

EXECUTIVE

Minutes of the meeting held on 30 November 2022 starting at 7.00 pm

Present:

Councillor Colin Smith (Chairman)
Councillors Kate Lymer (Vice-Chairman), Yvonne Bear,
Nicholas Bennett J.P., Christopher Marlow, Angela Page
and Diane Smith

Also Present:

Councillor Simon Fawthrop and Councillor Simon Jeal

90 APOLOGIES FOR ABSENCE

Apologies were received from Councillor Aisha Cuthbert.

91 DECLARATIONS OF INTEREST

There were no additional declarations of interest.

92 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 19 OCTOBER 2022

The minutes of the meeting held on 18 October 2022 were agreed and signed as a correct record.

93 QUESTIONS

One oral question and three written questions were received. The questioner who had submitted the oral question was not present and it was therefore agreed that a written response would be provided. The questions are attached at Appendix A.

94 BUDGET MONITORING 2022-2023 Report FSD22086

The report provided the first budget monitoring position for 2022/23 based on expenditure and activity levels up to the end of September 2022. The report also highlighted any significant variations which would impact on future years as well as any early warnings that could impact on the final year end position.

The Executive noted the financial pressures within the Children's Social Care budget and the ongoing pressures arising from inflation.

The Portfolio Holder for Resources, Commissioning and Contracts Management reported that the Council had been able to execute Phase 2 of the Bromley Meadowship Homes Scheme, notwithstanding the recent market volatility. The Leader of the Council congratulated all those involved in delivering the scheme highlighting the strong team effort which had delivered an excellent outcome for the Council.

RESOLVED: That

- 1. The latest financial position be considered;**
- 2. A projected net overspend on services of £9,568k forecast based on information as at July 2022 be noted;**
- 3. The comments from Chief Officers detailed in Appendix 2 be noted;**
- 4. A projected reduction to the General Fund balance of £1,478k as detailed in section 3.3 of the report be noted;**
- 5. The full year cost pressures of £9.369m as detailed in section 3.4 of the report be noted;**
- 6. The release of funding from the 2022/23 central contingency as detailed in paragraphs 3.2.2 to 3.2.6 of the report be agreed;**
- 7. The release of £314k from the CEF Health Reserve Fund for expenditure in the CEF department as detailed in paragraph 3.8 of the report be agreed.**

95 CAPITAL PROGRAMME MONITORING 2022-23
Report FSD22083

The report summarised the current position on capital expenditure and receipts following the second quarter of 2022/23 and sought the Executive's approval to a revised capital programme.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 23 November and the Committee had supported the recommendations.

RESOLVED: That

- 1. The report, including a total re-phasing of £134k from 2022/23 into future years be noted and a revised capital programme be agreed.**
- 2. The following amendments to the capital programme (paragraph 3.3 of the report) be approved:**
 - (i) Increase of £3,000k in relation to the budget for depots**

- (ii) Increase of £20,970k for additional costs associated with the Direct Line project, the preferred option for the existing capital budget for the Civic Centre redevelopment scheme**

2.2 That Council be recommended to approve the increase of £23,970k to the capital programme (paragraph 3.3 of the report)

96 OPERATIONAL PROPERTY REVIEW

A review of the Council's operational property had been undertaken to identify the optimal operational estate and understand the liability of it over a 10-year period together with the potential to undertake minor refurbishments where appropriate to minimise future liability. This report provided an overview of the work undertaken.

Introducing the report, the Director of Finance noted the funding gap in the Capital Programme and explained that this report, and the following report set out the proposed strategy in terms of funding the future capital programme.

In opening the discussion, the Portfolio Holder for Resources, Commissioning and Contract Management emphasised that Bromley Council had been continuously operating and providing services since 1964. However, during that time services and the way they were provided had changed and it was only appropriate that assets were reviewed to ensure the Council was in a strong position to continue to provide services.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 23 November and the Committee had supported the recommendations.

RESOLVED: That

- 1) The contents of the report be noted;**
- 2) The Operational Estate Strategy as detailed at 3.22 to 3.30 of the report be adopted;**
- 3) Officers progress the various Workstreams identified at 3.34 to 3.43 of the report noting that works packages once scoped and costed will then be reported to the Executive for consideration to proceed and award works packages;**
- 4) The sums identified within the report are incorporated into the Capital Programme be agreed;**
- 5) The funding of the £3M resources identified at 3.45 of the report be agreed in principle to enable Officers to progress the various**

Workstreams and such funding to be made available from the Capital Programme.

97 PROPERTY DISPOSALS

The Operational Property Review had identified the need to generate Capital Receipts to reduce the overarching cost of clearing maintenance liabilities and for bringing up to a standard through minor refurbishment, those properties the Council intended to retain. A number of properties and leasehold interests had been identified for either disposal or by lease re-gearing to generate Capital Receipts.

The Leader of the Council emphasised that the Council would not be engaging in “fire sales” as some had been scurrilously suggesting and would only dispose of properties at the appropriate time. The Portfolio Holder for Resources, Commissioning and Contracts Management highlighted that as a result of the Council being debt free it was not forced to rush the sale of assets and Members could take their time and seek fair value.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 23 November and the Committee had supported the recommendations.

RESOLVED: That the report be noted.

98 FUTURE COUNCIL HQ OPTIONS

The report was provided for the Executive to consider the future provision of the Council’s Head Quarters with the options being to remain at the Civic Centre site and refurbish it or to relocate to a new site which was available subject to agreeing the right purchase price. The cost of the purchase would be offset by the disposal of the existing Civic Centre site.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 23 November and the Committee had supported the recommendations.

