

LONDON BOROUGH OF CROYDON

To: All Members of Council
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PUBLIC NOTICE OF KEY DECISIONS MADE AT THE CABINET MEETING ON THURSDAY, 18 FEBRUARY 2021

This statement is produced in accordance with Regulation 12 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

In accordance with the Scrutiny and Overview Procedure Rules the following decisions may be implemented from **1300 hours on 26 February 2021** unless referred to the Scrutiny and Overview Committee (ie after 13.00 hours on the 6th working day following the day on which the decision was taken). The call-in procedure is appended to this notice.

The following apply to each decision listed below

Reasons for these decisions: As set out in the reports
<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CIId=183&MIId=2485>

Other options considered and rejected: As set out in the reports
<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CIId=183&MIId=2485>

Details of any consultation and representations received not included in the published report: None

Details of conflicts of Interest declared by any Cabinet Member: None

The Leader of the Council has delegated to Cabinet the power to make the decisions set out below:

Agenda Item: 6 REVIEW OF BRICK BY BRICK CROYDON LTD: BRICK BY BRICK SHAREHOLDER DECISION - THE FUTURE OF THE COMPANY

Key Decision No.: 0621CAB

Details of decision:

Having carefully read and considered the Part A report, the associated confidential part B report, and the requirements of the Council's public sector duty in relation to the issues detailed in the body of the reports, the Cabinet

RESOLVED: To

1. Consider the PwC report including recommendations at Appendix 1 of the Part B agenda and the options set out in this report; agree to proceed with the option set out as scenario 2 of that report, which is a build out of sites by Brick by Brick combined with a sale of sites under construction whilst still considering the option of a sale of the business, with a further report to Cabinet in April / May 2021.
 - i. Note that, with any option, there will be further costs/resourcing (in particular the sale of the business option, in order to ensure the proper advice is obtained regarding valuation, legal and financial implications) and some write off of the Council's investment (as further explained in the Part B report)
2. Agree that revised funding arrangements be entered into with Brick by Brick to reflect the current loan positions and proposals for the future, including, where relevant, moving to a 100% debt funding position (as opposed to 25% equity and 75% debt); extending relevant loans and repayment periods; allowing delays with repayments of existing loans; agreeing to further funding of no more than £9.99 million in relation to sites proposed for Brick by Brick to continue developing (and only where absolutely necessary within an appropriate repayment period), and:
 - i. Agree that the Interim Chief Executive be given delegated authority to finalise and agree the terms of new/varied funding agreements to be entered into between the Council and Brick by Brick in consultation with the Section 151 Officer and Monitoring Officer and in consultation with the Leader, Deputy Leader and Cabinet Member for Resources and Financial Governance.
 - ii. Note the progress of the loan agreement review (recommendation 19 of the Report in the Public Interest), as detailed in paragraphs 3.13-3.15 of the report.
 - iii. Note the advice at paragraph within the Part B paper regarding the legal implications of these proposed revised funding arrangements.
 - iv. Agree, where practically possible, to apply all funds being received from Brick by Brick first to the accrued interest and any subsequent funding will be used to pay back the principle loans
3. Agree for the necessary steps to be taken, in accordance with the Council's Tenders and Contracts Regulations, to appoint marketing agents to consider the disposal options for the College Green site (note, this is the site adjacent to Fairfield Halls which was due to transfer to Brick by Brick, but is currently

held by the Council); the outcome of this options appraisal shall be reported back to Cabinet in accordance with the Council's governance processes.

4. Agree for the Council to review those sites Brick by Brick propose not to develop, as identified in Appendix 4 of the report, and to receive a future report to Cabinet on the potential use and future of each site (note, these are sites that had originally been intended to be transferred to Brick by Brick but are still held by the Council).
5. Agree that the plans to transfer the four sites identified in Appendix 4 of the report from the Council to Brick by Brick proceed and, note, these sites will then be dealt with in accordance with recommendation 9 below.
6. Approve that the Council's Housing Revenue Account (HRA) can acquire residential units from Brick by Brick as part of this review and note that the concurrent report to Cabinet regarding the arrangements for the future development of social housing within the Housing Revenue Account business plan will include Brick By Brick developments sites as potential development options. The acquisition and development will be subject to a review of affordability and HRA revenue implications.

