

EXECUTIVE, RESOURCES AND CONTRACTS POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Minutes of the meeting held at 7.00 pm on 2 February 2023

Present:

Councillor Simon Fawthrop (Chairman)
Councillor Robert Evans (Vice-Chairman)
Councillors Jeremy Adams, Jonathan Andrews,
Mark Brock, David Cartwright QFSM, Kira Gabbert,
Julie Ireland, Simon Jeal, Jonathan Laidlaw,
Ruth McGregor, Will Rowlands, Shaun Slator, Mark Smith
and Melanie Stevens

Also Present:

Councillor Christopher Marlow, Portfolio Holder for Resources,
Commissioning and Contracts Management
Councillor Colin Smith, Leader of the Council (attended virtually)

Councillor Colin Hitchins (attended virtually)
Councillor Tony Owen (attended virtually)

85 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies were received from Councillor Tony Owen. Councillor Jonathan Andrews attended as substitute.

The Committee noted that Councillors Owen, Hitchins and Colin Smith had joined the meeting virtually.

86 DECLARATIONS OF INTEREST

Several Members declared that they had received modest hospitality from Biggin Hill Airport Limited, it was noted that the value of the hospitality received was below the threshold required for declaration.

Councillor Melanie Stevens declared that she sat on the Biggin Hill Consultative Committee.

Councillor Simon Fawthrop declared that he was a Member of the Free Speech Union.

87 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC ATTENDING THE MEETING

Seven questions were received and these are attached at Appendix A.

2 February 2023

**88 MINUTES OF THE EXECUTIVE, RESOURCES AND CONTRACTS
PDS COMMITTEE MEETING HELD ON 16 JANUARY 2023
(EXCLUDING EXEMPT ITEMS)**

The minutes of the Executive, Resources and Contracts PDS Committee meeting held on 16 January 2023 (excluding exempt information), were agreed and signed as a correct record.

**89 MATTERS OUTSTANDING AND WORK PROGRAMME
Report CSD23021**

The report dealt with the Committee's business management including matters outstanding from previous meetings and the proposed work plan for the remainder of the year.

Looking forward to the 2023/24 Work Programme, the Committee noted that an update on Commissioning and Procurement would be presented to Members along with any proposed changes to Contract Procedure Rules arising from secondary legislation associated with the Procurement Bill.

RESOLVED: That the report be noted.

90 FORWARD PLAN OF KEY DECISIONS

The Committee noted the Forward Plan of Key Decisions covering the period January 2023 to April 2023.

**91 RESOURCES, COMMISSIONING AND CONTRACTS
MANAGEMENT PORTFOLIO - PRE-DECISION SCRUTINY**

The Committee considered the following report where the Resources, Contracts and Commissioning Portfolio Holder was recommended to take a decision.

**A TREASURY MANAGEMENT STRATEGY 2023/24 AND QUARTER
3 PERFORMANCE 2022/23 AND ANNUAL INVESTMENT
STRATEGY 2023/24
Report FSD23014**

The report summarised treasury management activity during the third quarter of 2022/23. Investments as at 31st December 2022 totalled £388.7m (£442.9m at 31st December 2021) and there was no outstanding external borrowing. The report also included the Treasury Management Strategy and the Annual Investment Strategy for 2023/24, which were required by the CIPFA Code of Practice for Treasury Management in the Public Services to be approved by the Council. The report also included prudential indicators and the MRP (Minimum Revenue Provision) Policy Statement, both of which required the approval of Council. For clarification, the Council was required by statute to agree and publish prudential indicators, primarily to confirm that the

Council's capital expenditure plans were affordable and sustainable. The report ensured that the Council was implementing best practice and complying with the requirements of the CIPFA Code of Practice for Treasury Management.

In response to a question the Director of Finance explained that the key issues for credit ratings were around risk and reward. The aim of the changes proposed in the report were to provide more options for investment, although there was risk and Members had to be comfortable with any risks. The Director of Finance confirmed that the aim was to keep investments until redemption dates.

