

EXECUTIVE, RESOURCES AND CONTRACTS POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Minutes of the meeting held at 7.00 pm on 17 October 2023

Present:

Robert Evans (Vice-Chairman, in the Chair)

Councillors Jeremy Adams, Mark Brock,
David Cartwright QFSM, Kira Gabbert, Julie Ireland,
Simon Jeal, Ruth McGregor, Tony Owen, Shaun Slator,
Mark Smith, Melanie Stevens and Michael Tickner

Also Present:

Councillor Christopher Marlow, Portfolio Holder for Resources,
Commissioning and Contracts Management
Councillor Yvonne Bear, Portfolio Holder for Renewal, Recreation and
Housing

Councillors Simon Fawthrop (attended virtually), Chris Price,
Alison Stammers and Tommy Velvick.

38 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillor Simon Fawthrop and
Councillor Will Rowlands.

Apologies had also been received from Councillor Tony McPartlan (RRH
PDS).

As the Committee Chairman, Councillor Fawthrop, had extended apologies,
the Committee noted that the Vice-Chairman, Councillor Robert Evans was in
the Chair.

39 DECLARATIONS OF INTEREST

The Chairman, Councillor Robert Evans, declared that he was a Member of
the Board of MyTime Active. Consequently, Councillor Evans would take no
part in the discussion and vote relating to Items 7 and 15 of the Executive
Agenda (Leisure Centre Major Works). Councillor Cartwright assumed the
Chair for these items.

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

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One question, for oral response, had been received and this is attached at Appendix A.

**41 MINUTES OF THE EXECUTIVE, RESOURCES AND CONTRACTS
PDS COMMITTEE MEETING HELD ON 18 SEPTEMBER 2023
(EXCLUDING EXEMPT ITEMS)**

The minutes of the Executive, Resources and Contracts PDS Committee meeting held on 18 September 2023 (excluding exempt information), were agreed and signed as a correct record.

**42 MATTERS OUTSTANDING AND WORK PROGRAMME
Report CSD23126**

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 a high-level report concerning rental waivers for Churchill Court be presented to the next meeting.

In response to a question concerning whether there had been any progress made on arranging a meeting between Biggin Hill Airport Ltd (BHAL) and residents, the Portfolio Holder for Resources, Commissioning and Contracts Management explained that discussions with BHAL were ongoing and these discussions would remain confidential until they were completed. Any agreement reached in respect of the Airport would be subject to scrutiny at this Committee.

A Member of the Committee raised the question of whether the Committee should give consideration to whether certain emails should be archived as part of the historical record for future generations if they were deemed to be in the public interest. Whilst noting that it was an interesting question, some Members cautioned around the cost and effort of storing data unnecessarily. However, Members of the Committee noted that elected councillors had obligations under the Data Protection Act not to store data unnecessarily and it maybe helpful to have a report to the Committee, in March 2024, setting out these data protection obligations and explaining what happened to emails when elected councillors left the Council.

RESOLVED: That

- 1. A high-level report on Churchill Court rental waivers be presented to the next meeting.**
- 2. A report on Councillor Emails and Data Protection be added to the Work programme for March 2024.**

43 FORWARD PLAN OF KEY DECISIONS

The Committee noted the Forward Plan of Key Decisions covering the period . September 2023 to December 2023.

A Member queried why the works at Red Hill Primary School had been delayed until February 2024 and it was agreed that a response would be provided following the meeting.

44 PRE-DECISION SCRUTINY OF EXECUTIVE REPORTS

The Committee considered the following reports on the Part 1 agenda for the meeting of the Executive on 18 October 2023:

(5) CHURCHILL THEATRE & CENTRAL LIBRARY BUILDING, HIGH STREET, BROMLEY BR1 3UH

The site known as Churchill Theatre formed part of a larger property which also comprised Central Library and a number of ground floor retail units. The building was constructed as one in the 1970s, formally opening in 1977. The site was owned freehold by the Council, with Churchill Theatre being occupied by Trafalgar Group on a lease dated 5th September 2017 which expired on 3rd April 2041. Central Library was occupied and operated by the Council's library provider Greenwich Leisure, and the retail units were held on a long leasehold interest by a private third party.

Buildings of this nature were typically intended to have a lifespan of c. 50 years and as such, the building was now in poor condition, and many elements of the building and building fabric were considered end of life and beyond economic repair. Therefore, continuing with the existing lease arrangement with Trafalgar Group for the theatre element until its natural expiry in 2041 was not considered a viable option, as the extent of the works required to ensure a sustainable future for the building would not be possible whilst the building was occupied and operational.

The report primarily related to the Churchill Theatre element of the building, due to the lease arrangements that were in place and the commercial (i.e. non-operational / non-statutory) function of this element of the building, and the need to find a solution to the challenge of an end of life building, a limited pool of resources from which the Council must prioritise its statutory and operational needs, and the wider economic and cultural benefits that come with the presence of a theatre in the town centre.