RESOLVED: That the report be noted.

99 BIGGIN HILL AIRPORT LTD: REQUEST TO VARY USER CLAUSE

BHAL had formally requested their intention to seek to modify the definition of “Permitted User” in clause 1.8 of the Lease. They had requested that the Council approved the modification, but should the Council not decide to approve it then pursuant to their rights under section 84 of the Law of Property Act 1925 (“LPA 1925”) they would apply to the Upper Tribunal (Lands Chamber) to determine such a change.

In introducing the item, the Portfolio Holder for Resources, Commissioning and Contracts Management made the following comments and highlighted the following points from the discussion at the Executive, Resources and Contracts PDS Committee on 23 November 2022:

1. The letter from BHAL dated 24th October demanded a response within 28 days, so this was not an item that could be deferred;
2. The legal advice the Council received indicated that the Council had strong grounds to resist challenge to the current Permitted User Clause (PUC);
3. The Council had a duty to behave reasonably in respect of any requests made by BHAL in its capacity as tenant;
4. Any amendment of the existing PUC could undermine the principle of no fare-paying passengers upheld by the Court of Appeal in 2002;
5. The lease had been set up partially to protect residents on environmental grounds; and
6. The 28-day deadline set by BHAL had, similar to the request last year, given the Council and Bromley residents relatively little time for discussion.

The Portfolio Holder noted that the letter dated 24th October received from BHAL contained the following sentence: "Please confirm that the Council agrees to BHAL's above proposed modification of the definition of the Permitted User in the Lease". This was followed by "However, having taken all of the above steps, if this still does not result in an agreement over the proposed modification then BHAL will have to make such an application and will refer the Tribunal to this correspondence". It was noted that under property law Bromley Council as landlord of the airport was required to consider any requests to amend the lease received from BHAL as tenant. Bromley Council was acting within its legal obligations as landlord by considering this request; it would also be entirely within its legal rights as landlord to refuse, providing this was done on reasonable grounds.

Executive heard that the existing permitted user clause, upheld by the Court of Appeal in 2002, did not permit fare-paying passengers. The original intention of this clause and the lease in general, as amended by the deed of variation and related documents in 2016, was to permit the operation and development of Biggin Hill airport for business aviation, flight training and private flying, as well as one air fair or display each year. It was drafted explicitly to preclude the possibility of fare-paying passengers from using the airport, as the resulting increase in aircraft movements would likely result in an unacceptable loss of amenity for residents living in the southern part of the borough.

The Portfolio Holder recognised that the latest request from BHAL did not explicitly request fare-paying passengers. However, it would allow "passenger services operated by aircraft carrying no more than 19 passengers, provided that seats are only made available to individuals who by reason of club

membership, shared ownership or some other private arrangement with the owner or operator of the aircraft are able to secure a seat on such a flight". The Portfolio Holder emphasised that the crucial words lie towards the end of the sentence: "some other private arrangement with the owner or operator of the aircraft". As noted by officers in paragraph 3.27 of the report "the statement contains enough ambiguity so as to allow for the possibility of multiple ways of purchasing tickets for flights with minimal restriction". It would effectively permit fare-paying passengers without explicitly doing so, and thus effectively end the restriction on the airport's activities upheld in the judgement of 2002.

However, in order for the Council to refuse the request on reasonable grounds, it must have substantive grounds on which to do so. The operations of Biggin Hill benefitted the borough in terms of generating local employment and diversifying the borough's economy. The Council also benefited directly via the turnover rent it received from the airport and its share of business rates generated by activities on the airport's site. Set against this, the airport's activities generated significant negative externalities for residents living in the southern part of the borough. The most significant of these was noise from aircraft travelling to or from the airport. This noise disrupted the sleep of residents who worked night shifts (including those at the Princess Royal University Hospital) and the enjoyment of residents living or visiting the southern part of the borough of their gardens or green spaces, as the noise of passing aircraft was sufficiently loud to halt conversation. The Portfolio Holder highlighted that in the summer months, when there could be aircraft movements every few minutes along a single route, the effect for residents was particularly oppressive. In addition, the growing number of residents working from home following the COVID-19 pandemic were also affected, with their virtual meetings and conference calls disrupted by aircraft noise. Although not visible or audible, the carbon emissions resulting from the airport's operations also concerned a growing number of residents. The Portfolio Holder suggested that private aviation was far more damaging in terms of carbon emissions per capita than regular aviation; with a BBC article from 2021 (<https://www.bbc.co.uk/news/59135899>) estimating the CO2 emissions per passenger were almost five times higher from private jets than regular commercial flights. The Portfolio Holder further noted that due to the cost of private aviation, the number of the borough's residents that have ever been able to use private aviation services from the airport was a mere fraction of the number of residents directly affected by its environmental impacts.

The Portfolio Holder noted that the proper role of the Council was to weigh the economic benefits from the airport's operations against the negative environmental externalities. It was entirely right and proper that Members considered the impact on residents as well as the purely financial impact on the Council as a corporate body. Bromley was not just a private landlord, but a local authority with democratic legitimacy to represent its residents and their interests in negotiations with third parties. It would be unreasonable to judge the Council's actions as if it were a private landlord with no broader public

role; indeed, this was recognised in clause 2.11 of the Lease which required any arbitrator assessing whether the Council was acting reasonably by refusing a request to amend the lease to the 'no reasonable local authority' test.

