Project Dillon – Review into the refurbishment of Fairfield Halls

April 13, 2023

Prepared for
The London Borough of Croydon

Status
Final Report

Matter Number
155614

Private and Confidential

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1 Introduction

Fairfield Halls is an entertainment and music venue located on Park Lane in the London Borough of Croydon ("LBC"). The venue first opened in 1962 and since then, has hosted numerous plays and concerts since its inception. The venue is considered one of South London's premier arts venues. The building itself is listed as a local heritage asset.[1]

In line with LBC's broader regeneration strategy for the Borough[2], the significant refurbishment of Fairfield Halls (the "Project") was officially approved by LBC Cabinet on 20 June 2016, with an agreed expenditure of £30 million and an expected completion in Autumn 2018.[3]

The refurbishment project was managed by Brick by Brick Croydon Ltd ("BBB"), a private company wholly owned by LBC, which was incorporated by LBC in May 2015 to help it to achieve its housing objectives within the Borough. At the time of the decision to grant BBB this project, the company had only just become operational (in January 2016) and had not yet built a single property. It had no track record of delivering any projects, and did not have any experience delivering any projects with the specialist nature of refurbishment of an entertainment venue. Due to the nature of the company structure between LBC and BBB, it was decided to offer the wholly Council-owned property to BBB under a license to deliver the refurbishment and therefore no competitive procurement was carried out to assess suitability of the delivery body. The risks of not going through a formal procurement process and allocating such a complex project to an untested company were never drawn out for elected members in the June 2016 Cabinet report.

The refurbishment project was structured so that BBB was granted land interests by LBC to develop the College Green site which included a housing scheme, development of the public realm and the refurbishment of Fairfield Halls (the refurbishment of Fairfield Halls is referred to hereafter as "the Project") and was therefore granted permission to conduct the refurbishment of Fairfield Halls under licence. The refurbishment was to be funded through a series of loans from LBC to BBB that would ultimately be repaid from revenues generated by BBB, from the sale of the units in the completed housing scheme. The narrative of the Cabinet report states that a £30 million *"investment"* would be

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[1] https://www.croydon.gov.uk/sites/default/files/Planning/Conservation%20areas/Local%20List%20Entries%20(SPD1%20Part%20B).pdf

[2] As documented in Croydon's Growth Plan, an initiative launched in September 2014 with the aim of investing over £8 billion in Croydon over the following five years in housing, jobs, transport, office space, university facilities, and the Westfield Hammerson shopping and leisure centre.

[3] There is no estimated completion date mentioned in the 20 June 2016 Cabinet Report. Autumn 2018 was derived as the 2-year full closure period considered in the 20 October 2015 Cabinet Report.

made into the Project, albeit no recommendation put forward to Cabinet explicitly approved this figure.[4]

The Project was completed a year late (in September 2019) and the total cost of the project, of £73.3[5] million, was more than double the £30 million initially approved by the LBC Cabinet in 2016. At no time prior to the completion of the Project had the Council or Cabinet agreed to spend more than the £30 million reported to Cabinet in June 2016.

LBC's financial position had been gradually deteriorating from 2015 to 2020. In October 2020, LBC's external auditors, Grant Thornton UK LLP ("GT"), published the first of two reports in the public interest ("RIPI1"), relating to LBC's overall governance and financial management. RIPI1 made a number of references to BBB, and concerns over the return of investment to LBC and its overall governance. In November 2020, LBC published a section 114 notice, declaring that its expenditures had exceeded its income by £67 million.

Following the receipt of the first RIPI, the then Leader of the Council, Cllr Hamida Ali (LAB) and the then interim Chief Executive, Katherine Kerswell ("Ms Kerswell"), spoke with GT and encouraged a more detailed review of the Fairfield Halls refurbishment to be undertaken. GT initially decided to undertake a formal Value for Money study into the refurbishment but as their investigation proceeded, they converted this into a second report in the public interest ("RIPI2").

RIPI2 was published in January 2022, and focused specifically on the Project and whether its associated transactions were lawful. The conclusions of RIPI2 also included their views on the extent to which senior Statutory Officers had delivered their duties, concluding that "*throughout the project there [were] examples of a failure to discharge duties from a small group of senior officers… These senior officials were responsible for reporting to the then Portfolio Holders [Members], who were either not briefed by Officers and failed to request briefings on the project or did not take effective action in response to concerns raised by senior officers*."

RIPI2 was presented to Council on 3 February 2022. The then interim Monitoring Officer John Jones announced to the Council that in the light of the findings of unlawfulness and failures of governance highlighted in the RIPI2, in his capacity as Monitoring Officer he would be commissioning an enquiry

[4] Recommendations included delegating authority to then Assistant Chief Executive (Resources and Section 151 Officer) to approve sites to be disposed to BBB subject to satisfactory conditions, approve funding to BBB for the development of sites and working capital, and that the sites were appropriated for planning purposes.
[5] This is the amount ultimately recognised in LBC's annual financial statements.

into whether there had been any fraud in the activity surrounding the refurbishment and Kroll was subsequently engaged by LBC.

This report was prepared at the conclusion of Kroll's investigation and sets out the findings thereof. This is an evidence-based Report and any conclusions contained herein are based on information gathered by Kroll during the course of this Review. We understand that the report may be used to support LBC in its redress process surrounding events involving Brick by Brick and the delivery of the Project.

2 Scope and methodology

2.1 Scope

Kroll's review period for the purposes of this engagement was the period March 2013 (the adoption of the Fairfield Masterplan) to November 2020 (the appointment of a new BBB Board). We conducted limited targeted searches outside of this review period, in order to establish necessary context and background. The focus of Kroll's review has been on conducting interviews and electronic review of emails on LBC and BBB's database detailed in section 2.2

Kroll has not undertaken a detailed review of the accounting records of either LBC or BBB as a significant amount of work has already been undertaken in this area:

- A significant amount of work (including a reconciliation between Project related costs recorded by LBC and by BBB) has already been conducted by GT in the course of their audit work and the publication of the two Reports in the Public Interest (see section2.2.2); and,
- A detailed external post contract review was commissioned by BBB's new board of directors[6] which found that all Project related payments were matched to valid invoices and agreed either to signed contracts or to signed variation orders (as detailed in section10.2).

Kroll's work has focused specifically on the decisions and events around the Project (i.e. the refurbishment of Fairfield Halls). However, in order to place these events in their context, it was necessary to conducted limited work around understanding the processes and governance structures in place at BBB and LBC as a whole. Furthermore, because the Project was an integral part of a wider regeneration project (the College Green scheme), Kroll conducted limited work around understanding the overall scheme and the relevant events and decisions made in respect of College Green.

Kroll's Terms of Reference were agreed with LBC as the following:

"An investigation by Kroll will aim to provide clarity over the probity and integrity of decision making around the Fairfield Halls project, the reasons for the cost overrun and late delivery and the governance failures and whether there is evidence of potential wrongdoing by relevant individuals.

[6] Appointed in November 2020.

At the conclusion of the proposed detailed investigation, Kroll will produce an evidence-based report that will conclude on these matters in line with the evidence gathered. The report will be used to support Croydon Council in its redress process surrounding events involving Brick by Brick and the delivery of the project."

2.2 Methodology

As detailed above, our Review has focused on understanding the timeline and events around the Project, as well as the nature and extent of communication relating to certain aspects of the Project between BBB, LBC Officers and LBC Members/Councillors. We have also been provided[7] with certain relevant governance requirements applicable to Officers, which we have taken into account in our review. As a result of the significant period of time that has passed since the Project's inception, many of the key individuals involved are no longer in the employment of LBC or BBB. Our Review has therefore predominantly focused on analysis of electronic documentation, in order to develop a forensically evidenced timeline of events related to the Project.

Documents reviewed were provided to Kroll by LBC in two different data rooms, which were initially set up for: (i) GT in order to complete their work on the arrangements of the Fairfield Halls refurbishment (which led to RIPI2)[8]; and (ii) LBC to review the contract of the Project's main contractor, Vinci Construction UK Ltd, and finalise their account. In addition, Kroll gathered and reviewed a significant volume of email data, via LBC's external Information Technology Solutions provider, Littlefish. Prior reviews conducted by GT relating to the production of RIPI1 and RIPI2 did not include an in-depth forensic review of electronic communication and other electronic records.

LBC was unable to provide email data relevant to the accounts of several former Officers who had left the organisation prior to the implementation of its current archiving policies (in late 2020).

The electronic data review was supplemented by interviews with a number of individuals identified as being in a position to comment on the Project from an informed perspective, during the course of the Review.[9]

[7] We were provided with these governance requirements by staff in LBC's legal department.
[8] Auditors are not permitted under the Local Audit and Accountability Act 2014 to decide in advance of completing work to decide that they are issuing a RIPI.
[9] We note that not all individuals invited to attend fact finding interviews with Kroll accepted the invitation.

