summary

- 3.9 The government has made clear its intentions to improve digital connectivity throughout the UK.
- 3.10 Digital connectivity in Bromley is significantly behind that of other Outer London Boroughs.
- 3.11 High quality digital connections are critical for the economic and social health of Bromley.
- 3.12 Demand has been rapidly growing for quality digital connectivity in both businesses and homes and this has been accelerated further by the COVID-19 pandemic.

Digital aspirations

- 3.13 Given the benefits of an improved digital infrastructure to our residents and importantly attractions for businesses and therefore investment, this report recommends that the Council endorses the following aspirations for Bromley with regards to digital connectivity, and sets out how to achieve:
- Full fibre broadband to every home and business in Bromley
 - 4G and eventually 5G networks covering all of Bromley.

Digital Infrastructure Work Plan (DIWP)

- 3.14 The DIWP is a set of work areas that will support the Council in delivering an aspirational digital infrastructure in Bromley. The DIWP will:
- Ensure a holistic and coordinated approach from Council towards digital infrastructure and prevent silo working.
 - Coordinate associated departments through a DIWP project board and ensure efficiency of working, create strong communication between departments and establish a shared goal of developing digital connectivity.
 - Indicate to the private sector that the Council is taking a proactive and visible approach towards digital infrastructure and that it is a hospitable place to do business.

- Through the Executive endorsing this DIWP, ensure all departments are signposted to supporting the delivery of digital infrastructure across the Borough.

Bromley Council's role as a facilitator

3.15 As the project continues, new opportunities, for example new funding streams or partnerships related to digital infrastructure, will create the potential for new work areas and as such the Digital Infrastructure Work Plan is anticipated to change shape and grow continually. It is proposed that going forward a quarterly update of the DIWP will be submitted to the Renewal, Recreation and Housing PDS Committee, with a biannual briefing submitted to the Executive providing key milestones and achievements.

3.16 Whilst the Council does not own or have any direct control over digital investment the Council can play a key role in facilitating the improvement of digital connectivity. Potential areas identified are:

- Connecting council sites – Creating full fibre connections at council owned sites and other sites to enhance public benefit, this could include council administrative sites, schools and libraries. The Greater London Authority's Strategic Investment Fund (SIF) provides grant funding for this exact purpose, which is expected to go live later in 2021. There is potentially £1m available from this pot and an expression of interest was submitted in 2020 for this funding. It has been advised by the GLA that we will hear back on outcomes in April 2021.
- Further government funding – Look to obtain funding where possible that is intended to help digital infrastructure development for example from the Department for Culture, Media and Sport or the the Greater London Authority.
- Planning – Work with planning departments to ensure planning policies reflect the benefits offered to Bromley from the delivery of digital infrastructure and that planning decisions reflect these benefits. The intention of this would be to increase the success rate of planning applications for telecoms equipment in the borough and thus increase connectivity.
- Housing – Work with broadband providers and registered housing providers to ensure new housing sites are connected by full fibre broadband.
- Asset Use – Explore council owned assets such as buildings, street furniture and CCTV networks that can be used to host electronic communications networks equipment.
- Proactive market engagement - The Council could agree to work to raise Bromley's profile with the major telecom infrastructure providers and alternative network providers to ensure that the Council is considered and included in future investment programmes, and that investment is directed at priority areas. This could include a publishing a portfolio of development and regeneration projects in the borough, or setting up a notification system that highlights developments in the borough at the early planning stages.

3.17 The DIWP will presently be comprised of two main areas of work detailed below:

Bromley Digital Infrastructure Toolkit (4G and 5G infrastructure)

3.18 Mobile network operators are looking to rent space on council assets such as lamp columns and council owned buildings to host 4G and 5G infrastructure such as small cells which increase capacity in a mobile network.

3.19 The Department for Digital, Culture, Media and Sport (DCMS) has published a Digital Infrastructure Toolkit, containing guidance and templates to assist local authorities to best manage the roll out of 4G and 5G infrastructure.

3.20 We propose the adoption of this DCMS Digital Infrastructure toolkit which will be adapted to Bromley's context. This contractually and procedurally standardized arrangement will:

- a. describe the engagement process between operator and the Council
- b. provide guidance to operators seeking to host 4G/5G cells on Bromley Council assets
- c. provide standard financial terms for the use of our assets
- d. set out the technical, legal, commercial requirements from the council.

3.21 Once our toolkit has been developed, market operators submit Expressions of Interest (EOI) to us to deploy their infrastructure in Bromley which will be required to include:

- Project scope
- Infrastructure deployment approach
- Technical information
- Site selection
- Timelines

3.22 The Council will consider EOI's individually and if requirements are met and satisfactory, an agreement will be made between Bromley Council and the mobile operator to deploy their infrastructure.

3.23 The arrangement is non-exclusive and allows multiple mobile operators to develop infrastructure in Bromley, maximising the potential 4G/5G coverage in the borough whilst ensuring all activity is in accordance with requirements set by the Council.

3.24 This arrangement is regulated by the Electronic Communications Code (Digital Economy Act 2017). Amongst other aspects, it regulates how the council can charge for use of its assets, as follows:

- Renting space on council assets will be valued on a "no scheme" basis based on compulsory purchase principles – rights valued on the basis of their value to the landowner rather than on the basis of the value to the operator and tied to future use as a telecoms site (market value is disregarded essentially).
- Price is broken into consideration and compensation. Consideration is dependent on the underlying land value so this needs to be assessed site by site. Compensation is to reimburse whatever the incurred costs are calculated to be e.g. access control approvals, officer time spent on processing EOI's etc.

3.25 This work area will:

- Increase the capacity and coverage of 4G and 5G mobile connectivity within Bromley.

- Incur no cost to Council as all costs will be covered through the pricing structure within the toolkit.
- Create revenues for Council from the renting of space on street assets that could be reinvested in further digital infrastructure work or other areas within Council.

Memorandum of Understanding (MoU) with Openreach (BT).

- 3.26 The Memorandum of Understanding (MoU) will be a document setting out the commitment of council to supporting Openreach's roll out of full fibre (FTTP) broadband in Bromley.
- 3.27 Openreach, the primary wholesale provider of fibre cabling in the UK, have confirmed plans to roll out fibre connections in telephone exchanges Farnborough, Orpington and Biggin Hill and have advised Council they are looking to develop at least two more telephone exchange areas in the borough from March 2021.
- 3.28 This MoU is intended to speed up the delivery of FTTP through Bromley Council committing to reducing barriers to development for Openreach. For example, by allowing an 'up-front' approach to permits, instead of dozens of individual applications, it will save Openreach significant time. The intention is that this increased efficiency will maximise the amount of investment delivered in Bromley, ensuring the most expansive FTTP network possible.
- 3.29 The MoU also contains commitments from Openreach that they will work to minimise disruption when undergoing works in the borough and take measures to ensure residential amenity is maintained as far as possible.
- 3.30 A first draft of this document has been completed and agreed to by the relevant teams within Bromley Council (Highways, Parking, Legal) as well as Openreach's regulatory teams. Discussions regarding next steps are occurring in February 2021.
- 3.31 This work area will:
- Increase the quantity of full fibre connections to premises all over Bromley
 - Show Bromley Council's forward thinking and collaborative approach to digital connectivity and that Bromley is an inviting and hospitable host for digital infrastructure development.
 - Encourage ongoing development from Openreach as well as set an important precedent for prospective investors with the hope to secure further from other providers.

Next steps

- 3.32 The two above mentioned work areas are at stages where they are ready to be actioned and formal engagement with the market and involved stakeholders can get underway early in 2021 pending member approval.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 Improving digital connectivity through the borough will increase the availability to online services to a wider audience including those vulnerable adults and children.
- 4.2 Improving the reliability and speed of broadband connections, particularly in wards where there are indices of deprivation and to public services, will support better access to online services.

This will be supported by ICT training for residents at the Council's libraries and resource shops.

5. POLICY IMPLICATIONS

- 5.1 The DIWP either forms part of, or is intrinsic to several Bromley Council documents. Specifically, the DIWP:
- 5.2 Is a key part of the Council's future Digital Strategy that is currently being drafted and underpins the achievement of goals within this document.
- 5.3 Supports Building a Better Bromley's aims for the regeneration of the borough, specifically in relation to promoting economic development and investment in the borough and supporting local infrastructure development.
- 5.4 Supports the Transforming Bromley priorities around promoting economic growth, and flexibility independence and choice in service delivery which sees investment in digital technology to improve service delivery and engagement.
- 5.5 Supports the Bromley Regeneration Strategy, specifically its targets of modernising Bromley's digital infrastructure that refers specifically to reviewing existing digital infrastructure and identifying priority areas for full fibre and 5G.
- 5.6 Supports the objective of the Bromley Local Plan to support the digital economy and develop the infrastructure required for modern businesses, such as full fibre connections.

6. FINANCIAL IMPLICATIONS

- 6.1 The recommendation to agree to the Digital Infrastructure Work Plan has no immediate financial implications for the Council as the actions set out in the Plan and the facilitation and development of digital infrastructure in the Borough will be progressed by existing staffing resources in Regeneration with support from other departments including Highways. In the event that additional resource requirements are subsequently identified, a further report would be presented to members.
- 6.2 A key role for the Council and officers will be to facilitate digital infrastructure development within the Borough by identifying and leveraging in grant and other investment funding sources for third parties to access. No direct investment costs for the Council are therefore anticipated.
- 6.3 The proposal for a Digital Infrastructure Toolkit in the Borough to assist and manage the roll out of 4G and 5G infrastructure will introduce the ability for the Council to charge a rental for use of its assets. This would be a new income stream but with charges are regulated on a cost recovery basis. Therefore, future fee levels will need to be considered in that context but also ensuring that the Council optimises its financial position to support this ambition for the Borough while fully covering its costs. At this stage, significant sums are not projected but this will need to be kept under review as the programme progresses and potentially reflected in future budget considerations.

7. LEGAL IMPLICATIONS

- 7.1 The Digital Infrastructure Work Plan (DIWP) comprises of the Bromley Digital Infrastructure Toolkit and the Memorandum of Understanding with Openreach which detail the policies and processes to facilitate deployment of digital infrastructure in the borough.

- 7.2 The property agreements that the Council enter into with communications network operators which give them rights to access its land and buildings for network installation and maintenance are regulated by the Electronic Communications Code (the Code).
- 7.3 The Council will not offer exclusivity over an entire estate of assets but will enter into access agreements with operators on an open access basis. These agreements involve the conferring of a right and not the procurement of services.
- 7.4 The DIWP should comply with the Code as set out in Schedule 3A of the Communications Act 2003 and any relevant highways, planning and other legislation.

Non-Applicable Sections:	Personal Implications
Background Documents: (Access via Contact Officer)	Approach to Digital Infrastructure' (Report No. DRR20/017) April 2020

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Report No.
HPR2021/009

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: EXECUTIVE

For pre-decision scrutiny at the Renewal, Recreation and Housing Policy Development and Scrutiny Committee 2ND February 2021

Date: 10th February 2021

Decision Type: Non-Urgent Executive Key

Title: ORPINGTON TOWN CENTRE REGENERATION

Contact Officer: Alicia Munday, Interim Assistant Director Culture and Regeneration
Tel: 020 8313 4559 E-mail: Alicia.munday@bromley.gov.uk

Chief Officer: Sara Bowrey, Director of Housing, Planning, Property and Regeneration

Ward: Orpington

1. Reason for report

- 1.1 Over the past 8 months the Regeneration Team have been working with Areli, the developers who acquired the Walnuts shopping centre in Orpington on the concept of a Regeneration plan for the town centre. This reports updates Members on the work and discussions to date.

2. **RECOMMENDATION(S)**

That Members of the Renewal, Recreation and Housing PDS:

- 2.1 Note the contents of the report.

That Members of the Executive:

- 2.2 Note the contents of this report and note that a future report will be presented to the Executive in the next 6 months with an update and any recommendations pursuant to any land transactions.

Impact on Vulnerable Adults and Children

1. Summary of Impact: The Regeneration Strategy's priority areas ensure an inclusive approach to regeneration across the borough for the benefit of all residents.
-

Corporate Policy

1. Policy Status: Not Applicable
 2. BBB Priority: Excellent Council Quality Environment Vibrant, Thriving Town Centres Regeneration
-

Financial

1. Cost of proposal: £80k for initial feasibility advice
 2. Ongoing costs: n/a
 3. Budget head/performance centre: Regeneration Projects
 4. Total current budget for this head: £80k
 5. Source of funding: Specific earmarked reserve approved in July 2020
-

Personnel

1. Number of staff (current and additional):
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Non-Statutory - Government Guidance
 2. Call-in: Applicable
-

Procurement

1. Summary of Procurement Implications: The Regeneration Strategy has no procurement implications in itself.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 The Walnuts Shopping Centre sits behind Orpington High Street, and whilst the freehold is owned by the Council, the leasehold of the centre was acquired by Tikehau Capital, and their development partner, Areli Real Estate Ltd in 2019, when the former leaseholders Patrizia relinquished their interest in the site.
- 3.2 The Property team in the Council supported the sale of the leasehold to Tikehau Capital, as it offered the opportunity to regenerate the town centre.
- 3.3 As can be seen from Appendix 1, the Council has significant property interests in the town centre, as well as a wider interest in the economic and regeneration objectives for the area. Appendix 1 also outlines Areli's intentions of redeveloping the shopping centre site, to deliver a major new retail offer combined with residential development. The co-location of the shopping centre with other facilities such as the leisure centre, and the facilities at the Saxon Way centre – the children's centre and day centre- broaden the regeneration opportunities on the site.
- 3.4 Due to the scale of re-development being proposed, the Regeneration team have established a Board to steer the direction of the work, and this report provides an update on the work of that Board to date. The Board consists of senior officers from the Regeneration team, Property and Planning Policy officers as well as representatives from Areli, Areli's PR team, Orpington South East Colleges and Orpington Business Improvement District.
- 3.5 The Council is separately receiving valuation and development advice from consultants, Montagu Evans, to better inform commercial decisions and on the commercially sensitive aspects of the scheme. Officers are working with Areli to ensure that the Council's key objectives for this scheme are met:
- The re-provision of the leisure and community facilities;
 - Service continuity or alternative arrangement for the existing services;
 - Delivery of affordable housing.
- 3.6 The Portfolio Holder is briefed weekly, and engagement continues with Ward Members of Orpington and other surrounding wards.