The Cabinet, on behalf of the Council, exercising its functions as sole shareholder of Brick By Brick Croydon Ltd, is **RESOLVED** to:

7. Agree that Brick by Brick continue to build out those schemes currently on site and due to complete by October 2021 (as identified in Appendix 2)
8. Agree that, in the event risks arise which affect timely completion of those sites referred to in resolution 7, agree that:
 - i. Brick by Brick shall report to the Council's Interim Chief Executive regarding those risks, including any development, operational, legal or other risks;
 - ii. The Council's Interim Chief Executive, in consultation with the Section 151 Officer and Leader, be authorised to decide:
 - a. whether the risks are such that selling the site(s) urgently would be more economically advantageous and, in those circumstances, shall have the ability to authorise Brick by Brick to sell those relevant sites; or
 - b. whether a further review is to be carried out and reported to Cabinet for a decision.
9. Agree that, for those sites which have estimated completion dates beyond October 2021 (as identified in Appendix 2 of the report), Brick by Brick be authorised to:
 - i. market the sites for sale and report back to the Council's Interim Chief Executive and Section 151 Officer regarding offers received;
 - ii. Subject to any objection by the Council's Interim Chief Executive in consultation with the Section 151 Officer and the Leader (note, this is

to allow the Council the opportunity to consider whether continued build out of these sites might be more cost effective than offers received), sell those sites and, where necessary, novate any relevant contracts, such as building contracts, to the purchasers (for the avoidance of doubt, should the Council's Interim Chief Executive object, Brick by Brick shall not have the shareholder's authority to sell those sites).

10. Agree with the recommendation of the board of Brick by Brick to depart from the current Business Plan and no longer develop any site other than those sites identified in Appendix 2 of the report (note, potential future transfers of interests in the work already undertaken will be the subject of a future report to Cabinet in accordance with resolution 5 above).
11. Agree that these recommendations be adopted by way of shareholder resolution as revisions to the Business Plan of Brick by Brick Croydon Ltd, thereby requiring the company and Directors of the company to act on these recommendations and to carry out all necessary actions to give effect to them.
12. Require the Board of Brick by Brick to prepare and submit a revised Business Plan (by no later than May Cabinet) for adoption by the Council as shareholder, reflecting the decisions made under this report and to include the consequential impact on staffing and other relevant matters.

Agenda Item: 7 INTERIM ASSETS DISPOSAL STRATEGY

Key Decision No.: 0821CAB

Details of decision:

Having carefully read and considered the Part A report, the associated confidential part B report, and the requirements of the Council's public sector duty in relation to the issues detailed in the body of the reports, the Cabinet

RESOLVED: To

1. Approve the Interim Asset Disposal Strategy and note the first tranche of proposed sales which is set out in appendix A of the report
2. Approve the proposed list of assets for disposal and to progress the marketing of the initial tranche of asset disposals as set out in appendix 3 of Part B of the report including specific approvals for:
 - i. Valuation fees for the proposed disposals
 - ii. Other cost of sales budgetary requirements as included in appendix 3 of the report.
3. Approve the proposed approach for the disposal and marketing of the Croydon Park Hotel as detailed in section 8 of the report.

4. Note the requirement for additional resource to successfully manage and achieve this major project.

Agenda Item: 14 REVIEW OF BRICK BY BRICK CROYDON LTD: BRICK BY BRICK SHAREHOLDER DECISION - THE FUTURE OF THE COMPANY

Key Decision No.: 0621CAB

Details of decision:

Having carefully read and considered the Part A report, the associated confidential part B report, and the requirements of the Council's public sector duty in relation to the issues detailed in the body of the reports, the Cabinet

RESOLVED: To approve the recommendations set out in Part A (min ref. 19/21).

Agenda Item: 15 INTERIM ASSETS DISPOSAL STRATEGY

Key Decision No.: 0821CAB

Details of decision:

Having carefully read and considered the Part A report, the associated confidential part B report, and the requirements of the Council's public sector duty in relation to the issues detailed in the body of the reports, the Cabinet

RESOLVED: To

1. Approve the Interim Asset Disposal Strategy
2. Approve the proposed list of assets for disposal and to progress the marketing of the initial tranche of asset disposals as set out in appendix 3 of Part B of the report including specific approvals for:
 - i. Valuation fees for the proposed disposals
 - ii. Other cost of sales budgetary requirements as included in appendix 3 of the report.
3. Approve the proposed approach for the disposal and marketing of the Croydon Park Hotel as detailed in section 8 of the Part A report
4. Note the requirement for additional resource to successfully manage and achieve this major project.

