

CABINET

20 June 2023

Title: Barking and Dagenham Trading Partnership (BDTP) Business Plan 2023/24 - 2026/27	
Report of the Cabinet Member for Finance, Growth and Core Services	
Open Report with Exempt Appendix 1 (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972)	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Executive Team Director: Leona Menville, Strategic Director, My Place	
Summary <p>This report seeks Cabinet approval of the Barking and Dagenham Trading Partnership (BDTP) 2023-26 Business Plan (company number 10892844), in line with the requirements of their Shareholder Agreement. This Business Plan is a consolidation of financial and other commitments across a portfolio of multiple legal entities within the BDTP Group structure.</p> <p>This Business Plan has been scrutinised by the Shareholder Panel, the advisory body created to monitor and to report to Cabinet on the performance of Companies that the Council has a shareholding interest in. Performance against the plan is formally reported to the Shareholder Panel quarterly but, since April 2022, BDTP has also been required to provide a monthly update to the Shareholder Panel on performance results in repairs and maintenance which have also been supported by the Strategic Director of My Place.</p> <p>This three-year business plan outlines the company's initial priorities and challenges, and strategic objectives and details improvement initiatives for financial years 2023/24 to 2026/27. The plan acknowledges that improving service delivery is the key focus and the plan's primary objective is to provide a platform for the business to demonstrate the capability and capacity to deliver services in accordance with expectations while realising the Group's potential through a collective and collaborative approach. This Business Plan therefore provides a practical framework that builds on BDTPs past learnings and acknowledges the realities of their current position.</p> <p>The substantive Business Plan is contained within Appendix 1 which is in the exempt section of the agenda as it contains commercially confidential information (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>	

Recommendation(s)

The Cabinet is recommended to:

- (i) Approve the BDTP Business Plan for 2023/24 - 2026/27, as set out at Appendix 1 to the report: and
- (ii) Delegate authority to the Chief Executive, in consultation with the Shareholder Panel, to take all necessary action to enable BDTP to implement its proposals within the Business Plan and to agree any variations to the business plan, legal agreements or shareholder agreement as necessary, subject to the provisions of the Subsidy Control Act 2022.

Reason(s)

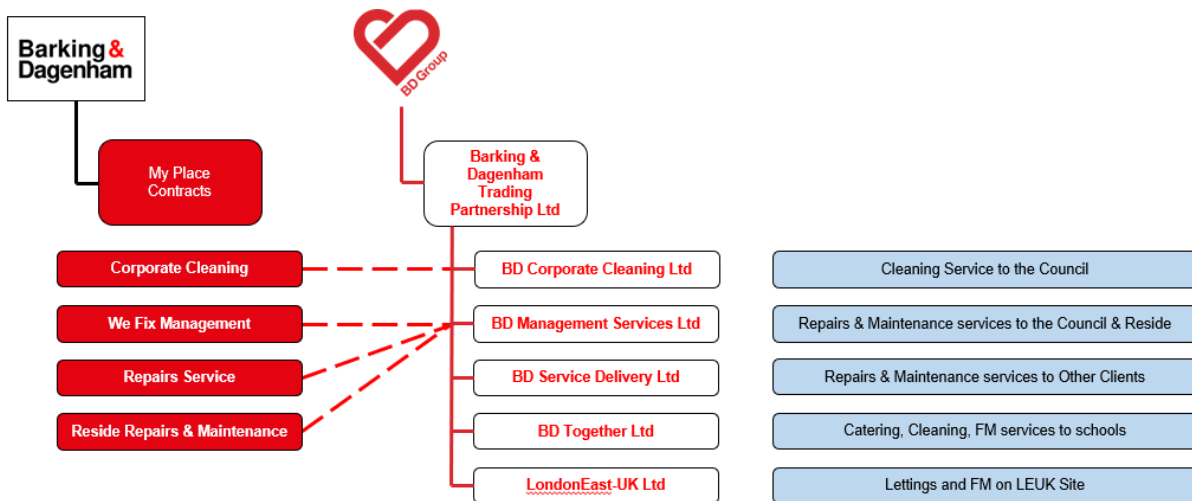
To assist the Council with delivering the Inclusive Growth Strategy and delivering a well-run organisation. This proposal is in line with Recommendation 8 of the independent Growth Commission's report published in February 2016 and is therefore aligned to the Council's corporate priorities.

1. Introduction and Background

- 1.1 The approval of the BDTP business plan is reserved to the Council as shareholder under a shareholder agreement entered with BDTP in 2018. This is an executive function exercised by the Cabinet on behalf of the Council as shareholder. In line with that agreement this Business Plan has been produced for Cabinet approval as outlined in the recommendations.
- 1.2 The Business Plan was approved by the BDTP Board in May 2023 and has been scrutinised by the Shareholder Panel who have recommended it for approval to Cabinet, although not without noting continued concerns regarding the operational performance and the financial resilience of the Company.
- 1.3 This report highlights the key objectives to be delivered and the period by which the returns are expected in the exempt Appendices.