2.2.1 Electronic data review

Kroll received a large volume of electronic data from LBC during the course of this review. All electronic data was loaded onto an electronic document review platform, which allowed for analysis and searches to be conducted across the data set. A list of project related search terms was run against the database as a whole. Further, targeted searches were run across the database to assist in answering particular key questions related to the Project. A global deduplication process was then run across the dataset as a whole, to remove duplicate emails.

2.2.1.1 Emails

Kroll received email data for 11 email account inboxes (custodians), nine of which were categorised as priority custodians during a Scoping Phase, and formed the main focus of the email review. Our methodology focused on the Priority custodians initially, as they were identified during a Scoping Phase as those most likely to contain relevant data to the Project. These Priority custodians are shown in TABLE 40 based on the results of our searches of priority custodians' accounts, we extended our searches to a further two custodians, both of whom were former employees of BBB.

2.2.1.2 Constraints resulting from lost and deleted data

As referenced above, the majority of employees of LBC who were integral to the Project were no longer in the Council's employment by the time of Kroll's Review. Although several were invited to speak with us during the course of the Review, they declined (see section 2.2.3). As a result, Kroll relied significantly on review of archived email data held by the LBC in order to forensically piece together the timeline of events.

2.2.1.2.1 LBC's internal policies

We were informed by LBC Information Technology personnel that, in line with LBC's internal IT policy, permanent back up of email data was only undertaken from late 2020 / early 2021, when Ms Kerswell became the interim Chief Executive. Previously, data was held for a period of 60 days, and then deleted. As a result, email data relevant to a number of potential data custodians identified by us as being relevant to the Project was not available, as their inboxes were not archived. These custodians are listed TABLE 1 below:

TABLE 1 **List of data custodians identified for potential review where email data was no longer held by LBC**
Information provided by LBC IT staff

Name	Title / Role	Reason for data being unavailable
Tim Naylor	Former Head of Spatial Planning	Archive not held by LBC
Paul Spooner	Former Executive Director of Planning and Environment	Archive not held by LBC
Mike Kiely	Former Director of Planning & Building Control	Archive not held by LBC
Jane Doyle	Former Director of Community and Support Services	Archive not held by LBC
Ed McDermott	Former Regeneration Manager	Archive not held by LBC
Paul Greenhalgh	Former Executive Director of Children, Families & Learning	Archive not held by LBC
Keith Robbins	Former Business Partner of Housing and Health	Archive not held by LBC
Mark Adams	Former Senior Regeneration Manager of Housing Development & Regeneration	Archive not held by LBC
Clive Burley	Member of Fairfield Programme Board	Archive not held by LBC
Tim Godfrey	Former Cabinet Member for Culture, Leisure and Sport	LBC inbox not used
Nathan Elvery	Former LBC Chief Executive	Archive not held by LBC

2.2.1.2.2 BBB data loss

In order to understand the elements of the Project that were managed directly by BBB employees (and for the time period that they were using BBB emails), Kroll requested email data for the following former employees of BBB, by way of an information sharing agreement between LBC and BBB< as shown in TABLE 2:

TABLE 2 **Requests for information from data held on the BBB server**

Name	Title	Role
Colm Lacey	Managing Director	Chief Executive Officer and Executive Director of BBB, overall responsibility for development projects undertaken by BBB.

Name	Title	Role
Robin Firth	Project Manager	Replaced Edward McDermott as project manager for the Project
Luke Chiverton	Operations Manager	Involved at BBB as operations and finance manager from 2018

Requests were made in order to assist Kroll in understanding the flow of communications that were central to the Project, in particular, communications with the Project's main contractor, Vinci Construction UK Ltd. Requests were passed by BBB management to Nitty Gritty, BBB's external IT provider.

2.2.1.2.2.1 Lost emails of Colm Lacey, BBB Managing Director

Nitty Gritty confirmed to Kroll that a back-up of Mr Lacey's emails, made after he left the company in January 2022, did not contain any data. The reason for this was explained by Nitty Gritty as being a result of employee error on their side, as his licence had been disabled (a standard process when off-boarding an employee) before an archive of his emails had been made, rather than after, as is the usual practice. Kroll's computer forensic team spoke directly to Nitty Gritty to confirm our understanding of the reasons for the loss but did not conduct any additional verification.

Although we were not able to review Mr Lacey's BBB data, we have been able to review emails sent to or from him to the other accounts in the BBB data set (see TABLE 2) and we were able to review his LBC account, which he used up to 24 September 2018.

2.2.1.2.2.2 Laptop of Colm Lacey

The laptop allocated to Mr Lacey according to BBB and Nitty Gritty's records was never used by him according to the logs searched by Nitty Gritty.[10] BBB have undertaken searches of its lockers and premises for the laptop actually used by Mr Lacey, but have not found it. According to BBB, Mr Lacey stated that he had returned his laptop. The reason why the laptop which apparently was allocated to Mr Lacey was not used by him is unclear. We have no reason to suspect any malicious intent in the explanations provided by Nitty Gritty or BBB.

[10] The laptop recorded as being used by Mr Lacey has not been forensically imaged for recovery by Kroll as it is unlikely to provide any useful results as we understand he never accessed it.

2.2.1.3 Electronic documents from data rooms provided by LBC

Kroll was provided with access to two MS Teams data rooms held by LBC related to the Project:

- FFH Refurbishment Review: Documents that were collected and provided to GT during the course of their field work for RIPI2; and,
- Fairfield Halls Completion: Documents that were collected by Peter Mitchell, Director of Commercial Investment, in the course of work done by him to novate the Vinci Construction UK Ltd contract.

Kroll conducted a review of the documents on these platforms. For completeness, the documents contained in these data rooms were added to the electronic review platform and included in our targeted searches (see 2.2.1.1).

2.2.2 Use of reports into LBC's governance and oversight of BBB

We understand that there have been several reports published by various parties into issues related to LBC governance and oversight of council-owned companies, including BBB. Kroll has been provided access to the following reports during the course of our Review and has considered the relevant sections.

TABLE 3 **Titles and dates of reports provided to Kroll**

Author	Date	Report Title
GT	October 2020	Report in the Public Interest concerning the Council's financial position and related governance arrangements ("RIPI1")
Mazars (LBC's internal auditor)	November 2020	Final Internal Audit Report: Fairfield Halls Delivery – Brick by Brick Croydon Limited Management
PwC	November 2020	Independent Strategic Review of Brick by Brick Croydon Ltd, Growth Zone, Croydon Affordable Homes LLP, the Revolving Investment Fund and the Asset Investment Fund
Richard Penn (LGA Investigator)	March 2021	Independent investigation into the Council's corporate management actions, organisational systems and its operating environment, in response to the Report in the Public Interest ("Penn Report")
GT	January 2022	Report in the Public Interest concerning the refurbishment of Fairfield Halls and related governance arrangements ("RIPI2")

We note that the majority of these reports focus on issues relating to BBB and LBC more generally, rather than the Project in particular. Only the RIPI2 was exclusively focused on the Project. The review only included a review of certain electronic documentation made available to the auditors, rather than a forensic review of all available relevant electronic documentation.

Kroll held an initial introductory meeting with GT at the outset of the review. In order to avoid duplication of work, we have obtained an understanding of the documents relied upon and the basis for the conclusions reached by GT and refer to these where relevant throughout the Report.

2.2.3 Interviews

Kroll conducted fact-finding interviews with a number of current and former employees of LBC who were either involved in the Project directly, or who had background knowledge and context around LBC's relevant processes. The list of individuals who were approached for interview for this report is appended in section 16. This section also shows those interviews which were declined.

2.2.4 Leak of the Penn Report

The Penn report was commissioned in November 2020 by Ms Kerswell, LBC's then interim Chief Executive, to understand the culture of LBC, and how the events described in RIPI1 occurred. This report was kept highly confidential since its finalisation in February 2021, as it was being used in ongoing disciplinary procedures. LBC had declared its intention to publish the report once these disciplinary procedures had been concluded. On 5 October 2022, extracts of this report were leaked on a local Croydon-focused blog, Inside Croydon, and a national news outlet. In the following week, a series of articles covering various aspects of the Penn report appeared on Inside Croydon. The Guardian and Private Eye also reported on the Penn report's contents. LBC has taken steps to investigate the leak. Following the leak, three individuals who had previously agreed to assist Kroll in our review, declined to respond to our questions, citing a lack of confidence in the process as a reason.[11]

[11] Jo Negrini, Colm Lacey and Paul Scott. See section16.

