

COMMERCIAL AND INVESTMENT COMMITTEE: MINUTES

Date: 16 October 2020

Time: 10:00am – 12.40pm

Venue: Virtual Meeting

Present: Councillors M Goldsack (Chairman), C Boden (Vice-Chairman), I Bates, J Gowing, D Jenkins, L Jones, P McDonald, T Rogers, M Shellens and T Wotherspoon

376. APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies or declarations of interest.

377. MINUTES OF THE MEETING HELD ON 11 SEPTEMBER 2020 AND ACTION LOG

The minutes of the meeting held on 11 September 2020 were agreed as a correct record.

With regard to action 307, Members were advised that consideration of the full Business Case for Cambus 2020 would be rescheduled until January 2021. Brookgate had recently suggested a different element in relation to fees which affects the overall capital sum. Members were reminded that the Heads of Terms were shaping the final contract, there was still scope for elements to change.

The Action Log was noted.

378. PETITIONS AND PUBLIC QUESTIONS

There was one public question which would be covered under the relevant agenda item.

379. BUSINESS PLANNING PROPOSALS FOR 2021-26 - OPENING UPDATE AND OVERVIEW

The Committee considered a report that outlined the current business and budgetary planning position and estimates for 2021-2026, the principal risks, contingencies and implications facing the Committee and the Council's resources and the process and next steps for the Council in agreeing a business plan and budget for future years.

The unforeseen challenge of the pandemic had impacted significantly on the Council, which continued to operate in an uncertain landscape. For this reason a scenario based approach to business planning was being taken this year. In order to balance the budget in light of cost increases and uncertain Government funding, savings, additional income or other sources of funding amounting to at least £32.8m were required for 2021-22, with a total of £75.7m required across the full five years of the Business Plan.

Commercial & Investment Committee was specifically looking at an impairment of around £2M for the first year, and the reductions in income were detailed in the report, which mainly related to reductions in rental income from commercial properties. Despite this, it was noted that much of the Council's property portfolio remained resilient, e.g. Brunswick House was currently at 70% occupancy. Much of the activity planned for 2021-22 would be focused on supporting recovery across the Council and in the wider economy.

Arising from the report, individual Members:

- Thanked officers and endorsed the scenario-based approach, commenting that it would be good to have greater refinement in December, but acknowledged that there would still be significant uncertainty;
- Commented that the use of the term "impairment/permanent impairment" in relation to revenue was misleading. Officers agreed to review future reports in light of this comment;
- Had a number of queries relating to the detail of the overall revenue budget, including Care Homes, and those areas where inflation was expected to double, such as coroners, public transport and home to school transport. It was agreed that the Councillor's question would be emailed to officers via the Chairman, for a response. **Action required;**
- In light of the uncertainty and challenging times, one Member suggested pushing back the Business Planning process one month, so that the final approval by Council was considered in March rather than February. Officers advised that statutorily, the Council was obliged to approve a balanced budget in February, six weeks in advance of Council Tax bills being issued by District/City Councils. It was acknowledged that additional sources of funding had been announced e.g. an additional £1 billion had been announced for local authorities, but that was to deal with the current year's shortfall – it was unclear what additional support would be provided in 2021-22;
- Requested a more comprehensive list of savings that either need to be temporarily or permanently reversed to be provided in the December report;

