

Scrutiny & Overview Committee Agenda



To: Councillors Sean Fitzsimons (Chair), Robert Ward (Vice-Chair), Leila Ben-Hassel (Deputy-Chair), Jade Appleton, Shafi Khan and Joy Prince

Reserve Members: Oni Oviri, Louis Carserides, Richard Chatterjee, Pat Clouder, Mary Croos and Clive Fraser

A meeting of the **Scrutiny & Overview Committee** which you are hereby summoned to attend, will be held on **Tuesday, 17 August 2021** at **6.30 pm**. **This meeting will be held remotely.**

Asmat Hussain
Executive Director of Resources and
Monitoring Officer (Interim)
London Borough of Croydon
Bernard Weatherill House
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Simon Trevaskis
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www.croydon.gov.uk/meetings
Monday, 9 August 2021

Members of the public are welcome to view the webcast both live and after the meeting has completed at <http://webcasting.croydon.gov.uk>

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If you require any assistance, please contact Simon Trevaskis
0208 7266000 as detailed above.

AGENDA – PART A

1. Apologies for Absence

To receive any apologies for absence from any members of the Committee.

2. Minutes of the Previous Meeting (Pages 5 - 68)

To approve the minutes of the meetings held on the following dates as an accurate record:

- 4 February 2021
- 9 February 2021
- 16 February 2021
- 23 March 2021
- 30 March 2021
- 20 May 2021
- 27 May 2021

3. Disclosure of Interests

In accordance with the Council's Code of Conduct and the statutory provisions of the Localism Act, Members and co-opted Members of the Council are reminded that it is a requirement to register disclosable pecuniary interests (DPIs) and gifts and hospitality to the value of which exceeds £50 or multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period. In addition, Members and co-opted Members are reminded that unless their disclosable pecuniary interest is registered on the register of interests or is the subject of a pending notification to the Monitoring Officer, they are required to disclose those disclosable pecuniary interests at the meeting. This should be done by completing the Disclosure of Interest form and handing it to the Democratic Services representative at the start of the meeting. The Chair will then invite Members to make their disclosure orally at the commencement of Agenda item 3. Completed disclosure forms will be provided to the Monitoring Officer for inclusion on the Register of Members' Interests.

4. Urgent Business (if any)

To receive notice of any business not on the agenda which in the opinion of the Chair, by reason of special circumstances, be considered as a matter of urgency.

5. CALL-IN: Novation of building works and profession services contracts from Brick by Brick for Fairfield Halls (Pages 69 - 92)

To consider and respond to the Call-In in accordance with the procedure set out in the Council's Constitution.

6. Exclusion of the Press and Public

The following motion is to be moved and seconded where it is proposed to exclude the press and public from the remainder of a meeting:

“That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information falling within those paragraphs indicated in Part 1 of Schedule 12A of the Local Government Act 1972, as amended.”

PART B

7. CALL-IN: Novation of building works and profession services contracts from Brick by Brick for Fairfield Halls (Pages 93 - 100)

To consider and respond to the Call-In in accordance with the procedure set out in the Council's constitution.

This item provides for the Committee's consideration Appendix D of the CALL-IN: Novation of building works and profession services contracts from Brick by Brick for Fairfield Halls report. This is the confidential part of the Cabinet report considered on 26 July 2021.

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Public Document Pack Agenda Item 2

Scrutiny & Overview Committee

Meeting held on Thursday, 4 February 2021 at 5.00 pm.
This meeting will be held remotely and can be viewed on the council website.

MINUTES

Present: Scrutiny & Overview Committee members

Councillor Sean Fitzsimons (Chair), Robert Ward (Vice Chair), Jerry Fitzpatrick, Oni Oviri, Andrew Pelling and Joy Prince

Children & Young People Sub-Committee members

Councillors Sue Bennett, Bernadette Khan, Helen Pollard, Louisa Woodley, Josephine Copeland (Co-optee), Leo Morrell (Co-optee), Elaine Jones (Co-optee) and Paul O'Donnell (Co-optee)

Also Present: Councillors Alisa Flemming, Stephen Mann and Pat Ryan

Croydon Council Officers - Debbie Jones (Interim Executive Director of Children, Families & Education), Shelley Davies (Interim Director of Education), Denise Bushay (Head of School Place Planning & Admissions)

External - Dr Simon Hughes (Director of Education – Southwark Archdiocese),

Apologies: Councillor Leila Ben-Hassel

PART A

5/21 **Disclosure of Interests**

There were no disclosures of interest made at the meeting.

6/21 **Urgent Business (if any)**

There were no items of urgent business.

7/21 **CALL-IN Proposed closure of Virgo Fidelis Convent Senior School from August 2021**

The Chair of the Scrutiny & Overview Committee, Councillor Sean Fitzsimons introduced the Call-In item, outlining the reason why the 'Proposed Closure of Virgo Fidelis Convent Senior School' key decisions had been called in. It was confirmed that there were a number of reasons why the call-in had been made, which were as follows:-

1. To hold the decision takers to account on their decision and to the evidence that underpins their reasoning to recommend closure of Virgo Fidelis Secondary School.

2. To ensure that there are sufficient secondary school places in Croydon for Croydon pupils and that the decision will not adversely affect disadvantaged groups
3. To ensure that there is no undue negative impact on other Croydon schools as a result of this decision
4. To obtain reassurance on the future use of the site
5. To obtain reassurance on the treatment of the accumulated budget deficit
6. To ensure that the decision does not unduly restrict the choice of parents to send their children to a single sex school or a school of religious character.

In response to these concerns a report setting out additional information had been provided for the consideration of the Committee.

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 was decided to proceed, to confirm how much time it wished to allocate for the discussion of the item. The Committee agreed that it would review the decision and allocated one hour and thirty minutes for 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 Cabinet for reconsideration, outlining the nature of the Committee's concerns
1. To refer the decision to Council, if the Committee considered that the decision taken was outside of the Budget and Policy Framework.

At the start of the meeting the Chair gave the representative from the Southwark Archdiocese and council officers the opportunity to respond to the call-in. During this introduction it was highlighted that any proposed school closures were not taken lightly and would be based on the standard of education provided and the safety of the children attending the school. Both the Council and the Roman Catholic Archdiocese were in agreement on the closure of the Virgo Fidelis Convent Senior School and had approved the closure after following the process for closing schools. The main reasons for the closure of Virgo Fidelis were the unfit estate, the declining roll and the impact of the increasing deficit. The Council and the Archdiocese were working together to manage the smooth transition of pupils to new schools.

The Ward Councillors in attendance, Councillor Stephen Mann and Councillor Pat Ryan, were also given the opportunity to provide the local view on the closure. It was highlighted that there was regret that the school was closing after so many years, but it was understood that it had been in decline. Of major concern was the deficit of £2.5m, which would be passed to the Council upon closure, and how this would impact upon the education budget. Other concerns raised included the retention of facilities used by the local community, the distance to travel to alternative Roman Catholic schools and whether opportunities had been missed to provide support at an earlier stage. The first question from the Committee asked for further information on the background of Virgo Fidelis. It was confirmed that the Catholic Church had a

large number of voluntary aided schools, including 169 in the Southwark Archdiocese. Virgo Fidelis was different, as it was under the ownership of a religious order, but it was conducted within the same structure as a voluntary aided school. Although it was the Archbishop's decision on what schools were Catholic, neither the Archbishop or the Archdiocese had the power to appoint trustees to the school. The running costs of the school were met by the Local Authority from grants provided by the Department for Education. Previously, the Department for Education allocated parcels of money on a per capita basis for all voluntary aided schools. However, the funding process changed this year with all of the money given to Archdiocese to allocate based on the number of voluntary aided schools within their area.

All voluntary aided schools were in receipt of a small capital grant each year, which was used for maintenance and refurbishment. What work was prioritised would normally be decided by the head teacher. All voluntary aided schools had to make a 10% contribution to capital costs. At Virgo Fidelis, it had not been possible to make a grant as they were not able to fund the 10% contribution. Any maintenance that had been carried out by Archdiocese had prioritised safeguarding needs and urgent repairs.

Further information was requested on the transition of the students, including what safeguards had been put in place to build relationships with receiving schools. It was advised that it was essential to ensure a smooth transition and as with the closure of St Andrews School in 2019, the Education Service had worked with individual families to manage the in-year transition programme. It was important to give parents a choice of schools and although there was capacity at St Mary's School, there were other schools available. Work was also underway to ensure that all records were transferred across to the new schools.

As a follow-up, it was questioned whether the Catholic schools in the Archdiocese helped each other out? In response, both St Mary's School and the education team were commended for their management of the process. To improve parental choice, other catholic schools in the Archdiocese with spare capacity had been highlighted to parents, but the Coloma Convent Girls School, which was also in the borough, was currently oversubscribed.

In response to a question about the support for years 10-11 pupils, who had already experienced significant disruption over the past year, it was advised that all year 10 pupils had been kept together as a cohort at St Mary's School since September 2020. Although school transition was hard for all children, it had gone as well as could be expected.

There was concern expressed about the potential distances to other single sex catholic schools, should parents want their daughters to continue their education within a similar environment. It was advised that parental choice was hugely important and was why attempts had been made over the last few years to support the school. Unfortunately, these attempts had not be successful and a decision to close the school had been taken to ensure the safety of the pupils.

Significant concern was raised by the Committee about the £2.5m debt from Virgo Fidelis being passed to the Council, with the school closure. It was questioned whether there was any scope for recovering this debt. In response it was advised that concerns had been raised with the school about the size of the debt over a number of years and the debt would have only increased

without the decision to close. The Archdiocese had also raised the possibility of funding school repairs from selling some of the land surrounding the school, but had been advised that this would not happen.

The Council had issued a warning notice in 2017, due to concerns about the school, but shortly after Ofsted had carried out an inspection which had resulted in a 'Good' rating, which delayed the process despite these concerns. A second notice had subsequently been issued, which had resulted in an Interim Executive Board (IEB) being installed to oversee the running of the school. The Council was in the process of seeking legal advice to find out if there was any possibility of recovering any of the deficit. It was confirmed that the deficit would not have an impact on the funding of other schools in the borough, but would sit within the Children Services budget line, creating additional budgetary pressures.

It was stated that there seemed to have been a number of red flags raised over time, and despite the action taken by the Council and the Archdiocese a significant deficit of £2.5m had been incurred that would now be passed to the Council. As such, it was suggested that there seemed to be an issue within the system, which allowed schools to incur a deficit without accountability.

As this was the second voluntary assisted school closure in the north of the borough in two years, it was questioned how this would impact upon the availability of school places and whether there were any other schools at risk of closure. It was advised that the closure of a school did have an impact upon the numbers of places available, as would the opening of new schools. It was important to ensure that there was parental choice and it would always be the case that some schools would be more popular than others. Funding was determined by the number of pupils on the school roll, which would only serve to increase the deficit as pupil numbers dropped.

In response to a question about the lessons learned from the closure of Virgo Fidelis, it was advised that it was important to have a robust system in place to monitor schools that either have or the Council thinks will have a deficit. There also needed to be robust plans in place to manage surplus school places to ensure that schools with a deficit have the right level of support.

It was confirmed that the Council and the Archdiocese had worked well together in managing the closure of Virgo Fidelis and also in general to support the other Roman Catholic schools in the borough. It was suggested that a possible lesson to learn would be to empower governors at other schools to recognise warning signs to ensure the right decisions were made for the future of the school in question.

In response to a question about other schools in the borough with a deficit, it was advised that a report on this would be considered by the General Purposes and Audit Committee. As part of the process of managing the deficit, the Council was trying to include conversations with members of the governing body, as well as head teachers. Assurance was given that the Council was being more robust in requesting information on deficits from schools.

It was questioned whether the other voluntary assisted schools in the borough had similar issues, but it was confirmed that both Coloma Convent Girls School and St Joseph's School were successful and in strong positions.

In response to a question about whether the Archdiocese was able to provide support for Religious Order's unable or unwilling to contribute the 10% fee for

capital maintenance, it was advised that no school had enough money. Most schools could only afford to do essential maintenance such as repairing heating systems or rectify an issue that might impact upon the safety of the pupils.

It was confirmed that the governors of the Virgo Fidelis School had been removed as part of the IEB process, which replaced them with the Interim Executive Board. The IEB was in agreement with the decision to close the school. It was also confirmed that the school site would not be redeveloped and would be used for another educational purpose.

At the end of the discussion, the Chair thanked the attendees for their engagement with the Committee and the openness in which their questions were answered.

Conclusions

Following discussion of the item, the members of the Scrutiny & Overview Committee, along and the Children & Young People Sub-Committee reached the following conclusions:-

1. The Committee concluded that the evidence provided in the report, along with the responses given to questions asked at the meeting, had provided sufficient reassurance that the original Cabinet decision was the correct course of action. As such no further action was necessary and the decision could proceed as intended.
2. The Committee commended the work of both the Archdiocese and the Council in consulting with residents over the closure of Virgo Fidelis and the management of the transition of pupils to other schools.
3. Notwithstanding the reassurance taken on the transition of former Virgo Fidelis pupils to new schools, it was agreed that further reassurance would be sought by the Children & Young People Sub-Committee, at a later date, on the ongoing management of the transition.
4. The Committee welcomed confirmation that the Council was taking a more robust approach to managing schools in deficit, but remained concerned about the governance arrangements for schools who were experiencing difficulties; in particular, the ability of governors to raise issues to the local authority.
5. The Committee endorsed the approach of the Council in seeking legal advice over the possibility of recouping any of the £2.5m deficit that would be passed onto the Council with the closure of Virgo Fidelis.
6. The Committee felt that General Purposes and Audit Committee, as the appropriate Council body for managing risk, should be given oversight of school deficits in the borough on at least an annual basis. This should include a reviewing the risk factors involved to the schools deficits, such as governance and ownership complexity.
7. The Committee agreed that it would be useful for the Children & Young People Sub-Committee to be provided with information on the demand from Roman Catholic parents for Roman Catholic school places in the borough, when it next considered school place planning.
8. It was also agreed that consideration should be given to the questionnaire on school applications and whether a question could be added on whether faith had a bearing on the choice of school.

Recommendations

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The members of the Scrutiny & Overview Committee and the Children & Young People Sub-Committee agreed to make the following the following recommendations to the Cabinet Member for Children, Young People & Learning:-

1. That a further report on the transition of pupils from Virgo Fidelis School be scheduled for a meeting of the Children & Young People Sub-Committee at a date to be determined.
2. That an annual report on the schools deficit in the borough be programmed into the work plan for the General Purposes and Audit Committee, and include a thorough review of the risk factors involved.
3. That when the Children & Young People Sub-Committee next reviewed school place planning in the borough, that information was included on the demand for faith schools.

8/21 **Exclusion of the Press and Public**

This motion was not required.

The meeting ended at 7.25 pm

Signed:

Date:

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Scrutiny & Overview Committee

Meeting held on Tuesday, 9 February 2021 at 6.30 pm
This meeting was held remotely and can be viewed on the Council's website

MINUTES

Present: Councillors Sean Fitzsimons (Chair), Robert Ward (Vice-Chair), Leila Ben-Hassel (Deputy-Chair), Jerry Fitzpatrick, Oni Oviri and Joy Prince
Also Present: Councillor Hamida Ali, Sue Bennett, Simon Brew, Sherwan Chowdhury, Jason Cummings, Stuart King and Callton Young

PART A

9/21 **Disclosure of Interests**

There were no disclosures of interest made at the meeting.

10/21 **Urgent Business (if any)**

There were no items of urgent business.

11/21 **Review of Brick by Brick Croydon Ltd**

The Scrutiny & Overview Committee considered a Cabinet report setting out the findings of a review conducted by PwC on possible options for the future of Brick by Brick. The Leader introduced the report, during which the following was highlighted:

- The options that were due to be put before Cabinet were set out as two sets of detailed analysis by PwC.
- Progress had been made since the first phase of the review was provided in November 2020, with the appointment of non-executive directors with significant financial experience. The directors had made significant progress since being appointed, with significant work underway to review the loan agreement.
- The second phase of the review, due to be brought to Cabinet, was designed to support the organisation on how best to move forward with Brick by Brick. This included a detailed options analysis, which was based upon the fundamental principle of minimising the potential loss to the public.
- The first phase of the review had set out seven options and following the second phase, an additional option had emerged which would allow the Council to conclude its relationship with Brick by Brick by October 2021. This involved completing work on most of the sites that were due to be completed by October 2021 and marketing the remaining sites for sale

- It was emphasised that Brick by Brick was a matter for public concern and while much of the discussion could be held in public, any discussion of commercially sensitive information had to be taken in private, hence why there are Part A and Part B elements of this meeting.

Following the introduction by the Leader, the Committee had the opportunity to ask questions on the report. The first question was a request for further clarification as to why there were part B elements to the meeting. Officers advised that this was due to the sale option, outlined in the report, which was commercially sensitive information. Had the information set out in the restricted papers been made public, it may allow a potential purchaser to make a lower bid, if they were aware of the figures reported in the paper. The decision to only make this information available in Part B had been reviewed and supported by legal, as it was important to protect the Council's interest and minimise any potential loss.

There was a concern about access to information rights and whether these were being interpreted in a liberal manner. It was questioned whether the Council could commit to releasing the information into the public domain, once the sale option was concluded. Officers confirmed that once considerations that led to the information to be considered as Part B ceased, further consideration would be given to whether it could be made publically available.

It was question whether the same recommendations set out in the report would be made at another local authority that did not have the same financial challenges as Croydon. Officers advised that in line with the Wednesday Principle, all local authorities had to ensure they acted in a reasonable manner in terms of their finances and the processes surrounding that. When borrowing funds, local authorities had to give careful thought to what would happen in the event it could not afford to pay back its debt.

It was highlighted that there were a number of words used in report which could lead to misunderstanding about the main points of learning from the situation and as a result, clarification was sought on three areas that had not been included in the report.

It had not been said that there was inadequate consideration given to the transfer of land between Brick by Brick and the Council. Officers noted that in the report from PwC, published in November 2020, it made clear that in their view there had been no breach of the Council's statutory duty under the Local Government Act 1972 to obtain best consideration for its land.

It had not been said that the idea of an arm's length company, set up by a local authority, to deliver housing was a bad concept. However, in this instance the management of Brick by Brick had not been adequate. Officers confirmed that the concept of an arm's length company was perfectly lawful and in this particular case it had not been best executed.

Contrary to what was occasionally said, there was no suggestion in any of the report that there had been any financial corruption involved. It was confirmed that PwC had found no evidence of corruption during its investigation.

It was clarified for the benefit of residents, that there was three areas of learning from the Council's experience with Brick by Brick. Firstly, the financial governance had been at best insufficient and at worst poor. Secondly, the narrative as presented by Brick by Brick lacked the necessary objectivity, with risks not being sufficiently highlighted as they should have been. Finally, the culture of decision making at the company had been unsatisfactory in terms of financial sustainability.

It was questioned whether the Council's experience with Brick by Brick had led to any further consideration of its risk appetite going forward or the need to allocate sufficient resources to manage the risk appetite framework, to ensure good governance going forward. It was confirmed that risk appetite was being reviewed as part of the wider governance improvement in the Croydon Renewal Plan. Risk had to be central to how an organisation delivered its services. It was important for an organisation not act without sufficient regard for its risk appetite. Risk had to be a key part of the management culture and this was a big change, which was being reinforced through management dialogue and training. Risk had been flagged in Brick by Brick reports to Cabinet with mitigation identified, but they had not been acted upon.