2.2.5 Right of response process

In advance of this report entering LBC's democratic process (and in line with LBC's decision to provide the report to Members of the Appointments Committee), Kroll undertook a right of response process as set out below.

On 17 February 2023, 14 individuals that were subject to comment in the report[12] were provided with relevant extracts of the report in order to provide them an opportunity to submit comments as to anything that they deemed to represent a factual inaccuracy. A deadline for responses was provided of 1 March 2023. Subsequent to receiving the responses, Kroll carefully considered all comments received in light of the evidence already reviewed. Following this assessment, where we considered it appropriate and necessary to do so, we made corrections or clarifications which are reflected in this report.

Kroll received responses from the following individuals (see TABLE 7 and TABLE 9 for roles):

- Cllr Paul Scott;
- Cllr Tony Newman;
- Cllr Simon Hall;
- Cllr Stuart King;
- Ms Negrini;
- Ms Taylor;
- Mr Simpson; and,
- Mr Lacey.

We note that Cllr Newman and Cllr Hall were not provided with an opportunity to respond to written questions in our initial round of interview requests in September 2022 (due to a clerical error at LBC). However, we have included their comments from the right of response process in this report. We note also that Ms Simmonds was not included in our list of interviewees which was drawn up after an initial scoping phase, as she joined LBC relatively late in the Review Period and due to her tangential role in relation to the Project. During the right of response process, LBC wrote to Ms Simmonds lawyers and stated that Kroll was willing to receive any additional context or evidence she had available (either in writing or in interview). LBC has not received a response to this communication at the time of writing.

[12] Cllrs Butler, Hall, Newman, King, Lewis, Godfrey and Scott, Ms Negrini, Mr Simpson, Ms Taylor, Ms Simmonds, Ms Harris-Baker and Mr Lacey.

3 Executive Summary

The London Borough of Croydon ("LBC") appointed its wholly-owned subsidiary Brick by Brick Croydon Limited ("BBB") to undertake the refurbishment of Fairfield Halls ("the Project") in June 2016. The Project was undertaken by BBB under a licence from LBC, allowing BBB to enter the premises and undertake refurbishment works. The Project was the first part of a larger development (the College Green scheme) which included public realm improvements and the development of housing in the area around Fairfield Halls. From Kroll's review, it is apparent that BBB relied on the projected profits from the larger College Green scheme to subsidise the costs of undertaking the Project.[13]

The Project originally approved by Cabinet in October 2015 and its subsequent approval of the appointment of BBB to deliver the Project in June 2016 was based on a Cabinet agreed investment of £30 million and expected completion by Autumn 2018. The Project was ultimately delivered a year late, in September 2019, and the total spend of £67.5 million[14] was more than double the investment originally allocated by LBC. Financial difficulties at BBB, poor management of the Project and the abandonment of the later phases of the College Green scheme (which led to BBB not realising any revenue[15] or profits on the scheme) eventually led to LBC recognising the expenditure incurred on the Project as a £73m capital spend in its draft financial statements for the year ending 2021 and increasing its debt by the same amount.[16] However, LBC was budgeted to receive £7.4 million in dividends and £8.5 million in interest income from BBB between the 2017/2018 and 2020/2021 financial years. The loss of this income contributed to the worsening financial position of LBC, and, according to Katherine Kerswell ("Ms Kerswell" LBC's Chief Executive Officer), contributed directly to LBC issuing a Section 114 Notice in November 2020, and the eventual overspend of £67 million in the 2020/2021 financial year. Several significant governance issues were identified in two separate Reports in the Public Interest published by LBC's external auditor, Grant Thornton LLP ("GT") in 2020 and 2022, referred to as "RIPI1" and "RIPI2". The RIPI2 was specifically focused on the Project.

[13] The intention to subsidise was disclosed to Cabinet in the 20 October 2015 Cabinet report

[14] This was the amount included in GT's RIPI2, and represented expenditure as at the reopening date. According to BBB's directors, this included amounts spent on other parts of the College Green scheme, and £56.8 million was actually spent on the Project according to their records.

[15] From the sale of homes

[16] We note that according to BBB's Managing Director, LBC's decision to withdraw from the College Green scheme was the trigger for taking over the Project related costs, as BBB's liability for the costs of the Project was contingent on its receipt of a land transfer from LBC as part of the College Green scheme.

Following the identification of these significant governance issues, the then interim Monitoring Officer requested that an investigation be undertaken. LBC subsequently engaged Kroll to conduct an independent review of the history of the Project, to provide clarity over the probity and integrity of decision making around it, the reasons for the cost overrun, late delivery and the governance failures, and whether there was any evidence of potential wrongdoing by relevant individuals involved.

This Executive Summary sets out the main reasons that have been identified during the course of the Review for the Project going overbudget, and the roles relevant individuals at LBC and BBB played in the structure that led to this situation occurring. The issues identified are largely attributable to a failure to sufficiently adhere to governance processes in place at the time, which were in themselves not sufficiently robust. This led to instances of mischaracterisation and a lack of clarity in communication of actual and anticipated spend versus that budgeted, as well as challenges in contracting and implementation of the Project.

While we have not found evidence of any fraud or direct personal gain, our Review has identified a number of instances where information was seemingly deliberately withheld from, or mischaracterised to, Cabinet and a number of conflicts of interest and issues around BBB's independence in relation to LBC. These findings reflect the concerns raised by the external auditor in RIPI2, who stated that, as a result of there being no properly executed contractual or loan documents in place, LBC's stated view of BBB as an independent company was open to challenge, and that the lawfulness of payments made to BBB in relation to the Project were called into question.

Because of the way LBC (and all local authorities) operate, there is an asymmetry of information between elected Members (which includes Council, Cabinet and Scrutiny and Overview Committee Members) and Officers, who were responsible for day-to-day management. Therefore, there is a responsibility for Officers to be transparent in their reports to Members which is enshrined in LBC's code of conduct and employment contracts for all Officers, its Constitution and in statutory duties held by a number of these officers. Our Review has identified several instances of failure by senior LBC Officers, to publicly escalate known Project budget overruns and Project related issues to Cabinet, Scrutiny and Overview Committee and Council with the result that LBC ultimately spent £43 million of public money in addition to the £30 million initially reported to Members for the Project.

The proceeding sections set out, in summary and for context, the origins of the Project, how its budget, scope and associated costs evolved, and the evolution of BBB into a council owned company in which the Project was ultimately "housed". Failings on the part of accountable individuals, and at a governance level, which collectively contributed to a situation in which the budget overspend was able to occur, are discussed under the Governance and Conclusion sections.

3.1 Early discussions around the need for the refurbishment and capital allocations

The refurbishment of Fairfield Halls had been considered since at least 2010, by the previous Conservative-led Council, and LBC committed a total of £27 million to the Project over the following five years in its Capital Programme from the 2011/12 financial year. Kroll's review has identified that, even at this time, a discrepancy existed between the proposed funding allocated, and actual cost estimates provided to LBC by external advisors.[17] Between 2010 and 2013, LBC received several cost estimates for the Project, which ranged from £39.7 to £70 million, dependent on a range of options.[18] LBC Officers were aware of a discrepancy of at least £10 million between the cost estimates and the capital funding allocated to the Project during these early stages, and communications around this time indicate that the proposed mitigation for the discrepancy was to reduce the proposed scope of the refurbishment.

Following the May 2014 local government elections, a new Labour majority Council took control of LBC. In September 2014 a Cabinet decision to integrate the Project with the College Green scheme was taken, along with a recommendation to increase the allocated funding for the Project by £6.75 million[19] from the initial £27 million. We note that this decision was taken around the same time that the new Labour Council published its Growth Plan for the Borough. Kroll has not identified any evidence that LBC ever actually increased its capital allocation to £33.75 million, despite Cabinet's recommendation at the September 2014 meeting. The report was put forward by Jo Negrini ("Ms Negrini", then Executive Director of Place), with Cllr Timothy Godfrey ("Cllr Godfrey", Cabinet Member for Culture, Leisure and Sport - LAB) acting as lead Cabinet Member.

Instead, in February 2015,[20] the capital allocation for the Project was decreased to £12 million in LBC's Capital Programme, approved by Cabinet and Council. We have not identified any evidence to explain the reason behind the decrease at that time, however during the course of the year discussions around the Project's integration with (and the funding structure of) the College Green scheme

[17] Kroll did see one cost estimate that did align with LBC's capital allocation in September 2011, but this cost estimate also included additional "non-priority" works for £8.75 million. This cost estimate was superseded by a later cost estimate in January 2013, which was in the £40 million to £70 million range detailed above.

[18] Options analysis was prepared by Keith Williams Architects ("KWA") and the options ranged from "do nothing" to full rebuild. The range of cost estimates above excluded the "do nothing" option which was costed at £18 million.