Turning to the likely impact of the proposed change, the Portfolio Holder noted that in the report Council officers highlighted that no forecast of the impact of any change to the permitted user clause on the number of annual aircraft movements had been provided. The number of movements was directly correlated to the impact the airport's operations had on those residents living under flightpaths in the southern part of the borough. Moreover, activity at the airport, and thus the Council's income from turnover rent and business rates, was also correlated with the number of movements. Considering the Council's obligation as a reasonable local authority to weigh the economic benefit from any changes to the airport's governing regime against the likely environmental impact, the Portfolio Holder felt that it was not reasonable for the airport to request a change to its governing regime without providing any data regarding the impact of the change in terms of the number of movements. The Portfolio Holder acknowledged that a claim may be made by the airport or others that the intent of the change was to ensure that aircraft that were already flying were used more efficiently, with supposed environmental benefits. The Portfolio Holder considered that this was highly disingenuous, as it ignored the fact that tickets may effectively be purchased for flights, then operators would be able to spread the fixed costs of flights over a greater number of passengers. That in turn would increase the viability of individual flights, and thus the total number of movements to and from the airport. As the environmental impact of the airport's operations could not be reduced to a financial value, the Council could not weigh the economic and environmental impacts of this potential change in monetary terms alone. However, the Portfolio Holder noted that while BHAL's financial contribution to the Council was under £1m per annum, the amount of Council tax paid by residents in the southern wards of Darwin, Hayes and Coney Hall, Petts Wood and Knoll, Bromley Common and Holwood, Farnborough and Crofton, Orpington, and Chelsfield was equivalent to circa £86m per year.

Finally, the Portfolio Holder noted that in their letter, BHAL implied that without 'modernisation', which they equated to amendment of the permitted user clause, the airport would not benefit from investment. The Portfolio Holder felt that it was difficult to see how this claim could be made when Members had been invited to the grand opening of Bombardier's newly expanded London Biggin Hill Service Centre earlier in the day. Bombardier were clearly prepared to make this investment under the existing terms of the lease. As noted in paragraph 3.29 of the officer report, Castle Air had similarly recently announced an increase in their operations from Biggin Hill and lastly, the Portfolio Holder noted the development of the hotel on the airport site.

In conclusion, the Portfolio Holder noted that while the Council wished to see the airport operate successfully and profitably within the bounds of its

governing documents, as it had done with considerable success in recent years, the Council would not be acting as a reasonable local authority if it agreed to further liberalisation of the lease without considering the likely environmental impact of such a change. Members knew from the airport's noise action plan that complaints had quadrupled since the variation of the lease in 2016, which had driven a shift in the type of aircraft using the airport from small general aviation aircraft to business jets. Councillors representing all southern wards excluding Biggin Hill, with a combined population of approximately 99,000, had personally conveyed to the Portfolio Holder the sheer volume of correspondence received on this issue, none of which was supportive of the airport's request. The Executive had before it not a request, but an ultimatum to change the lease put in place to protect the residents of the borough, without any forecast of how such a change was likely to affect them. On that basis the Portfolio Holder urged the Executive to follow the officer recommendation to refuse BHAL's application to amend the Permitted User Clause in the lease.

The Chairman of the Executive, Resources and Contracts PDS Committee supported the comments made by the Portfolio Holder for Resources, Commissioning and Contracts Management, confirming that they represented an accurate summary of the discussion at the recent PDS Committee. The Member also highlighted that local residents felt that they had not been consulted and had not had a voice.

The Officer recommendation that BHAL's application to amend the Permitted User Clause in the Lease be refused was put to the vote:

6 in favour

1 abstention

The motion was therefore carried.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 23 November and the Committee had supported the recommendations.

RESOLVED: That BHAL's application to amend the Permitted User Clause in the Lease be refused.

100 BROMLEY TOWN CENTRE HEALTH AND WELLBEING CENTRE DEVELOPMENT PROPOSAL ON BEHALF OF THE NHS BROMLEY ICB

On 20th October 2021 the Executive considered a proposal to develop a new Health and Wellbeing Centre (HWBC) with the South East London Clinical Commissioning Group (CCG) on the site of the former Adventure Kingdom building and the Great Hall at the Civic Centre. A key requirement for the CCG was that the new facility be ready for use by Spring 2024 due to funding pressures from the Department of Health and HM Treasury.

Subsequent to this, additional work was carried out and it was identified that to achieve the CCG's requirements an accelerated programme was required which would incur additional cost at an earlier stage to that originally envisaged. These additional costs were set out in paragraph 3.13 of the 20th October 2021 report.

This expenditure enabled detailed feasibility, design, planning and construction delivery planning to be progressed at pace and without delay. As a result of this there was a need to formally request the cost of the scheme, including costs recoverable from the CCG, be formally included within the Capital Programme so that identified sums within the report could be drawn down to facilitate the appointment of the various consultants and work required.

Furthermore, this demonstrated the Council's commitment to both HM Treasury and NHS England that it intended to proceed and could deliver the proposed development in a timely manner.

The Executive, Resources and Contracts committee supported the proposals at its meeting on 9th February 2022 as did the Executive Committee, subject to requesting regular reports to the PDS Committee on progress. The Leader added that regular reports would be needed for the Executive.

The report noted that as of 1st July 2022, following legislative changes, the CCG was now the South East London Integrated Care Board (ICB), The report provided the requested update to both ERC PDS and the Executive on the options available and sought the relevant authorities to enable the Council to continue to work with the ICB and to support them in their proposals for the refurbishment of the Adventure Kingdom as set out in the report.

