

# Public Document Pack

## Scrutiny & Overview Committee

Meeting held virtually on 21 December 2020 at 5.00 pm via Microsoft Teams

### MINUTES

**Present:** Councillor Sean Fitzsimons (Chair), Councillor Robert Ward (Vice-Chair) and Councillor Leila Ben-Hassel (Vice-Chair), Jerry Fitzpatrick, Oni Oviri and Joy Prince

**Also Present:** Councillor Hamida Ali, Mohammad Ali, Stuart King and Gareth Streeter

### PART A

49/20 **Disclosure of Interests**

There were no disclosures of interest made at the meeting.

50/20 **Urgent Business (if any)**

There were no items of urgent business.

51/20 **CALL-IN: Key Decision - Parking Charges Review January 2021**

The Chair of the Scrutiny & Overview Committee, Councillor Sean Fitzsimons introduced the Call-In item, outlining the key decisions that were to be reviewed at the meeting and highlighting that there had been a separate key decision relating to emissions-based parking charges published on 18 December, which the Committee may also wish to consider submitting a separate call-in, to provide additional scrutiny of those particular decisions.

The Chair explained the process for considering a call-in confirming that the Committee needed to agree whether to review the decision and if it decided to proceed, confirm how much time it wished to allocate to discussing the item. The Committee agreed that it would review the decision and allocated one hour to the consideration of the item.

The Chair went on to explain that there were three outcomes that the Committee could reach as a result of the review. These were:-

1. That no further action was necessary and the decision could be implemented as originally intended.
2. To refer the decision back to the decision maker for reconsideration, outlining the nature of the Committee's concerns
3. To refer the decision to Council, if the Committee considered that the decision taken was outside of the Budget and Policy Framework.

Councillor Gareth Streeter as one of the signatories of the call-in was given the opportunity to explain the reasons for calling in the Parking Charge

Review January 2021 and to highlight to the Committee areas they may wish to consider. It was noted that the reasons for making the call-in included the need to gain reassurance that parking charges were not being used as a means to increase revenue, to gain reassurance that the potential impact on local businesses had been understood and also to ensure that there was an opportunity to publically debate the proposed new charges, with concern expressed that the size of the increase was not in keeping with previous increases.

The Cabinet Member for Sustainable Croydon, Councillor Muhammad Ali, along with council officers, was in attendance at the meeting to address the call-in and answer any questions arising.

Prior to answering questions from the Committee, Councillor Ali was provided with the opportunity to give a response to the call-in. It was outlined that climate change and air quality were key policy drivers at both a local and national level. The proposed increases had been developed alongside emission-based parking charges, as a mechanism for encouraging people to use more sustainable modes of transport and lower car usage. As the proposals had been in development since early 2020 and prior to the Section 114 Notice being issued, the Council's financial position had not be a consideration in the development of these proposals.

Following the response by the Cabinet Member, the Committee was given the opportunity to question the proposals. The first question asked whether there was any evidence to indicate that increasing parking charges had a direct correlation with lower vehicle usage and how the impact from the new charges would be quantified in Croydon. In response it was highlighted that car usage in the borough had increased by 40% over the past 20 years. A study commissioned by the Mayor of London had indicated that 40% of trips within the borough were walkable and it was hoped through increasing parking charges, it would encourage people to use their cars less for these walkable journeys.

Parking charges were usually reviewed every two years and existing evidence demonstrated that a 10p increase to charges had only a minimal impact on usage. Modelling of car parking usage had indicated that a 30p increase would produce a 12% reduction in car usage. It was highlighted that higher parking charges was only one of a range of measures being introduced that would improve cycling and walking access in the borough. Benchmarking against other London boroughs had indicated that the parking charges in Croydon were largely comparable with those in other areas.

In response to a question about the consultation process it was confirmed that the consultation was about the introduction of a new emission-based parking charge scheme, as there was a requirement for local authorities to consult when changing their charging structures. When increasing parking charges the requirement was to publish a public notice of the changes.

It was highlighted that all of the pay and display bays were in areas of high car usage and as such a varied increase across the borough had been ruled out.