The Leader added that there had been a lot of reflection by Cabinet on the Council's risk appetite. This included training on risk management to identify changes to be out in place, with consideration being given to how the Cabinet will manage risk going forward.

It was highlighted that although the Cabinet had received training and risk management would be a Council wide, year round consideration, it was essential that Scrutiny was given evidence to provide assurance that this was the case. It was advised that assurance would be provided through the annual governance statement. A request was made for the Cabinet to formally write up its yearly review of risk management, so that an assessment could be made on accountability. Officers said that the Annual Governance Statement was an important document that should describe the Council's internal controls, workforce issues, and performance management. The Cabinet Member for Finance and Resources agreed that officers should explore a cycle of presenting the risk register on a regularly basis and that the quality of the register needed to improve and provide more clarity.

The Leader added that it was essential to evidence how the Council's risk management was improving and further consideration would be given to evidencing changes by addressing structural and behavioural changes that needed to be made. This would be the challenge at the Croydon Renewal Action Board and charted through the Improvement Plan.

Clarity was sought on how the valuations and costings in the report had been reached. It was confirmed that independent valuation advice had been sought from external sources such as local estate agents, as they were aware of the market in Croydon. Independent advice was also sought from quantity surveyors to review the costs on a number of schemes and in both cases officers were satisfied that the costings provided by Brick by Brick were reasonable estimates. For the shared ownership and affordable housing

valuations, there was a view that at present some of the estimated for these elements were at the high end of what was achievable.

It was questioned what level of confidence could be given that the Council would achieve an adequate return on sites developed. It was confirmed that there was confidence in the cost figures and the estimates given were similar to PwC's prediction. However, it was impossible to predict the housing market over the next few months and the return provided would be dictated by the market.

Further information was sought to confirm how two scenarios as set out in paragraphs 3.4 to 3.9 of the report had been chosen. It was confirmed that the scenarios were chosen out of the original options presented, as detailed in Appendix three of the report, and three requisites had been used in narrowing the choice. Some scenarios were ruled out due to cost of delivery which would have meant the Council having to borrow a lot more money. Consideration had been given to the possibility of a management buyout, but as further evidence of the ability to do so had not been forthcoming, this was also ruled out. Consideration was then given to the possibility of building out site, which was how the Council ended up with its two options. Risks were involved in either option, with the main risk being the financial ability to enable delivery.

It was explained that at present, the build out proposal was for Brick by Brick to build out the 29 sites that were already under construction. All sites previously identified for developed, had not yet been transferred to Brick by Brick and as such it would remain a Council decision on what to do with these. Some may be suitable for sale, some for social housing in HRA and some not suitable for anything. The Council would need to take a view and report on this at the appropriate time.

It was highlighted that both proposals being put forward would still leave a substantial loss to the Council's finances, with a legacy of debt to manage and would have revenue implications for the Council for years to come. Reassurance was sought that the Council would not walk away with additional debt once Brick by Brick was closed down. It was confirmed that it was very unlikely that Brick by Brick would be in a position to pay back all its debt owed to the Council.

It was highlighted that one of the options was the sale of Brick by Brick as a single entity, with the Council having been approached by someone that may want to make an offer for the company. It was asked why the Council should entertain this approach, when going to the market was ruled out as an option. It was advised that PwC had ruled out this approach due the time it would have taken for marketing the company, comparing bids and completing the sale. This process would also have taken capital resource that the Council did not have, so there would have been issues with both timing and resources if the Council had gone to the market.

As a follow-up, it was questioned why length of time and resources ruled out selling Brick by Brick, but did not rule out testing some areas of the market. It

was highlighted that selling individual sites was a task for Brick by Brick, while selling the company would be the responsibility of the Council to complete. The sale of both individual and groups of sites was easier than selling a whole organisation. In some of the other options ruled out, the Council would have needed to keep Brick by Brick going in some form for a number of years in order to be able to deal with ongoing issues that may apply. It was still too early in the process to ascertain which option would be decided upon.

In response to a question about the lack of documentation for the loan agreements with Brick by Brick, it was confirmed that under half of the loan agreements were in a state of incompleteness. In particular, those for smaller sites in the development phase, which was due to come back to the Council and in one instance for a significant site, Fairfield Halls, which had an incomplete/unsigned agreement.

An explanation was sought about the loan arrangements, as the Council had been saying for a number of years that Brick by Brick would run on 75% loan and 25% equity basis and this had not been the case. It was suggested that in doing this, it gave Brick by Brick the opportunity to spend a lot more money because the Council did not enforce the requirement, which as per the agreement was they should be part financing. In response, it was highlighted that from a legal point of view, if a local authority loans money to a private company or one that it owns, it cannot be done on beneficial terms and that applied to interest rates charged and percentage of loan to value or loan to costs.

The initial legal advice was for the local authority to lend up to 75% of the local to value amount, with the other 25% being taken as equity. This meant the Council putting its own cash in as additional shares. The Council had never followed this agreement and following further legal advice, because the Council was trying to protect its investment as the funder, it was reasonable for the Council to put in 100% funding and no equity. If Brick by Brick was still trying to expand, that would be unreasonable, but as the organisation was in a scenario where in the near future it would cease trading, restructuring the loan as 100% loan and no equity had been advised by lawyers as a reasonable course of action.

Concern was raised about the possibility of providing Brick by Brick additional funding, due to the company's history of being unable to manage its cash flow. It was agreed that these concerns were understandable and would be taken into consideration. There was confidence that the cost estimate and modelling was accurate in that the figures provided by Brick by Brick were very similar to PWC in terms of monthly costing for bills and overheads.

In response to a question about the potential options if selling the sites, it was advised that any sale of individual sites or of the company would necessitate sites having to be built out in line with planning permission approvals. There was concern that the percentage of the site allocated to social housing would change from what was originally granted, if the sites were sold.

A question was raised about the number of units that would be sold for outright sale and how many would be bought by either the Council or a housing association for affordable rent or shared ownership. It was confirmed that the split between the total number of units available for social rent could be as high as 187, the split between the three tenures was not available at present but would be made available to the Cabinet.

Reassurance was sought from the Leader that the structure of the business plan would be more robust than in previous years and that all necessary steps would be taken to prevent accounts being invalidated. The Leader welcomed feedback on what should be expected to be seen in the business plan, which would be communicated to the shareholders in her position as Chair of that Board.

Clarification was sought on the current position of College Green site and Fairfield Hall. It was confirmed that as per the information in the report, £59m had been lent to Brick by Brick for work on Fairfield Hall and College Green. There were no definitive figures on how much had been spent on the physical refurbishment at this time. The Council's external auditor, Grant Thornton, were currently conducting a value for money review of the Fairfield Halls refurbishment, which would provide greater clarity. It was confirmed the value of College Green would be insufficient to cover the £59million.

It was questioned whether there was capacity to use the Housing Revenue Account (HRA) to buy or build council housing on any of the sites and whether there was funding or expertise available to do this. It was advised that the HRA could buy what Brick by Brick was building if the rent covers the interest and managements and maintenance costs. Going forward, this should be the basic underlying principle when decided to build social housing within the HRA account. There was capacity to buy the units and there was a good development team, but it would take considerable time and resources for this to be brought to fruition. Consideration needed to be given to affordability of this option and currently the Council could not afford to place additional stress on its HRA to build houses when the rent did not cover the cost of building.

It was agreed that the rest of this item would take place under Part B to allow for discussion of the information provided in that part of the report.

Chris Buss was thanked for all his answer to questions and for the two additional informal meetings that took place where he provided detailed information to ensure understanding of all the intricate details of the situation.

Conclusions

At the end of this item the Scrutiny and Overview Committee reached the following conclusions:-

1. The Committee commends the work of the consultant, Chris Buss, in preparing the report and was satisfied that an appropriate level of due diligence had been carried out to identify the preferred options outlined in the report

2. The Committee was satisfied that the approach proposed in the report represented the best way forward for the Council, in light of its reduced risk appetite, and would deliver the best value for the public purse.
3. Although the report identified that a loan of less than £10m to Brick by Brick was required to deliver the preferred option, the Committee recognised that there was still risks that may impact upon the amount of money required. Should a loan exceeding the identified £10m or a further loan be required, there needed to be a mechanism in place to allow additional scrutiny.
4. The Committee welcomed the reassurance that work was underway to embed risk management processes throughout the Council, but questioned how this could be evidenced going forwards.
5. The Committee recognised that there would be considerable public interest in the financial details set out in the confidential section of the Review of Brick by Brick report and felt that the releasing this information should be reviewed, once it was no longer considered to be commercially sensitive.
6. As a key learning point from the experience of the Council with Brick by Brick, the Committee felt that a process should be put in place to review any external companies owned by the Council at regular intervals, to ensure that they were achieving their intended outcomes and remained fit for purpose.
7. The Committee retained a concern about the past lending arrangements with Brick by Brick and felt that further investigation was required to understand the arrangements and to ensure that any such lending was legally compliant.

Recommendations

The Scrutiny and Overview Committee agreed to submit the following recommendations to the Leader of the Council at the next Cabinet meeting, for further consideration:-

1. That a mechanism be put in place to ensure additional scrutiny of any further lending to Brick by Brick, above and beyond that identified in the review of future options for the company.
2. That consideration is given to how the Executive team will track and evidence that risk management processes are being embedded across the Council.
3. That a mechanism is put in place to review the confidential information set out in the report, to allow it to be publically released once appropriate to do so.
4. That a regular review be undertaken of all Council companies, with the outcomes from this review reported to Scrutiny.
5. That a review be undertaken of past lending to Brick by Brick to provide greater clarity over the arrangements and to ensure that the arrangements were legally compliant.

Interim Asset Disposal Strategy

The Scrutiny and Overview Committee considered a Cabinet report which set out an Interim Asset Investment Strategy. The Committee was asked for its feedback on the report, which would be reported to the Cabinet during its consideration of the item. The Deputy Leader & Cabinet Member for Croydon Renewal and the Interim Director of Homes and Social Investment introduced the item during which the following was noted:

- The paper reflects that the Council accepted the need to review all of its assets and undertake an assets disposal programme, in order to reduce its borrowing requirements and allow for a greater focus on its core business. Any asset disposal would be done with robust governance arrangements in place and in a controlled manner.
- The strategy would sit together with a new Asset Corporate Plan, which was being created, and to complement the Medium Term Financial Strategy.
- The Strategy would ensure that best consideration was given by balancing the economic climate against the timing of any disposals.
- This was an Interim Asset Disposal Strategy, which sought to set the scene and provide a framework for managing the initial proposals. It would lead to the creation of a stronger framework for future years.
- It was emphasised that retention of any assets past their reasonable life was not good asset management practice and the strategy sought to address this in order to reduce costs, which particularly needed given the Council's current financial circumstances.
- Delivery of a successful strategy would be contingent on the use of professional resources, that would need to be brought in to handle specific matters of around the sale and some sites would require public consultation.

Following introductions, the committee was provided the opportunity to ask questions on the content of the report. The first question concerned the Council assets that had been reviewed in the creation of the strategy as it did not appear to have taken account of all Council assets. It was confirmed that the strategy had only looked at property assets as this was the brief given.

As a follow-up, it was questioned why other assets had not been explored, as the ones listed in the report seemed to be those that were easier to review. It was advised that any assets not included would be part of the wider asset management plan, which would be worked on in the coming months. The interim Strategy placed an emphasis on assets that were either costly or difficult to maintain, were easily marketable, had a low value to the Council and had many reputational risks and holding costs. The Committee agreed that further clarification was needed in the report as this criteria could not be clearly identified.

A commitment was given that the wider Asset Management Plan, exploring future and broader assets not included in this interim plan, would be

presented to Scrutiny and Overview Committee for feedback prior to any consideration by Cabinet.

It was highlighted that the list of assets under consideration for disposal was set in the restricted Part B of the report. It was understood that the valuations attached to the list could not be made public due to commercial sensitivity, but it was questioned why the list of assets could not be made public. It was advised that there was several reasons for this, including that some of the buildings being considered were still in use and staff had yet to be consulted.

The Deputy Leader added that he welcomed this challenge and shared the desire for the list of assets, without the estimated receipt value, to be placed in public domain. However, decisions about whether information should be restricted or not was rightly a judgement for officers.

The Interim Chief Executive added that if a developer was watching who had the list, regardless of whether valuation were included or not, they would be gaining valuable market insight to enable them to ensure that they tried to obtain a deal that was in their interest rather than the Council's interest. Some of the reasons why things were kept in private was to protect the Council's interest and it would be helpful for this to be considered more broadly by Members.

It was questioned which stakeholders would be involved in writing the business case and whether the report would include any qualitative aspects to justify the business case. In response, it was advised that the Asset Management estate team would be responsible for writing the business case which would be signed off by the Executive Director. The report would contain qualitative and quantitative aspects to justify each business case for disposal and Members would be sighted as early as possible in the process.

In response to a question about the criteria identified from an organisational point of view to assess the consideration it was advised that an independent valuation was sought which would set the true value of the asset. Other factors which would be taken into consideration, such as the state of the economy, would be included in the business case. In certain cases, assets may not be sold for the highest valuation, due to other considerations such as environmental or regeneration factors.

It was asked when the full asset strategy was put forward there would be further information on potential safeguards, which were thought to be lacking in the Interim Strategy. It was confirmed that detailed governance processes covering every element of asset disposal would be included. These processes would be subject to several stages of approval including the Capital Board before being signed off by the Executive Leadership Team (ELT).

There was a concern that when a property was identified for the first time a Cabinet Member would only be sighted in final stages of disposal when it was too late to affect the decision. It was confirmed that Cabinet Members would be consulted prior to sign off by ELT.

There was a concern that the whole process appeared to be very officer led until final decision stage. As such it was questioned what the framework for access to information on disposals would be for councillors. It was advised that officers would work within the current Access to Information Procedure Rules, which would include consultation with Ward Members.

It was questioned whether properties would be sold with planning permission attached, as this may increase their value. In response, it was advised that there would be a mixture of existing assets with existing planning permissions attached, along with smaller sites put forward unconditionally. In relation to whether the Croydon Park Hotel would be sold with planning permission, in order to achieve its best value, expert advice would be sought on best course of action on this asset.

It was highlighted that the current climate of the covid-19 pandemic may result in a decline in commercial property values. As such it was questioned whether this had been taken into consideration. It was confirmed that potential reduced demand for office or retail space had been taken into account. Any decision to sell an asset would explore the marketability, cost of retaining and the potential benefits of selling.

It was highlighted that it did not appear to be clear at which point in the process value could be added and it would be useful to have specific point address this. It was confirmed that any decision would look at options to bring best value in all instances.

The Chair made a statement, which was supported by the other members of the Committee, that he was not confident the information presented in the strategy would enable a judgement to be reached on whether the disposal of the Croydon Park Hotel was the right decision or not. The Committee would support recommendations where full evidence was provided, but information setting out other, less viable options, had not been provided.

The Deputy Leader acknowledged the Committee's position and gave reassurance that upon discussing the matter in detail with officers, he was confident that due diligence had been taken on this matter and suggested that the section covering the viability of other options should be expanded prior to its inclusion on the Cabinet agenda.

A discussion of the restricted information supporting this item, can be found in the Part B section of the minutes.

The Chair thanked Cabinet Member and officers for their engagement with the Committee and the open responses to their questions.

Conclusions

At the end of this item the Scrutiny & Overview Committee reached the following conclusions on the report:-

1. Although the Committee was satisfied with the approach proposed in the Interim Asset Disposal Strategy, it was felt that there was not enough information included within the report to reach any conclusions on the identified options for the Croydon Park Hotel.
2. The Committee recognised that there would be considerable public interest in the list of assets identified for disposal, set out in the confidential appendix to the report, and felt that further consideration was needed over how this information could be brought into the public domain.
3. The Committee highlighted a concern that consultation with Ward Councillors about decisions on assets in their local areas had in the past been intermittent at best.

Recommendations

The Scrutiny and Overview Committee agreed to submit the following recommendations to the Cabinet Member for Croydon Renewal for consideration at the next meeting of the Cabinet:-

1. That further information be included within the report, for when it is considered by Cabinet, on the potential options for the Croydon Park Hotel to allow a more informed judgement to be made on the best way forward.
2. That the information set out in the in confidential section of the report be reviewed to establish whether it would be possible to make public the list of assets identified for disposal and if not, further clarity on the reasons should be added to the report.
3. That the process for consulting and informing Ward Councillors about decisions to be taken on assets in their local area be reviewed, to ensure it was fit for purpose.

13/21 Feedback on the Equalities Strategy

This item presented the feedback from an informal meeting of the Committee, which looked at a draft of the new Equalities Strategy. The Chair asked if any of the Members wanted to make comments prior to approval of the feedback notes.

Reference was made to a paragraph in the paper which stated that 'it was noted that the Children and Young People's Sub-Committee had discussed the potential of increasing the number of children in the borough with access to computers or the internet and would like to have this incorporated into the strategy. It was asked that that this be expanded to include the context that consideration be given to the disproportionate impact of covid-19 on some children in the Borough and in order to achieve equality of opportunity it would take a number of years of major educational catch-up.

Resolved: The Scrutiny and Overview Committee agreed that the notes, as amended, be agreed.

14/21 **Exclusion of the Press and Public**

.....
The following motion was moved by Councillor Fitzsimons and seconded by Councillor Ben Hassel to exclude the press and public:

“That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information falling within those paragraphs indicated in Part 1 of Schedule 12A of the Local Government Act 1972, as amended.”

The motion was put and it was agreed by the Committee to exclude the press and public for the discussion of the restricted information on the ‘Review of Brick by Brick Croydon Ltd’ and ‘Interim Asset Disposal Strategy’ reports.

15/21 **Review of Brick by Brick Croydon Ltd**

The minute for this item is restricted and set out separately in a Part B version of the minutes.

16/21 **Interim Asset Disposal Strategy**

The minute for this item is restricted and set out separately in a Part B version of the minutes.

The meeting ended at 10.45 pm

Signed:

Date:

Public Document Pack

Scrutiny & Overview Committee

Meeting held on Tuesday, 16 February 2021 at 6.30 pm.

This meeting will be held remotely and a recording can be viewed on the council website.

MINUTES

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

Also Present: Councillors Hamida Ali, Muhammad Ali, Jane Avis, Sue Bennett, Janet Campbell, Jason Cummings, Alisa Flemming, Shafi Khan, Stuart King, Oliver Lewis, Manju Shahul-Hameed, David Wood and Callton Young

PART A

17/21 **Disclosure of Interests**

There were no disclosures of interest made at the meeting.

18/21 **Urgent Business (if any)**

There were no items of urgent business.

19/21 **Budget 2021-22**

The Scrutiny & Overview Committee considered a report setting out the Administration's budget proposals for 2021-22, along with the Section 25 Statement from the Interim Section 151 Officer, Chris Buss, providing his view on the proposed budget. The Committee was asked to review the information provided in order to reach a view on the soundness of the budget proposals and the methodology used to create the budget. The findings of the Committee would be fed into the consideration of the budget at the Council meeting on 8 March 2021.

