

Minutes of: CABINET

Date of Meeting: 14 February 2024

Present: Councillor E O'Brien (in the Chair)
Councillors N Boroda, C Cummins, R Gold, C Morris, A Quinn,
T Rafiq and L Smith

Also in attendance: Councillors R Bernstein and M Smith

Public Attendance: No members of the public were present at the meeting.

Apologies for Absence: None received.

CA.119 APOLOGIES FOR ABSENCE

Apologies for lateness were received from Councillor Charlotte Morris.

CA.120 DECLARATIONS OF INTEREST

Councillor Charlotte Morris declared an interest in respect of 11 – Simister Island Development Consent Order owing to her employment by National Highways, and undertook to not participate in the discussion or vote for that item.

CA.121 PUBLIC QUESTION TIME

The following question was submitted in advance of the meeting by a member of the public, Karen Simpson:

Further to my question posed in the last Council Meeting regarding the clause in the lease that states we are entitled to Quiet Enjoyment – which to date has not been answered as Charlotte Morris said she needed to 'gen up' on the terminology as she was not familiar with it, and I haven't heard anything since.

Would you now agree that you have indeed broken the terms of the lease in light of the findings that there has been a known fault with the Market Hall roof, since 1984? And that a special coating had to be applied every 5 years, yet no evidence can be found of this being done?

For info - Quiet Enjoyment is a clause in all our leases - broadly speaking, it entitles us to conduct our businesses without interruption or interference.

Responding, Councillor Morris reported that this question focussed on whether this constituted a break in the lease, and the straight answer was no. The Quiet Enjoyment clause had been looked into, it was a standard part of leases of this nature and meant that the trader has the right to use and occupy their stall in normal circumstances. However, these were not normal circumstances; when RAAC was confirmed in October an immediate decision was needed to close the market hall and constituted special circumstances. Legal advice had been sought and this was the Council's position.

Councillor Morris advised that the Council was continuing to do all it could to support people. This had been a very difficult situation for everybody; it had been a difficult but

necessary decision by the Council and we want to do our best by the traders. More clarity on the long-term picture was expected in the coming weeks, with final results of testing awaited, at which point timescales for reopening will be understood and communicated.

A further supplementary question was submitted:

So, to clarify you are saying that even though it's come to light that this issue has been known by the Council as a body since 1984, you are not responsible for what's happening now?

Councillor Eamonn O'Brien responded that no, this was not what the Council was saying about the issue of the roof. Most roofs will require regular maintenance but the Council were not aware that RAAC was used in the construction of the Market Hall until this was confirmed on Thursday 26 October 2023 following the outcome of a survey conducted by external specialist building surveyors.

Ms Simpson added that a fault in the roof was identified in 1984 and a special costing should have been applied every 5 years (and was not done so).

Councillor O'Brien advised that the position of the Council was that they don't accept this was the case without further research into the context and confirming the details involved. If there was a fault in 1984, that may be entirely separate from the problems faced today and more clarification was needed.

Councillor Morris added that she understood and appreciated frustrations, but the Council didn't know RAAC was present until October last year and couldn't change the situation now. More research would be done into the 1984 issue but it didn't change the position we were in now in relation to RAAC and this closure.

The following question was submitted at the meeting by a member of the public, Gary Simpson:

It is now mid-February, the time Council officials said we would be fully debriefed on the findings of the various investigations taking place on the market roof. No meeting has been called to relay this information – where are the results?

Responding, Councillor Morris reported that we had received the main condition survey part done but there were final details that needed to come through with regards to testing of the materials. This had to be done in a laboratory by a third party and the Council had no control over their timescales, which were longer than initially quoted. Once that work was complete a full briefing would take place.

