

REPORT TO:	Scrutiny & Overview Committee 6 July 2021
SUBJECT:	Scrutiny Information Request – Brick by Brick & Fairfield Halls
LEAD OFFICER:	Asmat Hussain – Interim Executive Director of Resources & Deputy Monitoring Officer
CABINET MEMBER:	Councillor Hamida Ali – Leader of the Council
PERSON LEADING AT SCRUTINY COMMITTEE MEETING:	Councillor Sean Fitzsimons – Chair of the Scrutiny & Overview Committee
PUBLIC/EXEMPT:	Public

ORIGIN OF ITEM:	This report has been brought to the Scrutiny & Overview Committee in response to a request for information made at the previous Committee meeting held on 15 June 2021.
BRIEF FOR THE COMMITTEE:	The Scrutiny & Overview Committee is asked to note the response to the information requested.

1. EXECUTIVE SUMMARY

- 1.1. An official request for a range of information relating to the Council's ownership of Brick by Brick and the refurbishment of Fairfield Halls was requested by the Scrutiny & Overview Committee at its meeting on 15 June 2021.
- 1.2. This purpose of this report is to respond to the request by confirming the availability of information where possible and where it is unavailable, to provide the rationale for this.

2. SCRUTINY INFORMATION REQUEST – BRICK BY BRICK & FAIRFIELD HALLS

Information Requested

- 2.1. At the Scrutiny and Overview Committee meeting held on [27 May 2021](#), the Committee considered at call-in request relating to key decisions taken by the Cabinet in the '[Ongoing Review of Brick by Brick Croydon Ltd and associated matters relating to the company](#)' report at its meeting on 17 May 2021.
- 2.2. As part of the Call-In request a range of information was requested to inform the Scrutiny and Overview Committee's consideration of the item. The information request was as follows:-

1. Facility Agreement between Croydon Council and Brick by Brick dated 26th September 2016.
2. Mott McDonald report to the Council on Fairfield Halls cost estimates and refurbishment options
3. Licence agreement between the Council and Brick by Brick to refurbish Fairfield Halls
4. Specifications required by the Council for refurbishing the Fairfield Halls for delivery by Brick by Brick
5. Contract between Brick by Brick and Vinci for refurbishing Fairfield Halls including specifications of works.
6. Documentation showing how Brick by Brick was selected to refurbish the Fairfield Halls.
7. Documentation showing how Vinci was selected by Brick by Brick to refurbish the Fairfield Halls.
8. Project Initiation Document for College Green and Fairfield Halls Integrated Project as mentioned in the Final Internal Audit Report into the Fairfield Delivery dated June 2017.
9. Fairfield Halls Programme Board minutes.
10. Conditional sale document for the Fairfield car park.
11. All external legal advice received by the Council in regard to the Council's relationship with and funding of Brick by Brick
12. Correspondence between Mott McDonald and Croydon Council concerning Mott McDonald leaving the Fairfield Halls project around Q3 2017.
13. Procedures and meeting records, including presentational material, of Council committees set up to manage relationship with Brick by Brick.
14. Change requests/variation orders agreed by Croydon Council to the original work scope for the Fairfield Halls, and cost and other impacts of each change
15. Change requests/variation orders agreed by Brick by Brick with Vinci and others to original Fairfield Halls work scope, and cost of each change.
16. Part B papers from the following Cabinet meetings and the subsequently agreed minutes on these items:-
 - a. 20th October 2015: College Green Cultural and Educational Quarter
 - b. 20th June 2016: Brick by Brick Croydon Limited - Property and Financing
17. Value for money audit of the Fairfield Halls refurbishment, if necessary a draft version

18. Valuations of the units intended to be purchased and the process by which this was achieved.
- 2.3. Prior to the meeting it was agreed that the information requested was not relevant to the decision being reviewed and as such it was not provided at the meeting. Although, it should be noted, a verbal explanation of item 18 (Valuations of the units intended to be purchased and the process by which this was achieved) was given at the meeting. At the conclusion of the meeting, the Scrutiny and Overview Committee concluded that it would make a recommendation to the Cabinet, that the information requested as part of the call-in should be provided to Councillor Robert Ward, as the lead signatory of call-in, as soon as possible.