- Whilst acknowledging the need for scenario planning, commented that Scenario A was too far from reality, and needed to be recalibrated going forward, with more definition on the detail of Scenarios B and C, using clear and unequivocal language. Officers confirmed that they were happy to provide that information, and explained how the data behind the different scenarios had been developed over a number of months, during a time when Covid-19 rates have remained fairly stable. Data was constantly being updated to ensure more realistic scenarios were developed. Other Members acknowledged that matters were moving rapidly, and stressed the need for using clear language;
- Expressed considerable concern about the Council's overall Business Plan, especially demand-led areas such as Children's and Adults' services, where it was likely that the pandemic would result in more poverty and a call for more services, especially in areas such as Fenland;
- Queried the dilapidation costs of £190K for Babbage House in 2021-22. Officers agreed to supply the detail on this item. **Action required;**
- Asked how the Council could handle a continually moving set of goalposts with regard to budgeting. Officers advised that they were engaging proactively with MHCLG on how to approach next year's challenges, and had started a process to ensure that MHCLG were aware of the Council's financial position. It was important to note that many local authorities were facing challenges, and quite a few were in a significantly worse financial position in the current financial year. The Government would be attempting to publish their Spending Review statements in December, as this needed to be clear prior to drafting the final Business Plan for January. In the event of scenario C, it was noted that this could not be funded, and the implication would be issuing a Section 114 statement, declaring that the Council could not meet its liabilities. It was stressed that the Council was not in that position currently, but transparency was needed on the challenges being facing. This was why it was important to have clarity on the Spending Review Statements by January;
- A Member commented that he appreciated that the Council was operating in unprecedented times, and that the officer group had his 100% confidence. However, recognising that Councils had a lot of bureaucracy, he asked if it was possible to lift some of that bureaucracy to facilitate more nimble reporting. Whilst understanding entirely and supporting in principle the Member's comments, officers advised that they were bound to the statutory framework within which local authorities operate, on top of which there were capacity issues. The Deputy Chief Executive agreed to explore with colleagues how they could be more flexible without breaching statutory constraints;
- Another Member commented that the current situation required local government officers to be more agile than ever before, and as a result, officers may have to provide reports with less narrative.

The Chairman reminded Committee Members that they did not have to wait until Committee meetings before querying reports – they could contact the report author in advance of the meeting and query those issues where they wanted further information.

The Chairman concluded by agreeing with Members' comments that the Committee and wider Council found itself in extremely challenging times. Members were in the hands of fantastic officer teams, who kept Members informed both at and between meetings.

It was resolved unanimously:

- a) Note the overview and context provided for the 2021-22 to 2025-26 Business Plan.
- b) Note the impact of COVID-19 on the Council's financial planning

380. SERVICE COMMITTEE REVIEW OF THE DRAFT 2021-2022 CAPITAL PROGRAMME

Members considered the Service Committee Review of the draft 2021-2022 Capital Programme.

The opening section of the report was prepared centrally and was included in the business planning reports presented to each Service Committee. The second section focused on the Committee's specific business area. The report before the Committee was the first iteration to be presented as part of the 2020-21 business planning round. The report also contained a review of existing capital schemes (paragraph 5.4). Some of these had been re-profiled, some with reduced scope and costs and others with increased costs. The following section (paragraph 5.5) set out the details of where additional schemes had been added, split out from housing scheme works, or from This Land schemes. Paragraph 5.6 outlined the ongoing Cambs 2020 work.

A Member observed that the detailed estimates of schemes only provided indicative forecasts, whereas in practice the projection was based on current knowledge, and the figures were likely to be much higher in 3-4 years' time.

A Member advised that the Swaffham Prior scheme had not been successful in achieving government grant, and asked what the implications were for the capital budget. Presenting officers were unaware of this development, and confirmed that the business cases were predicated on securing funding, and agreed to investigate further.

Action required. Councillor Wotherspoon, speaking as Vice-Chairman of Environment & Sustainability Committee, confirmed that notification had very recently been received with regard to the Swaffham Prior scheme. Officers were still working out the implications of this decision, and a meeting with BEIS on 19/10/20, at which point more information should be available.

With regard to paragraph 5.4 and the rephrasing of energy schemes, commented that it would be helpful to know when it was expected that these schemes would come to fruition in the December report. In terms of timescales, officers advised that Appendix 1 gave anticipated timescales, with most expected to spend in 2021-22, with the Trumpington scheme going slightly beyond that. Officers agreed to provide a more detailed narrative for the Committee. **Action required.**

There was a discussion around which energy schemes were covered by Environment & Sustainability Committee and which were covered by Commercial & Investment Committee. It was noted that if the project was geared towards generating a commercial return, it would fall under the remit of Commercial & Investment Committee, whereas if the focus was environmental/climate issues, it was under the auspices of Environment & Sustainability Committee.