The following question was submitted at the meeting by a member of the public, Steve Maloney:

1979 was the last time the Bury Market roof was coated; in 1984 it came to a Council meeting that they didn't have funds available (£10,000) and was to be considered at the following meeting which we do not have records for. As far as I'm aware, the

maintenance in place was to be recoated every 5 years. In light of the findings that the fault with the roof was established in 1984 and last treated in 1979, the fact that no evidence has been found that the RAAC was either or checked treated in the intervening years, would you agree that you have failed in your duty of care to both the traders and the public and, as such, a clear case of negligence can be established?

Responding, Councillor Morris reported that there was obviously a lot of historic details coming to light about what did or didn't happen in the maintenance of the roof, and it was important for us to understand that. She advised that, to her understanding, the current position was that even if all the maintenance had been carried out, the simple presence of RAAC would still have required the closure of the Market Hall. Councillor Morris advised that she appreciated the need to get the facts right on historic records, but the presence of RAAC made it hazardous and dangerous.

With regards to whether RAAC would be dangerous if coated, Councillor O'Brien advised that it was something that would be clarified through the ongoing investigations. He asked traders to continue sharing information with officers and with Councillors, and reiterated that information would be shared as soon as it was available.

CA.122 MEMBER QUESTION TIME

There were no Member questions.

CA.123 MINUTES

It was agreed:

That the minutes of the meeting held on 10 January 2024 be approved as a correct record.

CA.124 HOUSING REVENUE ACCOUNT BUDGET REPORT

Councillor Richard Gold, Cabinet Member for Finance and Communities, presented the report which established the Housing Revenue Account budget for 2024/25. It proposed an increase in rent levels of 7.7% (which was the Government's maximum allowable increase being September CPI (Consumer Price Index) 6.7% plus 1%) with effect from 1st April 2024, an increase in shared ownership rents by 7.7%, and an increase for other charges and rents by 6.7% (in line with CPI as at September 2023). It was noted that this report had been considered by Overview and Scrutiny Committee as well as Union meetings.

In response to questions it was noted that hardship funds were in place to support tenants on housing benefits and universal credit. These differed based on whether funds were paid to the tenant or the landlord, and the Council was working with tenants to help them according to their circumstances.

Decision:

Cabinet approved the following and commended it to the Council:

- Approved the 2024/25 budget for the Housing Revenue Account

- Agreed rents to be increased for 2024/25 by 7.7% which is the Government's maximum allowable increase being September CPI (Consumer Price Index) 6.7% plus 1% with effect from 1st April 2024.
- Agreed that shared ownership rents to be increased by 7.7% in line with the provision which is set out within shared ownership agreements with effect from 1st April 2024.
- Approved an increase in Garage rents by CPI as at September 2023 CPI 6.7%.
- Approved an increase in Sheltered Management and Support Charges by CPI 6.7%.
- Approved an increase in Service and Amenity Charges by CPI 6.7%.
- Approved an increase in Support and Heating charges by CPI 6.7%.
- Approved an increase in Furnished Tenancy charges by CPI 6.7%.

Noted that where a social rent property is re-let to a new or transferring tenant the rent level will be increased to the target rent for that property.

Noted that, in accordance with the Rent Standard, where an affordable rent property is re-let to a new or transferring tenant the rent level be set by reference to 80% of the market rent (including service charges where applicable) for a similar property at the time of letting or the formula rent for the property, whichever is the greater.

Reasons for the decision:

To progress the Council's budget setting process to achieve an approved and balanced budget.

Other options considered and rejected:

None.

CA.125 THE COUNCIL'S REVENUE BUDGET AND THE MEDIUM TERM FINANCIAL STRATEGY

Councillor Richard Gold, Cabinet Member for Finance and Communities, presented the Council's 2024/25 budget proposals and the framework for the longer-term Medium Term Financial Strategy (MTFS) 2024/2027. The report also set out the process that will lead to the agreement of the budget and the setting of the 2024/25 Council Tax at Full Council on the 21 February 2024.

The full suite of documents presented also included:

- Council Tax Setting
- Capital strategy 2024/25 to 2026/27
- Treasury Management Strategy 2024/25
- The Dedicated Schools Grant and the schools' budget 2024/25

It was noted that this had been considered by Overview and Scrutiny Committee as well as Union meetings.

