

EXECUTIVE, RESOURCES AND CONTRACTS POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Minutes of the meeting held at 7.00 pm on 25 May 2021

Present:

Councillor Christopher Marlow (Chairman)
Councillor Kira Gabbert (Vice-Chairman)
Councillors Yvonne Bear, Nicholas Bennett MA J.P.,
David Cartwright QFSM, Nicky Dykes, Robert Evans,
Colin Hitchins, Simon Jeal, Keith Onslow,
Melanie Stevens, Michael Tickner, Pauline Tunnicliffe and
Angela Wilkins

Also Present:

Councillor Graham Arthur, Portfolio Holder for Resources,
Commissioning and Contracts Management
Councillor Julian Benington and Councillor Tony Owen

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillor Will Harmer and Councillor Mary Cooke. Councillor Keith Onslow attended as substitute for Councillor Cooke.

The Chairman welcomed those present – particularly the new Members of the Committee - to the first meeting of the new municipal year, noting that it was the first physical meeting of the Committee following what was best described as a ‘peculiar’ year.

2 DECLARATIONS OF INTEREST

Councillor Colin Hitchins declared that he had a pecuniary interest in respect of Items 8 and 14 on the Executive Agenda (Biggin Hill Airport Ltd) and left the meeting for the duration of these items.

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

No questions had been received.

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4 MINUTES OF THE EXECUTIVE, RESOURCES AND CONTRACTS PDS COMMITTEE MEETING HELD ON 24 MARCH 2021 (EXCLUDING EXEMPT ITEMS)

The minutes of the Executive, Resources and Contracts PDS Committee meeting held on 24 March 2021, were agreed and signed as a correct record.

5 MATTERS OUTSTANDING AND WORK PROGRAMME Report CSD21059

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.

The Committee agreed that its overarching priorities for 2021/22 would be:

1. The Income and Expenditure of the Council post Covid-19,
2. A Review of the best sources of funding for the Council's Housing and Capital Programme,
3. A Review of the Procurement Framework post Brexit, and
4. Review of the timetable for the Council's Transformation Programme and monitor the Transformation Programme to ensure that new technology was used wherever appropriate in order to ensure that the Council's operations were economic, effective and efficient

In addition to the above priorities, Members requested that in October 2021, the Committee undertake a review of the Covid grants that had been received and the way in which the grants had been administered.

Members noted that the Committee's Work Programme would be updated to reflect the Scrutiny of the Amey contract in September.

A Member requested that consideration be given to conducting a review of the Governance of the Council including the Scheme of Delegations, procurement processes and local planning protocols. It was agreed that a recommendation should be made to the Executive for the Constitutional Improvement Working Group to be convened within the next three months.

The Chairman noted that Scrutiny of the Portfolio Holder for Resources, Commissioning and Contracts Management had been included in the June meeting of the Work Programme in error. This Scrutiny would instead take place in January 2021.

In addition, the Committee requested that the Information Items be included on the agenda as a substantive item giving Members the chance to call for a discussion on the item (with notice) if necessary.

RESOLVED: That

- 1. The report be noted and the Work Programme updated as required; and**
- 2. The Executive be recommended to convene a meeting of the Constitutional Improvement Working Group within the next 3 months.**

6 FORWARD PLAN OF KEY DECISIONS

The Committee noted the Forward Plan of Key Decisions covering the period April 2021 to July 2021.

Members noted that three items due for consideration by the Executive at its May meeting had been delayed:

Procurement of HR/Payroll Software - The report had unfortunately been delayed and was now due to go to the next meeting as a result of some outstanding information regarding change to costs. The current contract was in place until June 2023 with the project planned to start in November 2021.

Adventure Kingdom – the Clinical Commissioning Group (CCG) was considering its options and a formal proposal was awaited. It was anticipated that the report would be presented to the Executive in July 2021.

Countryside Housing – It was anticipated that the report would be presented to the Executive in July 2021 following receipt of outstanding information. It was noted that this report would be scrutinised by the Renewal, Recreation and Housing PDS Committee.

