

For General Release

REPORT TO:	CABINET 20 June 2016
AGENDA ITEM:	8
SUBJECT:	Brick by Brick Croydon Limited – Property and Financial
LEAD OFFICER:	Richard Simpson, Assistant Chief Executive (Corporate Resources and Section 151 officer)
CABINET MEMBER:	<i>Cllr Alison Butler, Cllr Simon Hall</i>
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: <u>The Croydon Promise: Growth for All</u> The site is highlighted as a key central Croydon project. <u>Croydon Challenge</u> Contribute positively to the Council's financial position and therefore the goals of the Croydon Challenge. <u>Community Strategy</u> Development of sites enables the Council to deliver new homes and increase the supply of affordable homes, a key aspiration of the Community Strategy 2013-18. <u>Corporate Plan 2013-15</u> <u>Housing supply is relevant to a number of targets within the Corporate Plan.</u> The proposals presented in this report: <ul style="list-style-type: none">• Maximise the use of the Council's assets to deliver new homes, including affordable housing, private for sale and private rented stock.• Enable an innovative commercial model which will benefit the Council financially and help meet savings targets.• Brings forward the development of key sites across the borough addressing key local, regional and national policies.• Secures improved community facilities.	
FINANCIAL IMPACT The disposal of these sites delivers a key priority of the asset strategy. The Council will receive value for the land whilst also supporting the delivery of the priority of affordable housing. The Council will also receive income by acting as funder to the company. In addition the Council will gain from the development profit as 100% shareholder in the company.	
KEY DECISION REFERENCE NO.: 14/16/CAB. This is a Key Decision as defined in	

the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.

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

1. RECOMMENDATIONS

The Cabinet is recommended to:

1.1 Approve that the sites listed in Appendix A (in the Part B papers) be disposed to Brick by Brick Croydon Limited subject to satisfactory terms and conditions being reached to the satisfaction of the Assistant Chief Executive (Corporate Resources and Section 151 officer) acting in consultation with the Cabinet Members for Homes and Planning and Finance and Treasury, and that the scope of this delegation includes whether to dispose of the site by freehold or by way of long leasehold but in line with the indicative terms of proposal set out in Part B.

1.2 Approve that the Council lend Brick by Brick Croydon Limited funding to progress the development of the sites and that such funding will include funding for professional services to be received by Brick by Brick, funding for construction costs ('development finance') and funding for working capital and that the Assistant Chief Executive (Corporate Resources and Section 151 officer) be given delegated authority to finalise and agree the terms of such lending acting in consultation with the Cabinet Member for Finance and Treasury.

1.3 Approve that, where considered necessary by officers, and subject to the consideration of any objections by the Assistant Chief Executive (Corporate Resources and Section 151 officer) acting in consultation with the Cabinet Member for Finance and Resources, that the sites listed in Appendix A be appropriated for planning purposes pursuant the Council's powers under section 122 of the Local Government Act 1972 and/or under section 226 of the Town and Country Planning Act or such other relevant statutory powers as may be relevant in each case, prior to their disposal to Brick by Brick.

1.4 Note the governance and monitoring processes set out in this report.

2. EXECUTIVE SUMMARY

2.1 This report sets out the detailed property, land and financial transactions between the Council and 'Brick by Brick Croydon Limited', the development company established by the Council to deliver housing led development across the borough. The report builds on a number of previous reports that considered the shortage of homes in the borough and recommended the establishment of Brick by Brick as a means by which the Council could help generate an additional supply of new homes, including affordable homes.

2.2 The company has a number of characteristics that help it to help deliver the required step-change in the delivery of new homes in Croydon. As a company which has an industrial/commercial character it is able to respond more quickly to new opportunities in the market place, placing it on an equal commercial footing to private sector developers.

2.3 The typical development model involves the Council selling land to Brick by Brick under terms which ensure market value is achieved, or on terms which otherwise satisfy the Council's statutory duty to secure best consideration. Brick by Brick then undertakes development activity on this land, delivering new residential space (both private and affordable), community space and other uses. Any development profit realised by Brick by Brick creates dividend which is then returned in full to the Council as sole shareholder, or is reinvested into further development activity at the direction of the Council as shareholder.

2.4 In some cases, the Council will also provide development finance for specific schemes (at comparable market rates). The interest paid by Brick by Brick provides a further revenue source to the Council which may be rolled up over time. This report recommends that delegated authority be given to the Assistant Chief Executive (Corporate Resources and Section 151 officer) to finalise and agree the terms of such lending acting in consultation with the Cabinet Member for Finance and Treasury.

3. DETAIL

Background

3.1 The housing challenges in Croydon are well chronicled. Their nature and extent varies greatly, from poor standards in private rented properties through to the number of households in temporary accommodation and the need to help older people remain independent at home. The Council is already tackling these and a host of other issues, with notable recent successes being the introduction of a private sector landlord licensing scheme that is helping to ensure residents are living in safe, well-maintained properties.

3.2 Perhaps the greatest challenge for Croydon, along with the rest of London, remains the provision of new homes, particularly affordable homes. The borough's population is rising and is set to rise still further in the years ahead and aside from the number of homes needed, the affordability of homes for both purchase and for rent is increasingly challenging for many Croydon households.

3.3 With various factors generating greater and greater demand for housing in the borough, it is clear that 'business as usual' is not an option. For that reason the Council has over the past 18 months set out a hugely ambitious agenda for increasing the supply of new homes and affordable homes in Croydon, with a headline target to start construction of an average of 1,900 units per annum.

3.4 Clearly, the private sector will be instrumental if these targets are to be met, and through the Local Plan and the planning process we are working with developers to deliver new homes across the borough with considerable success. However, the Council also needs to take a direct role in delivery if these ambitious figures are to be realised. The borough is a significant land owner in its own right, and there is huge potential for new homes to be delivered on council land.

3.5 Traditionally the Council has delivered housing through land disposal or joint venture agreements with developers, a process which sometimes did not allow the Council to fully benefit from any uplift in land values and development returns. This has led Croydon and several other forward thinking local authorities to seek a much greater commercial role in development and house building by establishing development companies.

3.6 The Brick by Brick structure has a number of characteristics that help it to fully benefit from development activity and deliver the required transformational change in the delivery of new homes in Croydon. It is flexible in its approach, able to pursue projects individually or in partnership, and as a company which has an industrial/commercial character it is able to respond quickly to new opportunities. As the sole shareholder, any profit arising from company activity wholly accrues to the Council.

3.7 Brick by Brick commissions professional services (e.g. architecture, engineering, surveying etc.) to allow it to progress development activity. This includes a variety of services which it commissions from the Council, such as design and development management, financial, legal and company administration services. These services are charged out by the Council at market rates.

3.8 The initial stages of site development involve site appraisal and analysis leading to a planning application which addresses specific site constraints and opportunities. Once planning consent is in place, Brick by Brick will use a variety of approaches to deliver the development schemes including direct delivery via building contractors and/or agreements with other developers and/or investors. Brick by Brick has committed to adopting the Croydon Business Charter which will maximise local employment and the use of the local supply chain in development activity.

3.9 The intention is for Brick by Brick development activity to directly benefit local communities. For example:

- The programme will create much needed new homes of a variety of tenures and priority will be given to local residents through the sales and/or letting process.
- For schemes delivered by Brick by Brick which include an affordable housing component, consideration is being given as to whether the affordable housing should be owned in the long term by the Council (within the housing revenue account), a Council owned Registered Provider (e.g. Croydon Homes) or another registered provider. This will be agreed on a case by case basis as the detailed applications for schemes come forward on individual sites and will be dealt with in the terms of disposal between the Council and Brick by Brick.
- Where community facilities exist on the sites to be developed, these will be replaced with new, purpose built facilities which address local need.
- Where public car parking exists on the development sites, the new schemes will include new parking facilities.

Work completed to date – smaller sites

3.10 A key focus of work by the Council to date has been to develop a detailed knowledge of the development potential of smaller council owned sites. The first stage of this involved the completion of site analysis and technical due diligence work on sites identified by a review of council owned land assets. The intention of this initial phase was to identify developable sites, help de-risk them from a construction point of view, and to ensure that any barriers to development were highlighted prior to the commencement of any design or planning stages.

3.11 The analysis undertaken across the sites was detailed and included work in the following disciplines:

- Site Planning Constraint review
- Measured, Boundary and topographical surveys
- Utilities infrastructure assessments
- Geotechnical Survey (borehole and lab test to assess possible contamination)
- Gas monitoring & testing
- Flood risk scoping analysis
- High level financial viability report
- High level assessment of Rights of Light issues
- Existing building survey where appropriate
- Historic use assessment
- Archaeological survey
- Asbestos analysis
- Ecology survey
- Photographic survey

3.12 Following completion of this work, further analysis was undertaken with regard to potential development phasing and programming (i.e. which sites could be brought forward quickly and which sites may need further work undertaken due to certain delivery constraints).

3.13 It was subsequently agreed by the Brick by Brick Board to commission a selection of architectural and technical consultancies to undertake design and development work on these sites, including a detailed financial viability appraisal of each site. On completion of this work, the Board agreed to progress work to RIBA Stage 2 on those sites which were viable as per the appraisals, with a view to submitting planning applications on those sites between July and September 2016. This work is now underway and a summary of the sites can be found in Appendix 1 of Part B.

3.14 Overall, the smaller sites programme aims to deliver 1040 units of which 519 will be affordable and approximately one quarter will be 3 bed homes or larger. This equates to 50% affordable housing provision which is a huge increase on other development approaches. By way of comparison, the average affordable housing provision on mixed tenure schemes across the borough from 2011-2015 was c23%.

College Green Development

3.15 The College Green development has been the subject of several previous Cabinet reports and comprises a £30m investment into Fairfield Halls, a c200,000sqft

new college/university building and approximately 2,000 new residential units alongside new public realm, retail and leisure space. A hybrid planning application was submitted in February 2016 and it is due to be considered by planning committee in July/August 2016.

3.16 As per the other sites suitable for immediate development across the borough, it is proposed to use the Brick by Brick structure to bring forward those elements of the College Green scheme where the council holds land interests and/or options. This will at least include Phase 1 (the refurbishment of Fairfield Halls, the initial residential development, the enabling works for the college facility and some public realm works) and Phase 2 (the delivery of the new college building, the redevelopment of the existing college land and the remainder of the public realm works).

3.17 The process would involve the transfer of land interests of the relevant parts of the site to Brick by Brick under terms as set out in Part B of the report. Brick by Brick would complete the £30m package of improvement works to Fairfield Halls under licence.

Transfer of land to Development Company

3.18 In order to bring forward development, Brick by Brick must own the land or have a contractual right to call for land. With respect to council owned land, Brick by Brick presents proposals to the Council for sites based on the opportunities identified by their site analysis work. Any sale of land by the council to Brick by Brick is subject to the usual controls on land disposal and the council has to satisfy itself that the offer meets best consideration and is state aid compliant. The approval process for the disposal operates under the current regulations with respect to assets as set out in the Council's Financial Regulations.

3.19 Following detailed analysis, Brick by Brick has proposed to purchase a number of council sites and has set out the terms for this purchase. These are detailed in Appendix 1 of Part B of this report.

3.20 The indicative terms for the disposal are detailed in Part B. It is proposed that the land is appropriated for planning purposes prior to disposal where such land is no longer required for the purpose for which it is held (in reliance on its powers under section 122 of the Local Government Act 1972 or the Town and Country Planning Act 1990) where the council believes that this will facilitate the carrying out of development, re-development or improvement which is likely to contribute to the economic, social or environmental well being of the area, or which is required in the interests of the proper planning of the area in which the land is situated. This report seeks that the Assistant Chief Executive Corporate Resources and section 151 officer acting in consultation with the Cabinet Members for Homes and Planning and Finance and Treasury, be given delegated authority to deal with the appropriation process including the publication and /or serving of any required notices and to consider any subsequent objections (where relevant) to any proposed appropriations as part of determining whether or not to appropriate land intended to be transferred to Brick by Brick.