The Leader of the Council, Councillor Hamida Ali, introduced the item to the Committee, emphasising that the approach taken with setting the budget had been with a full understanding of the serious nature of the budget situation and looked to start to address these challenges. The budget proposed was balanced, but predicated on the Council being successful in its request for a capitalisation directive from the Ministry of Housing, Communities and Local Government (MHCLG). There was a degree of confidence that the Council was doing all it could do to address the budget challenges and it was the view of MHCLG's Improvement & Assurance Panel that there was no viable alternative to capitalisation and it should be agreed.

The budget proposed included a savings programme, increased social care spending based on demand and growth, a review of assets to reduce borrowing costs and looking to reduce commercial liabilities. It was

acknowledged that setting the budget was only the start of the process, particularly given the past history of budgets not being achieved by the Council. An objective of the Council living within its means and keeping to budget had been prioritised. This would be accompanied by increased financial rigour across the organisation to allow real time analysis of the budget. There was a £79m budget gap across the life of the Medium Term Financial Strategy (MTFS), which meant that further difficult choices would need to be taken to address the Council's financial stability and resilience. In addition to the introduction by the Leader, the Deputy Section 151 Officer, Matthew Davis, provided a short overview of the key areas for the Committee's consideration. A copy of this presentation can be found on the following link:-

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=166&MId=2497&Ver=4>

Following the introductions the Committee had the opportunity to ask questions on the proposed budget for 2021-22. The first area questioned concerned the risks presented by the Council's external auditor, Grant Thornton, still waiting for further evidence before signing off the 2019-20 accounts and the decision of MHCLG on the capitalisation request, which was still to be confirmed. The first question asked when it was likely that the situation with the sign-off of 2019-20 accounts would be resolved. It was advised that there has been a meeting held with the auditors earlier in the day and it was hoped that the situation could be resolved quickly, although it was unlikely to be resolved by the time the Council sets the budget on 8 March and was dependent on the results of further investigation by the auditors.

The main area still to be resolved with the auditors was the use of capital funding in the 2019-20 budget to pay for transformation costs, with the Council in the process of providing evidence to confirm that the funding had been correctly allocated. In the worst case scenario the funding in question would need to be met from the £7m remaining in the General Fund Reserve, but it could equally be the case that the auditors were satisfied with the evidence provided. Another consequence was it would not be possible to close 2020-21 accounts until the 2019-20 had been closed.

In response to a question about the level of General Fund reserves held by the Council, it was confirmed that at the start of the 2020-21 financial year £7m was held. At the end of March 2021, subject to the capitalisation directive being successful, the reserve will be £5m higher. It had been budgeted that an additional £10m would be added to the reserve in 2021-22. There was a risk that the £12m held in the General Fund Reserve by the end of 2020-21 could be offset by an adverse conclusion of the auditors on the use of capital funding in 2019-20, but whether this would happen was unknown at the time of the meeting.

It was questioned how the Council could learn from the mistakes of the past and avoid further challenges from the auditors going forward. It was advised that the Council needed to have a robust mechanism in place to collect evidence for when it was using capital funding for transformation work. It was confirmed that going forward transformation project costs that deliver savings would be held corporately. In advance of the transformation work being agreed, it was expected that a robust business case setting out the key milestones would be prepared for agreement by a Panel. Training and

guidance would be provided for staff when the bidding process for capital funding was launched. The final sign off process would involve Members and progress made in delivering the transformation work would be closely tracked. In response to a question about the consequences for the Council should the capitalisation directive not be agreed, it was advised that should this be the case the Council would need to review its income and expenditure, as it had to set a balanced budget by 11 March. Initial work had been prepared for this eventuality, which would need to be decided with Cabinet, although it was hoped the capitalisation directive would be successful.

As a follow up, it was questioned how the Council's risk appetite would be impacted should the capitalisation directive not be successful. It was advised that the risk appetite of the Council was a political decision and it was not the role of the S.151 Officer to set this. From conversations with MHCLG, the Council should know the outcome of the capitalisation directive by time Council sets its budget on 8 March. Once the figures were known, the S.25 statement may need to be revised to take account of this information.

Concern was highlighted that there had been significant variations in the 2020-21 budget over the year, with it questioned whether any level of certainty could be taken that the figures set out in the report would remain approximately similar. It was advised that the officers were certain as they could be on £64m of the shortfall identified, but the other £31m remained an area of risk. The main risk to the £31m was the payment of interest from Brick by Brick, with a paper due to be considered by Cabinet on 18 February, which aimed to minimise this risk.

In response to a request for an update on the month 10 budget position and whether it was possible that further covid grants may become available, it was advised that the month 10 figure were in the process of being finalised, but there had not been any particular issues flagged at this stage. It was anticipated that a further grant to help offset lost income from fees and charges would be provided before the end of March. There was always the potential for unforeseen, pandemic related, costs to come along, but the estimates had been based on known covid costs. It was requested that should there be a substantial change in the month 10 budget position, that it be reported to the members of the Scrutiny and Overview Committee.

It was questioned how the budget proposals had been tested and whether there could be any degree of confidence that they would be delivered. In response, it was advised that in comparison to previous practice, the proposals for 2021-22 had been well tested and robust mechanisms were being put in place to ensure that they were delivered. If they were not delivered, monitoring would ensure that it was flagged at an early stage, allowing alternatives to be identified. The S.25 Statement had been based on councillors and officers being prepared to make the necessary savings and at this stage the interim S.151 Officer was reasonably reassured that cultural change was being implemented.

In response to a question about what other options had been considered and rejected, and whether a higher raise on council tax had been considered, the Leader advised that the Council would not be requesting permission to raise council tax above the threshold without triggering a referendum. As a 1% council tax increase raised approximately £1.9m, it would require a significant increase to make an impact on the budget shortfall. Furthermore, given the

impact of covid, it would not be fair to impose a higher increase on residents. The conversations with MHCLG had been around other ideas such as the Interim Asset Disposal Strategy rather than asking residents to pay more council tax.

As a follow up, it was questioned whether there was a risk of the government requiring the Council to increase council tax? It was advised that the Secretary of State can issue a direction on what council tax could be increased by, with Northampton Council previously being allowed an additional 1% increase above the threshold. The Council could also request permission for a higher increase, but it had been decided that the Council did not want to do this. A third option would be to go to a referendum.

Apart from Council Tax, it was confirmed that very little else had been taken off the table during the budget development. There had been a suggestion about the possibility of moving bin collections to a three weekly cycle, but this had been ruled out due to the potential saving being offset by other costs such as increased fly tipping.

It was highlighted that it was difficult to make a judgement on the proposed savings, particularly those in Children and Adult Services, without understanding the underlying assumptions on which they were made. It was agreed that this information be made available for the Committee. It was also agreed that it would be important for Scrutiny to have information dashboards available on service performance, if it was going to be able to effectively monitor performance going forward.

In response to a question about whether commissioning and contracts were being reviewed, it was advised that a comprehensive review was underway and would be reported to the Cabinet in April. The aim of the review was to ensure that the Council was getting best consideration for Croydon and may result in further savings. It was confirmed that the commitment of the Council for contractors to pay the London Living Wage remained in place.

In response to a discrepancy in the tables setting out corporate pressures, it was advised that this was likely to be due to the release of a reserve to balance the budget, but this would be checked and confirmed to Committee.

Although it was acknowledged that benchmarking was necessary, concern was raised that it could be crude. Reassurance was requested that the Council was benchmarking services such as social care against authorities with comparable vulnerabilities. It was agreed that it was important to be sure when benchmarking that like for like was being compared. Further work was underway within the Children Service to ensure that benchmarking information took into account both statistical neighbours, as well as other London authorities.

From work to understand the detail of the revenue outturn figures that formed the base of the benchmarking data, it had become evident that local authorities managed to report figures in a variety of different ways. Benchmarking could not be relied upon alone, but it was useful and in many cases was the only indicator available. A lot of local authorities were not facing the same challenges as Croydon with a high level of unaccompanied asylum seeking children (UASC) in the borough, distorting the figures.

As the interim S.151 Officer had been in post less than a week, it was questioned what reassurance could be given on the judgement made in the S.25 statement, particularly when other S.151 Officers had given similar

assurances in the past. The Interim S.151 Officer advised that he had experience of setting budgets in similar challenging circumstances in the past and in those instances the figures had been correct and the budget delivered. As a follow up, it was questioned how the S.151 Officer viewed the cultural change challenge facing the Council and how an assessment could be made on the likelihood of success from the change being implemented. It was highlighted that cultural change was difficult to implement. Since starting to work with the Council in October 2020, there had been evidence that cultural change was starting to take place, with a change in attitude towards the budget.

The Chief Executive emphasised that the Council could put in place a range of systems to monitor the budget, but if they were not used or understood it would not work. The Council was in the process of bringing in a system that would put controls in place to enable effective management of the budget and it was important that staff understood it was not a mechanism to catch them out. It was a key priority that this was delivered and it was hoped that Scrutiny would be able to feed into the process over the coming year. It was suggested that further consideration needed to be given to potential indicators that would allow Scrutiny to make a judgement on the pace of cultural change.

Regarding the improvement journey, it was questioned whether the covid pandemic would hinder the delivery capability. In response, it was highlighted that the Council was on a three year journey to achieve a sustainable balanced budget by March 2024. In some areas of the organisation there were deeply entrenched issues that would take a while to resolve. Funds had been allocated in the budget to bring in additional capacity to support the improvement journey and there was a need to be clear on priorities moving forward. Capacity was strained, but there was also a need to look at capability within the organisation as well. The agreement of the capitalisation directive by MHCLG was key to providing the Council capacity to deliver change.

It was also highlighted to the Committee that the Council had not previously had single corporate reporting across projects. The Programme Management Office was now putting processes in place to enable reporting. Responsible and Accountable Officers had been allocated to each and every project. There would be fortnightly reporting on each project, which would enable action to be taken when anything was not on track.

It was suggested that one mechanism to enhance accountability and ownership would be to pass budgets to lower within the organisation and as such it was questioned whether there were any plans to do this. In response it was advised that there was a need to ensure the proper level of accountability was in place, with the hierarchies being discussed. It was important to emphasise that the work on finance was a shared responsibilities across the organisation and there needed to be a common understanding that financial control was important, which was not the case in some parts of the organisation at the moment. There also needed to be the right tools in place to allow budget holders to manage their budgets effectively. There was a programme of work to ensure the right systems were in place to provide budget holders with up to date information, as budget holders could not be expected to do a good job until the correct tools were in place.

Budget holders also needed to be trained to understand how to ensure their business met the standard required. There had been a clear message from

staff that there needed to be greater accountability within the organisation. Once the systems, processes and training were in place, there would need to be accountability if processes were not being followed or the required standard not achieved.

The Chairs of the three Scrutiny Sub-Committees reported back on their reviews of the budgets within their service areas. The Chair of Children and Young People Sub-Committee highlighted that delivery of the savings proposals was key, with the Sub-Committee's focus having been upon whether the cost savings were realistic and robust. In particular, it was questioned whether the saving of £800,000 through reducing the number of children in care could be safely managed to ensure that children were not negatively impacted.

In response it was advised that there had been a lot of work within the Service over the past two years focused on both preventing children coming into care system and also moving others out of the system safely. Benchmarking and other safeguards had been used at every stage of the improvement journey to ensure that the work remained on the right track. Weekly reporting was used to challenge any performance issues and to review the figures for children entering and exiting the system. This data had been used to develop what was considered to be conservative estimates for the service. There was currently approximately 484 local children under the care orders, with the aim to reduce this to 430 children over the three year of the MTFs. The Cabinet Member for Children, Young People & Learning, Councillor Alisa Flemming, reemphasised that the aim of the service was to ensure that children were in the best place for them, which in many instances was their birth families, including wider family.

In response to a question about the costs for UASC, it was advised that there had been a significant amount of work to break down these costs, with the majority of additional costs being for young people in the leaving care service. The improvements being made to the Accommodation Strategy would be equally important in terms of both quality and cost. Work also continued with the Department for Education to get a fair deal for Croydon. The accounting figures used in developing the budget had been based on the current costs.

It was questioned whether there was likely to be an increase in the number of children subject to a final care order. It was advised that the aim was to reduce the number of children entering the care system and at the other end increasing the number of children returning to their families, where it was safe to do so.

It was also questioned whether the possibility of pent-up demand, because of the pandemic, had been factored into the budget planning. It was advised that the Service had been looking at the potential impact from the pandemic, in terms of both pent up demand and a surge for services, across the safeguarding partnership. A key driver would be the experience of children once they returned to full time schooling. The Service had a good relationship with both schools and the police, and worked together to identify children in need of support. It was confirmed that it would only take a small number of chaotic families to have a significant impact upon the costs of safeguarding children. Growth had been built into the budget to right size the parts of the service supporting families to keep children out of the care system.

In response to a question about whether it would be unacceptable for a social worker to take cost factors into account when deciding whether to take a child into care, it was advised the service worked on assessed demand and while social workers would not be constrained from making the right decision for the child, it also needed to be acknowledged that there was a finite amount of financial resource available.

The Chair of the Streets, Environment & Homes Sub-Committee, Councillor Leila Ben Hassel advised that during the Sub-Committee's consideration of the Place Service budget, there had been concern about the scale of cuts to both statutory and non-statutory services, with it questioned how the impact of the cuts would be monitored. It was also felt that it was easier to make cuts in the Place Service, rather than either Adults or Children Social Care, with concern noted about the balance of the budget profiles, with it highlighted that the budget for Place was already below the London average, before any cuts had been made. There was also concern about how the cuts would impact upon the income generating parts of the Planning Service. Despite the concerns noted, the Sub-Committee had concluded that the proposed budget was well thought through.

The Cabinet Member for Culture & Regeneration, Councillor Oliver Lewis, acknowledged that tough decisions needed to be taken in order to reduce expenditure and services were unlikely to be provided to the same level as at present. The Council would not be able to deliver regeneration in the same way it had planned to before and would need to work with partners to deliver future regeneration. In setting the budget, there was an aim to preserve resource in Planning, as it was recognised there had been an increase in demand over the past year. Resources within the Planning Service had been reprioritised to tackle the backlog of planning applications.

It was questioned whether there was a threat to the income generating capacity within the Planning Service. In response, it was advised that the service had been reshaped to deal with the current capacity issues, with work underway to establish how to deliver the service going forward, to ensure that income was maximised.

In response to a question about whether it had been easier to make cuts in the Place Service, it was highlighted that most of the proposals were either at an advanced stage of delivery or had already been delivered, such as charging for bulky waste collections. The service was working with user groups on the Parks Strategy to ensure a streamlined service could be delivered. There was also a hope that there would be a greater opportunity to use parks for income generation once the pandemic was over. It was also highlighted that the reduction of staff in the Economic Development team would have an impact on their work, but they were working with partners to ensure businesses continued to be supported.

It was reemphasised to the Committee that the scale of the cuts required across the duration of the MTFS meant that savings would need to be considered across every part of the organisation, if the Council was to achieve its aim of living within its means and delivering the set budget. The Chair of the Committee noted that it was a challenge for all Councillors to accept that they will need to make tough decisions and if they were campaigning against a particular savings, then other savings would need to be offered as an alternative.

The Chair of the Health & Social Care Sub-Committee, Councillor Sean Fitzsimons, highlighted that they had raised concern about the proposed savings in the operational budget for Adults and sought reassurance that these could be delivered. The Cabinet Member for Health, Wellbeing & Adults, Councillor Janet Campbell, advised that the savings proposals had been tested during a rigorous budget setting process, with a control panel reviewing all spending. The baseline figures for the savings had been based upon LGA guidelines, which had suggested a 5% reduction, with 7% reduction included as a stretch target to challenge the service. The key challenge was to ensure that the safeguards put in place helped to stabilise costs. Placements were one of the biggest expenses for the Service, with these being reviewed to take account of options other than placements in institutions, including the provision of support to allow clients to live as independently as possible in the community.

As a follow-up, it was questioned how the budget had been tested, with it confirmed that it had been reviewed by the LGA, external partners and corporately within the Council. All areas of the service had been reviewed to identify possible efficiencies.

It was confirmed that there was an intention for the Programme Management Office to produce quarterly progress reports on the implementation of the budget, which would be reported to the Improvement & Assurance Panel, Cabinet and the Scrutiny & Overview Committee.

It was questioned whether there had been any analysis of the potential for unintended consequences as a result of the savings, which may lead to greater costs for the Council over the longer term. Discontinuing the Welfare Support team was highlighted as a saving that could lead to the creation of more significant issues further down the line. In response, it was advised that although there would not be a reliance on the third sector, many charities offered a similar welfare service. Welfare rights would be incorporated into other areas of the Council, such as social care, many of whom already provided similar support. Welfare support would also be provided through the localities work of the Council and its partners. It would be expected that service heads across the Council monitored the impact of the savings, in order to flag any potential issues at an early stage.

At the conclusion of the item, the Chair thanked the Cabinet and all the officers who had attended the meeting for their participation in answering the questions of the Committee.

Conclusions

Following the discussion of the budget proposals, the Scrutiny and Overview Committee agreed that the following conclusions would be reported to Council during its consideration of the Budget on 8 March 2021:-

1. The Committee felt hopeful that the budget could be delivered, following reassurance given on both the robustness of the development process and the achievability of the budget itself. However, given that similar assurances had been provided in previous years, which in hindsight had been optimistic at best, there remained serious concerns that could only be allayed through the actual delivery of the budget.
2. The Section 25 statement from the interim Section 151 Officer, which confirmed that the budget was sound, as long as there was a political will to deliver it, was accepted by the Committee.

3. The Committee felt there should be a certain amount of confidence in the estimation of the growth items included in the budget, given that these had been reviewed by external organisations and were based on worst case scenarios.
4. The priority for the Council to live within its means, while protecting the most vulnerable residents in the borough, was supported by the Committee.
5. There was concern about the deliverability of the Adults and Children's Social Care budgets, particularly the savings which targeted a reduction in the number adults and children in the care system. To ensure that there was not an adverse impact, it was agreed that the budget and performance of these services would be regularly monitored by their respective Scrutiny Sub-Committees.
6. As the delivery of the budget was predicated on changing the culture with the Council toward finance control, it was questioned how it could be demonstrated to the Committee that these cultural changes were being embedded across the organisation.
7. It was felt that there should be Member oversight of the potential risks arising from the savings programme, to ensure there could be confidence that these were being managed appropriately and mitigation identified as needed. Given that risk sat within the remit of the General Purposes and Audit Committee, it would be appropriate for them to receive regular updates on the risks associated with the delivery of the budget.
8. There remained concern that there could be potential, unforeseen consequences arising as a result of the savings programme and further reassurance was required to confirm how these would be picked up through the corporate monitoring process.
9. There was a concern about the potential impact upon the workload of Council staff, which would need to be monitored corporately.
10. It was agreed that there was an onus on all Councillors to ensure the budget was delivered and the right level challenge was provided. Councillors also needed to accept that some service areas would be reduced from their current level.
11. Although the Committee accepted the reassurance that the budget outcome for the remainder of 2020-21 was reasonably certain, it was agreed that should there be any major alterations to the budget going forward over the life of the Medium Term Financial Strategy, it should be reported to the Committee.

Recommendations

The Scrutiny and Overview Committee agreed to make the following recommendations to the Cabinet for further consideration:-

1. That regular monitoring reports on the budget and performance of Children and Adults Social Care is scheduled for meetings of the relevant Scrutiny Sub-Committees throughout 2021-22.
2. That performance indicators are created which allow the Scrutiny and Overview Committee, and the wider political and corporate leadership,

to monitor the effectiveness of the work to implement cultural change across the Council in regard of financial monitoring and controls.