Noting that now was not the time for any Council to be taking more risks, Councillor Adams, on behalf of the Labour Group, proposed the following amended recommendations:

2.1. The Resources, Commissioning and Contracts Management Portfolio Holder is requested to:

- (a) note the Treasury Management performance for the third quarter of 2022/23.*
- (b) recommend that Council agrees to adopt the Treasury Management Statement and the Annual Investment Strategy for 2023/24 including:*
 - (i) the Prudential Indicators for the period 2023/24 to 2025/26*
 - (ii) the Minimum Revenue Provision (MRP) policy statement*
 - (iii) revised minimum credit-ratings for Housing Associations (A-) and Corporate Bonds (A-)*

2.2. Council is requested to:

- 1. (a) note the Treasury Management performance report for the third quarter of 2022/23*
- 2. (b) agree to adopt the Treasury Management Statement and the Annual Investment Strategy for 2023/24 including:*
 - (i) the Prudential Indicators for the period 2023/24 to 2025/26*
 - (ii) the Minimum Revenue Provision (MRP) policy statement*
 - (iii) revised minimum credit-ratings for Housing Associations (A-) and Corporate Bonds (A-)*

Amendment 2: We propose that the council agrees an addition to its Treasury Management Statement and the Annual Investment Strategy for 2023/24:

That any new investments should be in countries or territories classified as "Free" or "Partly Free" by Freedom House. No investments should be made in countries or territories classified as "not free".

In relation to credit ratings, the Chairman suggested a compromise proposal of minimum BBB+ (rather than BBB-).

In considering the second amendment, the question was raised around whether it was right to exclude countries on that basis. The Director of Finance confirmed that all the Council's investments were sterling based and

2 February 2023

FCA regulated as such protections were in place and the Council was able to achieve a better return.

In relation to the proposed amendments, consensus was reached that the minimum credit rating should be BBB+ and that in relation to Freedom House, Officers should be asked to further investigate.

RESOLVED: That the Portfolio Holder be recommended to

- 1. Note the Treasury Management performance for the third quarter of 2022/23.**
- 2. Recommend that Council agrees to adopt the Treasury Management Statement and the Annual Investment Strategy for 2023/24 including:**
 - (i) the Prudential Indicators for the period 2023/24 to 2025/26**
 - (ii) the Minimum Revenue Provision (MRP) policy statement**
 - (iii) revised minimum credit-ratings for Housing Associations (BBB+) and Corporate Bonds (BBB+)**

92 PRE-DECISION SCRUTINY OF EXECUTIVE REPORTS

The Committee considered the following reports on the Part 1 agenda for the meeting of the Executive on 8 February 2023:

**(5) BIGGIN HILL AIRPORT NOISE ACTION PLAN REVIEW
Report CSD23024**

At the meeting of the Executive Committee on 19 October 2022, an update was brought to the Executive on the Biggin Hill Airport Noise Action Plan review. At the time of the report, one of the key commitments of the Noise Action Plan (NAP), the new approach to Runway 03, was yet to be approved by the Civil Aviation Authority (CAA). As this commitment was deemed to be one of the most important for residents, the committee asked for a further report to be brought to the Executive Committee in January 2023, once the CAA had made its decision on this issue.

The CAA had now issued its decision refusing the new approach to R03. The report recommended moving forwards with the revision of the NAP with a view to making improvements without the benefit of the new approach to R03 for the next five years.

The Committee received a presentation from Mr Robert Pattullo, Chairman of Flightpath Watch (FPW).

In opening the discussion, a Member highlighted that whilst a revised NAP should be developed and agreed this should only be done after the formal review of the current NAP had been completed as it had now been six years since the current NAP was agreed. One of the key conditions of the current NAP was Runway 03 and following the decision of the CAA this would now not happen. There were also several other elements of the NAP with which Biggin Hill Airport Limited (BHAL) had failed to comply and BHAL needed to be held accountable.