Mr Mark Cheung, One Bromley Programme Director – Integrated Care (Bromley ICB) attended the meeting and explained that the report set out a proposal which made the most of the funding available. It was acknowledged that timescales were tight but it was felt that the project was deliverable in those timescales. The proposals would deliver a much needed health centre in Bromley Town which would complement the work being delivered in other parts of the borough. It was noted that it was an NHS-led scheme involving close partnership working with the Council.

The Executive noted that the Council was indemnified from costs and as such there was no financial risk to the Council. The Leader expressed thanks to everyone involved in developing the proposals.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 23 November and the Committee had supported the recommendations.

RESOLVED: That

- 1. It be noted that the updated proposals for the HWBC on the site of the Adventure Kingdom and that previous proposals as approved by the Executive, Resources and Contracts at its meeting on 9th February 2022 will not be proceeding.**
- 2. Approval be given to agree the updated proposals with the ICB for delivery of the project on behalf of the ICB such as design, procurement, terms, management and funding, as set out in sections 3.2 to 3.18 of this report, as necessary to proceed and to approve the intention to continue to work in partnership with the ICB, noting that the ICB continues to provide a cost indemnity for the Council's costs in respect of the project.**
- 3. Authority be delegated to the Director of Housing, Planning, Property and Regeneration in consultation with the Director of Finance, the Director of Corporate Services and the Resources, Commissioning and Contract Management Portfolio Holder, to determine and finalise, as detailed in sections 3.2 to 3.18, all necessary commercial terms, financial arrangements and to deal with publicising, if appropriate, any Open Space Notices and considering representations received and reporting to Members as necessary, and prior to or in conjunction with the proposed report at 2.4 below.**
- 4. Approval be given for proceeding to procurement, via a compliant joint procurement arrangement with the ICB as set out in paragraph 3.12 to 3.16, for the main works contractor for the refurbishment of the HWBC site at an estimated cost of £6,500,000 (with cost indemnity for the works provided by the ICB). Noting that a formal decision on contract award (and associated contract novations) as set out in paragraphs 3.12 to 3.16 will be presented to Executive in due course prior to the commencement of contract.**
- 5. Authority be delegated to the Assistant Director of Legal Services to enter into all relevant legal agreements as detailed in paragraphs 3.12 to 3.16 of the report and any other necessary ancillary legal documentation relating thereto, including (but not limited to):**
 - The project agreement;**
 - The Section 2 agreement;**
 - Agreement for lease and lease; and**
 - Option agreement.**
- 6. It be noted that the ICB programme envisages construction commencement in June 2023 for completion in March 2024 in order to secure funding. Should there be significant delays to the ICB programme then the Council will need to consider whether it should proceed at that time.**

7. Officers provide regular updates to Executive, Resources and Contracts PDS Committee on the ICB's progress with the project.

**101 IT TRANSFORMATION
Report CSD22130**

(Having previously declared a pecuniary interest, Councillor Simon Fawthrop left the room for consideration of the item).

The report set out options and recommendations for the Executive to consider on the future of the Council's Data Centre and Disaster Recovery. The report appraised the various technical options as part of the analysis process included the recommended option, risks, benefits and the required changes that were needed to ensure that the Council provided an adequate disaster recovery capability.

The Executive noted that the proposals within the report could reduce the costs of any future Council accommodation plans. It was also noted that over time a move to a multi cloud approach would be considered as part of the Council's IT Strategy.

In response to a question, the Assistant Director for IT confirmed that the contract agreed through crown commercial could, if necessary, be renegotiated after 3 to 4 years to reflect any changes in the Council's circumstances.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 23 November and the Committee had supported the recommendations.

RESOLVED: That

- 1. The information be noted and the procurement of Microsoft's Cloud (Azure) as the Council's Data Center with disaster recovery and increased resilience of the Data Centre for 5 years be agreed.**
- 2. An increase in the IT Services revenue budget of £400k be approved to ensure Microsoft Cloud (Azure), Disaster Recovery and Cyber Security functions required are procured and available for the Council. This additional revenue budget requirement represents a forward commitment as part of the 2023/24 and future years budget. There will be part-year costs expected of c. £100k in 2022/23 which will need to be managed from within the existing approved IT Services revenue budget.**
- 3. The use of the current IT service provider, BT, through the mechanism of the Westminster City Council Pan-London ICT Framework to procure the services detailed in the report be agreed. Also, where in the opinion of the Director of Corporate Services and Governance a separate procurement is required or**

desirable, agree to delegate authority to this Director in consultation with the Portfolio Holder, to authorise the use of an alternative procurement route in order to proceed to procurement and award the contract.

102 UK SHARED PROSPERITY FUND - BOROUGH ALLOCATION
Report HPR2022/057A

The report sought authority to accept the UK Shared Prosperity Fund borough allocation grant and delegated authority for agreeing allocation of the monies with GLA.

The Portfolio Holder for Renewal, Recreation and Housing highlighted that the initiatives this would fund would benefit the borough.

The report had been scrutinised by the Renewal, Recreation and Housing PDS Committee at its meeting on 16 November and the Committee had supported the recommendations.

RESOLVED: That

- 1. the acceptance of the in-principle allocation of UKSPF grant funding totalling £1.63M, be approved and the capital programme and revenue budgets be adjusted accordingly;**
- 2. Authority be delegated to the Director of Housing, Planning and Regeneration in consultation with the Portfolio Holder for Renewal and Recreation to determine interventions agreed with Greater London Authority through a grant agreement and any variations to the grant;**
- 3. The proposed interventions submitted to the Greater London Authority set out in paragraphs 3.6-3.29 be noted; and,**
- 4. It be noted that the scope of this decision does not include the in-principle allocation of £760K for 2024-2025 for People and Skills which is only accessible through Local London and determined through sub-regional decision-making.**

103 NIGHT TIME ENTERPRISE ZONE FOR BROMLEY TOWN CENTRE
Report HPR2022/052

The report provided a summary of the successful Night Time Enterprise Zone bid for Bromley Town Centre and sought authority to spend the funding.