3. That the General Purposes and Audit Committee received regular reports on the risks identified in the budget, to provide reassurance that these were being managed effectively.
4. That an update be provided to the Members of the Scrutiny & Overview Committee to confirm how corporate monitoring of the budget will enable potential, unforeseen consequences arising from the savings programme to be identified at an early stage.
5. That timely updates are provided to the Scrutiny & Overview Committee on any major alterations to the Council's in-year budget over the life of the Medium Term Financial Strategy.

20/21 **Housing Revenue Account 2021-22**

This item was withdrawn from the agenda, as the report was not available in time for the meeting. The Chair put on record the disappointment of the Committee that the report had not been prepared in time to allow for scrutiny of the Housing Revenue Account budget for 2021-22.

21/21 **Exclusion of the Press and Public**

This motion was not required.

The meeting ended at 10.15 pm

Signed:

Date:

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Scrutiny & Overview Committee

Meeting held on Tuesday, 23 March 2021 at 6.30 pm in This meeting will be held remotely

MINUTES

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

Also Present: Councillors Muhammad Ali, Clive Fraser, Stephen Mann and Gareth Streeter

Apologies: Councillor Joy Prince

PART A

22/21 **Disclosure of Interests**

There were no disclosures of interest made at the meeting.

23/21 **Urgent Business (if any)**

There were no items of urgent business.

24/21 **Call-In: Crystal Palace and South Norwood Low Traffic Neighbourhood**

The Chair of the Scrutiny & Overview Committee, Councillor Sean Fitzsimons introduced the Call-In of the 'Crystal Palace and South Norwood Low Traffic Neighbourhood' key decision. It was highlighted that two call-in requests had been received for this decision and although the Council's Constitution only allowed one call-in per decision, it had been agreed that the spokesperson for each call-in would be allowed to address the Committee to highlight the reasons for making the request.

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 was decided to proceed, to confirm how much time it wished to allocate for the discussion of the item. The Committee agreed that it would review the decision and allocated two hours and thirty minutes for its consideration.

The Chair went on to explain that there were three outcomes the Committee could reach as a result of its 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 Cabinet 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.

At the outset of the item the Chair gave Councillors Stephen Mann and Gareth Streeter, as the spokesperson for their respective call-ins the opportunity to outline their concerns about the original decision.

Councillor Mann advised that he felt that a few amendments were required to the scheme in order to bring the community along. The current proposal had split the community, which in some cases had led to unacceptable abuse. There were long term road traffic issues in the area that the scheme was attempting to address, but consideration needed to be given to issues such as deliveries in the low traffic neighbourhood (LTN), what was the right amount of traffic in the zone and how to improve cross border communication.

Councillor Streeter advised that grounds for the call-in he had submitted looked at the fundamentals of the scheme, as it was perceived that the Council had not gathered enough evidence or could ever gather enough evidence to justify the scheme. Without this evidence, there was a worry that the scheme was fiscally motivated. Although, any money raised would be ring fenced, it meant that any money spent in a restricted way allowed other general funds to be spent elsewhere. In the next few months businesses would be reopening and there was a concern that the new scheme would deter people from visiting the shops at Crystal Palace.

Following the introduction to the call-in, the Council's Head of Highways and Parking, Mark Averill, delivered a presentation to the Committee setting out the reasons why the scheme was being implemented. A copy of the presentation can be found on the Council's website on the following link:-

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CIId=166&MIId=2599&Ver=4>

The Cabinet Member for Sustainable Croydon, Councillor Muhammad Ali, was also provided the opportunity to outline the reasons for implementing the LTN in South Norwood and Crystal Palace. The Committee was informed that it was important to recognise that Croydon had a road safety and air quality problem. A report produced on behalf of the Mayor of London had revealed that Croydon had the highest potential of all London boroughs to switch from car journeys to either walking or cycling. Research had found that 11 deaths per 100,000 in Croydon could be linked to the local air quality, with the borough having the highest rate of hospitalisation for children between 0-9 with asthma. Monitoring of air quality had found that the emissions on minor roads were almost equal to that of a-roads in the borough. There had also been clear recommendations from the Council's Climate Change Commission on the need to reduce car usage.

The scheme in Crystal Palace and South Norwood was the first phase of a wider programme of work to increase cycling and walking. The Council would also continue lobbying Government to invest in infrastructure across the borough, including extending the tram network and providing funding for a greener bus network. The Cabinet Member was keen to engage with the local community on the scheme during its experimental stage to ensure potential benefits could be maximised.

Following the introduction from the Cabinet Member, the Chair welcomed a number of external speakers, who had been invited to the meeting due to their interest in the scheme, with each speaker given the opportunity to present their perspective on the proposals. The first speaker was the Executive Member for Environment and Community Services at the London Borough of Bromley, Councillor William Huntington-Thresher. Councillor Huntington-Thresher advised the Committee that the previous temporary LTN had resulted in a negative impact on the north west of the borough of Bromley due to the increase in traffic it created. It was the ethos of Bromley to look to improve facilities for active travel, rather than working against other forms of travel and they looked to improve the flow on roads rather than limit the flow. The scheme in its current format was unlikely to be supported by Bromley residents.

The next speaker was the Assistant Director of Traffic & Parking from the London Borough of Bromley, Angus Culverwell, who advised the Committee that the impact of the temporary LTN on Bromley had been negative, judging from the amount of correspondence that had been received. There had also been an increase in congestion on the residential streets and the a-road to the north of the LTN. Bromley had its own active travel scheme and although the reasons for the LTN were understood, it was felt there were a number of issues that needed to be addressed. In light of the feedback from residents, it was the view of Bromley Council that the temporary scheme had not been as successful as Croydon would have liked. Going forward, Bromley Council would be happy to engage with Croydon about potential options and alternatives to the LTN.

Councillor Angela Wilkins, a Bromley Councillor whose ward bordered the LTN zone, advised that it was accepted that doing nothing, in the context of the climate emergency, was not an option, but at the same time doing the wrong thing was also unacceptable. Given the proximity of the scheme to Bromley, it should be viewed as a cross borough issue and as such needed to be developed on a cross-boundary basis. This should include Councillors working together to set strategic objectives followed by officers designing the technical scheme. At present, it was not clear there was a scheme available that would be acceptable to both authorities, but one could only be developed by both boroughs designing it together.

Miranda Bradley, from the Shape Better Streets campaign, addressed the Committee to highlight the benefits brought to the local neighbourhood from the original temporary LTN scheme in 2020. The Committee was advised that the introduction of the previous LTN had encouraged many residents to change their lifestyle and become more open to cycling and walking. The experimental scheme proposed was a good compromise and worked for local residents, while allowing access to roads within the LTN for those that needed it, such as carers and emergency service.

Eliska Finlay, from the Open Our Roads campaign, highlighted to the Committee that although the scheme aimed to increase active travel and reduce air pollution, as there was no baseline data available, it would not be possible to judge whether it had been successful. It was possible that the

scheme would increase the pollution on the roads around the boundary of the LTN and there was a risk that it could give the appearance of creating a private estate. As a result of the temporary LTN, traffic had increased on the Bromley roads closest to the boundary by 186%. It was not possible to determine the impact on the roads in Croydon as there was no baseline data. Given the lack of data, it was felt the experimental LTN could not quantifiably demonstrate its impact and as such the Committee was asked to refer the decision back to the Cabinet for reconsideration.

The final external speaker to address the Committee was Stephen Tabbener, who was also representing the Open Our Roads campaign. Mr Tabbener advised that as a Bromley resident on one of the roads neighbouring the proposed scheme and the owner of a business on the Croydon side of the scheme, it was his view that the scheme was not appropriate. The proposal risked creating a cul-de-sac with most of the access points on Bromley streets. As a local trader, there was also serious concern about how the scheme would impact upon the local economy, with it questioned whether there had been any impact assessment undertaken. If Croydon was committed to proper engagement with the local community in order to deliver a scheme that was agreeable for all, then the decision should be referred back to the Cabinet for reconsideration.

Following the representations made to the meeting, the Cabinet Member was given the opportunity to respond, confirming that the Administration was open to engaging with anyone affected by the scheme whether in Croydon or Bromley. It was reiterated that the scheme was originally a temporary one and was now moving to an experimental scheme. This would allow the Council to monitor its impact and identify possible improvements before making a final decision over whether to keep or remove the LTN. Importantly, it would also allow the Council to establish data specifically for Croydon. It was highlighted that the Council had used its learning from prior consultations to inform the process going forward, with a dedicated communications plan being created.

After the various submissions had concluded, the Committee was given the opportunity to ask questions on the LTN. The first question related to the boundary for the LTN and how it was decided upon. It was advised that the boundaries of an LTN would normally be a-roads. In this instance, the boundary also included the borough boundary with Bromley. If the LTN was to include the residential roads located across the boundary in Bromley, it would require the agreement of that local authority to participate in the scheme.

Given the location of the scheme on the borough border with Bromley it was questioned how the Council had engaged with Bromley Council during the development of the scheme. It was advised that when the temporary LTN had been extended, Croydon officers had reached out to Bromley officers about potential mitigation. Transport for London (TFL) had also facilitated meetings of both boroughs to discuss the scheme. The scheme presented to the Traffic Management Advisory Committee (TMAC) included mitigation and a monitoring system for Bromley. Ideally the two Councils would be working together on the LTN, but Croydon was able to notify Bromley of their decision to proceed, to which Bromley would have a month to respond. If there was

disagreement about the final scheme it would be down to the Greater London Authority (GLA) to make a final decision.

In response to a question about the maximum length an experimental traffic order could be in place, it was advised that the longest duration would be 18 months. It was decided by TMAC that the scheme in South Norwood and Crystal Palace would be limited to 12 months.

Echoing some of the previous comments made, concern was expressed that the scheme was being introduced after a period of significant disruption from the covid-19 pandemic and as such it would be extremely difficult to make an assessment on the success of the scheme.

It was confirmed that funding for the scheme came via two routes. One was the Active Travel Fund from central government and the other was from local transport funding. If the Council decided to delay the scheme to gather baseline data, then there was a risk that these funding sources would no longer be available.

It was suggested that from the information provided, the extent of the consultation with Bromley seemed to have been the minimum amount needed to meet legal requirements, when a more engaged approach may have been more successful. In response, it was advised that council officers had begun engagement on the concept in late 2019 through the Cyprus School with designed engagement with the community. A separate engagement event for the community had also been held at the Church Hall in the local area. This consultation had subsequently been overtaken by events arising from the pandemic, with advice from the Secretary of State for Transport to take urgent action.

As a follow up question, it was asked why it had been originally decided to use a temporary order in 2020, when an experimental order could have been used at that time. It was advised that many other London boroughs had been looking at introducing LTNs and had chosen either a temporary or experimental order. The legal advice given was that the LTN would not be introduced under natural conditions, due to the pandemic, so it was decided to use the temporary order made available by the Government. The Chair highlighted that when the Committee had considered traffic orders at a previous meeting, it had been in favour of the Council using experimental orders.

It was questioned whether further action would be taken going forward to reach a consensus with Bromley Council. It was advised that there was a hope that Bromley and Croydon officers would be able to work together to design appropriate mitigation and monitoring for the scheme. However, it may be difficult to achieve the approach preferred by Bromley in this particular location.

One Member of the Committee suggested that the approach taken to consultation may have been too rigid and it would be useful to have an engagement plan to map out future consultation on both a cross borough basis and with local community forums. It was agreed that a plan should be created for the project going forward.

In response to a question about how this particular scheme had been chosen, it was advised that action had been taken across the northern part of Croydon in response to the request from the Secretary of State for Transport, which had resulted in planters being installed. TFL had subsequently published its Streets Space Plan calling on local authorities to take action, which had included recommending pursuing LTNs. The scheme also helped to meet the priority of creating a cycling corridor in the north of the borough.

In response to a comparison made with another LTN scheme in Walthamstow, it was commented that as the Walthamstow scheme was three times the size of the one proposed for South Norwood and Crystal Palace, it was difficult to make a judgement on the potential benefits that may arise from the experimental scheme.

As it had been noted that Bromley Council was not in favour of road closures preferring instead to pursue other active travel measures, it was questioned how these different positions could be aligned. The Cabinet Member reiterated that he was happy to engage with Bromley to reach an understanding on how the scheme could be made to work for the residents of both boroughs.

Given Bromley Council's opposition to the LTN, it was questioned what alternatives schemes they were considering to boost active travel. It was advised that Bromley had introduced segregated cycle routes and the need to find the right solution for the right location was emphasised. In this instance, the negative impact upon Bromley residents had been too high. Bromley Council was happy to engage on possible schemes, but was not convinced about using the LTN as a start point.

In response to a question about what could be done to mitigate the impact of the scheme on the residential roads in Bromley directly affected by the LTN, it was advised that a filter would be needed to prevent vehicles accessing the LTN from the problem direction. It was highlighted that this did not need to be a physical closure.

It was questioned what criteria would be used to determine the success of the experimental scheme, for instance improved air quality or traffic reduction. It was advised that there was a need to be aware of the changing situation as lockdown was eased. There will be a need to ensure that the impact on the surrounding roads was taken into account, which would be managed through monitoring. However, there was a wide range of determinates that would be used to evaluate the success of the scheme including air quality, traffic congestions and road safety. Reducing car journeys was a key aim, but this interlinked with the other previously mentioned criteria. The Committee agreed that it would provide additional transparency to have clear criteria for determining the success of the experimental scheme, in place before it started.

As a follow-up, it was asked whether consideration had been given to gathering baseline data when the economy reopened and before the scheme commenced to ensure that there was a realistic data set available to provide a

more accurate comparison. It was advised that it may be difficult to get accurate data on pollution due to the shifting picture as the lockdown eased. Monitoring would start on Croydon roads as soon as possible after the meeting and the possibility of installing monitoring in Bromley would be explored.

In response to a question about the collection of qualitative data as well as quantitative data, it was advised that as part of the arrangements for the scheme, the Council was required to communicate on a local level throughout the lifetime of the experimental scheme. The feedback from this would be used to inform the final decision.

It was suggested that the scheme could be seen as appealing to middle class people living in the residential areas within the boundaries of the LTN at the expense of working class people who may live on the surrounding main roads. In response, it was highlighted that there were indications that LTN schemes benefitted people who were more disadvantaged, with the level of deprivation in an area being one of the data sets drawn upon by the TFL when considering schemes.

As a follow-up, it was suggested that consideration needed to be given to the potential negative impact on the air quality of the surrounding roads and whether any mitigation was needed if it deteriorated past a certain level. It was highlighted that the Council was committed to the levelling up approach outlined in the Mayor of London's Healthier Streets Strategy. Although the responsibility for main roads rested with different authorities, it was important to work together to reduce the impact of these changes.

In response to a question about what action the Mayor of London was taking to reduce traffic on main roads, it was advised that the Mayor had proposed a change to the boundaries for the Congestion Charge. The Mayor has also made it clear that he is seeking to pursue the healthy streets approach by giving over space for walking and cycling.

It was noted that there had previously been complaints about the level of signage used for the temporary scheme and as such it was questioned how this would be addressed in the experimental scheme. In response, it was highlighted that the signage used for the temporary scheme had complied with legislation and the Traffic Adjudicator had concluded that the Council's signage was correct. However, it would be ensured that there was sufficient signage in place on side roads to inform motorists of the LTN.

In response to a question about how any revenue raised by penalty charge notices for traffic offences would be used, it was confirmed that the funds were ring fenced for spending on either traffic improvements or traffic related measures, which in Croydon was spent on the freedom pass.

As a final question, it was asked whether anything could be done to prevent companies such as Google and GPS route finding systems using residential roads for shortcuts on their route finding apps. In response, it was highlighted that there had been indications that these apps had facilitated the growth of

traffic in London. However, as they were using public highways, it would require an intervention beyond Croydon Council to prevent these apps using residential roads. By implementing restrictions, such as the LTN, the roads within the zone were taken out of these maps.

Following the questions of the Committee, the Cabinet Member was given the opportunity to provide a final response, during which it was re-emphasised that both Croydon and London had significant air quality and road safety issues. The proposed experimental scheme allowed for a balanced approach, taking into account relevant exemptions and would be an opportunity to collect data and work with residents to improve the final outcome. The Cabinet Member also confirmed his commitment to meaningful engagement with residents and Bromley Council on both an officer and political level.

Before the Committee made its final deliberations on the outcome of the Call-In, the Chair reconfirmed the three options available, which 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 Cabinet 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.

During the final deliberation by the Committee, it was recognised that the proposed LTN was proving to be divisive in the local community and that legitimate concerns had been raised by the external speakers, which the Committee agreed required additional clarification. These concerns included the need to have baseline data and clear criteria in place to be able to judge the success of the LTN, the need to engage with Bromley Council to identify appropriate mitigation for the neighbouring roads in Bromley, the need to have an engagement strategy and the need to be monitoring the impact of the LTN on the air quality in the areas bordering the scheme. However, it was also acknowledged that it would not be unreasonable to pursue the scheme as an experiment, particularly given the need to take action to address the climate emergency.

It was concluded that as the decision taken was within the Council's Budget and Policy Framework, it would not be referred to Council for further consideration. However, as the Committee had a number of concerns relating to the delivery of the experimental order it would refer the decision to the decision maker to give consideration to these concerns. It was also concluded that requests would be made for two updates to be provided to the Streets, Environment & Homes Sub-Committee. One prior to the start of the experiment to provide an update on the response to the concerns raised by the Committee. A second update was requested to be given upon completion of the experiment on the outcomes from the experiment.

As the Committee originally concluded that it would refer the decision to the decision maker for reconsideration, which was not an option available under the procedure for call-ins in the Council's Constitution, the meeting was

reconvened on 20 May 2021 to confirm the decision. At the reconvened meeting the Committee agreed that it would refer the decision to the Cabinet for reconsideration based on the concerns outlined below.

RESOLVED: The Committee agreed to refer the decision to the Cabinet for reconsideration based on the following concerns:-

1. The Committee was concerned that the lack of clarification on the baseline data sources to be used for the experiment would make it difficult to quantifiably demonstrate the potential benefits arising from the experiment to the local community. As such that further work was needed to identify and refine the quantifiable data sources that would be used for the project. Additionally, in order to build public trust, confirmation of these data sources had to be made publicly available, prior to the start of the experiment in South Norwood & Crystal Palace.
2. The Committee was concerned that it would be difficult for the public to have confidence in the benefits arising from the experiment without clearly defined success criteria. As such urgent work was needed to define a framework by which the success of the scheme would be assessed. This needed to be completed and made publicly available prior to the start of the experiment in South Norwood & Crystal Palace.
3. The Committee was concerned about the potential impact the experiment may have upon the roads surrounding the LTN, particularly in regards to air quality. As such any monitoring installed as part of the experimental scheme needed to include the wider area. Additionally, given the potential negative impact on the air quality in the surrounding roads, mitigation needed to be identified as a matter of urgency, should there be a significant deterioration in air quality.
4. The Committee was concerned that the level of engagement with Bromley Council to date had not resulted in an agreed way forward for the experiment, which was likely to result in a detrimental impact for those Bromley residents living closest to the scheme. As such further engagement with the London Borough of Bromley needed to be prioritised, to ensure that the appropriate mitigation was in place before the start of the experiment.
5. Although reassurance was given about the level of consultation that would be undertaken throughout the experiment, it was agreed that the engagement strategy for the Crystal Palace & South Norwood LTN project needed to be made publicly available as soon as possible.
6. In light of concerns raised about during the meeting about the level of signage used during the previous temporary scheme, there needed to be an ongoing review of the signage used during the life of the experimental scheme.
7. The Committee had a concern that it would be difficult to reduce congestion on residential roads while route-finding apps continue to

include these roads as potential route options for motorists. As such the Committee would ask the Cabinet Member for Sustainable Croydon to give a commitment to working with other London boroughs to address the issue of route finding apps directing motorists through residential streets.