2. BDTP Performance Summary 2022/23

- 2.1 BD Group is a diverse and community-focused organisation providing a wide range of services within the borough and beyond. These services include residential property repairs and maintenance, commercial cleaning, school catering and cleaning, and facilities management. The diagram below reflects the company structure and its relationship with Council services:



- 2.2 BDTPs performance in property repairs and maintenance has consistently performed below expectations. Poor levels of business as usual (BAU) performance and high levels of work in progress (WIP) were common outturns throughout 2022/23 despite the 2022-25 business plan describing 2022/23 as being a year to ‘fix the basics’.
- 2.3 Performance concerns and the collaborative programme of improvement activity being undertaken between My Place and BDMS has been the subject of two detailed reports to Overview and Scrutiny Committee, one in October 2022 and the latest one on 10 May 2023. In summary however the baseline year end position for 2022/23 as of 1 April 2023 shows outstanding repairs totalling 6,474 jobs. This total reduced by 1,568 jobs by 18 April 2023.
- 2.4 This poor performance has been noted within the plan as the company acknowledge that it has not fully delivered on its original purpose to improve service quality nor delivered on its financial expectation. During 2023 several changes were made within BDTP including the appointment of a new Chair of the Board and leadership changes amongst key senior staff within the company and the plan notes that 2023/24 is now **the** opportunity to reset, rebuild and redefine BD Group.
- 2.5 The company’s performance in its commercial cleaning, school catering and cleaning, and facilities management arm has however continued to perform well during 2022/23. In this area of the business the company has acquired contracts from a further three schools, each for an initial three-year term with a two-year extension option. The plan notes the opportunity for growth in this area and has set out an aspiration to re-model this part of the business to enable it to deliver a total facilities management offer for its existing and new customers.
- 2.6 The business plan acknowledges the significant financial challenges that have been present in the business over the last few years. Like many registered providers, the Council and BDTP have been impacted by the legacy of COVID, resource constraints, inflation, energy costs (fuel poverty) and increased repairs demand over the winter period. As a result of this, there have been challenges in meeting repairs demand and subsequently an increase in costs. The Council is working collaboratively with BDTP/BDMS to clear the outstanding repairs, whilst at the same time making improvements in the way repairs are delivered.

- 2.7 The 2020/21 business plan first noted the financial challenges arising in the business following Covid, but this has followed through into successive years with losses of £13.5m in 2021/22 arising from £9.5m operating losses, a £3.2 loss related to the revaluation for the LEUK site and interest payments of £1m.
- 2.8 In the 2021/22 Business Plan, the 2022/23 financial year was forecast to be a break-even year, but BDTP are currently forecasting an unaudited loss of £7m. The company has received working capital of £5m since 2021 which has accrued interest charges of £0.4m and currently hold an inter-company balance (a debt of unpaid invoices to LBBD) of £5.9m.
- 2.9 In addition to the working capital balances, the company also still holds a loan of £25.5m to the Council related to the purchase of LEUK (total debt and interest) which has been impaired due to a recent valuation of the site meaning the Council has had to make an adjustment for the loss of asset value within the General Fund where the loan is held. Overall, £8m will have been used from the sale of LEUK land during 2020/21 and 2021/22 to fund the shortfalls in operational profits in BDTP/BDMS. While this has helped to reduce the impact on the BDTP group, investment in and revenue at LEUK has suffered and the lack of any repayment of the loan following the sales has directly contributed to the current impairment.

3. BDTP Business Plan Objectives 2023/24

- 3.1 The business plan is very clearly focused on the immediate priorities in property repairs and maintenance services and sets out 14 imperatives to be delivered in the year ahead. The most significant of these priorities is delivering the incremental improvements in repairs and maintenance performance ('project green shoots'), but other priorities such as reducing overheads and maintaining a positive cash flow are equally important in the context of the financial difficulties the company has faced over the last several years. The plan states that 2023/24 is an opportunity to address priorities and (re)build.
- 3.2 The company is forecasting that following agreement of the one-year repairs and maintenance contract extension, the company will make no operational losses this year, although there will still be £1.9m of interest charges that will be added to their balance sheet. The financial model post 2023/24 is predicated on the company securing a further extension of the repairs and maintenance contract with the Council at the current level of cost to the Council. On that basis, it is forecasting a return to a positive operational surplus of £400k in 2024/25 at which point it will commence repayment of the inter-company debt at a rate of 25% of the operational surplus each year. As such, project green shoots and therefore performance in repairs and maintenance is the single biggest risk to the business plan and to the future sustainability of the group in its current form.
- 3.3 The plan notes conversations about restructuring elements of the group, particularly in relation to the future of LEUK being maintained within the group structure. Although further detailed legal and financial due diligence is required before any proposal for changes is put before Cabinet, the company has included a financial modelling scenario where LEUK is removed from the group, which is a likely scenario during 2023/24 acknowledging that a change in ownership is going to be required to fully realise the aspirations and opportunities for the site.

