

EXECUTIVE, RESOURCES AND CONTRACTS POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Minutes of the meeting held at 7.00 pm on 18 October 2022

Present:

Councillor Simon Fawthrop (Chairman)
Councillor Shaun Slator (Vice-Chairman)
Councillors Jeremy Adams, Mark Brock,
David Cartwright QFSM, Robert Evans, Kira Gabbert,
Julie Ireland, Simon Jeal, Ruth McGregor, Tony Owen,
Will Rowlands, 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 Yvonne Bear, Portfolio Holder for Renewal Recreation and
Housing (attended virtually)
Councillor Diane Smith, Portfolio Holder for Adult Care & Health
(attended virtually)

46 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

There were no apologies.

47 DECLARATIONS OF INTEREST

In respect of Minute 52a, Councillor Kira Gabbert declared that she owned an empty property in the Borough.

In the interests of transparency, the Committee noted that the Portfolio Holder also owned an empty property in the Borough, but it did not fall within the criteria for the Empty Homes Premium.

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

Four questions for Oral reply were received and these are attached at **Appendix A**.

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49 MINUTES OF THE EXECUTIVE, RESOURCES AND CONTRACTS PDS COMMITTEE MEETING HELD ON 5 OCTOBER 2022 (EXCLUDING EXEMPT ITEMS)

The minutes of the Executive, Resources and Contracts PDS Committee meeting held on 5 October 2022 (excluding exempt information), were agreed and signed as a correct record.

**50 MATTERS OUTSTANDING AND WORK PROGRAMME
Report CSD22111**

The report dealt with the Committee's business management including the proposed work plan for the 2022/23 municipal year.

The Committee noted that the Section 106 Update would be presented at the November meeting and the report on Free Speech would now be considered in February 2023.

RESOLVED: That the report be noted.

51 FORWARD PLAN OF KEY DECISIONS

The Committee noted the Forward Plan of Key Decisions covering the period October 2022 to November 2022.

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

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

**A EMPTY HOMES PREMIUM
Report FSD22080**

The report proposed that a public consultation exercise was undertaken in which it be recommended 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.

A Member questioned the benefit of the consultation highlighting that there was no statutory requirement to consult. It was suggested that fees should be increased immediately as this would deliver a saving of £8,500. In response both the Portfolio Holder for Resources Commission and Contracts Management and the Director of Finance underlined that there was a financial risk to the Council were there to be a legal challenge in the event a consultation was not undertaken. The Committee noted that there would be a range of consultees and Members requested that the consultation be

expedited as far possible. The Director of Finance confirmed that Officers would seek to mitigate the cost of the consultation as far as possible.

The Legal Advisor to the Committee noted that whilst there was no statutory requirement to consult, consultation was recommended. Furthermore, if the Local Authority had consulted on previous proposals the argument could be made that there was a legitimate expectation that the Local Authority now consult. There was also a requirement to ensure any consultation was meaningful.

The Chairman proposed that rather than “consultation” the Local Authority was making a request for comments. This amendment was agreed by the Committee.

The Chairman also requested that the 6-week request for comments exercise be concluded in sufficient time to enable the changes to be implemented on 1 April 2023.

The Vice-Chairman, Councillor Slator, recorded his opposition to the consultation and the proposals in general.

RESOLVED: That the Portfolio Holder be recommended to approve a public request for comments exercise be undertaken recommending that the Empty Homes Premium is increased to maximum amounts permitted.

53 PRE-DECISION SCRUTINY OF EXECUTIVE REPORTS

The Committee considered the following reports on the Part 1 agenda for the meeting of the Executive on 19 October 2022:

(5) BIGGIN HILL AIRPORT – NOISE ACTION PLAN

In summer 2021, five years after the signing of the Deed of Variation on their lease with the Council, Biggin Hill Airport Ltd (BHAL) submitted a Noise Action Plan review. As the review was to be carried out “in association” with London Borough of Bromley, the Council could approve it or request alterations. At the Executive Committee meeting on 12 January 2022, the Council requested further information from Biggin Hill Airport. The Airport had submitted new information in response to this request.

In opening the discussion, a local Biggin Hill Ward Councillor highlighted that the report before the Committee was a review and not the Noise Action Plan. In the view of the Member the evidence provided by Biggin Hill Airport was thorough. The Member noted that she was a Member of the Biggin Hill Airport Consultative Committee, and it was highlighted that the Airport was rigorously questioned at meetings of the Consultative Committee. The Member expressed the view that it was correct to await the CAA decision on Runway 03 before progressing further proposals.