8. In light of the above concerns, it is requested that the Cabinet Member for Sustainable Croydon provides two updates to the Streets, Environment & Homes Sub-Committee. Firstly, before the start of the experiment to provide a response to the concerns of the Scrutiny & Overview Committee. Secondly, at the conclusion of the experiment to provide an update on the outcomes.

25/21 **Exclusion of the Press and Public**

This motion was not required.

The meeting ended at 10.38 pm

Signed:

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Date:

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Scrutiny & Overview Committee

Meeting held on Tuesday, 30 March 2021 at 6.30 pm in This meeting will be held remotely

MINUTES

- Present:** Councillors Sean Fitzsimons (Chair), Leila Ben-Hassel (Deputy-Chair), Robert Ward (Vice-Chair), Oni Oviri, Andrew Pelling (reserve for Jerry Fitzpatrick) and Joy Prince.
- Also Present:** Councillors Hamida Ali, Patricia Hay-Justice Bernadette Khan, Stuart King, Oliver Lewis.
- Apologies:** Councillor Jerry Fitzpatrick

PART A

26/21 **Disclosure of Interests**

There were no disclosures of interest made at the meeting.

27/21 **Urgent Business (if any)**

The Chair advised that Committee that in light of recent media coverage of the poor living conditions experienced by council housing tenants at 1-87 Regina Road, an urgent update had been requested for this meeting.

28/21 **Urgent Item: Scrutiny Update on Regina Road**

The Scrutiny & Overview Committee was provided with an overview of the support provided to the tenants at 1-87 Regina Road, following national media coverage on the living conditions at two of the flats within the block. A copy of the presentation delivered at the meeting can be found on the Council's website at the following link: -

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CIId=166&MIId=2158&Ver=4>

The overview was delivered to the Committee by the Interim Executive Director for Place, Sarah Hayward. In addition to the information provided in the slides that can be found on the above link, the following information was also noted:-

- The poor living conditions found in the two flats at 1-87 Regina Road was first reported in the media eight days ago. The Council only became aware of the severity of the situation in flats 7 and 15 shortly before the weekend, just prior to the news reports. Once the Council became aware, the Tenancy team acted quickly to move the tenants out of the affected properties. The tenant in flat 7 had been rehomed and the tenants in flats 15 and 31 were being supported to find alternative accommodation, while repairs were made

- Assurance was given that the water leak, which caused the damage, had been located and stopped, with remedial action underway. Further leaks had subsequently been identified within the block, with other tenants in the process of being decanted to enable repair work to be undertaken. The Council had sixteen other blocks of a similar design, which were also being investigated as a result of the issues at 1 – 87 Regina Road.
- The Council had made a self-referral to the housing regulator and the Health & Safety Executive, as a result of the situation at Regina Road. The Ark Collective had been commissioned to carry out an independent investigation, which had already started. The investigator was on site today (30 March 2021) and a verbal report was expected by Wednesday, 7 April, before the full written report was provided on Friday, 9 April. The findings of this investigation would inform a wider improvement plan that would address the issues identified within the Council's housing services.

The Leader of the Council, Councillor Hamida Ali, attended the meeting, advising the Committee that their feedback on the information provided was sought and confirmed that a further report presenting the findings from the investigation would also be brought to scrutiny for its input. It was highlighted that the position of the Administration, which had previously been outlined at the Council meeting on 29 March, was focussed on addressing the damage and looking after the tenants. There was a need to understand where there had been failures in the system, which had led to residents' concerns not being addressed. The independent investigation was the start of the work needed to identify these failings. The issues experienced by the tenants at 1 – 87 Regina Road fed into wider cultural concerns of the Administration about how the Council interacted with its tenants, with it emphasised that the Council should be aiming to care for its residents as if they were family members.

The Cabinet Member for Homes, Councillor Patricia Hay-Justice, echoed the comments of the Leader, highlighting that it was essential that the Council learnt from its failings that had contributed to conditions found at 1 – 87 Regina Road, to ensure that no other residents experienced a similar situation again.

Following these introductions, the Committee was given the opportunity to ask questions and make comments on the information provided. The Chair of Committee highlighted a report from Shelter Housing Commission, which emphasised the need for social landlords to listen to the voice of their tenants. As such, it was suggested that the improvement journey for the Housing service, needed to prioritise improving engagement with tenants throughout the delivery of services.

It was questioned whether the structure for housing services, which was split over three separate directorates, was fit for purpose and whether this had been a contributory factor? The Chief Executive advised that previous feedback received from staff as part of the Croydon Renewal Plan had already indicated that the current structure was not fit for purpose and a

service redesign had been planned. In light of the issues raised by Regina Road, the Leader had asked for the work on redesigning the service to be prioritised and expanded to include areas such as contract management and tenant support. The initial phase of this redesign was underway, with possible options being scoped by officers.

The Committee identified that dedicated communication support was needed to respond to the issues arising from Regina Road. It was agreed that communications support would be reviewed. It was confirmed that to date the communications response to Regina Road had included press statements, media interviews, direct communication with tenants in the flats affected and visits to the properties.

In response to a question about the source of the water leak, it was confirmed that it had been caused by the mains pipe degrading over time. This was the reason why other council blocks built to the same design were being reviewed to assess whether these buildings had any similar issues.

The Committee agreed it was essential that the outcomes from the investigation included an assessment of the Council's current processes for reporting repairs, with it questioned whether the full report would be publicly available. It was advised that the Council would look to publish as much of the report as possible, but would need to be mindful of any contractual constraints with the provider of the repairs contract.

Councillor Clive Fraser, a ward councillor for area where the flats were located, raised concern about the water leakages not being resolved when the flat above the affected properties had been vacated. A request was made for ward councillors to continue to be involved in the response going forward, with the Committee supportive of the need to keep ward councillors informed of progress made. Councillor Patsy Cummings, the other councillor for the ward, advised that a potential learning point should be the need to provide a more thorough response when reports of leaks causing water damage were received, given the potential risk of much more extensive damage if left unaddressed.

It was questioned whether the Council's insurance liabilities would be reviewed as part of the investigation. It was confirmed that insurance liability had not been included in the scope of the work provided to the investigator. However, it may be something that could be picked up in any further work arising from the review. It was advised that it was unlikely any report by either the regulator or the Health & Safety Executive would be available for the investigator to factor into the investigation given the timescales for delivery of the review. The investigation would be reviewing the contact history of the two cases to find out whether there had been any discrimination.

Looking forward to the possible improvement work for the Housing service it was agreed that the following areas needed to be addressed: -

- i. How damp and condensation issues were managed in Council properties.

- ii. Whether invasive work into the fabric of the building had contributed to the issues experienced at 1-87 Regina Road, and if this was the case, how it could be avoided in the future.
- iii. There needed to be a full review of the process used for tenants reporting issues.
- iv. The relationship between tenants and leaseholders needed to be reviewed to ensure that repairs were carried out promptly, to prevent further damage to other properties in the block.
- v. The repairs contract needed to be comprehensively reviewed to establish the best option for the Council.
- vi. Further consideration was needed on how the Council listened to its tenants to shape services and whether the culture of the Council needed to change.
- vii. Consideration also needed to be given to how potential safeguarding and health and safety issues for tenants were responded to.

In response, the Leader of the Council confirmed that the issues raised by housing conditions at Regina Road had created enormous concern, with the relationship with residents in need of repair. It was likely that recommendations arising from the investigation would be used to inform the long term improvement journey for the service. The Cabinet Member highlighted that there would be a role for scrutiny to inform the improvement journey as it progressed.

At the end of the discussion on this item the Chair thanked the Members and Officers for providing an urgent update for the Committee and noted that the outcome from the investigation was likely to be considered at the next meeting of the Streets, Environment & Homes Sub-Committee.

Conclusions

Following the discussion of the information provided, the Scrutiny and Overview Committee agreed that the following conclusions would be reported to Cabinet:-

1. The Committee broadly accepted the terms of the reference for the independent investigation into the housing disrepair found at 1-87 Regina Road, which was due to report its findings back to the Council by 9 April.
2. The Committee welcomed confirmation that a review of housing services had been brought forward considering the issues experienced by tenants at Regina Road and agreed that there were a number of key areas that needed to be looked at as part of this review.
3. The Committee had concerns about the performance of the current contractor for the repairs service that needed to be investigated to establish whether either value for money or the required service standards were being achieved.

Recommendations

The Scrutiny and Overview Committee agreed to make the following recommendations to the Cabinet Member for Homes for further consideration:-

1. The Committee asks that as part of the review of the Council's housing services, consideration is given to the following areas: -
 - Prior to starting the review, the Council's long term vision for its housing services needed to be defined and then used as a basis for the review.
 - The review needed to consider how the Council listened to the voice of its tenants, both in terms of responding to issues raised and in designing services.
 - The process for tenants reporting issues and how they are subsequently dealt with needed to be comprehensively overhauled to ensure the needs of tenants are prioritised in any future delivery model.
2. The Committee recommends that delivery of the repairs service should be reviewed, when possible to do so under the terms of the current contract, to establish the most cost effective means of providing the service that also met the standards expected by tenants.

29/21 **Scrutiny Improvement Review**

The Scrutiny & Overview Committee considered a report from the Centre for Governance and Scrutiny (CfGS) which presented the findings from their review of the scrutiny function in Croydon. Ed Hammond, the Deputy Chief Executive from CfGS, was in attendance at the meeting to introduce the report. During the introduction, the following points were noted:-

- CFGS was a charity that provided governance support and advice to both the public and private sector.
- CfGS had been commissioned to review the scrutiny function at Croydon in the spring of 2020 by the Scrutiny & Overview Committee. The review had been informed by evidence gathering in the summer of 2020, with a final report prepared in September. However, following the publication of the Report in the Public Interest (RIPI) by the Council's external auditors, it was considered important to ensure that the recommendations in the RIPI report were reflected in the Scrutiny Improvement Review and it was in line with the Council's improvement journey.
- It was proposed that immediate action was taken to implement recommendations 1, 5 and 6 set out in the Review, which would be supported by recommendation 8. Recommendation 1 related to ensuring Scrutiny played an immediate role in the Council's financial recovery. Recommendation 5 was aimed at ensuring Scrutiny was provided with the relevant evidence to carry out that role and recommendation 6 concerned the prioritisation of the work programme. Recommendation 8, which would support the other three recommendations as it concerned the delivery of training to improve scrutiny at the Council.
- CfGS, working with Members and officers, would create an action plan over the coming weeks for the delivery of all recommendations in the new municipal year. Reassurance was given that the support provided by CfGS was being met from a Central Improvement Fund which was

available to the Local Government Association and CfGS to support councils.

Members of the Committee commended the quality of the report and agreed that the recommendations targeted the right areas for improvement. It was also agreed that the need for Scrutiny to have access the information it required to inform its work was essential. It was advised that as part of the improvement plan, CfGS would be working with Members and officers to establish what this meant in practice, with work to resolve long standing cultural issues also important to ensuring Scrutiny had the right tools to perform as expected.

It was suggested that prioritisation of the work programme sometimes suffered from a lack of understanding of the value of scrutiny by officers, with a need for a more strategic view to be taken on work planning. It was also difficult to define what Scrutiny should be focusing upon without having sight of any performance framework. Consideration also need to be given to how Scrutiny coordinated its work with that of the General Purposes and Audit Committee.

Although there would not be a cost to the Council for the ongoing support provided by the CfGS to implement the recommendations from the Scrutiny Improvement Review, the cost to commission the original review had been £4,600.

It was highlighted that improvement work had already started to be implemented, with the work programme focussed towards the covid response and the financial challenges facing the Council. As the pandemic had required the Council to hold remote meetings, the introduction of new technology had also helped scrutiny members to hold more frequent pre-meets, which helped with the coordination of the meetings.

It was questioned whether the recommendations should also include the creation of a Scrutiny - Executive Protocol, setting out the executive commitment to the parity of esteem. It was advised that in the medium term the Council will need to formulise its expectations for the relationship between scrutiny and the executive. However, in the short term early conversations had indicated that expectations would be met and the experience over the next few months would be able to inform the process. .

It was agreed that public engagement with Scrutiny could be improved. CfGS had worked with other authorities on this and experience indicated that a holistic approach to engagement was required. As part of the wider improvement journey, the Council needed to change its relationship with the public and this work was something that Scrutiny could feed into.

At the conclusion of this item the Chair of the Committee thanked Mr Hammond and his colleagues at CfGS for delivering the Scrutiny review. The Committee agreed to accept all eight recommendations set out in the covering report of item.

The Scrutiny & Overview Committee **resolved** to:

1. Receive and accept the findings of the CfGS Scrutiny Improvement Review,
2. Agree that the recommendations will be incorporated into the Croydon Renewal Plan,
3. Recommend to Council the CfGS Scrutiny Improvement Review for noting,
4. Agree that Recommendations 1, 5 & 6 are prioritised for delivery.
5. Agree to commission the CfGS to develop a training programme for Scrutiny which will be incorporated into Council's overall programme for Member Learning & Development to be overseen by the Ethics Committee.
6. Work with the CfGS to develop a work programme that is focussed on the priorities of the Council and allows Scrutiny to add value to the ongoing improvement journey.
7. Agree to set up a Scrutiny Co-ordination Group to monitor and steer the scrutiny work programme.
8. Note that an overarching Information Protocol is being developed for Members taking into account the recommendations in the CFGS Scrutiny Improvement Plan and the Croydon Renewal Plan.

30/21

Review of Libraries Public Consultation - Phase One

The Scrutiny & Overview Committee considered a report from the Cabinet Member for Culture and Regeneration, Councillor Oliver Lewis, setting out the findings from the first phase of the libraries consultation and asked for the Committee's views on the options due to be put forward for the second phase. During the introduction to the report, the Cabinet Member advised the Committee that the budget agreed by Council on 8 March had set a savings target of £500,000 from a £3.5m budget for the Libraries service. Potential options for achieving these savings, including the possible closure of five libraries, a consultation on the way forward had started earlier this year. The results of that consultation, along with proposals for the next phase of consultation, were presented to the Committee for its input and any recommendations arising from the discussion of this item would be submitted to the Cabinet.

Elizabeth Ash, a representative from the Save Croydon Libraries Campaign (SCLC), had been invited to address the Committee by the Chair, to present the views of SCLC on the proposals. It was advised that in the view of SCLC insufficient information had been provided with the consultation to allow an informed response, which had resulted in a flawed process that should not move forward. Furthermore, by carrying out the consultation during the pandemic and without contacting library users, it further invalidated the outcome. The consultation seemed to be unfairly focused toward a delivery

model that used volunteer run services, rather than being open to all options. There were a number of other concerns raised about the consultation process, such as the quality and consistency of the information provided, the lack of communication about the extension to the consultation deadline and the perceived lack of regard to equalities. In conclusion, any reduction of the library service was viewed as a false economy, which would have far reaching consequence for the borough.

The Cabinet Member thanked the representative from SCLC for their contribution and acknowledged it was important to provide an opportunity for all contributors to input into the consultation process. In response to the comments from SCLC it was highlighted that the Council had worked with the Department for Digital, Culture, Media and Sport to ensure the consultation process complied with best practice. There had been a good level of response to the consultation with over 2000 responses received and the various options suggested in the report demonstrated that it had been a genuine consultation. By running the consultation in two phases, it provided the Council with the opportunity to take on board ideas from the public on how best to achieve the savings the Council was required to deliver.

Prior to questioning the Cabinet Member, the Chair re-emphasised that the £500,000 budget saving had been approved as part of the budget setting process. As such it was outside of the scope set for the Committee, which was to provide comment on the consultation process and the options being put forward for the second phase of the consultation.

In response to question about whether the budget of £3.5m for the service included maintenance costs, it was advised that the budget covered the running costs for the service. The maintenance of library buildings was covered under a separate maintenance contract. The Council had continued to be responsible for repairs and maintenance when the service was managed by Carillion, but the buildings had not been maintained to a satisfactory level. When the library service was brought back in-house, user feedback was used to inform both the Libraries Plan, adopted in May 2019, and a refresh of library facilities.

It was noted that consultants had been commissioned to produce a report on the Council's libraries, which had informed the Libraries Plan. It was questioned whether the consultant's work had also been taken into account when forming proposals for consultation. In response it was advised that the consultation report had been taken into account as part of a wide range of information used to inform the process, including the number of books issued, digital facilities, the location of libraries in the borough and the level of maintenance required on each building.

In response to a question about whether the Cabinet report would include an options appraisal, it was advised that this had been included in the initial plan, but due to the pre-election period and the political nature of the decision, it was likely that the decision would be delegated to the Cabinet Member in consultation with the Interim Executive Director for Place, with further information published after the pre-election period had concluded.

It was highlighted by a number of Committee Members that it was difficult to reach a conclusion on the preferability of any of the options, as it was not clear from the information provided what the Council's vision was for its library service. In response, it was advised that the Council's libraries had seen an increase in membership during the lockdown, despite the public not being able to physically access the service. In recent years there had also been a huge update to the digital services offered within the library service. The consultation had indicated that the Service meant different things for different people, but the Council needed to find a way to deliver the financial savings, which would necessitate looking at alternative methods of delivery.

When the Committee previously looked at libraries (10 February 2020), it had been mentioned that the possibility of using technology to allow out of hours access to library facilities was being explored. As such it was questioned whether this had been progressed. It was confirmed that the Open Plus system had been installed at both Selsdon and Norbury libraries, giving the opportunity for out of hours access to residents. In order for the Open Plus system to be rolled out in other libraries, it would require additional capital investment.

Regarding the possibility of increasing the availability of new books and electronic resources, which would drive up membership, it was advised the Council had joined a libraries consortium of 17 authorities to purchase books. As well as providing residents access to over 6 million books it also allowed access to a range of additional online materials such as e-books, audio books and online training.

A suggestion was made that an ongoing aim should be to grow the service, including making it easier for residents to sign up as library members. The Cabinet Member advised that the Council had always strived to grow the membership of the library service and this would continue to be an ambition going forward.

It was highlighted that 12% of the responders to the consultation had indicated that they would be unable to access any other library than one of those identified as at risk of closure. As such, it was questioned whether there was any analysis of these responders and if there would be any alternative provision. It was advised that further analysis was needed to understand why these respondents would not be able to access other libraries, but this would be dependent on whether their permission had been given for further contact from the Council. There was existing provision including the home library service, a befriending service and online resources that may help support these respondents to continue accessing library services.

In response to a question about the baseline for a viable library service, it was confirmed that there was no threshold, with a range of factors taken into account as part of the decision making process. Once the budget reduction of £500,000 had been confirmed, it was quickly realised that the service would need to be rationalised. The five libraries at risk of closure were those with the lowest book issues, the lowest rate of digital access, had significant maintenance issues and had other libraries in the vicinity.