[19] Reasons provided for this increase were construction inflation and an enhanced scope required by LBC.

[20] By February 2015, the next annual budget for LBC

evolved. These culminated in Cabinet's approval in October 2015 of a report, led by Ms Negrini, which sought approval to permanently close Fairfield Halls for the duration of the project and, critically, to incorporate land, at the time owned by Croydon College which would be partly used for housing development, into the College Green scheme. The profits from the sale of housing built on this land were intended to have the effect of cross-subsidising the cost of the Project, thereby theoretically decreasing the amount that LBC would need to fund from its capital programme.

Furthermore, once BBB was appointed to the Project in June 2016 (see section 3.2), the funding mechanism changed from direct costs incurred by LBC, to a loan facility provided to BBB. This had the result of releasing the capital allocated to the Project, allowing it to be spent elsewhere.

3.2 LBC's council-owned company and its appointment to the Project

In July 2014, Richard Simpson ("Mr Simpson", then Section 151 officer) requested to add the assessment of a housing company to the agenda of Cabinet. This was shortly after the election of the Labour Council in May 2014, which had an election manifesto to increase affordable housing in Croydon. This occurred in the same period as the integration of the Project within the wider College Green scheme (which was approved at a 15 September 2014 Cabinet meeting (see section 3.1).

A report presented to Cabinet at a meeting later that month (the "29 September 2014 Cabinet report") led[21] by Mr Simpson and Ms Negrini set out the housing shortage within Croydon, and the limitations on providing additional housing through its existing funding structures using its Housing Revenue Account ("HRA")[22]. The 29 September 2014 Cabinet report stated that at that time, LBC was expected to reach its HRA lending cap within two years, meaning further borrowing would be restricted for a further 28 years.

The risks and benefits of using a housing company to overcome these limitations were also included in the 29 September 2014 Cabinet report. A number of benefits were highlighted, primarily the ability to use funding outside of LBC's HRA by allowing access to finance through a vehicle LBC created called a "Revolving Investment Fund", which could be used to lend onwards to such a company to deliver LBC's housing needs. The company was intended to provide LBC with a secure income stream from profit distributions (received from the sale of homes), allowing LBC to shore up its reserves. The main

[21] Cllr Hall and Cllr Butler were named in the Cabinet report as joint lead Cabinet Members.

[22] A Council's Housing Revenue Account is used to record income and expenditure related to its own housing stock. The borrowing caps on these accounts were lifted in October 2018 by the Secretary of State for Housing, Communities and Local Government, to enable councils to build more homes.

risk identified was the possibility of defaults on such loans. At that time, LBC's long term debt was £826 million[23] and, based on information provided to Kroll by LBC, no information was provided as to the overall gearing of LBC in relation to the affordability of debt being considered, or data as to the increasing amounts of general fund revenue payments that would be required each year as part of the minimum reserve provision payments to service the debt.[24]

At the time, LBC was also under growing financial pressure, as funding cuts to central government grants paid to Local Authorities were made under the 2010-2014 Government's national austerity measures. At the same time, LBC's General Fund reserves were lower than its target of 5% for the 2015/2016 to 2017/2018 years, and the target was then further decreased to 3%-5% from 2018/2019. This was explained as resulting from an expected decrease in General Fund Balances for the 2017/2018 year as a result of forecast outturn. [25]

Cabinet agreed with the recommendations set out in the 29 September 2014 Cabinet report, being the principle of establishing such a Council-owned housing company and that Officers should undertake further work to progress this. Ms Negrini subsequently advised[26] Colm Lacey ("Mr Lacey", newly appointed Director of Development at LBC)[27] shortly after receiving Cabinet approval, that he would have overall responsibilities for the establishment of the company.

The incorporation of BBB seems to have been accelerated from when it was initially discussed in September 2014, as contemporaneous internal documents reference a 4-year horizon on BBB's incorporation.[28] However, BBB was incorporated only eight months later, in May 2015, with Mr Simpson as the first non-executive director, although it remained non-operational throughout that year.

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[23] According to LBC's annual accounts for the year ending 31 March 2014

[24] We note that Councils have the right to not make MRP provision upon detailed assessment that the expenditure / loan will be made in full and this is deemed to be a prudent assessment. According to LBC, no evidence of such a detailed assessment was found.

[25] Understood to refer to overspend. 26 February 2018 Cabinet report *General Fund & HRA Budget* General Fund Balances. The General Fund Balances in the following year were expected to remain unchanged, according to the Council Tax and Budget report dated 4 March 2019 (for the 2019/2020 financial year) which stated *"The current level of General Fund Balances is £10.3m, and are expected to remain unchanged."*

[26] 57612, 64041. Email from Ms Negrini to Mr Lacey confirming that the Housing Company would come under Mr Lacey's responsibility.

[27] Ms Negrini and Mr Lacey previously worked together at the London Borough of Newham.

[28] Two LBC risk registers dated 20 October 2014 and 4 December 2014 stated that the incorporation of a housing company was being explored for "three to four years [sic] time (2018)". 968462; 1477543. Mr Lacey stated to Kroll that, according to his recollection, several different housing companies were being discussed by LBC at the time, and it's possible that the risk register doesn't refer to BBB, but one of these other housing companies.

3.2.1 BBB's intended governance and operating structures

In the lead up to incorporation, Mr Lacey and Ms Negrini received legal advice in February 2015 from Pinsent Masons LLP ("Pinsent Masons") around the establishment of the company. This was included, alongside internal legal advice, in a March 2015 Cabinet report titled "Homes – Our 10 Priorities", co-led by Ms Negrini and Paul Greenhalgh (then Executive Director of Children, Families & Learning).[29] The report set out the results of LBC Officers' considerations around the housing company's incorporation and the legal advice received, which highlighted the importance of protecting the independence of the housing company and the need for it to act at arm's length from LBC in order to protect the LBC from breaches to state aid and public procurement regulation. In particular, two areas of importance were noted:[30]

- LBC should not have management supervision of the company; and,
- LBC should not provide more than 50 percent of the funding for the company.

On the basis of the presented Cabinet report detailed above, Cabinet approved on 16 March 2015 that delegated authority be given to the Executive Director of Place (then Ms Negrini), in consultation with other Members and Officers[31], to establish and operate the proposed development company.

BBB's governance and operating structures were put in place early in 2016 via a Delegated Decision document[32] signed by Ms Negrini (then Executive Director of Place) but authored by Mr Lacey.[33] This document set out that BBB would initially be staffed by LBC Officers under a service level agreement[34] and that Mr Lacey act as its Managing Director.[35] We have not identified any substantive recruitment procedures for this role, and we note that HR staff at LBC raised concerns as to the lack of clarity surrounding his recruitment process.[36]

Despite the legal advice received recommending that governance and other structures be put in place that ensured BBB operated independently of LBC (to avoid unlawful behaviour over state aid,

[29] The Cabinet report was co-led by Ms Negrini and Paul Greenhalgh (Former Executive Director of Children, Families & Learning).

[30] According to paragraph 4.5 of the 16 March 2015 Cabinet report

[31] Cllr Butler, Mr Murphy and Ms Belvir.

[32] Delegated Decision Report dated February 2016

[33] 39371.

[34] The Delegated Decision report states: "*Where council staff are commissioned to deliver services on behalf of the development company, consideration has been given to the issue of Transfer of Undertakings Regulations (TUPE). The development company will commission from the council an agreed set of services for an agreed fee and this arrangement will be documented in a Service Level Agreement (SLA).*"

[35] Mr Lacey was still an LBC employee while acting as BBB's Managing Director, until his formal transfer in 2018 (see section 9.7.1

[36] 238188. Detailed further in section 7.6.1, specifically around whether a Transfer of Undertakings (TUPE) would apply and whether the Board or LBC might fulfil the post through a commissioning agreement.

procurement), we note that in the following areas, BBB and LBC were not acting independently of one another and the governance structures set out in the delegated decision document were not implemented.

3.2.2 BBB's appointment to the Project

The concept of establishing BBB as a vehicle to deliver LBC's housing needs and the need to fund the Project alongside its integration into the wider College Green scheme were happening in parallel during 2015 and 2016.

The first reference to LBC's consideration of using BBB to deliver the Project was at a special meeting of its Growth Board[37] in November 2015, a month after Cabinet had agreed to Ms Negrini's recommendation to integrate the Croydon College land with the wider College Green scheme.[38] At this meeting a presentation was given by external advisors, Arcadis, which recommended that LBC's development company[39] undertake the Project by way of a joint venture.[40] Arcadis acknowledged the high-risk nature of the Project in their presentation, noting a complex delivery structure and high programme and cost risk.

