

PART 2 - NOT FOR PUBLICATION - Exempt information

- Financial/business affairs of a person or body

Decision Maker: Executive

Renewal and Recreation Portfolio Holder

**For pre-decision scrutiny by the Renewal and Recreation
PDS Committee**

Date: 24th October 2012
2nd October 2012

Decision Type: Non-Urgent Executive Non-Key

**Title: ASSET MANAGEMENT PLANNING - POST COMPLETION
REVIEW REPORTS
BIGGIN HILL LIBRARY AND SWIMMING POOL AND THE
PAVILION DEVELOPMENT**

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Chief Officer: Marc Hume, Director of Renewal and Recreation

Ward: Biggin Hill

1. SUMMARY

- 1.1 As part of the Capital Programme Procedures it is a requirement that schemes should be formally reviewed within on year of completion and the outcome of this review be brought to the Members for endorsement. This report provides reviews of the Biggin Hill Swimming Pool and Library scheme and the Pavilion Leisure Centre Scheme.
 - 1.2 Although the new library and swimming pool at Biggin Hill opened in full in May 2010, the Council through its agents, Frankhams, has been seeking to resolve a number of outstanding issues and agree a final account figure, as such, there has been a delay in bringing this report to Members. It was only fairly recently that all outstanding defects were completed and following this Frankhams have been attempting to resolve the final account with ISG Jackson. This has now been achieved at a figure of £4,615m, resulting in a net overspend of £142k representing 2.82% of the capital scheme estimate of £5.039m as detailed in Section 4 of the report. A supplementary capital estimate is requested to cover the net additional costs that have arisen.
 - 1.3 In contrast the Pavilion redevelopment capital scheme is underspent by £475k as detailed in Section 5 of the report.
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2. RECOMMENDATION(S)

The Renewal and Recreation Policy and Development Scrutiny Committee:

2.1 Note the contents of the report and provide the Executive with comments.

The Executive are requested to:

- 2.2 Note the overspend of £142k on the Biggin Hill library and swimming pool capital scheme due to additional costs incurred by the contractor for expediting works to ensure the centre opened at the scheduled time.
- 2.3 Approve a supplementary capital estimate of £142k for the additional costs incurred on the Biggin Hill library and swimming pool capital scheme.
- 2.4 Note that the underspend of £475k on the Pavilion redevelopment capital scheme, £60k more than the expected £415k, as reported on 20th January 2011.
- 2.5 Agree to release the £475k underspend on the Pavilion redevelopment scheme back to capital receipts.

Corporate Policy

1. Policy Status: Existing policy. Consistent with the Building a Better Bromley Framework 2006/07
 2. BBB Priority: Vibrant Thriving Town Centres.
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Financial

1. Cost of proposal: Estimated cost Net overspend of £142k on the Biggin Hill library and swimming pool capital scheme and an underspend of £475k on the Pavilion redevelopment capital scheme
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Capital Programme
 4. Total current budget for this head: £10.539m
 5. Source of funding: Capital programme
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Staff

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

1. Legal Requirement: No statutory requirement or Government guidance.
 2. Call-in: Call-in is applicable
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Customer Impact

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

Ward Councillor Views

1. Have Ward Councillors been asked for comments? <please select>
2. Summary of Ward Councillors comments:

3. COMMENTARY

3.1 The Capital Programme Procedures require that a post completion review be carried out within 12 months of the completion of schemes that are included within the programme. This process is designed to determine the authority's performance in the following key area:

- Were the original scheme objectives achieved?
- Were the scheme costs contained within the original budget?
- Did the scheme complete on time?
- What was the level of customer satisfaction from the end user with the overall process?

4. POST COMPLETION REVIEW OF THE BIGGIN HILL LIBRARY AND SWIMMING POOL CAPITAL SCHEME

Scheme Details

4.1 This Scheme consisted of the demolition of the existing Biggin Hill Library and the construction of a new library and swimming pool.