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The Chairman reported that it was his experience that the Biggin Hill consultative Committee lacked openness and transparency citing the example of frequent delays in the publication of minutes from meetings which needed to be addressed.

A Member underlined that the volume of emails from residents that Members had received, and the concerns expressed by residents demonstrated that there was a great deal of distrust. Residents had real concerns around the impact of the airport and these concerns were similar to those expressed when the Committee discussed the Airport in January 2022.

A Member of the Committee provided a brief history of the Council's airport partner referring to the High Court case in respect of fare-paying passengers which was won by the Council. The Member stressed that one of the key considerations in choosing a partner to help with the running of the airport was protecting residents.

The Member suggested that between now and January 2023, further information would be provided, and where possible all this information needed to be placed on the Council's website in a timely manner.

It was noted that pollution at Biggin Hill Airport had never been reviewed and it was suggested that this omission should now be corrected. In addition to a report concerning pollution Members also requested that financial assessments be provided in the next report presented to Committee. Further concerns expressed included whether the Biggin Hill Consultative Committee complied with Government Guidance and included all the required interested parties. Furthermore, the Member highlighted that Government guidance indicated that there should be a noise and *tracking* Sub-Group, although *tracking* did not appear in the name of the Sub-Group of the Biggin Hill Consultative Committee. The Member also underlined that the report presented in January 2023 also needed to provide full details on helicopter movements.

A Member reported that they had written to Biggin Hill Airport to request air quality readings. These requests had repeatedly been refused and Officers were urged to step in and support the request for this information.

A number of Members expressed frustration at the lack of progress that had been made and emphasised that there now needed to be a move from the review to a revision of the NAP. The Committee noted that the CAA decision regarding the approach to Runway 03 was material, however, in the meantime there were a number of other issues raised in the report that needed to be progressed and listed a few where no action had been taken or where more work was required. The Chairman noted that one of the reasons for the delay was that Biggin Hill Airport had been slow in submitting its application to the CAA.—The Committee agreed that 6 years was too long and come January 2023, if the CAA decision had still not been received, the Council should be prepared to move on the basis that progress was required, the January recommendations needed to be actioned and decisions needed

to be taken. It was acknowledged that some negotiations would be needed to achieve this. The Chairman highlighted that there needed to be sufficient time to consult with residents. The Portfolio Holder confirmed that a letter had been received from the Chief Executive of the CAA confirming that a decision would be received by the end of the year. In addition, the Committee noted that the three directly affected MPs had already been encouraged to write to the relevant Minister with oversight for the CAA, urging them to ensure that the promised timely decision was delivered.

To agree that in the light of the above officers should bring a further report in January 2023. ~~once CAA decision is made, when the Executive can consider the impact of the decision of the CAA on Runway 03.~~

RESOLVED: That the Executive be recommended to

- 1. To note that Biggin Hill Airport Ltd (BHAL) submitted additional documentation by the deadline of 30 June 2022 in response to the information requested by the Executive in January 2022.**
- 2. To note that with the additional evidence provided, BHAL has completed its review of the Noise Action Plan (NAP) though one of the ongoing commitments under the NAP for BHAL to progress the implementation of Runway 03 is yet to be achieved.**
- 3. To note that BHAL is dependent on Civil Aviation Authority (CAA) authorisation to progress Runway 03 and a decision is expected later this year, by December 2022.**
- 4. To note that the Leader and the Chief Executive have written to the Council's three directly affected Members of Parliament encouraging them to write to the relevant Minister with oversight for CAA, urging them to ensure that the promised timely decision is delivered.**
- 5. To note that the outcome of the CAA decision on Runway 03 will be significant in determining the next steps following the review of the NAP.**
- 6. To agree that in the light of the above officers should bring a further report in January 2023.**

- (7) DELEGATION OF FUNCTION AMENDMENT AND CHANGE TO THE SCHEME OF DELEGATION TO OFFICERS (TRADING STANDARDS)**

The report followed a decision by the Executive on 30th June 2021 to accept Delegation of Function in certain Trading Standards investigations. It was in part concerned with one of those investigations where delegation of function

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had been provided by the two local authorities in Appendix 1 and related to retrospective delegation of function from these two authorities in order to correct an error on the face of the approved minutes.

The report also sought to explicitly delegate the Director of Environment and Public Protection to accept a delegation from and to give a delegation of function to local authorities or their Executives in respect of other current and future investigations. The purpose was to clarify the previous decision in order to preclude the possibility of the risk of a successful challenge in related prosecutions.

The Chairman suggested that in future reports it would helpful if more detail regarding the impact of the decisions being delegated could be provided.