The report set out the Council's intention for seeking a mutual agreement between the Council and Trafalgar Group to ensure a sustainable future for the theatre at the site, whilst simultaneously removing the Council's ongoing liabilities for repairs and maintenance at the site.

The Assistant Director for Strategic Property introduced the report and Members were advised that in respect of paragraph 3.21 which stated that 'a 'do nothing' approach has therefore been discounted', this was because the lease break clause would not be operable meaning that this option is not viable.

On behalf of the Bromley Town Ward Councillors, Councillor Ireland set out concerns including inadequate notice of the report, insufficient time for adequate scrutiny and inadequate consultation with residents. The Ward Councillors had concerns about the delegated authority being sought and would have preferred other options,

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including consideration being given to the Council retaining the freehold interest in the property. In moving forward, the Ward Councillors wanted to see certain caveats including the site being retained as a theatre of a similar size. In response, the Head of Regeneration provided assurance that, in recognition of the wider economic benefits of the Theatre, Officers had been working hard to secure the Theatre and consideration now had to be given to how the Theatre could move forward given the challenges of relocating a theatre of this size.

In response to concerns that were raised about the delegated authority being sought, the Director of Housing, Planning and Regeneration explained that delegation was being sought purely to proceed with negotiations and any final decision would have to be taken by the Executive and scrutinised by the Executive, Resources and Contracts PDS Committee. Members noted that issues around the transfer of the freehold would form part of any negotiations and there was an element of protection for the Theatre as development of the site would be subject to planning permission which sought to protect community assets.

In response to questions, the Director of Housing, Planning and Regeneration confirmed that, in relation to community assets, planning requirements were quite stringent and there would need to be provision for a theatre of a similar size capacity, along with other protections. Research undertaken by the Department to date had not revealed any covenants or restrictions on the land requiring use as a theatre however, the current state of the theatre meant that immediate action needed to be taken.

Another Member welcomed the possibility of working in partnership with the private sector in order to secure the future of the theatre in the town centre. Members noted that over the last few years a series of reports concerning the condition of the Churchill Theatre had been considered by the Committee and maintenance work had been undertaken but the building had now reached the end of its life.

In response to a question concerning the lack of details in the report around maintenance costs, the Portfolio Holder for Renewal, Recreation and Housing emphasised that these costs were immaterial as there were no circumstances under which maintenance of the building was the answer. The building was at the end of its life and now required redevelopment. The ideal situation was to redevelop in partnership with the Trafalgar Group and the report was seeking authorisation to commence negotiations.

In response to a further question, the Portfolio Holder for Renewal, Recreation and Housing explained that it was not possible to delay the break clause due to the condition of the building. It was still the very early stages of discussions, and any decision would come back to the Committee for scrutiny.

RESOLVED: That Executive be recommended to note the report and approve the following recommendations:

- a) To delegate authority to the Director of Housing Planning and Regeneration to agree terms with the existing tenant of Churchill Theatre, Trafalgar Group, to gift the Council's freehold interest in the whole site alongside negotiating a reverse premium to be paid to Trafalgar Group on completion of the freehold transfer to enable**

the tenant to invest in the building to ensure a sustainable future for the building and to protect its future use as a theatre. With terms, once agreed in principle, to be subject to further approval by the Executive Committee.

- b) As detailed within this report, the existing arrangement is not sustainable as there are significant works required to the building if it is to have a future, and therefore the existing lease arrangement with Trafalgar Group needs to be terminated to enable the works required on the building to be undertaken which cannot be facilitated whilst the building is occupied and operational. It is therefore recommended that the Landlord's Break Clause in relation to the lease held by Trafalgar Group is triggered which must be served on or before 1st April 2024 in accordance with the terms of the existing lease providing a minimum of 24 months' notice thereby terminating the existing lease arrangement as of 2nd April 2026.**
- c) Should Trafalgar Group confirm they are unwilling or unable to take gifted ownership (and a reverse premium) of the site, then it is recommended that the Executive Committee delegate authority to the Director of Housing Planning and Regeneration to openly market a 999-year leasehold interest in the site to secure a private developer to undertake the required redevelopment under a Development Agreement, with the 999 year lease only being granted, with vacant possession, on completion of the agreed scheme as agreed and stipulated within the Development Agreement. All offers received would be reported back to the Executive Committee for a Member decision to enable Member selection of a preferred bidder.**

(6) RELOCATION OF CENTRAL LIBRARY Report HPR2023/056

Due to the Churchill Theatre tower building being at end of life, with a requirement for redevelopment, officers have considered options for the relocation of Central Library.

The report set out the recommended option to move the service to the old Topshop site and sought budget approval to proceed to RIBA stage 3.