Scrutiny – Access to Information Request

- 2.4. When the Scrutiny & Overview Committee next met on 15 June 2021, Councillor Ward highlighted that he was still waiting for the information requested to be provided. To add extra strength to the request, the Committee agreed that it would submit a formal request for the information to be provided using the statutory access to information powers available to Scrutiny, which are outlined in the Council's Constitution.
- 2.5. The additional rights of access to documents for members of Scrutiny & Overview Committees is outlined in section 36 of Part 4B – Access to Information Procedure in the Council's Constitution. For ease of reference, these additional rights are:-

'36.1 Subject to Rule 36.2 a Member of Scrutiny and Overview Committee is entitled to a copy, no later than 10 clear working days after the Executive receives the request, of any document which -

a) is in the possession or under the control of the Executive of the Council; and

b) contains material relating to -

(i) any business transacted at an executive meeting;

(ii) any decision made by an individual Member in accordance with executive arrangements; or

(iii) any decision made by an officer in accordance with executive arrangements,

36.2 No member of Scrutiny and Overview is entitled to a copy -

a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to -

(i) an action or decision that that member is reviewing or scrutinising; or

(ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or

b) of a document or part of a document containing advice provided by a political adviser or assistant.

36.3 Where the Executive determines that a Member of Scrutiny and Overview Committee is not entitled to a copy of a document or part of any such document for a reason set out Rules 36.1 or 36.2 it must provide Scrutiny and Overview Committee with a written statement setting out its reasons for that decision.'

- 2.6. As the request was made by the Scrutiny and Overview Committee at its meeting on 15 June and the next Committee meeting is on 6 July, it was concluded that the response to the request would be provided at this meeting, as the agenda would be published within ten working days of the request being made.

Response to the Information Request from the Scrutiny & Overview Committee

- 2.7. The full response to the request for information from the Scrutiny and Overview Committee is set out in Appendix A of this report. In preparing the response an evaluation was undertaken to establish what of the information requested was actually held by the Council, as it would not be possible to share information which was held by another organisation. Due to the large volume of current and historical information requested and the available time and resource, with several officers working at pace to collate, some of the information may not be available for agenda publication. The information listed in appendix A will be made available from the specific request from individual members of the Committee.
- 2.8. Given the sensitive nature of the information requested and with the ongoing Value for Money Review of the Fairfield Halls redevelopment by the Council's external Auditor, Grant Thornton, the information, where held, will be disclosed to Committee in a part B report. Given some of the documents contain sensitive commercial information and in order to safeguard both Members and the Council these documents will be individually watermarked and password protected.
- 2.9. It is important to remind Members of the need to respect the confidentiality of the information to be provided and not to prejudice any ongoing processes. This report also reminds members of their obligations under the Nolan Principles and the Member Code of Conduct.

3. CONFIDENTIALITY

- 3.1. The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 make provision in relation to the access to information pertaining to executive decision making. This includes setting out the additional rights of local authority members and members of overview and scrutiny committees to access documents (Part 5) and general

provisions relating to information, such as the information which is exempt from disclosure (which includes advice from a political adviser).

- 3.2. A member must not disclose information given to them in confidence nor disclose information acquired, which they believe is of a confidential nature, unless they: a) have received the consent of a person authorised to give it; or b) are required by law to do so. If information is accessed using the Freedom of Information / Environmental Information Regulations provisions the information can be regarded as public and the Member may share the information with others. If on the other hand the Member has accessed the information via the provisions of the 1972 Act or the common law 'need to know' then in some cases the information may still be confidential and the Member will be bound by confidentiality. In that case Members should not publish or otherwise disclose the information to a third party.
- 3.3. In cases where a Councillor discloses information given to him/her in confidence by anyone, or information acquired by the Councillor which they believe, or ought reasonably to be aware, is of a confidential nature then that Councillor may find themselves the subject of a complaint that they have contravened the Code of Conduct for Members.

Nolan Principles

- 3.4. They were first set out by Lord Nolan in 1995 and they are included in the Ministerial code. The "Nolan principles" refer to the 7 principles of public life apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, nationally and locally, and all people appointed to work in:
 - the civil service
 - local government
 - the police
 - the courts and probation services
 - non-departmental public bodies
 - health, education, social and care services

3.5. The principles also apply to all those in other sectors that deliver public services.

3.6. The 7 Principles are:

Selflessness

3.7. Holders of public office should act solely in terms of the public interest.

Integrity

3.8. Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other

material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

- 3.9. Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

- 3.10. Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

- 3.11. Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

- 3.12. Holders of public office should be truthful.

Leadership

- 3.13. Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

4. CONCLUSION

- 4.1. The Scrutiny and Overview Committee is asked to note the response given to the request for information, set out in Appendix A.

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APPENDICES TO THIS REPORT

Appendix A: Response to Scrutiny & Overview Committee Information Request