Furthermore, as the number of parking charge schemes across the borough had been reduced in 2016, following the introduction of the Fair Parking Strategy, it would be counteractive to this decision if new schemes were now introduced. Transport for London had identified Croydon as the borough with the greatest opportunity for increasing active travel, but it was acknowledged that the topography of some parts of the borough, which tended to be fairly hilly, meant that some people would still need to drive.

In response to a request for further information on the timeline for the decision, to give reassurance that the increase was not being introduced to raise revenue, it was advised that initial discussions on the scheme took place in 2018, in response to the Mayor of London's Transport Strategy. The additional income raised from the increase had originally been included in the budget process for 2020-21, but this had been delayed due to the impact from covid-19.

At the conclusion of this item the Committee discussed how it wished to respond to the call-in request. Overall, it was agreed that the concerns raised by the call-in request had been addressed by the Cabinet Member and officers in attendance and as such the decision could proceed as originally intended. However, it was agreed that the emission-based parking charges key decision would also be called-in by the Committee to allow for a discussion on the content of that report.

### **Conclusions**

Following discussion of this item the Scrutiny & Overview Committee reached the following conclusions:-

1. The Committee was satisfied by the response provided by the Cabinet Member and officers, and agreed that the decision could proceed as originally intended.
2. In particular, the Committee felt the timeline for the decision, which was linked to the Mayor of London's Transport Strategy, provided reassurance that the parking charge increase had not been created in response to the Council's financial challenges.
3. It was agreed that the key decision relating to emission-based parking charges would also be called-in by the Committee to allow for a discussion of the detail underpinning that particular decision.

52/20

### **Strategic Review of Companies and other Investor Arrangements - Brick by Brick Croydon Ltd ("BBB") Shareholder Decision - Directors and Articles of Association**

The Committee considered a report setting out the findings of the Strategic Review of the Council's Companies conducted by PwC, along with an action plan providing the Council's response to these findings. The Committee was asked to review the action plan, with any conclusions or recommendations due to be reported to the Cabinet for further consideration on 18 January 2021.

Prior to discussing the action plan, it was highlighted that a number of the actions had deliver dates in December and January, and at the time of the Committee meeting these remained on target. A report providing an update on the action plan was due to come to the February cycle of meetings, along with the findings from the second stage of the review. The second stage would include options for the future of the Council's housing development vehicle, Brick by Brick. The Council had recently appointed two new Directors to the board of Brick by Brick, who were in the process of implementing actions regarding governance arrangements.

It was clarified that where recommendations had been marked as ongoing, this was due to either other actions being required to facilitate their delivery or the appropriate processes were being put in place. As a follow up, it was questioned how the various actions in both this review and others, would remain visible. It was confirmed that there was a master list of recommendations, with a process underway to rationalise these as many overlapped with each other.

For the first stage of the discussion the Committee was given the opportunity to ask clarifying questions. In response to a question about those responsible for defining the scope of the review, it was confirmed that it had been commissioned by the Cabinet in September 2020. The scope of the report had been set by the Chief Executive, in consultation with the Executive Director for Place and had been informed by the Report in the Public Interest (RIPI).

It was questioned why the future of Brick by Brick had not been included in the review, as it was dependent on funding from the Council. It was advised that the initial scope of the review had been to focus on what was wrong with Brick by Brick and the Council's governance, to gain an understanding of the potential risks to the Council. The second phase of the review, which was due to report in February 2021, would be looking at the options for the future of company.

It was confirmed that Brick by Brick had cooperated with the review, including allowing the appointment of a third party quantity surveyor and had provided all the financial information it was able to provide. The options in the second phase of the review would include the potential cost for building out or not, what could be recovered from sales and how much it would cost the Council to deliver these options.

It was highlighted to the Committee that both the Strategic Review and the RIPI report had made recommendations on the Council's role as the sole shareholder of Brick by Brick. As a result, there had been a report to Cabinet in November changing the articles of association for the company to ensure that the minutes of board meetings and financial accounting were made available to the Council. As previously noted, Cabinet had also agreed to appoint two new Directors to the Board, with these appointees in place and starting to work on addressing the issues that had been raised.