BBB was appointed to the Project (along with several other projects) by a Cabinet decision in June 2016, following recommendations set out in a Cabinet report presented by Mr Simpson. However, our Review has identified a lack of clarity in the information provided to Cabinet around its approval, which is detailed further in section 3.5.1.3. The Cabinet report included the following points pertaining to the Project's structure:

- As LBC remained the owner of the Fairfield Halls, BBB was appointed to the Project under a license agreement, which would allow BBB to access the property for the purposes of delivering the Project;
- The Project would comprise an investment of £30 million into the refurbishment of Fairfield Halls (although the amount disclosed to Cabinet was based on an "*untested*"[41] scope of works as detailed in section 3.3.1);[42] and;

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[37] Mr Simpson, Mr Lacey, Sean Murphy (LBC's Head of Property and Commercial Law) and Julie Belvir (LBC's Monitoring Officer) attended this meeting.

[38] As detailed in section 3.1, Cabinet had approved the integration of the Project into the wider College Green scheme in September 2014.

[39] LBC's development company became known as BBB

[40] No possible joint venture partner was referenced.

[41] According to Kroll's interview with representatives from Mott MacDonald.

[42] This was the first time that the proposed £30 million investment was published in Cabinet reports since 2014, although existence of a £30 million scope of works had previously been disclosed to the Scrutiny and Overview Committee in November 2015, see section 3.3.1.

- The Project was part of Phase 1[43] of the wider College Green scheme.

Despite Cabinet's approval to appoint BBB to the Project (i.e. to approve the use of the BBB structure to deliver the Project) at this time, it is clear that there was reticence amongst BBB board members to take on the Project as formal approval by BBB's board had not been provided at the time of LBC's decision in June 2016.[44] The Board started discussions around taking on the Project at the end of April 2016 and only agreed in principle to undertake the scheme following the review of a financial appraisal. However, in an email to Ms Negrini (then Chief Executive Officer) dated 5 May 2016 (just over a week after a BBB Board meeting on 26 April 2016) Mr Lacey stated that he had presented the College Green scheme to the BBB Board who were "happy in principle to take it on, subject to review of financials". Mr Lacey specified that "Richard (via 31Ten) has now completed the financials, so I will send that to the BBB Board for their approval".[45]

Jeremy Titchen, a former non-Executive Director of BBB, raised concerns as to the viability of BBB going forward with the Project following a review of the aforementioned financials in response to a request to comment from Mr Lacey. Mr Titchen advised Mr Lacey that the Project was high-risk and susceptible to overruns, which would have impacted the profit element of the College Green scheme.[46] Mr Lacey responded to Mr Titchen's concerns by effectively confirming them, saying the profit element was "*marginal at best*".[47] The concerns around the potential overruns and the impact on BBB's profits were ultimately realized, as the overspend on the Project resulted in BBB writing down its profit from College Green to £0 in its 2019/2020 Business plan.[48]

In July 2016, BBB's board again discussed the Project in the context of beginning enabling works, but options around using a joint venture[49] for the Project were also mentioned. It was only in January 2017 that BBB's Board minuted formal approval for the company to undertake the Project, seven months after the June 2016 Cabinet decision to appoint BBB to the Project. A former director of BBB interviewed by Kroll, stated that the Board ultimately agreed to take on the Project on the basis of

[43] According to the 20 June 2016 Cabinet report, this included the Project, as well as the initial residential development, the enabling works for the college facility (understood to refer to the Croydon College land) and some public realm works. Phase 2 included the delivery of the new college building, the redevelopment of the existing college land and the remainder of the public realm works.
[44] Formal approval by BBB's board for the Project was minuted at their meeting on 3 January 2017.
[45] 330025. Mr Simpson stated he did not have any involvement in the work conducted by 31Ten.
[46] 48054. "*profit is just £9.3 m for the first phase and £19m overall*"
[47] 48054
[48] BBB Business Plan 2019/2020
[49] A joint venture structure was not referenced to in the decision outlined in the Cabinet report. However, Mr Lacey stated to Kroll that, after the June 2016 Cabinet report, BBB's Board would need to approve taking on the Project, and the joint venture structure was one of the options being considered.

the financial appraisal detailed above indicating that the Project would be profitable for BBB in the context of the larger scheme.

According to Kroll's interviews with LBC staff, the internal decision to recommend BBB's appointment (ahead of Cabinet approval in June 2016) was questioned by LBC Officers[50] due to a concern around BBB's lack of technical expertise in the areas required by the Project (refurbishment of a historical entertainment complex building), and because BBB did not have a track record of delivering a development project, although some interviewees informed Kroll that it was their understanding that BBB did have the technical skills required to manage the Project.[51] From interviews with LBC staff outlining the decision-making processes that existed at LBC at the time, it appears that Ms Negrini had ultimate responsibility for the decision to recommend BBB's appointment to the Project. We have not identified any formal documented decision detailing the rationale for this decision or the basis on which it was made and we were unable to confirm this with Ms Negrini, although we note that the Arcadis presentation mentioned above did recommend BBB to deliver the project (albeit in a joint venture structure), and also note that LBC's Development Directorate was working for BBB at this stage, according to comments provided to Kroll by Mr Lacey. We understand, however, from review of later BBB Board minutes,[52] that BBB was seen as the only option for delivery of the Project; Mr Lacey is reported to have stated that "*No one wished to take on the project*".[53]

The way the Project was structured meant that BBB was subject to substantial commercial risk, as the Project was only viable as part of the College Green scheme. It should also be made clear that as BBB was wholly owned and wholly funded by LBC, LBC alone bore the full risk of any failed development projects undertaken by BBB.

Furthermore, BBB Board minutes from April 2019, which we understand refers to the Board's deliberations between the April 2016 decision in principle and the January 2017 minuted approval to take on the Project, indicate that the £30 million figure was an estimate of construction costs from some five years prior to BBB's involvement in the Project, and that there was always a risk that the Project budget would be exceeded (because of the lack of certainty around initial estimates on old listed buildings).[54] The fact that the BBB Board took on the Project despite the risks around the budget

[50] See section 7.7.2.1

[51] LBC's place department had moved over to BBB, and therefore, the expertise at the Council had moved to BBB.

[52] BBB Board minutes April 2019, which document discussions around BBB took on the Project.

[53] According to Mr Lacey, he was referring to the Fairfield Halls element, which is referred to as the Project in this report. Mr Lacey further stated that although the Project was viewed as a risky capital expenditure component of the wider scheme, albeit necessary to acquire the adjacent development land (the wider College Green scheme). Mr Lacey further stated that "no development company would wish to take on such a project if it wasn't absolutely necessary".

[54] This was explained to Kroll as arising mainly from the limitations on surveying a listed building resulting in significant assumptions being made, which might at a later date be shown to be unrealistic.

because it was appointed to do so by LBC highlights a lack of independence from LBC, which had made the decision to refurbish Fairfield Halls at a budget of £30 million in advance of the BBB Board's own agreement to do the work.

This risk became even more substantial during 2017,[55] when a parcel of land[56] owned by Croydon College was withdrawn from the scheme and sold to an independent party in July 2018, putting the profits further at risk. The withdrawal affected the number of houses that could be built (and sold) on the remaining land and therefore revenue earning potential available to BBB.[57] According to Kroll's review, BBB directors (who included two non-executive directors appointed by LBC and the Section 151 Officer acting as observer) were aware from an early stage that the Project relied on the revenue from the broader College Green scheme to make it profitable for BBB and agreed to it on that basis.

3.2.2.1 LBC's funding of the Project

BBB was ultimately wholly funded by LBC loans. This differed from the legal advice contained in the 16 March 2015 Cabinet report[58] as outlined in 3.2 which set out several considerations relating to the structure of BBB in advance of its incorporation. This report stated that "*anything that could create or reinforce a relationship of subordination or dependency between the Development Company and the Council should be avoided*". The fact that LBC did not follow the legal advice contained in the Cabinet report or the legal advice obtained from Pinsent Mason (see section 3.2.1) to ensure LBC's independence was also included in GT's RIPI2 which stated that "*we remain of the view that the independence of Brick by Brick is open to challenge… and therefore the Council has not ensured that its own legal advice was followed*.[59]

One example of this was that the legal advice from Pinsent Mason (see section 3.2.1) suggested that no more than 50 percent of the company's funding should come from LBC. Kroll has not identified any formal communication or approval of the differences from the originally considered funding structure other than BBB's submission of its annual business plans to Cabinet from the 2018/2019 year onwards,[60] which refer to a 75:25 debt to equity split for its funding. BBB never received any external loan funding or any equity funding from LBC, requiring it to use loan funding as working capital, according to its directors.[61] Mr Simpson stated to Kroll that, according to him, there was no

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[55] As detailed further in section 8
[56] The Barclay Road Annex
[57] We note that the withdrawal of Croydon College also removed the obligation (estimated at £73 million) for BBB to build a new College building.
[58] Entitled "Homes – our 10 priorities"
[59] GT RIPI2 *Legal arrangements*
[60] BBB's first business plan (for the 2017/2018 year) did not include reference to the debt equity funding ratio.
[61] Included in detail in section 9.8.8]

rule that LBC couldn't wholly fund BBB, and according to him, it was not unusual as the majority of council-owned companies are funded in this way.