4. Consultation

4.1 The BDTP Business Plan has undergone the following consultations:

- Approved by the Board of BDTP in May 2023
- Endorsed for Cabinet by the Shareholder Panel on 25 May 2023, although it noted with concern the significant performance challenges that remain in the repairs and maintenance service, and the financial challenges.

5. Financial Implications

Implications completed by: Phillip Gregory, Strategic Director, Finance & Investment

- 5.1 In with the BDTP Group cannot be avoided and accumulated losses have been included in their published accounts. The loss for FY 2021/22 increased from £13m to £15m following adjustment as a result of audit identifying that BDTP Group had overstated their income from the Council (parent company and main client). Currently they are reporting a £7m loss for FY2022/23 but this may increase, subject to agreement of balances with the Council and external audit.
- 5.2 Going forward, the BDTP Group has outstanding intercompany debt along with the interest on their loans with the Council. The BDTP Group plan to stabilise their cash flow position from April 2023 onwards following the renegotiation of their contract for repairs and maintenance with the council. In a private entity the parent company may consider writing off intercompany debt and/or loans to help support the financial position of the subsidiary. However, following legal advice, the Council cannot write off any of the intercompany debt and/or loans should it wish to as this would constitute a breach of Subsidy Act rules. Hence, a rescue plan or a significant proposal from the BDTP Group will need to materialise to repay these amounts.
- 5.3 The latest financial projections included in the business plan for the next couple of years indicate that the retained earnings will reach a negative balance of c£20m. This means BDTP Group needs to make at least £20m worth of profit before they can start to consider paying a dividend to the Council (subject to their cash position). Based on current forecasts in this business plan an overall surplus retained earnings balance will take at least 5 years to achieve which will result in the council not receiving the planned £2m dividend income each year that is included in the Council Medium Term Financial Strategy.

6. Legal Implications

Implications completed by: Ian Chisnell, Major Projects Solicitor

- 6.1 Cabinet is requested to approve a Business Plans for BDTP, a company wholly owned by the Council and is therefore a Regulated Company under the Local Government and Housing Act 1989.
- 6.2 This decision is taken by the Council as shareholder in the company.

- 6.3 The powers available to the Council for incorporating the company and its involvement in it have been set out in previous reports.
- 6.4 In terms of procurement, If BDTP falls within Regulation 12 of the Public Contracts Regulations 2015 the company can contract with the Council and vice versa without the need to tender contracts over the threshold in those Regulations. BDTP can also use any frameworks to which the Council and its companies have access. For it to remain within Regulation 12 no more than 20% of its turnover can be derived from external sources and the Council must control it in a similar manner to that which it controls its departments.
- 6.5 The Company's financial position has been commented upon above and the Council has given a letter of support to it for it to continue trading. Under S15 of the Subsidy Control Act 2022 a guarantee of the debts and liabilities of an enterprise is prohibited if there is no limit to the extent of the guarantee or time limit to it.
- 6.6 Under the same legislation, which also comprises statutory guidance, loans or the cancelling of loans given to an enterprise can be regarded as a subsidy if they pass a four-limb test:
- Limb A: The financial assistance is given, directly or indirectly, from public resources by a public authority.
 - Limb B: The financial assistance confers an economic advantage on one or more enterprises. This limb has two components. Firstly, the recipient of the assistance must be an enterprise, secondly, it must confer economic advantage, meaning that the financial assistance is provided on favourable terms.
 - Limb C: The financial assistance is specific, such that it benefits one or more enterprises over one or more enterprises with respect to the production of goods or provision of services.
 - Limb D: The financial assistance has, or is capable of having, an effect on competition or investment within the UK, or on trade or investment between the UK and another country or territory, or both.
- 6.7 Subsidy itself is not unlawful provided it conforms to the seven principles set out in the Act or is approved by the Subsidy Control Unit.

7. Other Implications

- 7.1 **Contractual Issues** - Development of Business Plans is a contractual commitment for all of the Companies and is designed to set the framework by which the strategic direction of each Company is considered and approved or endorsed by the Council as either a major or minor Shareholder.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- **Appendix 1: BDTP Business Plan 2023/24 – 2026/27 (exempt document)**