3.21 These proposed disposal terms have been analysed by the Head of Assets for best consideration purposes and determined to be best consideration for the purposes of section 233 Town and Country Planning Act 1990 (where land has been so

appropriated) or for the purposes of section 123 Local Government Act 1990 (where it has not) or, if applicable so as to facilitate disposal (subject to the need for Secretary of State consent) pursuant to section 32 Housing Act 1985 in respect of land held for the purposes of Part 2 of that Act). Although none of the sites currently have planning consent, consideration has been given to the proposed schemes for the purpose of valuation with an assumption that these will be granted. All disposals will be subject to the inclusion of overage or claw back clauses so that if the final schemes offer an increased number of units generating a higher value, the Council's position will be protected.

3.22 When assessing best consideration the number of units in the current proposals has been adopted together with the split between affordable (and the type of affordable housing) agreed as part of the disposal agreement. This will be in line with the planning guidance received each site and the definitions for affordable and intermediate housing adopted are as set out in the NPPF guidance. For each site the build costs adopted and likely capital value for the affordable, intermediate and private sales has been considered in detail to reflect the location and any specific site issues such as the relocation of services or challenging topography.

3.23 As part of the valuation for each site, the capital value where possible of any additional benefits has also been considered as part of the value to the Council when comparing against the best consideration. The values for each site have been provided in Appendix 1 in the Part B report.

Lending to the Development Company

3.24 Brick by Brick can use a variety of approaches to deliver the development schemes including direct delivery via building contractors and joint ventures with other developers and/or investors. The company will need to address any private sector concerns as cross default - i.e. how risk on one project may impact on another. This is of equal concern to the Council as shareholder. As such, it may be prudent for Brick by Brick to set up a number of special purpose vehicles/subsidiaries to the company to 'ring fence' liability between projects. Should this be the case, they will be agreed with the Council as shareholder on a case by case basis.

3.25 Brick by Brick will seek development funding from the council on a site-by-site basis as required. The Council can provide funding by way of an equity investment and also as debt to the project. Each application is assessed individually and the Council is required to lend at market comparable terms and rates. The funding, if agreed, is allocated from the 'Revolving Investment Fund'.

3.26 The power under section 3 of the Local Authorities (Land) Act 1963 enables the Council to make an advance for the purchase of land, or for carrying out development by the company subject to 90% debt ceilings based on the land value and estimated development value on completion. Advances made must carry a rate of interest no less than $\frac{1}{4}$ percent more than the rate that would be charged by HM Treasury in respect of loans to the Council granted at the same time as the advance, and for the loan period.

3.27 Section 24 Local Government Act 1988 gives the Council the power to lend money to landlords, (other than local authorities) to acquire or develop property for rental purposes. Although the consent of the secretary of state is needed (under

section 25 of that Act), a general consent has been issued in this regard. This would, for example, facilitate the development/acquisition of PRS homes by Brick by Brick, should that be applicable.

3.28 Where the Council provides finance, the Council must comply with the law on state aid. This means that any funding (which might otherwise distort competition) will be provided on market terms and the Council will ensure that it has the benefit of suitable security. This could result in funding costs which are significantly higher than ¼ percent over HM Treasury levels, and independent advice will be taken as to the appropriate levels and terms of funding, paying particular regard to cost, debt versus equity, repayment and security.

3.29 As such, the lending will have a positive impact on the Council's income and expenditure account as significant income will be accrued on the interest charged. The financial risk to the council of providing development finance relates mainly to default on the loan if the development was not successful. This risk is managed through the robust processes in place for assessing the scheme and by the company's ability to cross-fund from other developments that it would be delivering as part of its development portfolio.

3.30 The current estimates of proposed lending from the RIF to Brick by Brick for construction and professional fees are detailed in Appendix 1 in the Part B of this paper.

Ongoing monitoring by Council

3.31 A detailed Business Plan is reviewed annually between the company and the Council (as shareholder) and no other changes to the business plan are expected to be made without shareholder approval. The company will also provide a detailed Annual Report to the Council.

3.32 The Board of the company is made up of two independent members (Jayne McGivern and Jeremy Titchen) and two council nominated members (Colm Lacey, Director of Development and Lisa Taylor, Assistant Director of Finance and Deputy 151 Officer). Information as to the operation and performance of the company will be provided on an ongoing basis to the Board of the company. Officers of the Council attend Board meetings (and receive Board papers) in an observer capacity on behalf of the Council as shareholder.

3.33 A new Member Steering Group is also being established, to be chaired by the Cabinet Member for Homes and Planning. Officers will report on an ongoing basis to this group and also provide an annual progress report to Cabinet, to be presented alongside the annual Company Business Plan and Company Annual Report.

3.34 The Council will have further controls commensurate with what reasonably minded investor would seek:

- As a lender, controls will exist within the loan agreement and security document (i.e. a debenture) which provides a fixed and floating charge over the development company's assets.

- As a seller of land, the land documentation may contain provisions that determine the use of the relevant property (but which do not amount to a procurement of works/services).
- The terms of appointment of directors will include reference to financial protocols for the development company regarding making investments with/without the consent of the Council.

4. CONSULTATION

4.1 There has been detailed consultation regarding the development company proposals as part of three previous Cabinet papers:

- Wholly owned housing company – an option for tackling the shortage of homes in Croydon, 29 September 2014
- Growth for the Prosperity of All: Growth Plan & District Centre Investment and Place Plans, 29 September 2015
- Homes – our 10 priorities, 16 March 2015

4.2 Detailed engagement on each of the sites proposed for development will be undertaken by the District Centres and Regeneration team, and also by Brick by Brick themselves as part of the pre-app planning process. This is likely to take the form of public exhibitions and presentation of development options online and in other media. There will also be a statutory public consultation process as part of the planning process.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

1. The effect of the decision

The detailed financial implications are set out in Part B. The disposals of the land if approved will deliver a significant capital receipt for the Council that can be invested in the borough.

Acting as funder to the development will deliver a revenue income from the interest earned. The Council will lend at a margin on its borrowing costs.

2. Risks

The risk for the Council are in effect the risks of development. The body of the report has set out the due diligence that has been done and the monitoring arrangements that will be in place to ensure that the development is successful.

3. Options

All relevant vacant land is surplus to the Council's requirements for alternative uses.

(Approved by: Richard Simpson Assistant Chief Executive (Corporate Resources and Section 151 officer)

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

6.1 On behalf of the Acting Council Solicitor and Acting Monitoring Officer, it is commented that the majority of legal considerations relevant to the recommendations

of this report are set out in the body of the report. In particular, the report addresses above the powers of the Council to lend money subject to state aid rules and the need for the Council to obtain best consideration where it disposes of land whether this disposal is made under section 123 of the Local Government Act 1972 or section 233 of the Town and Country Planning Act 1990. To enable appropriation, appropriation that is proposed to be made will, in certain circumstances, need to be advertised for two weeks in a local newspaper and any objections considered. Any appropriation in such circumstances will therefore be subject to the outcome of the advertisement and consideration of objections. Legal advice will be given as to the appropriate route to be followed to appropriate land in relation to each site as necessary.

(Approved by: Sean Murphy, Principal Corporate Solicitor (Regeneration) on behalf of the Acting Council Solicitor & Acting Monitoring Officer)

7. HUMAN RESOURCES IMPACT

7.1 The Council's intention is that the development company is a 'shell' company with no directly employed staff. The development company will have a contract (or SLA) for services with the Council and as a consequence engage the services of a number of Council employees to undertake specific projects and assignments connected with the company, but whose work will not be wholly or mainly assigned to the work of the company, or to the exclusion of other activities specifically for the Council. Whilst this remains the case the provision of the Transfer of Undertaking Regulations (2006) are not likely to apply.

If in the future the development company proposed activities / changes to be undertaken that would trigger any requirements under TUPE, consultation with affected staff and their representatives on the proposed changes will need to be managed in accordance with the Council's HR procedures.

(Approved by Adrian Prescod, HR Business Partner, for and on behalf of Director of HR, Resources Department)

8. EQUALITIES IMPACT

8.1 The impact of the proposals to be delivered through the structures outlined in this report on protected groups are expected to be positive. The provision of new affordable housing, maintaining and improving existing, social housing and tackling poor private housing conditions, meeting housing need and preventing homelessness, providing housing support and high quality housing management services are all expected to benefit groups with protected characteristics.

9. ENVIRONMENTAL IMPACT

9.1 No specific adverse environmental impacts have been identified resulting from the proposals contained in this report. Any environmental issues arising from site development will be regulated by the planning and building control processes.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 No specific adverse crime and disorder impacts have been identified resulting from the proposals contained in this report. Any secure by design issues arising from site development will be regulated by the planning and building control processes.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 The basis for the recommendations set out in this report are set out in previous Cabinet reports, including the opportunities to deliver real benefits to local people through developing new homes, infrastructure and community facilities, and the jobs, opportunities and stronger vibrant communities that will also flow from that growth.

12. OPTIONS CONSIDERED AND REJECTED

12.1 Options considered for the development of land across the borough to address housing need have included the disposal of land on the open market to enable development and the procurement of developers via development agreement to take forward sites. These were rejected as neither option is as commercially efficient as the proposals contained in this paper, and they do not maximise the direct benefit to local residents from development in their borough.

CONTACT OFFICER: Richard Simpson

BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

The documents below are already published

- Wholly owned housing company – an option for tackling the shortage of homes in Croydon, Cabinet 29 September 2014
- Growth for the Prosperity of All: Growth Plan & District Centre Investment and Place Plans, Cabinet 29 September 2015
- Homes – our 10 priorities, Cabinet 16 March 2015
- College Green Cultural and Educational Quarter Cabinet Report, 20 Oct 2015

App No / Officer	Address	Proposal	Current use
16/05891/FUL Q13 Minor Dwellings [REDACTED]	Land To The West Of 83, 85 And 113 Hermitage Road Upper Norwood London SE19 3QN	Erection of a part three part four storey building comprising no. 6 two bedroom and 1 one bedroom flats and 1 two storey two bedroom and 1 three storey three bedroom house together with car parking, landscaping and associated works	Incidental open space at the end of cul-de- sac offering limited benefits. Hardstanding areas gated and limited use by residents
16/05998/FUL Q13 Minor Dwellings [REDACTED]	Garages To The Rear Of 122 - 124 Chertsey Crescent Croydon CR0 0DB	Demolition of garages and erection of 4 two bedroom and 3 three bedroom houses with provision of landscaping and associated works.	Site comprises of 21 garages serving the estate. Only 6 garages are in use and of these only 3 by local residents. The garages are also smaller than the minimum requirements for modern cars.
16/06000/FUL Q13 Minor Dwellings [REDACTED]	Garages To The Rear Of 485 - 487 King Henry's Drive Croydon CR0 0AJ	Demolition of garages and erection of four two/three storey buildings comprising 4 one bedroom, 1 two bedroom flats and 2 three bedroom houses, provision of car parking, landscaping and associated works.	Garage area plus hardstanding. Of the 19 garages only 6 are let and of these 3 to local residents. The garages are also smaller than the minimum requirements for modern cars.
16/06023/FUL Q07 Small Scale Dwellings [REDACTED]	Land To The Rear Of 89 - 157 Regina Road South Norwood London SE25 4TR	Demolition of garages. Erection of four storey building comprising 5 one bedroom and 6 two bedroom flats. Erection of 1 three bedroom and 2 one bedroom single storey houses and 5 two storey one bedroom houses with provision of car parking, landscaping and associated works.	An area mainly consisting of garages plus bin stores and hard standing. Of the 40 garages, only 8 are let to residents within 2 miles of the site. The garages are also smaller than the minimum requirements for modern cars.
16/06024/FUL Q07 Small Scale Dwellings	Land To The East Of 22 - 32 Northbrook Road Croydon CR0 2QL	Erection of a three/ four storey building comprising 6 one bedroom and 5 two bedroom flats with provision of car parking, landscaping and associated works.	The site forms an open space at the corner of the site between two of the blocks. Adjacent to the site is an area of local open land and both Grangewood Park and South Norwood Rec are within 1km offering much better open space