During 2017, two factors which heightened the risks associated with the Project occurred. Firstly, its funding structure was changed to be fully funded by loans from LBC. This differed to what was originally reported to Cabinet in the October 2015 Cabinet report, which stated that LBC would contribute £12 million towards the Project from its own capital programme. By 2017, the amount in LBC's capital programme had been reduced, and an amount of £30 million was recorded as Project related loans to BBB, with the result that BBB would be required to fund the whole cost of the Project from its profits, increasing the risk of the Project for BBB. The possibility of the loss of land belonging to Croydon College from the overall College Green scheme also became known to Officers in 2017, with the result further increasing the risk of the Project, as the loss of this land meant that the number of houses on the overall scheme decreased (without amending the planning for the scheme until 2019[62]), resulting in fewer homes for sale by BBB, with the potential of lower profits. At the end of 2017, an internal memo created by BBB which showed a projected loss of £10 million on the College Green scheme was circulated internally. This memo was also sent to Richard Simpson, the Section 151 Officer at LBC.[63] At this time no significant decisions appear to have been taken by LBC Officers to increase their monitoring of the Project or manage these increasing risks, other than a January 2018 request to obtain regular cost estimates for the Project (see section 3.6.1). These risks were not formally reported to Cabinet.

The Project was funded through a facility agreement between LBC and BBB with a drawdown limit of £95 million which covered the entire Phase 1[64] of the College Green scheme. The amount applied to each part of the phase was not specified within the agreement, meaning there was a lack of control around which portion of the total facility could be drawn in relation to the Project. This facility agreement was never executed, which means the value of drawdowns against this facility to the value of circa £60 were made without a signed loan agreement. This was also highlighted by GT in the RIPI2.

For both BBB and LBC to have undertaken significant transfers of cash without any executed agreements in place indicates a lack of independence, weak financial controls and a significant degree of commercial risk underlining the fact that BBB was treated as an extension of LBC. Mr Simpson and

[62] See section 8.6.1 and 8.8.1

[63] 49517

[64] According to the 20 June 2016 Cabinet report, this included the Project, as well as the initial residential development, the enabling works for the college facility (understood to refer to the Croydon College land) and some public realm works. Phase 2 included the delivery of the new college building, the redevelopment of the existing college land and the remainder of the public realm works.

Ms Taylor, in their capacity as Section 151 Officers and stewards of LBC's finances, ought to have been aware that no executed facility agreement was in place for the Project. [65]

The above should be seen in the context of LBC's financial monitoring of BBB as a whole, which was overseen by Mr Simpson until January 2019, and thereafter by Ms Taylor. During this time, LBC Members were not informed about the projected overspend of the Project, final audited accounts[66] were not presented to Members for all years[67] (by way of the General Purposes and Audit Committee) and no changes to the expected dividend and interest payments from BBB were made until the February 2019 budget, despite the inclusion into expected future revenue. It should be noted that ultimately no dividend payments were ever made.

3.2.2.2 Lack of independent governance and oversight

There was a lack of independent governance and oversight, which included a lack of day-to-day operational independence between LBC and BBB and, on a number of occasions, governance structures did not adhere to what was considered at the set-up of BBB, as detailed below:

- Several LBC staff have told Kroll in interview that the BBB team was, in practice, treated as an extension of LBC itself rather than as a structurally and operationally independent third party. From January 2016 until June 2018, BBB was staffed primarily by LBC Officers that were seconded to the company.[68] Its registered and trading address was LBC's offices at Bernard Weatherill House. We were told that BBB's four annual business plans, that were required to be included in LBC's annual budget report, were sent shortly before the deadline, not allowing time for proper review by Officers. We note also that between its incorporation in 2015 and June 2018, BBB shared a bank account with LBC, and that during that period, LBC was performing accounting services for BBB.[69]
- We noted also that the BBB Board, the main governance structure within BBB, did not always adhere to the structure considered in the Delegated Decision dated February 2016 (namely two LBC-nominated directors and two independent directors). Firstly, in December 2018, Mr Lacey (previously an LBC-appointed director from January 2016 onwards) was appointed as an independent director, when he replaced Jeremy Titchen – until this time Mr Lacey was acting as the Managing Director of BBB on secondment from LBC, and therefore could not be

[65] Both Mr Simpson and Ms Taylor disputed this, which is detailed further in section 3.6.2 and section 9.8.2.
[66] According to the Service Level Agreement between BBB and LBC, LBC was responsible for providing accounting services to BBB until the middle of 2018 (as detailed in section 9.1
[67] Audited accounts were presented for the 2017 financial year and draft accounts were presented for the 2018 financial year.
[68] Under a Service Level Agreement.
[69] Under the Service Level Agreement detailed in the Delegated Decision Report.

considered independent according to the definitions contained in the UK Corporate Governance Code (see section 3.6.2). Kroll identified several other instances where, for a period of time, the composition of the BBB Board did not reflect this document.[70] Most importantly, Ms Mustafa, who was Executive Director of Place (and therefore had significant oversight and decision-making authority related to payments and other transactions between LBC and BBB and was the Senior Responsible Owner and chair of the Fairfield Halls programme Board and chair of Growth Board) also acted as a director of BBB, which was highlighted as a conflict of interest by several LBC advisors, and according to Mr Lacey, this concern was also raised by him.[71] This conflict existed between January 2019 and September 2020 and was only managed by Ms Mustafa's resignation from the BBB Board in September 2020. A potential conflict also arose as a result of a lack of independent senior financial oversight for BBB, as this was provided by Mr Simpson and Ms Taylor, particularly until late 2017.[72] During this time Mr Simpson and Ms Taylor were senior employees in LBC's finance department, and Section 151 Officer and Deputy Section 151 Officer respectively, which created a conflict between their advice to BBB, and the fact that they were required to act in the best interests of LBC. BBB did not appoint its own finance director[73] until November 2020.

The fact that BBB's Board did not adhere to the considered structure, together with the conflicts mentioned above, is likely to have severely impeded the independence and oversight of BBB by LBC. Kroll has also noted that there was a general lack of documented rigor and challenge in BBB's Board minutes,[74] particularly during the earlier period (2016 – 2018) of BBB's existence. This contributed further to the lack of independent oversight. This was exacerbated by LBC's own internal governance structures being poor (see section 3.4).

3.3 Development of Project budget, scope and estimated completion date

As detailed above, the October 2015 and June 2016 Cabinet reports were significant dates. At the former Cabinet gave its approval to the integration of the Project into the wider College Green scheme, with the intention for LBC to contribute £12 million to the Project from its capital programme and the balance to be cross subsidised from profits on the wider College Green scheme. At the latter

[70] For six months (between January 2019 and July 2019) there was only one LBC-appointed director. Mr Lacey stated to Kroll that this issue was raised by BBB.
[71] See 9.7.1.2
[72] BBB hired a "Head of Operations" in late 2017 who took on the finance role.
[73] According to Mr Lacey, the Head of Operations was a fully qualified CIPFA accountant, and took on the role of Finance Director, although the role was named differently,
[74] As detailed in section 9.7.1.4

date, Cabinet approved the appointment of BBB to deliver the Project for a total investment of £30 million.

Our review has however identified that at these points in time, the £30m investment reported to Cabinet appears to have been little more than a figure that LBC wished to spend. It had been derived from a core scope of works which did not comprise a tested design, and existing estimates were significantly above this figure. This information was not clearly communicated to Cabinet. The final design was in fact only agreed in October 2018, and even after this date, a number of change instructions were issued causing further changes to the scope over Vinci, the main contractor's final agreed contract price of £42.6 million (see 3.3.3). Following the award of the Project to BBB, it quickly became apparent that BBB would struggle to deliver the Project within the expected timeframes and budget, as set out below:

3.3.1 Discrepancy between Project budget and cost estimates prepared by external advisors

Between May 2015 and BBB's appointment to the Project in June 2016, the discrepancy between cost estimates and capital allocation continued, as a result of a failure to agree a final design (which would reduce the scope of works in line with available budget). By the time BBB was appointed to the Project in June 2016, with an investment value of £30 million disclosed to Members, the final design was still yet to be agreed. This was not made clear to Members at the June 2016 Cabinet meeting or in the covering report.