In relation to the cap on movements, the Member recalled that at the time the current NAP was produced there had been assurance that the 50,000 cap on movements was fixed. However, since that time this cap had been exceeded. The Member argued that the Council's position should be that the cap on movements was fixed and unchallengeable.

Another Member noted that there were four parties to the agreement: BHAL, residents, Officers/the Council's Executive, and scrutinising Councillors. The Member suggested that it may be helpful to convene a Working Party to ensure that all parties could be involved in the review of the NAP and the production of any revised NAP. This would ensure that residents were fully engaged in the processes.

The Committee recognised that this was something that greatly affected residents, and the volume of correspondence received by Councillors on this issue was testament to that. A Member stressed that it was reasonable for residents to assume that BHAL would comply with the terms of the lease. The Member expressed the hope that during negotiations for the revised NAP every opportunity to reduce noise and air pollution would be taken.

Councillor Jeal emphasised that residents now wanted the Council to move towards a revised NAP that was clear and legally enforceable. Emphasising the need to have a transparent and credible process that residents could understand, trust and respect, Councillor Jeal, on behalf of the Labour Group, proposed the following amendments:

2.2 Agree that BHAL in association with the Council need to work on the revision of the NAP and agree a new NAP for the following five years *that is mutually agreeable and addresses the needs and concerns of local residents with safety and air quality being considered.*

2.3 Authorise officers to agree with BHAL *a process to work to agree a revised NAP for recommendation to the Executive to include representation from;*

- A. The Portfolio Holder for Resources and Commissioning;*
- B. Councillors from each political group represented on Bromley Council;*
- C. Concerned Residents' Associations;*
- D. Any other key stakeholders e.g. Flightpath Watch;*

2 February 2023

2.4 That the Council should initiate a public consultation as part of the review process, before recommendations for a revised NAP are presented to the Executive, in good time for residents' views of possible improvements to be discussed with BHAL and suggestions to be considered as part of the review.

2.6 Note that an update on progress of the NAP revision will be reported to the Executive, Resources and Commissioning PDS Committee, and published on the Council's website, on a quarterly basis, with the intention that the revised NAP be agreed by the end of 2023.

The Chairman commented that the recommendations reflected the comments made by other Members who had spoken and welcomed the cross-party consensus on the way forward. It was noted that the recommendations that had been proposed were in line with the recommendations other Members of the Committee had been seeking to propose.

The Committee recognised that any negotiations had to be transparent. The Chairman made the following additional comments for the Executive to consider:

- Note the cap in listed paragraphs 3.35 and 3.36
- Include within the NAP review an air quality measure and a continuous improvement measure.
- Calculation of noise should be any movement which has a noise impact which could be measured at any point along the flight path or within the noise contour area.
- Introduce stricter noise restrictions on the flight paths beyond the noise contours, both for take-off and landing.
- review early morning helicopter movements above 45dB with an aim to eliminating these movements which cause disturbance.
- Note that noise footprints should not exceed 51dB on the 16 hour average, include a recommendation to not exceed 51dB in any 15 minute period or for any trip in the extended hours granted in the deed of variation.
- No SMART measurement should be a worse standard than any standard included in the lease or any agreed NAP variation.
- Introduce a noise measurement plan which demonstrates continuous improvement, with any regression from the improvement.

Another Member stressed that any suggestions put forward by the parties in negotiations needed to be safe and needed to be agreed as safe by BHAL. It was highlighted that BHAL had offered to meet with representatives of FPW.

The Committee recognised the importance of the views of residents being taken into account throughout the process. It was also noted that any consultation had to ask the right questions.

RESOLVED: That the Executive be recommended to consider all the observations outlined in the minutes and the recommendations included within the report.