<p>██████████ ██████████</p> <p>16/06029/FUL</p> <p>Q13 Minor Dwellings</p> <p>██████████ ██████████</p>	<p>Land To The Rear Of Malton House 193 Selhurst Road South Norwood London SE25 6LE</p>	<p>Demolition of garages. erection of single/three storey building comprising 4 two bedroom and 5 one bedroom flats .provision of associated car parking, landscaping and associated works.</p>	<p>Small garage and hard standing area. Out of the 5 garages, 3 are currently vacant.</p>
<p>16/06030/FUL</p> <p>Q13 Minor Dwellings</p> <p>██████████ ██████████</p>	<p>Land And Garages Rear Of 94 And 96 Uvedale Crescent Croydon CR0 0BQ</p>	<p>Demolition of garages and erection of 4 part single part two storey buildings comprising 2 houses and 4 flats with provision of car parking, landscaping and associated works.</p>	<p>Area of hardstanding and garages. All 24 garages are currently vacant and are in poor repair. The garages are also smaller than the minimum requirements for modern cars.</p>
<p>16/06031/FUL</p> <p>Q07 Small Scale Dwellings</p> <p>██████████ ██████████</p>	<p>Land To The East Of Montpelier Road And Land And Garages South Of 75-135 Kingsdown Avenue South Croydon CR2 6QL</p>	<p>Demolition of existing garages and erection of 1 six storey building comprising 9 two bedroom, 1 one bedroom and 1 three bedroom flats, 1 four storey building comprising 4 two bedroom and 2 one bedroom flats and 13 three bedroom and 4 two bedroom houses. Provision of associated car parking, landscaping and associated works</p>	<p>A mixed site providing amenity land and a small amount of garaging. The amenity land is sloping incidental open space comprising of grass and mature trees. An application for Village Green status was rejected. Out of the 8 garages, 4 are used by local residents but all are smaller than the minimum requirements for modern cars.</p>
<p>16/06273/FUL</p> <p>Q13 Minor Dwellings</p> <p>██████████ ██████████</p>	<p>Garages R/O 126-130 Coldharbour Road Croydon CR0 4DW</p>	<p>Demolition of garages and erection of a two-storey building comprising 4 one bedroom and 4 two bedroom flats together with landscaping and other associated works</p>	<p>Site comprises of a garage court with a total of 24 garages. These are generally in poor condition and only 7 let with only 3 of these being used by local residents. . The garages are also smaller than the minimum requirements for modern cars.</p>
<p>16/06275/FUL</p> <p>Q13 Minor Dwellings</p> <p>██████████ ██████████</p>	<p>Garages South East Of Eagle Hill Upper Norwood London</p>	<p>Demolition of garages and erection of a two-storey building comprising 4 one bedroom and 4 two bedroom flats together with landscaping and other associated works.</p>	<p>Site comprises of a garage court with a total of 23 garages. These are generally in poor condition and only 13 let with only 5 of these being used by I residents living within 1 mile of the site. The garages are also smaller than the minimum requirements for modern cars.</p>

16/06276/FUL Q13 Minor Dwellings [REDACTED]	Land South Of 25-39 Drovers Road South Croydon CR2 6PR	Erection of a three-storey building comprising 9 one bedroom flats together with provision of car parking, landscaping and other associated works	An area of existing car park for 18 vehicles and grassed area located within the inner area of a U shaped flatted development. Amenity area of poor quality and some parking to be provided within scheme but the site is located in an area with very good public transport and has a PTAL rating of 5
16/06337/FUL Q07 Small Scale Dwellings [REDACTED]	Garage Blocks Rear Of 38 - 40 Thorneloe Gardens Croydon CR0 4EN	Demolition of garages and erection of a two to three-storey building comprising 6 one bedroom and 4 two bedroom flats together with car parking, landscaping and other associated works.	Area comprising of 20 garages and hardstanding. Out of the 20 units only 2 are let and both occupiers live more than 3 km from the site. The garages are also smaller than the minimum requirements for modern cars.
16/06343/FUL Q07 Small Scale Dwellings [REDACTED]	Cheriton House 20 Chipstead Avenue Thornton Heath CR7 7DG	Demolition of former care home. Erection of four storey building comprising 20 one bedroom and 4 two bedroom flats. Erection of three storey building comprising 3 one bedroom flats together with car parking, landscaping and associated works.	Former care home that has been declared surplus as part of the New for Old scheme. Vacant for about 7-8 years
16/06366/FUL Q13 Minor Dwellings [REDACTED]	Land Adjacent To Academy Gardens Croydon CR0 6QH	Erection of a three-storey building comprising 9 one bedroom with landscaping and other associated works	A grassed parcel of land of 0.15 hectares in size which contains a number of trees to the southeast side of Academy Gardens. There is a public footpath to the western side of the site which links Academy Gardens to Lower Addiscombe Road.
16/06374/FUL Q07 Small Scale Dwellings [REDACTED]	Land Adjacent To The South Of 2 Harold Road And Land Adjacent To Ravensdale Gardens Upper Norwood London	Demolition of garages. Erection of four/ five/ six storey building comprising 14 two bedroom and 1 one bedroom flats. Erection of 2 three-storey and 11 two-storey three bedroom houses with associated car parking, landscaping and associated works.	The site comprises of two main areas: Site A comprises of 14 garages plus open land and a substation. Site B contains 37 garages, hardstanding and landscaped area. Out of the 51 garages only 14 are let to residents within 1.5 miles of the site. The new scheme dose provide car parking and a new play area.

16/06400/FUL Q07 Small Scale Dwellings [REDACTED]	Homefield House 57 Homefield Road Coulston CR5 1ET	Demolition of former care home. Erection of 1 three storey building comprising 5 one bedroom and 5 two bedroom flats. Erection of 6 two bedroom and 8 three bedroom houses. Formation of vehicular access and provision of associated car parking, landscaping and other associated works.	Former care home that has been declared surplus as part of the New for Old scheme. Vacant for about 7-8 years
16/06422/FUL Q07 Small Scale Dwellings [REDACTED]	Land Adjacent To Malling Close And Land Adjacent To Stockbury Road Croydon	Demolition of a single-storey temporary structure and garages. Erection of a four/ six storey building, 3 three-storey buildings and 1 two/four storey building to provide a total of 18 one bedroom and 23 two bedroom flats. Formation of vehicular access and provision of associated car parking, landscaping and other associated works	A mixed site forming part of the Tolgate childrens centre and part garage block. The land within the childrens centre is not currently used and the nursery building being affected is to be reprovided at Mitchem Road. The garage block comprises of 8 units of which 7 are let but only 4 to local residents. The garages are also smaller than the minimum requirements for modern cars.
16/06432/FUL Q07 Small Scale Dwellings [REDACTED]	Land And Existing Demountable Houses (Nos. 49A - 49E, 129A - 129E And 131A - 131B) To The East Of Warbank Crescent New Addington Croydon CR0 0AZ	Demolition of existing demountable houses and erection of 3 single/ three-storey buildings comprising 21 two bedroom and 15 one bedroom flats, formation of vehicular access and provision of associated car parking, landscaping and other associated works.	The site currently comprises 12 demountable dwellings which are single-storey, parking courts and an electrical substation. Two of these houses are currently occupied however the occupiers are in the process of moving out.
16/06438/FUL Q07 Small Scale Dwellings [REDACTED]	Land To The South Of 73 - 131 Marston Way Upper Norwood London SE19 3JB	Demolition of garages and erection of 11 three bedroom and 1 two bedroom houses, provision of associated car parking, landscaping and other associated works	The site consists of 48 garages in total and are arranged in two linear rows over two levels, with land levels falling steeply from north to south. There is an electrical substation to the northern part of the site. Although 39 garages are let, only 11 are let to residents living within 1.5 miles of the site. The new development does contain some new parking provision. The garages are also smaller than the minimum requirements for modern cars.
16/06469/FUL Q07 Small	Land North Of The Junction Of Church Street And Drummond	Erection of 2 four-storey buildings comprising a total of 16 one bedroom and 12 two bedroom flats and 327 sq m of retail space (Use Class A1-A3) on the ground	Two pay and display surface car parking areas with a combined total of 65 spaces. Typically these have a 50% occupancy at peak times and the Drummond Road site is

Scale Dwellings [REDACTED]	Road And Land South East Of The Junction Of Tamworth Place And Drummond Road Croydon CR0 1RL	floor level, with provision of car parking, landscaping and other associated works.	unofficially used to service some of the retail units in the area. The town centre development study for parking has demonstrated that a reduction of between 200-1000 spaces could be accommodated. The design for the Drummond Street development has a suitable area for servicing local retail units.
16/06491/FUL Q07 Small Scale Dwellings [REDACTED]	24 Station Road South Norwood SE25 5AF	Erection of a four/ five storey building comprising 10 one bedroom and 4 two bedroom flats and 227 sq m commercial space (Flexible Use Class A1 - A3 and D1) together with landscaping and other associated works.	Former retail unit that was acquired by the Council about 2 years ago. The proposed development includes the re-provision of active frontage space on the ground floor.
16/06505/FUL Q07 Small Scale Dwellings [REDACTED]	Land And Garages At Goodenough Way And Ellis Road Coulsdon CR5 1DX	Demolition of existing garages, substation, refuse stores and community centre. Erection of 7 buildings varying in height between two and three storeys comprising 18 three bedroom and 4 two bedroom houses and 14 two bedroom and 4 one bedroom flats and 161 sq m community centre space (Use Class D1) . provision of associated car parking, landscaping and other associated works.	Current area is a mix of garages, communal space, bin stores, parking, a community building and a substation. The proposed development will re-provide many of these facilities and include the provision of new play space and a community building.
16/06508/FUL Q07 Small Scale Dwellings [REDACTED]	Parcels Of Land Adjacent To Longheath Gardens And Long Lane Croydon CR0 1XT	Demolition of existing garages and erection of 6 buildings varying in height between two and six storeys comprising a total of 23 two bedroom and 30 one bedroom flats. Provision of associated car parking, landscaping and other associated works.	Mixture of garages, hard standing and grass amenity areas. The amenity areas are generally less well used due to their proximity to the existing blocks. Out of the 40 garages, 30 are let to residents within a 1.5 mile radius but all are too small for modern cars being less than 2.8m x 5.0m
16/06512/FUL Q07 Small Scale Dwellings	Parcels Of Land Adjacent To Auckland Rise, Church Road And Sylvan Hill London SE19 2DX	Demolition of buildings and erection of 7 buildings varying between three and four storeys in height comprising 29 two bedroom and 28 one bedroom flats. Provision of associated car parking, landscaping and other associated works	Current use of the area is for outbuildings serving the existing units, two blocks of garages and estate office and bin stores. The amenity land is of low quality much is sloping and there are better areas nearby. A childrens play area is to be provided as part of the development.

