

Assets and Procurement Committee

Date: 28 November 2023

Time: 10.00am-1.09pm

Venue: New Shire Hall

Present: Councillors Ambrose Smith, Beckett, Boden, Bywater, Connor, Dupré, Ferguson, Goldsack (substituting for Cllr Hunt), Hathorn (Chair), Hunt, McDonald, Meschini, Murphy (substituting for Cllr Dew), Nethsingha and Rae (Vice Chair)

15. Apologies for Absence and Declarations of Interest

Apologies were presented on behalf of Councillors Count, Dew (Councillor Murphy substituting) and Hunt (Councillor Goldsack substituting).

Councillor Murphy declared a non-statutory disclosable interest in relation to item 19 as she had a contract of employment with the University of Cambridge.

16. Minutes of the meeting held 18 October and Action Log

The minutes of the meeting held 18 October were agreed as a correct record.

The Action Log was noted.

17. Petitions and Public Questions

There was one Public Question, and this would be considered under the relevant item (item 25).

(Due to availability of report presenters, the following two items were taken out of sequence)

18. Land and Property Performance Report

The Committee considered an update on the activity and performance of the Property Team.

Members noted:

- a breakdown of the composition of the Property team, including vacancies;
- a detailed explanation of Indicator 171, *Rent per acre obtained from Rural Estates*, which had been queried at the last Committee meeting;
- good progress with the valuation process.

A Member noted that the annual forecast target of gross income from the Council's commercial investments as a percentage of initial investment was 6%, and the actual expected figure was 5.79%, reflecting the uncertain national economic position. He suggested that the 6% target was low. Officers commented that they believed that figure was an acceptable target. Other Members observed that farming communities were struggling, especially as subsidies were below expectations, and that the 6% target had probably been set pre-pandemic. **Officers agreed to provide a written response on this issue. Action required.** Another Member observed that many Councils were experiencing real difficulties due to ambitious commercial projects pre-pandemic.

A Member asked about the retrospective audit, and asked how this would be resourced, given that the team was fully staffed. It was confirmed that staffing in the relevant team would be reprofiled to ensure this work was completed by year end.

In response to a Member query, it was confirmed that a report on Reinforced Autoclaved Aerated Concrete (RAAC) had been considered at the last Assets and Procurement Committee meeting, and that there were no RAAC issues in any of the County Council's buildings or schools.

It was unanimously resolved to note the contents of the report and highlight any further details to be presented and considered to show the transformation change, improvements, and current position at future meetings of this Committee.

19. Appointment of Light Blue Fibre Shareholder Representative

The Committee considered a report which sought approval to appoint the Council's Shareholder Representative for the Light Blue Fibre Joint Venture Company. This joint venture between the County Council and the University of Cambridge enabled fibre assets to be marketed and developed on a commercial basis, whilst simultaneously facilitating digital connectivity, especially in rural areas where high speed connectivity was not otherwise available.

Due to changes at a senior management level within the County Council, the Committee's approval was sought to appoint the Executive Director of Place and Sustainability as the Council's Shareholder representative.

Whilst not objecting to this appointment, a Member noted that for similar third party appointments, Councillors had been appointed. Officers advised that for the This Land shareholder representative, there was a constitutional provision that this Committee (as a whole) was the shareholder with a delegation to the Section 151 Officer for minor matters or urgent issues arising between Committee meetings. It was confirmed that there was no direct Member involvement in the Light Blue Fibre joint venture. Another Member highlighted the difference between shareholder representatives, such as Pathfinder, and Board Members, and commented that the issue was with This Land, not Light Blue Fibre.

It was resolved unanimously to:

appoint the Executive Director of Place and Sustainability as the Council's Shareholder Representative for Light Blue Fibre Joint Venture Company.