An increase of 2.99% to Council Tax was being proposed along with a 2% adult social care precept, and the Medium Term Financial Plan reported a budget gap for 2025/26 of £10.627m and 2026/27 of £4.327m, bringing a cumulative three-year budget gap of £30.085m.

Councillor Gold advised that a recommendation regarding the treatment of military compensation was in response to the British Legion campaign, but also added discretionary housing support in addition to their proposals.

Members noted the challenging times and the changes made in Bury over the last 12 months, including the work of the Financial Improvement Panel and the associated financial improvement plan. It was noted that the Budget gap had reduced since December, from £17.243m to £15.131m (this took) account of approved savings of £5.368m). Work was underway to identify additional savings to deal with the further gap and, pending this, the gap will be funded through the use of reserves. Councillor Gold advised that c1.7m had also been announced from the government, which had not been in time to be included in these papers but would be reflected in Quarter 1 reports.

Members discussed the core spending power of the Council noting that although it was very slightly higher than the national average, Bury had been in the lowest 20% for funding and had received 17% increase in demand as well as £11m inflationary costs, which outstripped spending power. With regards to previous savings targets, 93% of these had been achieved and a plan to substantially reduce the remaining 7% would be received in Quarter 1. Officers advised that once previous savings targets had been delivered, work in Children's Services would continue to address budget concerns before work on the Council's balance sheet would begin to release assets where possible.

Decision:

Cabinet approved the recommendations and commended them to Council:

1. Approved the Medium-Term Financial Strategy for 2024/ 2025, 2026 / 2027 and the assumptions regarding resources and spending requirements.
2. Approved the Council Tax base for Bury Council for 2024/ 25 of 57,409 Band D equivalent dwellings, this is the basis on which the Council Tax funding has been calculated.
3. Approved the net revenue budget of £209.608m for 2024/2025.
4. Approved the Council tax requirement of £110.198m and the increase in Council Tax in 2024 – 25 of 2.99% in terms of General Council Tax and a further 2% for the Adult Social Care precept for 2024/2025.
5. Approved the budget assumptions £37.111m in 2024/25.
6. Approved the use of £15.131m of reserves from the budget smoothing reserve and £4.629m from the collection fund smoothing reserves.
7. Noted the forecast position on reserves (paragraph 22.2).
8. Noted the Chief Executive as Director of BMBC Townside Fields Limited will draw down annual dividends from the Company and annual dividends will be reflected in the MTFS.
9. Approved the recommendations set out in the Treasury Management Strategy (Appendix 2):
 - o Approved the Treasury Management Strategy including the associated Prudential Indicators and Annual Investment Strategy.
 - o Approved the Treasury Management Policy Statement.
 - o Approved the Minimum Revenue Provision (MRP) Policy Statement.
10. Approved the Capital Strategy and the Programme for 2024/25 - 2026/27 (Appendix 3).

11. Approved the Dedicated Schools Grant budget for 2024/2025 at £228.326m and approve the allocations between the four funding blocks as set out in appendix 4 to this report:
 - The Schools and Academies 2024/25 funding unit values as recommended by Schools Forum and detailed at Annex 1 to appendix 4.
 - Approved the 2024/25 hourly rates for all early year's providers as follows:
 - £5.28 per hour, for 3- and 4-year-olds.
 - £7.52 per hour, for 2-year-olds; and.
 - £10.00 per hour, for under 2s
12. Noted the position on the Dedicated Schools Grant deficit and Project Safety Valve.
13. Agreed to the following amendments to the treatment of military compensation as set out in Appendix 7:
 - Exclude military compensation for Discretionary Council Tax Support calculations - These are short to mid-term additional credits made to those in receipt of Council Tax Support as a top up towards their Council Tax.
 - Exclude military compensation for Discretionary Housing Payments calculations - These are short to mid-term additional payments made to those in receipt of Housing Benefit or Universal Credit as a top up towards their rent.