<p>16/06514/FUL</p> <p>Q07 Small Scale Dwellings</p>	<p>Land And Garages South West Of The Junction Of Heathfield Road And Coombe Road Croydon CR0 1EL</p>	<p>Demolition of the existing garages, relocation of existing substation and erection of one three-storey building comprising ten flats and one part three, part four storey building comprising seven flats and three houses together with external stores and substation re-provision, car parking, landscaping and other associated works</p>	<p>Out of the 21 garages only 12 are let to residents within 1.5miles of the site.</p> <p>Site comprises of incidental amenity land, a sub station (relocated), parking and 20 garages. The garages are smaller than the minimum requirements for modern cars and therefore it is questionable as to how many are used for parking. The area has a PTAL rating of 6a (highest) and therefore it is anticipated that many residents will not have a car. Within the development the loss of parking is re-provided.</p>
<p>16/05976/FUL</p>	<p>20-20cOxford Road Upper Norwood SE19 3JH</p>	<p>Demolition of existing demountable houses and erection of 4 two storey buildings comprising 5 two bedroom and 3 one bedroom flats and 1 three bedroom house with provision of associated car parking, landscaping and associated works.</p>	<p>The site comprises of 4 demountable homes with surface car parking. The demountable units have always been viewed as a short term option and the initial planning was granted for 3 years and subsequently extended. All occupiers are being re housed.</p>

Appendix A

BxB Site Name	Site Address	Current Use	Development Description	Private Homes	Shared Ownership Homes	Affordable Rent Homes	Total Homes	Planning
Warminster Road garages	land south of no.s 27-32 Avenue Gardens, Warminster Road, SE25 4EB	garages	Demolition of existing garages and the erection of a three storey building to provide six units together with landscaping and other associated works.	6	0	0	6	Planning granted 23/01/18 17/05954/FUL
Lion Green Road car park	Lion Green Road, Coulsdon, CR5 2NL	public car park	Redevelopment of site to provide 5no. five, six,seven storey buildings providing 96 one bedroom, 42 two bedroom and 19 three bedroom flats: provision of vehicular access, residential and town centre car parking spaces, hard and soft landscaping works and new private and public amenity space.	78	46	33	157	Resolution to grant - referral to Mayor 17/06297/FUL
Coulsdon Community Centre	Land north of Barrie Close , CR5 3BE	Community Centre	Demolition of existing community centre and erection of 33 residential units comprising 4 one bedroom flats, 12 two bedroom flats and 17 three bedroom houses, together with provision of car parking, landscaping and other associated works	17	8	8	33	Planning granted 17/06216/FUL
CALAT, Coulsdon	41 Malcolm Road, CR5 2DB	CALAT centre	Retain existing building for use by Coulsdon Community Centre with 34 Parking spaces. Construct separate building to provide primary care NHS servuce with 5 parking spaces.	0	0	0	N/A	Planning granted 17/06216/FUL
Windmill Road	Garage Block And Forecourt Between 145 And 147, Windmill Road, Croydon, CR0 2QU	Garages and informal car park	Demolition of existing garages and erection of one three storey building to provide three 1 bedroom and three 2 bedroom flats, together with car parking, landscaping and other associated works.	0	0	6	6	Planning Granted 17/05872/FUL
Planning Submitted awaiting Decision								
Edridge Road/Coombe Road	Land Adjacent To Coombe Road and Edridge Road Croydon	green space	Erection of a three storey building to provide eight one bedroom flats with accommodation in the roof space and the erection of a two storey 3 bedroom house with accommodation in the roof space with landscaping and other associated works	9	0	0	9	In Planning 17/06330/FUL

Wandle Road car park	Surface level car park adjacent to Wandle Road Croydon, CR0 1DX	public car park	Redevelopment of part of site to provide part 5, 22 and 25-storey mixed used building, incorporating 128 no. residential units (Class C3) in addition to flexible commercial floorspace (Class A1/A3/B1/D2) on lower levels, as well as new vehicular access, residential car parking spaces, new public realm including shared pedestrian and cycle access through the site.	60	68	0	128	Resolution to Grant (will be subject to referral to Mayor) 17/06318/FUL
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DELEGATED DECISION REPORT TO:	Cllr Simon Hall, Cabinet Member for Finance and Resources
SUBJECT:	Disposal of various sites in the Borough to Brick by Brick Croydon Ltd for Residential Development
LEAD OFFICER:	Steve Wingrave Head of Estates and Asset Management
CABINET MEMBER:	Simon Hall Cabinet Member for Finance and Resources
WARDS:	Various
CORPORATE PRIORITY/POLICY CONTEXT: Corporate Plan - the proposals presented in this report will: <ul style="list-style-type: none"> • Maximise the use of the Council's assets to deliver new homes, including affordable, private for sale and private rented stock • Bring forward the development of key sites across the borough to address key local, national and regional policies • Secure improved community facilities Community Strategy – Development of sites enables the Council to deliver new homes and increase the supply of affordable homes, a key aspiration of the Community Strategy	

FINANCIAL IMPACT The disposal of the various sites will generate a capital receipt with provision to capture any increased value through a clawback mechanism on final completion. There will be an annual loss of income of c£46k due to the redevelopment of rented garage space and the loss of part of the Wandle Road car park In addition the Council will gain from the development profit as 100% shareholder in the Company.
FORWARD PLAN KEY DECISION REFERENCE: N/A

<p>The Leader of the Council has delegated to the Cabinet Member for Finance and Resources the power to make the decisions set out in the recommendations below</p> <p>1. RECOMMENDATIONS</p> <p>1.1 Approve the disposal of the 7 sites detailed in Appendix A to Brick by Brick Croydon Ltd subject to satisfactory terms and conditions being agreed to the</p>

satisfaction of the Executive Director Resources and Section 151 Officer acting in consultation with the Cabinet Member for Finance and Resources, and the scope of the delegation includes whether to dispose of the site by way of a freehold or long leasehold transfer but in line with the indicative terms of the proposal and values for each site are set out within Part B of this report

- 1.2 Approve that, where considered necessary by officers and subject to the consideration of any objections received from residents by the Executive Director Resources and Section 151 Officer and Cabinet Member for Finance and Resources, that the sites listed in Appendix A be appropriated for planning purposes pursuant to the Council's powers under section 122 of the Local Government Act and Section 203 of the Housing and Planning Act 2016 or such other relevant powers as may be relevant in each case, prior to their disposal to Brick by Brick

2. EXECUTIVE SUMMARY

- 2.1 On 20 June 2016, Cabinet agreed to dispose of a number of sites to Brick by Brick Croydon Ltd ('**BxB**') in order to help meet housing needs in the Borough. As part of this recommendation Cabinet also delegated authority to appropriate sites for planning purposes in accordance with the Council's powers under section 122 of the Local Government Act 1975 ('**LGA**') to the Executive Director of Resources (Section 151 Officer), acting in consultation with the Cabinet Member for Finance and Treasury in order to facilitate the individual developments.
- 2.2 This report details those sites which the Council is proposing to transfer to BxB under the next phase of the project. It is proposed that where appropriate these sites will be appropriated for planning purposes.
- 2.3 All sites that involve the disposal of open space will be advertised for two weeks in The Croydon Guardian clearly stating that they would be appropriated and disposed of by the Council.

3. DETAIL

Background

- 3.1 BxB has obtained planning consent for some of the sites listed and where granted this has been included on the details within Appendix A. This includes details as to the number and type of housing to be provided.
- 3.2 All sites have had title reports prepared by external solicitors and an Option Agreement will be entered into for each site.
- 3.3 Where appropriate, sites will be appropriated for planning purposes and the valuations included within Part B have been negotiated with BxB in line with the principles in s233 of the Town and Country Planning Act 1990 (TCPA).

- 3.4 Under s233(1) TCPA a local authority may dispose of land appropriated for planning purposes in such manner and subject to such conditions as appear to the local authority to be reasonable to secure either the best use of the land and or buildings or the construction of new buildings or works that appear to the local authority to be required for the proper planning of the area. A disposal includes an option to purchase the freehold as proposed for these sites.
- 3.5 The local authority has a duty under s233 to dispose of the land for the best consideration it can reasonably obtain except where the consent of the Secretary of State is obtained. It is not considered that Secretary of State consent is required in respect of any of these disposals.
- 3.6 Consideration has been given to the issue of State Aid which has been considered within section 7 of this report.
- 3.7 In line with the Department for Communities and Local Government disposal guidance issued in March 2016, the Council has considered the main principles set out to ensure the land is effectively and efficiently disposed of.
- **Every disposal to have a clear objective** – the requirement to provide additional housing and especially affordable housing within the Borough has been the clear objective throughout the process.
 - **Disposal rooted in local plans** – under the current Local Plan, SP2.4 has an aspiration to provide up to 50% affordable housing for any development of 10 or more properties with smaller developments paying a commuted sum. The planning consents for the 7 sites, when reviewed overall deliver this mix of private and affordable housing.
 - **Early and meaningful engagement with public and other bodies and the market** – an engagement process has been undertaken with other public bodies and organisations for a number of the key sites to try and accommodate or build in their requirements where possible and in particular within the 3 sites in Coulsdon.
 - **Appropriate level of investment prior to disposal** – all the sites have either been granted or have been submitted for planning consent. All sites will have consent granted prior to disposal and extensive ground investigation and local consultation undertaken.

4. VALUATION

- 4.1 The requirement for the local authority to achieve Best Consideration requires them to be able to demonstrate that the proposed valuation represents the best price that could reasonably be achieved for the asset. This will reflect the likely planning consent achievable, or actual consent in place and disregards any voluntary conditions imposed by the authority in respect of the site. Therefore in the case of these sites the valuations will reflect the overall aspirations to achieve 505 affordable housing.

- 4.2 All the sites have already been granted or have been submitted for planning consent. All will be subject to the completion of s106 agreements which will not be completed until after completion of the Option Agreements transferring the land to BxB. The valuations have been undertaken on the basis that these consents are in place.
- 4.3 Although valuations have been considered for each site based on the actual consented schemes or the submitted schemes for the individual planning consents, they have been adjusted where appropriate if, sites are being linked in respect of the provision of the required affordable housing or community buildings. This mainly applies to the 3 sites in Coulsdon as within the planning recommendations they are all tied in with the suggested following phasing:
- Phase 1: Re-providing the community use at the former CALAT site (this needs to be completed before any other development on the other sites can be started)
 - Phase 2: Redevelopment of the Lion Green Road site (including affordable housing delivery)
 - Phase 3: Provision of residential at the former community building site with the affordable delivery first
 - Phase 4: Provision of the new D1 Community use (possible NHS healthcare facility) on the southwest part of the former CALAT site, ideally prior to completion of Lion Green Road.
- 4.4 Valuations have been undertaken by the Head of Estates and Asset management who is an MRICS Registered Valuer. The methodology and approach follows that previously adopted for the first tranche of disposals where several of the valuations were undertaken by external valuers, Lambert Smith Hampton and are therefore in line with current market practice.
- 4.5 The valuations have been undertaken on the basis of Market Value (MV) as defined in the Royal Institution of Chartered Surveyors Valuation – Professional Standards UK January 2014 (as amended April 2015) subject to the following assumptions:
- The sites have vacant possession
 - The properties have planning consent for the schemes
 - The schemes have the tenure mix as identified in Appendix 1
 - The affordable rented units have been valued in accordance with the Councils social rent charging policies.
- 4.6 The building costs adopted within the valuations have been estimated by BxB cost consultants as pre contract tender costs were not available at the time of the valuations. The valuations undertaken by the Council have included a benchmarking exercise with reference to BCIS data and consultation with the in house projects team. Some pre contract tender prices have now been received and are being reviewed but these have generally supported the original cost consultant's estimates. The valuations undertaken in-house have therefore adopted these original figure as representing the most accurate basis. As the costs are still not finalised.
- 4.7 As part of the terms of the Option Agreements, the Council has included a clawback provision. This allows for a revised valuation appraisal to be carried

out on completion of the works and disposal of the properties. This will be carried out on the same basis as the original but utilising actual costs and capital receipts. If this demonstrates a greater profit than the original valuation then the Council will retain 100% of the increase in value. This will allow any variance in build costs and sale prices to be reflected to ensure best consideration is obtained.