4. Work Completed to Date:

- 4.1 Areli commenced public engagement in March 2020 to inform their proposals for the site. The outputs of this initial engagement were included in the development principles document which was presented to the Portfolio Holder for Renewal and Recreation in November 2020. Areli commenced their second phase of public consultation in December 2020. This second phase of consultation revealed the full extent of the proposed scheme, including the land outside of the Walnuts Shopping Centre leasehold, to the public (Appendix 1 outlines these proposals). The response from the public has been broadly positive so far.
- 4.2 The public engagement by Areli is in order to proceed with submitting a planning application to LBB Planning.
- 4.3 Officers have appointed consultancy advice from Montagu Evans, through a competitive tender process to support the valuation and development advice of this scheme. The consultants will be supporting officers in determining the best value for any recommendations for sale of land, or land transactional arrangements as well as working with officers to determine the best location for council facilities. This also includes understanding the cost implications of the Council's requirements upon the viability of the Areli's proposal.

- 4.4 Officers on the Project Board on behalf of the Council are working with senior officers in other departments to refine the requirements and needs of the Children's Service and Older person's day service to help shape these services into any future regeneration plans for Orpington town centre. Departments will need to have a detailed need analysis of services, including who will be managing these facilities, whether it is expected to be an outside partner on a commercial or non-commercial lease, or whether the Council will be managing these facilities.
- 4.5 The regeneration team have also specified the requirements of the leisure centre. Given this is one of the largest public leisure facilities in the Borough, the specification is broadly based on the existing leisure centre, with options for new enhanced modern facilities, improving the use of space. The specification of the leisure centre has been presented to Areli and the cost is a key discussion point with them.
- 4.6 In the event the development does proceed, officers are working with the services to ensure there is service continuity or alternative arrangements made well in advance of construction taking place. Regeneration officers have been engaging with Areli on these matters and continue to discuss this.
- 4.7 The Walnuts site is also included within the boundary of the forthcoming Supplementary Planning Document (SPD) for Orpington town centre. An online consultation exercise for the SPD has been undertaken using the online community engagement platform Commonplace. The Council has appointed an urban design firm to advise on the SPD.
- 4.8 If the regeneration plan develops further in the town centre, there is likely to be a significant enhancement to the retail offer, as well as an increased number of residential properties, including affordable housing.
- 4.9 Areli are concurrently undertaking a similar project in Maidenhead, for the Nicholson Shopping Centre. This project is about 12-18 months ahead of Orpington, and so Members may like to see some of the plans for Maidenhead. The planning application is a hybrid one (part-outline, part-full) and it is yet to be determined. The planning application reference is 20/01251/OUT (via the Royal Borough of Windsor and Maidenhead planning web pages).

5. Next steps

- 5.1 Council officers continue to engage with Areli on the matters identified in this report. Officers will present options and further analysis on a recommended approach for a potential sale of land or land transactional arrangements at a more mature stage of proceedings within the next 6 months.
- 5.2 Areli have indicated they are seeking to submit the planning application by Spring 2021. The application will be determined by LBB Planning and assessed against the London Plan and Local Plan policies including amongst others affordable housing, community facilities and retail.

6. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 6.1 The redevelopment of the Walnuts site will provide opportunities in terms of increasing housing supply (inc. affordable and other types), a new leisure centre and other council facilities.

7. POLICY IMPLICATIONS

- 7.1 The redevelopment of the Walnuts site is supported by the Council's Adopted Regeneration Strategy. The principles of the scheme also support Building a Better Bromley Priorities.

8. FINANCIAL IMPLICATIONS

- 8.1 Provision of £80k for the cost of initial valuation and development feasibility advice was approved by Leader decision in July 2020. At this stage no further costs are anticipated to progress the project, other than officers. Any requirement for further costs will be bought back to Members with a full business case appraisal. It is anticipated that Areli will bear development costs and the Council will want to retain long term property interests in significant assets on this site.
- 8.2 Depending on the structure of the deal there could be a potential loss of income from rent. The Council currently receives an average of £120k a year from the Walnuts Shopping Centre head rent. However, the future business case will need to take into consideration any wider benefits that the Council may gain from the regeneration of this part of the town centre should the development go ahead.
- 8.3 The Orpington BID will also be impacted by the vacant possession and development process and the business case will also need to take into consideration the impact on the BID's income.
- 8.4 If the development progresses, the developer has agreed to split future legal costs on a 50:50 basis.
- 8.5 Future approval of capital schemes will be subject to the Council's Capital Strategy process including investment business case appraisal.

9. LEGAL IMPLICATIONS

- 9.1 This report is providing the Executive with an update on this Project and as such there are no immediate legal implications at present. As the Project develops and its shape and content become better understood, there will be considerable legal implications and work flowing as mentioned in paragraph 3.9 and elsewhere in this Report. The Council holds certain property interests in the project and is also concerned in the realisation of public/regeneration of assets and objectives whilst observing its duty to obtain best consideration and complying with its fiduciary duties to its council taxpayers.

Non-Applicable Sections:	Procurement implications; Personnel implications
Background Documents: (Access via Contact Officer)	Appendix 1 – Site map – land interests and indicative plans

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SITE CONTEXT



Nugent Shopping Park

Orpington high street

The Priory Gardens

The Walnuts Shopping Centre

London South East College

Tesco Superstore

Town Hall




Lychgate Road

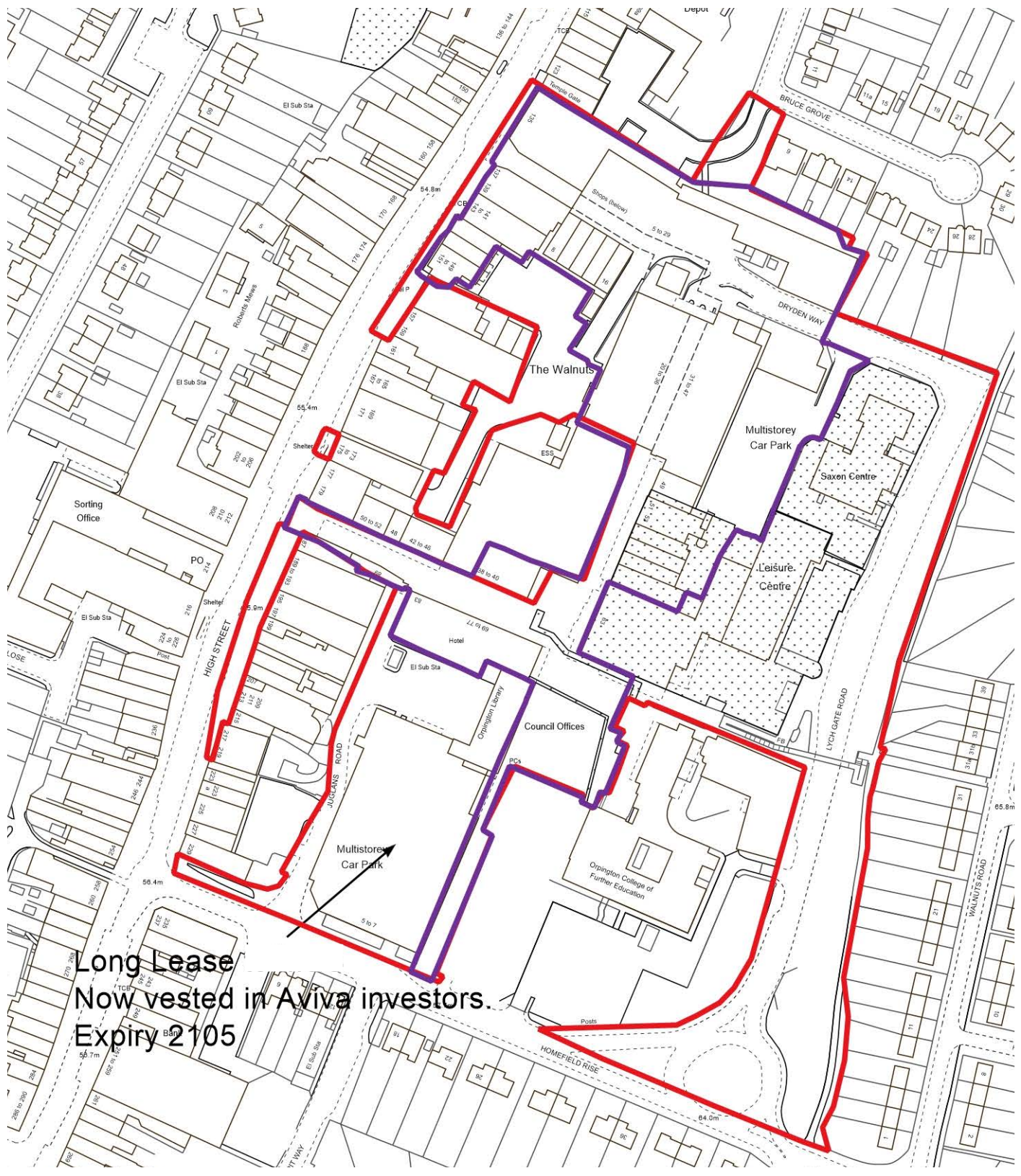
High Street



PROPOSED SCHEME

KEY

-  - Council Freehold Ownership
-  - Walnuts Headlease (Areli interest)
-  - Subject to other leases



Decision Maker: **EXECUTIVE**
For Pre-Decision Scrutiny by the Recreation, Renewal and Housing PDS Committee 2 February 2021

Date: **RR&H PDS - 2 February 2021**
Executive - 10 February 2021

Decision Type: Non Urgent Executive Key

Title: **ADDITIONAL RESTRICTIONS GRANT (ARG) PHASE 2**

Contact Officer: Lorraine McQuillan, Town Centres and BID Development Manager
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Alicia Munday, Interim Assistant Director of Culture & Regeneration
Tel. 020 8313 4559 E-mail: Alicia.munday@bromley.gov.uk

Chief Officer: Sara, Bowrey, Director of Housing, Planning, Property and Regeneration

Ward: All Wards

1. Reason for report

The Council has received payment of £6,646,720 from the Ministry of Housing, Communities and Local Government (MHCLG) on behalf of Department for Business, Energy and Industrial Strategy ('BEIS'). This sum is to form the Council's Additional Restrictions Grant (ARG) which will be used to provide financial support to local businesses through grants and business support functions.

This report outlines a Phase 2 proposal for supporting businesses in the borough using the BIDs and Libraries as a vehicle for this support.

2. **RECOMMENDATION(S)**

That Members of the Recreation, Renewal and Housing Policy Development and Scrutiny Committee:

2.1 Review the content of this report and provide their comments to the Executive.

That the Executive:

2.2 Notes the content of this report and supports the approach to provide support to businesses in the borough using the BIDs and libraries as a vehicle for this support.

2.3 Approve the allocation of up to £700k from the ARG to the BIDs in the borough and £217k from the ARG to the library contractor, GLL.

Impact on Vulnerable Adults and Children

1. Summary of Impact: BIDs support the resilience of the local economy and therefore protect local employment for a range of people, including vulnerable adults. Many BIDs provide support to the wider community as well as the business community. Libraries provide support to all members of the community. Online library services were provided for children and vulnerable adults during the closure of libraries due to COVID-19. The ARG is a grant scheme for local businesses and will therefore have direct and indirect impacts on all residents.
-

Corporate Policy

1. Policy Status: Not Applicable
 2. BBB Priority: Vibrant, Thriving Town Centres Regeneration Excellent Council Supporting Independence
-

Financial

1. Cost of proposal: up to £917k
 2. Ongoing costs: Non-Recurring Cost
 3. Budget head/performance centre: New budget head for discretionary business grants
 4. Total current budget for this head: N/A new budget
 5. Source of funding: Central Government (BEIS) grant funding
-

Personnel

1. Number of staff (current and additional): 0.81 fte Town Centres and BID Development Manager and 2.08 fte Libraries Client Team
 2. If from existing staff resources, number of staff hours: 29 hours per week and 75 hours per week respectively
-

Legal

1. Legal Requirement: Non Statutory Government Guidance
 2. Call-in: Not Applicable
-

Procurement

1. Summary of Procurement Implications: N/A
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
Businesses within BID areas - 600 in Bromley, 325 in Orpington, 300 in Beckenham and 240 in Penge.
The library service has a statutory duty to be available and accessible to all those who live, work and study in the borough. A 2017 estimate identified that 330,909 people live in the London Borough of Bromley. 34,962 registered users used their library card to borrow an item in 2019,

representing 10.6% of the population of Bromley. This does not include additional users who used the library solely for other purposes such as studying, attending activities, or using public PCs.

Ward Councillor Views

2. Have Ward Councillors been asked for comments? No
3. Summary of Ward Councillors comments:

3. COMMENTARY

Background

- 3.1** The Additional Restrictions Grant (ARG) is an allocation of £6,646,720 from the Ministry of Housing, Communities and Local Government (MHCLG) on behalf of Department for Business, Energy and Industrial Strategy ('BEIS'). The allocation has been paid to the Council based on a calculation of £20 per head of population within each local authority or business rate billing authority.
- 3.2** The ARG scheme is intended to take the form of discretionary grants to businesses but can also be used to fund wider business support activities. This is a one-off payment with all funds spent by end March 2022.
- 3.3** Following consideration and at the Executive, Resources and Contracts Policy PDS Committee meeting on 6th January 2021, a Leader executive decision approved the allocation of £5.5m from the ARG for Phase 1 to support the five following workstreams - Business Hardship Fund, Innovation Grants, Online Enterprise Hub, Lockdown Top-up Grant and an Independent Public House and Clubs grant. £1.1m of the ARG remains unallocated at this stage.
- 3.4** Guidance on the grants has been provided, including a series of FAQs, to enable each Local Authority to establish their own criteria to respond to the needs in their community in line with the guidance.
- 3.5** The guidance states that the ARG funding can be provided to support wider business support activities. Specifically, the ARG can be provided to Business Improvement Districts (BIDs) to support them with the shortfall in their levy income, provided that the BID body is not the Local Authority, or a company under the control of the Local Authority.
- 3.6** It is proposed that Phase 2 of the ARG funding support two further workstreams – the allocation of up to £700k to the BIDs to support businesses in the BID areas and the allocation of £217k to the library contractor to enable them to provide support to businesses across the borough.

