

<b>SIGNED OFF BY</b>	Head of Paid Service
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<b>TO</b>	Overview and Scrutiny Committee Executive
<b>DATE</b>	Thursday, 9 December 2021 Thursday, 16 December 2021
<b>EXECUTIVE MEMBER</b>	Councillor Tim Archer

<b>KEY DECISION REQUIRED</b>	Y
<b>WARDS AFFECTED</b>	(All Wards);

<b>SUBJECT</b>	Commercial Strategy - Part 2
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<b>RECOMMENDATIONS</b>
<p><b>Overview &amp; Scrutiny Committee:</b></p> <p>(i) That the Committee notes the report and the Commercial Strategy Part 2 and provides any observations for consideration by the Executive</p> <p><b>Executive:</b></p> <p>(i) That the Executive approves the Commercial Strategy Part 2.</p>
<b>REASONS FOR RECOMMENDATIONS</b>
<p>Having an approved Commercial Strategy will ensure that the Council takes commercial decisions in a clear, consistent and effective way, and in a manner consistent with corporate objectives and its statutory responsibility to promote economic, environmental and social wellbeing in the borough.</p>
<b>EXECUTIVE SUMMARY</b>
<p>The Council's Corporate Plan, Reigate &amp; Banstead 2025, explains that to remain a financially sustainable Council we need to generate income to reinvest into providing frontline services for our residents.</p>

In recognition of this fact, the Executive agreed a Part 1 Commercial Strategy in November 2020. This set out the overarching direction and parameters for the Council's commercial activity, including guiding principles and the categories of commercial activity that the Council will focus on. At the time, it was agreed that a Part 2 of the Strategy would be developed which would provide more detail about the implementation of commercial activity, in particular investment activity.

The Service & Financial Planning 2022/23 papers presented to the Executive in November 2021 underscore the continuing scale of the financial challenge that the Council faces, particularly in the face of an unanticipated decline in existing income sources (primarily parking income) as a result of the pandemic.

At the same time, the regulations and guidance in relation to local authority borrowing are changing, introducing more restrictive parameters within which the Council is able to carry out investment activity.

The Part 2 Commercial Strategy at Annex 1 takes into account the Council's current financial position, the latest borrowing rules and our experiences with commercial activity to date (as well as that of other local authorities). It focuses on:

- Investing in commercial assets; and
- Investing in commercial services.

It explains the approach that will be taken in relation to activity in both these areas, including the need for an evidence-based approach and robust financial business cases, risk management and mitigation and the need to balance risk and financial reward. It also explains the processes that will be applied for decision-making on commercial projects and how progress and performance will be reported.

As a subsidiary strategy to the Corporate Plan, providing more detail as to how objectives within the Corporate Plan will be implemented, the Executive has the authority to approve the Commercial Strategy. The Strategy has been developed in consultation with Commercial Ventures Executive Sub Committee (CVESC) members and informed by comments from the Commercial Scrutiny Panel.

**The O&S Committee and the Executive have authority to approve the above recommendations.**

## **STATUTORY POWERS**

1. The Localism Act 2011 introduced the General Power of Competence, which allows local authorities to do anything that individuals generally may do as long as it is not prohibited by other legislation. We are therefore able to operate more commercially, and undertake a range of different business ventures.

## **BACKGROUND**

2. Since the Council's 2015-2020 Corporate Plan was adopted, the Council has had an ambition to be an increasingly commercial organisation.
3. In 2018, a member task group reviewed the Council's commercial arrangements in place at that time, and recommended a number of changes in approach based on the Council's experiences to date, including the creation of a new Commercial

Ventures Executive Sub Committee (CVESC) and a good practice Framework and Checklist to guide future commercial activity. The CVESC was set up in May 2019.

