

LONDON BOROUGH OF CROYDON

REPORT:	CABINET	
DATE OF DECISION	25th October 2023	
REPORT TITLE:	A new Purley Pool: The Redevelopment Purley High Street Carpark and Leisure Centre PART A.	
CORPORATE DIRECTOR / DIRECTOR:	Nick Hibberd, Corporate Director, Sustainable Communities, Regeneration and Economic Recovery	
LEAD OFFICER:	Huw Rhys-Lewis, Interim Director of Commercial Investment & Capital	
LEAD MEMBER:	Jason Perry, EXECUTIVE MAYOR OF CROYDON	
KEY DECISION?	YES	REASON: Key Decision – Decision significantly impacts on communities living or working in an area comprising two or more Wards
CONTAINS EXEMPT INFORMATION?	YES	<p>Public with exempt Part B report and appendices</p> <p>Grounds for the exemption: Exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 as it relates to the financial or business affairs of any particular person (including the authority holding that information) and the public interest in withholding disclosure outweighs the public interest in disclosure.</p> <p>Part A Public Appendix 1 – Site Plan of existing site Appendix 2 – EQIA</p> <p>Part B Exempt Appendix 1 – Agreed draft Heads of Terms Appendix 2 – Polaska site development plan Appendix 3 – High level Programme</p>
WARDS AFFECTED	Purley and Woodcote	

1. SUMMARY OF REPORT

- 1.1 This report outlines the progress with meeting the Mayor’s Business Plan priority to reopen a Purley Pool and Leisure Centre at the heart of Purley town centre. The site is located between High Street and Whytecliffe Road South and comprises several different/former uses notably Purley Leisure Centre and Purley Multi-Storey Car Park. The surrounding streets are a mix of commercial and residential buildings of 2-6 storeys.

- 1.2 Purley Pool and Leisure Centre is currently closed following a decision taken by Cabinet to close the centre in October 2021. This was as a result of the COVID outbreak and national lockdown. On the 24th of January 2022 Cabinet confirmed the decision not to re-open the facility after the easing of lockdown restrictions taking into consideration the failure of the mechanical and electrical (M&E) equipment and the need for significant additional investment in the facility to bring it back into operation. Since the initial reports into the mechanical and electrical systems were undertaken further deterioration has been noted to the internal concrete walls surrounding the pool ballast, including visible cracking and water leakage rendering the current pool not fit for purpose with the only viable option being redevelopment/ rebuild of the centre.
- 1.3 Polaska Assets Limited (“Polaska”), currently hold a long leasehold interest on the site and are seeking to bring forward a scheme to include a 246-unit mixed-use retirement village and public leisure centre scheme and new pool. Polaska’s proposals also include commercial units, a new civic square, a public route through the site improving connectivity to Purley station, and the car parking.
- 1.3 The council is currently exploring the option of entering into a development agreement with Polaska to enable this development to come forward and have negotiated draft heads of terms with Polaska (Part B Appendix 1), for approval.

2. RECOMMENDATIONS

For the reasons set out in the report and its appendices, the Executive Mayor in Cabinet is recommended to:

1. Approve the draft Heads of Terms between Polaska Assets Limited (Polaska) and the Council (as set out in Part B appendix 1) relating to the proposed redevelopment by Polaska of Purley Leisure Centre and surrounding site, and with a view to negotiating and entering into a development agreement and property agreements.
2. Delegate authority to the Corporate Director of Sustainable Communities, Regeneration and Economic Recovery, in consultation with the Director for Commercial Investment and Capital, to finalise and enter into the Head of Terms (HoT) between the Council and Polaska.
3. Delegate authority to the Corporate Director of Sustainable Communities, Regeneration and Economic Recovery, in consultation with the Director for Commercial Investment and Capital, to finalise the drafting of the development agreement and new head lease between the Council and Polaska.
4. Agree that there will be a further report presented to the Executive Mayor in Cabinet seeking authority to enter into a development agreement and lease agreements with Polaska for the redevelopment of Purley Leisure Centre and surrounding site, subject to further due diligence and planning permission.

5. To notes the opportunity to regenerate an important part of Purley town centre as set out in the Mayor's wider business plan (2022 – 2026).

