

COMMERCIAL AND INVESTMENT COMMITTEE: MINUTES

Date: 13 September 2019

Time: 10:00-12.30

Venue: Kreis Viersen Room, Shire Hall, Cambridge

Present: Councillors J Schumann (Chairman), I Bates, L Dupré, A Hay (Vice Chairman), M Goldsack (substituting for Councillor Rogers), J Gowing, D Jenkins, L Jones, and T Wotherspoon

In attendance: Councillor S Bywater

Apologies: Councillor Rogers (Councillor Goldsack substituting)

259. APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies were presented on behalf of Councillor Rogers (Councillor Goldsack substituting). There were no declarations of interest.

260. MINUTES OF THE MEETING HELD ON 12 JULY 2019 AND ACTION LOG

The minutes of the meeting held on 12 July 2019 were approved as a correct record.

The following items were discussed:

Item 242(3)/The report on the resourcing of the Commercial Team would be considered at the October Committee meeting.

Item 225/Inspection of buildings/estates review report – this would be reported to either the October or November Committee meeting.

Item 162/Older People's Accommodation Strategy – Members expressed concern that there appeared to be no progress on this issue. The Chairman advised that the first phase had been assessing need from a Service perspective, and that as that stage had now been completed, the Service Director would be asked to provide a report to the October meeting. **Action required.**

Item 252/Water Procurement/ESPO – The Chairman thanked Councillor Bates for instigating the response sent from ESPO on these matters.

It was resolved to note the action log.

261. PETITIONS AND PUBLIC QUESTIONS

There were no petitions or public questions.

262. PROCUREMENT OPTIONS FOR ENERGY PROJECT DELIVERY CONTRACTOR

The Committee received a report which set out options for the procurement of a new Energy Project Delivery Contract to commence after the current contract for services, the Refit 3 Framework with Bouygues Energies & Services, expires in April 2020. At that date, projects already underway would continue under the Refit 3 contract, but any new projects would require a new contract to be in place.

Officers had worked with their counterparts from other local authorities, including Peterborough, Cambridge, South Cambridgeshire, Huntingdonshire, Fenland and Suffolk, and the recommended approach was to work in partnership with those authorities in the procurement exercise, sharing costs. However, since the report had been published, it was likely that Suffolk County Council would not be joining the partnership as they did not currently have a programme of energy projects to take forward, nor did they have the staff resource. Members were also advised that the Refit 4 costs had been redacted from the public version of the report at the request of Local Partnerships, the co-owner of the Refit Framework.

The scope of the contract was outlined. Members noted that three different procurement options had been considered – Refit 4, own OJEU procurement, or other existing Framework (i.e. other than Refit). A SWOT analysis had been conducted and lifetime contract costs had been estimated. The conclusion was that the “own OJEU” route would be the most attractive option. The flexibility to competitively procure reviews would improve the usefulness of reviews, and better tailor the reviewer to the project. The timescales and processes, post agreement, were noted.

A Member asked if there was internal capacity to deliver the project delivery contract, or whether officers would be diverted from other projects and work? Officers confirmed that they were satisfied there was sufficient resource. In response to a Member question about the maturity of the contractor market, officers confirmed that the same position would apply if the Refit 4 option was chosen, and advised that there had been limited competition under the previous Refit frameworks.

A Member asked whether the estimated cost savings would be impacted by the withdrawal of the Suffolk County Council. It was estimated that cost savings could be reduced by about £10,000.

There was a query as to what happened if the estimated savings were not realised as individual projects came forward, specifically when this might happen. Officers advised that there was an option under Refit 4 but that was a sunk cost, and it was more likely that the contract would move wholesale to Refit 4 if the cost savings could not be realised. The Member suggested that this may create reputational risk among partners, and this should be included in the SWOT analysis. Another Member pointed out that if the savings turned out not to be achievable, the situation would be the same for all partners, so they would also move over to the Refit 4 contract. It was suggested that the question about review risk should be covered in the SWOT analysis. Officers agreed, but highlighted that this was explored in the report, specifically that the Invitation to Tender and Terms & Conditions would be examined by Procurement and Legal colleagues to ensure that potential tensions regarding confidentiality and independence of third party reviewers would be covered. It was confirmed that the draft Invitation to Tender documentation would be shared with the Member Working Group.

It was confirmed that had the points raised above been included in the SWOT analysis, the recommendations to Committee would not change, as the key factors, quality and cost savings, would remain the same.