RESOLVED: That the Executive be recommended to

- 1. Ratify retrospectively the delegation of functions from local authorities (listed in Appendix 1) for adoption for the purpose of legal proceedings;**
- 2. Delegate authority to the Director of Environment and Public Protection to accept a delegation from and to give a delegation of a function to another local authority or their /Executive regarding unrelated current and future investigations by adopting the following amendment to the Scheme of Delegation to Officers in relation to section 15-2 - Functions Delegated to the Director of Environment & Public Protection by adding new (j) and consequential renumbering:**

- (j) Exercise the functions of the Council to delegate a function or to receive a function from another local authority or its Executive in relation to trading standards and consumer protection, including prohibiting the sale of dangerous goods, promoting fair trading and investigating or prosecuting offences. Note: this delegation operates in addition to Article 11.04 of the Constitution.**

**(8) HOUSEHOLD SUPPORT FUND
Report HPR2022/0**

The report set out details of the Government announcement regarding the Household Support Fund (HSF) and sought endorsement of the proposals for the allocation and distribution of the HSF.

In response to a question concerning the merits of the application process, the Director for Housing, Planning and Regeneration explained that the grant conditions were quite explicit in requiring an application process. An email

would be sent to residents who had previously applied for the grant and, where necessary, letters would also be sent.

Members expressed concerns around digital exclusion highlighting that some vulnerable people may be missed out on the grant because they did not have access to broadband. The Chairman highlighted that residents could utilise the facilities in local libraries to access the internet and the Director of Housing, Planning and Regeneration confirmed that take up would be monitored. Where necessary Officers would be available to assist with the application process. In addition, support agencies were also being trained to provide assistance.

A Member highlighted that residents who were eligible for vouchers should not have to wait months to receive them and the Member expressed hope that the application process could be simplified and expedited for any residents who had previously been eligible to receive vouchers under the scheme.

In respect of the take up of the previous tranche of funding, the Director of Housing, Planning and Regeneration reported that the previous grant had been fully spent and exact numbers would be provided following the meeting.

RESOLVED: That the Executive be recommended to

- 1. Note that Bromley Council's allocation for the Household Support Fund (HSF) is £1,868k;**
- 2. Approve the drawdown of this amount from the 2022/23 Central Contingency to the Operational Housing revenue budget;**
- 3. Approve the full utilisation of this ringfenced grant, in 2022/23, as detailed in paragraph 3.9 of this report**
- 4. Agree that any final changes are delegated to Chief Officer in consultation with the Portfolio Holders for Renewal, Recreation & Housing and Resources, Commissioning & Contracts Management.**

54 INFORMATION ITEMS

The items comprised:

- Risk Management

In response to a question, the Director of Finance agreed to follow up with Chief Officer colleagues concerning provision for possible power cuts over the winter months.

In response to a question concerning the sustainability of the budget, the Director of Finance underlined that Local Government was not currently financially sustainable due to dependence on government grants and the

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impact of inflationary pressures. There was a degree of mitigation. The financial challenges facing local government and the mitigations would be covered in the Council Tax report presented to Members in January 2023 however, in the meantime, the 'red' risk rating was to focus the minds of Officers.

In relation to cyber security, the Committee noted that the red rating encouraged Officers to actively deal with mitigation and it was unlikely that the risk would move to green due to ongoing threats of cyber-attack. Officers were comfortable with the systems that were in place however, the Council was always at risk of cyber-attack and there would always be risks in the future in terms of patches and system updates keeping track with evolving risks. The Director of Finance confirmed that there was a degree of accreditation and the Council complied with the DWP standard which enabled the Council to access the DWP's information. The Chairman highlighted that the general microchip shortage had caused problems in terms of upgrades and a Member noted that the biggest risk to the Council was human error.

Whilst noting the risks and mitigations in place a Member suggested that it would be helpful for the report to set out the pathway to amber in respect of cyber security.

RESOLVED: That Information Items be noted.

55 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**

56 EXEMPT MINUTES OF THE MEETING HELD ON 5 OCTOBER 2022

The Part 2 (exempt) minutes of the meeting held on 5 October 2022 were agreed, and signed as a correct record.

The Meeting ended at 8.29 pm

Chairman

**EXECUTIVE AND RESOURCES PDS COMMITTEE
18 OCTOBER 2022**

**THE FOLLOWING QUESTIONS HAVE BEEN SUBMITTED FOR ORAL REPLY BY
THE CHAIRMAN OF THE PDS COMMITTEE**

From Ms Giuliana Voisey

1. Do you acknowledge the stress and pressure that the airport subjects the residents to for no tangible benefit to the Borough and great damage to our local air quality and living conditions?"