The Portfolio Holder for Renewal, Recreation and Housing thanked Officers for their work on putting the bid together noting that a good outcome had been achieved for Bromley.

The report had been circulated to Renewal Recreation and Housing PDS for comment.

RESOLVED: That

- 1. A new one-off revenue budget for the Night Time Enterprise Zone project of £130k, funded by GLA grant funding of £130k (Your Bromley match funding will be directly spent by Your Bromley) be approved, noting that this would be accepted and expended on the interventions included in the funding application, as set out in paragraph 3.9**
- 2. It be noted that the allocated funding must be spent prior to reimbursement by the Greater London Authority**
- 3. It be noted that this decision is being put before the Executive in accordance with General Exception Rule 15 of the Council's Access to Information Procedure rules for the following reasons:**
 - i) The grant award was confirmed on 15 September 2022, however the GLA did not publicly announce the awards until 17th November 2022, therefore it could not be published on the Council's Forward Plan 28 days before the decision is made;**
 - ii) due to the funding timescales, it would be impracticable to defer the decision until it has been included in the forward plan and to wait for the next Executive meeting.**
- 4. It be noted that in accordance with Rule 15 (b) the Chairman of the Renewal, Recreation and Housing PDS Committee had sight of the report 5 clear days prior to the decision, fulfilling the requirement of Rule 15 (b).**

**104 LAWN TENNIS ASSOCIATION PARKS RENOVATION FUND
Report HPR2022/054**

The report provided details of a successful grant application made to the Lawn Tennis Association to fund the renovation of ten tennis courts across the Borough and requested the Council's Executive approve the acceptance of the grant and proceed with the renovation works.

The Portfolio Holder for Renewal, Recreation and Housing thanked Officers for their work on the grant application which would deliver a huge boost to the tennis facilities in the borough.

The report had been scrutinised by the Renewal, Recreation and Housing PDS Committee at its meeting on 16 November and the Committee had supported the recommendations.

RESOLVED: That:

- 1) The acceptance of the Lawn Tennis Association Grant be approved, subject to standard Terms and Conditions;**
- 2) The scheme be added to the capital programme; and,**
- 3) Officers commence the tender process to procure an operator.**

**105 DEPOT INFRASTRUCTURE WORKS STAGE 3 UPDATE
 Report ES20222**

On 16th July 2018, the Executive (ES18032) approved a total capital budget of £6.5m for infrastructure works across a range of depot locations.

Following the appointment of design consultants and the refinement of scope at Design Stage 2 (under the Royal Institute of British Architects Plan of Work - industry standard organisation of the design and construction process), on 24th November 2021, the Executive (ES20109) approved progression to Design Stage 3 and 4 and the procurement of a suitable construction contractor through a construction procurement framework. The construction contract at that time had an estimated value of £4.35 million.

Ordinarily further approval would not be required at the end of the detailed Stage 3 Design. However, the indicative costs for the works are significantly higher than anticipated and it is considered that altering the procurement process may provide better value for the Council. Therefore, the report sought approval for additional capital funds and a change in procurement route to ensure that the vital infrastructure works at the two Council Waste Sites required to deliver key frontline services are implemented.

In response to a question from a visiting Member, the Director of Environment and Public Protection confirmed that the works at the Churchfields site were progressing well and would be completed by Christmas. In relation to the lifespan of the works being completed, the Director of Environment and Public Protection suggested that in general a minimum lifespan of 10 years could be expected.

The report had been scrutinised by the Environment and Community Services PDS Committee at its meeting on 22 November and the Committee had supported the recommendations.

RESOLVED: That

- 1. That it be noted that the total capital budget for the depot infrastructure works remains at £6.107m within the capital programme; with revenue funding from maintenance budgets now identified to fund the critical repair works at Central Depot Waste**

Site and Beaverwood Parks Depot referenced in Executive Report ES20109;

- 2. That it be noted that the progress of the design development for the two Council Waste Sites, as detailed in the report;**
- 3. That Full Council be recommended to approve an additional £3m capital funds from the capital programme to be allocated to the depot infrastructure works, giving a total all-inclusive budget of £9.107m;**
- 4. Proceeding to procurement for a suitable construction contractor via a restricted or competitive procedure with negotiation procurement process for the main works contract, along with the proposed variation of the Veolia contract as per Paragraph 2.5 be approved. The combined estimated total construction value of these works is £7.145m, with an additional £715k client contingency delegated to the Project Manager, Capital Projects to be used as needed making the total estimated value up to £7.860m; and,**
- 5. The Veolia Waste collection contract be varied to enable them to design and build two new weighbridges on the operational road within Waldo Road Waste Transfer Station section. The construction costs of which will be contained within the above figures.**

**106 GATEWAY REPORT - PROCEED TO PROCUREMENT:
SUBSTANCE MISUSE
Report ACH22-037**

The London Borough of Bromley had a statutory duty to improve the health of the population and to provide local public health services including arrangements to secure the provision of substance misuse services for adults and young people. Substance misuse services were currently provided by CGL (Change, Grow, Live) who delivered the adult substance misuse service, BDAS (Bromley Drug and Alcohol Service) and the young people's substance misuse service, Bromley Changes at an estimated whole value of £7,490k. Both contracts were due to expire on 30 November 2023. In recent years the Service had received additional grants from the Office for Health Improvement and Disparities (OHID) to increase the capacity and scope of the Contracts. Further grants were likely to be made available for 2023/24 and 2024/25.