It was questioned why the operational costs for the South Norwood Library were based on the new site, when the consultation was based on the existing building. It was advised that the current library building in South Norwood required a lot of work and a capital investment was needed to get the new site ready as a library. There was a number of possible options for the library service in South Norwood, which would be informed by the consultation process.

Councillor Clive Fraser, a Ward Member for South Norwood, thanked the Cabinet Member for his engagement with the South Norwood councillors and highlighted that other options to library closure should be explored. There also needed to be a holistic approach used for the library service as they had a much wider impact than simply book lending, through influencing people's learning and knowledge as well as helping to support local high streets.

It was confirmed that since the library service had been brought back in-house following the collapse of the contractor, Carillion, £5m of capital funding had been invested into the service. This funding had paid for new equipment, high speed broadband as well as refurbishing Norbury and Selsdon libraries. At present, all libraries had high speed broadband access and it was hoped that further investment could be made in the future, although this would be dependent on the financial circumstances of the Council.

The Committee reached the view that the lack of an options appraisal to accompany the consultation made it difficult to make an informed opinion on the options presented in the report. Other options were suggested by the Committee, in addition to those included in the report, such as using a co-design approach with community groups that could take into consideration existing constraints. Another option would be to have a limited number of flagship libraries, with the opening times of other libraries based on their usage. The Committee was thanked for these suggestions, with it highlighted that the consultation was being used as a form of co-design.

It was questioned whether there were any abortive costs should the five libraries close. It was advised that there would not be any abortive costs from the closure. There had been a cost to install high speed broadband, but this equipment could be utilised across other sites.

The Chair highlighted to the Committee that the consultation was not formally about the closure of libraries and should that decision be pursued, then there was a statutory requirement to undertake a further range of consultation.

The Committee reached the conclusion that library closure should only be considered as a last resort, if no other viable options could be identified. Of the other options included in the report, it was difficult to reach a conclusion without further information on which to make an informed judgement. No dissent was raised against the principle of outsourcing the running of the library service to a social enterprise, but if this option was chosen the Council would need to have sufficient capacity in place to design the contract specification and monitor delivery.

The Committee agreed that the second phase of the consultation process should include a more detailed options appraisal setting out the savings expected for each option, the staffing impact and the criteria used to assess the options. It was also agreed that any further consultation needed to set out the Council's vision for the library service.

At the conclusion of this item the Chair thanked the Cabinet Member and officers present for their engagement with the questions of the Committee.

Conclusions

Following the discussion of the budget proposals, the Scrutiny and Overview Committee agreed that the following conclusions would be reported to Cabinet for its consideration:-

1. The Committee concluded that any consultation on the provision of the libraries service needed to be based on an underlying vision for the service and that the vision needed to be clearly defined in the consultation process.
2. The Committee concluded that the option to close five libraries needed to be a last resort and should only be pursued if it was not possible to achieve the required savings through other options for delivery of the libraries service.
3. The Committee was unable to reach a conclusions on the preferability of the other three options. Instead it concluded that a thorough options appraisal was needed to make a judgement on which of these options was included in the next stage of the consultation.

Recommendations

The Scrutiny and Overview Committee agreed to make the following recommendations to the Cabinet Member for Culture and Regeneration for further consideration:-

1. The Committee recommends that any future consultation documents on the libraries service clearly outlines the Council's vision for libraries and how it had informed the process.
2. The Committee recommends that further work is undertaken to prepare a detailed appraisal of any options put forward for the next stage of the consultation, to ensure that those responding could make an informed decision. This should include consideration of:-
 - hybrid options
 - a co-design approach for the redevelopment of the future library service

The assessment criteria for the options appraisal also needed to be clearly defined at the start of the process and published with the second phase consultation

..... 31/21

Establishment of the Town Centre Task & Finish Group

The Scrutiny & Overview Committee considered a report setting out the proposed terms of reference for a task and finish group that would look at the future of the town centre in its recovery from the Covid-19 pandemic.

The Committee **RESOLVED** to:-

1. Set up a task and finish group to undertake a review on the future of the town centre in Croydon.
2. Agreed the terms of reference for the Town Centre Task and Finish Group, as set out in the report.

32/21

Exclusion of the Press and Public

This motion was not required.

The meeting ended at 9.43 pm

Signed:

Date:

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Scrutiny & Overview Committee

Meeting held on Thursday, 20 May 2021 at 5.30 pm.

This meeting was held remotely and can be viewed on the Council's website

MINUTES

Present: Councillors Sean Fitzsimons (Chair), Robert Ward (Vice-Chair), Leila Ben-Hassel, Shafi Khan, Oni Oviri and Joy Prince

PART A

33/21 **Disclosure of Interests**

There were no disclosures of interest made at the meeting.

34/21 **Urgent Business (if any)**

There were no items of urgent business.

35/21 **CALL IN: Crystal Palace & South Norwood Low Traffic Neighbourhood - Confirmation of Decision**

The Chair of the Committee explained that this was a meeting reconvened from the meeting held on 23 May 2021 to confirm the decision made by the Committee on the call-in request on the Crystal Palace and South Norwood Low Traffic Neighbourhood key decision. At the meeting on the 23 March, the Committee decided it would refer the decision back to the decision maker, which in this instance was the Cabinet Member for Sustainable Croydon. However, the Council's Constitution does not permit this outcome from the consideration of a call-in. The Constitution provides three options for the Committee, which are:-

1. That no further action is necessary and the decision can be implemented as originally intended.
2. To refer the decision to the Cabinet for reconsideration, outlining the nature of the Committee's concerns.
3. To refer the decision to Council, if it is considered that it was not in keeping with the budget and policy framework.

As the Committee had previously concluded at its meeting on 23 March that the decision taken by the Cabinet Member was within the budget and policy framework, the option of referring the decision to Council was discounted.

The Chair asked the Committee to confirm whether it wanted to refer the decision to the Cabinet for reconsideration. The Committee agreed that it would refer the decision to the Cabinet based on the grounds outlined in paragraph 2.5 of the Committee report, which had been previously agreed at the meeting on 23 March. It was agreed that no further considerations would be added.

RESOLVED: The Committee agreed to refer the decision to the Cabinet for reconsideration based on the following concerns:-

1. The Committee was concerned that the lack of clarification on the baseline data sources to be used for the experiment would make it difficult to quantifiably demonstrate the potential benefits arising from the experiment to the local community. As such that further work was needed to identify and refine the quantifiable data sources that would be used for the project. Additionally, in order to build public trust, confirmation of these data sources had to be made publicly available, prior to the start of the experiment in South Norwood & Crystal Palace.
2. The Committee was concerned that it would be difficult for the public to have confidence in the benefits arising from the experiment without clearly defined success criteria. As such urgent work was needed to define a framework by which the success of the scheme would be assessed. This needed to be completed and made publicly available prior to the start of the experiment in South Norwood & Crystal Palace.
3. The Committee was concerned about the potential impact the experiment may have upon the roads surrounding the LTN, particularly in regards to air quality. As such any monitoring installed as part of the experimental scheme needed to include the wider area. Additionally, given the potential negative impact on the air quality in the surrounding roads, mitigation needed to be identified as a matter of urgency, should there be a significant deterioration in air quality.
4. The Committee was concerned that the level of engagement with Bromley Council to date had not resulted in an agreed way forward for the experiment, which was likely to result in a detrimental impact for those Bromley residents living closest to the scheme. As such further engagement with the London Borough of Bromley needed to be prioritised, to ensure that the appropriate mitigation was in place before the start of the experiment.
5. Although reassurance was given about the level of consultation that would be undertaken throughout the experiment, it was agreed that the engagement strategy for the Crystal Palace & South Norwood LTN project needed to be made publicly available as soon as possible.

6. In light of concerns raised about during the meeting about the level of signage used during the previous temporary scheme, there needed to be an ongoing review of the signage used during the life of the experimental scheme.
7. The Committee had a concern that it would be difficult to reduce congestion on residential roads while route-finding apps continue to include these roads as potential route options for motorists. As such the Committee would ask the Cabinet Member for Sustainable Croydon to give a commitment to working with other London boroughs to address the issue of route finding apps directing motorists through residential streets.
8. In light of the above concerns, it is requested that the Cabinet Member provides two updates to the Streets, Environment & Homes Sub-Committee. Firstly, before the start of the experiment to provide a response to the concerns of the Scrutiny & Overview Committee. Secondly, at the conclusion of the experiment to provide an update on the outcomes.

36/21 **Exclusion of the Press and Public**

This motion was not required.

The meeting ended at 5.48 pm

Signed:

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Date:

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Scrutiny & Overview Committee

Meeting held on Thursday, 27 May 2021 at 5.30 pm.

This meeting will be held remotely and can be viewed on the Council website

MINUTES

Present: Councillors Sean Fitzsimons (Chair), Robert Ward (Vice-Chair), Leila Ben-Hassel (Deputy-Chair), Mary Croos (reserve for Joy Prince) Shafi Khan and Oni Oviri

Also Present: Councillors Hamida Ali, Stuart King, Oliver Lewis and Callton Young

Apologies: Councillor Joy Prince

PART A

37/21 **Disclosure of Interests**

There were no disclosures of interest made at the meeting.

38/21 **Urgent Business (if any)**

There were no items of urgent business.

39/21 **CALL-IN: Ongoing Review of Brick by Brick Croydon Ltd and associated matters relating to the company**

The Scrutiny & Overview Committee considered a call-in request of the Cabinet key decisions set out in 'Ongoing Review of Brick by Brick Croydon Ltd and associated matters relating to the company' report. The decisions taken in this report were made by the Cabinet at its meeting held on 17 May 2021.

The Chair explained the process for considering a call-in, confirming that the Committee needed to agree whether to review the decision or not and if it was decided to proceed, to confirm how much time it wished to allocate for the discussion of the item. The Committee agreed that it would review the decision and allocated one hours and thirty minutes for its consideration.

The Chair went on to explain that there were three outcomes the Committee could reach as a result of its 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 Cabinet for reconsideration, outlining the nature of the Committee's concerns

1. To refer the decision to Council, if the Committee considered that the decision taken was outside of the Budget and Policy Framework.

At the outset of the item an opportunity was given to the lead signatory of the request to provide an introduction, outlining the grounds for submitting the call-in. Councillor Robert Ward, as lead signatory, advised the Committee that it was important for the public to understand what had happened with Brick by Brick and who was responsible. Concerns about the company had first been raised in 2016 and since then many of the issues highlighted had come to pass. There had been repeated requests made for information throughout this time, which had not been granted. No adequate explanation had been given as to why this was the case. It was disappointing that the information requested had not been provided and it was up to the Committee to reach a conclusion on the call-in based on the information available in the Cabinet report.

Following this introduction, the Leader of the Council, Councillor Hamida Ali, was given the opportunity to explain the reasons for the Cabinet decision. It was advised that the key decisions taken were important in the context of the work over the previous seven months to improve the Council's governance processes. The need to improve the Council's governance had been raised as a criticism in the Report in the Public Interest (RIPI) issued by the Council's external auditor, Grant Thornton. The decision to treat what had originally been a loan to Brick by Brick for the refurbishment of Fairfield Halls, as a capital expenditure had been taken following advice from CIPFA and the Council's external auditor. The actual refurbishment of Fairfield Halls by Brick by Brick was a separate issue, which was the subject of an ongoing Value for Money review by the external auditors, Grant Thornton.

The Cabinet had originally reviewed the decision to use the Council's Housing Revenue Account (HRA) to purchase homes from Brick by Brick in July 2020, at which point the decision was deferred. The information provided in the report sets out the rationale for now proceeding with the acquisition of these properties and also addressed concerns raised in the RIPI about circular funding. It was highlighted that Cabinet had changed one of the original recommendations set out in the report, to ensure that any future decision to make purchases additional stock for the HRA requiring a decision by Cabinet rather than been made using delegated authority.

Sarah Ironmonger from the Council's external auditor, Grant Thornton, had been invited to the meeting by the Committee given the concerns raised about the accounting treatment of the Fairfield Halls refurbishment in the RIPI. It was confirmed that there had been a discussion between the external auditor and the Council on the accounting treatment of the cost of the Fairfield Halls refurbishment, to inform the decision making process. It was the view of the auditor that as the building remained under the Council's ownership, the debt should remain with the Council. The decision to treat the debt as capital expenditure needed to weigh up accounting judgements, including CIPFA standards.

It was confirmed that both CIPFA and the auditors had agreed that bringing the loan, made to Brick by Brick for the refurbishment of Fairfield Halls, back into the Council was the best course of action. The repayment of the loan had been based upon transferring the College Green site to Brick by Brick for redevelopment. As this transfer was no longer proceeding, the company no longer had the ability to repay the loan. It was confirmed that should the Cabinet decide to sell the College Green site, this would create a capital receipt that could be used to pay down the Council's debt or for other capital expenditure.

Concern was raised about the cost of refurbishing Fairfield Halls, which had increased from an original estimate of £30m to the current figure of £69.1m, and whether there could be any certainty that this would not increase further. It was confirmed that the figure would not get any higher in terms of cost and £69.1m was the final figure. It was noted that the Value for Money Review being undertaken by Grant Thornton was likely to cover the reasons for the increased cost of the project.

A question was asked about the cost of borrowing to cover the capitalisation of the refurbishment costs and how this would impact upon the Medium Term Financial Strategy (MTFS). It was confirmed that the cost of borrowing had already included in the Council's budget and an allowance for the non-payment of the loan had been included in the MTFS agreed by the Council in February 2021. The Council could borrow from the Public Works Loan Board for any period of time between 20 to 50 years. The borrowing rates shown in the report may look high, but this was because an amalgamated rate was shown. At present the cost of borrowing was below 2%.

It was questioned whether the public realm works outside Fairfield Halls had been completed and how any remedial work inside the venue would be paid for. In response it was advised that approximately £3m had been spent on the public realm for the site and this had still to be completed. The operator of Fairfield Halls had indicated there was a number of aspects of the refurbishment they were unhappy with. The Council had engaged a specialist to review the building and prepare a report on any work needed. If this work was part of the original specification to the contractor for the project, then there would be an expectation on the contractor to come back and complete the work. If any remedial work identified was not part of the original specification provided to the contractor, then it would need to be paid for by the Council, even if it had been specified in the Council's agreement with Brick by Brick.

It was viewed as reasonable for the Council to employ a specialist consultant to review the work undertaken at Fairfield Halls. Given the nature and age of the building, it was unlikely the Council would have the requisite skills in-house to conduct such a review. The consultant would also look at the contracts for the refurbishment of the building to establish where contractors could be asked to complete work that had not been delivered in line with the original specification to them.

Regarding the novation of the contracts for the refurbishment from Brick by Brick to the Council, it was questioned whether these contracts would give the Council the same level of assurance if latent defects were discovered in years to come. It was confirmed that the Council would have the same protection as the primary person who let the contract, which in this case was Brick by Brick.

It was advised that it would not be possible to give any indication of any possible additional costs until the survey of the building had been completed. It was likely that the outcome of the survey would be reported to a meeting of the Cabinet later in the year for a decision. The cost of any additional work at Fairfield Halls had not been included in the capital programme agreed by the Council. If further expenditure was needed, it would have to be found from within the existing capital budget.

Concern was raised about the timing of this decision, with it questioned whether it would be better to wait for the outcome of the Value for Money Review. It was advised that the key decision related to the accounting treatment of the refurbishment cost. As Brick by Brick were not in a position to repay the loan, the accounting treatment needed to be reviewed for the 2019-20 accounts. Without this decision the 2019-20 accounts could not be closed.

There was a concern that one reason for bringing the cost of the loan back from Brick by Brick to the Council was to make the company more saleable. Should the company be sold it would make it very difficult to find out how the company had reached its present position. Reassurance was given that whatever the future of the company, the novation of the contracts for the refurbishment of Fairfield Halls would mean they were held by the Council. Should the company be sold, then the Council would ensure it retained information about the internal governance arrangements of the company. The Committee was reminded that the forthcoming Value for Money Review from the external auditor would help to explain a lot of what had happened around the Fairfield Halls refurbishment.

In response to a question about alternative options considered instead of the capitalisation and novation outlined in the report, it was highlighted that the capital expenditure had already been funded in terms of the loan to Brick by Brick. If the Council did not novate the contracts for the refurbishment of Fairfield Halls, it would not have either the protection or ability to chase up any defects that may arise with the building.

Regarding the purchase of 104 properties by the Council's Housing Revenue Account (HRA) from Brick by Brick, reassurance was sought that the Council was not overpaying for these properties. It was confirmed that a competitive bidding process had been run by Brick by Brick for the sale of these properties. In total 190 properties were sold, with the other 86 not purchased by the Council, sold to a registered housing provider. The decision to proceed with the purchase was based on the principle agreed in February to only buy new properties if the income received covered the debt, management and maintenance costs.

In response to a question about the Council's ability to verify the quality of the build in the properties purchased, it was advised that some of the properties were still under construction. As they reached completion, they would be inspected to ensure the required standard was met. There would also be allowance made for any snagging that may arise further down the line, with the appropriate guarantees put in place. It was possible, should the Council decide to pursue the build out option, that contracts would be transferred to the Council. It was confirmed that the future of Brick by Brick was a high risk for the Council and rated as such on the corporate risk register.

It was confirmed that the relationship between the Council and the contractor responsible for building the properties to be purchased would be the same whether Brick by Brick was sold or not. As the Council already managed approximately 15,000 units through the HRA, there would not be an issue managing 104 additional properties.

As the original recommendations considered by the Cabinet had been amended to ensure any future purchases by the HRA was brought to Cabinet for agreement, the scale of other potential purchases was questioned. It was advised that no further purchases were in the pipeline in the near future and this recommendation had been added should a new opportunity arise.

The reasons for including the additional £10m loan agreement for Brick by Brick were questioned. It was confirmed that this part of the decision had been included to manage the potential risks to cash flow at Brick by Brick over the summer. At present, the indications were that private sector sales were proceeding as expected, which would mean the additional loan would not be needed. However, should there be any issues affecting sales, which would impact upon cash flow at the company, then it could be used.

In response to a concern about the ability of the Council to manage any defects that may arise in the properties purchased, it was agreed that this may be an issue for the Streets, Environment & Homes Sub-Committee to revisit at a later date. This review would look for reassurance that the Council was able to hold builders to account.

It was confirmed that analysis of the properties purchased in comparison to the requirements of housing waiting list could be provided. Any homes purchased would be allocated to people high up the housing waiting list. As the Council had bid for the properties on a block by block basis, it would be acquiring the freehold for the block as well as the units within the block.

At the conclusion of the item, the Chair thanked the Leader of the Council and the Section 151 Officer for their engagement with the questions of the Committee. The Scrutiny and Overview Committee discussed its response to the call-in request. Having weighed up the information received, it was concluded that no further action was necessary and the decision could proceed as originally intended. However, the Committee did reach a number of conclusions and recommendation it wished to report to the Cabinet, which are outlined below.