4. In early 2020, the Council agreed its new Corporate Plan, Reigate & Banstead 2025. This plan sets out the Council's priorities for the period 2020-2025 and explains how it will focus its resources and deliver services to those living, working and spending time in the borough.
5. Recognising the financial challenges that the Council is faced with, Reigate & Banstead 2025 includes the objective to "generate additional income and build our financial resilience, in order to sustain services, through responsible and sustainable commercial activities". It identifies that the Council will develop a Commercial Strategy to inform its income generation activities.
6. In November 2020, the Executive agreed the Commercial Strategy Part 1 which sets out the overarching direction and parameters for the Council's commercial activity. The Part 1 Strategy explains the categories of commercial activity that the Council will undertake and sets out three Guiding Principles that will underpin all the Council's work in this area, as follows:
  - a. Principle 1: Our commercial activity will be ethical, and consistent with the Council's statutory responsibility to promote economic, environmental and social wellbeing in the borough, and our corporate objectives
  - b. Principle 2: Any commercial decisions will be based on a robust assessment of the business case using consistent criteria (to be detailed in Part 2 of this Strategy), and appropriate due diligence and risk assessment
  - c. Principle 3: Surplus income generated through our commercial activities will be used to ensure the financial sustainability of the Council and continued delivery of services for local people.
7. At the same time as agreeing the Commercial Strategy Part 1, the Executive agreed to support the ongoing development of a Part 2 Commercial Strategy, to be brought to a future meeting.

## **KEY INFORMATION**

### **The Council's current financial position**

8. The Service & Financial Planning 2022/23 report presented to the Executive in November 2021 provides an up-to-date picture of the Council's financial position. This outlines that at the time of preparing the report the Council faces a potential budget gap of £0.718 million in 2022/23 with that gap forecast to increase further in future years. Over the medium term, therefore, action will be required to continue to pursue projects that generate new sources of income (as well as the Council seeking ways to use existing resources more efficiently).

### **Changes to borrowing rules**

9. Recent changes to the rules around local authorities borrowing to fund their activities mean that the Council will only be able to generate income to contribute to addressing the funding gap if the income stream that we receive is incidental to the main purpose of the investment.

### **Learning from experience and best practice**

10. Acting more commercially as a local authority is not free from pitfalls. To inform the Part 2 Commercial Strategy the experiences of a range of local authorities was considered. The Council's own experience in relation to commercial activity has also been reflected upon. This suggests that our future commercial activity should be underpinned by:
  - a. A thorough understanding of investment opportunities including the preparation of robust business cases and risk assessments
  - b. Progressing commercial projects using our established project management frameworks and reporting processes
  - c. Using our established governance structures to ensure that decision-making is transparent (accepting that there will be a need to treat commercially sensitive information as exempt); and
  - d. Focusing on activity in areas where the Council already has experience, skills and expertise, and continuing to 'grow' in-house skills and expertise, supplemented by external advice where appropriate

### **Investing in commercial assets**

11. While the Council is no longer able to borrow to invest in assets purely for commercial reasons, asset activity remains an important tool available to the Council, enabling the generation of income as a by-product of delivering broader corporate objectives such as housing and regeneration activity, either directly or indirectly via a company.
12. The Commercial Strategy Part 2 explains the various types of asset activity that the Council may undertake, and the things that will be taken into account as opportunities in these areas are considered and developed.
13. The priority areas of Council activity in this area will be:
  - Evidence: Ensuring a robust understanding of our asset portfolio and its performance
  - Asset management: Maximising value from the assets that we currently own and /or manage for commercial income
  - Asset (re-)development: Securing new income streams and/or capital receipts from development projects
  - Asset disposal: Disposing of assets that are currently underperforming or surplus to requirement; and
  - Asset acquisition: Purchasing assets which deliver broader benefits in line with our Corporate Plan.
14. The Council is already undertaking work in this area, for example, with income due to be generated from its Marketfield Way and Cromwell Road developments. By maintaining a pipeline of asset projects based around these priorities we will ensure that asset-related work continues to contribute to addressing the Council's funding gap and that future resource requirements (both financial and skills/expertise) are considered at the appropriate time.