- 4.8 In addition, the Option Agreements will contain a second review mechanism which will review all the completed developments to assess whether any balancing payments are required should either less than the whole portfolio detailed in Appendix A have been drawn down and developed by a long stop date of 4 years or that the number of affordable units required under the original planning consents and the valuations have not been provided.
- 4.9 The three Coulsdon sites have been considered as a mini tranche and the values for each site adjusted to reflected the provision of some of the planning requirements on a different site. For example, the provision of the medical centre on the Malcolm Road site rather than Lion Green as required under the original planning consent. From a valuation perspective this is considered a reasonable approach as the requirements are reflected in the planning requirements and if valued independently, the valuations would not be an accurate reflection.
- 4.10 Where sites demonstrate a negative land value due to the number of affordable units being provided a zero value has been adopted and the value of any linked donor sites reduced to offset the deficit. Given the nature of the planning consents this is considered to be a reasonable approach to demonstrate that best value is achieved across the sites as a whole.
- 4.11 As required by the definition of best consideration, any voluntary conditions imposed by the Council have been disregarded within the Council's valuations.

5. CONSULTATION

- 5.1 The Council will advertise its intention to appropriate and dispose of the sites listed in the Croydon Guardian and invited those affected by the developments to provide representations to the Council to be considered.

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

The sale of the 7 sites will generate a capital receipt and if the planning consents are granted will provide 339 new residential units in the borough of which 50% will be affordable units

As a result of the sale there will be a loss of income through the development of existing garage sites, public parking areas and changes to existing lease structures. The loss of income through the garage sites is difficult to assess as many are vacant due to the current poor state of repair and transient nature of the lettings. The redevelopment of the Lion Green Road car park will mitigate any losses through the provision of 116 new public parking spaces which will come back to the Council.

The terms agreed for the relocation of the Coulsdon Community Centre will lead to a small loss of income as the new lease will be agreed at a peppercorn as part of the relocation package.

Risks

- 6.1 The inclusion of a clawback provision that allows 100% of any additional profit to be retained by the Council removes the risk of not capturing the benefit of future beneficial price changes. Given the number of sites being developed, and the period of time the developments will take, this is considered essential to help secure the best value is achieved.
- 6.2 There is a risk that a third party could challenge the approach taken by the Council to the valuations by way of judicial review. However, external legal advice has been sort and proper advice has been obtained and acted upon.
- 6.3 The risk that the developer will not complete the development or provide the necessary affordable units is addressed through the Option Agreement which has step in rights and the planning consents and s106 agreements.

Options

- 6.4 It would be possible to dispose of the sites on an individual or packaged basis to other private developers following a full marketing exercise. It is not believed that this would secure a better financial outcome given the planning consents that have been granted. Many of the sites are challenging to develop and would not appeal to many developers or secure a better offer.

Future savings/efficiencies

- 6.5 The redevelopment of these surplus sites will help to reduce ongoing maintenance and security costs associated with them and also help to generate additional revenue through new homes bonus. The provision of the affordable elements of the schemes will also help to alleviate the reliance on the Council to provide social housing and therefore offer further savings as a result.

Approved by Richard Simpson Executive Director Resources and S151 Officer

7. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 7.1 Powers of appropriation – the power of the Council to appropriate is contained in s122 of the Local Government Act 1972 and external legal advice has been followed in this regard.
- 7.2 Open Space – those sites that contain open space have been advertised in accordance with external legal advice.
- 7.3 Best consideration – legal advice has been taken as to the approach taken to assessing best consideration across the portfolio. BxB has the option to draw down sites, not an obligation to do so. The Council could be left therefore with challenging sites to deliver as there is no requirement for these to be drawn

down in tranches/packages. A revaluation mechanism will be included in the option agreement that allows the Council to take the approach to best consideration described in paragraph 4.3 above.

- 7.4 Public Contracts Regulations 2015 ("Regulations") – the option agreement does not contain an enforceable obligation on BxB to undertake the relevant works. The lack of such an enforceable obligation means that the option agreements are not subject to a requirement on the Council to procure a developer under the Regulations. The consequence of this is that the Council cannot force BxB to undertake the works but can step in and complete each project should BxB fail to do so.
- 7.5 State aid – a state aid claim could arise because of an alleged disposal of land at an undervalue. A circular issued by the European Commission provides a defence to any such claim provided the land is not sold at less than a figure which has previously been determined by an independent valuation. Council officers confirm that this is the case. The Circular does not address the disposal of land in tranches or by way of a portfolio nor does case law exist on this point so far as legal advisors are aware. However, Gowling WLG is of the opinion that the Council would have a reasonably robust defence provided the agreement with BxB provides a mechanism for balancing payments to be made in the event of non-delivery.
- 7.6 Non-payment of sums due – note that the option agreement will contain two mechanisms for revaluing sites at practical completion. The first is the through a clawback mechanism and the second will assess whether any balancing payments are required should less than the whole portfolio be drawdown by a long stop date of 4 years. The ability of BxB to meet these payments is of course dependent on its covenant strength at the time. Whilst the Council will have a legal charge over the asset, the benefit of this security will depend on the then value of the underlying security.

(Approved by: Sean Murphy, Head of Commercial and Property Law and Deputy Monitoring Officer)

8. HUMAN RESOURCES IMPACT

- 8.1 There is no human resources impact as a result of this decision.

9. EQUALITIES IMPACT

- 9.1 The impact of the housing developments to be delivered will be positive. The provision of new affordable housing, tackling poor private housing and meeting housing need by providing a greater percentage of affordable housing than through other private schemes are all expected to benefit groups with protected characteristics.

10. ENVIRONMENTAL IMPACT

- 10.1 There is no direct environmental impact as a result of this decision but all developments taking place as a result of the proposed schemes will be fully compliant with the current building regulations and in particular the provisions within Part L. The developments will also have a positive impact on many of the sites that currently have older and in some cases semi derelict buildings.

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 There will be no impact on crime and disorder as a result of the appropriation of the land. However, the subsequent development of many of the sites that represent rundown buildings or garage blocks will significantly improve the local environment and help reduce crime and anti-social behavior.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1 The disposal of the sites will help to ensure the developments are progressed as quickly as possible and help deliver a high number of high quality properties including shared ownership and affordable rented units.

13. ALTERNATIVE OPTIONS CONSIDERED

- 13.1 The only real alternatives are to either not develop the sites or look to sell them to a number of separate developers which for the reasons detailed above, has been rejected as it is believed that the disposal to BxB will achieve the best outcome and secure best consideration for the sites.

**CONTACT OFFICER: Steve Wingrave Head of Asset Management and Estates
ext 61512**

BACKGROUND PAPERS:

Appendix A Planning Details for each site

											Number of Units							
Site No	Name	Tranche	Dev Profit on cost	BxB Land Value	Ground Rents	BxB Site Value plus GR	LSH/LBC Land Value	BXB GDV	LBC GDV	LSH GDV	Private	Affordable	GIFA (m2)	Build and Contractors cost	£/m2/GIA	£/sqft/GIA	LSH Costs	
8	Hermitage	1	15	-£ 68,568	£ 49,000	£ -	£ 417,025	£3,735,599	£ 3,886,861	£3,918,000	9		789	£ 2,731,261	£ 3,461.67	£ 321.60	276	16%
11	Regina	1	8	£ 579,347		£ 579,347	£ 579,347	£4,952,500	£ 3,997,027			19 shared	1,485	£ -	#VALUE!	#VALUE!		
20	Kingsdown	1	14	-£ 1,171,032	£ 84,000	£ -	£ -	£13,815,164	£ 13,807,504	£15,740,000	28	6 shared	3,236	£ 11,034,039	£ 3,409.78	£ 316.78	281	13%
42	Oxford Road	1	15	£ 936,830	£ 56,000	£ 992,830	£ 992,830	£4,035,843	£ 3,504,477		9		706	£ 2,108,367	£ 2,986.36	£ 277.44		
46	Northbrook	1	15	£ 48,743	£ 66,000	£ 114,743	£ 114,743	£3,712,676	£ 3,683,322		11		909	£ 2,575,044	£ 2,832.83	£ 263.18		
52	Uvedale	1	8	-£ 328,338	£ -	£ -	-£ 328,388	£1,591,418	£ 906,699			6 rented	514	£ 1,633,303	£ 3,177.63	£ 295.21		
53	King Henrys Drive	1	8	£ 47,429	£ -	£ 47,429	-£ 490,000	£1,810,000	£ 1,101,224	£935,640		7 rented	537		#VALUE!	#VALUE!	209	#VALUE!
56	Chertsey Road Garages	1	8	£ 112,137	£ -	£ 112,137	£ 112,137	£2,345,000	£ 1,659,219			7 shared	619	£ 1,846,539	£ 2,983.10	£ 277.14		
74	Malton House	1	11.9	£ 136,840	£ 24,000	£ 160,840	£ 160,840	£2,835,563	£ 2,177,724		4	5 shared	716	£ 1,994,713	£ 2,785.91	£ 258.82		
				£ 230,000		£ 2,007,326	£ 1,558,534											
9a	Eagle Hill	2	15	£ 209,031	£ 56,000	£ 265,031	£ 265,031	£2,872,791	£ 2,703,083		8		580	£ 1,929,929	£ 3,327.46	£ 309.13		
1	Academy Gardens	2	15	£ 49,323	£ 54,000	£ 103,323	£ 103,323	£2,918,863	£ 2,877,029		9		605	£ 2,018,894	£ 3,337.01	£ 310.02		
4	Marston Way	2	15	£ 1,708,813	£ -	£ 1,708,813	£ 1,708,813	£7,572,933	£ 7,488,932		12		1,322	£ 3,982,322	£ 3,012.35	£ 279.85		
5	Ravensdale (Site A, B and C)	2	15	£ 1,484,222	£ 112,000	£ 1,596,222	£ 1,596,222	£14,260,232	£ 14,444,804		30		2,878	£ 8,749,537	£ 3,040.14	£ 282.44		
10	Tollgate	2	12.3	-£ 55,663	£ 156,000	£ 100,337	£ 100,337	£13,266,234	£ 10,221,450		27	15 rent	3,335	£ 10,314,842	£ 3,092.91	£ 287.34		
23	Drovers Road	2	8	£ 22,136	£ -	£ 22,136	£ 22,136	£2,224,524	£ 1,894,464			9 shared	578	£ 1,802,958	£ 3,119.30	£ 289.79		
38	Homefield House (Option 2)	2	15	£ 882,147	£ 65,000	£ 947,147	£ 1,706,000	£10,299,405	£ 10,538,480	£11,103,775	24		2,361	£ 6,454,736	£ 2,733.90	£ 253.99	£ 233.00	9%
45	Cheriton House	2	8	£ 18,797	£ -	£ 18,797	£ 150,000	£6,203,213	£ 5,113,724	£5,398,023		27 (3r, 24s)	1,859	£ 5,447,412	£ 2,930.29	£ 272.23	213	4%
50	Thorneloe Gdns	2	15	-£ 66,256	£ 60,000	£ -	-£ 6,256	£3,017,663	£ 2,912,738		10		758	£ 2,232,339	£ 2,945.04	£ 273.60		
51	Coldharbour	2	8	£ 40,584		£ 40,584	£ 40,584	£2,285,000	£ 1,708,708			8 shared	541		£ -	£ -		
54	Warbank Terrace	2	8	£ 856,828	£ -	£ 856,828	-£ 1,370,000	£9,604,033	£ 7,006,621	£6,655,909		36 (20r, 16s)	3,129	£ 7,257,994	£ 2,319.59	£ 215.50	£ 200.00	8%
				£ 503,000		£ 5,659,218	£ 4,316,190											
18	Tollers	3	12.1	£ 63,777	£ -	£ 63,777	£ 63,777	£ 15,991,473	£ 12,905,716		22	18 shared	3,872	£ 12,098,571	£ 3,124.63	£ 290.29		
24	Heathfield	3	15	-£ 145,196	£ 114,000	£ -	£ -	£ 7,746,920	£ 6,925,695		20		1,622	£ 5,631,432	£ 3,471.91	£ 322.55		
26	Longheath	3	8	-£ 3,040,949	£ -	£ -	-£ 1,900,195	£ 13,400,190	£9,003,000	£9,003,000		53 (24r, 29s)	4,038	£ 13,820,903	£ 3,422.71	£ 317.98	210	51%
47	Station Road	3	15	-£ 607,803	£ 84,000	£ -	-£ 172,090	£ 5,278,428	£5,082,000	£5,082,000	14 + comm		1,218	£ 4,148,501	£ 3,405.99	£ 316.42	279	13%
60	Drummond Road	3	15	£ 397,147	£ 140,000	£ 537,147	£ 491,511	£ 11,494,736	£11,140,000	£11,140,000	28 + comm		2,278	£ 8,046,368	£ 3,532.21	£ 328.15	321	2%
2 & 28	Auckland	3	12.7	£ 2,035,807	£ 228,000	£ 2,035,807	£ 1,446,227	£ 20,835,341	£19,023,047	£19,023,047	38	19 shared	4,548	£ 13,861,952	£ 3,047.92	£ 283.16		
				£ 4,146,133	£ 566,000	£ 2,636,731	-£ 70,770											