Members of the Committee welcomed the proposals and noted that final proposals for the location of the archives had yet to be developed.

In relation to the costs outlined in the report, the Committee noted that it was a significant piece of work and libraries were heavy buildings. The new building required complete remodelling and there were significant costs attached to the construction works. In response to a question, the Head of Regeneration confirmed that Officers were not anticipating any increase in

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revenue costs resulting from the move, indeed with a more modern building it was anticipated that there may be potential savings.

Members noted that the proposed budget for the project included a 15% contingency and Officers were confident that there was sufficient resource within the Team to support the project, although there were sometimes challenges with respect to recruitment.

RESOLVED: That Executive be recommended to

- 1. Note the works carried out for RIBA 1 that identify that the Topshop site is a suitable location for the Central Library. Noting that the indicative budget for relocation of the Central Library has an estimated cost of circa £15.5m, subject to further works being carried out for RIBA 2-4. Detailed costings will be provided in a Further Report to the Executive.**
- 2. As set out in paragraphs 3.10 – 3.13, approve in principle proceeding to procurement for a multi-disciplinary design team to RIBA Stage 7, with a break clause after RIBA Stage 3 and 4. The estimated whole life value of the contract up to RIBA Stage 7 is £1m with an estimated value up to RIBA Stage 3-4. Adding £500k for these works to the Capital Programme be approved in preparation of a further detailed costing report.**
- 3. Delegate authority to the Director of Housing, Planning, Property and Regeneration, in agreement with the Assistant Director Governance & Contracts, the Director of Corporate Services the Director of Finance and the Portfolio Holder, to Approve the detailed procurement strategy for the procurement of multi-disciplinary consultancy services to RIBA 7, including ensuring suitable break clauses are applied to the contract.**
- 4. Delegate any legal matters arising from these recommendations to the Director of Corporate Services and Governance.**

**(7) LEISURE CENTRE MAJOR WORKS PROGRAMME
Report HPR2023/054**

Councillor David Cartwright took the Chair for the duration of the item.

It was noted that this was a joint item with the Renewal, Recreation and Housing PDS Committee.

Following Executive's approval of the Procurement Strategy for the Leisure Centre Major Work Programme (report no: HPR2023/044) in August 2023, which was subject to this report, Executive are now asked to consider the options and recommendations contained within this report in order to bring

forward the major works required at the Walnuts and West Wickham Leisure Centres.

On behalf of the West Wickham Ward Councillors, Councillor Mark Brock, expressed delight that the project was now progressing.

Members welcomed the investment in the Borough's leisure centres and libraries.

RESOLVED: That

General:

- 1. Delegate authority to the Director for Housing, Planning, Property and Regeneration, in consultation with the Portfolio Holder, to put in place arrangements for the future tenant of the facilities pending Member's decision on this matter in the Part 2 report.**
- 2. Approve the capital budget as set in the Part 2 report.**
- 3. Approve Option 3 of the Programme Options, outlined in 3.24, which, pending final approval of budgets in Spring 2024, will allow for all works to be complete by Spring 2026.**
- 4. Delegate authority to the Director for Housing, Planning, Property and Regeneration, in consultation with the Portfolio Holder, to approve the submission of grant funding applications and to accept any subsequent awards of funding in relation to both Leisure Centres.**
- 5. Delegate authority to the Director for Housing, Planning, Property and Regeneration, in consultation with the Portfolio Holder, to approve any reasonable changes to the works needed after Executive approval in order to keep the works within budget.**
- 6. Note that additional funding may be needed for the construction works, as per 3.6.1 of the Part 2 report, above the OPR's indicative budget of £27.1m, to deliver the core requirements identified in 3.14 and 3.16 of this report and indicatively costed in 3.8 and 3.12 of the Part 2 report.**
- 7. Approve £1.867m from the OPR's budget for Leisure Centre Works to fund RIBA 3/4 works for both leisure centres (as set out in 2.10 and 2.14) .**
- 8. Approve £150k from the OPR's budget for Leisure Centre Works, to fund any ancillary legal matters arising from the developments up to RIBA 4.**

West Wickham:

- 9. Approve the core requirements for West Wickham Leisure Centre as set out in 3.14 of this report so that officers can progress these plans through RIBA 3 and 4.**
- 10. Approve the award of contract to Alliance Leisure Services for £1.047m, funded by the OPR's indicative budget for leisure centres, to progress the West Wickham Leisure Centre Major Works Programme to RIBA 4 based on the core requirements laid out in this report.**
- 11. Note that the current estimate for the works contract for West Wickham Leisure Centre, beyond RIBA stage 4, is contained in the Part 2 report. Following conclusion of RIBA stage 3, a subsequent report will be brought forward detailing more accurate costs for the works.**
- 12. Delegate authority to the Director for Housing, Planning, Property and Regeneration, in consultation with the Portfolio Holder, to resolve any ancillary legal matters at West Wickham arising from the developments up to RIBA stage 4.**