A visiting Member explained that he had voted against the recommendations at the recent Adult Care and Health PDS Committee noting concerns in relation to combining the two contracts as the whole life value was a substantial increase on the current contract. A contract of this size would limit the number of providers that could realistically deliver it and could price out small, specialist services, and it was questioned if large providers could tailor their service to meet the local needs. The rise in demand was the reason for

the increase in contract value and there were further concerns about what was being done in relation to prevention services. The Assistant Director – Public Health advised that the proposal was to combine the contract, not the services – they wanted to gain the benefits and efficiency of one management and clinical governance structure, which was the current arrangement and there would also be two separate service specifications.

The Executive noted the concerns that had been raised and further noted that Officers would ensure that there was a break clause in the contract and that the performance of the successful contractor would be monitored through the Council's usual contract monitoring processes.

The report had been scrutinised by the Adult Care and Health PDS Committee at its meeting on 22 November and the Committee had supported the recommendations.

RESOLVED: That

- 1. A variation to the current Adult and Young People's Substance Misuse Services contracts (paragraphs 3.17 and 3.18 of the report) be approved to increase the contract value across both contracts by £120k for the period from 1 December 2022 to 30 November 2023.**
- 2. The extension be approved beyond term for the current contracts (paragraph 3.19 of the report) for a period of 4 months from 1 December 2023 to 31 March 2024 at an estimated value of £540k.**
- 3. The commissioning approach be approved and proceed to procurement for a combined Adults and Young People's Substance Misuse Service (paragraphs 3.20 to 3.25 of the report) for a five year contract commencing 1 April 2024, with the option to extend for a further three years, at an estimated annual value of £1,718k (whole life value £13,744k).**
- 4. Authority be delegated to Chief Officers in consultation with the Portfolio Holder to authorise an appropriate portion of the Supplemental Substance Misuse Treatment and Recovery (SSMTR) Grant to be drawn down in 2023/24, 2024/25 and to vary the scope and value of the contract accordingly subject to the grant conditions which will be specified by the Office for Health Improvement and Disparities (OHID).**

**107 GATEWAY 1: ADULT MENTAL HEALTH RECOVERY AND REHABILITATION SUPPORT AT HOME SERVICE
Report ACH22-035**

Mental Health recovery and rehabilitation accommodation-based support and floating support services aim to support mental health service users away from reliance on hospital and residential provision towards more enabling and cost-effective services such as supported accommodation, support in the community and targeted support towards independent living. The LBB Mental Health Flexible Support Service contract was due to expire on 30 September 2024. The current contract had been in place since 1 October 2019 and had an estimated value of £319k per annum. The contract had no further options to extend and a cumulative value of approximately £1,890k over the 5-year term.

The South East London Integrated Care Board (SELICB) Adult Mental Health Residential and Supported Accommodation Services contract was due to expire on 30 September 2024. The current contract had been in place since 1 April 2019 and had an estimated value of £1,432k per annum. The contract had no further extension options remaining and a cumulative value of approximately £6,963k over the 5-year term.

In addition, LBB held individual placement contracts for clients placed into SELICB contracted provision. In 2021/22 the combined annual value of these placements was estimated to be approximately £1.12m per annum. In total these two services had an estimated combined value more than £2.94m per annum.

The Gateway 0 report ACH22018, presented to Executive on 29 June 2022, advised members on the procurement options for future housing support mental health services in Bromley and gained approval to replace the existing service model with a new joint adult mental health recovery and rehabilitation support@home service contract in 2024, underpinned by the section 75 agreement between LBB and SELICB, and with a combined total contract value estimated at £2.66m per annum, split 50:50 between LBB and SELICB.

The report before the Executive sought approval to commence the procurement of the service in accordance with the arrangements set out in the report to commence the new service on 1 October 2024.

The report had been scrutinised by the Adult Care and Health PDS Committee at its meeting on 22 November and the Committee had supported the recommendations.

RESOLVED: That

- 1. The commencement of a tender process for the housing support mental health services 'support@home' contract be approved:**
 - **for an initial period of 5 years from 01 October 2024 to 30 September 2029**

- with two options to extend for a further period of 2 years from 01 October 2029 to 30 September 2031 and 1 October 2031 to 30 September 2033
 - at an estimated total contract value of £23.4m; and
2. Authority be delegated to the Chief Officer in consultation with the Portfolio Holder to approve the contract extension period(s) on satisfactory achievement of the contract performance indicators.

**108 GATEWAY 2: PERMISSION TO AWARD REPORT - ADVOCACY SERVICES (PART 1)
Report ACH22-036**

On 29th June 2022, Executive approved the re-tender of the Advocacy services to enable the commencement of a new contract from 1st April 2023. The current contract was delivered through Advocacy for All with an estimated annual value of £286k. The report set out the results of the tendering process for the provision of the advocacy services and sought Executive approval to award the contract. The report should be read in conjunction with the accompanying Part 2 Report.

The report had been scrutinised by the Adult Care and Health PDS Committee at its meeting on 22 November and the Committee had supported the recommendations.