In response to a question about whether there would be bench marking with other housing delivery vehicles, it was advised that caution was needed, due to local variations in the housing market it was difficult to find a like for like comparison. Work was underway to establish whether the estimated values for Brick by Brick developments could be supported by the value of other properties in the area.

It was questioned whether the potential risks from covid-19 and Brexit had been taken into account as part of the work to develop options for the future of Brick by Brick. It was advised that at present there were no plans to build additional contingency for either covid-19 or Brexit. The impact from covid-19 on housing delivery had been marginal, with the key risk from both the pandemic and Brexit being the potential impact on the wider economy and house sales.

For the remainder of this item, the discussion was focussed on the recommendations in the action plan, with these grouped together to provide a focus for the Committee. These minutes follow the same format and summarise the discussion held at the meeting. The full set of recommendations arising from the meeting, which are to be reported to the meeting of the Cabinet on 18 January, can be found at the end of these minutes.

#### **Recommendations 1-4**

It was confirmed that the process of recruiting a Director of Finance for Brick by Brick had commenced and the two recent appointees to the board of the company were both experienced CIPFA accountants, with a range of financial experience. The Council could also appoint additional board members, should it wish to, but any further appointments were unlikely to be made until after the outcome from the review on the future of the company was known.

It was questioned whether the rolling forecast mentioned in the report could be shared with the members of the Committee. In response it was advised that this information was normally used by the internal management of a company to understand its financial position at a given point in time and the company's available cash flow. The Council was able to request this information, but it would not necessarily be expected to be provided as a matter of course.

The Committee recommended that other criteria beyond the purely financial, such as housing delivery, should be included in the consideration of future options for Brick by Brick.

In response to concern raised on behalf of residents about the potential transfer of new sites to Brick by Brick for development, it was advised that the Cabinet had agreed in November to suspend the transfer of sites to the company until after the review had been completed. The future options for sites not transferred to Brick by Brick would be a decision for the Council to resolve.

It was agreed that the ability of Brick by Brick to deliver housing on those sites already transferred, was a key consideration when deciding future options for the company. If the view was taken that Brick by Brick was not able to complete the identified housing developments, it would reduce the number of options to be considered.

It was confirmed that the Fairfield Halls and College Green site had not been transferred to Brick by Brick. It was also confirmed that Grant Thornton had been commissioned to undertake an audit investigation into the decision making surrounding the Fairfield Halls refurbishment.

In response to a question about whether Brick by Brick had been providing the Council with monthly management accounts, as required by its facility agreement, it was confirmed that these had never been provided.

It was suggested that consideration should be given to asking Brick by Brick to publish high level performance indicators, which would provide assurance to the public that the Council's investment was being put to good use. In response it was advised that the possibility of publishing information could be investigated, but it would need to be done in such a way to ensure that what was published did not compromise the commercial confidentiality of the company.

#### **Recommendation 5**

It was confirmed that site specific risk assessments would be included as part of the process going forward, with it essential for the Council to take a more focussed view on potential options for development sites. An individual assessment would need to be undertaken on each site to ensure that the best option was chosen. It was suggested that the recommendation could be refined to emphasise that site specific assessments would be required.

It was advised that the Council had not yet formulated a policy on what to do with those sites not already transferred to Brick by Brick. This policy would need to take into account a wide range of criteria, but financial risk would be a key driver.

#### **Recommendation 6**

It was highlighted that three small patches of land in Selsdon, had been assigned what was perceived to be an overly high value. As such there was a concern that the Council may be paying too much for the properties it was purchasing from Brick by Brick. Reassurance was given that although a decision to purchase additional properties under construction from Brick by Brick had been taken in July 2020, it was subsequently agreed to review these purchases upon completion. The Council retained the option to decline the purchase if it decided that was the best course of action.