In respect of the Building a Better Bromley report, a Member noted that both Councillor Fawthrop and Councillor Bennett had, in December 2020, submitted amendments concerning the previous report presented to the Committee. The Member expressed the hope that the Report Author would contact both these councillors prior to the return of the final draft of the Building a Better Bromley Strategy in June 2021.

7 SCRUTINY OF THE RESOURCES, COMMISSIONING & CONTRACT MANAGEMENT PORTFOLIO HOLDER

The Portfolio Holder for Resources, Commissioning and Contracts Management, Councillor Graham Arthur, attended the meeting to respond to questions from the Committee. Councillor Arthur gave a brief introduction highlighting the following issues:

- It had been a busy year for the Council's IT Team who had supported a number of high profile events throughout the last Mayoral year and had recently been involved in delivering the live stream for the Annual Council meeting on 19 May 2021 and were now supporting the transition back to in-person meetings.

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- The current BT Contract was due to expire in 2023 and Officers were currently reviewing options.
- A review of Polling Stations was underway following the Boundary Review and Members' views were welcomed.
- The Corporate Procurement Team would be producing updated procurement guidance to reflect the position post-Brexit.
- The cleaning contact had been let to the cleaners who were currently providing the Council's Covid deep clean. The TUPE process for relevant staff was underway.
- Disposal of the Y Blocks was a priority and had been achieved.
- The Council's Team of Registrars had performed outstandingly throughout the last year. They had been on the Covid front-line supporting bereaved families and it was important to recognise that the Council owed them much. The Portfolio Holder cited examples of the many instances where staff within the Team had gone above and beyond the call of duty to support the residents of the Borough. The Portfolio Holder reported that he had recently authorised an uplift of 5% for charges and the decision had been taken to scrap the fee for registering the death of a child.
- A draft document setting out the principles of the much-anticipated return to work had been produced and staff within the HR department had been working on innovative solutions to address issues of isolation amongst staff.
- In respect of the return to the Office, it was likely that a hybrid approach to agile working would be taken.
- The Council had a balanced budget for the next 2 years but there was more uncertainty in year 4. The Portfolio Holder held monthly meetings with Senior Officers to discuss the budget and the Cabinet received regular updates of the financial position and the Council's Transformation Agenda.

The Portfolio Holder then responded to questions, making the following comments:

- As yet it was unclear how procurement processes would evolve and what the benefit to smaller local businesses would be. The Portfolio Holder confirmed that all opportunities would be reviewed and considered as they presented.
- It was anticipated that staff would begin to return to the office from 21st June 2021, in line with the national roadmap. The Portfolio Holder highlighted that it would be for managers to agree work patterns and workload for their staff.
- It was right that staff were properly rewarded and in Bromley high performing staff were rewarded in targeted ways.
- During the last 14 months many Council staff had willingly and voluntarily gone over and above what could reasonably be expected of them, undertaking everything expected of them and more. Members stressed their pride in the Council's staff. The Chairman suggested

that case studies of some of the fantastic work done by staff to support the Borough's residents should be encapsulated in case studies and made available to the public.

- Inevitably there had been a degree of 'firefighting' last year as the Council tried to quantify the impact of the pandemic and plan its response. There would now be a need to review whether there was a need for staff to continue to be seconded into Covid related positions. The issue of staff flexibility with staff working across a number of roles in different departments was something for managers to consider and could be discussed with the Departmental Representatives (Dep Reps).
- Members noted that there had been very little "vaccine hesitancy" amongst LBB staff and that the evidence suggested that most staff, including front line staff, were keen to receive their jab.
- A review of the Council's procurement processes was under way and it was hoped that this would result in a more simplified and streamlined process. The Portfolio Holder highlighted that at its meeting in February 2021, the Committee had received an update on the implications of the Government's Procurement Green Paper. The paper was available on the website and Members, especially those who were new to the Committee, were encouraged to re-familiarise themselves with its contents.
- The Dep Reps fulfilled a vital role and should be extremely proud of the work they had delivered including the Mental Health First Aiders Initiative. Going forward they would be consulted on plans for the way in which staff across the Council worked.
- A review of the Property Portfolio was underway and 80% of condition surveys had been completed. Properties to take to the market were identified on a case by case basis. The Council was required to deliver improvements to the Old Palace site and these would be prioritised. In terms of other office accommodation there would be a review of what could be released once staff returned to the office.
- Going forward the Transformation Programme would evolve and would inevitably be informed by the impact of the Covid-19 pandemic. Largely the Transformation Workstreams were on track.