Scheme History

4.2 Within the Building a Better Bromley framework for 2006/07 there was a commitment to undertake consultation on options for a leisure facility in the Biggin Hill area. On 17th April 2007 a report was presented to the then Environment and Leisure Portfolio Holder seeking approval to commence public consultation around options for a new leisure facility in the Biggin Hill area.

4.3 On 2nd October a report was presented to the Environment and Leisure Portfolio Holder setting out in some details the outcome of this consultative process. The Portfolio Holder was asked to recommend to the Executive the construction of a new facility on the existing library site at an estimated capital cost of £4.5m-£5m and additional annual running costs in the region of £230k per annum.

4.4 Approval was sought for the release of £157k of funding to enable the Council's consultants to undertake the necessary detailed design works to enable a planning application to be made.

4.5 The Portfolio Holder also agreed to the principal of combining the site management operations to minimise the revenue running costs of the new scheme.

4.6 Following the decision of the Executive in October 2007, detailed design work commenced to allow the project proposals to be achieved:

- a new 25 metre, six lane national standard pool
- improved and enlarged (25%) library facility
- public meeting/community room
- wireless internet access across the library, café and community room
- increased opening hours to the library.

4.7 The Council's consultant developed a final proposal which took on board all of the above which was submitted for planning consent in February 2008. Prior to this meeting a public

meeting was held in Biggin Hill to enable residents to fully understand the detailed proposals that were due to be considered by the Development Control Committee.

- 4.8 Immediately following the decision of the Development Control Committee, the Council's advisers were instructed to administer the tender process. The anticipated value of the works dictated that the authority had to follow the tender process as prescribed via the Public Contract Regulations 2006, these regulations implement the OJEU process.
- 4.9 Following this tender exercise Members approved the award of contract on 3rd November 2008. The top three tenders were all comfortably within the authority's provisional budget allocation. Based on the post tender assessment, the contract was awarded to ISG Jackson Ltd on a "Design and Build" basis for the sum of £4.403m.
- 4.10 On 17 November 2008, Members approved the inclusion of an additional £4.882m within the capital programme making a total project budget of £5.039m.
- 4.11 Works commenced on site in January 2009 and were originally scheduled to run for 55 weeks.

Running Costs

- 4.12 At the Executive meeting on 8th October 2007 Members were advised that the annual running costs were likely to be in the region of £230k per annum.
- 4.13 In order to ensure value for money, officers undertook to tender the management of the new building. In a report to the Executive on 2nd September 2009 Members were advised that as a result of the tendering exercise the annual running costs had been reduced to £123k per annum. Coupled with a minor reduction in the running costs of the library, it was reported to the Executive that there would be an ongoing annual saving of £132k per annum.

Scheme Objectives

- 4.14 The Scheme arose from the Building a Better Bromley framework for 2006/07 commitment to consult on options for leisure facilities in the Biggin Hill area. In line with the commitment to consult on options for a leisure facility in the Biggin Hill area a consultation framework was drawn up with the specific aim of:
- Determining whether residents in the south of the borough would value a new leisure facility in Biggin Hill.
 - To gauge, were a pool to prove the chosen option, the likelihood of residents using the new pool, and the possible impact on other pools.
 - To assess, were a pool to prove the chosen option, views on the two possible locations within Biggin Hill for a pool.
 - To gauge, were a pool to prove the chosen option, the importance of the type of pool and other features it might have.
- 4.15 A total of 10,015 questionnaires were sent out which resulted in a response of 2,544 postal responses representing an overall response rate of 25%.

Assessment of Scheme Success

- 4.16 As a consequence of combining the management arrangement at the new centre it has been possible to increase the library opening hours by 40 per week.
- 4.17 In terms of visitor information, the number of visits in the first full year of opening increased by 130% and the number of issues increased by 27%. Similarly, use of the People's Network increased by 100% with 270 new members joining in the first three weeks of opening. Whilst these numbers have now dipped, they still remain significantly higher than previous figures and Biggin Hill library still out performs the other libraries in the borough with the exception of the new Orpington Library.