Workstream 1: Supporting Businesses through BIDs

- 3.7** It is recognised that the BIDs play a vital role in the recovery of the local economy and specifically to the town centres within the borough. During the pandemic, the BIDs have provided pivotal support to their businesses. This support has included the dissemination of information regarding financial support for businesses from Central Government, advice and guidance on reopening safely and providing a COVID-secure business, working in partnership with the Council on social distancing measures to enable a safe shopping environment and providing customers with the confidence to return to the town centres, and working in partnership with the Council to contact businesses that were eligible for grants.
- 3.8** The BIDs relationships with the businesses and the knowledge of their town makes them best placed to provide this business support in an efficient and concise manner and in a way that is relevant to businesses.
- 3.9** The Council would like to support businesses within the 4 main town centre BID areas and therefore it is proposed that the ARG provides each BID with funding to administer a business grant scheme. This is in recognition that these businesses in BID areas invest in their local economy and are key to the Council's ambition of Vibrant and Thriving Town Centres.
- 3.10** This grant scheme will provide financial support to small, independent businesses in the BID areas. These businesses will also need to have paid their BID levy or committed to paying their BID levy to be eligible to apply. Businesses that have paid their BID levy demonstrate support

for the BID and also that the business is sustainable. Grants will be banded based on the rateable value of premises.

- 3.11** The precise eligibility criteria will be determined by the BIDs as each BID differs with the number of independent businesses, the rateable value of premises and their grant allocation. The Town Centres and BID Development Manager will review the precise eligibility criteria for each BID prior to the grant scheme launch to ensure the criteria outlined in 3.10 is included, that audit requirements are met and that there is consistency between the BIDs.
- 3.12** The eligibility criteria are in line with the guidance provided by the ARG and this grant scheme will provide support to businesses in town centres that have been significantly and adversely affected by the impact of COVID-19. It is anticipated that this grant scheme, along with the other financial measures of support for businesses provided by Central Government, will put our town centres in a strong position to recover from the impacts of COVID-19.
- 3.13** The BIDs will be required to submit a weekly monitoring report on how many businesses have received grants and the amount of grant funding paid. This data will be submitted as part of the Delta submissions the Council already completes regarding the other business grant schemes. The BIDs will also be required to submit an end of year report in March 2022 for audit purposes.
- 3.14** The grant allocation for each BID will be based on 50% of their total annual billed BID levy for 2021/22. The BIDs will be expected to ring fence this grant allocation separately from their BID levy accounts. This transparent approach enables the ARG funding to be allocated to the BIDs in fair way and in turn provide financial support to the businesses. The total annual billed levy for 2021/22 is not available yet and therefore the requirement from the ARG of up to £700k has been calculated based on the BID levy that was due in 2020/21. Table 1 outlines the BID levy that was due in 2020/21, along with a calculation of the 50% requirement from the ARG.

Table 1: BID levy 2020/21

	BID levy 2020/21	50% BID levy
Bromley BID	£651,682	£325,841.00
Orpington BID	£193,005	£96,502.50
Beckenham BID	£253,641	£126,821.50
Penge BID	£148,619	£74,309.50
Total:	£1,246,947	£623,473.50

- 3.15** The BID levy does vary from year to year. It has been assumed for the 2021/22 BID levy that there will be a 2% increase for the fluctuation in levy year on year due to changes to business profiles and 3% has been factored in for the inflation increase. This would result in the anticipated BID levy for 2021/22 being in the range of £655k to £665k. This will leave a buffer of £45k to £35k to reach the maximum ceiling of £700k. This buffer has been included as Bromley BID is subject to renewal in April 2021 and their BID area has changed slightly which will have an impact on the BID levy.
- 3.16** The BIDs will be expected to distribute as much of the grant allocation as possible to businesses within the BID area. It is anticipated that the BIDs will be able to allocate a minimum of 90% of the grant to businesses. It will be difficult for any BID to allocate 100% of the grant to businesses as the number of independent businesses change throughout the year as does the

rateable value of premises. Therefore, the BIDs will be forecasting their grant allocation in April and will need to introduce a contingency to allow for changes in business profiles throughout the year. Any unallocated funding over and above 90% can be redirected by the BID for business support projects in agreement with the Council. In the unlikely event that a BID that does not distribute 90% of the grant allocation, this unallocated grant funding will be returned to the Council and redirected to support other elements of the ARG. This allocation of the grant funding by the BIDs will be monitored by the weekly reports and any unallocated funding will be reviewed by December 2021.

3.17 Bromley BID are undertaking a renewal ballot on the 25th February 2021 to continue the BID for a further 5 years. If this ballot is unsuccessful the BID will discontinue. In the event of an unsuccessful ballot, the Council will retain the Bromley element of the ARG funding and look at how best to support businesses with this funding going forward. If Bromley BID are unsuccessful at ballot, this will be the subject of a future committee report and will include options for the ARG funding.

Engagement

3.18 The BIDs have been members of the Business Support Task Force since its inception in May 2020, and therefore have played a fundamental role working with the Council to provide business support throughout the pandemic and in shaping how the local economy can start to recover.

3.19 The BIDs participated in the business engagement sessions on the ARG funding held in November 2020 to identify the support and needs of businesses in the borough.

3.20 There has also been a subsequent discussion with the BIDs regarding this specific grant scheme and how best the Council and the BIDs can support businesses in the town centres. Each BID is supportive of the approach for the grant scheme and welcomes the partnership approach to supporting the businesses within the BID areas.

3.21 This grant scheme is also supported by British BIDs, the national body providing advice and guidance to BIDs.

Timescales

3.22 Subject to Executive approval, 50% of the BID levy for the financial year 2021/22 will be issued to each BID by the 1st April 2021.

3.23 It is anticipated that the grant schemes will be launched by the BIDs by May 2021. This will enable time for the BIDs to review any BID levy payments made in April as businesses that have paid their BID levy will be eligible to apply for this grant scheme. Due to the timing of the Bromley BID renewal ballot, the invoices for the BID levy will be issued a month later than the other BIDs and therefore it is anticipated the launch of their grant scheme will be by July 2021.

3.24 It is expected that the BIDs will distribute this funding to businesses in a timely manner and allocate payments to businesses as soon as practically possible following the launch of the grant scheme.

3.25 Once launched the BIDs will submit weekly reports on the number of businesses that have received a grant and the amount of grant funding paid. Any unallocated grant funding will be reviewed by December 2021.

Workstream 2: Supporting Businesses through Libraries

3.26 Public Libraries are ideally placed to act as recovery hubs, providing support for both job seekers and entrepreneurs. The 14 libraries in Bromley are highly accessible and evenly distributed across the borough, enabling them to be able to deliver support to business start ups and entrepreneurs across the whole borough.

3.27 It is proposed that Bromley Libraries offer a 1 year programme of support for business start-ups and entrepreneurs, this would be branded as “Start Up Bromley”. The primary focus of this support will be for business start-ups however support would also be provided to small businesses already in existence but have not yet developed to their full potential. The full proposal is attached see **APPENDIX 1 PROPOSAL FOR START UP BROMLEY**

3.28 The programme of support will include:

- One to one support sessions for businesses – held throughout the year giving entrepreneurs the opportunity to discuss particular challenges they are experiencing, their business model and to receive business advice and guidance
- Small Business Showcase Events – a minimum of 3 events will be held throughout the year and these events will be an opportunity for local businesses to showcase their products. Libraries will be used as the venues for these showcases enabling library customers to buy locally produced goods.
- British Library Seminars for Small Businesses – business start-ups and entrepreneurs will be able to access free workshops and seminars hosted by the British Library on a range of topics aimed at supporting small businesses.
- Start Up Bromley Business Lounge – provision of a dedicated business area in Bromley Central Library and Orpington Library. This business space would provide an area where entrepreneurs could work, meet and access support for their small business.
- Start Up Bromley Small Business Network – provide an opportunity for entrepreneurs to meet other entrepreneurs and build a network of support, sharing of good practice and resources and providing an opportunity to learn from other successful start-ups or established businesses.
- Information Support – Bromley Libraries has a wide range of business information support. Individual sessions will be held to aid understanding of how these resources can be used effectively both in a library and from home.

3.29 To run this programme, a Business Support Officer will be appointed by GLL who will be based at the Central Library in Bromley Town Centre but would also be providing business support sessions and showcase events in other libraries in the borough. This programme of business support will also be accompanied by an extensive marketing campaign.

3.30 The Business Lounge facility will be provided at the Central Library. This will include a dedicated business work space and also the facility to hire smaller rooms for meetings. A smaller Business Lounge facility will also be provided at Orpington Library. It is anticipated that the Business Lounge will be able to accommodate 6 entrepreneurs at any one time. These two key library sites were identified as having sufficient capacity to accommodate the Business Lounge and also were located in areas of the borough that would be accessible.

3.31 The library contractor, GLL, have provided a similar programme of support in their Greenwich Libraries partnership following European funding. The programme in Greenwich, now in its second year, has supported 244 aspiring entrepreneurs to date.

3.32 The costs of this proposal are outlined in Table 2. The library contractor, GLL, have confirmed that they would like to continue to provide elements of this service after this 1 year programme of funding has ceased. Any further extension to this programme will be funded by GLL and there will be no negative implications on the costs of the Council's contract with GLL. There will be no further costs to the Council with any extension to this programme.

Table 2: Costs associated with 1 year programme

Salary costs for Business Support Officer	£40,000
Administrative and Management Support	£25,000
Marketing	£10,000
Bromley Business Lounge	
<ul style="list-style-type: none"> • Central Library redecoration, furniture and carpet 	£63,000
<ul style="list-style-type: none"> • 3 other meeting rooms at Central Library – redecoration, furniture and carpet 	£18,000
<ul style="list-style-type: none"> • Orpington Library – redecoration, furniture and carpet 	£18,000
<ul style="list-style-type: none"> • ICT equipment – Central Library 	£11,290
<ul style="list-style-type: none"> • ICT equipment – Orpington Library 	£11,290
<ul style="list-style-type: none"> • Management fee of 10% (including National Libraries Director and Sector Libraries Manager) 	£19,658
Total	£216,238

Timescales

3.33 Subject to Executive approval, it is anticipated that the Start Here programme and associated Business Lounge will be launched in April 2021. The libraries are currently closed which will enable refurbishment whilst customers are not in the library.

3.34 Quarterly monitoring reports will be provided by the library contractor on how the funding has been spent, along with an end of year report in March 2022. These monitoring reports can be brought to a future committee meeting if Members require and can be included in the two reports on the performance of the Libraries Contract which take place in March and September each year.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 BIDs support the resilience of the local economy and therefore protect local employment for a range of people, including vulnerable adults. Many BIDs provide support to the wider

community as well as the business community. The business support provided by the BIDs is for local businesses in town centres and will therefore have direct and indirect impact on all residents. Libraries provide support to all members of the community. Online library services are provided for children and vulnerable adults during periods of closure of library buildings due to COVID-19.

5. POLICY IMPLICATIONS

- 5.1** The proposals support delivery of the Council's objectives of Vibrant Thriving Town Centres, Regeneration, and Supporting Independence under the Council's vision for Building a Better Bromley. A vibrant local economy is necessary to support these objectives and will directly benefit from this scheme.

6. PROCUREMENT CONSIDERATIONS

- 6.1** If approved, a Contract Change Control Notice will be issued for the contract with GLL the library contractor, and the BIDs.

7. FINANCIAL IMPLICATIONS

- 7.1** The ARG Scheme is funded by Central Government. The Council have received £6,646,720 which will be used to provide financial support to local businesses through grants and business support functions. The allocation of £5.5m from the ARG was authorised by Leader decision following consideration at the Executive, Resources and Contracts Policy PDS Committee meeting on 6th January 2021, with £1.1m remaining. If approved, this proposal will allocate a further £917k, with £183k remaining. This funding is intended to enable local authorities to provide support through to March 2022; therefore, the unallocated element of the grant will need to be carried forward into the next financial year and will be reflected in the final accounts report at year end.
- 7.2** There are no set up or administrative costs associated with either of these proposals.
- 7.3** If approved, the funding will be provided to the BIDs and the library contractor via the usual payment processes already set up with the BIDs and GLL.
- 7.4** The costs of any extension of business support in libraries beyond the grant funding period will be met by GLL at no cost to the Council.

8. PERSONNEL IMPLICATIONS

- 8.1** There are no staffing implications associated with this proposal

9. LEGAL IMPLICATIONS

- 9.1** This report seeks to approve funding up to £700k from the Additional Restrictions Grant (ARG) (which is grant scheme for local businesses that will have a direct and indirect impact on all residents) to the BIDs in the borough and also £217k from ARG to the Library Contractor.
- 9.2** LBB has received a payment of £6,646,720 from the Ministry of Housing Communities and Local Government (MHCLG) on behalf of the Department for Business, Energy and Industrial Strategy (BEIS). The sum will form LBB's ARG to be used to provide financial support local businesses through grants and business support functions.
- 9.2.1** The proposed ARG Scheme will be delivered in phases. The Government requirement is that all monies will be allocated by 21.03.22. At the Committee meeting held on 6th January 2021, the

allocation of £5.5m allocation was approved from the ARG for Phase 1 to support five workstreams. £1.1m of the ARG remains unallocated.