Assuming all negative values are sold for £0
All affordable rented properties not included within bXB land costs to be treated as a commuted payment
Station Road commercial unit, capital allowance to be made to reflect the peppercorn lease
Ground rents only applied to private flats

£ 10,303,275 £ 5,803,954
£ 1,299,000
£ 9,004,275 £ 5,803,954

	1	£	-	28	6 shared
	1	£	675,889	9	
	1	£	2,053	11	
	1	£	-	6	rented
	1	£	-	7	rented
	1	£	112,137	7	shared
	1	£	160,840	4	5 shared
	2	£	210	8	
	2	£	4,719	9	
	2	£	948,156	12	
	2	£	250	30	
	2	£	325	27	15 rent
	2	£	22,136	9	shared
	2	£	3,368	24	
	2	£	18,797	27	(3r, 24s)
	2	£	-	10	
	2	£	40,584	8	shared
	2	£	856,828	36	(20r, 16s)
	3	£	63,777	22	18 shared
	3	£	-	20	
	3	£	-	53	(24r, 29s)
	3	£	-	14	+ comm
	3	£	1,870	28	+ comm
	3	£	1,327,071	38	19 shared
		£	4,239,010		
being sold)		£	4,286,439		

To reflect the negative value of the affordable rented units a commuted sum has been applied to all the 100% private developments to All affordable rented properties not included within bXb land costs to be treated as a commuted payment
Ground rents only applied to private flats and maisonettes
Assuming all negative values are sold for £0

DELEGATED DECISION REPORT TO:	Richard Simpson Executive Director Resources and s151 officer
SUBJECT:	Land Valuations for various sites in the Borough to be sold to Brick by Brick for Residential Development
LEAD OFFICER:	Steve Wingrave Head of Estates and Asset Management
CABINET MEMBER:	Cllr Simon Hall Cabinet member for Finance and Treasury
WARDS:	Various
CORPORATE PRIORITY/POLICY CONTEXT: Corporate Plan Community Strategy The Croydon Promise: Growth for All	

FINANCIAL IMPACT The disposal of the various sites will generate a capital payment of £4.24m with provision to capture any increased value through a clawback mechanism on final completion. Any compensation that becomes payable as a result of the appropriation will be met by Brick by Brick.
FORWARD PLAN KEY DECISION REFERENCE N/A

<p>The Leader of the Council has delegated to the Executive Director of Resources and s151 Officer acting in consultation with the Cabinet Member for Finance and Treasury and the Deputy Leader and Cabinet Member for Homes, Regeneration and Planning the power to make the decisions as set out in the recommendations below</p>	
1.	RECOMMENDATIONS
1.1	Approve the disposal of the 24 sites detailed in Appendix 1 to facilitate the carrying out of the developments proposed as detailed in the respective planning permissions summarised in Appendix 2
1.2	Note and agree that the decision to appropriate two of the 24 sites (Oxford Road and Warbank Crescent) is subject to Secretary of State consent under the Housing Act 1985 and will not be appropriated, and subsequently disposed until the necessary consent has been obtained.

2. EXECUTIVE SUMMARY

- 2.1 On 20 June 2016, Cabinet agreed to dispose of a number of sites to Brick by Brick Croydon Ltd ('**BxB**') in order to help meet housing needs in the Borough. As part of this recommendation Cabinet also delegated authority to appropriate sites for planning purposes in accordance with the Council's powers under section 122 of the Local Government Act 1975 ('**LGA**') to the Executive Director of Resources (Section 151 Officer), acting in consultation with the Cabinet Member for Finance and Treasury in order to facilitate the individual developments.
- 2.2 This report details those sites which the Council is proposing to transfer to BxB under the three initial tranches that have now all been granted planning permission. All sites (other than Oxford Road and Warbank Crescent) have been appropriated for planning purposes.
- 2.3 All sites that involve the disposal of open space have been advertised for two weeks in a local paper clearly stating that they would be appropriated and disposed of by the Council.

3. DETAIL

Background

- 3.1 BxB has now obtained planning consent for all schemes on each of the sites contained within Appendix 1. Information in relation to each planning permission is also provided at Appendix 2 including details of the schemes to be implemented on each site.
- 3.2 All sites have had title reports prepared by external solicitors and full planning consent granted subject to the completion of S106 Agreements. The transfer of each individual site will be pursuant to an Option Agreement.
- 3.3 As all sites (other than Oxford Road and Warbank Crescent) have been appropriated for planning purposes, the valuations have been negotiated with BxB in line with the principles in s233 of the Town and Country Planning Act 1990 (TCPA).
- 3.4 Under s233(1) TCPA a local authority may dispose of land appropriated for planning purposes in such manner and subject to such conditions as appear to the local authority to be reasonable to secure either the best use of the land and or buildings or the construction of new buildings or works that appear to the local authority to be required for the proper planning of the area. A disposal includes an option to purchase the freehold as proposed for these sites.
- 3.5 The local authority has a duty under s233 to dispose of the land for the best consideration it can reasonably obtain except where the consent of the

Secretary of State is obtained. It is not considered that Secretary of State consent is required in respect of these disposals as the overall valuations across the three tranches demonstrates best consideration will be achieved.

3.6 Consideration has been given to the issue of State Aid and please see section 7 in this regard.

3.7 In line with the Department for Communities and Local Government disposal guidance issued in March 2016, the Council has considered the main principles set out to ensure the land is effectively and efficiently disposed of.

- **Every disposal to have a clear objective** – the requirement to provide additional housing and especially affordable housing within the Borough has been the clear objective throughout the process.
- **Disposal rooted in local plans** – under the current Local Plan, SP2.4 has an aspiration to provide up to 50% affordable housing for any development of 10 or more properties with smaller developments paying a commuted sum. The planning consents for the 26 sites, when reviewed overall deliver this mix of private and affordable housing.
- **Early and meaningful engagement with public and other bodies and the market** – an engagement process has been undertaken with other public bodies and organisations for a number of the key sites to try and accommodate or build in their requirements where possible.
- **Appropriate level of investment prior to disposal** – all the sites have been granted planning consent prior to disposal and extensive ground investigation and local consultation undertaken.

4. VALUATION

4.1 The requirement for the local authority to achieve Best Consideration requires them to be able to demonstrate that the proposed valuation represents the best price that could reasonably be achieved for the asset. This will reflect the likely planning consent achievable, or actual consent in place and disregards any voluntary conditions imposed by the authority in respect of the site.

4.2 All the sites have already been granted planning consent subject to the completion of s106 agreements which will not be completed until after completion of the Option Agreements transferring the land to BxB. The valuations have been undertaken on the basis that these consents are in place.

4.3 As part of the planning process, the 26 sites were considered and the s106 agreements impose certain obligations in respect of the provision of affordable housing units. Although valuations have been considered for each site based on the basis of the individual planning consents, they have been adjusted where appropriate on a site by site basis to reflect the planning requirements within the proposed s106 agreements and the overall requirement for c45% affordable housing through either shared ownership or affordable rented schemes.

- 4.4 Valuations have either been undertaken by Lambert Smith Hampton or The Head of Estates and Asset management who is an MRICS Registered Valuer. The 10 valuations that have been undertaken by LSH represent a cross section of the various site tenure and type mix.
- 4.5 The valuations have been undertaken on the basis of Market Value (MV) as defined in the Royal Institution of Chartered Surveyors Valuation – Professional Standards UK January 2014 (as amended April 2015) subject to the following assumptions:
- The sites have vacant possession
 - The properties have planning consent for the schemes detailed in Appendix 2
 - The schemes have the tenure mix as identified in Appendix 1
 - The affordable rented units have been valued in accordance with the Councils social rent charging policies.
- 4.6 The building costs adopted within the valuations have been estimated by BxB cost consultants as pre contract tender costs were not available at the time of the valuations. The valuations undertaken by LSH had regard to the cost proposal from the BxB cost consultants but have undertaken a benchmarking exercise with reference to BCIS data and consultation with their building consultancy team. As a result they have adjusted the base build costs slightly downwards within their valuations. Some pre contract tender prices have now been received and are being reviewed but these have generally supported the original cost consultants estimates. The valuations undertaken in-house have therefore adopted these original figure. As the costs are still not finalised, the LSH costs have not been amended in line with the BxB figures at this stage. If proved to be more accurate, the adoption of the original BxB figures would only reduce the values for each site.
- 4.7 As part of the terms of the Option Agreements, the Council has included a clawback provision. This allows for a revised valuation appraisal to be carried out on completion of the works and disposal of the properties. This will be carried out on the same basis as the original but utilising actual costs and capital receipts. If this demonstrates a greater profit than the original valuation then the Council will retain 100% of the increase in value. This will allow any variance in build costs and sale prices to be reflected to ensure best consideration is obtained.
- 4.8 In addition, the Option Agreements will contain a second review mechanism which will review all the completed developments to assess whether any balancing payments are required should either less than the whole portfolio detailed in Appendix 1 have been drawn down and developed by a long stop date of 4 years or that the number of affordable units required under the original planning consents and the valuations have not been provided.
- 4.9 Two of the sites on the original list, site 52 Uvedale and site 53 King Henry's Drive will not be transferred to BxB as they comprise 100% of affordable rented accommodation. Similarly any parts of the development sites for the remaining sites that have affordable rented blocks on them will not be transferred to BxB. The two sites and additional areas will initially be retained by the Council and then disposed of by way of a long lease to Croydon Affordable Homes LLP (LLP). However, as BxB will have an obligation to build the affordable units

required through the planning consents and s106 Agreements within the Tranche 1-3 sites, the provision of the affordable units has been reflected within the valuations.

- 4.10 A number of the sites demonstrate a negative land value due to the number of affordable units being provided but the Council will not dispose of any sites at a negative value. The approach adopted to overcome this issue is to adopt a zero value for the negative value sites and reduce the value of any sites that have less affordable units than would otherwise be needed to fulfil the 45% affordable requirement for each site provided this does not reduce the site value below zero. Given the nature of the planning consents this is considered to be a reasonable approach to demonstrate that best value is achieved across the three tranches as a whole. This variance is shown within the commuted payment column in Appendix 1.
- 4.11 As required by the definition of best consideration, any voluntary conditions imposed by the Council have been disregarded within the Council's valuations. For example, within the Station Road valuation the proposal for the commercial unit to be leased back to the Council at a peppercorn has been disregarded and a commercial valuation adopted in line with the planning use. Similarly the adoption of the standard value of £250,000 for affordable rented properties adopted in the BxB appraisals has not been included and instead a market rate based on social housing rents has been adopted which demonstrates a considerably lower figure per unit.
- 4.12 Although the adjustments for commuted payments do address some valuation issues, the valuations adopted for each site should not be viewed in isolation even though they will be used as the site value for individual Option Agreements. This is acceptable in best consideration terms because of the revaluation mechanism described at paragraph 7.3.