3. REASONS FOR RECOMMENDATION

- 3.1 The redevelopment and reopening of Purley Pool Leisure centre forms an important part of the Purley Town Centre plan as set out in the Mayor's wider business plan (2022 – 2026).
- 3.2 Approval to enter into Heads of Terms between the Council and Polaska, with Polaska acting as developer, is a first step in bringing forward the redevelopment of the Purely pool site which would provide additional housing in Purley and the Borough as well as the delivery of a brand new Purley Pool Leisure centre back to the Council to benefit Purley Town Centre and its residents.

4. BACKGROUND AND DETAILS

- 4.1 Polaska are seeking to enter into an agreement with Council for the redevelopment of a site at Purley High Street (the Site). The Site currently comprises an old, unused supermarket, a currently closed Council leisure centre and a Council-operated space public car park. Polaska's proposals for redevelopment are currently subject to planning consultation and comprise:
 - High street accessible Leisure Centre including six-lane pool, training pool, 80 station gym, fitness studio, café and soft play facilities
 - Public square directly off of the High Street
 - New public route linking Purley Station to Purley High Street
 - Integrated retirement community for an 'active' and 'social' retirement consisting of circa. 245 specialist older persons' homes with the amenities being shared and accessible to the public
 - New commercial space fronting high street and public square
 - Integrated retirement community with health and wellness facilities

Landholdings Lease Summary

- 4.2 The Council owns the freehold title to the Site. Polaska has a lease of the site running for a term from 25 March 1979 until 25 March 2129.

A lease deed of variation was signed by both parties in 2004 confirming that the lease term be extended from 25 March 1979 to 25 March 2129. The sum paid for the variation by Polaska is set out in Part B of this report. There is no break clause in the lease. The Leisure Centre and car park are underlet to the Council.

- 4.3 The Leisure centre and pool is currently included in the operator's agreement between Croydon Council and Greenwich Leisure Limited ("GLL"), who were also granted a sub-underlease by the Council of the Leisure Centre in September 2021 for 20 years

from 28 February 2018 to 27 February 2038. The car park is managed in-house by parking services. In the event of the development proceeding the newly constructed leisure centre and pool would be operated by GLL on behalf of the Council.

- 4.4 In January 2022 after a period of further public consultation cabinet decided to not reopen the public pool and leisure centre due to the significant capital investment required to bring the site back into operation. Alongside this was due to the limited facilities currently provided on the site it was likely that the site would require operational funding support from the Council. The previous options considered as part of those decisions have been re-considered in section 5 as part of the proposals in this report.
- 4.5 The site plan and the current site are included in Part A Appendix 1 and the PART B Appendix 2 provides details of the current proposed scheme design being developed by Polaska.
- 4.6 Details of the proposed deal structure between Polaska and the Council are included in Part B of this report.

Scheme's development programme/timetable

- 4.7 Polaska proposals with regards timings on bringing forward the development are set out in Appendix 3 of Part A of this report. The timescales are indicative at present and subject to change.

Next steps

- 4.8 The Council and Polaska to enter into the HoT.
- 4.9 The Council and Polaska to complete the design of a scheme which as far as possible, takes into consideration views/ recommendations of the Local Planning Authority and Greater London Authority and submit a planning application for the scheme.
- 4.10 The parties will commence drafting the Development Agreement, new lease and sublease covering the demolition and construction of a new Leisure Centre and Car Park. Polaska have agreed to underwrite Council external legal costs which is intended to cover the costs of developing and finalising the development agreement and various lease and sub lease documents.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 On July 6th 2022 Cabinet considered a report on Purley Pool which included 6 options to be considered. These being.

Option 1 Repair:

Undertake urgent and immediate repairs to bring the facility back into operable use only.

Output – that the costs of immediate short-term repairs had not been fully quantified at the time. Such an approach would be short term fix but did not address the wider need for refurbishment. This option was rejected.

Option 2 Refurbish with the same footprint:

Assess the replacement of M&E plant equipment, building repairs, and refurbishment to make it a modern and welcoming facility. Explore opportunities to invest to save equipment, e.g. customer turnstiles, energy saving equipment, etc.

Output - In 2020 it was estimated that refurbishment of Purley Pool and Leisure Centre would cost a minimum of £3.4m. This estimate was based in surveys undertaken in 2015 and 2019. Since then there has been further deterioration of the site combined with rising levels of construction inflation which has meant that the refurbishment of the pool is no longer a viable or best value option. This option was rejected.

Option 3 Refurbish and add an additional floor:

As per option 2, but to include the option of adding a floor above the pool to create a new fitness studio and 80 station gym area. The aim is to increase the floor space to make the facility more financially sustainable. Consideration should also be given to opportunities for additional income generating spaces, for example soft play or a café.