Reasons for the decision:

To progress the Council's budget setting process to achieve an approved and balanced budget.

Other options considered and rejected:

None, setting the budget is a statutory responsibility.

CA.126 QUARTER THREE CORPORATE PLAN PERFORMANCE REPORT 2023/24

Councillor Tahir Rafiq, Cabinet Member for Corporate Affairs and HR, presented the performance and delivery monitoring report for Quarter Three against the Corporate Plan for 2023/24. It contained full updates in terms of both the delivery against the priorities set out in the Corporate Plan and associated key performance indicators. A RAG rating and percentage completion had been introduced against each objective, and Members thanked officers for the improvement in these reports.

Decision:

Cabinet noted the update on progress against performance and delivery and the priorities for action against key metrics and timescales.

Reasons for the decision:

N/A

Other options considered and rejected:

N/A

CA.127 REPORT BY THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN (21 011 785 / 23 005 479 / 22 011 825)

Councillor Lucy Smith, Cabinet Member for Children and Young People, presented the report which set out the findings by the Local Government & Social Care Ombudsman (LGO) made against the Council following the Council's failure to comply with agreed recommendations following two earlier investigations, and the action now taken by the Council to demonstrate that it has complied with those recommendations. Members noted that this complaint related to the Council's failure to provide appropriate free transport and repeated failure to remedy the situation within agreed timescales.

In response to questions relating to this item and the subsequent item, Councillor Lucy Smith gave assurances that these related to historic complaints and since this time stronger policies and processes had been introduced which clarified staffing leads. It was also noted that the Monitoring Officer was meeting on a three-monthly basis with the LGO which would ensure issues like this would not reoccur.

Decision:

Cabinet noted the recommendations made by the Local Government & Social Care Ombudsman, specifically the concerns expressed about the Council's failure to implement remedies within a reasonable timeframe.

Reasons for the decision:

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended).

Other options considered and rejected:

None.

CA.128 REPORT BY THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN (23 006 024)

Councillor Lucy Smith, Cabinet Member for Children and Young People, presented the report which set out the findings by the Local Government & Social Care Ombudsman (LGO) made against the Council following the Council's failure to comply with agreed recommendations following an earlier LGO investigation, and the action now taken by the Council to demonstrate that it has complied with those recommendations. Members noted that this complaint related to the Council failing to act properly when a child was out of education causing injustice, and the subsequent remedy not being carried out in agreed timescales.

Decision:

Cabinet noted the recommendations made by the Local Government & Social Care Ombudsman, specifically the concerns expressed about the Council's failure to implement remedies within a reasonable timeframe.

Reasons for the decision:

A requirement stipulated by the Local Government and Social Care Ombudsman is that a copy of its report is considered by the Council at its full Council, Cabinet or other appropriately delegated committee of elected members in accordance with the Local Government Act 1974, section 31(2), as amended.

Other options considered and rejected:

None.

CA.129 SIMISTER ISLAND DEVELOPMENT CONSENT ORDER

Councillor Charlotte Morris declared an interest in this item and did not participate in the discussion or vote on the decision.

Councillor Eamonn O'Brien, Leader and Cabinet Member for Strategic Growth, presented the report which detailed a National Highways scheme to undertake a major infrastructure development to improve Junction 18 of the M60 (Simister Island) and widen to five lanes of the M60 between Junction 17 and Junction 18 to facilitate smoother flows of traffic along the connecting motorways. This was a "Nationally Significant Infrastructure Project" (NSIP) which meant that planning consent for the scheme is determined by the Secretary of State through an application process known as a Development Consent Order (DCO). Members noted that the Council will not decide whether the scheme goes ahead but will automatically be an "Interested Party" and was required to provide evidence within prescribed timetables and, as such, the report recommended appropriate delegations to facilitate this.

Decision:

Cabinet delegated authority to the Executive Director (Growth), in consultation with the Monitoring Officer and Cabinet Member for Strategic Growth, to respond to all consultations and engagement as part of the Simister Island Development Consent Order application process.