It was resolved to:

- a) note the overview and context provided for the 2021-22 Capital Programme for Commercial & Investment
- b) comment on the draft proposals for Commercial & Investment's 2021-22 Capital Programme and endorse their development

381. COMMITTEE AGENDA PLAN, TRAINING PLAN AND APPOINTMENTS TO OUTSIDE BODIES

The Committee considered the Agenda Plan and Training Plan, including changes made since publication.

Members noted that an appointment had been made to Care Suites Working Group under the Chairman's delegated powers, with Councillor Jones appointed to that group. It was agreed that future appointments made under the Chairman's delegated powers would be emailed to the Committee when those powers were exercised.

It was resolved to:

1. review the agenda plan and training plan;
2. note the appointment of Councillor Jones to the Care Suites Working Group.

382. THIS LAND – PROGRESS UPDATE, FINANCING AND RELATED REQUESTS

There was one Public Question. The detail of the question, and the response, are attached at appendix 1 to these minutes. Presentation of the question and response

can be found at the Youtube recording
<https://www.youtube.com/watch?v=6zPryF2dsos>

The Chairman thanked Mr Rowson for his question.

The Committee considered the public section of the report. Individual Members raised the following points:

- Thanked Mr Rowson for his email to Members detailing other Councils' attempts to raise money through commercial and investment processes, which was very helpful as it showed how things could go wrong as a result of authorities overreaching or not monitoring their investments satisfactorily. Cambridgeshire had learned from the mistakes of other Councils, and would ensure that those mistakes were not replicated. This Land had been set up to act in a commercial way as an arm's length company, and whilst the Committee clearly had an interest in the financial performance of This Land, the whole interrelationship between the Council and This Land was of particular importance, and this was not necessarily reflected in the figures. The Council had been receiving significant interest payments from This Land which helped the Council's budget by effectively converting revenue into capital.
- Commented that This Land was correctly set up to add value to the Council's land portfolio, rather than just selling off to developers, and this was its prime purpose. However, the Member felt that over time, the company was also being used as a financial instrument, converting capital into revenue. The Member expressed some concern that the prime purpose of adding value should not get lost;
- A Member was pleased to note that This Land was now moving forward with numerous planning applications, and hoped this good progress would continue;
- One Member reiterated that This Land was set up to be a housing company, and partly due to delays in planning and unsustainable initial Business Plan, progress had been extremely slow. Whilst the Council was lending at the market rate, the question was whether in the open market, other investors would choose to loan to This Land.

The Chairman commented that Councillor Shellens and he had attended as observers at recent meetings, and progress was being made on Planning applications, especially the Worts Causeway development. The Chairman asked Members to contact him if they were interested in attending future meetings as an observer. Councillor Rogers indicated that he would be interested.

So that the Committee could discuss the confidential appendix, the Chairman asked the Committee to move into private session:

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).

Officers presented the confidential appendix and responded to Member comments and questions.

It was resolved to:

- a) Agree to advance loan funds to meet the request received from This Land, as set out within the paragraph 9 of the appendix (in accordance with the strategy and overall totals previously agreed), delegating agreement of the final terms to the Section 151 officer, in consultation with the Chairman;
- b) Agree to advance a further equity share capital investment in This Land, in accordance with paragraph 9 of the appendix;
- c) Re-confirm agreement to the consequential property transactions arising from the approach set out in paragraph 3 of the appendix, delegating agreement of the final terms to the Section 151 officer, in consultation with the Chairman.

383. EXCLUSION OF PRESS AND PUBLIC

Exclusion agreed under second part of the previous item.

384. PROPOSAL FOR ADDITIONAL INVESTMENT IN THE COUNTY FARMS PORTFOLIO

The Chairman explained that given that it was necessary to provide the most up to date and detailed information available on the property acquisition opportunity in the open market to the Committee, he had accepted this as a late report. The report was urgent as the proposal would need to be made to the November General Purposes Committee, as the transaction was time limited.

The Committee considered a report, which sought recommendation to General Purposes Committee for a property acquisition. The rationale for the proposal was set out, in the context of the financial challenges facing the Council going forward.