- 9.4 This Report outlines Phase Two of the proposal to support businesses in the borough using the BIDS and libraries as a vehicle for this support. Subsequent phases will be subject to future reports as and when they are developed. The guidance states that Government expect the scheme to take the form of discretionary business grants.
- 9.5 The ARG scheme will therefore take the form of discretionary grants to businesses but may also be used to fund wider business support activities. It's a one-off payment and the Government has published general guidance in relation to the administration of the Local Authority Discretionary Grant Funds. The guidance states that the ARG funding can be provided to support wider business support activities and that the ARG can be provided to Business Improvement Districts (BIDs) to support them with the shortfall in their levy income, as long as the BID body is not the Local Authority, or a company under the control of the Local Authority.
- 9.6 The grant must be administered within the parameters set out in the guidance and at the discretion of the Council. The report also sets out the criteria that the Council will apply to distribute the grant. Officers should ensure grant recipients sign appropriate grant terms and conditions which should deal with claw back provisions in the event of fraud.
- 9.6 The Council must also comply with the grant conditions attached to the grant and ensure that recipients also comply to ensure the proper use and accounting of the grant paid. The Council has the legal power to receive and distribute the grant and to make discretionary grant determinations as permitted within the grant award. The Council must have due regard to all relevant circumstances including government guidance and local need when deciding on discretionary allocations.
- 9.7 The Council must make decisions in accordance with the law and also in accordance with its fiduciary duty to its taxpayers in using Council resources. The report mentions the headline needs and benefits including the social and financial benefits that must be properly weighed up and considered before taking decisions when accepting grant, applying and setting award criteria for allocation and applying resources generally.
- 9.8 The Council has power under Section 1 of the Localism Act 2011 to deliver grant funding to business it deems as eligible.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	ADDITIONAL RESTRICTIONS GRANT SCHEME (ARG SCHEME) 6 th January 2021 (HPR2021/55)

START UP BROMLEY ...

SUPPORT FOR BUSINESS START UPS PROVIDED ACROSS BROMLEY LIBRARIES

2020 has been a year of crisis. We have experienced a pandemic which has disrupted our lives – and which will disrupt the economic life of the country in the years to come. Every day we read of major companies going into liquidation and of the job losses which will result. The pandemic will leave in its wake an economic landscape in which people will be looking for jobs and will need support to do that – and in which entrepreneurs will need support to establish new businesses

Public libraries are ideally placed to act as recovery hubs, providing support both for job seekers and for entrepreneurs. Libraries in Bromley are highly accessible and evenly distributed across the Borough. For people who are struggling to apply for jobs, our libraries can be a game changer, providing free access to books and technology, supporting customers to engage with professional networks, or gain new skills during this time. Libraries in Bromley can in addition, offer free access to a host of learning opportunities through virtual and physical programmes.

In these very different times, entrepreneurs will also grasp the opportunity to create new businesses, GLL, the charitable social enterprise which operates libraries in Bromley on behalf on the Council, already has experience of providing start up support in one of our other library partnerships. Greenwich Libraries, also operated by GLL, was one of 10 London library services to be awarded European funding via the British Library's SILL (Start-Up in London Libraries) programme, to provide support for business start-ups in conjunction with the BL. Funding was provided for the salary of the Project Delivery Coordinator – Business Start Ups, and enabled us to recruit an experienced business advisor to our team. The programme in Greenwich, now in its second year, has supported 244 aspiring entrepreneurs so far.

Participants are offered a support package which includes:

- **Free attendance at British Library seminars for business start ups**
- Membership of the **Start up Greenwich Network** which aims to provide:

Opportunities for aspiring and early stage entrepreneurs to meet and build networks of support

Meetings have focussed on topics such as launching a product/service to market in 90 days; digital marketing; portfolio careers and maintaining positive mental health as an entrepreneur.

A local events programme. These have included Christmas Marketplace which enables local start-ups to showcase products as well as test business ideas, Business Events for Women on International Women's Day, Events for businesses run by entrepreneurs identifying as BAME during Black History Month and so on.

- **121 Support Sessions**, giving entrepreneurs the opportunity to discuss particular challenges they are experiencing, ideas, business model plans and so on,
- **Information Support** We deliver individual sessions to help people understand how to navigate the COBRA (Complete Business Reference Adviser) database and search for the information they need.

Annual funding of £40,000 was provided by SILL primarily to support the recruitment of the Business Support Officer, while and Greenwich Libraries match funded this grant funding to provide an administrative officer, management support and office accommodation.



Business workshops at Greenwich Centre Library



Loretta Awuah, Greenwich SiLL Champion

START UP BROMLEY - SUPPORT FOR BUSINESS START UPS PROVIDED ACROSS BROMLEY LIBRARIES

In Bromley, we should like to use the experience we have gained from the SILL programme, and build additional features into the offer. We have proposed to brand this as **Start Up Bromley** but clearly would be happy to change this, if the Council preferred a different branding. The programme would be subject to extensive marketing, co-ordinated by GLL's Marketing Manager.

Client Base. We would propose focussing on start ups but would also be willing to include small businesses which may have started some time ago but have not developed to their full potential. We have an excellent range of business information in Bromley Libraries, and any size of business may find the material we hold helpful, so we would propose the approach be inclusive of all businesses.

Services to be offered. We would follow the model used in Greenwich by appointing a Business Support Officer who would establish the **Start Up Bromley** model. The Business Support Officer would be based in Bromley Central Library but would run well publicised clinics in libraries across the Borough.

Participants would receive:

- Membership of the **Bromley means Business Network** which would:

Provide opportunities for aspiring and early stage entrepreneurs to meet and build networks of support, sharing updates on their entrepreneurial journeys

Encourage peer to peer sharing of resources, including contacts, skills, space, time and information to support the development of each others' businesses

Enable members to learn from successful local start ups, established businesses and other professionals associated with the start-up ecosystem

- **Regular Meetings for Members.** The Business Support Manager will hold regular meetings for group members, focussing on specific topics of relevance, or featuring special speakers. These meetings could be held remotely using zoom or Teams, or, where possible, face-to-face, although suitably socially distanced. We would aim to run approximately 3 workshops each quarter, a programme which seems to work well for entrepreneurs who are already busy establishing their new business.
- **121 Support Sessions.** These will operate throughout the year giving entrepreneurs the opportunity to discuss particular challenges they are experiencing, ideas, business model plans and so on,
- **Information Support.** Bromley has a good range of business information resources and we will deliver individual sessions to help people understand how to use relevant resources effectively, from the library or in their own homes.
- **Start up Bromley Showcase.** Throughout the year, we will hold events to showcase local small businesses and their products. We will use different libraries as venues, so library customers have an opportunity to buy locally produced goods.
- **British Library Seminars for Small Business** GLL applied for funding from the SILL programme for Bromley Libraries at the same time as applying for Greenwich Libraries, but the funding was limited to areas of significant economic deprivation. The British Library has now agreed to accept start ups from Bromley onto their workshop programme and so we would incorporate these into the Bromley Start Up programme, too. The British Library has recently adjusted the programme to respond to the challenges of managing a business in a society impacted by a pandemic. The schedule has so far only been published up to March 2021, but we understand that it will be extended further into 2021. Topics include:

Reset, Restart your mindset and your customer offer

What next for my business idea?

Get ready for business

Marketing Masterclass Day 1

Marketing Masterclass Day 2

Finance essentials for start-ups

Build a winning sales funnel

- **Start Up Bromley Space.** Many small business owners already work out of our libraries which many prefer to working from home or out of cafes. We should like to be able to offer a more appropriate environment for small businesses – and have already started this process in Bromley Central Library where small “roofed dens”, originally intended for teenagers have been taken over by entrepreneurs. We should like to offer a Business Lounge in Central Library and Orpington Library, with good quality tables and acrylic dividing screens, comfortable and ergonomic chairs, free Wi-Fi and IT support, bookable meeting space and good quality coffee on tap.

We would suggest establishing a central Business Lounge in Bromley Central Library, using a large but little used room on the 1st Floor of the building. We would also propose establishing a smaller Business Lounge facility in Orpington Library. In any situation, we would suggest that the facility should accommodate a minimum of 6 entrepreneurs at any one time: In the Central Library, we would also be able to offer small rooms for hire, for private meetings with clients, professional advisors and so on.

Libraries are closed now but this would give an opportunity to refurbish while customers are not in the buildings allowing an April start date. We would be willing to place orders if we received a letter of intent in advance of the funding period.

Staffing Resources

In order to ensure a rapid start to the programme, we would transfer members of the business support team currently working in Greenwich, including Martin

Stone, Sector Libraries Manager, who is a member of the Divisional Libraries Team and supervises the programme and Loretta Awuah, the SILL Champion. Loretta had a career in accountancy before moving into business support. Additional staff would be recruited more locally.

Costings for a one year programme – Bromley Central, Orpington

Salary Costs – for the Business Support Officer, Inclusive of on-costs, pension contribution and travel expenses 1 x £40,000	£40,000
Administrative Support 1 x £25,000	£25,000
Marketing	£10,000
Start Up Bromley Space	
Bromley Business Lounge - Redecoration, Furniture, Carpet	£63,000
3 other meeting rooms, Bromley – Redecoration, Furniture, Carpet	£18,000
Orpington – Redecoration, Furniture, Carpet	£18,000
ICT equipment - Bromley (details below)*	£11,290
ICT equipment – Orpington*	£11,290
Management Fee @ 10% (includes time of National Libraries Director, and a Sector Libraries Manager)	£19,658
TOTAL	£216,238

Costs are net of VAT

*IT costs:

- 6 x Lenovo Tiny PCs (Similar specification to Public PCs – Microsoft Office Applications, including video conferencing functionality etc.) @ £ 950 per unit - £ 5,700
- Cabling for the above workstations & MFD- £ 1,750
- Enhanced Wi-Fi offering for dedicated area - £ 2,000

Revenue costs:

- Annual software licencing for PCs - £ 720
- Quarterly MFD rental (Suggest separate device to Public) – £ 175 – Annual – £700
- Print Control (Allowing connectivity from laptops and PCs) – Annual - £ 420

BUSINESS RESOURCES AVAILABLE IN BROMLEY LIBRARIES

The following resources available to Bromley Library members provide useful information if you are running a local business. They can be accessed here

<https://capitadiscovery.co.uk/bromley/assets/-/OnlineResources.html>

Career Active

A resource aimed at businesses to help with career development. The resource includes sections on Self Development, Interviewing and Business Skills etc. Resources can be text based, audio or video; includes questionnaires that allow you to identify your personal strengths helping to identify future paths for your business.

Sign up for this service here

<https://bromleycareeractive.careercentre.me/register/bromleycareeractive?AuthToken=9373BC76-9FEE-4077-B6CF-AC235FB94946>

Cisco Courses

Part of the Cisco Networking Academy

Includes free beginner or intermediate courses in

- Digital transformation
- Cybersecurity
- Entrepreneurship

Cobra – the complete business reference advisor

Information on how to start and run a business, write a business plan and find grants etc.

Includes

- Business opportunity profiles which show which types of service are growing and which are in decline
- Business legal library – a guide to business law
- Sources of business information – including statistics, government help, trade associations and places to update your skills
- Weekly news bulletins including updates on Brexit and Covid impact.

Cobra includes many links to valuable third party resources.

<https://bromley.cobwebinfo.com/>

Newsbank

Up to date access to all major UK newspapers including free access to The Times

<http://infoweb.newsbank.com/signin/LondonBoroughofBromley>

Starting & Running a Business – Most recent titles available in Bromley Libraries

AUTHOR	TITLE	YEAR
Barnes, Andrew	The 4 day week	2020
Hall, Richard	Start-ups, pivots and pop-ups	2019
Reuvid, Jonathan	Start Up Wise	2019
Belew, Shannon	Starting an online business	2020
Nelson, Bob	Starting a business all-in-one for dummies	2019
Ries, Eric	The lean start-up	2020
Jones, Emma	The start-up kit	2019
Clarke, Gordon	Business start up and future planning	2020
Bridge, Rachel	How to work for yourself	2020
Pillot de Chenecey,Sean	Influencers and Revolutionaries	2020
Carvill, Michelle	Myths of social media	2020
Wilson, Lee	30 minute website marketing	2019
McCormack, John	The straightforward business plan	2019
Craven, Bruce	Win or Die : Leadership secrets from Game of Thrones	2019
Ackland-Snow, Nicola	30 Second Money	2019
Oppong, Thomas	Working in the Gig economy	2019
Kessler, Sarah	Gigged, the Gig economy	2019
Prassl, Jeremias	Humans as a service	2019
Banerjee, Abhijit	Good economics for hard times	2020
Burnett, William	Designing your work life	2020
Arian, Somi	Career Fear (and how to beat it)	2020

Report No.

London Borough of Bromley

PART 1 - PUBLIC

Decision Maker: EXECUTIVE
COUNCIL
FOR PRE DECISION SCRUTINY AT THE RENEWAL,
RECREATION AND HOUSING POLICY DEVELOPMENT AND
SCRUTINY COMMITTEE

Date: Tuesday 2nd February 2021
Wednesday 10th February 2021

Decision Type: Non-Urgent Executive/Council Key

Title: PROPERTY ACQUISITION SCHEME PROPOSAL

Contact Officer: Sara Bowrey, Director Housing Planning and Regeneration
E-mail: sara.bowrey@bromley.gov.uk

Chief Officer: Sara Bowrey, Director of Housing, Planning, Property and Regeneration

Ward: (All Wards);

1. Reason for report

This report advises on the option to acquire approximately 242 properties under a funding arrangement with Orchard and Shipman for use as accommodation to help reduce the current pressures in relation to homelessness and temporary accommodation.

2. **RECOMMENDATION(S)**

2.1 That Members of the Renewal, Recreation and Housing Policy Development and Scrutiny Committee, review the content of this report and provide their comments to the Executive.

That Members of the Executive are asked to:

2.2 Agree to enter into the limited liability partnership (LLP) arrangement described in this report with Orchard and Shipman for the acquisition of approximately 242 residential properties (dependent upon final purchase price).

2.3 Agree that the acquired properties will be leased by the LLP to Orchard and Shipman Homes for a 50-year period on an FRI basis.

2.4 Recommend that Council agrees the loan of £20m to the LLP for a period of 50 years with annual repayments starting from year 3 of 1.6% (£320k) per annum and increasing annually by CPI (collared at 0-4%), funded from the Housing Invest to Save Fund (£14m) and uncommitted Investment Fund (£6m) earmarked reserves.