5. CONSULTATION

- 5.1 The Council has advertised its intention to appropriate and dispose of the sites listed in the Croydon Advertiser and invited those affected by the developments to provide representations to the Council to be considered. No objections were received.

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

The sale of the 24 sites will generate a capital receipt of c£4.24million and provide 525 new residential units in the borough.

As a result of the sale there will be a small loss of income through the development of two public parking areas.

Risks

- 6.1 The inclusion of a clawback provision that allows 100% of any additional profit to be retained by the Council removes the risk of not capturing the benefit of future beneficial price changes. Given the number of sites being developed,

and the period of time the developments will take, this is considered essential to help secure the best value is achieved.

- 6.2 There is a risk that a third party could challenge the approach taken by the Council to the valuations by way of judicial review. However, external legal advice has been sought and proper advice has been obtained and acted upon.
- 6.3 The risk that the developer will not complete the development or provide the necessary affordable units is addressed through the Option Agreement which has step in rights and the planning consents and s106 agreements.

Options

- 6.4 It would be possible to dispose of the sites on an individual or packaged basis to other private developers following a full marketing exercise. It is not believed that this would secure a better financial outcome given the planning consents that have been granted. Many of the sites are challenging to develop and would not appeal to many developers or secure a better offer.

Future savings/efficiencies

- 6.5 The redevelopment of these surplus sites will help to reduce ongoing maintenance and security costs associated with them and also help to generate additional revenue through new homes bonus. The provision of the affordable elements of the schemes will also help to alleviate the reliance on the Council to provide social housing and therefore offer further savings as a result.

7. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 7.1 Powers of appropriation – the power of the Council to appropriate is contained in s122 of the Local Government Act 1972 and external legal advice has been followed in this regard. The two sites at Oxford Road and Warbank Crescent will be appropriated with Secretary of State consent.
- 7.2 Open Space – those sites that contain open space have been advertised in accordance with external legal advice.
- 7.3 Best consideration – legal advice has been taken as to the approach taken to assessing best consideration across the portfolio. BxB has the option to draw down sites, not an obligation to do so. The Council could be left therefore with challenging sites to deliver as there is no requirement for these to be drawn down in tranches/packages. A revaluation mechanism will be included in the option agreement that allows the Council to take the approach to best consideration described in paragraph 4.3 above. Whilst Gowling WLG is not able to give advice on valuation principles it has confirmed that in the absence of the Council independently marketing the sites, it endorses the approach

taken (a professional and independent valuation) as one that would be defensible in the event of a best consideration challenge.

- 7.4 Public Contracts Regulations 2015 ("Regulations") – the option agreement does not contain an enforceable obligation on BxB to undertake the relevant works. The lack of such an enforceable obligation means that the option agreements are not subject to a requirement on the Council to procure a developer under the Regulations. The consequence of this is that the Council cannot force BxB to undertake the works but can step in and complete each project should BxB fail to do so.
- 7.5 State aid – a state aid claim could arise because of an alleged disposal of land at an undervalue. A circular issued by the European Commission provides a defence to any such claim provided the land is not sold at less than a figure which has previously been determined by an independent valuation. Council officers confirm that this is the case. The Circular does not address the disposal of land in tranches or by way of a portfolio nor does case law exist on this point so far as legal advisors are aware. However, Gowling WLG is of the opinion that the Council would have a reasonably robust defence provided the agreement with BxB provides a mechanism for balancing payments to be made in the event of non-delivery.
- 7.6 Non-payment of sums due – note that the option agreement will contain two mechanisms for revaluing sites at practical completion. The first is the clawback described at paragraph 4.7. The second is that described in paragraph 7.3 which will assess whether any balancing payments are required should less than the whole portfolio be drawdown by a long stop date of 4 years. The ability of BxB to meet these payments is of course dependent on its covenant strength at the time. Whilst the Council will have a legal charge over the asset, the benefit of this security will depend on the then value of the underlying security.

(Approved by: Sean Murphy, Head of Commercial and Property Law and Deputy Monitoring Officer)

8. HUMAN RESOURCES IMPACT

- 8.1 There is no human resources impact as a result of this decision.

9. EQUALITIES IMPACT

- 9.1 The impact of the housing developments to be delivered will be positive. The provision of new affordable housing, tackling poor private housing and meeting housing need by providing a greater percentage of affordable housing than through other private schemes are all expected to benefit groups with protected characteristics.

10. ENVIRONMENTAL IMPACT

- 10.1 There is no direct environmental impact as a result of this decision but all developments taking place as a result of the proposed schemes will be fully compliant with the current building regulations and in particular the provisions within Part L. The developments will also have a positive impact on many of the sites that currently have older and in some cases semi derelict buildings.

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 There will be no impact on crime and disorder as a result of the appropriation of the land. However, the subsequent development of many of the sites that represent rundown buildings or garage blocks will significantly improve the local environment and help reduce crime and anti-social behavior.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1 The disposal of the sites will help to ensure the developments are progressed as quickly as possible and help deliver a high number of high quality properties including shared ownership and affordable rented units.

13. ALTERNATIVE OPTIONS CONSIDERED

- 13.1 The only real alternatives are to either not develop the sites or look to sell them to a number of separate developers which for the reasons detailed above, has been rejected as it is believed that the disposal to BxB will achieve the best outcome and secure best consideration for the sites.

**CONTACT OFFICER: Steve Wingrave Head of Asset Management and Estates
ext 61512**

BACKGROUND PAPERS:

Appendix 1: Details of the individual sites with agreed site values

Appendix 2: Details of the planning consents

DELEGATED DECISION REPORT TO:	Richard Simpson Executive Director Resources and s151 officer
SUBJECT:	Land Valuations for various sites in the Borough to be sold to Brick by Brick for Residential and Mixed Use Development
LEAD OFFICER:	Steve Wingrave Head of Estates and Asset Management
CABINET MEMBER:	Cllr Simon Hall Cabinet member for Finance and Resources
WARDS:	Various
CORPORATE PRIORITY/POLICY CONTEXT: Corporate Plan Community Strategy The Croydon Promise: Growth for All	

FINANCIAL IMPACT The disposal of the various sites will generate a capital payment of £4.065m with provision to capture any increased value through a clawback mechanism on final completion. Any compensation that becomes payable as a result of the appropriation will be met by Brick by Brick.
FORWARD PLAN KEY DECISION REFERENCE N/A

<p>The Leader of the Council has delegated to the Executive Director of Resources and s151 Officer acting in consultation with the Cabinet Member for Finance and Resources and the Deputy Leader and Cabinet Member (statutory) Homes and Gateway Services the power to make the decisions as set out in the recommendations below</p> <p>1. RECOMMENDATIONS</p> <p>1.1 Approve the disposal of the 11 sites detailed in Appendix 1 to facilitate the carrying out of the developments proposed as detailed in the respective planning permissions summarised in the Appendix</p> <p>1.2 Note and agree that a separate paper will be submitted to allow the appropriation of the 11 sites for planning purposes.</p>

2. EXECUTIVE SUMMARY

- 2.1 On 20 June 2016, Cabinet agreed to dispose of a number of sites to Brick by Brick Croydon Ltd ('**BxB**') in order to help meet housing needs in the Borough. As part of this recommendation Cabinet also delegated authority to appropriate sites for planning purposes in accordance with the Council's powers under section 122 of the Local Government Act 1975 ('**LGA**') to the Executive Director of Resources (Section 151 Officer), acting in consultation with the Cabinet Member for Finance and Treasury in order to facilitate the individual developments. A further paper was submitted to Cabinet on 16 July 2018 and subsequently approved under delegated powers to include 7 further sites to dispose of to BxB for housing development.
- 2.2 This report details those sites which the Council is proposing to transfer to BxB under the next phase of the project. It is proposed that where appropriate these sites will be appropriated for planning purposes but this will be dealt with under a separate paper.
- 2.3 All sites that involve the disposal of open space have been advertised for two weeks in the Croydon Guardian clearly stating that they would be appropriated and disposed of by the Council.

3. DETAIL

Background

- 3.1 BxB has obtained planning consent for some of the sites listed and where granted this has been included on the details within Appendix 1.
- 3.2 All sites will have title reports prepared by external solicitors. The transfer of each individual site will be pursuant to an Option Agreement.
- 3.3 All sites will be appropriated for planning purposes and the valuations included within Part B have been negotiated with BxB in line with the principles in s233 of the Town and Country Planning Act 1990 (TCPA).
- 3.4 Under s233(1) TCPA a local authority may dispose of land appropriated for planning purposes in such manner and subject to such conditions as appear to the local authority to be reasonable to secure either the best use of the land and or buildings or the construction of new buildings or works that appear to the local authority to be required for the proper planning of the area. A disposal includes an option to purchase the freehold as proposed for these sites.
- 3.5 The local authority has a duty under s233 to dispose of the land for the best consideration it can reasonably obtain except where the consent of the Secretary of State is obtained. It is not considered that Secretary of State

consent is required in respect of these disposals as the overall valuations demonstrates best consideration will be achieved.

- 3.6 Consideration has been given to the issue of State Aid which has been considered within section 7 of this report.
- 3.7 In line with the Department for Communities and Local Government disposal guidance issued in March 2016, the Council has considered the main principles set out to ensure the land is effectively and efficiently disposed of.
- **Every disposal to have a clear objective** – the requirement to provide additional housing and especially affordable housing within the Borough has been the clear objective throughout the process.
 - **Disposal rooted in local plans** – under the current Local Plan, SP2.4 has an aspiration to provide up to 50% affordable housing for any development of 10 or more properties with smaller developments paying a commuted sum. The planning consents for the xx sites, when reviewed overall deliver this mix of private and affordable housing.
 - **Early and meaningful engagement with public and other bodies and the market** – an engagement process has been undertaken with other public bodies and organisations for a number of the key sites to try and accommodate or build in their requirements where possible.
 - **Appropriate level of investment prior to disposal** – all the sites have either been granted or have been submitted for planning consent. All sites will have consent granted prior to disposal and extensive ground investigation and local consultation undertaken.

4. VALUATION

- 4.1 The requirement for the local authority to achieve Best Consideration requires them to be able to demonstrate that the proposed valuation represents the best price that could reasonably be achieved for the asset. This will reflect the likely planning consent achievable, or actual consent in place and disregards any voluntary conditions imposed by the authority in respect of the site.
- 4.2 All the sites have already been granted or have been submitted for planning consent. All will be subject to the completion of s106 agreements which will not be completed until after completion of the Option Agreements transferring the land to BxB. The valuations have been undertaken on the basis that these consents are in place.
- 4.3 Although valuations have been considered for each site based on the actual consented schemes or the submitted schemes for the individual planning consents, they have been adjusted where appropriate if, sites are being linked in respect of the provision of the required affordable housing or community buildings. This mainly applies to the 3 sites in Coulsdon.