20. This Land – publication of Shareholders Agreement

The Committee received a report on the governance of This Land. Members were reminded that the County Council was the sole shareholder, owning 100% of the This Land equity, and the Council was also the company's only lender. However, the report related to the Council's relationship as shareholder. An action had been agreed at the July Strategy and Resources Committee to publish the This Land Shareholder Agreement in the public domain. Minor changes had been made to the Shareholder Agreement following a review, strengthening the role of the shareholder by creating the Shareholder Review Group, including formal sharing of This Land Board papers. There was also the provision for additional meetings so that there was closer liaison between Council and This Land officers. Members also noted the personal assurance statements requirement and Risk Register, and closer alignment of the This Land Business Plan with the County Council's Business Plan timescales.

In response to a Member question, officers outlined the structure of the This Land Board, which comprised both Executive and Non Executive Directors. The Council was the sole shareholder, and the Assets and Procurement Committee was the shareholder Committee. Within the Council's Constitution, the Section 151 Officer was designated as the shareholder representative to take urgent decisions between Committees, although to date, such decisions had been considered by the relevant Committee. It was also noted that part of the consideration was the different type of company arrangements, specifically the guidance that came from CIPFA and DLUHC, so there were slightly different arrangements given the size and nature of the company compared to other companies the Council had partial ownership of.

It was noted that with Pathfinder Legal, the Council was not the only shareholder, that company having emerged from Joint Committee arrangements. Pathfinder Legal was also a direct provider of a Local Authority service, whereas This Land and Light Blue Fibre delivered activities that were additional to usual LA functions. A Member commented that this did not address the issues of appropriate governance. He observed that there was a "Red line" between representing the interests of the shareholder, and being a director of a Board. For Councillors, he stressed that the position was different to professional officers, and their fiduciary duty as a Director was more difficult to separate out between the company and Council. For that reason, and because Councillor appointments were not made on the basis of professional expertise, he did not believe it was good governance for a Councillor to be a Director of a company such as This Land. He asked officers to carefully consider the governance issues and potential conflict of responsibility that existed as a result of having a Councillor as a Director. **The Executive Director for Finance and Resources agreed to discuss this matter with the Director of Legal Services and Chief Executive. Action required.**

Arising from the report:

- a Member queried the inclusion in Schedule 2 Reserved Matters of "*Making or agreeing to make any political donation to a political party or other political organisation, or to an independent election candidate, or incurring or agreeing to incur any political expenditure*" and asked why this was included. **Officers advised that they were unaware of any such circumstances where this would be an issue, but agreed to check. Action required;**

- a Member stressed the importance of continually reviewing the governance arrangements of This Land, especially as the current economic climate was very different to how it was 5-6 years ago when the company was formed. She acknowledged that these were challenging times for This Land, but hoped that they would continue to help achieve the Council's objectives;
- a Member welcomed the Shareholder Agreement being made public, and hoped that there would be further openness from This Land, especially given the misinformation about the company in the public arena;
- a Member commented that the difficulties a number of local authorities found themselves in could invariably be traced back to poor governance arrangements, and whilst feeling that there was good governance within the Council, agreed that such governance arrangements needed to be kept under constant review.

It was resolved unanimously to:

note the Shareholders Agreement for This Land Limited

21. Provider Selection Regime

The Committee considered a report on the proposed implementation of the Provider Selection Regime, a new set of national rules to be followed when the Council procured health care services. A correction to the report was noted: the Act had not yet received Royal Assent, but was currently scheduled to do so on 19th December.

The scope of the new rules was set out, including the five key criteria which must be considered when using the direct award process. Existing health care contracts would need to be managed under the new rules with effect from January 2024. Members noted the speed of introduction and implementation of the new rules, the challenges this created and how this would be dealt with.

In response to a Member question, it was confirmed that Public Health was included under Health Care services, i.e. all core Public Health contracts came under the Provider Selection Regime.