- 2.5 Agree to enter into (i) the Members' Agreement for the LLP (between the Council, Orchard and Shipman, and the LLP), (ii) a guarantee agreement with the Funder (see part 2 report) to guarantee the loan facility of £60-£65m to the LLP and undertake to meet the liabilities of the LLP in respect of the loan facility in the event of loan repayment default, (iii) a loan facility agreement between the Council and the LLP for the loan made by the Council, and (iv) a Nomination Agreement with Orchard and Shipman Homes to secure nomination rights to the acquired properties (v) and all other ancillary documents in connection with the scheme.
- 2.6 Agree to delegate authority to the Director of Housing, Planning and Regeneration in consultation with the Director of Housing, Director of Corporate Services and the Portfolio Holder Renewal, Recreation and Housing to carry out due diligence in connection with the scheme, agree the details of each agreement and enter into all relevant agreements in connection with this scheme.
- 2.7 Agree to appoint Sara Bowrey, Director of Housing, Planning and Regeneration and James Mullender, Head of Finance, Adults Health & Housing as the Council's nominees to the board of the LLP, with authority to act on behalf of the Council in relation to all matters not reserved to the Council under the Members' Agreement; such nominees to be indemnified by the Council and on the basis that the LLP will arrange suitable insurance for its Board members. To delegate to The Chief Executive, as Head of Paid service, to make a replacement appointment of suitable seniority with the agreement of the person nominated if the final structure requires a different skill set or if a vacancy arises.
- 2.8 Note that subject to the approval of the above the scheme will provide full year savings of £1.5m per annum.
- 2.9 Note that should there be any material change to the scheme from the details set out in this report then a further report will be presented to the Executive to inform members of such change.

Council is requested to:

- 2.10 Agree the loan of £20m to the LLP for a period of 50 years with annual repayments starting from year 3 of 1.6% (£320k) per annum and increasing annually by CPI (collared at 0-4%), funded from the Housing Invest to Save Fund (£14m) and uncommitted Investment Fund (£6m) earmarked reserves.
- 2.11 Agree to enter into a guarantee agreement with the Funder to guarantee the loan facility of £60-£65m to the LLP and undertake to meet the liabilities of the LLP in respect of the loan facility in the event of loan repayment default.

Impact on Vulnerable Adults and Children

1. Summary of Impact: The accommodation provided ensures that the Council is able to meet its statutory responsibilities in respect of housing
-

Corporate Policy

1. Policy Status: Existing Policy: Further Details
 2. BBB Priority: Supporting Independence: Further Details
-

Financial

1. Cost of proposal: Estimated Cost: £20m loan contribution to purchase of the properties
 2. Ongoing costs: Estimated net savings of £1.5m per annum
 3. Budget head/performance centre: Operational Housing
 4. Total current budget for this head: £7.7m
 5. Source of funding: Housing Invest to Save Fund (£14m) and uncommitted Investment Fund (£6m) earmarked reserves
-

Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory Requirement: Further Details
 2. Call-in: Applicable: Further Details
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): There are approximately 1800 households currently placed in temporary accommodation of which almost 1100 are in forms of insecure costly nightly paid accommodation. This scheme would provide around 242 good quality cost effective affordable housing units to fulfil the Council's statutory rehousing duties and reduce the current reliance on nightly paid accommodation.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1. For Bromley, like most London boroughs one of the most significant long-term cost pressures is the impact of homelessness and provision of temporary accommodation.
- 3.2. There are currently approximately 1,800 households in Temporary Accommodation (TA), of which approximately 1,100 are in costly forms of nightly paid TA, putting a continued strain on the Council's revenue budget
- 3.3. The Council therefore continues to seek all opportunities to increase the supply of affordable housing and reduce the costs in providing temporary accommodation to meet statutory rehousing duties and in particular the reliance on costly forms of nightly paid accommodation.
- 3.4. Orchard and Shipman are an established (and therefore regulated) registered provider with more than 30 years' experience in successfully acquiring and managing a range of affordable housing schemes on behalf of local authorities, developers, housing associations and government departments. Orchard and Shipman have worked in partnership with the Council for around 11 years sourcing and managing a portfolio of temporary accommodation including private sector leased accommodation and the council owned multi-facility units and a small number of street properties.
- 3.5. Whilst Orchard and Shipman continue to source properties for the Council under the private lease scheme, the supply is not sufficient to meet current levels of housing need, in the main due to fact that the rental and benefit levels applicable to such schemes is insufficient to complete with rental levels that can be commanded in the open market. This situation is being experienced across all private sector leasing providers.
- 3.5. Orchard and Shipman have approached the Council with a proposal for the funding, purchase, refurbishment and management of approximately 242 properties for use as affordable rented accommodation to assist in meeting the Council's statutory rehousing duties and reduce the current reliance on and associated cost of nightly paid accommodation. The final number of properties will be dependent upon the purchase prices secured.
- 3.6. Under the proposal, the Council and Orchard and Shipman will set up a limited liability partnership (LLP) with Orchard and Shipman and raise a funding facility of approximately £60-65m (see paragraph 6.10 below). The Council will provide an additional £20m loan from earmarked reserves. This funding would secure the purchase and refurbishment of the portfolio of units within a 12-14 month period for use as affordable rented accommodation. The structure and operating model are set out in appendix 1 of this report.
- 3.7. The purpose of the LLP is to enable the purchase and management of the affordable housing units.
- 3.8. The members' agreement for the LLP will govern the process for the LLP to identify properties to acquire for affordable housing against certain property standards, locations, types and size mix. Orchard and Shipman will arrange the acquisition of properties into the LLP based on these parameters, and the properties will then be leased by the LLP to Orchard and Shipman Homes which is a registered provider. Orchard and Shipman Homes will then be the landlord for the properties and subject to a nominations agreement with the Council. The locations would be a mix within and outside of the borough but not further than a 60-minute travel time. All properties would be approved by the Council to ensure they meet requirements under the Nominations Agreement before proceeding to purchase.

- 3.9 The total cost of purchase including all associated fees and any required refurbishment will be met from the funds raised by the LLP.
- 3.10 As noted above, once acquired the purchased properties will immediately be leased to Orchard and Shipman Homes Ltd on a 50-year full repairing and insuring lease basis. Orchard and Shipman will enter into a nominations agreement with the Council (on an exclusive basis) enabling the properties to be let to tenants nominated by the Council. The leasing arrangements will set out full requirements in terms of management and maintenance processes and standards.
- 3.11 The members' agreement for the LLP will also set out the arrangements for distribution of surplus rental income materially weighted to the Council. Further details are included in paragraph 6.9.
- 3.12 Orchard & Shipman Homes will pay a fixed rent to the LLP from the day of completion for each property, irrespective of rent receivable from any occupational underlettings.
- 3.13 Repayment of the loan facility will not start until year 3, providing time for all properties to be purchased and let and for funds from the rental stream to build up to ensure the facility payments can be serviced.
- 3.14 Rental levels will be set at the local housing allowance level. The rental income received on the portfolio will then be used to cover the ongoing management and maintenance costs together with the funding facility repayments.
- 3.15 At the end of the 50 year period, the funding facility and security will be released and the Council will have the right to dissolve the LLP for a nominal payment and the assets of the LLP will belong to the Council.
- 3.16 The properties would be used to provide affordable housing in discharge of the Council's statutory rehousing duty. In terms of discharge of duty compared to temporary accommodation, in addition to of course being a better outcome for the tenants, the rental income is significantly higher. The proposed structure will also enable flexible use of the units as settled affordable homes or private rented dependent upon prevailing need during the term. This provides flexibility to deal with any future reduction in homelessness (which appears unlikely) and also provides the ability to generate higher income from private rents, where necessary i.e. this helps provide alternative income in the event of any freezes in local housing allowance which have a detrimental impact on the overall financial model.
- 3.17 Due diligence has been undertaken to ensure that the financial and acquisition model is robust and mitigates against potential risks of delay in the acquisition programme, changes in the market, level of demand for such units. A summary of identified risks and mitigation can be found in appendix 2 of this report.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 The recommendations support children and vulnerable people through the provision of good quality cost effective housing supply.

5. POLICY IMPLICATIONS

- 5.1 The Council has a published Homelessness Strategy which sets out the approved strategic policy in terms of homelessness. This includes temporary accommodation provision and reducing the reliance on nightly paid accommodation. The Council already works with a number of providers from the provision and management of temporary accommodation.

- 5.2 Officers will consider the Council's statutory obligations under the Equalities Act 2010 as the scheme progresses and take appropriate action.

6. FINANCIAL IMPLICATIONS

- 6.1 The proposed scheme would produce full year savings to the Council of around £1.5m per annum on temporary accommodation costs based on 242 properties being acquired. After 50 years the leasehold or freehold titles will be transferred to the Council for £1 with no outstanding debt payable.
- 6.2 There is a potential option to subsequently expand this scheme further with a corresponding increase in financial benefits as well as helping address homelessness need – to illustrate this if the number of properties increased by 25% savings would increase by a further £0.38m. which would increase the savings to up to £3m. Any proposal to significantly increase the number of properties to be acquired would be subject to further due diligence and a subsequent report to Members.
- 6.3 The proposal is that the scheme will be financed by a £60m loan from the Funder, repaid at 2.8% per annum (£1,679k) and a £20m loan from the Council, repaid at 1.6% per annum (£320k), both for a term of 50 years. The loan from the Council effectively secures equity in the properties whilst generating an income from the loan. Annual repayments for both loans increase annually by Consumer Price Index (CPI) (collared at 0-4%). It is proposed that the Council loan is funded from the Housing Invest to Save Fund (£14m) and uncommitted Investment Fund (£6m) earmarked reserves.
- 6.4 Details of the lease income from Orchard & Shipman are provided in the part 2 report.. Any shortfall in rent income compared to the loan repayments would be guaranteed by the Council.
- 6.5 The lease to Orchard & Shipman would be on a full repairing and insuring basis, so the risks of future repairs and maintenance costs would be Orchard & Shipman's risk, along with service charges, management, bad debts and void costs (unless the Council fails to nominate within timescales).
- 6.6 As the loan repayment amount includes principal repayments as well as interest, the Effective Interest Rate (EIR) is different to the rates in paragraph 6.3 above. Assuming annual CPI inflation of 1%, the total repayments on the £60m loan over 50 years is £108m, which equates to an EIR of 1.19%. In other words, £60m invested at 1.19% interest (accumulating), would be worth £108m in 50 years. The total loan repayments and EIR for CPI rates of 1, 2, 3 and 4% is set out below:

CPI	£60m funder (2.8%)		£20m Council (1.6%)	
	Total repayment £m	EIR	Total repayment £m	EIR
1%	108	1.19%	21	0.06%
2%	142	1.74%	27	0.61%
3%	189	2.33%	36	1.19%
4%	256	2.95%	49	1.80%

- 6.7 For the Council's loan, the EIR is likely to be less than the rate the Council might achieve through treasury management investments, so there may be a loss of treasury management income. The table below sets out the total net impact on treasury management over 50 years and average per annum for different combinations of CPI and treasury management rates:

Net gain/(loss) over 50 years (£'000)			
		CPI	
		1%	2%
Treasury management	1%	-4,537	2,869
	2%	-9,703	-1,328
Average gain/(loss) per annum (£'000)			
		CPI	
		1%	2%
Treasury management	1%	-91	57
	2%	-194	-27

- 6.8 As part of the funding agreement, there will be no repayments for the first two years which will eliminate the risk of a shortfall in rental income from tenants not being sufficient to cover loan repayments during that period.
- 6.9 This also means that any income from Orchard & Shipman during this period would generate a surplus within the LLP which could be used to purchase additional properties. This would effectively generate a return at the same rate as the lease to Orchard & Shipman. Alternatively, any surplus could be set aside, either in the LLP or transferred to a Council earmarked reserve to mitigate any future shortfalls as a result of LHA rate increases being lower than CPI, or to offset any loss of treasury management income as referred to in paragraph 6.7 above. To illustrate,
- 6.10 It is also worth noting that the rates available on the financial markets have generally reduced since the scheme and financing was originally proposed. It has been indicated that for the same annual repayment amount the loan could increase from £60m to around £65m which would also improve the financial performance of the scheme. However, as this could change again before the scheme is finalised, the figures in this report prudently reflect the original funding proposal.
- 6.11 To illustrate the potential additional benefit, if the final loan amount is £65m then the repayments of the Council loan could be increased from 1.6% (£320k) per annum to 2.2% (£440k). This would change the Effective Interest Rates in paragraph 6.6 to 0.72% for CPI of 1%, 1.27% for CPI of 2%, 1.86% for CPI of 3% or 2.48% for CPI of 4%.
- 6.12 A key part of the financial model is how the various cashflows change over time. The loan repayments increase by CPI (collared at 0-4%), and rent income from Orchard and Shipman will increase in line with Local Housing Allowance (LHA) levels, which are linked to 30th percentile rent level for the area.
- 6.13 Appendix 3 provides a summary of Net Present Value (NPV) scenario modelling carried out on the proposal. This shows the potential impact of LHA rent inflation being lower than CPI (assumed at 2%).
- 6.14 This shows that even if LHA rent inflation was at 1% compared to CPI assumed at 2% for the entire 50 years, the net deficit that the Council be guaranteeing would not exceed the savings on temporary accommodation at any point, with the scheme providing a total NPV benefit to the Council of £31m (£76m including the estimated asset value).
- 6.15 If LHA increased at the same rate as CPI, the NPV benefit would be £44m (£89m including estimated asset value).
- 6.16 A key risk to the Council is therefore if CPI increase on the loan repayments exceed the LHA increase on rent payments from Orchard and Shipman. If the LHA increase is lower than CPI

for a sustained period then the Council would have the option to mitigate this by letting the properties on alternative tenures including up to market rents. This would reduce the savings on temporary accommodation budgets, but would ensure the continued financial viability of the scheme overall.