Mott MacDonald, a local engineering consultancy firm, was appointed as a consultant in March 2015 and prepared three cost estimates which all exceeded £30 million: two preliminary[75] cost estimates (dated May and September 2015, estimating the total cost at £73 million and £83 million respectively), and a third, more final cost estimate for £60 million included in a proposal for further work dated April 2016 (which included a "core scope of works" totaling £27.8 million[76]). Mott MacDonald informed Kroll that this latter cost estimate was prepared only after they had become aware, in September 2015, that there was a discrepancy between what LBC had budgeted and their estimates (which represented a full aspirational refurbishment project)[77]. As a result, they prepared a summary matrix around key decisions that had to be made in order to achieve a budget of £30million. This resulted in a core scope of works amounting to £31 million being set out between

[75] Calculated on a preliminary basis for the purposes of early design, as defined by the Royal Institute of British Architects Plan of Work Standards
[76] See section 7.4.1
[77] See section 6.4

them and LBC's Regeneration Manager, Edward McDermott in November 2015 (which was also presented to the Scrutiny and Overview Committee in November 2015, see section 3.5.1.2), however they emphasised to Kroll that the scope of works had not been drawn up as a coordinated design, was untested and did not represent a real scheme.[78] Based on our review of electronic communications and discussions with Mott MacDonald, we are aware that Mr McDermott had sight of both the May and September 2015 cost estimates, whereas Mr Lacey had sight of at least the May 2015 cost estimate.

In April 2016, they provided a final draft proposal which was intended to be a more final cost estimate than the document prepared in May 2015. This proposal referenced a "a broad scope of potential refurbishment amounting to a capital value in the order of approximately £60 million"[79] which was reduced to a core scope of works totaling £27.8 million. According to Mott MacDonald, this core scope of works comprised the same scope that had been decided at the meeting in November 2015 mentioned above, and had not been drawn up as a coordinated design.[80]

The projected discrepancy between cost estimates and the allocated budget was acknowledged internally on numerous occasions by senior Officers of LBC, including Mr Lacey and Ms Negrini. In these discussions, the proposed solution to this funding gap was to reduce scope and undertake value engineering adjustments, i.e. the consideration of alternative materials and designs to achieve the same or similar outcome. This discrepancy of costed design estimates, deliverability of the scheme and the budget risk wasn't reported to Members in the June 2016 Cabinet report.

3.3.2 Early discussions of cost pressures and uncertainty around structure of the Project

Following the closure of Fairfield Halls in July 2016, shortly after BBB's appointment to the Project in the previous month, we have identified evidence of significant cost pressures being discussed almost immediately.[81] We note that around this time, in October 2016 (when BBB should have been four months into enabling works) there remained a lack of clarity in BBB Board discussions as to how BBB was going to structure the College Green scheme, considering options such as joint venture delivery, or a developer/enabler scheme, which, according to Mr Lacey, formed part of the BBB Board's consideration of potential delivery options. This was more than three months after BBB had been

[78] According to information from representatives of Mott MacDonald.
[79] 238015
[80] According to Kroll's interview with representatives from Mott MacDonald. See section 6.3 and 6.4 for further detail.
[81] See section 7.4.3

appointed by LBC to undertake the scheme, and before BBB's Board had approved the scheme. This uncertainty likely added to the cost and time pressures during this period.

According to email communication, cost pressure during this period related mainly to higher than expected levels of asbestos identified during demolition, conducted by General Demolition Ltd ("General Demolition") which exceeded its budget by over £500,000. By January 2017, Mr Lacey was already commenting on extreme cost pressures. Asbestos and mechanical and electrical engineering works had already pushed the project over budget to £34.5 million: "*The whole thing is very unviable so we need all the CTC [Coast to Capital] Money*[82] *just to get back to zero. Defs can't be more than £30m. We'll need to reduce spec if necessary".* BBB had sought funding from the Local Enterprise Partnership Coast to Capital to fund specific parts of the Project, such as a new gallery space. Mr Lacey outlined in his email above that the funds were to help cover additional spend on the Project if BBB were to remain within £30 million cost.

Gleeds, a property and construction consultancy who had been appointed as BBB's project and cost managers for the Project in July 2016, also planned to deliver a cost plan for a scope of works within the £30 million budget committed to by Cabinet between at least July 2016 and January 2017. According to the latest correspondence reviewed by Kroll on this matter from January 2017,[83] they were not able to do this, further highlighting the scope and budget pressures of the Project.

3.3.3 Procurement and appointment of Vinci

Gleeds were appointed as cost manager in June 2016 and were instructed to conduct a plan for the tender of the Project. Vinci was ultimately appointed as the main contractor in May 2017, following a recommendation by Gleeds, which ranked Vinci as the highest of four received tender submissions. Following price corrections (to factor in price errors) made to all four proposals, Vinci's final bid of £25.6 million was the lowest of the four tender prices, and they scored highest on the technical submission. At this point, the design stage (and therefore the scope) of the contract had however still not yet been finalised, which was unusual according to Kroll's interviews with several individuals. According to Kroll's interview with an external construction expert hired by the current management of BBB, this form of contract meant that BBB was liable for variation in design.

Vinci entered into a Pre-Construction Services Agreement ("PCSA") in May 2017, whereby it would undertake further enabling works and work towards determining a final contract scope and price

[82] £4.5 million in funding was awarded to the Project by Coast to Capital, a Local Enterprise Partnership
[83] 40515

with BBB once it had gained access to the site. This contract was originally meant to run until the end of July 2017, but was ultimately extended to March 2018. Following this, Vinci and BBB entered into an Early Works contract of £25 million in April 2018, at which point the full design had still not been agreed. In October 2018, the value of Vinci's contract increased to £42.6 million, however, only 46 of the 144 change orders that had been approved by Gleeds were included in this price. Once all 144 were included, the contract price further increased to £55 million.[84] As detailed in section 3.6.1, the estimated total cost of the Project, which was internally reported amongst LBC Officers and to the Growth Board, was increasing throughout 2018. The final contract price of £55 million was only finalised after the completion of the Project, when Vinci's contract was novated to LBC.[85]

3.3.4 Contracting issues and lack of final design

The fact that the design had not been completed led to contracting issues with Vinci, and these, together with significantly higher levels of asbestos found, led to cost and timeline overruns.

Delays to finalising Vinci's contract were a result of ongoing negotiations around Vinci's contract price. Vinci's initial proposal for the contract sum (after having spent four months conducting further enabling works) was made in August 2017 at £35.1 million - more than the Project's budget and above their initial successful bid of £25.6m. There were also significant value engineering and scope changes taking place as BBB sought to bring the Project within budget, and the design was still not yet finalised. The lack of a finalised design (which was only agreed in October 2018 at the finalization of the contract, see section 3.3.3) meant that there was little cost certainty for Vinci as it could not procure subcontractors for the Project.

In October 2017, BBB recorded in internal company (not Board) meetings that certain work items were now expected to be completed in 2019, leading to a risk of late completion, which was reported to LBC's Fairfield Board (see section 3.4). BBB reminded their contractors and advisors it was a £30 million budget that had to be adhered to. Substantial further asbestos had been found in the building, impacting Vinci's work programme, increasing time delays and cost pressures.

By early January 2018, the Fairfield Board had been made aware that there were financial pressures on the Project. The minutes record at the meeting that the exact loss of the Project would be confirmed, and that the wider loss would come out of BBB's profit from the wider College Green development. Shortly after the January 2018 meeting, Gleeds produced its first financial report which

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[84] Final contract price included a number of items according to BBB's ledger. A breakdown of these items is shown TABLE 37. This calculation was finalised during LBC's novation of the Vinci contract in 2021.
[85] As detailed in section 10.2.2

estimated the Project budget at £38.95 million. This was included in the papers circulated to the Fairfield Board membership in February 2018, but the meeting was cancelled.[86] We note that this £38.95 million figure represented the best-case scenario for the Project, as it assumed all value engineering proposals and savings were accepted and realised. The total anticipated project cost prior to these savings was £42.94 million. As detailed in section 3.6.1, the increase in cost was never publicly reported to Members for approval of additional council funding until February 2020, after the Project had been completed.

3.4 Governance of the Project

As already detailed above, LBC's senior management, governance and oversight structures included both Officers and elected Members. Although a number of governance bodies and processes in relation to the Project and BBB were established by LBC, these processes were not followed fully by Officers (as described below), resulting in a failure to escalate the projected overspend to Cabinet/Council. Furthermore, there was a delay in establishing two additional governance structures, one of which had been communicated to Members as a risk mitigation measure since BBB first became operational in early 2016. This significantly weakened LBC's governance of BBB as a whole.