Reply:

I am content to acknowledge that airport activities, can cause stress, irritation, annoyance and impact on the quality of life to residents that are caught under up under its activities. To pretend otherwise would be both unrealistic and irrational. Furthermore members are aware of the feelings of residents who are adversely affected by aircraft using Biggin Hill Airport. This is why the Council takes the issue of the airport so seriously, raising concerns directly with the Airport on behalf of residents and encouraging and challenging the Airport to ensure that noise disruption caused by the airport is diminished or minimised wherever that is possible.

In its role as landlord to the airport, the Council also has legal obligations to its tenant that must be considered. As a tenant, the Airport provides income to the Council, and also provides jobs and inward investment for the borough, as do the associated airport uses on the site.

However, Members appreciate this is no consolation to those living under the flight path. As the relationship with the Airport continues we very much hope that issues such as air quality and carbon emissions can be addressed in the near future. Members are very conscious that a lot rests on the CAA approving the new approach to Runway 03, as we hope that this will alleviate the stress on those residents under the flight path.

Supplementary Question:

The Department of Transport guidelines recognises that noise contours are not an accurate measure and should be accompanied by other mitigations. Do you acknowledge that the removal of the noise cap was a moral breach of trust and is against the guidelines set out by the Department of Transport?

Reply:

The 50,000 noise level was a good measure and Members thought it would be permanent. Unfortunately, after several years we realised that this would not be the case.

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

From Mr David Clapham

1. At the Executive meeting 12th January 2022 it was RESOLVED in note (9) that “Officers be authorised to prepare a report detailing potential improvements to the NAP using best industry practice, as recommended by the CAA, having regard to feedback from residents and as proportionate to the size of the airport.” Why was feedback from residents not sought and where is the report?

Reply:

Feedback from residents about Biggin Hill Airport is regularly received by both Members and Officers, both in relation to the Noise Action Plan and in relation to the general running of the Airport. Those residents that are discontent with the Airport have made their grievances known. These have been taken on board, responded to and raised with the Airport, including your own. Meetings have also been held with groups who have shared their feelings and concerns. In publishing an interim report now and recommending returning in January following an expected CAA decision on the new approach to Runway 03, it gives another chance for residents to respond directly to the NAP review and offer specific feedback, which they are welcome to do, principally by emailing airport.consultation@bromley.gov.uk

Supplementary Question:

The resolution seeks best industry practice. Do you agree that the review before the Committee falls well short?

Reply:

The report before the Committee is an interim report and a full report will be presented in January 2023.

2. An email from Airspace Change at BHAL dated 5th October 2022 invited participation in a presentation on 21 potential flightpaths from BHAL. Will these new flightpaths impact on the long-awaited GPS 03 flightpath?

Reply:

The ACP you refer to is in relation to airspace modernisation that covers the whole of London and the South East. Biggin Hill Airport is one of many airports going through this process.

That Airspace Change Proposal is entirely separate to the one governing the new arrival to Runway 03.

The Council is unaware of any implications for the Runway 03 arrival at this point, but is monitoring the situation closely.

Supplementary Question:

If GPS 03 is not agreed what action will the Council take – will the additional operating hours be withdrawn?

Reply

The CAA decision that is due is key and it would not be appropriate to pre-judge any decision that may be taken in January 2023.

Supplementary Question from Councillor Simon Jeal:

The timeframe for the CAA decision is late December 2022, if Runway 03 is agreed what is the likely timeframe for implementation?

Reply:

Due to the time that has been available for preparation I understand that implementation will be rapid.

Mr Chris Ford

1. At the Executive meeting in January I understood that the revised Noise Action Plan would be provided. This has not been done, residents should have been provided with the opportunity to comment upon its contents. Will residents be given the opportunity to comment before the Executive agree to its contents?

Reply:

The additional information requested of Biggin Hill Airport has been published. Residents have the opportunity to comment on this prior to a Council decision being made following the conclusion of the CAA process regarding the new approach to Runway 03. The review is looking back the past and a revision of the NAP is envisaged after the review is concluded. When the Council moves from review to revision of the NAP, it will take into account views offered by residents, who can email any such comments and suggestions to airport.consultation@bromley.gov.uk.

Supplementary Question

In terms of movements, when I compare the data from the Biggin Hill Airport Consultative Committee and the data from the CAA there are significant differences. Can a comparison of movements be undertaken, and comparative data provided?

Reply:

Following the meeting I would be grateful if you could share your research, and this will be followed up.

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