### **Investing in commercial service activity**

15. The Council also has the ability to generate income (or make savings) by taking a commercial approach to some elements of its service-related activity. This includes through trading activity and the setting of fees and charges.
16. The Commercial Strategy Part 2 explains how - in taking forward proposals in these areas - a robust understanding of the customer base and/or relevant markets will be needed, along with ensuring that appropriate measures are in place to deliver the activity whilst ensuring that core or statutory activities will not be compromised.
17. The priority Council activities in this area will be:
  - Continuing to incrementally grow our existing trading activities for medium-term income generation and introducing commercial into services we currently provide non-commercially or that align with our remit; and
  - Maximising income from existing non-statutory fees and charges and introducing new non-statutory fees and charges where appropriate
18. The Council already undertakes some trading activity (for example in relation to revenues, benefits and fraud work and trade waste). The Part 2 Commercial Strategy sets parameters for future activity in this area to be undertaken in a way that contributes to the longer term financial sustainability of the Council whilst also ensuring that risks are carefully managed.

### **OPTIONS**

19. The options available to the Executive are as follows:
  - Option 1: Approve the Commercial Strategy Part 2 appended at Annex 1. This option is recommended. Having an up-to-date strategy in place will ensure clarity and transparency about what the Council is seeking to achieve through its commercial activity and the processes in place to achieve this.
  - Option 2: Request amendments to the Commercial Strategy Part 2 appended at Annex 1 before it is approved. This option is not recommended. The strategy at Annex 1 has been subject to consultation with the CVESC and the Commercial Scrutiny Panel, as well as the Overview & Scrutiny Committee; and further delay may constrain or delay the ability of the Council to progress its activity in this area.
  - Option 3: Do not approve the Commercial Strategy Part 2. This option is not recommended. The Executive has previously agreed that a Part 2 should be developed, and further delay may constrain or delay the Council's ability to progress commercial activity, which will impact on the longer-term financial sustainability of the Council.

### **LEGAL IMPLICATIONS**

20. There are no direct legal implications associated with the approval of the Commercial Strategy Part 2.
21. The Strategy does, however, identify some of the general legal risks associated with commercial activity. It will therefore continue to be important that appropriate legal

advice (including from external advisors) be sought on commercial investment proposals as they are developed and implemented.

## **FINANCIAL IMPLICATIONS**

22. The importance of income generation as a means of the Council securing funding for service provision is recognised in the Corporate Plan and Commercial Strategy Part 1 and underscored by the November 2021 Service & Financial Planning 2022/23 report.
23. Whether property-related or service-related, commercial activity may require initial or ongoing funding in order to secure commercial income streams or capital receipts. For example, revenue funding may be required to market properties for lease, or for staff to expand traded services; or capital funding may be required to purchase property or equipment. Section 6 of the Commercial Strategy Part 2 provides more information about how revenue funding, feasibility funding and capital funding decisions will be taken, and how income will be reported on.
24. The Commercial Strategy Part 2 is based on the fact that the Council will need to borrow to fund future capital investment activities, but also recognises the latest CIPFA guidance and the increased constraints on Public Works Loan Board funding recently confirmed by Government. The approach proposed is consistent with those rules.

## **EQUALITIES IMPLICATIONS**

25. Under the Equality Act 2010, we have a duty to have due regard to the need to eliminate unlawful discrimination, harassment, victimisation and other prohibited conduct; and advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not share it. This duty applies to all decisions made in the course of exercising the Council's public functions.
26. The Commercial Strategy Part 2 does not have any direct implications for staff, residents or other service users including those with protected characteristics. Rather it sets out broad parameters for the delivery of commercial activity by the Council.
27. The requirement for equality impact to be assessed is incorporated within the Council's Project Management Framework. It will be important that the equality impacts of individual commercial projects are fully considered and that, in developing proposals, consideration is given to how positive impacts can be increased for those with protected characteristics, as well as how negative impacts can be reduced.