Arising from the report:

- in response to a question on the intention behind the legislation, officers explained that there had long been a debate on how effectively health services could be procured under standard public sector procurement legislation, given the overriding issue of patient choice. The Provider Selection Regime was aimed at enabling more patient led choices. In terms of key risks, the Council was unaccustomed to making direct award decisions without running a competition, and there was also likely to be take up from providers of the challenge process initially;
- a Member welcomed the intention behind this change, and the move away from competitive tendering in health care provision, and enabling greater collaboration;
- a Member suggested that the recommendation should be to “note” rather than “agree”;

- in response to a Member question, it was confirmed that existing contracts would need to be managed under the new guidance. There would be some minor changes in terms of modifications that could be made without having to reprocure, and the Provider Selection Regime's definition of those modifications were slightly different;
- a Member welcomed the intent behind the legislation, commenting that it was primarily targeted at the NHS, where the patient led nature of care was central, and the involvement of local authorities was almost incidental. He felt it was important to have a balance when considering how these new arrangements were going to work, and the way in which the Council complied with the law. This would be particularly critical for the Adults and Health Committee, and he asked if that Committee would have a report on this issue. Officers agreed to check. Action required;
- noting the five key criteria, a Member asked what Social Value actually meant in this context, commenting that it was really important for Members to understand how terms like this were being used in procurement decisions. Officers advised that the definition of Social Value was as per the Social Value Act, and revolved around additionality, i.e. not core delivery of contract, e.g. training or apprenticeship offers, or volunteer hours in local communities. When procurement was carried out under public contract regulations, there was a specific weighting for social value.

It was resolved unanimously to:

agree the approach to implementing the Provider Selection Regime as set out in this report.

22. Major Energy Projects – Progress Update

Members considered an update on the delivery of large energy projects. The progress against each scheme was noted. Officers verbally updated the Committee on a number of corrections to the report, and these were set out in Appendix 1 to the report.

Arising from the report:

- a Member asked if the estimated generation figures for North Angle Solar Farm were conservative. Officers confirmed that estimates were based on the actual performance at Triangle Solar Farm, which had outperformed generation forecasts to date. Regarding carbon emission estimates, HM Treasury grid decarbonisation forecasts are used to provide estimates for carbon emissions savings. These forecasts would be updated annually;
- a Member asked whether there were benchmarks for the payback periods. Officers advised that Local Partnerships had reviewed the original Investment Grade Proposal for North Angle Solar Farm and benchmarked costs against other solar farms. Costs for 1 MW of installed capacity across equivalent solar farms can be provided as a benchmark. Action required;
- in response to a Member question, it was confirmed that NPV was Net Present Value (i.e. the time value of money), and ROI was Return on Investment (i.e. the total return over the asset's life). For ROI, an asset lifetime of 25 years was assumed, but for some assets such as Swaffham Prior Community Heat Project, business cases had longer

timescales . However, Officers noted that the ROI for Swaffham Prior looked wrong and it would be confirmed via email. Action required;

- a Member observed that the St Ives Smart Energy grid appeared to be out of line with the other solar generation schemes, in that the Payback period had increased. Officers advised that there had been a change to the project during 2022/23 to connect the project directly to the grid rather than via a local business. An . increased capital cost had been experienced on the St Ives scheme which resulted in the Payback period increasing.;
- a Member asked if it was possible to have figures of income per annum for the Council. Officers advised that they could show actuals for Triangle Farm, St Ives would not start generating until early 2024, but actual figures could be shared as soon as they were available. Action required;
- a Member noted that for Members in general, going forward it would be helpful if they knew the Business Plan, time/cost metrics, and the current position, as many of these projects were still to be completed. This would enable Members to understand some of the cost implications. Action required;
- a Member noted that construction projects can change when on-site and that it would be helpful to report project changes and their impacts on business planning;
- a Member queried the budget for undertaking the “*minor works to retain planning permission*” for one scheme. as there was no capital budget to deliver the scheme in the business plan. Officers explained that a development budget had been previously approved at Committee and it was this budget that would cover the costs of the minor works. The works were estimated at £20k including the relocation of great crested newts. In addition, this particular project is delayed due to transmission grid upgrades preventing connection to the grid until 2030, but the Autumn Statement identified positive action to reduce timescales for grid upgrades, and separately discussions with UKPN were underway looking at other mechanisms to speed up connections to the grid. If these can be realised the project may be able to progress.