Signed: Council Solicitor and Monitoring Officer

Notice date: 19 February 2021

Contact Officers: Victoria.lower@croydon.gov.uk and Cliona.may@croydon.gov.uk

Scrutiny Referral/Call-in Procedure

1. The decisions may be implemented **1300 hours on 26 February 2021** (the 6th working day following the day on which the decision was taken) unless referred to the Scrutiny and Overview Committee.
2. The Council Solicitor shall refer the matter to the Scrutiny and Overview Committee if so requested by:-
 - i) the Chair and Vice Chair of the Scrutiny and Overview Committee and 1 member of that Committee; or for education matters the Chair, Vice Chair and 1 member of that Committee; or
 - ii) 20% of Council Members (14)
3. The referral shall be made on the approved pro-forma (*attached*) which should be submitted electronically or on paper to Victoria Lower by the deadline stated in this notice. Verification of signatures may be by individual e-mail, fax or by post. A decision may only be subject to the referral process once.
4. The Call-In referral shall be completed giving:
 - i) The grounds for the referral
 - ii) The outcome desired
 - iii) Information required to assist the Scrutiny and Overview Committee to consider the referral
 - iv) The date and the signatures of the Councillors requesting the Call-In
5. The decision taker and the relevant Chief Officer(s) shall be notified of the referral who shall suspend implementation of the decision. The Chair of the Scrutiny & Overview Committee shall also be notified.
6. The referral shall be considered at the next scheduled meeting of the Scrutiny & Overview Committee unless, in view of the Council Solicitor, this would cause undue delay. In such cases the Council Solicitor will consult with the decision taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny & Overview Committee may only decide to consider a maximum of 3 referrals at any one meeting.
7. At the Scrutiny & Overview Committee meeting the referral will be considered by the Committee which shall determine how much time the Committee will give to the call in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to Cabinet for reconsideration, setting out in writing the nature of the concerns. The Cabinet shall then reconsider the decision, amending the decision or not, before making a final decision.
8. The Scrutiny and Overview Committee may refer the decision to the Council if it considers that the decision is outside of the budget and policy framework of the Council. In such circumstances, the provisions of Rule 7 of the Budget & Policy Framework Procedure Rules (Part 4C of the Constitution) apply. The Council

may decide to take no further action in which case the decision may be implemented. If the Council objects to Cabinet's decision it can nullify the decision if it is outside the Policy Framework and/or inconsistent with the Budget.

9. If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.
10. If the Council determines that the decision was within the policy framework and consistent with the budget, the Council will refer any decision to which it objects together with its views on the decision, to the Cabinet. The Cabinet shall choose whether to either amend, withdraw or implement the original decision within 10 working days or at the next meeting of the Cabinet of the referral from the Council.
11. The responses of the decision-taker and the Council shall be notified to all Members of the Scrutiny and Overview Committee once the Cabinet or Council has considered the matter and made a determination.
12. If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with paragraph 6 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.
13. **URGENCY:** The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public's interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process. The Chair of the Scrutiny and Overview Committee must agree that the decision proposed cannot be reasonably deferred and that it is urgent. In the absence of the Chair, the Deputy Chair's consent shall be required. In the absence of both the Chair and Deputy Chair, the Mayor's consent shall be required. Any such urgent decisions must be reported at least annually in a report to Council from the Leader including the reasons for urgency.

Signed: Council Solicitor and Monitoring Officer

Notice Date: 19 February 2021

Contact Officers: victoria.lower@croydon.gov.uk and cliona.may@croydon.gov.uk

PROFORMA

**REFERRAL OF A KEY DECISION TO THE
SCRUTINY AND OVERVIEW COMMITTEE**

For the attention of: Victoria Lower and Cliona May, Democratic Services & Scrutiny
e-mail to

Victoria.lower@croydon.gov.uk and cliona.may@croydon.gov.uk

Meeting:

Meeting Date:

Agenda Item No:

Reasons for referral:

- i) The decision is outside of the Policy Framework
- ii) The decision is inconsistent with the budget
- iii) The decision is inconsistent with another Council Policy
- iv) Other: Please specify:

The outcome desired:

**Information required to assist the Scrutiny and Overview Committee to consider
the referral:**

Signed:

Date:

Member of _____ Committee