RESOLVED: That

1. The contract for the provision of the Advocacy services be awarded as detailed in the accompanying Part 2 Report. The proposed contract will commence on 1st April 2023 for a five-year period with the option to extend for up to a further two years.
2. Authority be delegated to the Director of Adult Services, in consultation with the Portfolio Holder for Adult Care & Health services, the Assistant Director of Governance & Contracts, the Director of Finance and the Director of Corporate Services and Governance, to vary the contract to meet statutory demands and exercise the extension period for up to two years.

**109 LEARNING DISABILITY - SHORT BREAKS - CONTRACT AWARD (PART 1)
Report ACH22-041**

The Council had a contract in place with Ambient Support to provide a bed-based short breaks (formerly referred to as respite) service for adults with a learning disability. The contract was awarded for a two-year period from 1 April 2021 to 31 March 2023 and, as the contract was awarded following a direct negotiated contract award process, there was no opportunity to extend.

The short breaks block contract currently provided 6 beds at the 118 Widmore Road short breaks service with up to 4 additional beds available for spot purchase from Ambient Support. A gateway report, setting out proposals in relation to the bed based short breaks service and seeking agreement to progress a tender process was scrutinised by ACH PDS on 28 June 2022 and received Executive agreement on 29 June 2022. The report before the Executive detailed the outcome of the tender process and sought agreement to award the contract as set out in the accompanying Part 2. The contract was to provide 34 block bed nights per week and would commence on 1 April 2023 for a period of 5 years with an option to extend for another 3 years at a contract value as detailed in the Part 2 version of this report. The option to purchase additional beds on a spot basis would be in place to meet any peaks in demand.

The report had been scrutinised by the Adult Care and Health PDS Committee at its meeting on 22 November and the Committee had supported the recommendations.

RESOLVED: That

- 1. The contract for the provision of 34 block bed nights per week at the residential short breaks service at 118 Widmore Road be awarded for a period of 5 years from 1 April 2023 to 31 March 2028 with an extension option of 3 years from 1 April 2028 to 31 March 2031 to the provider and at the contract value as detailed in the Part 2 report.**
- 2. Authority be delegated to the Director of Adult Services, in consultation with the Portfolio Holder for Adult Care and Health Services, the Assistant Director Governance & Contracts, the Director of Finance and the Director of Corporate Services and Governance, to exercise the 3-year extension period.**

**110 LEARNING DISABILITY SUPPORTED LIVING SERVICES - BROMLEY ROAD, BROSSIE WAY AND PADUA ROAD - CONTRACT AWARD (PART 1)
Report ACH22-042**

The Council had a contract with Southside Partnership (also known as Certitude) to provide care and support into 3 supported living properties within the Borough. A Gateway report, setting out the strategy for undertaking the procurement of these services was agreed at Executive on 29th June 2022. The report before the Executive details the outcome of the procurement process and sought approval for the award of contract to the provider detailed in the accompanying Part Two report commencing 6 March 2023 for a period of 4 years to 5 March 2027 with an option to extend for a further 4 years from 6 March 2027 to 5 March 2031. The estimated total cost of the award over the full 8-year term (excluding inflationary increases and fluctuations due to individual client need) was detailed in the Part Two report.

The report had been scrutinised by the Adult Care and Health PDS Committee at its meeting on 22 November and the Committee had supported the recommendations.

RESOLVED: That

- 1. The contract for the provision of supported living services be awarded to the provider detailed in the Part Two report commencing 6 March 2023 for a period of 4 years to 5 March 2027 with an option to extend for a further 4 years from 6 March 2027 to 5 March 2031. The estimated total cost of the award over the full 8-year term (excluding inflationary increases and fluctuations due to individual client need) is detailed in the Part Two report.**
- 2. Authority be delegated to the Director of Adult Services, in consultation with the Portfolio Holder for Adult Care and Health Services, the Assistant Director Governance & Contracts, the Director of Finance and the Director of Corporate Services and Governance, to exercise the 4-year extension period.**

**111 MAINTAINED NURSERIES TRANSFORMATION
Report CEF22078**

Identifying efficiencies within service areas was one of the agreed targets under the Transforming Bromley Agenda. The report explored the options for consideration by senior officers with regards to the Council's directly delivered nursery provision. The report went on to make recommendations for the next steps for both nursery settings, which if approved would be presented to elected members for consideration.

The Executive noted that the proposals formed part of the Council's Transformation Programme. The Deputy Leader and Portfolio Holder for Children, Education and Families emphasised that since the covid pandemic the numbers of children in the nurseries had fallen. Since the temporary closure of Blenheim, the team had done a good job of supporting parents to secure alternative nursery places.

A visiting Member noted that Penge and Cator ward councillors had given qualified support to market testing given the clear need for the Community Vision provision and any closure of that provision was opposed. The Penge and Cator ward councillors understood the different circumstances for the two nursery provisions.

The report had been scrutinised by the Children, Education and Families PDS Committee at its meeting on 17 November and the Committee had supported the recommendations.

RESOLVED: That

- 1) It be agreed to proceed to formal staff and public consultation on a proposal to close the Council nursery located in Blenheim Children and Family Centre. The proposal would include that the service is decommissioned from 31 March 2023 and that staff currently employed to work at Blenheim Nursery are permanently relocated to the Council nursery at Community Vision, Penge; and,
- 2) Authority to implement any proposed closure be delegated to the Director of Education in consultation with the Portfolio Holder for Children, Education and Families, having considered the outcome of the consultation period.

**112 HOLIDAY AND SATURDAY GROUP BASED SHORT BREAK SERVICE FOR DISABLED CHILDREN AND YOUNG PEOPLE - CONTRACT AWARD
Report CEF220675A**

The report sought approval for the recommendation to award the Holiday and Saturday Group Based Short Breaks Contract, scheduled to commence on 1 April 2023.