**6. 2023/24 COUNCIL TAX
Report FSD23012**

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 and the funding strategy were reported to the previous meeting of the Executive. The Provisional Local Government Finance Settlement 2023/24, which covered 2023/24 only with limited indication of funding for 2025/26, provided the fourth year (following 10 years of austerity) of real increases in funding. The settlement included continuation of the ASC precept, repurposed social care funding, additional adult social care funding and other changes. Although the settlement was to be welcomed there remained uncertainty around the level of Government funding for 2024/25 and beyond, particularly as the Government would need to address the significant increase in public debt due to the pandemic. The longer-term Spending Review together with the awaited Fair Funding Review and Devolution of Business Rates (or any revised funding proposals) was not expected until 2026/27. The report identified the final issues affecting the 2023/24 revenue budget and sought recommendations to the Council on the level of the Bromley element of the 2023/24 Council Tax and Adult Social Care precept. Confirmation of the final GLA precept would be reported to the Council meeting on 27th February 2023. The report also sought final approval of the 'schools budget'. The approach reflected in this report was for the Council to not only achieve a legal and financially balanced budget in 2023/24 but to have measures in place to deal with the medium-term financial position (2024/25 to 2026/27). With the Government reductions in funding since austerity measures began, although there have been some recent improvements in funding, the burden of financing increasing service demands falls primarily on the level of council tax and share of business rate income. The financial forecast assumed that the level of core grant funding would remain unchanged, in real terms, from 2025/26.

During discussions the Committee agreed that it would be helpful at a future meeting to undertake a detailed review of the Earmarked Reserve. In response the Director of Finance confirmed that he would be undertaking a review and the aim had been to provide detail in the Budget Closedown Report presented at the beginning of the new municipal year.

In response to a question concerning the levies referenced in recommendation 2.1(e), the Director of Finance confirmed that the Council was obliged to pay the levies and any decision not to do so would require a change of legislation. Whilst concerns around value for money in respect of the levies had been raised, the Council had no option but to pay however, the

2 February 2023

Director of Finance suggested that some additional narrative around levies could be added to the letter appended to the report. A Member suggested it may also be helpful to involve local MPs with a view to getting the relevant legislation changed.

In response to a question, the Director of Finance explained that the Government assumed that the Council Tax funding level took factored in inflation, growth and other cost pressures. The Government had indicated that for the next 2 years Council's would be able to increase Council Tax by up to 4.99%. In response to another question, the Director of Finance confirmed that the London Mayor was consulting on a 9.7% increase in precept.

RESOLVED: That Executive recommend that Council:

- 1. Approve the overall Dedicated Schools Budget (DSG) of £98.7m which matches the estimated level of Dedicated Schools Grant (DSG), after academy recoupment;**
- 2. Approve the draft revenue budgets (as in Appendix 2 of the report) for 2023/24;**
- 3. Agree 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 18th January 2023;**
- 4. Approves a general contingency sum of £18,957k (see section 6 of the report);**
- 5. Approves the following provisions for levies for inclusion in the budget for 2023/24:**

	£'000
London Pension Fund Authority*	460
London Boroughs Grant Committee	246
Environment Agency (Flood defence etc.) *	272
Lee Valley Regional Park *	353
Total	1,331

***Provisional estimate at this stage**

- 6. Note 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 of the report);**
- 7. Consider the "Bromley element" of the Council Tax for 2023/24 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 of the report);**

8. **Approve the approach to reserves outlined by the Director of Finance (see Appendix 4 of the report);**
9. **Note 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 paragraph 16.8 of the report);**
10. **Agree that the Director of Finance be authorised to report any further changes directly to Council on 27th February 2023.**

**(7) EMPTY HOMES PREMIUM
Report FSD23015**

The report set out a proposal that the Empty Homes Premium be increased from April 2023 to the maximum permitted under the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018.

RESOLVED: That Executive be recommended to:

- 1.Consider the responses to the public consultation exercise at Appendix 1.**
- 2.Consider the Equality Impact Assessment at Appendix 2.**
- 3.Increase the Empty Homes Premium from 1 April 2023 to 100% for properties empty longer than 2 years, increasing to 200% where the property has been empty for 5 years and 300% when the property has been empty for over 10 years.**

**93 INCREASING COUNCIL TAX DIRECT DEBITS
Report FSD23016**

The report set out the different payment options available for payment of Council Tax and proposed ways in which the number of taxpayers who pay by direct debit could be increased. A Part 2 report also included a review of the costs of the different payment options.