Conclusions

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

1. The Committee concluded that the evidence provided in the report, along with the responses provided by the Section 151 Officer to questions raised, had provided sufficient reassurance that the original Cabinet decision was the correct course of action. As such no further action was necessary and the decision could proceed as intended.
2. Given that the advice had been sought from both CIPFA and the Council's external auditor, the Committee was reassured that the decision to recognise the cost of the Fairfield Halls refurbishment as a capital expenditure rather than a capital loan was the correct course of action.
3. There was concern amongst the Committee about the potential additional expenditure required to carry out any remedial works required to address issues not picked up in the original refurbishment and a request was made for a report on this, once available.
4. The Committee felt there needed to a thorough explanation of how the cost for the refurbishment of Fairfield Halls rose from the original £30m estimate at the start of the project to £69m. It was accepted that the Council's external auditor was in the process of finalising a value for money review of the project and a request was made for the full report to be share with the Committee once available.
5. The Committee agreed that the decision for the Council's Housing Revenue Account to purchase 104 residential units from Brick by Brick should proceed as it would lead to a significant saving in the cost of temporary accommodation and provide new homes for those on the council's housing waiting list.
6. Although there was concerns about the decision to provide a further loan facility of £10m to Brick by Brick, given the public money already invested in the company, there was an acceptance that this was needed as a contingency in the event of sales being delayed.
7. There was significant concern about the lack of transparency on historic decision making on Brick by Brick and that the documents requested in the call-in had not been provided. The Committee agreed that the documents needed to be provided, in line with the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities, as a matter of urgency or failing that a written statement be provided in justification of the refusal of each requested document.

Recommendations

The members of the Scrutiny & Overview Committee agreed to make the following recommendations to the Leader of the Council:-

1. That a report on any remedial work required on Fairfield Halls be provided to the Scrutiny and Overview Committee. This breakdown should include confirmation of:-
 - a) The work required and the estimate cost
 - b) Confirmation of whether the cost of work would need to be funded by the Council or would be under the existing contract novated to the Council.
 - c) If work is to be funded by the Council, how the cost would be met.
2. That the Scrutiny & Overview Committee is provided with the full Grant Thornton report on its Value for Money Review of Fairfield Halls, once it was available.
3. The Administration is asked to make a commitment to making historic information on decision making over Brick by Brick available to Members and the public. Where it is not possible to provide information, there needs to be a transparent process in place to confirm why it is not being shared.

40/21

CALL-IN: Libraries Public Consultation Phase Two

The Scrutiny & Overview Committee considered a call-in request of the Cabinet key decisions set out in 'Libraries Public Consultation – Phase One' report. The decisions taken in this report were made at the Cabinet meeting held on 17 May 2021.

The Chair explained the process for considering a call-in, confirming that the Committee needed to agree whether to review the decision or not and if it was decided to proceed, to confirm how much time it wished to allocate for the discussion of the item. The Committee agreed that it would review the decision and allocated forty five minutes for its consideration.

The Chair went on to explain that there were three outcomes the Committee could reach as a result of its 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 Cabinet 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.

At the outset of the item an opportunity was given to the lead signatory of the request to provide an introduction, outlining the grounds for submitting the call-in. Councillor Gareth Streeter, as lead signatory, outlined to the Committee that the call-in request had been made for a number of reasons. The first was a lack of confidence in the consultation process, which was delivered within the restraints of the covid-19 pandemic. There was also confusion about the options being considered as it had originally been based upon the possible closure of five libraries, which had now been removed leading to conjecture about the reasons for its inclusion in the first place.

There was also concern about the viability of the remaining options to be considered in the next phase of the consultation, particularly the community option. It was felt the report did not provide enough assurance that there had been sufficient engagement with the community groups to evaluate their ability to take on the management of a library. It was also felt that the information provided did not give enough detail on what the outsourcing option would mean for the end service. There were other concerns noted about the business rates to be paid if the community option was chosen and the use of CIL money, which needed further clarification.

The Chair highlighted to the Committee that the use of CIL funding in the Library service was not relevant to the decision that was being reviewed, and as such did not need any exploration at the meeting.

Following this introduction, the Cabinet Member for Culture & Regeneration, Councillor Oliver Lewis, was given the opportunity to explain the reasons for the Cabinet decision. It was advised that it was important for the consultation process to identify how to deliver the savings required from the Library service to be open and transparent. The intention of the first phase of the consultation had been to gather ideas and over 2,000 responses had been received. The response given by residents in the first phase had been listened to and as a result the option to close five libraries had been discounted. The consultation was now moving to its second phase which asked for feedback on more specific options.

Following the introductions, the Committee was given the opportunity to question the Cabinet Member and the Asset Manager on the grounds for the decision. The first question noted that three options were being put forward for the next phase of consultation and asked how the final decision would be made. It was highlighted that although the process was a consultation, not a referendum, the view of the public would be listened to. Although it was likely the final outcome would be one of the three options set out in the consultation, a possible hybrid of these options had not been ruled out.

Reassurance was sought by the Committee that a full assessment had been made on the viability of the outsourcing and community options. In response it was highlighted that having to save £500,000 from the libraries budget was a difficult process and it was fully recognised it would cause anxiety in the local community. If outsourcing was the preferred option, then the Council would need to go through a procurement process with a set fee to ensure the required saving could be achieved. The community run option was the most

difficult to assess, but a significant number of groups had come forward during the first phase of the consultation, which was detailed in the report. The viability assessment of the options set out in the report had been based upon elements within the Council's control, such as staffing, book stock and IT costs. Elements such as increased income generation had not been included as it could not be guaranteed at this stage.

As a follow-up, it was questioned whether any assessment had been made of the potential for income generation within the service. It was acknowledged there were potential opportunities to raise income through pursuing options such as cafes and room rental. However, at present the Library service only generated income of a few thousand pounds per year, per site. If the £500,000 saving was to be achieved from income generation, it would require a complete change to the present operation of the service. It was difficult to make any assumptions on the potential for income generation as there was no track record of this in the service. Given the financial challenge facing the Council, it was safer to deliver the £500,000 budget reduction required through savings.

It was noted that the Open Plus system, which allowed the public to access libraries outside of normal hours, had been installed in both the Selsdon and Norbury libraries. As such it was questioned when this would be activated. It was advised that it was originally intended to pilot the system last year, but this had been delayed due to the covid-19 pandemic. The pilot was likely to commence in the near future before rolling out the system to other libraries that could support out of hours access.

There was a concern raised that it was difficult to understand the Council's vision for the Library service. If there was a clear vision, it should be evident in informing the consultation process. Disappointment was also expressed that an opportunity to engage the public in the co-design of the service had not been taken so far and it was asked whether co-design could be used in the second phase of the consultation. It was confirmed that because of the current situation with the pandemic it had not been possible to engage with the public in co-design. Going forward, regardless of the outcome of the consultation, there would be a greater role for residents in the delivery of the Library service. The Committee agree that it would make a recommendation to Cabinet to include a co-design approach wherever possible.

In response to a question about how the five libraries were chosen as options for the community run service, it was advised that these had been identified during the first phase of the consultation. It was confirmed that the Council would work closely with community groups to find the best level of service they could provide, and the Council would continue to purchase books and maintain the IT service.

Although it had not been considered to date, it was agreed that the possibility of other council services, such as Children Centres, collocating in libraries could be explored as a means of achieving savings.

At the conclusion of the item, the Chair thanked the Cabinet Member and the Asset Manager for their engagement with the questions of the Committee. The Scrutiny and Overview Committee discussed its response to the call-in request. Having weighed up the information received, it was concluded that no further action was necessary and the decision could proceed as originally intended. However, the Committee did reach a number of conclusions it wished to report to the Cabinet, which are outlined below.

Conclusions

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

1. The Committee concluded that the evidence provided in the report, along with the responses provided by the Cabinet Member for Culture and Regeneration to questions raised, had provided sufficient reassurance that the original Cabinet decision was the correct course of action. As such no further action was necessary and the decision could proceed as intended.
2. The Committee accepted that the key driver behind possible changes to the library service was the need to make a £500,000 saving from the Libraries budget, which had been agreed as part of the Budget approved by the Council in March 2021.
3. The Committee concluded that the savings outlined in the option appraisal had been based on known factors and as such were likely to be a good estimate of the potential saving that could be achieved by each option.
4. The Committee welcomed the commitment from the Cabinet Member to work with the public and local community groups in shaping future services.

41/21 Exclusion of the Press and Public

This motion was not required.

The meeting ended at 9.11 pm

Signed:

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Date:

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REPORT TO:	SCRUTINY AND OVERVIEW COMMITTEE 17 August 2021
SUBJECT:	CALL-IN: Novation of building works and profession services contracts from Brick by Brick for Fairfield Halls
LEAD OFFICERS:	Sarah Hayward – Interim Executive Director for Place Steve Iles – Director of Public Realm
CABINET MEMBER:	Councillor Oliver Lewis – Cabinet Member for Culture & Regeneration

ORIGIN OF ITEM:	This item has been triggered by the call-in of the key decisions (3721CAB) taken by the Cabinet on 26 July 2021 as set out in the ‘Novation of building works and profession services contracts from Brick by Brick for Fairfield Halls’ report.
BRIEF FOR THE COMMITTEE:	To consider and respond to the Call-In in accordance with the procedure set out in the Council’s constitution (set out in paragraph 2.3 below).

1. EXECUTIVE SUMMARY

1.1 The decision taken on the ‘Novation of building works and profession services contracts from Brick by Brick for Fairfield Halls’ by the Cabinet on 26 July 2021 has been called-in by Chair, Vice-Chair & Deputy-Chair of the Scrutiny & Overview Committee.

1.2 Attached to this report are:

- **Appendix A** is the completed call in form that was received by the Monitoring Officer
- **Appendix B** is the Key Decision Notice
- **Appendix C** is the Novation of building works and profession services contracts from Brick by Brick for Fairfield Halls - Cabinet Report
- **Appendix D** is the associated confidential part B Cabinet report for this item.

2. CALL-IN: NOVATION OF BUILDING WORKS AND PROFESSION SERVICES CONTRACTS FROM BRICK BY BRICK FOR FAIRFIELD HALLS

2.1 The decision taken by the Cabinet that is the subject of this call-in, was as follows:

*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. *Agree to proceed with the novation of the Fairfield Halls refurbishment contracts and associated contracts, with outstanding costs to borne by the Council, once certified by the Quantity Surveyors (Chronos Ltd) (not including any potential additional remedial works).*

- i. *Novation of the Principal Contractor (Vinci) building works contract from Brick by Brick to the Council, and financial commitment for outstanding retentions.*
- ii. *Novation of the Contract Administrator (MICA Architects) contract from Brick by Brick to the Council.*
- iii. *Novation of the Quantity Surveying (Chronos Ltd) contract from Brick by Brick to the Council.*
- iv. *Novation of other professional services contracts from Brick by Brick to the Council.*
- v. *Assignment of completed contracts warranties and guarantees.*

2.2 The call-in pro-forma is attached at Appendix A. The decision form was received on 2 August 2021 from the Vice Chair of the Scrutiny and Overview Committee, Councillor Robert Ward, with the call-in supported by the Committee Chair, Councillor Sean Fitzsimons and Deputy Chair, Councillor Leila Ben Hassel. This complies with the requirements for call-in as set out in paragraph 11.5 (i) in section 4E – Scrutiny & Overview Procedure Rules in the Council’s Constitution.

2.3 The a number of reasons stated in the request as to why the the Call-In has been made. These are:

Cost escalation

At the 17th May 2021 Cabinet it was agreed that "the Council recognises the costs of the Fairfield Halls refurbishment, being a total of £69.261 million". At the Scrutiny call-in of that decision the Section 151 Officer stated that "It won't get any worse in terms of cost transfer from Brick by Brick. The figure is the figure. The £69.261 million is the figure." It now appears the figure is not the figure.

1. **We require reassurance that the costs are properly understood and under control.**

Rejected options

Option to keep the contracts with Brick by Brick, until practical completion, was rejected.

2. **We require reassurance that this option is not a better option.**
3. **We require reassurance that the risks are properly understood and under control. It is now recommended that contracts are novated ahead of the completion of final accounts due to changes in the structure of the financial mechanism regarding the Fairfield Halls refurbishment.**
4. **We require understanding of these changes and reassurance that this is the better option.**

Risks

Brick by Brick's contractual arrangements are highly unusual. Work promised has not been delivered. For example, according to the Outline Brief and Scope for Licence replacement double glazing in existing frames predominantly to the west elevation using high-performance solar-treated laminated glass would be provided. A Councillor question shows this was not provided.

5. **We require an understanding of the implications of the licence agreement and what this means for delivery of the Vinci and other contracts, risks and future costs to the Council.**

A value for money audit has been charged with determining the extent of potential risks:

- i. The articles of association for Brick by Brick Croydon Ltd outline that it is for housing development, so in undertaking the refurbishment of Fairfield Halls, there is a potential risk that it may have been operating outside of its permitted scope of activity.
- ii. It is alleged that the work delivered was of poor quality and in some instances not fit for purpose. There is a potential risk that work undertaken was not at the standards of competency and experience that would be expected for a large-scale public procurement of this kind.
- iii. It is alleged that the council does not have a contract with Brick by Brick Croydon Ltd relating specifically to the Fairfield Halls project but a license and there is a potential risk that procurement regulations may not have been fully met.
- iv. It is alleged that the costs incurred during the delivery of the scheme increased over the estimated budget and there is a potential risk that the Council has not implemented effective governance arrangements over the lifetime of the project to control costs.

6. We require reassurance that these risks of potentially unlawful behaviour have been quantified and are available to Scrutiny to verify that they do not impact this decision.

Other risks have been identified:

- i. Loan agreement which funded the refurbishment was not signed by either party.
- ii. Brick by Brick were notified as being in breach of the Facility Agreement, actions were required, none were forthcoming, yet the Council continued to lend Brick by Brick money.
- iii. Council authorised 75%/25% loan to equity funding ratio, was always 100% loan.

7. We require reassurance that these shortcomings do not impact this decision or increase risk.

2.4 The outcomes desired from the Call-In is to gain reassurance on the areas outlined above.

3. CALL-IN PROCEDURE

3.1 The Council's Constitution, Part 4E Scrutiny & Overview Procedure Rule, states:

"11.08 The referral shall be considered at the next scheduled meeting of the Scrutiny and Overview Committee unless, in the view of the Borough Solicitor, this would cause undue delay. In such cases the Borough Solicitor, will consult with the decision-taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny and Overview Committee may only consider a maximum of three referrals at any one meeting.

11.09 At the meeting, the referral will be considered by the Committee which shall determine how much time it 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 the 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.

- 11.10 *The Scrutiny and Overview Committee may refer the decision to the Council if it considers that the decision taken by the Leader or Cabinet is outside the Budget and Policy Framework of the Council. 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.*
- 11.11 *If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.*
- 11.12 *If the Council determines that the decision was within the Policy Framework and consistent with the Budget, it 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 after the referral from the Council.*
- 11.13 *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.*
- 11.14 *If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with paragraph 11.08 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place."*

CONTACT OFFICER: Simon Trevaskis
(Senior Democratic Services and Governance Officer)
020 8726 6000 x 84384
Simon.Trevaskis@croydon.gov.uk

APPENDIX A is the completed call in form that was received by the Monitoring Officer

APPENDIX B is the Key Decision Notice

APPENDIX C is the Novation of building works and profession services contracts from Brick by Brick for Fairfield Halls - Cabinet Report

APPENDIX D is the associated confidential part B Cabinet report for this item.

PROFORMA

REFERRAL OF A KEY DECISION TO THE SCRUTINY AND OVERVIEW COMMITTEE

For the attention of: For the attention of: Victoria Lower and Anoushka Clayton-Walsh, Democratic Services & Scrutiny e-mail to Victoria.lower@croydon.gov.uk and Anoushka.clayton-walsh@croydon.gov.uk

Meeting: Cabinet
Meeting Date: 26th July 2021
Agenda Items No: 8 and 13

Key Decision: **NOVATION OF BUILDING WORKS AND PROFESSION SERVICES CONTRACTS FROM BRICK BY BRICK FOR FAIRFIELD HALLS No.: 3821CAB**

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: Yes see below:**

Cost escalation

At the 17th May 2021 Cabinet it was agreed that “the Council recognises the costs of the Fairfield Halls refurbishment, being a total of £69.261 million”. At the Scrutiny call-in of that decision the Section 151 Officer stated that “It won’t get any worse in terms of cost transfer from Brick by Brick. The figure is the figure. The £69.261 million is the figure.” It now appears the figure is not the figure.

•We require reassurance that the costs are properly understood and under control.

Rejected options

Option to keep the contracts with Brick by Brick, until practical completion, was rejected.

•We require reassurance that this option is not a better option.

•We require reassurance that the risks are properly understood and under control.

It is now recommended that contracts are novated ahead of the completion of final accounts due to changes in the structure of the financial mechanism regarding the Fairfield Halls refurbishment.

•We require understanding of these changes and reassurance that this is the better option.

Risks

Brick by Brick’s contractual arrangements are highly unusual. Work promised has not been delivered. For example, according to the Outline Brief and Scope for Licence replacement double glazing in existing frames predominantly to the West elevation using high-performance solar-treated laminated glass would be provided. A Councillor question shows this was not provided.

•We require an understanding of the implications of the licence agreement and what this means for delivery of the Vinci and other contracts, risks and future costs to the Council.

A value for money audit has been charged with determining the extent of potential risks:

1. The articles of association for Brick by Brick Croydon Ltd outline that it is for housing development, so in undertaking the refurbishment of Fairfield Halls, there is a potential risk that it may have been operating outside of its permitted scope of activity.
2. It is alleged that the work delivered was of poor quality and in some instances not fit for purpose. There is a potential risk that work undertaken was not at the standards of competency and experience that would be expected for a large-scale public procurement of this kind.
3. It is alleged that the council does not have a contract with Brick by Brick Croydon Ltd relating specifically to the Fairfield Halls project but a license and there is a potential risk that procurement regulations may not have been fully met.
4. It is alleged that the costs incurred during the delivery of the scheme increased over the estimated budget and there is a potential risk that the Council has not implemented effective governance arrangements over the lifetime of the project to control costs.

•We require reassurance that these risks of potentially unlawful behaviour have been quantified and are available to Scrutiny to verify that they do not impact this decision.

Other risks have been identified:

1. Loan agreement which funded the refurbishment was not signed by either party
2. Brick by Brick were notified as being in breach of the Facility Agreement, actions were required, none were forthcoming, yet the Council continued to lend Brick by Brick money.
3. Council authorised 75%/25% loan to equity funding ratio, was always 100% loan.

•We require reassurance that these shortcomings do not impact this decision or increase risk.

The outcome desired:

To gain reassurances as described above.

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

1. Original Vinci contract and variation orders as have been used by the Council in coming to this decision.
2. All the EU state aid law advice obtained by the Council in setting up and further public funding of Brick by Brick Limited obtained in June 2016 from Gowling WLG

Signed: Councillor Robert Ward

Date: 2nd August 2021

R. C. Ward.

Vice-Chair of Scrutiny and Overview Committee

Co-Signed via email by:

Councillors Leila ben Hassel (Deputy-Chair) and Sean Fitzsimons (Chair).

LONDON BOROUGH OF CROYDON

To: All Members of Council
Croydon Council website
Access Croydon & Town Hall Reception

PUBLIC NOTICE OF KEY DECISIONS MADE AT THE CABINET MEETING ON MONDAY, 26 JULY 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 3 August 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?CId=183&MId=2751>

Other options considered and rejected: As set out in the reports
<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=183&MId=2751>

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: 3A CROYDON BEST START

Key Decision No.: 3721CAB

Details of decision:

Having carefully read and considered the Part A 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 re-design of the Best Start Children's Centres into a 3 Hubs and 8 Spokes locality model to provide greater efficiency and co-ordination of service delivery within a reduced budget. This recommendation has been informed by public consultation.
2. Note that the Director of Commissioning and Procurement as Chair of the Contracts & Commissioning Board has approved the Procurement Strategy contained in this report and a number of waivers in accordance with Regulations 19.2 of the Council's Contracts and Tender Regulations. The Procurement Strategy will potentially result in Contract awards for a maximum value of £1,431,533, of which for Lot 1, Child Development and School Readiness services is £1,162,533 and for Lot 2, Parent Aspirations and Parenting Skills services is £269,000. Contracts will be for a term of 2 years and 4 months.