It was resolved unanimously to:

note the current position regarding the delivery of the Council's large energy project and planned actions to enable their successful completion.

23. Procurement Performance Report

The Committee considered a report on the performance of the Procurement and Commercial team and functions across the Council. The report contained information on procurement improvements, summarising improvements made since the last External Audit opinion was published.

Members noted the performance management framework and further service plan targets, and also actions undertaken as both directly and indirectly as a consequence of a BDO audit opinion. The Council now had a sustainable procurement strategy, and was undertaking risk assessments as part of its highest risk contracts, and expanding this to the lower risk contracts. The team was working hard in training and supporting contract managers. Other actions being undertaken and planned were outlined.

With regard to waivers, guidance had recently been issued to senior officers around the approval or rejection of waivers, and further clarity had been provided on who approves waivers and the relevant limits. Members noted the example given of the Cambridge Biomedical Campus.

The report also set out savings and cost reductions achieved by the team, and the Commercial team had realised considerable service level efficiencies.

Arising from the report:

- a Member was pleased to note the recognition of waivers as an issue, but was puzzled by the example given, where the waivers for the Cambridge Biomedical Campus had been granted due to the “compatibility” reason. Officers explained that this related to the VFM reason, and gave examples. Whilst understanding that point, the Member suggested that those type of compatibility issues would have been known about far in advance, and asked why waivers were required in this instance. Officers explained that more guidance was being issued, as often the first phase of consultancy was procured in relation to a project, but subsequent phases were not scoped into the original specification, so waivers were required to continue to use the same consultant. The Consultants policy gave special focus to that area, and the relevant legal, audit and procurement lead officers were targeting the relevant officer groups. **Officers agreed to respond to the Member with more detail on the Cambridge Biomedical Campus example. Action required;**
- noting the estimate of £1M in non cashable savings, a Member suggested that speculative, inflated bids could skew this leading to an inflated average figure. Officers advised that they were happy to provide a breakdown, and that they did not often receive inflated bids. **The Member asked for an explanation of how the £1M figure had been calculated. Action required;**
- a Member commented on the attitude to risk in terms of contract management, as set out in the report. He noted that quite correctly, the report considered the life cycle of a contract, with a greater emphasis of contract management. The report advised that the Council has over 750 large contracts, and that risk assessments had been undertaken on around ten of those contracts, and that within a year the team hoped to have a comprehensive list of the highest risk contracts. The Member had raised a concern with the Chief Executive Officer that this information was not already in place. Officers advised that in terms of the highest value/highest risk contracts, these had already been assessed, and the report did not reflect some of the work already undertaken. The Council’s contract managers would already have a very good understanding of the risks within their own contracts, and the work taking place over the next twelve months would seek to coordinate existing data so that it was available in one place, to provide a better corporate overview. A lot of work had been undertaken by staff to correct legacy issues and strengthen the resilience of procurement across the Council. The next report would set out in more detail of the progress made to date across the Council. The Member accepted that progress was being made, but was concerned about timescales, specifically the aspiration to provide a list of highest risk contracts in the next 6-12 months. Officers commented that this related to the corporate oversight for contracts over £100K. **The Chair suggested that more information would be provided in a subsequent report to the Committee. Action required;**

- a Member observed that inflation was the greatest risk currently in procurement and contract management, with suppliers often only willing to engage in short term contracts. The proposed approach seemed sensible, and he noted that the team was on a journey, and he would rather time was taken to thoroughly compile the required information. The Chair agreed that thoroughness and scrutiny were key from a Committee perspective.

It was resolved unanimously to agree the actions contained within this report.

24. Assets and Procurement Committee Agenda Plan, Training Plan and Appointments to Outside Bodies

The Committee reviewed the Committee Agenda Plan, noting that a report on the Cambridge Biomedical Campus would be considered at the March meeting, and a report on Mill Road Library would be considered at the January meeting.