Assessment of Contract Efficiency

| | |
|----------------------|--|
| Contract Period | 55 weeks |
| Start Date | 26 th January 2009 |
| Practical Completion | 30 th April 2010 (dry side) 17 th May 2010 (wet side) |
| Over Run | 12 weeks (dry side) |

- 4.18 Although the project commenced on time, the Contractor lost time because of a number of significant issues which impacted on the programme. In particular, their pool sub-contractor went into liquidation and the main contractor failed to note the existence of a mains electricity cable adjacent to an area of deep digging. The Contractor also struggled to comply with Planning Condition 15 which stipulated noise levels at the boundary of our property. Coupled with these and a number of other minor issues was the fact that the UK suffered from one of the coldest winters on record with high levels of snow fall which closed the site for a period of time.

Outstanding Issues and their Proposed Resolution

- 4.29 There has been, since practical completion some delay in the Contractor making good all of the defects and achieving the requirements of Planning Condition 15 hence the delay in producing this report. All outstanding issues have now been completed.
- 4.20 The authority, through its agent, Frankhams, have struggled to settle the final account. The original tendered price for this design and build contract was £4.403m; Frankhams have now certified works up to Practical Completion totalling £4.460m. ISG Jackson was seeking a final account figure nearer £4.9m. Frankhams analysis of the final account has been hampered by the slow release of information from ISG Jackson. Following a number of meetings between the authority, Frankhams and ISG Jackson, Frankhams have been able to resolve all outstanding issues with the result that they are now in a position to recommend to the Council that the final account figure is £4.615m. This increase reflects (inter alia) the additional costs to which the Contractor was entitled for expediting works to make up for time lost during inclement weather in order that the Centre opened at the time scheduled. In response to this, ISG Jackson have indicated that they will drop their continuing claim for a higher figure of £4.9m and that they are willing to accept this lower figure.
- 4.21 In September 2011, ISG Jackson sought to take the Council to adjudication over sums of money that they believed were outstanding as part of an interim payment.
- 4.22 Whilst the Adjudicator did not find in ISG Jackson's favour, the London Borough of Bromley was required to pay 40% (£1,081) of the Adjudicator's fees totalling £2,703.

- 4.23 In order to justify this inflated final account figure ISG Jackson have claimed additional costs for a number of works. Without exception Frankhams contested every additional cost and are confident that their analysis of the final account is a fair and true reflection of the Scheme.
- 4.24 Advice has been sought from the borough's solicitors who have examined Frankhams' advice on the final account and who is in agreement with Frankhams analysis of the final account position. The legal advice being that should ISG Jackson persist in their view of the value of the final account that we will have little option other than to contest it. Failure to agree this final account is likely to result in expensive legal costs, with no certainty as to where the final account figure will be determined and the apportionment of costs at the end of the process.
- 4.25 Savings were realised on the costs of relocating from the temporary library and the fit out of the new library, with the works being managed in house by staff from the library service, these savings along with minor savings on the consultant fees totalling £71k have resulted in a net over spend on the capital project of £142k.

5. POST COMPLETION REVIEW OF THE PAVILION REDEVELOPMENT CAPITAL SCHEME

Scheme Details

- 5.1 The scheme consisted of the redevelopment of the dry side of the Pavilion Leisure Centre with the removal of the large sports hall and squash courts to accommodate a ten pin bowling alley and new children's play zone. In addition the entrance foyer was extended opening up onto an extending gym area and new dance studios.