#### **Recommendation 7.**

It was highlighted that at present there was a capacity issue within the Planning service, with it questioned whether the Council could afford to increase staff numbers within the team. It was confirmed that the Council could afford to recruit additional planners, as fees tended to cover the cost of staffing. There had historically been a shortage of planners across the country, but Croydon had fared better than most due to the number of big projects being developed within the borough. A recruitment strategy was being developed, with the aim of recruiting an additional 8 – 10 planners.

In response to a suggestion that there was a perception that Brick by Brick applications were being prioritised, it was confirmed that this had been looked into by PwC as part of the review. No evidence had been found that would indicate that this was the case.

#### **Recommendation 8**

The loan arrangements between the Council and Brick by Brick were highlighted, in particular the 75% loan to 25% equity arrangement. As the equity part of the loan arrangement had not been applied, the legal position on this was questioned. In response it was advised that the Council had only advanced 75% of the costs with the intention of taking the equity, but that had not followed. As Brick by Brick had made £14m in sales over the past year, this had been kept in the company to offset against the Council not transferring equity. The 75% to 25% arrangement was used to ensure compliance with state aid requirements.

### **Recommendations 9 – 12**

In response to a question about whether the decision making of Brick by Brick would be investigated, it was confirmed that a specific piece of work to investigate how Brick by Brick was originally set up had not been commissioned at this stage. The LGA had been commissioned to review how the Council got into its present situation, which would take account of Brick by Brick. This review would also indicate whether there was any disciplinary issues to be considered.

Following on from confirmation of the LGA review, it was suggested that a priority should be to take steps to ensure the preservation of any records that may be relevant to the review. It was agreed that this would be taken into consideration. Separately it was questioned whether the board of Brick by Brick had the ability to take disciplinary action should it be found that one of their employees had acted incorrectly. It was confirmed that any such behaviour would be a matter for the directors to resolve.

Regarding recommendation 9 it was confirmed that it was focused on financial governance and the Council's relationship with its external companies. It would not be a wider governance review, as one had only recently been completed by the Council. The Financial Consultant, Ian O'Donnell had been commissioned to review the Council's financial governance, which would address many of the issues raised.

### **Recommendation 13 – 15**

It was highlighted that recommendation 13 had a completion date of December 2020, but as there was not a process in place to provide detailed analysis to inform the calculation of land values, it was questioned whether there could be any confidence on the delivery of this recommendation? It was confirmed that the Council was working toward having a process in place. However, any test of the process would not happen immediately, due to the decision to stop the transfer of sites to Brick by Brick. Reassurance was given that once the Council was in a position to consider the possible transfer of sites a robust process would be put in place.

### **Recommendation 16 – 18**

It was acknowledged that the economy had significantly changed since the Growth Zone project for the town centre in Croydon had originally been created in 2016, which had led to ambitions for the project being reassessed. As such it was agreed that the recommendations proposed were appropriate for the new aims of the Growth Zone project.

It was recommended by the Committee, that given the importance of the Growth Zone to the future of the town centre, a risk assessment should be undertaken specifically for the project. This risk assessment would need to be regularly reviewed to ensure that the appropriate mitigation was in place to continue with the delivery of the project.

### **Recommendations 19 – 21**

In response to a question about the Council's use of both the Revolving Investment Fund and the Asset Investment Fund, it was confirmed that although it might appear to be complicated, it could be untangled if needed. It was also confirmed that PwC had not been able to find all of the documentation for the Council's loans to Brick by Brick as part of the review. Reassurance was given that a robust process had now been put in place to

ensure any future loans from the Council to its companies were appropriately documented and tracked.

It was questioned whether the Council had sufficient expertise in-house to provide advice and guidance to the Cabinet on treasury management matters. In response, it was advised that most local authorities would employ external companies to provide advice on treasury management. It was highlighted that advisors are employed to give advice, but it was down to the Council whether it followed this advice or not. It was unlikely that any advisors would have recommended the model for treasury management that had been followed by the Council.

Although it was confirmed it would usually be the case that the General Purposes and Audit Committee was responsible for reviewing treasury management arrangements, it was agreed that a recommendation would be made asking for further clarity on the role of scrutiny and audit.