Reasons for the decision:

Without delegated authority it is unlikely that the Council will be able to effectively engage with the DCO process. If responses are not submitted in accordance with the statutory timescales, they cannot be taken into account. Without the requested delegation in place, this could result in a recommendation made to the Secretary of State which does not fully take account of impacts upon Bury.

Other options considered and rejected:

- Not to delegate authority. This is not recommended for the reasons set out above.
- Not to participate in the DCO process. This is not recommended for the reasons set out above.

CA.130 BURY COUNCIL FINANCE - FUTURE LEADERSHIP ARRANGEMENTS

Councillor Richard Gold, Cabinet Member for Finance and Communities, presented the report which set out proposals in relation to the future substantive leadership of the Council's Finance function. Members noted it would strengthen the structure of senior finance officers whilst maintaining relevant expertise and ensuring subject matter experts were in place. Proposals had been market tested and similar structures were in place at other Councils. Members discussed the proposals and noted the cross-party support.

Decision:

Cabinet:

1. Recommended to Council that the vacant post of Deputy Chief Finance Officer (Band E, £93k - £102k) be redesignated as Director of Finance (Band F, £104k - £113k) and redesignated as the Council's Statutory Section 151 Officer. The Director of Finance will be a direct report to the Chief Executive with the Finance function becoming part of the Corporate Core Department under the Executive Director (Strategy & Transformation).
2. Noted that following this appointment the Executive Director (Finance) role will be disestablished.
3. Recommended to Council that the post of Director of People & Inclusion (Band D, £84k - £91k) be re-graded at Chief Officer Band E (£93k - £102k) to reflect the post's expanded portfolio, as set out below. Delegate authority to the Chief Executive and the Cabinet Members for Finance and Communities and HR and Corporate Affairs, in consultation with the Monitoring Officer and S151 Officer, to consider responses received from the consultation and produce a final version of the structure as set out in recommendation 5.
4. Approved the redesignation and re-evaluation of the post of Chief Accountant (Band B, £69k - £75k) to Assistant Director (Finance) (Band D £84k - £91k) as a basis for consultation. This role will take on the duties of the Deputy S151 officer.
5. Agreed in principle the commencement of consultation with affected staff in relation to the changes set out in this report and to delegate authority to the Chief Executive and the Cabinet Members for Finance and Communities and HR and Corporate Affairs, in consultation with the Monitoring Officer and S151 Officer, to consider responses received from the consultation and produce a final version of the structure.

Reasons for the decision:

The proposal sets out the long-term plan for leadership of the Council's Finance function, following the appointment of the Interim Executive Director and within the context of the wider leadership structure within the Corporate Core. In recommending options, consideration has been given to the overall leadership capacity and structure required for the function beyond the S151 role and the benefits of integrating Finance within the Corporate Core Department to ensure the full coordination of all Council back-office functions.

Other options considered and rejected:

It would be possible to maintain the current finance structure and seek to recruit to existing posts on a substantive basis, however the recruitment market has not supported this structure to date.

CA.131 APPOINTMENTS UPDATE

Councillor Tahir Rafiq, Cabinet Member for Corporate Affairs and HR, presented the report which set out changes to appointments since the Council meeting in May 2023 regarding the new Housing Advisory Board, other appointments and vacancies.

Decision:

Cabinet noted the appointments and amendments to appointments made since the Annual Meeting of Council as set out in the report.

Reasons for the decision:

N/A

Other options considered and rejected:

N/A

**CA.132 MINUTES OF ASSOCIATION OF GREATER MANCHESTER AUTHORITIES /
GREATER MANCHESTER COMBINED AUTHORITY**

It was agreed:

That the minutes of the Greater Manchester Combined Authority meeting held on 15 December 2023 be noted.

COUNCILLOR E O'BRIEN

Chair

(Note: The meeting started at 6.00 pm and ended at 7.02 pm)