Scheme History

- 5.2 At the Executive meeting on the 26th May 2010 Members approved the proposals for the redevelopment of the Pavilion Leisure Centre. The Executive was advised that the Pavilion Leisure Centre was approaching 20 years old and had become somewhat dated. This position was further heightened by the lack of investment, particularly in the infrastructure, which had led to regular breakdowns and the occasional closure of the facility.
- 5.3 In addition, the redevelopment afforded the Council an opportunity to broaden the leisure offer within Bromley Town Centre through the development of a family based entertainment centre, through the introduction of a modern ten pin bowling offer and a new play zone supported by a modernised and extended gym.
- 5.4 The redevelopment was fully in line with the Councils broader vision for Bromley Town Centre as articulated in the draft area action plan at the time, with the comment that leisure and entertainment facilities and sport and recreation represents an important function of a thriving town centre. The Plan went onto note that at that time these facilities were limited in their offer and appeal due to the quality of the existing provision and the over emphasis on public houses and bars which dominate the night time economy.
- 5.5 On 28th June 2010, Council agreed to add the redevelopment scheme to the capital programme with a capital estimate of £5.5m.
- 5.6 The redevelopment has freed up the 'Adventure Kingdom' site on the Civic Centre campus for alternative use as part of the Councils broader accommodation strategy.
- 5.7 Immediately following the approval by the Executive on the 26th May 2010, officers in conjunction with the Councils professional advisers moved to tender the package of works.

The anticipated value of the works dictated that the authority had to follow the tender process as prescribed by the Public Contract Regulations 2006, these regulations implement the OJEU process.

- 5.8 Following this tender exercise Members approved the award of contract at a meeting of the Executive on the 20th January 2011. The tenders received were very competitive and the three lowest were within 5% of each other and some 25% below the pre tender estimate for the construction costs. Based on the post tender assessment, the contract was awarded to Higgins Construction Ltd on a “design and Build” basis and a revised estimate of the scheme costs was reported to be £5.085m, although the capital estimate remained at £5.5m.

Running Costs

- 5.9 The running costs of the redeveloped leisure centre are met in full by Bromley Mytime.

Assessment of Scheme Success

- 5.10 Although the redeveloped Centre has only been open since May, it seems to have been well received and the public reaction to the enhanced facilities has been good. At the time of drafting this report no usage figures were available from Bromley Mytime.

Assessment of Contract Efficiency

| | | |
|----------------------|------------------|------------|
| Contract Period | 52 | weeks |
| Start Date | 4 th | April 2011 |
| Practical Completion | 11 th | May 2012 |
| Over Run | 5 | weeks |

Current Position and Impact of Defects Period

- 5.11 As at 19th September 2012 the Pavilion Leisure Centre redevelopment project is 4 months into the 12 months Contract Defects Liability Period. The scheme currently shows an anticipated spend of £4.975m which is £110k less than the revised estimated costs of £5.085m reported on 20th January 2011. Savings have been realised at the feasibility and design stage as well as in fees where actual costs have come in less than the estimated cost. It is deemed prudent to set aside a further £50k for any construction related issues that could arise during the remaining defects period which could be released in whole or in part in June 2013. This approach will leave an underspend of £60k in addition to the expected £415k, resulting in a total underspend of £475k against the £5.5m capital estimate.

6. POLICY IMPLICATIONS

- 6.1 One of the main aims of the Council’s Asset Management Plan is to ensure that all the partners in the asset management planning processes are fully consulted on the process and its outcomes. Progression of the Biggin Library and Swimming Pool Scheme will assist in meeting one of the key outcomes of the Building a Better Bromley Framework reflecting on the commitment to consult on options for a new leisure facility within the Biggin Hill area.
- 6.2 The redevelopment and refurbishment of the Pavilion leisure Centre supports the Councils broader objectives around vibrant and thriving town centres. Furthermore, leisure and culture have been identified as key components of a thriving town centre within the Bromley Area Action Plan.

7. FINANCIAL IMPLICATIONS

7.1 This report provides information on two Post Completion Reviews that have been carried out in respect of the Biggin Hill Library and Swimming Pool and the Pavilion Leisure Centre.