Members discussed the proposed incentives and the Director of Finance outlined why a prize was being proposed. Members noted that if more residents could be encouraged to pay by Direct Debit there were benefits to the Council. In response to a question the Assistant Director for Exchequer Services confirmed that there were consumer protection regulations in place preventing the Council from charging a fee for payments by credit cards.

The Director of Finance confirmed that any legal tender would be accepted for the payment of Council Tax, however incentivising direct debit payments could reduce the costs to the Council.

2 February 2023

The Committee noted that an Equalities Impact Assessment would be undertaken as part of the consultation process and the results would be reported back to Committee.

RESOLVED: That

- 1. The proposal to run a prize draw with a prize of £5,000 for residents who pay by direct debit for at least 10 months during 2023/24.**
- 2. The proposals for increasing direct debit take up be endorsed.**
- 3. The proposal to consult on the removal of some of the current payment options as set out in the report be endorsed.**

**94 REVIEW OF THE COUNCIL'S MEASURES ON FREEDOM OF SPEECH FOR EMPLOYEES
Report CSD22020**

The Chairman of ERC PDS committee requested a report to review the Council's process, policy and procedure to protect and defend freedom of speech for Council staff and for those who work for the Council's contractors. The report looked at the process, policy, and procedure to protect and defend freedom of speech for Council staff and considered the measures available to staff who work for the Council's contractors.

In opening the discussion, the Chairman noted that there was more work to be done around this issue and therefore suggested that consideration of the item be deferred until the first meeting of the new municipal year.

RESOLVED: That consideration of the report be deferred.

95 INFORMATION ITEMS

The items comprised:

- Risk Management

Councillor David Cartwright sought further information and reassurance around Reference 12 on the Human Resources and Customer Services Risk Register relating to Insufficient Fire Safety Arrangements. It was agreed that the information should be provided after the meeting.

96 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**

97 INCREASING COUNCIL TAX DIRECT DEBITS PART 2 REPORT

The Committee considered and discussed the information in the Part 2 report.

**98 CONTRACTS REGISTER AND CONTRACTS DATABASE PART 2
UPDATE**

The report presented February 2023's Corporate Contracts Register for consideration. Detailed scrutiny of individual contracts was the responsibility of the six PDS Committees but ER&C PDS took an overview of the Council's larger value (£200k+) contracts to ensure that commissioning and procurement activity was progressed in a consistent manner. The report provided both the Council wide £200k+ register together with the £50k+ register specific to the ER&C Portfolio. The Contracts Register presented in 'Part 2' of this agenda included a commentary on each contract to inform Members of any issues or developments.

The Committee noted that one contract had been flagged for attention. In response to a question the Assistant Director for Governance and Contracts confirmed that sound reasons had been given for the extension of contract in terms of the quality of the service received. The service was also asked to make the contract extension as short as possible and a compliant tender process to be implemented in good time.

RESOLVED: That the report be noted.

The Meeting ended at 9.33 pm

Chairman

This page is left intentionally blank

EXECUTIVE AND RESOURCES PDS COMMITTEE 2 FEBRUARY 2023

THE FOLLOWING QUESTIONS HAVE BEEN SUBMITTED FOR ORAL REPLY BY THE CHAIRMAN OF THE EXECUTIVE, RESOURCES AND CONTRACTS PDS COMMITTEE

From Mr Tony Trinick

1. FPW, on behalf of residents, have submitted our report on the BHAL NAP review. This shows at least 20 areas of various NAP defaults by BHAL. Please confirm that all these identified defaults raised in our report will be dealt with and the defaults rectified in the revised NAP being negotiated?

Reply: Officers have already met with Flightpath Watch to discuss the document. Your report will continue to be considered during the process of revising the Noise Action Plan.

Supplementary Question:

Can you confirm that residents will take an active role in agreeing the revised NAP?

Reply: Resident engagement is important and I would like to see residents involved but it is ultimately a matter for the Executive.