The recommendation to award followed on from the approval by Executive on the 29 June 2022, for commissioners to re-tender the Holiday and Saturday Group Based Short Breaks service to enable the commencement of a new service contract from 1 April 2023.

The Contract Award report should be read in conjunction with the accompanying Part 2 report which set out the details of the result of the tendering process for the provision of the Holiday and Saturday Group Based Short Breaks contract.

The report had been scrutinised by the Children, Education and Families PDS Committee at its meeting on 17 November and the Committee had supported the recommendations.

RESOLVED: That

- 1) The award of contract for the provision of the Holiday and Saturday Group Based Short Breaks Service be approved as detailed in the accompanying Part 2 Report. The proposed contract to commence on 1 April 2023 for the period of three years plus the option to extend for two periods of up to two years, making a total possible contract period of seven years, ending on 31 March 2030; and,
- 2) Authority be delegated to the Director of Children, Education and Families to apply the two two-year contract extensions in consultation with the Portfolio Holder for Children, Education and Families and subject to agreement of the Director for Corporate

Services and Governance, the Director of Finance and the Assistant Director: Governance and Contracts as determined by Contract Procedure Rules.

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

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

114 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

115 CAPITAL PROGRAMME MONITORING 2022-23 (PART 2 APPENDIX)

The Executive noted the Part 2 Appendix.

116 OPERATIONAL PROPERTY REVIEW (PART 2)

The Executive considered a report containing the schedule of properties considered as part of the Operational Property Review.

117 PROPERTY DISPOSALS (PART 2)

The Executive considered the report approved the recommendations outlined in the report.

118 FUTURE COUNCIL HQ OPTIONS (PART 2)

The Executive considered a report setting out options for the future provision of the Council's Head Quarters.

**119 BIGGIN HILL AIRPORT LTD: REQUEST TO VARY USER
CLAUSE (PART 2)**

The Executive considered the Part 2 (exempt from publication) legal advice outlined in the report and noted that the Executive Resources and Contracts PDS Committee had recommended that the Executive agree to set aside appropriate funds to fight any tribunal case.

RESOLVED: That appropriate funds be set aside to fight any tribunal case.

**120 GATEWAY 2: PERMISSION TO AWARD REPORT - ADVOCACY
SERVICES (PART 2)**

The Executive considered the report and awarded the contract in line with the recommendations.

**121 LEARNING DISABILITY SUPPORTED LIVING SERVICES -
BROMLEY ROAD, BROSE WAY AND PADUA ROAD -
CONTRACT AWARD (PART 2)
Report ACH22-042**

The Council considered the report and awarded the contract in line with the recommendations.

**122 LEARNING DISABILITY SHORT BREAKS - CONTRACT
AWARD (PART 2)**

The Executive considered the report and awarded the contract in line the recommendations.

**123 HOLIDAY AND SATURDAY GROUP BASED SHORT BREAK
SERVICE FOR DISABLED CHILDREN AND YOUNG PEOPLE -
CONTRACT AWARD (PART 2)**

The Executive considered the report and awarded the contract in line with the recommendations.

124 DEPOT INFRASTRUCTURE WORKS STAGE 3 UPDATE

The Executive considered the Part 2 (exempt from publication) information set out in the report.

Chairman

The Meeting ended at 9.00 pm

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**EXECUTIVE
30 NOVEMBER 2022**

THE FOLLOWING QUESTIONS HAVE BEEN SUBMITTED FOR ORAL REPLY

From Mr Dermot McKibbin to the Portfolio Holder for Public Protection and Enforcement

Has the council progressed the Council's Housing Strategy recommendation to review housing condition data in the private rented sector and when will the results be known?

Reply:

Following publication of the Housing Strategy, and with the onset of the Covid Pandemic, a decision was made to delay consideration of a business case for increased investment in environmental health based interventions in the private rented sector for the first three years of the strategy. This area will now be subject to review as part of the housing strategy update.

THE FOLLOWING QUESTIONS HAVE BEEN SUBMITTED FOR WRITTEN REPLY

From Mr David Clapham to the Leader of the Council

(Item 10)

1. Item 5.10 on page 22 of the lease (page enclosed for convenience) between LBB and BHAL confirms the Tenant is liable for all costs, fees, charges, disbursements and expenses associated with every application for a consent or licence required by the provisions of the lease. Can the Executive confirm that the legal advice obtained together with all other associated costs fitting within the description contained within the lease covering this latest request from BHAL for a change to the Permitted User Clause will be invoiced to the Tenant?

Reply:

The Council will endeavour to recharge all its out of pocket expenses, wherever it is legally possible to do so.

(Background - Item 3.17 of the Officers report at Item 10 of the Agenda notes the lack of an environmental impact assessment.)

2. In view of Climate Change this is most concerning to residents. Nitrogen Oxide emissions will be high and hydrocarbon and carbon monoxide emissions can also be high, particularly when aircraft are idling on the ground. Given the proximity of the airport and aircraft flightpaths over many thousands of Bromley residents, what steps are being taken to quantify and report the air quality in the impacted area?

Reply:

The Council will be endeavouring to explore any such possibilities with BHA over coming months.

From Gill Slator to the Leader of the Council

Will Executive request and consider the initial representations received (UNITE representation attached) and bring back any formal consultation responses and recommendations to a future committee?

Reply:

I am advised that your representations were considered by Members of the CEF PDS meeting held on 17th November, so there is no need to do so again here this evening.