It was noted that given the changes in personnel at the Council, it was understandable that there was a lack of corporate memory and it was agreed that it was essential for the necessary governance to be put in place to ensure the retention of corporate memory as a matter of urgency.

#### **Recommendations 22 - 24**

It was noted that the arrangements for Croydon Affordable Homes were very complicated to understand for those without an in depth knowledge of the Council. To help understand the arrangements for the company a request was made for a diagram setting out the inter-related entities. It was also questioned whether the cash flow for the company could be traced. In response, it was advised that although it was difficult to understand, work had been undertaken which had confirmed that although the company was not costing the Council any money, it was also not making as much income as anticipated.

In response to a question about the offer made to the Council's pension fund to transfer property into the fund and whether this was considered normal practice, it was confirmed that it was not unusual for such a transaction to take place. A final decision on the possible transfer of property had yet to be taken, with work underway with the pension regulator and the Department for Communities and Local Government on whether it should go ahead. Should it be permitted to proceed, it would be a decision for the Pension Committee and Pension Board to resolve.

It was agreed that that Recommendation 24 concerning the amount of money set aside for life cycle costs of Croydon Affordable Housing stock should be prioritised to ensure that sufficient funds had been set aside for maintenance costs.

#### **Recommendation 24 – 26**

Following a request for further information, it was agreed that more detail would be provided to the members of the Committee on the Housing Allocations Policy used for properties owned by Croydon Affordable Homes.

#### **Recommendation 27**

In response to a question about whether the Asset Investment Fund should have its own risks on the corporate risk register, it was confirmed that there was such a risk, but it had only recently been added.

It was also questioned whether the Council would have been in a better financial position if the Asset Investment Board had not been set up. It was

advised that funding for the Board had been borrowed at an interest rate of 2.6% and at present the income generated by the investment fund covered the cost of repayment, so overall the Council was better off.

It was noted that there had been missed payments within the fund that had resulted in media headlines suggesting this was the cause of what tipped the Council into bankruptcy, which was not the case. It was questioned whether there would be any further issues with payment and how this could be avoided. It was confirmed that the Council had now budgeted for ongoing payments, so it would not be an issue in the forthcoming year. The Council would need to look at its options for the Croydon Park Hotel to minimise any cost to council taxpayers.

It was asked whether the fund was meeting expectations. It was confirmed that in terms of the Council's revenue account the return from the rent on the acquisitions was slightly more than the cost incurred. However, the Asset Investment Fund had contributed to the overspend due to an assumption made on the rental income it would achieve, which had not been realised.

In response to a question about selling assets to cover the Council's debt, it was advised that each site would need to be reviewed on a case by case basis. The disposal of assets had been discussed with the MHCLG and there was no indication that the Council would be expected to hold a fire sale. When considering asset disposal, one of the key considerations would be ensuring the best outcome for public money.

At the conclusion of this item the Chair thanked both the Councillors and officers in attendance for their participation in the meeting and their open engagement with the questions of the Committee.

### **Recommendations**

At the conclusion of the discussion on this item, the Scrutiny and Overview Committee agreed to make the following recommendations to the Cabinet on the action plan arising from the Strategic Review of the Council's Companies.

1. The Committee would request the opportunity to scrutinise the report arising from the second phase of the PwC review of the Council's Companies.
2. The Committee would request the opportunity to scrutinise the progress made against delivering the action plan, at the appropriate time.
3. The Committee identified that a lack of governance and appropriate management systems were a reoccurring theme in both this report and the Report in the Public Interest, and as such it was important to ensure that a robust level of challenge from scrutiny was facilitated to prevent any repetition of past mistakes.
4. The Committee noted that investigation had found no evidence that Brick by Brick had ever produced monthly management accounts and recommends that this is addressed as soon as possible.
5. Should the second phase report identify continuing with Brick by Brick, it was requested that the annual business case for the company continue to receive scrutiny from the Streets, Environment & Homes Sub-Committee.