## **COMMUNICATION IMPLICATIONS**

28. The Commercial Strategy Part 2 will be publicly available on the Council's website alongside Part 1.
29. No dedicated communication activity is planned in relation to the Commercial Strategy Part 2. However, communications activity may take place in relation to specific commercial activities or projects referenced in the Strategy: the need for this will be considered on a case by case basis.

## **RISK MANAGEMENT CONSIDERATIONS**

30. The future financial sustainability of the Council is an identified risk on the Strategic Risk Register. The risk register recognises that the Council is expecting to be increasingly reliant on income from fees, charges and its treasury and commercial investments. It identifies a range of controls and mitigating actions, including ensuring that the Council continues to invest in skills and expertise to support delivery of the Council's financial and commercial objectives while managing associated risks.
31. The Commercial Strategy Part 2 provides a summary of the key (general) risks associated with commercial property-related and service-related activity. Project-specific risks and operational risks will be identified and managed through the Council's project management framework and the Council's operational risk registers respectively.

## **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

32. No direct environmental implications have been identified associated with the Commercial Strategy Part 2. It will be important that the environmental implications (positive or negative) of commercial property-related and service-related activity are fully considered within business cases and through the decision-making process.
33. As the Council delivers its Environmental Sustainability Strategy there may be some income generating or 'invest to save' opportunities associated with that work, which can be explored as project business cases are developed.

## **OTHER IMPLICATIONS**

34. Human Resources: The Commercial Strategy Part 1 recognises the need to embed a commercial culture within the organisation and ensure that our commercial activities are properly resourced. The focus in the Commercial Strategy Part 2 on activity that aligns with corporate objectives and our existing areas of expertise means that current staff resources are well placed to undertake this work. However:
  - a. In some cases, fixed-term staff resources may be recruited to oversee the delivery of particular projects with a commercial element; and
  - b. If the appropriate technical or commercial expertise does not exist 'in house', or where a second opinion or 'critical friend' is considered beneficial, external consultants may be used. This could include (but may not be limited to) legal, financial and property-market advice.

## **CONSULTATION**

35. Members of the CVESC have been consulted as part of the preparation of this Part 2 Strategy.
36. The Commercial Strategy Scrutiny Panel considered the emerging Part 2 approach at a meeting in October 2021, where they raised a number of observations including:
  - a. There were benefits and disadvantages to different models and approaches to commercial practice

- b. Making most of Council's property assets, by maximising the returns and improving the overall value of assets that the Council owns and manages as commercial income are priorities
  - c. There was a difficult balance to be struck as there was only a finite amount that the Council was able to do to generate further income from acquisitions within the latest constraints and costs of borrowing; and
  - d. Specific skills and specialist or technical knowledge may need to be available / brought in at different stages of a commercial venture to ensure the right commercial expertise at the right time as identified by business cases or feasibility studies.
37. The Scrutiny Panel were subsequently invited to provide views via email on the draft Strategy document; however no additional comments were received from Panel members.
38. Comments from the Overview and Scrutiny Committee at its December 2021 meeting will be reported to the Executive Committee by way of addendum or verbal update.

#### **POLICY FRAMEWORK**

39. The production of a Commercial Strategy is consistent with the Council's Corporate Plan for the period 2020 to 2025
40. Delivery of the Commercial Strategy will continue to be a key consideration in service and financial planning; and provides the long-term solution for this Council to be able to agree a balanced budget year on year.

#### **BACKGROUND PAPERS**

1. Reigate & Banstead 2025: available online at [www.reigate-banstead.gov.uk/rbbc2025](http://www.reigate-banstead.gov.uk/rbbc2025)
2. Commercial Strategy Part 1: available online at [https://www.reigate-banstead.gov.uk/info/20205/plans\\_and\\_policies/280/reigate\\_and\\_banstead\\_2025/4](https://www.reigate-banstead.gov.uk/info/20205/plans_and_policies/280/reigate_and_banstead_2025/4)
3. November 2021 Executive Report 'Service & Financial Planning 2022/23': available online at <https://reigate-banstead.moderngov.co.uk/ieListDocuments.aspx?CId=137&MId=1810&Ver=4>