The Committee thanked the Portfolio Holder for his update.

8 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.

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**a POST COMPLETION REVIEW REPORT - UPGRADE OF CORPORATE CUSTOMER SERVICES IT SYSTEMS INCLUDING MS DYNAMICS CRM SYSTEM AND CORPORATE WEBSITE
Report CSD21052**

The report set out the successful outcomes of the Upgrade of the Corporate Customer Services IT systems including MS Dynamics CRM System and Corporate Website funded from the capital programme.

In response to questions the Assistant Director of Customer Services confirmed that the software supported the corporate website and the customer relationship management system used by the Customer Services Team.

In respect of the cost of the short-term extension, the Assistant Director explained that Microsoft had withdrawn support for the software and arrangements had been put in place for BT to conduct a full review. Consequently, it was felt that the short-term extension represented value for money as the advice from the Council's IT Department was that software had to be supported in the interests of data compliance.

RESOLVED: That the Portfolio Holder be recommended to endorse the findings of the Post Completion Reviews that have been carried out in respect of:

- **The successful upgrade of the CMS Corporate Website to the Jadu Continuum product and the successful migration of the My Bromley Accounts to the new software.**
- **The successful upgrade of Microsoft Dynamics to Version 2011 and the completion of the IT Options Appraisal which outlined the roadmap to move from Dynamics 2011 to Jadu CXM.**

9 PRE-DECISION SCRUTINY OF EXECUTIVE REPORTS

The Committee considered the following reports on the Part 1 agenda for the meeting of the Executive on 26 May 2021:

(6) CHIEF EXECUTIVE'S UPDATE REPORT

The report provided the Executive with key updates on behalf of the senior leadership team across a number of areas including the response to the Covid-19 pandemic, COVID-19 Staff Wellbeing Survey, Return to office working approach, Arrangements for committee meetings, and Economic Development Strategy for 2021 – 2031.

The Director of Finance highlighted that the response from staff in relation to the Covid-19 pandemic had been incredible. There had also been an amazing response to the Staff Wellbeing Survey with a number of staff speaking positively about working for the Council. Thanks was expressed to Members for the support that had been provided throughout the last 14 months.

The Committee noted that there was now a need to look to the future and focus on rebuilding the economy. A key aspect of this would be joint working with partners in the health sector and progress was already being made in this area. There was now a focus on setting aside resources to begin to rebuild post-Covid.

Members highlighted the importance of building on the progress that had been made in relation to agile working, noting that the Covid pandemic had “fast forwarded” plans for agile working. It was recognised that going forward there was a need to harness the benefits that could be delivered in terms of savings on office accommodation and reduction in Council estate.

The Committee noted that the Covid pandemic had significantly impacted on a number of Departments across the Council. It was notable that there had been an unprecedented increase in the number of planning applications received and additional staff had been brought on board to manage this additional demand.

A Member highlighted the opportunities that had now presented in terms of holding remote Member-level meetings. It was noted that back in 2012, the then Secretary of State for Communities, Housing and Local Government had dismissed the idea of remote meetings. However, throughout the pandemic a highly successful programme of remote meetings had been held and this progress should now be sustained. Although Members had now returned to in person meetings there should still be the option of remote meetings available to Members who were unable to attend in person meetings for whatever reason. The technology was in place and had been proven to work. The Chairman suggested that the Leader should be asked to make representations to this effect to the relevant Minister and it was suggested that the Council should provide a response to the Government Call for Evidence in respect of the future of remote meetings.