The following Member training sessions were noted:

- Procurement training for all Members on 29 November at 12.30 via Teams;
- In person training session at 9am on 16 January, before the next Committee meeting.

A Member queried the “Eastnet procurement” item – it was confirmed that this related to a Local Area Network Wifi contract connection, including schools, involving multiple local authorities across the East of England.

A Member suggested that it would be useful to have an item scheduled on lessons learned from the disposal of Old Shire Hall, possibly for next summer. Officers proposed a more general “lessons learned” report on assets and procurement issues, maybe annually, as being more useful. The Chair agreed, suggesting that any pressing individual cases would be dealt with on a case by case basis, and added to the agenda following consultation between the Chair and officers.

It was resolved to:

- a) note the agenda plan.

25. Shire Hall, Cambridge – Commercial Update

The Committee considered a report on the redevelopment of Shire Hall, which set out the next steps following non-completion of the redevelopment agreement by the agreed deadline.

The developer Brookgate, had contacted the Council just before the 14th August 2023 deadline to advise they were unable to proceed, mainly due to the general economic situation (pandemic, inflation, etc.) having significantly changed their position. Other options were being assessed, and nothing was being classed as abortive costs at this stage. The options were set out in detail in the confidential appendix, including sale and long lease, and the report outlined why those alternatives were not favoured, and officers outlined why the “Income strip” deal remained the preferred option. Whilst a “managed agreement” would give the greatest return, this did carry a higher degree of risk, and was not the Council’s core business, so the lease option was the preferred option from officers.

It was recommended that Old Shire Hall was marketed early in the new year, with the hope of attracting and completing with a new developer, to move forward before summer 2024, with updates and decisions to be presented to future Committee meetings.

A public question was presented on behalf of Mr Antony Carpen (see appendix). The Chair advised that Mr Carpen would receive a full written response within ten working days.

Arising from the report:

- a Member asked if an in depth review of the student accommodation was being considered. Officers advised that this was one of the alternative options that had been considered, but it gave a far lower rate of return based on present assumptions, which was why that option was not favoured;
- a Member noted the Town Green status would take a number of months to complete, and he asked if this would introduce uncertainty into any type of arrangement with third parties. Officers confirmed that this had not been flagged up as a risk in soft market discussions;
- a Member commented that the sale of Old Shire Hall and move was not something the Joint Administration had supported, but it had been too late when Joint Administration had taken over to reverse that decision. Whilst having significant regrets, there were many ways in which the move to New Shire Hall had been very successful. The Member had always had concerns about the Brookgate deal, but commented that no one could have predicted the sequence of events, starting with the pandemic, that contributed to the Brookgate withdrawal. She asked if there had been discussions with Brookgate about their proposals? Officers highlighted the specific advice around procurement in confidential Appendix 3, outlining both Brookgate's case and legal advice around procurement in relation to marketing the asset. This included how the "memory banks" were dealt with. There had been considerable learning for officers that would be of benefit moving forward;
- a Member challenged the idea that the income strip proposal should score so highly, given that most successful income strip deals derived from considerable synergies being achieved. The Member did not see the explicit synergy in the arrangement between the Council and developing a hotel. Officers explained that comparing outright sale to the NPV of the income strip model, on a financial basis or long lease, was much more attractive. Maximising the social value of the site in an income strip model would also be explored with potential developers, which would not be an option with outright disposal;
- a Member asked that for future reports, NPV should be adjusted to reflect the "present" for different time periods. Officers agreed to review this but stressed that the focus would always be on the current NPV. The Chair observed that the request was effectively for a numerical adjuster, and suggested that prices should be kept the same but contextualised e.g. recognising changes due to inflation;
- a Member expressed concern that there was insufficient information available to the Committee to make a decision, and asked if more information had been made available. Officers advised that they briefed Spokes on the issues around the disposal of old Shire Hall, including the alternatives available. The officer advice was largely based on the confidential appendices, and the Committee was reassured that

the figures provided were robust. The Leader of the Council confirmed that there was no separate, private information that had not been shared with the opposition;