A Member asked what the cost savings were for the District and City Councils listed. Officers explained that cost savings would depend on the size of individual authority's programmes - some estimates had been produced, based on notional assumptions of what the size of each authority's programme might be, and this detailed information could be provided.

Observing that the cost savings were quite modest, officers explained that achieving better value out of technical reviews needed to be considered - the stage had been reached where officers' own skills, intelligence and capacity matched that of Local Partnerships, so their expertise became less valuable. Members suggested that this point should have been made clear in the report, along with a more thorough SWOT analysis.

It was noted that East Cambridgeshire District Council was not listed as one of the partners in the procurement exercise. It was confirmed that they had been approached but like Suffolk did not have a pipeline of projects. It was confirmed that other authorities could join at a later stage, for an access fee.

It was resolved unanimously to:

- a) Approve the recommended procurement route set out in paragraph 2.5 of the report;
- b) Approve the development of an Invitation to Tender which will be shared with the Energy Project Member Working Group for comment ahead of issuing to the market;
- c) Delegate authority to the Chief Finance Officer in consultation with the Chairman of Commercial and Investment Committee to award the contract

With the Committee's agreement, the Chairman suggested that the Finance Report be taken until after the Meads Farmhouse report, as one of the Finance Report's recommendation was contingent on the decision on that item.

263. NOTICE TO PROCEED WITH ST IVES SMART ENERGY GRID

Members considered a report on progress with the St Ives Park and Ride Smart Energy Grid. This scheme would combine solar panels in canopies above car parking spaces with battery storage and electricity generation to serve both the site and local industrial customers. It was confirmed that the Transfer with the Land Registry was still not finalised. The Chairman and Councillor Bates agreed to assist officers with the land title issue.

The risks of the project were outlined including securing Power Purchasing Agreements (PPAs) with major customers and exiting the EU with a No Deal Brexit (in terms of exchange rate losses and tariffs). It was confirmed that if costs increased significantly, a further report would be presented to the Committee.

It was noted that Local Member Councillor Kevin Reynolds had indicated that he was happy with both the report and its recommendations.

It was suggested, especially given the No Deal Brexit risk, that it would be helpful to have clearer information on the timetable, as this was critical. It was agreed that an additional recommendation would be added in *“To report to the Energy Investment Project Member Working Group any updates and timeline”*. It was confirmed that the delegation was within the financing previously agreed, and that the Deputy Chief Executive had no authority above that.

On behalf of the Committee, the Chairman asked for best wishes to be passed on to Sheryl French for a speedy recovery.

It was resolved unanimously to:

- a) Note progress with the project;
- b) Report to the Energy Investment Project Member Working Group any updates and timeline;
- c) Delegate the final project decisions to the Chief Finance Officer in consultation with the Chairman of the Commercial & Investment Committee, including the issuing of a ‘Notice to Proceed’ as set out in paragraph 2.5 of the report.

264. PERFORMANCE REPORT – QUARTER 2 OF 2019-20

The Committee received a report which provided Key Performance Indicators associated with the delivery of the Commercial Strategy 2019-2021. Previously, Performance had been included in the combined Finance & Performance reports. Going forward, Service Committees would have separate Performance reports on a quarterly basis, which all followed the same format. A number of Members commented favourably on the division between Finance and Performance reports, which they felt gave a greater focus on performance issues.

It was confirmed that Indicator 164 (*Annual forecast of the net amount of commercial property income as a percentage of initial investment*) had a Red RAG rating as it was marginally more than 10% outside the target. It was clarified that Amber RAG ratings were for targets within 10% of target. With regard to the statement that *the “...6% target will be achieved in the long-term from a balanced portfolio”* it was clarified that ‘long term’ in this context meant over five years from the first investment.

It was resolved unanimously to:

- a) Note and comment on performance information

265. SAWTRY MAN CAVE

The Committee considered a request to grant a ten year lease of the workshop area at the Sawtry Community and Youth Centre to Caresco at less than best consideration.

As this report had not been available at the time of the original agenda despatch, the Chairman had agreed to take it as a late item, using the powers afforded by Local Government Act 1972 discretionary powers:

Reasons for Lateness – the report had not been finalised in time for agenda despatch.

Reasons for Urgency – the existing tenancy agreement had expired and the proposal was to grant a new lease conditional on Caresco obtaining grant funding, and Caresco needed to submit that grant application.