- 4.4 Valuations have been undertaken by the Head of Estates and Asset management who is an MRICS Registered Valuer. The methodology and approach is the same as previously adopted for the first tranches in line with the valuations undertaken by Lambert Smith Hampton.
- 4.5 The valuations have been undertaken on the basis of Market Value (MV) as defined in the Royal Institution of Chartered Surveyors Valuation – Professional Standards UK January 2014 (as amended April 2015) subject to the following assumptions:
- The sites have vacant possession
 - The properties have planning consent for the schemes
 - The schemes have the tenure mix as identified in Appendix 1
 - The affordable rented units have been valued in accordance with the Councils social rent charging policies or at agreed transfer prices to an affordable housing supplier.
- 4.6 The building costs adopted within the valuations have been estimated by BxB cost consultants as pre contract tender costs were not available at the time of the valuations. Where pre contract tender prices have been received these have been adopted.
- 4.7 As part of the terms of the Option Agreements, the Council has included a clawback provision. This allows for a revised valuation appraisal to be carried out on completion of the works and disposal of the properties. This will be carried out on the same basis as the original but utilising actual costs and capital receipts. If this demonstrates a greater profit than the original valuation then the Council will retain 100% of the increase in value. This will allow any variance in build costs and sale prices to be reflected to ensure best consideration is obtained.
- 4.8 In addition, the Option Agreements for the Coulsdon sites will contain a second review mechanism which will review all the completed developments to assess whether any balancing payments are required should either less than the whole scheme detailed in Appendix 1 have been drawn down and developed by a long stop date of 4 years or that the number of affordable units required under the original planning consents and the valuations have not been provided.
- 4.9 The three Coulsdon sites have been considered as a mini tranche and the values for each site adjusted to reflected the provision of some of the planning requirements on a different site. For example, the provision of the medical centre on the Malcolm Road site rather than Lion Green as required under the original planning consent. From a valuation perspective this is considered a reasonable approach as the requirements are reflected in the planning requirements and if valued independently, the valuations would not be an accurate reflection.
- 4.10 As required by the definition of best consideration, any voluntary conditions imposed by the Council have been disregarded within the Council's valuations.
- 4.11 The valuations agreed for the 11 sites are:

Lion Green	£1.5m
Coulsdon Community Centre	£1.0m
CALAT	£0
Avenue Road	£0
Ashby Walk	£90k
Windmill Road	£0
Belgrave & Grosvenor	£400k
Edridge/Coombe	£100k
Shrublands	£0
Wandle Road	£875k
Total	£4.065 m

5. CONSULTATION

- 5.1 The Council will advertise its intention to appropriate and dispose of the sites listed in the Croydon Guardian and invited those affected by the developments to provide representations to the Council to be considered.

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

The sale of the 11 sites will generate a capital receipt of £4.065million and provide 492 new residential units in the borough.

As a result of the sale there will be a small loss of income through the development of existing garage sites. The redevelopment of the Lion Green Road car park will mitigate any losses through the provision of 120 new public parking spaces.

The terms agreed for the relocation of the Coulsdon Community Centre will not lead to any real loss as the existing rental is fully funded by the Council

Risks

- 6.1 The inclusion of a clawback provision that allows 100% of any additional profit to be retained by the Council removes the risk of not capturing the benefit of future beneficial price changes. Given the number of sites being developed, and the period of time the developments will take, this is considered essential to help secure the best value is achieved.
- 6.2 There is a risk that a third party could challenge the approach taken by the Council to the valuations by way of judicial review. However, external legal advice has been sort and proper advice has been obtained and acted upon.
- 6.3 The risk that the developer will not complete the development or provide the necessary affordable units is addressed through the Option Agreement which has step in rights and the planning consents and s106 agreements.

Options

- 6.4 It would be possible to dispose of the sites on an individual or packaged basis to other private developers following a full marketing exercise. It is not believed

that this would secure a better financial outcome given the planning consents that have been granted. Many of the sites are challenging to develop and would not appeal to many developers or secure a better offer.

Future savings/efficiencies

- 6.5 The redevelopment of these surplus sites will help to reduce ongoing maintenance and security costs associated with them and also help to generate additional revenue through new homes bonus. The provision of the affordable elements of the schemes will also help to alleviate the reliance on the Council to provide social housing and therefore offer further savings as a result.

7. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 7.1 Powers of appropriation – the power of the Council to appropriate is contained in s122 of the Local Government Act 1972 and external legal advice has been followed in this regard.
- 7.2 Open Space – those sites that contain open space have been advertised in accordance with external legal advice.
- 7.3 Best consideration – legal advice has been taken as to the approach taken to assessing best consideration across the portfolio. BxB has the option to draw down sites, not an obligation to do so. The Council could be left therefore with challenging sites to deliver as there is no requirement for these to be drawn down in tranches/packages. A revaluation mechanism will be included in the option agreement that allows the Council to take the approach to best consideration described in paragraph 4.3 above. Whilst Gowling WLG is not able to give advice on valuation principles it has confirmed that in the absence of the Council independently marketing the sites, it endorses the approach taken (a professional and independent valuation) as one that would be defensible in the event of a best consideration challenge.
- 7.4 Public Contracts Regulations 2015 ("Regulations") – the option agreement does not contain an enforceable obligation on BxB to undertake the relevant works. The lack of such an enforceable obligation means that the option agreements are not subject to a requirement on the Council to procure a developer under the Regulations. The consequence of this is that the Council cannot force BxB to undertake the works but can step in and complete each project should BxB fail to do so.
- 7.5 State aid – a state aid claim could arise because of an alleged disposal of land at an undervalue. A circular issued by the European Commission provides a defence to any such claim provided the land is not sold at less than a figure which has previously been determined by an independent valuation. Council officers confirm that this is the case. The Circular does not address the disposal of land in tranches or by way of a portfolio nor does case law exist on this point so far as legal advisors are aware. However, Gowling WLG is of the opinion that the Council would have a reasonably robust defence provided the

agreement with BxB provides a mechanism for balancing payments to be made in the event of non-delivery.

- 7.6 Non-payment of sums due – note that the option agreement will contain a mechanisms for revaluing sites at practical completion as outlined in paragraph 4.7. The ability of BxB to meet these payments is of course dependent on its covenant strength at the time. Whilst the Council will have a legal charge over the asset, the benefit of this security will depend on the then value of the underlying security.

(Approved by: Sean Murphy, Head of Commercial and Property Law and Deputy Monitoring Officer)

8. HUMAN RESOURCES IMPACT

- 8.1 There is no human resources impact as a result of this decision.

9. EQUALITIES IMPACT

- 9.1 The impact of the housing developments to be delivered will be positive. The provision of new affordable housing, tackling poor private housing and meeting housing need by providing a greater percentage of affordable housing than through other private schemes are all expected to benefit groups with protected characteristics.

10. ENVIRONMENTAL IMPACT

- 10.1 There is no direct environmental impact as a result of this decision but all developments taking place as a result of the proposed schemes will be fully compliant with the current building regulations and in particular the provisions within Part L. The developments will also have a positive impact on many of the sites that currently have older and in some cases semi derelict buildings.

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 There will be no impact on crime and disorder as a result of the appropriation of the land. However, the subsequent development of many of the sites that represent rundown buildings or garage blocks will significantly improve the local environment and help reduce crime and anti-social behavior.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1 The disposal of the sites will help to ensure the developments are progressed as quickly as possible and help deliver a high number of high quality properties including shared ownership and affordable rented units.

13. ALTERNATIVE OPTIONS CONSIDERED

- 13.1 The only real alternatives are to either not develop the sites or look to sell them to a number of separate developers which for the reasons detailed above, has been rejected as it is believed that the disposal to BxB will achieve the best outcome and secure best consideration for the sites.

**CONTACT OFFICER: Steve Wingrave Head of Asset Management and Estates
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BACKGROUND PAPERS:

Appendix 1: Details of the individual sites with details of planning consents

BxB Site Name	Site Address	Current Use	Development Description	Private Homes	Shared Ownership Homes	Affordable Rent Homes	Total Homes	Planning	Agreed Valuation
Tirrell Road	Garage Block And Forecourt South Of Tirrell Road, Croydon, CR0 2XD	Garages and informal car park	Demolition of existing garages and erection of a part single/two/three storey building to provide nine 3 bedroom houses with new emergency access from Beluah Grove, car parking off Tirrell Road, a new pedestrian entrance gate to Wilford Road Recreation Ground, landscaping and other associated works.	0	9	0	9	Planning granted 22/02/18 17/05873/FUL	£100k
Lion Green Road car park	Lion Green Road, Coulsdon, CR5 2NL	public car park	Redevelopment of site to provide 5no. five, six,seven storey buildings providing 96 one bedroom, 42 two bedroom and 19 three bedroom flats: provision of vehicular access, residential and town centre car parking spaces, hard and soft landscaping works and new private and public amenity space.	78	46	33	157	Resolution to grant - referral to Mayor 17/06297/FUL	£1.5m
Coulsdon Community Centre	Land north of Barrie Close , CR5 3BE	Community Centre	Demolition of existing community centre and erection of 33 residential units comprising 4 one bedroom flats, 12 two bedroom flats and 17 three bedroom houses, together with provision of car parking, landscaping and other associated works	17	8	8	33	Planning granted 17/06216/FUL	£1.0m
CALAT, Coulsdon	41 Malcolm Road, CR5 2DB	CALAT centre	Retain existing building for use by Coulsdon Community Centre with 34 Parking spaces. Construct separate building to provide primary care NHS service with 5 parking spaces.	0	0	0	N/A	Planning granted 17/06216/FUL	£0
Avenue Road	located to the land north of 4b/4c Avenue Road SE25 4EA	Garages	Demolition of garages and erection of a three storey building to provide 12 flats together with a disabled car parking space, landscaping and other associated works.	6	6	0	12	Planning granted 23/03/18 17/06360/FUL	£0
Ashby walk	Gararge Block And Forecourt At Ashby Walk, Croydon, CR0 2Q	Garages and informal car park	Demolition of existing garages and erection of a three storey building to provide five 1 bedroom and four 2 bedroom flats with car parking, landscaping and other associated works.	9	0	0	9	Planning Granted 23/03/2018 17/05871/FUL	£90k

Windmill Road	Garage Block And Forecourt Between 145 And 147, Windmill Road, Croydon, CR0 2QU	Garages and informal car park	Demolition of existing garages and erection of one three storey building to provide three 1 bedroom and three 2 bedroom flats, together with car parking, landscaping and other associated works.	0	0	6	6	Planning Granted 17/05872/FUL	£0
Planning Submitted awaiting Decision									
Belgrave and Grosvenor	Land Adjacent To Belgrave Road and Grosvenor Road, South Norwood	Estate Infill	Redevelopment of the existing car parks and open space to incorporate the erection of one seventeen-storey tower and two four- storey buildings comprising of 102 residential units and 100m2 community use (Class D1) together with associated car parking and cycle parking spaces, hard and soft landscaping, alterations to ground level and other ancillary works	51	36	16	103	In Planning (will be subject to referral to Mayor) 17/06392/FUL	£400k
Edridge Road/Coombe Road	Land Adjacent To Coombe Road and Edridge Road Croydon	green space	Erection of a three storey building to provide eight one bedroom flats with accommodation in the roof space and the erection of a two storey 3 bedroom house with accommodation in the roof space with landscaping and other associated works	9	0	0	9	In Planning 17/06330/FUL	£100k
Shrublands Estate	Land North and South of Shrublands Avenue CR0 8JD	Estate Infill	Demolition of garages and erection of one four-storey building and two three-storey buildings comprising of 26 residential units (15 one-bedroom, 11 two-bedroom flats), together with associated car parking and cycle parking spaces, hard and soft landscaping, alterations to ground levels, servicing arrangements, refuse and recycling facilities, and public and private amenity space.	0	0	26	26	In Planning 17/06314/FUL	£0
Wandle Road car park	Surface level car park adjacent to Wandle Road Croydon, CR0 1DX	public car park	Redevelopment of part of site to provide part 5, 22 and 25-storey mixed used building, incorporating 128 no. residential units (Class C3) in addition to flexible commercial floorspace (Class A1/A3/B1/D2) on lower levels, as well as new vehicular access, residential car parking spaces, new public realm including shared pedestrian and cycle access through the site.	60	68	0	128	Resolution to Grant (will be subject to referral to Mayor) 17/06318/FUL	£875k

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