- praising the report, a Member commented that there had been lessons learned, and the issues encountered demonstrated how unpredictable market forces could be. He observed that assumptions were being made on the type of bids that would be received. His only concern was the timelines that had been set, as he felt they were hugely optimistic, and for that reason he could not support recommendation 'b'. Another Member suggested that the words "*with defined deadlines*" could be removed from recommendation 'b' to remove those stringent deadlines and make that recommendation acceptable;
- a Member commented that he had always had reservations regarding the proposed figures for this transaction, and the Council was now in a significantly different environment. He was disappointed that there had not been a more challenging process on these issues before now. He was further concerned that issues such as the Town Green impacted on the terms and price that could be achieved. He also felt that the deadline for legal completion in Summer 2024 was unrealistic, especially given the current state of property markets. Another Member highlighted that the risks were evaluated in detail in the confidential appendices. Officers commented that bids/offers would be evaluated on their merits when they were received. Whilst Income Strip remained the favoured option, the Council was open to offers. It was agreed that the timescales were challenging, and more would be known by the March Committee.

With regard to the issues raised in the public question, especially regarding public access, a Member observed that these had been dealt with previously.

A number of Members expressed concerns regarding the defined deadlines, feeling they were unachievable and may be counterproductive, deterring potential buyers who may feel there was insufficient time for due diligence.

Noting that amendments to recommendations needed to be made in advance of the meeting, but could be taken at the meeting at the Chair's discretion, a Member requested that the words "*with defined deadlines*" be removed from recommendation 'b'. The Chair advised that she would not take the proposed amendment. A Member noted that the Leader of the Council had indicated her support for the Chair's decision to not take the amendment. The Leader of the Council commented that it was the Chair's decision, and that Members had had plenty of time to submit an amendment to the recommendations, in line with the Council's rules of procedure.

It was resolved unanimously to:

a) note the Commercial update and withdrawal of Brookgate prior to the deadline approved by the July Strategy & Resources Committee;

It was resolved by a majority to:

b) approve the instruction of advisers and commence the marketing of the Shire Hall site at the earliest opportunity with defined deadlines for exchange and completion of contracts;

It was resolved unanimously to:

c) bring an update report to the March Assets and Procurement Committee on market engagement and a preferred bidder for approval, or next steps to move to that stage of appointment at the following Committee.

Public Question from Mr Antony Carpen

Re my public question under the previous administration of 17 October 2017

(<https://www.youtube.com/watch?v=tetzbzaAH84>) please could I urge the council to pause any existing actions until after the next general election, when a new government may wish to take a very different view on the finances of local government across England, and also may wish to take a different view on heritage assets from the current incumbents in Whitehall.

*As the video shows, the then Cllr Raynes promised that my suggestion regarding the use of part of the site for an expanded Museum of Cambridge would be considered. Yet there is *nothing* in the meeting papers that demonstrates that such a consideration was made by either the current or the previous administration. Please could ask the Council to request that Officers go back and undertake an assessment of a potential heritage attraction, involving a comprehensive consultation with the extensive local history communities, young people, and potential corporate and personal philanthropists who may be willing to support such a project as part of the re-use.*

Furthermore, you should have received notice from the Chief Executive of Cambridge City Council of the motion passed at their full council on Thurs 19 Oct 2023 (See printed minutes at <https://democracy.cambridge.gov.uk/ieListDocuments.aspx?CId=116&MId=4259>)

"Council renews its call on asks the Leader and Chief Executive to participate in initiate discussions with other Authorities in the region and then central Government to identify options for a less fragmented and more cohesive model of Government for Cambridge, that best serves the needs of its residents. These discussions should involve and engage with the people of the city in a meaningful way, thereby recognising the need for our governance structures to reflect the wishes of the people we serve."

Again I urge the County Council to pause on any further negotiations until there is greater clarity for any moves towards a Unitary Council set up for Cambridgeshire and Peterborough, should a future Cambridgeshire Unitary Council wish to base itself back at the old Shire Hall.