The Committee noted that the Economic Development Strategy would be considered by the Renewal, Recreation and Housing PDS Committee.

RESOLVED: That the Executive be recommended to note the report.

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**(7) SUBSTANCE MISUSE SERVICES – LOT 1: ADULT SERVICES
CONTRACT VARIATION; LOT 2: YOUNG PEOPLE SERVICES
CONTRACT VARIATION
Report CSD21062**

The Substance Misuse Service for Adults and Children was an integrated provision for drugs and alcohol services with the aim of moving an individual from the position of problematic drugs and/or alcohol misuse to a position of stability, improved health and positive engagement with employment or education and the community. On 21st May 2018, Executive approved the award of two contracts to Change Grow Live for the provision of Adults Substance Misuse Services and Young Peoples Substance Misuse Services. Both Contracts were awarded for a period 3 years commencing on 1 December 2018 to 30th November 2021, with an option to extend for a further period of up to 2 years. The Adult Service contact had an annual value of £1,349k and a whole life value (inclusive of extension option) of £6,745k. The Young People's contract had an annual value of £149k and a whole life value (inclusive of the extension option) of £745k. On 8th April 2021, Public Health received a Section 31 Local Authority grant of £207k for a one-year non-recurring funding for schemes to support improvements in interventions to reduce drug related offending and deaths in 2021/22. It was proposed to utilise this grant via a variation to the existing Adults Substance Misuse contract. The report sought authorisation to draw down the Section 31 grant and the subsequent variation to the Adults Substance Misuse contract; and to extend both contracts in accordance with their terms.

The Chairman reported that he had spoken with the Chairman of the Adult Care and Health PDS Committee who had no significant concerns surrounding the proposed decision although there was some disappointment around the timing of the decision which had prevented scrutiny by that Committee.

The Assistant Director for Public Health explained that the proposals to the Executive were to utilise a one-off grant to deliver improved treatment. The proposed improvements would be delivered through the existing contract and this required the contract with the existing provider to be varied. Members noted that challenging targets had been set in order to deliver the improvements and it was hoped that this would provide the necessary impetus to move the programme on.

Members noted that one of the specific conditions of the grant was to support adult ex-offenders in recognition of the pressures in this area. Members further noted that the current provider already worked with ex-offenders and detailed consideration had been given to the most effective schemes for the use of the grant. It was anticipated that use of the grant in this way and the multi-disciplinary approach being adopted would lead to system improvement.

The Committee noted that going forward the success of the grant in terms of the outcomes delivered would be scrutinised by the Adult Care and Health PDS Committee.

RESOLVED: That the Executive be recommended to approve

- 1. the draw down of the total grant amount of £207k to be used as set out in Paragraphs 3.1 – 3.3.**
- 2. The variation of £177k to the Adults Substance Misuse Services Contract for a period of one year commencing 1st June 2021 and expiring on 31st May 2022**
- 3. The extension of the Adults Substance Misuse Services Contract for a period of two years from 1st December 2021 to 30th November 2023 at an annual value of £1,349k as allowed for within the Contract; and**
- 4. The extension of the Young People’s Substance Misuse Services Contract for a period of two years from 1st December 2021 to 30 November 2023 at an annual value of £149k as allowed for within the Contract.**

At 9.50pm the Chairman proposed that the meeting guillotine be extended to 10.30pm to enable the remaining business on the agenda to be satisfactorily concluded. The motion was seconded, put to the vote and CARRIED.

**(8) BIGGIN HILL AIRPORT LTD (BHAL) REQUEST TO VARY THE USER CLAUSE OF THE AIRPORT LEASE BETWEEN THE COUNCIL AND BHAL
Report CSD21048**

Having declared a disclosable pecuniary interest, Councillor Colin Hitchins left the meeting for the duration of this item and item 14 on the Executive agenda.

The Leader was present throughout the item via conference call to listen to the debate and hear the views of elected Members.