From Mr David Clapham

1. The CAA decision not to permit the instrument approach to runway 03 at Biggin Hill Airport, together with the current 51db Government guidance have jointly resulted in the Airborne Aircraft Noise Contours in the Councils Local Plan Policies to be inaccurate.
When they will be updated in line with current guidelines?
Please confirm new noise contours will incorporate take-off and landing aircraft noise.

Reply: Policy 110 of the Local Plan is subject to review as part of the Local Plan Review in the same manner as all of the policies. New evidence and representations that come to light as part of the review will feed into the draft Plan and consultation phases.

Supplementary Question:

Business jets on the visual approach to Runway 03 are particularly disruptive due to the noise they make. In view of the CAA decision how will the Council protect residents?

Reply: I agree that the noise is disruptive to residents. All these issues will need to be reviewed as part of the revision of the NAP.

2. Helicopters routinely fly over Keston Village at around 1,000' above our homes and disrupt sleep. Many helicopters not shown on WebTrak so residents cannot complain easily. In such circumstances how are the incursions into the Noise Sensitive Area captured?

Reply: There are other systems in place that capture the activity of all aircraft using Biggin Hill Airport. WebTrak is the public-facing software, but the airport also uses NoiseDesk and ANOMS. The Airport has confirmed that breaches of Noise Sensitive Areas are automatically triggered and recorded.

Supplementary Question:

Monitoring is listed as an item for discussion at airport consultative committees. Can air quality monitoring be given far greater weight?

Reply: This will be picked up as part of the revision to the NAP.

From Ms Giuliana Voisey

1. BHAL has failed to deliver ALL its important commitments under the lease and the NAP to mitigate noise. Don't you think it timely and proper to suspend the extended hours while the NAP is renegotiated? Do you think it is fair to expect residents to sustain the burden of BHAL's failures?

Reply: As you may be aware, the Council sought legal advice from King's Counsel on whether the extended hours could be suspended. The advice received, which was published in part, was that they could not.

Supplementary Question:

BHAL has dragged out the issue of Runway 03 for six years. Why would BHAL do anything different now? What have residents done wrong within this deal?

Reply: Residents have done nothing wrong. BHAL will have to behave responsibly in negotiating the revised NAP.

2. As the Farnborough Park representative, I need to highlight that Farnborough Park and, indeed, the entire Crofton area, are under ONE legitimate flying route. So why do we now have SIX, and why is the Council not holding BHAL to account, since it has the power and the means to do so?

Reply: The process of reviewing and revising the NAP is one way in which the Council holds BHAL to its commitments. This is also achieved through engagement on a committee level and through officer engagement with the airport.

Supplementary Question:

I alerted the Council in 2018 that BHAL were not adhering to the noise preference routes. What evidence has the Council gathered?

Reply: I will ask the AMO to provide information within 5 days.

**THE FOLLOWING QUESTIONS HAVE BEEN SUBMITTED FOR ORAL REPLY BY
THE PORTFOLIO HOLDER FOR RESOURCES, COMMISSIONING AND
CONTRACTS MANAGEMENT**

From Mr Christopher Ford

1. The CAA report the movements for BHA at 51,127 but the BHA Consultative Committee report the movements at 36,763. Can I ask the AMO to obtain copies of the monthly returns for the year 2021 and return this to me at the email address below?

Reply: I will ask the AMO to request this information. As you may be aware he did raise this issue at the last Airport Consultative Committee meeting.

Supplementary Question:

Given that BHAL were granted an increase in operating hours and have failed to meet its obligations under the NAP will the Council consider compensating residents with a commensurate reduction in their rates?

Reply: Council Tax rates are based on property values and any change to that would require a change in legislation.

2. Aircraft (fixed wing and rotary) perform loops above areas over the LBB, some over the airport, others farther afield. These are referred to as "Circuits". Can I ask the Council to determine the details of these circuits, dates, quantity and purpose and provide me with that information?

Reply: I will ask the AMO to request this information.

This page is left intentionally blank