Output – Given the cost assessment of option 2 then add an additional capital cost of introducing an additional floor. This options was not considered viable or best value. This option was rejected.

Option 4 Refurbish and knock through into the adjacent property:

As per option 2 but to include the option of knocking through into the vacant supermarket space next door to create a new fitness studio and 80 station gym area. The aim was to increase the floor space to make the facility more financially sustainable. Consideration should also be given to opportunities for additional income generating spaces, for example soft play or a café.

Output – Given the cost assessment of option 2 then add the additional capital cost of knocking through, this option was not considered viable or best value. This option was rejected.

Option 5 A new modular leisure centre on different site:

Review other local area for a site large enough to house a swimming pool, 80 station gym, and fitness suite. Provide costs and timescales for a modular construction.

Output – A review of other local area sites was undertaken, and none where found that would meet and satisfy the development brief of larger site and facilities required for a new modular built leisure centre.

Option 6 A Joint venture as part of a wider redevelopment scheme:

Work with the site owner to develop plans that allow the site to be regenerated to include:

- A new fit for purpose leisure centre with an offer for pool and gym facilities for Purley residents and schools
- Office/residential/retail units
- Parking

Output – The current proposals do meet the criteria of option 6 of working with the current site lease holder (Polaska) to allow the site to be regenerated and new leisure facilities to this location in the borough. This is the recommended option to pursue.

- 5.2 It is worth restating that the current building lacks additional leisure spaces like gym, fitness areas, concession areas which the other leisure site that the Council operates offers which has resulted in those sites not requiring any financial subsidy from the Council. The lack of these facilities on the Purley site is likely to produce a position that Council subsidy would be required to support its operation in its current form.
- 5.3 The proposed scheme from Polaska seeks to address this and does include additional spaces and facilities which allow additional income generation removing the need of operational subsidy from the Council.
- 5.4 In 2018/9 the existing leisure centre had an operational deficit of 187K. In 2019/20, this was 123k. It is recognised that a new leisure centre of similar design and configuration of the other leisure centres operated by GLL on behalf of the Council is likely to be profitable.

6. CONSULTATION

- 6.1 Polaska is responsible for securing planning permission and Polaska have already commenced a pre application process with the Local Planning Authority and have held 10 meetings with both the planners and with the GLA regarding their scheme proposal. Further details of their scheme are included in Part B of this report. As part of the process Polaska has commenced formal consultation with local residents and local Groups on their proposals
- 6.2 A summary of Polaska's community consultation thus far is noted below. It is recognised that Polaska will continue to liaise with a range of local stakeholders and the local public as it develops its designs and builds out the scheme. A key aspect of its engagement strategy to date has included:
- 6.3 Face to face or virtual meetings with residents' associations and community groups.
- 6.4 Two workshops on different topics in July and August 2023 on the details of the scheme, where partners and the general public were invited. .
- 6.5 The publication of a newsletter and updating the consultation website once the feedback deadline.

6.6 Responding to questions being raised by the residents' associations by email.

7. CONTRIBUTION TO COUNCIL PRIORITIES

7.1 The Mayors Business plan for 2022 – 2026 sets out outcomes and supporting priorities. These include making Croydon a place of opportunity for business, earning and learning.

7.2 One of the key priorities coming out of these outcomes is to support the regeneration of Croydon's town and district centres, seeking inward investment and grants. This includes the proposal to Reopen Purley Pool and Leisure Centre at the heart of Purley town centre.

8. IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

8.1.1 See Part B of this report.

8.2 LEGAL IMPLICATIONS

8.2.1 The Council have the power to do anything that individuals generally may do pursuant to section 1 of the Localism Act 2011 ("general power of competence"). The Council therefore has the power to enter into the proposed Heads of Terms. The Executive Mayor has the power to exercise executive functions pursuant to s9E of the Local Government Act 2000.

8.2.2 The current lease arrangements between the Council and Polaska are set out in paragraph 4.2 above and there is no break clause in the existing lease.

8.2.3 This report recommends entering into Heads of Terms (HoTs), which is a document setting out the terms of a commercial transaction agreed in principle between parties in the course of negotiations. HoTs are appropriate once preliminary terms have been agreed and before commencement of detailed due diligence and the drafting of definitive agreements. HoTs demonstrate serious intent but do not legally bind the parties to conclude the deal. However, some provisions can be binding on the parties, such as an agreement to pay costs.