BHAL had formally notified the Council of their intention to seek to modify the definition of “Permitted User” in Clause 1 of the Lease. They had requested that the Council approve the modification, but should the Council decide not to approve it then pursuant to their rights under section 84 of the Law of Property Act 1925 they would apply to the Upper Tribunal (Lands Chamber) for a more expansive modification of the Lease that would permit scheduled and non-scheduled commercial flights.

The Committee was requested to provide views on the following options:

- 1) To agree to the proposal from BHAL to amend the user clause.

- 2) To not agree to the proposal from BHAL to amend the user clause and should BHAL then decide to apply to the Upper Tribunal (Lands Chamber) to determine such a change then to contest such an application.

Noting that there was significant public interest in this item and to facilitate a full and thorough debate, the Chairman confirmed that each member of the Committee would be invited to speak in turn.

Speaking against the application by Biggin Hill Airport Ltd (BHAL) currently under consideration by the Committee, a Member noted the increased level of correspondence that had been received from local residents in opposition to the proposals. The Member suggested that the decision that had to be taken by the Council boiled down to an issue of trust, the trust that the Council had in BHAL to honour commitments made and the trust that residents of the Borough could have in the Council to ensure that commitments were honoured.

Concerns were expressed around the overly aggressive stance being taken by BHAL in its approach to the Council and a Member suggested that some of the statements made by BHAL needed to be challenged, for example the assertion that the lease had remained static. A Member expressed surprise that BHAL had not approached this matter in a good faith, calm manner suggesting that the overly aggressive approach raised questions around the long-term intent of BHAL. The Committee noted that there had been no prior approach by BHAL to discuss the application that had been made, instead they had relied on an entirely legal approach.

It was highlighted that the ban on fair paying passengers had been upheld in a 2002 court ruling, which the requested amendment would overturn. A Member explained that it was unwise to alter this High Court backed decision as any alteration could result in the Council losing the protection of that High Court decision. A Member highlighted that were this to be changed many residents would feel let down. The Member highlighted that the main function of the lease was to protect local residents from the excesses of the airport, and it was important to remember that that confidence in the Council had been dented in 2015 with the concession in operating hours.

Members highlighted what they considered to be BHAL's failure to fulfil previous promises that had been made such as the delivery of an aeronautical college at Biggin Hill and the development of a hotel. However, the Committee heard that the decision not to progress an aeronautical college at Biggin Hill had been taken by London South East College (LSEC) and development of the hotel had now started after a period of delay.

It was recognised that BHAL was a business that was seeking to maximise profit but Members felt that these profits should not be at the expense of residential amenity. Concerns were expressed around the ongoing environmental impact associated with the inevitable increase in the number of "Uber jets". Members also suggested that there appeared to be some

inconsistencies in the requests being made by BHAL noting that the current proposal was to amend the user clause with an indication that if an application to the Upper Tribunal was made the request would be expanded. Members recognised that the viability of the airport was an important consideration, however a search of Companies House records had revealed that in the last financial year BHAL had made a significant operating profit demonstrating that it was a highly profitable business without the need for this change.

In the alternative, a Member expressing support for BHAL's request highlighted that consideration needed to focus on the request actually being made by BHAL, rather than some of the misinformation currently being circulated by opponents of the proposals. The Member acknowledged that a number of residents had concerns but once they had been provided with the facts they had been reassured. At the moment BHAL were simply seeking to amend the user clause, however if the matter went to tribunal and the Council lost it was likely this would result in a greater loss of control.

In support of the Airport's proposals, a Member highlighted that there had been an airfield at Biggin Hill since 1917 and as such local residents moved to the area with the full knowledge of the airport. The contract with BHAL had been in operation for 26 years and it was reasonable for any lessee to request changes that reflected evolving circumstances such as quieter jets. The Member highlighted that the Committee was required to consider the reasonableness of the request and it was suggested that as BHAL were seeking a small change to its lease and this change was unlikely in his view to have a significant environmental impact or lead to an increased level of noise the request seemed reasonable. The Committee was reminded that landlords had a duty not to be unreasonable in such matters and to agree this proposal for purely business aviation was a reasonable position to adopt.