It was resolved unanimously to:

recommend to General Purposes Committee the purchase of the property listed in the report with final terms to be delegated to the Deputy Chief Executive in discussion with the Chairman of Commercial & Investment Committee

Public question for Commercial & Investment Committee 16/10/20 From Andrew Rowson

This Land Ltd's mismanagement and poor financial planning over its first three years of operation have led to its being unable to honour its contractual loan repayment obligations unless it now sells an undisclosed number of sites to developers for them to generate profits – the very thing the company was set up to avoid. In the light of the Chairman's comments and other revelations in This Land's recently published 2019 financial statements, why did the Commercial and Investment Committee breach the council's Constitution in its April meeting by concealing from the public its key decision to commit the Council to providing: a) up to £85 million of additional loan funding to This Land Ltd, b) an up-front payment of £17.1 million (paid in August 2020) and c) a letter of support for this failing, spendthrift company?

Response to Mr Rowson's Public Question

Thank you for your question Mr Rowson – your written question relates to this Committee's consideration, in private, of the report entitled "This Land – Multi-Year Business Plan, Financing and other updates"

The title of that report was printed in the public agenda for that meeting in April, linked to a key decision for which public notice had been given 28 days in advance, as required. Although the Chairman has changed since April, it was clear in April that the Committee were considering how This Land is funded, taking account of its multi-year business plan.

The public agenda also stated that it was proposed to exclude the press and public because the report contained:

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The Members of this Committee in April had visibility of the full confidential report, and, in that context, voted unanimously to resolve that the press and public should be excluded, for the reason as printed in the agenda. This was also noted in the minutes of that meeting.

The minutes for the meeting also confirmed that

Members considered a report on revisions and updates to the This Land Business Plan, and related issues. All Committee Members had attended a virtual This Land shareholder meeting prior to the Committee meeting.

It was resolved, by a majority, to receive the updated This Land Business Plan 2020 as well as to agree the other related recommendations as set out in the report.

The suggestion that the decision to consider the report in private is a breach of the Constitution or unlawful is refuted. It is permissible to exempt information from publication for the reason given at

that meeting, that I have just repeated, in accordance with part 1 of Schedule 12A of the Local Government Act 1972.

In considering which information is made public, we recognise that the Council needs to carefully balance its concern that This Land can progress its business activities effectively, without revealing information to potential customers, purchasers, agents and suppliers which might jeopardise This Land's commercial negotiations, on the one hand, against the legitimate public interest in the deployment of public money through a company that is wholly owned by the Council, on the other hand.

With that point in mind I would draw attention to pages 49–52 of the agenda papers for today's meeting. These confirm in the public domain the details of loan transactions with This Land in recent months, including the total amount on loan as well as the operational boundary and total lending approved in principle, and that loans maturing during the period have been re-paid as expected. Also reported on those pages is the progress being made by This Land with director appointments, shareholder reporting and planning and construction successes.

Reporting to this Committee is not the only place that information is disclosed publically about This Land. The CCC Business Plan contains an estimate of the capital commitment to This Land for this year and in total: although the progress of development is a variable, we remain broadly in line with the published figure from the Spring; CCC's statutory draft statement of accounts published in June confirm the level of lending to This Land as at the balance sheet date and the further equity investment after the balance sheet date, and This Land's own audited accounts that Mr Rowson referred to were published in September.

There are a number of assertions in the information Mr Rowson has submitted to the Committee about This Land, some of which contain inaccuracies and I should also like to take the opportunity to address two of those that form part of the written question.

On the point about additional lending of £85m, I should emphasise that this was approval to an upper limit and only in principle. This Committee also set an operational boundary £35m below that and, as we are today, considers individual requests within those totals on a case-by-case basis.

On the description of This Land as 'spendthrift', my reply is that the work that culminated in this Committee's consideration of the business plan in April was detailed and commensurate with the progress and evolution of the company over the four years since incorporation. The Council continues to have in place a number of mechanisms for monitoring, validating and challenging the assumptions and deliverables within that plan, leading to assurance that This Land is currently delivering to that plan.