Agenda Item: 5 PRIVATE SECTOR HOUSING ASSISTANCE POLICY 2021

Key Decision No.: 1821CAB

Details of decision:

Having carefully read and considered the Part A 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 Private Sector Housing Assistance Policy 2021 ("the Policy"), Appendix A to the report.
2. Delegate authority to the Executive Director of Housing to make minor amendments to the Policy including in relation to typographical errors or updating post holders titles as necessary.
3. Note that in respect of the 6 month Pilot Scheme detailed at paragraph 3.4 of the report and Section 10 of Appendix A, the outcome of the Pilot will be reported back to Cabinet to determine whether or not it is appropriate for the Pilot scheme to be incorporated into the Private Sector Assistance Policy beyond that 6 month time frame.

**Agenda Item: 7 2021/22 (PART) LOCAL IMPLEMENTATION PLAN
FUNDING, BUS PRIORITY FUNDING AND ACTIVE
TRAVEL FUNDING PROGRAMME**

Key Decision No.: 3621CAB

Details of decision:

Having carefully read and considered the Part A 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 agree

1. The expenditure of external ring-fenced funding indicated within Table 1 of Section 3 of the report, expenditure, subject to any further advice of the S151 Officer / Director of Finance, Investment and Risk.
2. The delivery of the potential programme summarised within Section 3 of report, the extent and scope of that programme dependent on funding allocations to Croydon Council still to be confirmed by TfL; and subject to other matters outlined in Section 3 of the report.

**Agenda Item: 8 NOVATION OF BUILDING WORKS AND PROFESSION
SERVICES CONTRACTS FROM BRICK BY BRICK FOR
FAIRFIELD HALLS**

Key Decision No.: 3821CAB

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. Agree to proceed with the novation of the Fairfield Halls refurbishment contracts and associated contracts, with outstanding costs to borne by the Council, once certified by the Quantity Surveyors (Chronos Ltd) (not including any potential additional remedial works)
 - i. Novation of the Principal Contractor (Vinci) building works contract from Brick by Brick to the Council, and financial commitment for outstanding retentions.
 - ii. Novation of the Contract Administrator (MICA Architects) contract from Brick by Brick to the Council.

- iii. Novation of the Quantity Surveying (Chronos Ltd) contract from Brick by Brick to the Council.
- iv. Novation of other professional services contracts from Brick by Brick to the Council.
- v. Assignment of completed contracts warranties and guarantees.

2. Note:

- i. The recommendations above could not be made under delegated authority (as envisaged in the May Cabinet report) due to its potential overall value
- ii. Brick By Brick will continue to pay relevant contractors on the Council's behalf whilst the recommended novations are completed, from 1st April and forecasted to August 2021 these payments are under £50,000 (managed under delegated authority)
- iii. The progress of the non-intrusive survey works

Agenda Item: 13 NOVATION OF BUILDING WORKS AND PROFESSION SERVICES CONTRACTS FROM BRICK BY BRICK FOR FAIRFIELD HALLS

Key Decision No.: 3821CAB

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:

The Leader of the Council delegated authority to the Cabinet to make the following decisions:

RESOLVED: To

- 1. Agree to proceed with the novation of the Fairfield Halls refurbishment contracts and associated contracts, with outstanding costs to borne by the Council, once certified by the Quantity Surveyors (Chronos Ltd) (not including any potential additional remedial works)
 - i. Novation of the Principal Contractor (Vinci) building works contract from Brick by Brick to the Council, and financial commitment for outstanding retentions.
 - ii. Novation of the Contract Administrator (MICA Architects) contract from Brick by Brick to the Council.
 - iii. Novation of the Quantity Surveying (Chronos Ltd) contract from Brick by Brick to the Council.
 - iv. Novation of other professional services contracts from Brick by Brick to the Council.
 - v. Assignment of completed contracts warranties and guarantees.

2. Note:
- i. The recommendations above could not be made under delegated authority (as envisaged in the May Cabinet report) due to its potential overall value
 - ii. Brick By Brick will continue to pay relevant contractors on the Council's behalf whilst the recommended novations are completed, from 1st April and forecasted to August 2021 these payments are under £50,000 (managed under delegated authority)
 - iii. The progress of the non-intrusive survey works

Signed: Council Solicitor and Monitoring Officer

Notice date: 27 July 2021

Contact Officers: Victoria.lower@croydon.gov.uk and Anoushka.clayton-walsh@croydon.gov.uk

Scrutiny Referral/Call-in Procedure

1. The decisions may be implemented **1300 hours on 3 August 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: 27 July 2021

Contact Officers: victoria.lower@croydon.gov.uk and Anoushka.clayton-walshe@croydon.gov.uk

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For General Release – Part A

REPORT TO:	CABINET 26 July 2021
SUBJECT:	Novation of building works and professional services contracts from Brick by Brick for Fairfield Halls
LEAD OFFICER:	Interim Executive Director for Place, Sarah Hayward Director of Public Realm, Steve Iles
CABINET MEMBER:	Councillor Oliver Lewis, Cabinet Member for Culture and Regeneration
WARDS:	All

SUMMARY OF REPORT:

In accordance with the agreement in principle of Cabinet on 17th May 2021, Croydon have been in the process of novating the building works and professional services contracts from Brick by Brick. This will allow for the final accounts to be reviewed and completed, with responsibility transferring to the Council.

Brick by Brick have been undertaking the refurbishment of Fairfield Halls entertainment venue on behalf of the Council since 2016. Upon completion of the works the contracts were planned to be assigned to the Council for future management and liability.

Due to changes in the structure of the financial mechanism regarding the Fairfield Halls refurbishment, as agreed at May Cabinet, it is recommended that the contracts are novated ahead of the completion of the final accounts. This will give the Council the ability to assess the works completed, commission any further works needed, and take on all risks associated with the venue.

COUNCIL PRIORITIES:

This report arises from the May Cabinet decision that specified the refurbishment of Fairfield Halls should be categorised as a capital works programme, and agreed in principle to the novation of the contracts.

This report will ensure that the proposals for the Fairfield Halls refurbishment align with the Council's New Ways of Working:

- We will live within our means, balance the books and provide value for money for our residents.
- We will focus on tackling ingrained inequality and poverty in the borough. We will follow the evidence to tackle the underlying causes of inequality and hardship, like structural racism, environmental injustice and economic injustice.
- We will focus on providing the best quality core service we can afford. First and foremost, providing social care services that keep our most vulnerable residents safe and healthy. And to keep our streets clean and safe.

To ensure we get full benefit from every pound we spend, other services in these areas will only be provided where they can be shown to have a direct benefit in keeping people safe and reducing demand.

FINANCIAL IMPACT:

The Council will take on financial responsibility for any remaining projected payments to the relevant contractors, contract administrator, quantity surveying and other professional services as part of the final accounting processes for the Fairfield Halls Refurbishment Project.

KEY DECISION REFERENCE NO.: 3821CAB

The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee.

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

1. RECOMMENDATIONS:

Following Cabinet decisions of 17th May 2021, Cabinet is recommended to:

- 1.1 Agree to proceed with the novation of the Fairfield Halls refurbishment contracts and associated contracts, with outstanding costs to borne by the Council, once certified by the Quantity Surveyors (Chronos Ltd) (not including any potential additional remedial works)
 - i. Novation of the Principal Contractor (Vinci) building works contract from Brick by Brick to the Council, and financial commitment for outstanding retentions.
 - ii. Novation of the Contract Administrator (MICA Architects) contract from Brick by Brick to the Council.
 - iii. Novation of the Quantity Surveying (Chronos Ltd) contract from Brick by Brick to the Council.
 - iv. Novation of other professional services contracts from Brick by Brick to the Council.
 - v. Assignment of completed contracts warranties and guarantees.
- 1.2 Note:
 - i. The recommendations above could not be made under delegated authority (as envisaged in the May Cabinet report) due to its potential overall value
 - ii. Brick By Brick will continue to pay relevant contractors on the Council's behalf whilst the recommended novations are completed, from 1st April and forecasted to August 2021 these payments are under £50,000 (managed under delegated authority)
 - iii. The progress of the non-intrusive survey works

2. EXECUTIVE SUMMARY

- 2.1 Brick by Brick have undertaken the refurbishment of Fairfield Halls on behalf of the Council and, following the May Cabinet decision, the costs have been

reclassified as capital expenditure and Cabinet agreed in principle to the novation of the refurbishment contracts.

- 2.2 Since May Cabinet, the Council has been working with Brick By Brick to undertake due diligence on the existing refurbishment contracts. The works are now approaching practical completion and final accounting activities are underway. As such, there are outstanding cost claims to work through.
- 2.3 It is prudent for the Council to novate the current live contracts and completed contracts with collateral warranties from Brick by Brick. This is to make the Council the client for novated contracts (snagging, defects, and warranty and guarantees) supporting the future management of the venue.
- 2.4 Novation will release and discharge Brick by Brick from its contracts and the Council will have transferred to it all the rights and obligations under those novated contracts.
- 2.5 The eventual costs associated with novation are anticipated to be significantly lower than the sum Cabinet is recommended to agree to in recommendation 1.1. The sum includes a contingency and a range of issues across a range of contracts that are still to be verified by the professional services providers also being novated as part of this report. The detail of these issues is set out in the part B report.

3. BACKGROUND

- 3.1 The Council commissioned plans for a refurbished Fairfield Halls in November 2013 following approval by Cabinet. This was further refined in September 2014 with plans presented to Cabinet for a Cultural Quarter, including a refurbished Fairfield Halls at the heart of the redevelopment.
- 3.2 Further details of the refurbishment financing and cultural vision for the venue were provided in two Cabinet updates in June 2016.
- 3.3 Brick by Brick commenced refurbishment of Fairfield Halls in August 2016.
- 3.4 As explained in the May Cabinet report, the refurbishment of Fairfield Halls was undertaken by Brick by Brick at what was intended to be at nil cost to the Council as the arrangement was structured in such a way that the costs would be covered by the development profit from the adjacent College Green site. Following the February Cabinet decision, this arrangement was no longer taking place, which meant that Brick by Brick no longer had the capacity to fund the expenditure on Fairfield Halls. Therefore, Cabinet decided in May to treat all the costs incurred by Brick by Brick on the refurbishment as Council capital expenditure.
- 3.5 It has always been the intention to assign the contracts to the Council upon completion of the refurbishment works. Due to the February Cabinet decision, however, it was considered to be prudent to undertake a novation

process ahead of the final accounts being settled. It was decided at May Cabinet to agree in principle to the novation of the existing Fairfield Halls refurbishment contracts with Brick By Brick to the Council (subject to review of the individual contracts, to be finalised and authorised by the Interim Executive Director of Place under their delegated authority). However, due to the overall potential costs under those existing contracts, which had been discovered as part of due diligence work with Brick By Brick, this decision is now above Executive Director delegation and, as such, is being recommended to Cabinet.

- 3.6 The novations will bring the financial and delivery risks back to the Council and ensure that the Council is able to, if necessary, enforce any warranties or guarantees.

4. NOVATION OF PRINCIPAL CONTRACT (VINCI) CONTRACT

4.1 Brick by Brick have an existing contract with Vinci for the refurbishment of Fairfield Halls.

4.2 The contract is now at final completion stage, with ongoing conversations between Brick by Brick and Vinci regarding the final account. These discussions are being supported by the contract administrator partner (MICA) and cost management and quantity surveying partner (Chronos).

- 4.3 It is recommended that the Vinci contract is novated to the Council to undertake these final account activities. This will:
- Place the risk liability on to the Council.
 - Establish the Council as the client for outstanding works, snagging and defects.
 - Establish the Council as the client for warranties and guarantees.

5. NOVATION OF CONTRACT ADMINISTRATOR (MICA) CONTRACT

- 5.1 Brick by Brick have an existing contract with MICA to:
- Liaise with Brick by Brick and the design team to issue necessary certification together with appropriate appendices and qualifications.
 - Assist Chronos and Brick by Brick in determining the final account and in-turn the remaining certificates.
 - Review potential Extension of Time claims from Vinci.

5.2 To ensure that works continue to determine the final account, Brick by Brick will continue to pay MICA until the novation of the contract. Croydon will bear the cost of these works.

5.3 It is recommended that the MICA contract is novated to the Council to undertake these final account activities.

6. NOVATION OF QUANTITY SURVEYING (CHRONOS) CONTRACT

- 6.1 Brick by Brick have an existing contract with Chronos to:
- Fulfil the role of quantity surveyor limited to the assessment and valuation of contract variations and loss and expense claims for the purposes of assisting and advising the Client in respect of interim valuations and final account certification.
 - Continue to monitor and advise the Client on all contract variations including:
 - Variations
 - Extension of Time matters
 - Loss and Expense claims
 - Advise the Client in regard to retention release and calculation of any liquidated and ascertained damages under the Building Contract.
 - Assess and agree the final account submitted by the Contractor at completion.
 - Issue certificate for release of final retention sum.
- 6.2 To ensure that works continue to determine the final account, Brick by Brick will continue to pay Chronos until the novation of the contract. Croydon will bear the cost of these works.
- 6.3 It is recommended that the Chronos contract is novated to the Council to undertake these final account activities.

7. NOVATION OF ALL OTHER PROFESSIONAL SERVICE CONTRACTS

- 7.1 Brick by Brick have other existing contracts for professional services that are directly engaged on the Fairfield Halls refurbishments. These professional services fulfil the roles of Principal Designer, Architects, other Designers/Engineering and Health & Safety advice. These other professional services contracts are:
- MICA Architects Ltd (principal designer and architect)
 - Max Fordham LLP (building services engineer)
 - Trenton Fire Ltd (fire safety engineer)
 - AKS Ward Ltd (structural engineer and civil engineer)
 - Interface Facade Engineering Ltd (façade engineering)
 - Goddard Consulting LLP (health and safety consultants and advisors)
- 7.2 It is recommended that the other professional service contracts above are novated to the Council to undertake these final account activities.

8. ASSIGNMENT OF COMPLETED CONTRACTS

- 8.1 In addition to the live contracts, above, there are also a number of completed contracts that need will be assigned to the Council so that the Council has the benefit of any warranties or guarantees (as was always the intention).

- 8.2 The other contracts to be assigned are:
- All Foundations UK Ltd
 - GRP Safety
 - Roofglaze Ltd
 - Steelway Fensecure Ltd
 - Southdown (Construction) Metalwork Ltd
 - Centre Stage Engineering Ltd
 - Stage Electrics Partnerships Ltd
 - Camclad (Steelwork) Ltd
 - SERS Energy Solutions Ltd
 - Kirwin & Simpson Ltd
 - Vitrine Systems Ltd
 - Kingsley Roofing (London) Ltd
 - Elevators Ltd
 - Designer M&E Services UK Ltd

9. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 9.1 The long term commitments from the building works (warranties and guarantees) have always been envisioned to transfer from Brick by Brick to the Council upon practical completion of the refurbishment of Fairfield Halls.
- 9.2 Due to the changing financial position of the Council and the subsequent decision to halt the redevelopment of the College Green site, the legal and accounting position of the refurbishment shifted. Following the May Cabinet decision, the refurbishment has now be considered as a capital programme of the Council.
- 9.3 Novation of the live contracts from Brick by Brick to the Council will make the Council the client in regards to settling the final accounts, snagging, defects, warranties and guarantees. This will make any future repair and maintenance more straightforward to manage.

10. OPTIONS CONSIDERED AND REJECTED

- 10.1 From the outset of the project it was envisioned that the contracts would be assigned back to the Council after practical completion of the refurbishment. This follows good legal practice as the freeholder of the building. Therefore, other options have been considered and rejected. These options are:
- Terminate the contracts
 - Keep the contracts with Brick by Brick until practical completion

11. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

11.1 Revenue and Capital consequences of report recommendations

There is no specific budget provision for the actual and potential costs arising from the novation of these contracts from Brick by Brick to the Council. Under the arrangements that existed prior to the novation these costs would have been met by Brick by Brick who would have sought loan funding from the Council. There remains an existing capital budget provision for loan funding which it is proposed to vire to meet the costs arising from the novation.

11.2 The effect of the decision

Financial responsibility for the final accounting of the contracts, will transfer to the Council.

11.3 Risks

The final account of the Principal Contractor (Vinci) contract will continue to be assessed throughout the remaining life of the contract with assistance from the Contract Administrator (MICA), Quantity Surveyors (Chronos) and other professional services. There are claims under the contract to be settled as part of the final accounting process which are currently unconfirmed, therefore, a contingency budget has been included.

These costs are limited to the existing scope of works under the contract and excludes any additional works that maybe advised under the VFM review.

11.4 Options

Recommended to approve the novation of the contracts, detailed above.

11.5 Future savings/efficiencies

There are no proposed savings or efficiencies through this novation.

Approved by: Chris Buss Interim Director of Finance, Investment and Risk.

12. LEGAL CONSIDERATIONS

12.1 The Interim Head of Commercial & Property Law comments on behalf of the Interim Director of Law and Governance that the novation of the 'live' contracts will transfer all the rights and obligations under those contracts to the Council and release Brick by Brick from its obligations.

12.2 The recommended course of action is a lawful means for placing the Council in the best overall position to enforce warranties and guarantees and to carry out any additional works required (in compliance with procurement law as may apply depending on the nature and value of works to be carried out).

12.3 Cabinet previously agreed to the novation of the Fairfield Halls refurbishment contracts in principle (subject to review of the individual contracts, to be finalised and authorised by the Interim Executive Director of Place under

their delegated authority) on 17th May 2021. As explained in this report, due diligence work has been undertaken and the potential overall value of the novated contracts is beyond the remit of the Interim Executive Director of Place under their delegated authority and, as such, is recommended to Cabinet. The Council may exercise its general power pursuant to Section 1 of the Localism Act 2011 to make the decisions recommended in this report.

Approved by: Nigel Channer, Interim Head of Commercial & Property Law on behalf of the Interim Director of Law and Governance & Deputy Monitoring Officer

13. HUMAN RESOURCES IMPACT

- 13.1 There are no immediate human resources implications from this decision. If any should arise these will be managed under the Council's policies and procedures.

Approved by: Jennifer Sankar, Head of Place & Housing Department for and on behalf of Sue Moorman, Director of Human Resources

14. EQUALITIES IMPACT

- 14.1 There is no equalities impact from this decision.

Approved by: Gavin Hanford, Director of Policy and Partnership

15. ENVIRONMENTAL IMPACT

- 15.1 There is no environmental impact from this decision.

16. CRIME AND DISORDER REDUCTION IMPACT

- 16.1 There is no crime and disorder impact from this decision.

17. DATA PROTECTION IMPLICATIONS

- 17.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

Approved by: Sarah Hayward, Interim Executive Director of Place

CONTACT OFFICER: Robert Hunt, Interim Head of Assets & Involvement, ext 63309.

BACKGROUND DOCUMENTS: None

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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