- 6.17 As the Council has learned from the More Homes Bromley scheme, there are two main other risks that could have a significant financial impact; that purchases are not acquired in the expected timeframe, and that purchase prices exceed those in the financial model.
- 6.18 The first risk, of delayed acquisitions is mitigated by the fact that there are no loan repayments in the first two years. If the acquisitions still haven't been completed by this date, then the surplus built up in the first two years as set out in paragraph 6.9 above should further mitigate this risk.
- 6.19 There is no specific mitigation for the risk that purchase prices exceed the financial model; however Orchard & Shipman have carried out an analysis of data from Rightmove and assumed an average cost in the model that is above the lowest price range. A sample of this initial analysis was been reviewed by Housing officers for suitability with no significant concerns noted other than the location of some of the properties being too far away from Bromley. Orchard & Shipman are currently updating this work to reflect this as well as current market data. This will be subject to a further suitability/due diligence review prior to finalising the agreements.
- 6.20 In addition, there is a risk that the Council may have to provide top-ups where households may be affected by the benefit cap. These could potentially be funded from Discretionary Housing Payments, or from the operational housing homeless prevention budget which would reduce the savings on temporary accommodation. Officers will aim to ensure that this is minimised through the acquisition programme taking into consideration the number of bedrooms and relevant LHA levels for the area.
- 6.21 With regard to the scheme being one where the Council discharges its homeless duty compared to having to acquire temporary accommodation, in addition to being a better outcome for the tenants, the rental income can be significantly higher, as indicated by the table below (for Outer South East London, which covers the majority of Bromley):

	Affordable Housing	Temporay Accommodation
	Current LHA	90% 2011 LHA
	£	£
Self contained (1 bed)	10,740	7,310
Self contained (2 bed)	13,200	8,934
Self contained (3 bed)	15,600	10,776
Self contained (4 bed)	19,200	14,079

- 6.22 Without knowing the locations of the properties it is hard to quantify the overall impact, but a rough estimate suggests that if the scheme was temporary accommodation rather than discharge of duty then the rent income that O&S collect would reduce from around £3.4m to around £2.3m, which would have a significant detrimental impact on the financial viability of the scheme.
- 6.23 From an accounting perspective, the Council's Treasury Management advisors, Link Asset Services, have confirmed that the scheme should be accounted for as a Joint Venture. Under

this proposed accounting treatment, if the Council's share of net assets exceeds material levels (roughly over £5m), then the Council would have to prepare group accounts and include an Investment in Joint Ventures line on the Balance Sheet showing its share of the net assets, as well as its share of the profit or loss in the Comprehensive Income and Expenditure Statement. A liability may also have to be recognised for the guarantee. In accordance with Capital Financing Regulations, the loan from the Council will have to be treated as capital expenditure, with the repayment treated as a capital receipt, although interest will be treated as revenue income.

- 6.24 As the proposed structure is an LLP, it is not expected that there will be any Corporation Tax liabilities as may arise with a wholly-owned company structure (as LLP's are transparent for tax purposes); however expert advice is also being commissioned to confirm this along with any other tax implications such as VAT and SDLT.
- 6.25 Reflecting all the arrangements shown above there remain significant potential savings to the Council of around £1.5m per annum on temporary accommodation costs based on 242 properties being acquired. Based on current estimates, the profile of the savings, which have been assumed in the financial forecast, are shown below:

	£'000
2021/22	347
2022/23	1,110
Full year	1,525

- 6.26 There will be a further significant benefit from the broadly self-financing scheme as after 50 years the leasehold or freehold titles will be transferred to the Council for £1 with no outstanding debt payable.

7. LEGAL IMPLICATIONS

- 7.1 The proposal is for the Council and Orchard and Shipman (being for these purposes either its holding company or other current (and substantial) member of its group) to set up a limited liability partnership (LLP). LLPs are corporate bodies established under the Limited Liability Partnerships Act 2000, and have tax transparency (i.e. tax on profits is not applied to the LLP but to its members).
- 7.2 The funder (please see the part 2 report) would enter into a Loan Facility Agreement with the LLP to make £60 to £65 million available to the LLP for the purposes of the LLP acquiring and refurbishing properties. The Council will guarantee the liabilities of the LLP to the Funder under the Loan Facility Agreement, if and to the extent that the LLP is unable to meet the loan repayments. This approach has financial benefits in terms of the cost of the loan. The funder will take a floating charge over the assets of the LLP as security for the loan. Further, the Council will make a separate loan of £20 million to the LLP to acquire and refurbish properties.
- 7.3 Under the LLP arrangement, Orchard and Shipman as a member of the LLP will have responsibility for procuring properties and refurbishing the properties within the agreed budget per property. These obligations would be documented in an agreement between the LLP and Orchard and Shipman and/or via the Members' Agreement. Orchard and Shipman will be responsible for instructing relevant professionals such as surveyors, external lawyers and works contractors (the costs of which will ultimately fall to the LLP). When a property is ready to let the LLP will grant a 50 year lease to Orchard and Shipman Home (OSH) which is a registered provider. OSH will enter into a Nomination Agreement with the Council giving the Council the right to nominate tenants to OSH for the properties leased to it.

- 7.4 A number of legal documents will need to be entered into to set up the LLP and capture the obligations of each party. It is anticipated that the following key legal documents will be required:
- LLP Members' Agreement between the Council, Orchard and Shipman, and the LLP;
 - Nomination Agreement with OSH;
 - Funding Agreement between the Council and LLP;
 - Loan Facility Guarantee Agreement between Council and the Funder.
 - Other documents in support of the arrangement will include:
 - Form of appointment of LLP board nominees;
 - Possible loan security instruments (in favour of the Funder and the Council);
 - Template leases and tenancy agreements;
 - Template forms of property acquisition documentation;
 - Services agreements and contracts with relevant professionals (e.g. surveyors, lawyers and works contractors);
 - Collateral warranties in support of the above-mentioned appointments and contracts (enabling recourse by the Council in particular);
 - Services agreement between the LLP and Orchard and Shipman for the services provided by them to the LLP in relation to property acquisitions either stand-alone or as part of the Members' Agreement;
- 7.5 It is considered that the proposed transaction is not subject to the application of the Public Contracts Regulations 2015 as the dominant element of the transaction is the provision of finance to support acquisition of properties by the LLP which is exempt from public procurement rules. However, care will need to be taken in drafting the legal documentation to ensure the Council is compliant with the rules with regards to obligations Orchard and Shipman undertake in relation to property acquisition and any work carried for the LLP to bring them up to standard. Since 1 January 2021 EU rules on state aid no longer apply. However, state aid rules have been replaced with a subsidy control regime and the Council need to be mindful of these rules when drafting the documentation.
- 7.6 The Council may rely on its general power under the Localism Act 2011 (Section 1) as well as section 9 of the Housing Act 1985 to be a member of the LLP and enter into the proposed arrangements for acquisition of properties for housing. Under the Localism Act, anything done for a commercial purpose must be done via a company (and not an LLP). However, provided the dominant purpose of the arrangement is to meet housing needs, there is no commercial purpose here. This legal position is established by the case of [Peters v London Borough of Haringey](#) [2018] EWHC 192 (Admin) where it was confirmed that a Limited Liability Partnership (LLP) structure can legitimately be used to create joint ventures with the private sector to promote regeneration objectives (being for a non-commercial purpose). In this case the purpose is not regeneration, but (as noted) housing supply. It does not matter for these purposes that the LLP itself may generate profit; it is the dominant purpose of the Council in being a member of the LLP that matters. Under the Limited Liabilities Partnerships Act 2000, a LLP has to be formed for carrying on a business "*with a view to profit*". However, merely

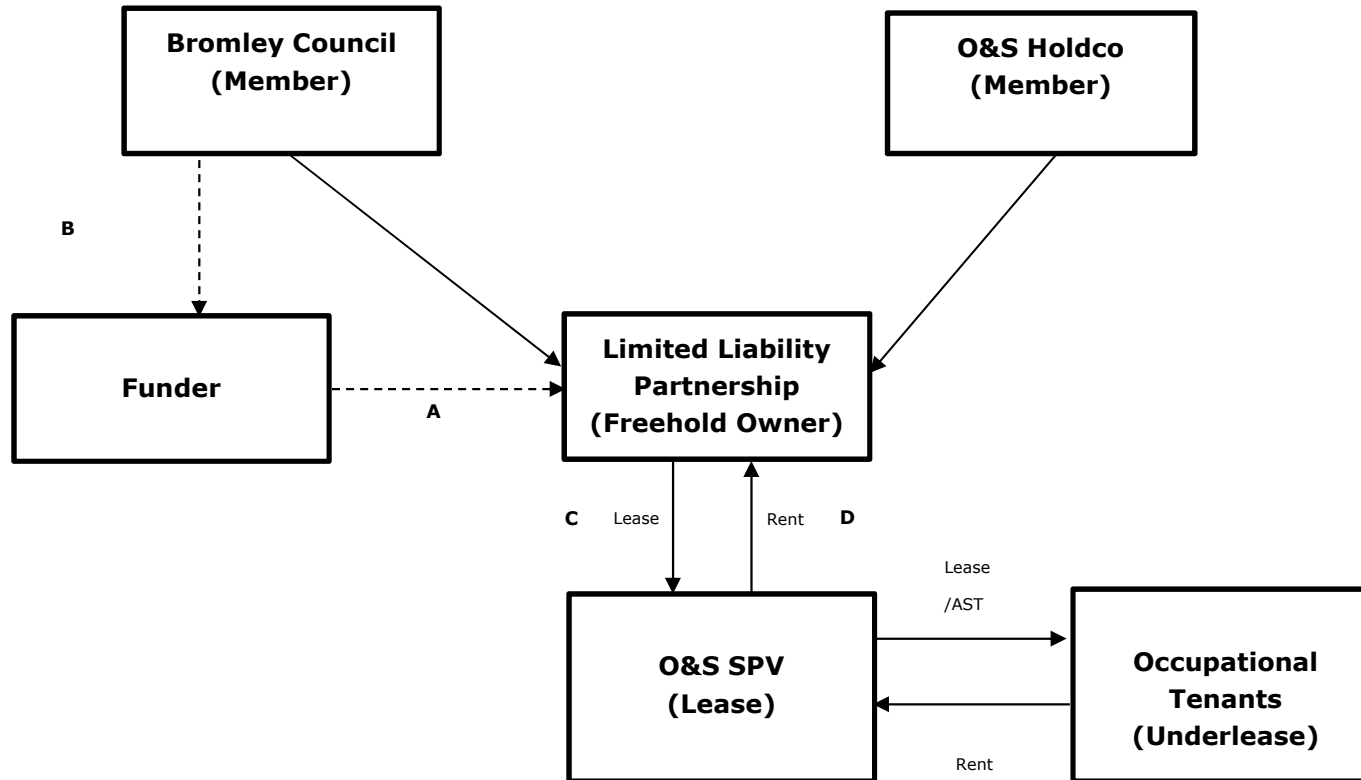
making a profit from activities or maximising return did not, in the Haringey case, mean that those activities were carried out with a commercial purpose.

- 7.7 The recommendations in this report seeks approval from members to delegate authority to the Director of Housing, Planning and Regeneration in consultation with the Director of Housing Director of Corporate Services and Portfolio Holder for Renewal, Recreation and Housing to agree the details of each agreement and enter into all relevant agreements in connection with this scheme. Should there be any significant change to the scheme from the details set out in this report, then a further report will be presented to the Executive to inform members of such change.

Non-Applicable Sections:	Personnel; Procurement
Background Documents: (Access via Contact Officer)	

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STRUCTURE CHART – BROMLEY – REVENUE & CAPITAL ARRANGEMENT



A – Property purchase facility to the LLP for the purposes of acquiring properties.

B – Council will guarantee the liabilities of the LLP under the facility. The Funder can take a floating charge over the assets of the LLP.

C - LLP will benefit from a right to take a surrender of the Lease for a nominal sum.

D – Pursuant to the Lease, O&S will pay a fixed rent to the LLP.

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Appendix 2: Risk Register:

Risk	Comments	Impact	Probability
Regulations change that threaten viability of the programme	Highly unlikely that regulation change will be applied retrospectively. In such event, acting reasonably parties to agree changes to adapt accordingly	None Expected	Low
Significant increase in property prices/reduction in available properties on the market meaning that properties cannot be acquired within the funding available.	Due diligence has been undertaken to ensure a clear evidence base on property availability and property prices. The model allows a level of flexibility on financial numbers. The Council agrees the final acquisition programme, and this will be kept under review and can be adjusted to reflect market changes. The model assumes a relatively speedy acquisition programme to reduce the risk of significant market changes and long-lasting impact on the market.	None Expected or a slight reduction in the overall number of units acquired	Very low.
Changes in local housing allowance/ benefit subsidy arrangements reducing rental income stream during the term of the lease.	Overall, based on market trends it is unlikely that the rental increases built into the model will not be achievable within subsidy arrangements. However, the proposed facility repayment holiday until year 3 will allow for a sinking fund to be established to assist in covering future costs. A proportion of properties could be rented at market rents to cross subsidise lower affordable housing rental levels. A proportion of properties could also be sold if the value has increased significantly. In addition, even if a future decision was made to top up any shortfall this would still be significantly less than the net costs of nightly paid units.	NO impact or a slightly reduced number of properties available to meet statutory rehousing duties	Low
Local housing allowance rates reduced during acquisition programme.	Expectations are that the LHA rates will remain at least at current rates for the next 2-3 years and it is highly unlikely that rates will fall. However, should this occur during procurement then the acquisition strategy can be adjusted to purchase an increased proportion in areas with higher LHA rates or a larger proportion of 3 and 4 bed units which produce a higher rental charge.	No impact or a slightly reduced number of properties purchased	Low
Sales do not complete and legal and or valuation costs incurred.	The model assumes a proportion of sales will not proceed to exchange of contracts. Checks are in place to minimise the rate of fall through. O&S bear the cost unless LBB instruct for a sale not to proceed	No impact – already costed into the model	Very low
Property refurbishment cost higher than anticipated	There is sum built into the model for refurbishment costs and procedures in place through inspection and survey to ensure costs are accurately identified. Any additional costs are an O&S risk	No Impact expected	Very low

Delay in refurbishment work	This is an O&S risk. The target is for occupation within 1 month of completion. The rental commitment from O&S to the Council commences upon completion regardless of refurbishment times and occupation date	No impact expected	Very low
The Council is unable to provide nominations for some of the properties or no longer requires the property in the short or long term	The number of homelessness acceptances and households in TA have consistently exceeded the number of units proposed to be acquired through this and other schemes. All local and national forecasts show numbers increasing in the short, medium and longer term. The property can also be offered to other local authorities or on the open market for rent. Properties can also be sold if the value has increased significantly to offset any debts	Very low	Very low
Lease term of 50 years is a long time and the Council going forward may no longer be responsible for homelessness.	There will very likely always be a need and level of statutory duty for homelessness and housing accommodation in or close to London. Therefore, the demand for good housing accommodation that is affordable means that variations will be possible to scheme entered into, to allow other organisations to take over the leasing arrangement or alternatively cease the scheme, sell the properties and use the capital receipts to pay off any loans outstanding. Should any balance be outstanding on the loan, it will still be significantly lower than the revenue savings that the Council will achieve each year that the arrangement is in place.		
Tenant does not pay the rent	This is an O&S risk. A certain level of bad debt has already been built into the financial model and O&S have a successful track record of rental collection	No impact already costed into the model	Very low
Major repairs required before anticipated in the model or at greater cost	This a risk for O&S and a sinking fund will be accrued to meet such costs. The model provides for a contingency form outset to cover potential works within the first 10-12 years,	No impact – already costed into the model	Very low
O&S fail to provide adequate services	The lease between O&S and the LLP to enable termination under reasonable force majeure clauses and also to provide for early surrender in the event of service or business failure.	Low	Low