Local Member Councillor Bywater spoke to the Committee, in support of the report recommendations. He thanked the Committee, for their support of the Sawtry Community & Youth Centre over the years, and outlined the different groups using the Centre, and in particular the number of people using the Man Cave, including those referred by the local GP practice. He thanked officers, especially John Macmillan and Alex Gee, for their perseverance with this matter.

In response to Member questions, it was confirmed the lease placed the responsibility for repairs and maintenance on the tenant, and the estimated running costs listed in the report for utilities and business rates were annual.

A Member advised that there was a national registered organisation, UK Man Shed, who offered a lot of support offer support to Man Sheds/Man Caves. Another Member commented that from a public health perspective, it would have been good to see reference to the Social Value of the project. It was agreed that this information would be produced and circulated to Committee Members. **Action required.**

It was unanimously resolved:

- a) To enter into an agreement for lease to Caresco for a minimum 10 year term at less than best rent subject to them receiving grant funding for improvements and maintenance;
- b) That agreement of the final terms are delegated to the Deputy Chief Executive in consultation with the Chairman of the Committee.

266. MEADS FARMHOUSE, WARBOYS – REPLACEMENT DWELLING

The Committee considered a report which sought approval for capital funds to replace a farmhouse on the County Farm Estate that was beyond economic repair. The original property was built in 1932 and was suffering from subsidence related issues for many years. The proposal was to replace the dwelling, which was the economical solution.

In response to a Member question, it was confirmed that the Council had become aware of the subsidence around 2000, but subsidence was not covered by insurance at that point. Officers advised that they were confident that the foundation work would be under budget, so the need for contingency would reduce, which would have a knock on effect for professional fees charged on overall project costs. The tenant was young, and it was expected he would be on the estate for at least the next 30 years. The rental differences would be covered by the tenant's tenure.

A Member suggested that in future reports, NPV would be useful calculation to include, to give the cost of alternatives such as the cost of not going ahead with a replacement dwelling.

It was noted that the existing building was a two storey dwelling with numerous single storey extensions. The tenant had bought a caravan which he would live in for the duration of the works, as he wanted to remain on site. The planning application was for a replacement dwelling on the same site, and existing infrastructure would be used where feasible.

A Member commented that the process needed to be more robust in future, going through the Working Group at an earlier stage, with all options presented. Whilst this was probably the best possible outcome in this case, other options needed to be explored by Members.

The Committee noted the comments from one of the Local Members, Councillor Costello, which supported the report recommendations.

It was agreed that the elevations for the new dwelling would be circulated to the Committee. **Action required.**

It was resolved unanimously to:

- 1) Review, note and comment upon the report;
- 2) Recommend to the General Purposes Committee to approve £295K of prudential borrowing for the demolition and rebuilding of the house at Meads Farm;
- 3) Approve the re-procurement of the Mechanical & Electrical and Building Fabric Maintenance contracts in order to maintain the Authority's statutory obligations.

267. FINANCE MONITORING REPORT – JULY 2019

The Committee considered a report on the financial information relating to the areas within the Commercial and Investment Committee's remit, for the period ending 31st July 2019. A number of changes to the report were noted, including reordering and technical sections streamlined, removing repetition. Finance reports had been standardised between Committees.

Additionally, work was under way to ensure that net returns from the Council's solar farms and energy investment capital projects were now under the Commercial Activity heading. Investment in the CCLA Property Fund was now being reported under Commercial Activity. This would be included in the August outturn report, which would be presented to the October Committee meeting.

Members noted the Committee's net income position with respect to Revenue budget, and the balanced position of the Capital budget. There had been a number of underspends in the Capital budget but these would be netted out by the Meads Farmhouse expenditure. This project would preserve the value of the asset and the rental income received from it, and would meet the Council's current obligation as a landlord, but not generate any additional income.

The Committee noted Appendix B, which set out the reprocurement of the Mechanical & Electrical and Building Fabric Maintenance Contract, which should have started nine months ago. It was confirmed the budget for this activity was within the Committee's base budget, and this was a standard reprocurement exercise. Members expressed concern that the reprocurement of the contract was being rushed through, especially as it was over £1M and involved other local authorities. It was suggested that rather than

delaying the process, a briefing note should be circulated, outlining the process adopted. **Action required.** The anticipated award of the contract was on Monday 16th September, and whilst it could be delayed, there were risks involved if this route was taken.