7.2.4 Although the HoTs are not legally binding, below are the likely powers and legal considerations that will apply to the proposals:

7.2.5 Land Disposals – there are various powers the Council may rely upon to dispose of its assets and the Council must comply with the legal framework, including established public law principles, in relation to disposal of land and property. Under Section 123 of the Local Government Act 1972 and Section 233 of the Town and Country Planning Act 1990 (where land has previously been appropriated for planning purposes), it has a statutory duty to sell land at the best price reasonably obtainable ("best consideration"), unless it has the consent of the Secretary of State.

7.2.6 Development agreement - where the Council contracts with a developer to deliver works then, depending on the substance of those agreements and any relevant exemptions,

this can be considered as a contract which falls under the scope of the Public Contracts Regulations 2015 (PCR). This is an area of law which has been litigated and case law principles should be assessed when considering if the PCR will apply to a proposed development agreement. If it is considered that the PCR applies, the Council may consider use of negotiation procedure without prior publication under Regulation 32 where the works, supplies or services can be supplied only by a particular economic operator due to the protection of an exclusive right and where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

7.2.7 Subsidy control (formerly State Aid) - the Subsidy Control Act 2022 (the Act), which took effect in January 2023, provides a new framework for the provision of subsidies within the UK, building on the provisions in the subsidy control chapters of the Trade and Co-operation Agreement (TCA) that applied in the interim of the UK's exit from the EU.

7.2.8 Under the Act, a subsidy is defined as:

2(1) In this Act, "subsidy" means financial assistance which—

(a) is given, directly or indirectly, from public resources by a public authority,

(b) confers an economic advantage on one or more enterprises,

(c) is specific, that is, is such that it benefits one or more enterprises over one or more other enterprises with respect to the production of goods or the provision of services, and

(d) has, or is capable of having, an effect on—

(i) competition or investment within the United Kingdom,

(ii) trade between the United Kingdom and a country or territory outside the United Kingdom, or

(iii) investment as between the United Kingdom and a country or territory outside the United Kingdom.

7.2.9 Section 3 of the Act (Financial assistance which confers an economic advantage) explains how to determine whether financial assistance confers an economic advantage on an enterprise for the purposes of section 2(1)(b) above, and states:

(2) Financial assistance is not to be treated as conferring an economic advantage on an enterprise unless the benefit to the enterprise is provided on terms that are more favourable to the enterprise than the terms that might reasonably have been expected to have been available on the market to the enterprise.

7.2.10 It is noted that a further report will be presented to the Executive Mayor in Cabinet prior to entering into legally binding agreements. The matters above will need to be considered further as well as further due diligence, such as detailed title investigations.

7.2.11 In relation to details in the report regarding the Local Planning Authority, it is important to note that the role and functions of the Local Planning Authority are distinct from the role of the Council. In the circumstances, the Council will be an interested party to the planning application and, as such, it is important to maintain a clear separation of duties.

Comments approved by the Head of Commercial & Property Law on behalf of the Director of Legal Services and Monitoring Officer. (Date 04/10/2023)

7.3 EQUALITIES IMPLICATIONS

8.3.1 Under the Public Sector Equality Duty of the Equality Act 2010, decision makers must evidence consideration of any potential impacts of proposals on groups who share the protected characteristics, before decisions are taken. This includes any decisions relating to how authorities act as employers; how they develop, evaluate and review policies; how they design, deliver and evaluate services, and also how they commission and procure services from others.

8.3.2 Section 149 of the Act requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic and people who do not share it.

8.3.3 The leisure centre equality impacts take into consideration the following local social trends:

- Croydon is a highly diverse borough and will continue to become more diverse. Our leisure facilities must be able to respond to this diversity;
- Croydon's population is set to increase by 5% over the next 15 years;
- Demographically Croydon's age profile is also changing quickly
- will be between 30% and 70% more adults in every age category over 60 years old in 15 years' time, compared with 10% less children under 10.

8.3.4 The new centre will improve the range and quality of facilities for all users, following a period during which the existing leisure centre has remained closed.

Comments approved by Naseer Ahmad on behalf of the Equalities Manager (Date 12/09/2023)

9. APPENDICES – PART A

Appendix 1 – Site Plan of existing site

Appendix 2 – EQIA

10. BACKGROUND DOCUMENTS

10.1 None

APPENDIX 1 – Existing site plan