Orchard & Shipman Housing Acquisition Proposal**Summary of Net Present Values for various rent inflation scenarios**

Rent inflation assumption	0% for 5 years then				
	2.5%	2.0%	1.5%	1.0%	2%
	£'000	£'000	£'000	£'000	£'000
<u>LLP surplus/deficit(-)</u>					
Year 1	454	454	454	454	454
Year 2 (present value)	1,406	1,404	1,401	1,399	1,395
Year 3 (present value)	19	0	-19	-38	-75
Year 25 (present value)	170	0	-152	-288	-104
Year 50 (present value)	249	0	-197	-352	-70
Total NPV years 1-50 (excl. asset value)	9,656	1,849	-4,881	-10,721	-3,042
Estimated asset value in yr 50 (present value)	44,955	44,955	44,955	44,955	44,955
Total Net Present Value	54,611	46,804	40,074	34,234	41,913
<u>TA savings</u>					
Year 1	347	347	347	347	347
Year 2 (present value)	1,071	1,071	1,071	1,071	1,071
Year 3 (present value)	1,448	1,448	1,448	1,448	1,448
Year 25 (present value)	823	823	823	823	823
Year 50 (present value)	433	433	433	433	433
Total NPV years 1-50	41,892	41,892	41,892	41,892	41,892
<u>Total TA savings + LLP surplus/deficit</u>					
Year 1	801	801	801	801	801
Year 2 (present value)	2,477	2,475	2,472	2,470	2,466
Year 3 (present value)	1,467	1,448	1,429	1,410	1,373
Year 25 (present value)	993	823	671	535	719
Year 50 (present value)	682	433	236	81	363
Total NPV years 1-50 (excl. asset value)	51,548	43,741	37,011	31,171	38,850
Total Net Present Value (incl. asset value)	96,503	88,696	81,966	76,126	83,805

General Assumptions

Consumer Price Index (CPI) inflation	2.0%
House Price Index (HPI) inflation	2.5%
Discount Rate	3.5%
TA savings inflation	1.0%
Average current property value (inc. refurb)	£317k
Properties acquired @ 10/month over first 24 months	

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Report No.
HPR2020/053

London Borough of Bromley

PART 1 - PUBLIC

Decision Maker: EXECUTIVE
WITH PRE-DECISION SCRUTINY BY RENEWAL, RECREATION
AND HOUSING POLICY DEVELOPMENT AND SCRUTINY
COMMITTEE

Date: Wednesday 10 February 2021

Decision Type: Non-Urgent Executive Key

Title: CONTRACT AWARD FOR ESSENTIAL HOUSEHOLD GOODS

Contact Officer: Tracey Wilson, Head of Housing Compliance and Strategy
0208 313 4515 E-mail: tracey.wilson@bromley.gov.uk

Chief Officer: Sara Bowrey; Director Housing, Planning and Regeneration

Ward: All

1. Reason for report

- 1.1 This report accompanies a Part 2 Report which recommends that the Council awards contracts to establish a new Framework Agreement for the provision of essential household items needed to meet the basic requirements of homeless people leaving temporary accommodation and move into settled accommodation.
-

2. RECOMMENDATION(S)

- 2.1 Renewal, Recreation and Housing PDS Committee is asked to note the report and comment on the proposed contract award.
- 2.2 Executive is recommended to approve the award of contracts to the Essential Household Goods Framework for the provision of Welfare Fund/Setting Up Home allowance to the providers detailed in the Part Two report, for the purpose of call-off contracts. The Framework will commence on 01 April 2021 for a period of three years with the option to extend for two years.
- 2.3 Delegate authority to the Director of Housing, Planning & Regeneration in consultation with the Portfolio Holder for Renewal, Recreation & Housing to apply the extension option, subject to the agreement with the Assistant Director Governance & Contracts, the Director of Corporate Services, the Director of Finance.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Summary of Impact: Recipients of the scheme are some of the most vulnerable members of the community with high representation from particular equality groups; in particular vulnerable due to disability, mental health, pregnancy or young children and people including those leaving care.
-

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Children and Young People Supporting Independence Excellent Council Safe Bromley
-

Financial

1. Cost of proposal: Estimated Cost: £1,295k
 2. Ongoing costs: Recurring cost: £259k
 3. Budget head/performance centre: Bromley Welfare Fund; SUHA budget
 4. Total current budget for this head: £639k (Welfare Fund balance as at 31st March 2020). £70k SUHA
 5. Source of funding: Bromley Welfare Fund earmarked reserve. SUHA budget
-

Personnel

1. Number of staff (current and additional): current: 1 part time member of staff
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory Requirement: Care Leavers Setting up Home Allowance is a statutory requirement. The Welfare Fund is not a statutory requirement but assists in fulfilling statutory rehousing duties.
 2. Call-in: Applicable
-

Procurement

1. Summary of Procurement Implications: This report proposes award of contracts, following a compliant tender process, to multiple providers for a 3+2 framework contract at an estimate value of £175k per annum
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Estimated number of users/beneficiaries (current and projected): Approximately 5,000 – 6,000 enquiries are received each year and 2000 -3000 of these households are at imminent risk of homelessness. There

are currently in excess of 1800 households placed in temporary accommodation to whom the Council has a statutory rehousing duty under the homelessness legislation. This number is currently rising by between 12 and 15 households per month. Around 550 families are assisted to move into settled accommodation each year. Approximately 100 care leavers are assisted through the Setting Up Home Allowance each year.

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 The Welfare Reform Act (2012) ended the provision of Community Care Grants and Crisis Loans under the Discretionary Social Fund for living expenses provided by the Department for Work and Pensions. Funding was transferred to Local Authorities from 1 April 2013. Whilst there is no statutory duty requiring Local Authorities to deliver a specific scheme to administer this funding, the Council considers it in the best interests of the community to run such a scheme and in July 2014 the Resources Portfolio Holder approved the adoption of a white goods and furniture welfare scheme from 2015/16.3.2 The scheme was replaced the Bromley Welfare Fund following the government decision to withdraw ongoing funding. The fund has primarily been used to award furniture and white goods to people leaving temporary accommodation or an institution.
- 3.3 It was agreed that the scheme would be restricted both in terms of eligibility criteria and goods available (cookers, fridges, freezers and beds) which have been identified as the minimum items required for the Council to meet its statutory duty to provide suitable settled accommodation for statutory homeless households. A Framework Agreement consisting of three lots was tendered in early 2017.
- 3.4 There are currently 207 Care Leavers and approximately 100 care leavers are assisted through SUHA each year (setting up home allowance). £2,500 funding is available to each Care Leaver and they can use this for items such as: bed, wardrobe, cooker, washing machine, kettle, toaster, sofa, television, curtains, carpet, bedding, towels etc.
- 3.5 It is still the recommendation that the Children's Leaving Care Team are able to access this framework to purchase essential household items for their care leavers.

4. DESCRIPTION OF SERVICE AND SUMMARY OF THE BUSINESS CASE

- i) The Bromley Welfare Fund exists to provide essential furniture and white goods to people leaving temporary accommodation or an institution. In using a framework, this will provide best value for money and prevent households from experiencing unnecessary delays in move on and the associated cost of temporary accommodation placements.
- ii) The initial Framework Agreement was put in place for four years. However, given the limited number of suppliers as mentioned above, Commissioners are of the opinion that the establishment of a new Framework Agreement with an existing framework if suitable would allow a cost effective, flexible, reliable approach to service delivery.

5 CONTRACT AWARD RECOMMENDATION

- 5.1 **Recommended Provider / Framework** – Included with Part 2 report
- 5.2 **Estimated Contract Value (annual and whole life)** – £259k annual and £1,295k whole life value
- 5.2 **Other Associated Costs** – N/A
- 5.3 **Proposed Contract Period** – Total contract period is for a three year contract term with the option to extend for a further two years

- 5.4 The contract specifications detailed the aims of the service and requirements of the providers. They highlighted the proposed client group and the Council's duties for the provision of a safe, sensitive, reliable and efficient provision of essential household goods.

Tender Process

- 5.5 The tender documents were published on 13th November 2020 and closed on 18th December 2020. The tender process was undertaken electronically using ProContract on the London Tenders Portal. Tenderers submitted both quality responses and pricing information. The tender evaluation team comprised of the commissioner and Managers from the Compliance & Strategy Team within Housing.
- 5.6 The quality evaluation was broken down as follows and the successful providers accepted to the framework are detailed in the Part Two report.

Quality Criteria	Weighting
1. Financial Resources and Contract Affordability	5%
2. Information Governance and Security	5%
3. Assessment of Ability	20%
4. Performance Monitoring	15%
5. Service Delivery and Outcomes	15%
6. Staff Training	15%
7. Social Value	10%
8. Sustainability	15%

- 5.7 Providers were required to complete a pricing matrix for the goods to be provided. This matrix calculates the cost for items from Lot 1 and Lot 2 including installation cost and delivery charge.
- 5.8 The operation of the framework will be that the Providers are ranked in order of price based on the combined cost of any goods, installation and delivery charges. The top ranked supplier will be first offered the relevant Goods Order for its consideration. If it wishes to accept the Goods Order, it must communicate the matter to the relevant Permitted Commissioner. Goods volumes are not guaranteed and orders will be called off the framework and offered to the provider offering the lowest price for a specific order requirement.
- 5.9 Subject to Executive approval the indicative timetable for contract mobilisation will be:

10 th February	Executive Report & Decision to Award
	Standstill period, notifications to suppliers, relevant notices
	Contract Signatures and Council Seal
	Contract mobilisation – provider meetings – ordering and reporting process
	Go Live, commence service delivery
July 2021	Contract review report

6 MARKET CONSIDERATIONS

- 6.1 There are a number of suppliers/retailers that could currently provide a very similar cost however this would mean spot purchasing, which is a risk in terms of requirements and we wouldn't have the same assurances for our households, some of which are very vulnerable.

- 6.2 Many retailers do not provide a more enhanced service such as fitting, installation, taking the item to the room of choice, removing any old appliances, arranging a convenient delivery time and providing reminders.
- 6.3 The providers we use are DBS checked and ensure that they operate as environmentally friendly as they can.

7. STAKEHOLDER ENGAGEMENT

- 7.1 Recipients of the scheme are some of the most vulnerable members of the community with high representation from particular equality groups; in particular vulnerable due to disability, mental health, pregnancy or young children and people including those leaving care.
- 7.2 With the removal of the national funding streams set out in paragraph 3.1 of this report and in light of wider welfare reform, such households have reduced access to funds to assist in move on to settled accommodation without access to the welfare fund for the provision of essential; living items these households would not have the financial means to gain essential household goods resulting increased time and cost in the provision of temporary and emergency housing
- 7.3 The number of households requiring assistance is currently increasing, in excess of 1,650 households are currently living in temporary accommodation pending move-on.
- 7.4 Prior to contract award in early 2017, Commissioners consulted with current providers as well as other Local Authorities operating similar schemes to ensure that as many providers as possible were aware of the Council's intentions. Consultation was undertaken with stakeholders including third sector agencies and support providers at the onset of the scheme with regular updates to ensure that the scheme continues to operate effectively to target those most in need. Other Local Authorities continue to operate very similar schemes – providing basic, limited items for households most in need
- 7.5 As this service currently exists there will not be an impact on other projects or IT or Customer Services, the current scheme and the way in which it operates is well established

8. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 8.1 The continuation of this scheme will prevent an increased cost in other service areas. The highest numbers of people assisted are those leaving temporary accommodation and institutions.
- 8.2 Requests will be directed by the Council to a designated team which will prevent client/customer conflict, inequality in decision making and lessen the pressure on individual service budgets.
- 8.3 Applications are made through a referring agent for example: social workers, support workers, housing officer, probation officer etc.
- 8.4 Sufficient contingency has been built into the budget to cover any sudden fluctuations in demand and in addition the policy explains the limitations of the scheme which are discretionary and limited.
- 8.5 Ongoing use of a the scheme ensures that households can be moved on more quickly minimising time spent in costly temporary accommodation and reduces the risk of non-recovery of costs of such accommodation.

- 8.6 By offering the service in this way, there has been an reduction in administration costs as well as the opportunity to coordinate different forms of support to individuals.
- 8.7 Inclusion of the care leavers setting up home allowance items, would ensure the provision of equipment and household items to ensure young care leavers have the appropriate equipmenet and household items to set up a safe, secure and stable home.

9. POLICY CONSIDERATIONS

- 9.1 The Welfare Fund policy supports Bromley Welfare Fund to ensure that it is clear and makes best use of the scheme.

The policy makes it clear that:

- It will not make monetary payments directly to the applicant
 - Specified items will be awarded, for example beds, mattresses, cooker, fridge freezer
 - It is the tenants responsibility or nominated person to ensure they are available at the agreed time to take delivery of items, items will not be re-delivered
 - Items that become lost or damaged will not be replaced
 - In the event of the client moving home, items will not be removed and refitted at the new address
- 9.2 The objective of this service assists in achieving the targets set out in Building a Better Bromley and the Homelessness Strategy to promote independence and reduce homelessness and minimise the use and length of stay in emergency accommodation for vulnerable people and families.
- 9.3 Although the welfare fund is not a statutory service, we are asking for the authority to continue this scheme also helps to ensure that the Council meets its statutory rehousing duties for homeless people. The provision of essential household goods for eligible households can assist in offering suitable long term housing, by assisting clients to move on from costly temporary accommodation. By re-procuring, we aim to deliver a better service and increased efficiencies.
- 9.4 When completing a review of suitability of s188 and s193 accommodation, consideration of appropriate adjustments under PSED (public sector equality duty) must be evidenced for each individual clients needs.

10. IT AND GDPR CONSIDERATIONS

- 10.1 IT and GDPR have been considered and there is an established process and recording mechanisms already in place.