The Walnuts:

- 13. Approve the core requirements for the Walnuts Leisure Centre as set out in 3.16 of this report so that officers can progress these plans through RIBA 3 and 4.**
- 14. Approve the award of contract to Alliance Leisure Services for £820k, funded by the OPR's indicative budget for leisure centres, to progress the Walnuts Leisure Centre Major Works Programme to RIBA 4 based on the core requirements laid out in this report.**
- 15. Note that the current estimate for the works contract for the Walnuts Leisure Centre, beyond RIBA stage 4, is contained in the Part 2 report. Following conclusion of RIBA stage 3, a subsequent report will be brought forward detailing more accurate costs for the works.**
- 16. Delegate authority to the Director for Housing, Planning, Property and Regeneration, in consultation with the Portfolio Holder, to resolve any ancillary legal matters at the Walnuts arising from the developments up to RIBA stage 4.**

(9) OUR BROMLEY MAGAZINE
Report CSD23129

The report sets out the background behind the launch of the Council's resident magazine – 'Our Bromley'. It outlined the rationale behind the

magazine and why it was necessary to launch such a publication, to ensure that all residents, including the most vulnerable, were better able to access the Council's services. It also outlined proposals for a permanent magazine going forward.

The demise of printed local media in Bromley in favour of digital media had left a challenging landscape in which to deliver information to everyone in the Borough including those not digitally enabled.

In response to questions the Public Affairs Executive explained that whilst it was unlikely that the publication would get to the position where external advertising covered costs, the publication represented a cost-effective way for Council departments to advertise. Costs were kept to a minimum with in-house design and photography, an in-house editor and other members of the Team providing copy.

In relation to the carbon footprint, the Head of Public Affairs that there had been no detailed exploration of emissions to date, but this detail could be shared when it was available.

The Committee noted that the risk of competition with community magazines had been looked at closely and assurances were provided that due to the reach of the publication, it was being put through every door in the Borough, and consequently the cost of advertising, it was unlikely that the Council magazine would compete with any current community magazines.

In response to a question, the Head of Public Affairs confirmed that when available, the gross costs to the Council could be shared with the Committee.

RESOLVED: That Executive be recommended to

- 1. Agree that the Council produces a regular paper magazine called 'Our Bromley' three times a year to be distributed to all residents. There is flexibility to move to four editions a year, but for the moment, three is recommended as a more viable option.**
- 2. Note that the financial implications are envisaged to be cost neutral, with the total expected spend of £180k over three issues, at current prices, being anticipated to be covered by advertising revenue.**
- 3. Note that after a period of a year, there will be a review on the impact of the publication before continuing in future years.**
- 4. Note the change of name of the Council's e-mailed newsletter for residents from 'Update' to 'Our Bromley'.**

45 POLICY DEVELOPMENT AND OTHER ITEMS

A RISK MANAGEMENT Report FSD23062

The report provided Members of the Executive, Resources and Contracts Policy, Development and Scrutiny Committee with the net 'High' (Red) risks extracted from the Corporate Services, Finance and Human Resources and Customer Services Risk Registers.

In relation to the Fire Safety Risk detailed in Appendix D of the report, the Committee noted that risks had been identified and that was key. Mitigations had been put in place and whilst there were ongoing challenges around the office move, the risks would be further mitigated once the move had been completed.

In relation to the IT security risk, Members noted that the key vulnerability was human error. The Committee noted that staff received regular mandatory training and measures had been put in place to keep the Council systems secure. It was suggested that Members should also receive the training provided to staff. A Member highlighted that IT security needed to be balanced with workability and requested that this be reviewed in respect of emails,

A Member further suggested that the Director of Corporate Services and Governance should be asked to review the Information Request Non-Compliance Risk as this had a higher rating than both the Fire Safety Risk and the IT Security Risk which seemed inconsistent.

RESOLVED: That the report be noted.

B REVIEW OF FREEDOM OF SPEECH FOR EMPLOYEES

This item was deferred to the next meeting.

46 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**

47 EXEMPT MINUTES OF THE MEETING HELD ON 18 SEPTEMBER 2023

The Part 2 (exempt) minutes of the meeting held on 18 September 2023, were agreed, and signed as a correct record.

48 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 18 October 2023:

(13) PART 2: CHURCHILL THEATRE & CENTRAL LIBRARY BUILDING, HIGH STREET, BROMLEY BR1 3UH

The Committee considered the report and made recommendations to the Executive.

(14) PART 2: RELOCATION OF CENTRAL LIBRARY

The Committee considered the report and agreed the recommendations.

(15) PART 2: LEISURE CENTRE MAJOR WORKS

The Committee considered the report and made recommendations to the Executive.

The Meeting ended at 9.32 pm

Chairman