6. The Committee recognised the need to be mindful of the capacity within the Council to respond to requests from scrutiny, particularly in light of the ongoing pressures from covid-19, and would both encourage and welcome an open dialogue with the Corporate and Political Leadership to manage expectations.
7. The Committee recommends that achieving value for money should form a key priority within any future relationship with its companies.

**Strategic Review Action Plan Recommendations 1 – 4 (Brick by Brick Financial Planning, Financial Governance & Financial Governance Reporting)**

8. The Committee requested that other criteria, such as potential housing delivery, be included in the report due in February 2021 on the options for Brick by Brick.
9. The ability of Brick by Brick to deliver housing on sites that had previously been identified for transfer to the company should be one of the primary factors for consideration when any decision was made by the Council over the future of each individual site.
10. The Committee would ask that the Board of Brick by Brick give consideration to the publication of non-commercially sensitive information that could be used to provide assurance that the Council's investment is being put to good use.
11. The Committee welcomed confirmation that an audit review had been commissioned on the Fairfield Halls development, to understand the decision making behind the arrangements with Brick by Brick.

**Strategic Review Action Plan Recommendation 5 (Brick by Brick State Aid)**

12. The Committee welcomed the confirmation that site specific risk assessments would be required as part of any consideration of the future of those sites. The Committee recommended that any future land disposal policy includes a requirement for an assessment of the viability of delivery of housing on a site.

**Strategic Review Action Plan Recommendation 6 (Croydon Council Purchase of Brick by Brick Properties)**

13. The Committee welcomed confirmation that all sites that had not yet been transferred to Brick by Brick will be re-evaluated by the Council before making a decision on how to proceed, if at all, with a planning application.

**Strategic Review Action Plan Recommendation 7 (Croydon Council – Brick by Brick Developments)**

14. The Committee highlighted that the limited capacity within the Planning Service presented a considerable risk to the Council and recommends that an increased level of monitoring is put in place to ensure the risk was managed appropriately.

**Strategic Review Action Plan Recommendation 8 (Croydon Council – Brick by Brick – State Aid)**

15. The Committee felt that further investigation was required to understand

why the Council had never implemented its 25% equity investment in Brick by Brick.

**Strategic Review Action Plan Recommendations 9 – 12 (Croydon Council – Governance)**

16. The Committee noted that the LGA investigation was currently underway and requests reassurance that efforts are being made to preserve any documents that may be relevant to this review.

**Recommendations 13 – 15 (Croydon Council – Disposals)**

17. The Committee would request the opportunity to scrutinise the systems that are being put in place for recommendations 13 and 14, once they have been tested.

**Recommendation 16 – 18(Growth Zone – Business Case & Governance)**

18. The Committee acknowledged that the current economic reality meant the original ambitions for the Growth Zone would need to be reassessed. It was recommended that any such reassessment include a detailed risk assessment that was regularly monitored as part of the project going forward.

**Recommendations 19 – 21 (Revolving Investment Fund)**

19. The Committee recommends that consideration is given to whether the responsibility for monitoring Treasury Management sits within either the scrutiny or audit function.
20. The Committee would recommend that governance systems are developed to improve the retention of 'corporate memory' going forward as a priority.

**Recommendations 22 – 24 (Croydon Affordable Housing – Lifecycle Cost Provision & State Aid)**

21. The Committee would request further information is provided to improve their understanding of the flow of funds between the Council, Croydon Affordable Homes and any other associated entities.
22. The Committee would recommend that the action set out in recommendation 24, concerning the amount of money set aside for life cycle costs of Croydon Affordable Housing stock is undertaken as a priority.

**Recommendations 25 – 26 (Croydon Affordable Housing)**

23. The Committee would request the provision of further information on the housing allocation policy used for Croydon Affordable Homes.

**Recommendations 27 – 29 (Asset Investment Fund)**

24. The Committee welcomed confirmation that there was no intention to undertake a 'fire sale' of assets to realise funds and would encourage that a full assessment is made prior to the disposal of any assets to ensure that value for money is achieved for Council Tax payers.

53/20 **Exclusion of the Press and Public**

This motion was not required.

The meeting ended at 9.10 pm

**Signed:**

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**Date:**

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