11. PROCUREMENT RULES

- 11.1 This report seeks to award a framework contract for the Essential Household Goods Service.
- 11.2 The tender process used was an open method and was advertised on Contracts Finder.

- 11.3 This is a services contract and the value of this procurement falls below the thresholds set out in Part 2 of the Public Contracts Regulations 2015, so is only subject to Part 4 of the Regulations.
- 11.4 This process has been carried out in line with the requirements of the Public Contracts Regulations 2015. A voluntary standstill period will need to be observed.
- 11.5 As the contract value is over £25k, an award notice will need to be published on Contracts Finder.
- 11.6 The Council's specific requirements for authorising an award of contract are covered in CPR 16 with the need to obtain the Approval of the Executive following agreement from the Portfolio Holder, Director of Corporate Services, Director of Finance, Assistant Director of Governance & Contracts and the Chief Officer. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 11.7 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

12. FINANCIAL CONSIDERATIONS

- 12.1 The estimated value of the proposed contract is £259k per annum, with a whole life value of £1,295k over the maximum 5 year period.
- 12.2 The table below sets out the spend on essential household goods over the last three financial years:

	Housing	Children's	Total
	£'000	£'000	£'000
2017/18	109	90	199
2018/19	111	68	179
2019/20	162	95	257

- 12.3 The provision of these goods for households in temporary accommodation is funded from the Bromley Welfare Fund earmarked reserve. As at 31st March 2020, the balance on the reserve is £639k.
- 12.4 It is currently estimated that housing expenditure will total £175k per annum for 2020/21 onwards, which would exhaust the earmarked reserve during 2023/24. The continued funding for this scheme past this date will therefore need to be considered as part of the housing element of the medium term financial strategy.
- 12.5 The setting up home allowance (SUHA) is funded from Children's Social Care core funding. Spend can fluctuate over the years due to the number of care leavers in the borough. However, over the last three years it has averaged at around £84k per annum. There is budget available in the service to continue with this arrangement.
- 12.6 This £84k figure is the total expenditure on all essential household goods for the Leaving Care Service. It would be the maximum expenditure under this arrangement as the Leaving Care Service does use other procurement methods to obtain essential household goods.

13. PERSONNEL CONSIDERATIONS

- 13.1 No staffing implications

14. LEGAL CONSIDERATIONS

- 14.1 This report demonstrates compliance with procurement requirements.
- 14.2 A suitable framework agreement has been drafted by Legal Services.
- 14.3 All contracts for the supply of goods will be between the relevant supplier and the end user (i.e. the consumer). The Council will not be a party to those contracts. As part of the procurement exercise, Legal Services has reviewed the terms and conditions of supply of the goods that would apply to consumers, and has indicated whether or not they are satisfactory (i.e. include appropriate consumer protections).

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	

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Report No.
CSD21023

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: EXECUTIVE

Date: 10th February 2021

Decision Type: Non-Urgent Executive Key

Title: **BLLENHEIM SHOPPING CENTRE – FREEHOLD DISPOSAL**

Contact Officer: Michael Watkins, Assistant Director Strategic Property
Tel: 020 8313 4178 E-mail: Michael.watkins@bromley.gov.uk

Chief Officer: Director of Housing, Planning, Property and Regeneration

Ward: Penge and Cator

1. Reason for report

New River Retail ('NRR') have approached the Council to acquire the freehold so that they can develop above at Blenheim Shopping Centre, Penge, at which NRR own the long leasehold interest.

2. **RECOMMENDATION**

Members are asked to agree to the sale of the freehold of the Blenheim Shopping Centre to NRR on the terms detailed in the accompanying Part 2 Report of the same title, noting the contents of this report specifically to the proposed Method of Assessment.

Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
-

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Excellent Council
-

Financial

1. Cost of proposal:
 2. Ongoing costs:
 3. Budget head/performance centre:
 4. Total current budget for this head:
 5. Source of funding:
-

Personnel

1. Number of staff (current and additional): Not applicable
 2. If from existing staff resources, number of staff hours: Not applicable
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
-

Procurement

1. Summary of Procurement Implications: Not applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Ward Members were asked for views or comments on the draft versions of this report and none were received.
2. Summary of Ward Councillors comments: None

3. COMMENTARY

- 3.1 The Council own the freehold interest in Blenheim Shopping Centre, Penge. New River REIT ('NRR') hold a long leasehold interest in the site, by way of a 125 year term from 12th August 2010 at a Peppercorn rent.
- 3.2 NRR have approached the Council to acquire the freehold (or amendments to the lease to extend and allow for rights to develop above) of the Blenheim Shopping Centre, Penge, in order to allow them to undertake development on the site
- 3.3 Cushman & Wakefield ('C&W') were instructed by the Council to assess, review, report and negotiate with NRR.
- 3.4 The following is a summary of the negotiations over the past few months and the agreed assumptions which have led both parties to an agreed final sum to be offered for the freehold interest on the site. Details of the original offer were considered by Officers to be of interest to the Council but further challenged to ensure all potential benefits to the Council had been fully explored before any further action was recommended. The details of the offer are contained within the accompanying Part 2 Report of the same title.

Location & Description

- 3.5 The site is located in south east London, within the London Borough of Bromley, Penge Ward, specifically on the south side of Penge High Street. The centre is located 0.5 miles south east of both Penge East and Penge West Stations and approximately 0.5 miles north west of Kent House Station.

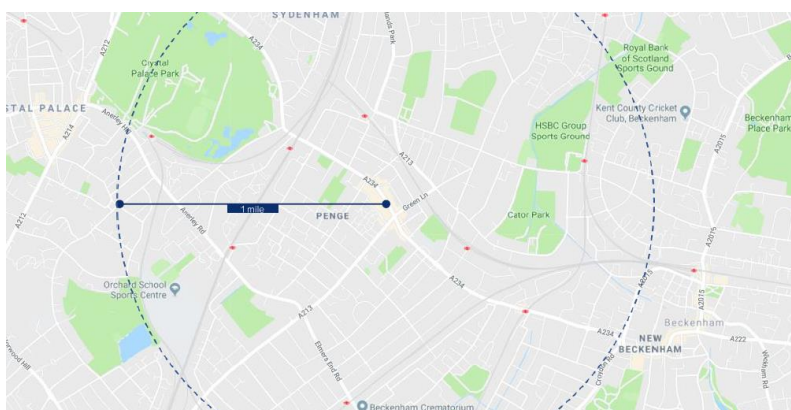
The following connections are possible:

Penge East – National Rail

- Brixton – 11 minutes
- London Victoria – 19 minutes

Penge West – London Overground

- Canada Water – 18 minutes
- London Bridge – 23 minutes



- 3.6 The site is an existing shopping centre, located on the south side of the high street, which also provides additional shops and services. A number of local schools are also situated in close proximity.

- 3.7 The property comprises a Shopping Centre site accessed via Empire Square. The current occupiers include Wilko, Iceland, Peacocks and Card Factory.
- 3.8 The site extends to 0.7 hectares (1.73 acres).
- 3.9 The surrounding area provides a mixture of uses, including retail on Penge High Street to the east, residential uses to the south/west and educational facilities provided at the Bromley Adult Education College to the southeast of the site. Nearby amenity green space is located at the Penge Recreation Ground and Royston Field to the northwest and south respectively. Crystal Palace Park is also located approximately 800 metres to the northwest. Bromley Council have recently completed improvement works to Empire Square, improving the vitality of the area.
- 3.10 The site currently accommodates 45,756 sq ft of retail space distributed amongst units spread over two floors.

Proposed re-development

- 3.11 As stated at 3.1 NRR intend to redevelop the Blenheim Centre. They have undertaken a Pre-App with the Council's Planning Team and consider that their proposals are achievable.
- 3.12 In order to assess the value that could be generated through the merging of the freehold and leasehold interests, and thereby determine the value that should be paid to the Council in return for the sale of the freehold interest, both parties have agreed upon a scheme to be used as a calculation basis. The scheme was provided by NRR at the outset of the project and the Council provided comment in the adoption of a base line scheme for assessment.
- 3.13 It must be noted that this scheme has been adopted for the calculation of value. Any scheme will be subject to Planning in the normal way. Furthermore, the negotiations undertaken have not been conditional on the outcome of any future Planning Application.
- 3.14 Whilst the NRR proposed scheme is a commercial decision for them to progress, it is considered that any scheme put forward would be a mix of retail and residential. Therefore, the Council have insisted on nomination rights and that a covenant and restriction be placed on the title to the land following completion of the disposal to ensure that a policy compliant scheme is ultimately delivered.

Proposed Method of Assessment

- 3.15 After establishing the uplift in value to the centre by the merging of the leasehold and freehold interests would be applicable almost entirely to the potential development of the upper parts, a rationale was agreed to assess the value of the development potential.
- 3.16 A baseline scheme was agreed following initial design work and planning feedback conducted by NRR (Pre-app response) and engagement with Council's Planning Department. The baseline scheme reflected a reduction in scale to the maximum massing indicated in the NRR feasibility study, reflecting comments made by the Council's Planning team. The base scheme is deemed to reflect a fair risk position on the basis on an unconditional disposal.
- 3.17 To assess development value, a residual appraisal was agreed, reflecting inputs a 'market' norm developer would make when seeking to purchase the opportunity. The appraisal did not account for any implications on the Net Operating Income of the centre that may occur during the development process. This was considered a positive for the Council as the income in construction is likely to reduce to reflect the disruption to the tenants below.

- 3.18 A residual appraisal requires the calculation of the end value of a development (in this case the cumulative value of the private and affordable apartments within the base scheme) and the deduction of all reasonable costs to deliver the development (build, professional fees, planning cost, finances, sales fees etc) and then a deduction of the developers profit margin. The 'residual' value after the deduction of all costs is the level appropriate for an incoming developer to pay.
- 3.19 As part of the process, NRR provided their assumptions first, enabling C&W to challenge elements of the appraisal where their assumptions differed from those provided. Where the NRR assumptions exceeded (in a beneficial manner) the expectations of the C&W independent review, these assumptions were adopted due to their overall positive impact on the residual sum.

Marriage Value

- 3.20 It should be noted that in the case of the subject property and exercise, the whole value is unlikely to be payable to LBB. As the sole purchaser who could also conduct a development above the centre, NRR can deliver a value not otherwise achievable for the asset. They are therefore seeking to purchase the asset without competition and in the knowledge their value is above the value of the asset if placed in the market.
- 3.21 Accepted valuation logic for such a process recommends a 50 / 50 split in the value between the two relevant interest owners, reflecting the upside in value to LBB that is not otherwise possible but also a beneficial purchase position for NRR.
- 3.22 Details of the above and the negotiations undertaken with NRR are provided in the accompanying Part 2 Report of the same title.

Alternative Options Considered

- 3.23 Following the approach by NRR to the Council with regards to purchasing our Freehold Interest, the Council considered all available options, before concluding on the recommendations as set out in this report.
- 3.24 One option is to do nothing – however, the freehold interest that the Council currently owns, generates no income (rent is set at peppercorn) and doesn't derive any other tangible benefit, as to all intents and purposes, NRR have control of the site under their long leasehold interest. Another consideration is that by doing nothing the Council makes redevelopment of the site impossible (due to the terms of the existing long leasehold interest), and thereby hinders wider objectives of the Council to support the delivery of high quality regeneration projects and meet affordable housing needs.
- 3.25 Another option that has been considered is the sale of the Council's freehold interest in the open market – however, the value of the Council's freehold interest in the open market is nominal, due to the length of the lease controlled by NRR, and the lack of income that it generates. The sale of the freehold interest to anyone other than NRR would not facilitate future development potential on the site and this would be reflected in the value that any other purchaser could attribute to the freehold interest.
- 3.24 NRR are a Special Purchaser for the site, and by definition, are able to offer Best Value to the Council as there are benefits of the acquisition that are personal to NRR.

- 3.25 The definition of a Special Purchaser under the RICS UK VPGA 17 is ‘one to whom the property, or interest in the property being valued has a particular attraction which it does not have for the market in general.’ In this instance, NRR are a Special Purchaser as their Long Leasehold interest means they are the only possible purchaser who can obtain an unencumbered Freehold Interest in the site through this acquisition and thereby benefit from the development potential that an unencumbered freehold interest will enable.
- 3.26 Part 2 of this report will set out in further detail the valuation and negotiation methodology employed in ensuring the proposal reflects Best Value, and the Council has taken suitable professional advice in reaching the recommendations in this report.

4 IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 There is not considered to be an impact on Vulnerable Adults and Children as a consequence of this decision.

5 POLICY IMPLICATIONS

- 5.1 It is essential that the Council optimises the utilisation of its assets and ensures that it retains only those properties that meet the corporate and service aims and objectives.

6 FINANCIAL IMPLICATIONS

6.1

LEGAL IMPLICATIONS

- 7.1 Under section 123 of the Local Government Act 1972, a local authority has the power to dispose of land. The main caveat to this power is that the council must not do so for “a consideration less than the best that can be reasonably obtained”. This is interpreted as being the best price achievable in the open market.
- 7.2 The focus of the duty is on the outcome rather than any particular process being followed. That said, if a disposal were to be challenged, the Courts are likely to find the duty to obtain best consideration has not been complied with where:
- there is a failure to take proper advice;
 - proper advice has been obtained but there has been a failure to follow it for reasons that cannot be justified; or
 - advice has been obtained and followed, but the advice is so plainly wrong that the Council either knew or ought to have known it was acting unreasonably
- 7.3 In respect of this proposal the Council has retained the services of suitable agents to act on its behalf and consequently the risk to the Council would be mitigated in respect of 7.2 above.
- 7.4 As the interest in the Shopping Centre is held by NRR via a long lease for a term of 125 years from 12th August 2010 at a Peppercorn rent they are considered a Special Purchaser.
- 7.5 The disposal negotiations have been predicated on the assumed value of the scheme NRR are intending to develop and what the Council’s reasonable share of that development benefit against its existing interest could be provided to the Council.

7.6 As the purchaser is considered to be a Special Purchaser the Council has employed a firm of Chartered Surveyors to provide appropriate valuation advice and expertise as to the NRR development offer.

Non-Applicable Sections:	HR and Procurement
Background Documents: (Access via Contact Officer)	

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