7.2 As is highlighted in Section 4 above, in the Biggin Hill Library and Swimming Pool post completion review, the authority's agent, Frankhams, are now in a position to agree the final account with ISG Jackson for the Biggin Hill Scheme. A review of the final account position does reinforce the value of £4.615m that Frankhams have indicated and they are confident that any attempt by ISG Jackson to significantly move beyond this sum can be robustly defended. This overspend of £212k due to the additional costs incurred by the contractor for expediting works to ensure the centre opened at the scheduled time (4.19 – 4.21) has been partly reduced by savings on other scheme costs and the net overspend is therefore £142k as shown in the table below: -

| Type of cost | Original | Actual | Variation |
|----------------------------------|--------------|--------------|------------|
| | budget | Spend | |
| | £'000 | £'000 | £'000 |
| Construction costs (ISG Jackson) | 4,403 | 4,615 | 212 |
| Consultants fees & other costs | 636 | 565 | (71) |
| Adjudicator costs | 0 | 1 | 1 |
| Total | 5,039 | 5,181 | 142 |

7.3 The borough's solicitors have examined Frankham's advice on the final account and agree with their analysis of the final account position. Officers have contacted ISG with the final account figure of £4.615m and ISG have indicated that they will drop their continuing claim for a higher figure of £4.9m and are willing to accept this lower figure. Legal advice is that failure to agree this final account figure of £4.615m is likely to result in expensive legal costs, with no certainty as to where the final account figure will be determined and the apportionment of costs at the end of the process.

7.4 Section 5 has the detailed post completion review of the Pavilion Leisure Centre Redevelopment scheme. This shows that the final cost of the scheme is £5.025m which includes a sum of £50k held for any construction related issues that could arise during the remaining defects period, compared to the capital scheme budget of £5.5m, an underspend of £475k. Members should note that as reported on 20th January 2011, the revised estimated scheme costs were £415k less than the scheme estimate included in the Capital Programme. The financial position is summarised in the table below: -

| | £'000 | £'000 |
|---|-------|----------------------------|
| Capital Estimate agreed by Council 28 June 2010 | | 5,500 |
| Revised estimated scheme costs reported 20 January 2011 | | 5,085 |
| Projected underspend on Pavilion scheme | | <u>(415)</u> |
| Revised scheme estimated costs | 5,085 | |
| Actual costs incl £50k held during defects period | 5,025 | |
| Actual underspend against estimated costs | | <u>(60)</u> |
| Total underspend on Pavilion capital scheme | | <u><u>(475)</u></u> |

- 7.5 This report seeks Executive approval for a supplementary capital estimate of £142k to meet the net additional costs of the Biggin Hill library and swimming pool capital scheme for the reasons detailed in 4.19 to 4.21 above.
- 7.6 The Part 2 report presented to the Executive on the 20th January 2011 to award the contract for the works on the Pavilion Centre included a statement that said that any savings realised against the agreed capital budget would be apportioned 50:50 between the Investment Fund and the Repairs and Maintenance budget, however following the successful negotiation of the Deed of Variation and the fact that the repairs and maintenance budget was underspent in 2011/12, Officers are recommending that Members agree to write back the £475k underspend to capital receipts.

8. LEGAL IMPLICATIONS

- 8.1 Legal Implications are included in the body of the report where appropriate.

| Non-Applicable Sections: | Personnel Implications |
|---|--|
| Background Documents: (Access via Contact Officer) | <p>Biggin Hill Leisure Centre Environment and Leisure PH 17th April 2007</p> <p>Biggin Hill Leisure Centre Executive 8th October 2007</p> <p>Proposals for the Redevelopment and Refurbishment of the Pavilion Leisure Centre – Executive 26th May 2010 DR10053</p> <p>Proposals for the Redevelopment and Refurbishment of the Pavilion Leisure Centre – Award of Contract – Executive 20th January 2011 DR11/003</p> |