A Member noted that until very recently they had received very little communication from residents complaining about the operation of the airport. It was also highlighted that the airport was one of the largest employers in the Borough. It was noted that over the last few years the airline industry had been responding to environmental challenges.

The Chairman noted that ward members had not been consulted for the Executive report. In lieu of this, he had written to the councillors for the following wards in the southern part of the borough for a summary of residents' reactions to the proposal:

- Hayes & Coney Hall
- Bromley Common & Keston
- Petts Wood & Knoll
- Farnborough & Crofton
- Orpington
- Chelsfield & Pratts Bottom
- Darwin

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- Biggin Hill

Councillors for the following wards confirmed significant opposition from residents to the proposed lease amendment:

- Bromley Common & Keston
- Petts Wood & Knoll
- Farnborough & Crofton
- Chelsfield & Pratts Bottom
- Darwin
- Biggin Hill (NB – Members for this ward felt that many of the concerns raised were based on an inaccurate view of the proposal due to misinformation)

He also noted that the Biggin Hill Airport Consultative Committee committee were notified of BHAL's proposal on 24th May, less than two weeks before the airport's deadline.

A Member noted that many residents felt that BHAL wished to remove the restrictions contained within the lease by a process of 'salami-slicing'. The member also noted that it was difficult to reconcile any increase in flights with the spirit of the Council's own commitment to reach net zero by 2029, and at the national level, the target for CO2 emissions to be reduced by 78% by 2035.

The Chairman proposed that the Executive be recommended to not agree to the proposal from BHAL to amend the user clause and should BHAL then decide to apply to the Upper Tribunal (Lands Chamber) to determine such a change then to contest such an application. The motion was seconded by Councillor Robert Evans, put to the vote and CARRIED.

The Chairman requested that the vote be recorded:

For	Against	Abstain
Cllr Dykes	Cllr Bennett	Cllr Wilkins
Cllr Bear	Cllr M. Stevens	Cllr Tunnicliffe
Cllr Cartwright		
Cllr Tickner		
Cllr Jeal		
Cllr Evans		
Cllr Onslow		
Cllr Gabbert		
Cllr Marlow		

RESOLVED: That the Executive be recommended to not agree to the proposal from BHAL to amend the user clause and should BHAL then decide to apply to the Upper Tribunal (Lands Chamber) to determine such a change then to contest such an application.

**10 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**

**11 EXEMPT MINUTES OF THE MEETING HELD ON 24 MARCH
2021**

The Part 2 (exempt) minutes of the meeting held on 24 March 2021 were agreed, and signed as a correct record.

**12 PRE-DECISION SCRUTINY OF EXEMPT EXECUTIVE
REPORTS**

The Committee considered the following reports on the Part 2 agenda for the meeting of the Executive on 26 May 2021:

**(14) BIGGIN HILL AIRPORT LIMITED (BHAL) REQUEST TO VARY THE
USER CLAUSE OF THE AIRPORT LEASE BETWEEN THE
COUNCIL AND BHAL.
Report CSD21048**

The Committee noted the Part 2 (exempt from publication) information contained within the report.

**13 PART 2 CONTRACTS REGISTER AND CONTRACTS
DATABASE UPDATE
Report CEO21003**

The report presented May 2021's Corporate Contracts Register for consideration and provided a Part 2 (exempt from publication) detailed commentary on each of the contracts.

A Member expressed disappointment that no action had been taken on two contracts which had been flagged on previous reports to the Committee. The importance of timely action being taken by service departments to regularise arrangements, rather than contracts having to be flagged again in subsequent reports was highlighted.

*Executive, Resources and Contracts Policy Development and Scrutiny
Committee
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In respect of the Amey Contract, Members were reminded that in July 2020 a Gateway report had been presented to the Committee setting out the procurement options for that contract.

RESOLVED: That the report be noted.

The Meeting ended at 10.22 pm

Chairman