There was a discussion on the element of the maintenance contract which looked at “*Condition Surveys and other testing (not within the above contract)*”. It was confirmed that the existing tender was based on the current operational portfolio, which could fluctuate as assets were acquired/divested. A Member commented that Condition Surveys had been a cause for concern by the Committee for some time, and it would have been helpful if there had been more time to explore the implications before retendering the contract, particularly around the timetable. Officers commented that in terms of materiality, 90% of the contract related to the other four elements set out in the report (Planned preventative maintenance, work required following service, reactive maintenance and requests for work), and Condition Surveys were only a small part of the total contract.

It was resolved unanimously to:

- a) Review, note and comment upon the report;
- b) Recommend to General Purposes Committee to approve £295K of prudential borrowing for the demolition and rebuilding of the house at Meads Farm; Approve the re-procurement of the Mechanical & Electrical and Building Fabric Maintenance contracts in order to maintain the Authority’s statutory obligations.

268. COMMERCIAL AND INVESTMENT COMMITTEE AGENDA PLAN AND TRAINING PLAN

Members considered the Agenda Plan, including a number of changes since publication, and the Training Plan.

Members noted that there would be an additional Committee meeting, prior to the This Land Annual General Meeting on 24th September.

Members were asked to consider possible items for the provisional Member training session on 18th October, so that these could be agreed at the 3rd October briefing.

It was resolved to note the agenda plan and training plan.

(The Deputy Chief Executive withdrew from the meeting)

269. THIS LAND – PERIODIC AND FINANCING UPDATE

Members considered an update on the financial position, progress and forecasts of This Land, the Council’s wholly owned arms length company established to carry out property development work. The appendices to the report included commercially sensitive information regarding finances and schemes.

The Council had granted loans of £78.87M loans for land to This Land, and to date had received back the initial overhead loans (£2.8M) and were due to receive interest of £4.89M in 2019-20. Active shareholder engagement continued, with the second shareholder update for 2019 taking place on 2nd August 2019 at the company's offices. The AGM was scheduled for 24th September.

Members noted:

- All land transfers had been completed for the foreseeable future.
- There had been a number of delays in progressing the planning applications.
- A significant revision of the company's detailed financial projections and profiles was anticipated. Based on the latest predictions, the company remained in a favourable state and the returns were expected to continue. Attention was drawn to details of the completed development on Milton Road.

A Member observed that for a number of sites, a potential lack of viability or "less than best" financial position was identified, but the same assessment had applied to the Milton Road site originally, but this scheme had subsequently proved to be financially viable, with returns exceeding expectations.

A Member expressed concern that some This Land documents shared confidentially with the Committee had been leaked to the Press, and asked officers what action would be taken. It was confirmed that the Council's Monitoring Officer was being consulted on this matter, but that a robust approach was taken to Members leaking commercially sensitive documents.

With regard to the backlog of work with Local Planning Authorities, it was confirmed that there was a formal escalation to challenge under the statutory processes when planning applications had not been dealt with in a timely manner, and planning courts would consider cases of non determination.

It was confirmed that This Land was committed to undertaking a full financial refresh, including financial predictions, twice a year.

Members discussed the borrowing strategy of This Land, noting that the company was looking at different ways of fulfilling its borrowing requirements.

It was resolved unanimously:

To note and comment on the report.

270. EXCLUSION OF PRESS AND PUBLIC

Two Members pointed out that it would have been possible to write the report in such a way that it was publically accessible, with just the appendices confidential. Officers

noted Members' comments, and agreed to disaggregate information in future to ensure that reports could be publically available as far as possible.

It was resolved by a majority:

That the press and public be excluded from the meeting on the grounds that the agenda contains exempt information under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, and that it would not be in the public interest for this information to be disclosed – information relating to the financial or business affairs of any particular person (including the authority holding that information)

271. SHIRE HALL DISPOSAL – DRAFT HEADS OF TERMS

The Committee considered a report on the draft Heads of Terms for the lease of Shire Hall between the Council and the hotel provider at Shire Hall.

Written comments from Councillor Richards, the Local Member, were noted.

It was resolved unanimously to:

- a) Comment on the draft Heads of Terms as set out in the appendix to the report;
- b) Approve the Heads of Terms as set out in the Appendix to the report and delegate the agreement of any further minor amendments to the Deputy Chief Executive in consultation with the Chairman of the Committee.

Chairman