In practice, governance and control of the Project at an LBC Officer level was concentrated within a small group of individuals within LBC from the Executive Leadership Team, from Finance and Resources and Place directorates. These individuals often fulfilled a number of different roles across the various governance structures. In particular:

- Ms Mustafa held senior positions across Project and BBB related governance structures, as chair of the Fairfield Board and Growth Board, Executive Director of Place, and a director of BBB. She was therefore responsible for the escalation of Project related risks;
- Mr Simpson, as Section 151 Officer (and later, his replacement, Lisa Taylor) had ultimate responsibility for governance around payments made by LBC to BBB, including ultimate approval of LBC's payment of over £60 million (£30 million over the agreed budget) to BBB in respect of the Project;

[86] We note that the February 2018 Fairfield Board meeting was cancelled by Shifa Mustafa ("Ms Mustafa", Executive Director of Place and chair of the Fairfield Board) without explanation, despite it being the first meeting where an overspend was recorded and the Project moved to a 'red' risk rating.

- Ms Simmonds was responsible for the overall oversight of LBC's relationship with BBB[87] from October 2018;[88] and,
- Ms Negrini, as Chief Executive Officer, had overall responsibility for the stewardship of the Council and transparent reporting to Members from Officers, which was not undertaken in relation to the Project.

We have set out additional details on the roles of these Officers in section 3.6.

3.4.1 Failure to follow existing governance processes

The internal, Officer led structures, comprised the LBC Boards focused at a Project level (initially the Fairfield Halls & College Green Integrated Programme Board ("Programme Board"), and subsequently the Fairfield Project Board ("Fairfield Board")). These Project-level boards comprised of LBC Officers and received regular updates from BBB once they had been appointed to the Project. These Boards reported into the Growth Board (which was attended by both Officers and Cabinet Members), which had a slightly broader focus (for Croydon's Growth Plan as a whole). The Growth Board was required[89] to escalate significant issues (such as the projected overspend of the Project) to the Executive Leadership Team ("ELT"). Minutes of these internal LBC boards did not always contain significant detail, so it has not always been possible to determine internal messaging with clarity.

Review of the minutes for the Fairfield Board and the Growth Board show that issues (as detailed in section 3.3.4 above) relating to Project overspend and overrun were first raised within BBB between November and December 2017, and first reported to the Fairfield Board in February 2018 (see 3.3.4). BBB continued to provide cost updates to the Fairfield Board, based on Gleeds' financial reports on a periodic basis, which showed a gradual increase in Project cost throughout 2018 and 2019, and this was reported (in board papers and at the meetings) to the Growth Board throughout 2018 until it stopped meeting in April 2019,[90] in line with the escalation outlined in the terms of reference. Based on the frequency and level of discussions from these Boards, it is clear that LBC Officers had a degree of knowledge of the issues around the Project in relation to budget overspend and overrun. A number of Cabinet Members also attended Growth Board meetings between July 2018 and November 2018, where the Project overspend was discussed, and were also aware of the projected overspend. However, the projected overspend was not formally escalated to ELT or Members from the Growth

[87] Referred to within LBC as the "client relationship".
[88] See section 9.7.2.2
[89] According to the Growth Board's terms of reference it should have been escalated to the Executive Leadership Team ("ELT").
[90] The Growth Board met for the last time in April 2019 and was not replaced until the Capital Board was set up in December 2020.

Board although senior LBC staff (including the Section 151 Officer and the CEO) were made aware of the projected overspend by the end of 2018.

In addition to the Project specific governance process described above, adherence to LBC's risk management process should also have resulted in the projected overspend being escalated to Members. According to LBC's risk management process, any red-rated Project risks that could have been considered of strategic importance to LBC in accordance with its risk management policy, should have been recorded in the LBC Corporate Risk Register system (JCAD). The General Purpose and Audit Committee ("GPAC") a Member-led body which was responsible for overall risk management at LBC, was responsible for reviewing LBC's corporate risk register, another way in which the increasing Project risks and projected overspend could have been escalated to Members. However, no risks in the risk register related specifically to the Project were identified despite the fact that the Project was recorded as a red risk at both the Fairfield and Growth Boards, in respect of cost overruns and delivery delays. We understand that, as chair of the Growth Board, Ms Mustafa had a responsibility to report these risks to the corporate risk register to ensure the escalation of these risks to Members or to ELT. No Project-related entries into LBC's risk register were identified. Kroll was informed by LBC Officers that as part of its remit, GPAC reviewed BBB's financial statements. However, except for the 2017 financial year, GPAC received only draft financial statements for BBB for review.[91]

We note also that a number of key agreements relating to the Project (including the facility agreement detailed in section 3.2.1.2 above), as well as the Head of Terms agreement between LBC and Croydon College for the Barclay Road Annexe land (which was, as detailed in section 3.2.2 a key part of the scheme) were never executed, meaning that LBC had no legal recourse when these agreements were breached.

3.4.2 Delay in setting up additional governance bodies

The delay in setting up a Member-led board resulted in a lack of Member-led governance of BBB (whereby issues at BBB may have been reported to Members, and escalated to Cabinet). Although Members were provided with assurance that these controls were to be set up, no explanation for the delay was ever formally reported. We note that reference to the establishment of a Member-led Steering Group / Information Group was set out in the June 2016 Cabinet report (where BBB was appointed to the Project, see section 3.2) and the February 2016 Delegated Decision report (which set out the operational and governance structures for BBB, see section 3.2.1). This communicated to Members that the establishment of such a structure would be part of the internal controls that LBC

[91] See section 4.4

would set up to mitigate risks and govern its investment in BBB. The fact that this body was planned was again reported to Cabinet on 20 February 2017.[92] Although the Member led Steering Group was never set up, Member-led governance was eventually conducted through the BBB Shareholder and Investment Board.[93] which itself was not set up until September 2019,[94] after the Project's completion, and more than three years after BBB became operational.

The BBB Monitoring Group, was established in February 2019[95] (and first met in April 2019) to take over the monitoring and governance of BBB on an overall level, and from LBC's client perspective (as LBC was a client of BBB). This was more than three years after BBB became operational, and the delay resulted in a weakness in LBC's overall monitoring of BBB. An Officer, Hazel Simmonds ("Ms Simmonds") had been appointed to the lead client role for BBB from October 2018 and attended Asset Board and Growth Board meetings, and was tasked with setting up the board in November 2018[96]. However, any formal meeting structure was not created until February 2019, several months after the email instruction. The delay in the establishment of this Board was also highlighted in the RIPI2. Furthermore, the BBB Monitoring Group's terms of reference explicitly name Ms Simmonds as responsible for reporting and escalating on risk areas deemed necessary by the group, but we were informed by LBC that no risk register was ever prepared.[97]

3.5 Lack of robust reports to Cabinet / Council

We note that the only formal reporting regarding BBB and/or the Project to Cabinet / Council as a whole was done through LBC's annual budgets and BBB's annual business plans. Although the Cabinet made the initial decision to appoint BBB to the Project, they did not receive any formal reporting on progress of the Project outside of the annual business plans, leaving the regular monitoring of the Project to the Scrutiny and Overview Committee,[98] which reviewed the progress of the Project a number of times.[99] Furthermore, the Business Plan that was presented annually to Cabinet only contained very high level and non-project specific financial information and minimal assessment of risk, although we note that these reports were not intended to provide detailed project level updates. Although individual Cabinet members (Councillor Alison Butler, Cabinet Member for Homes and

[92] 20 February 2017 Cabinet Report
[93] Also referred to internally as the Member Steering Group, and the Member Information Group.
[94] With its first meeting being held in October 2019.
[95] A meeting scheduled for 14 February 2019 was cancelled.
[96] Ms Simmonds received an email from the Monitoring Officer in November 2018 with a list of suggested improvements attached. 253373, 253374
[97] Kroll was informed by Ms Kerswell that Ms Simmonds did not prepare a risk register for the BBB Monitoring Group.
[98] We note that this Committee does not have any decision-making power, it can only recommend decisions made by Cabinet to be reconsidered.
[99] These are set out in detail in section 22

Regeneration (LAB), and Councillor Simon Hall, Cabinet Member for Treasury and Finance (LAB)) had oversight on an individual basis, there was no formal platform for updating Cabinet or Council, a point also made by RIPI2. The Member-led governance body for BBB (the BBB Shareholder and Investment Board), which was described in the Delegated Decision report as a Member information group (detailed in section 3.2) was only formally set up in late 2019, after the reopening of Fairfield Halls.

3.5.1 Formal reports to Council were misleading or lacked detail and nuance

The detail about Project overspend was not presented by LBC Officers formally[100] to the elected Members until February 2020, after the reopening of Fairfield Halls, when the first statement was made to Members through the Scrutiny and Overview Committee about the overspend on the Project (see 3.5.1.5) (although we have identified evidence that shows that Officers were aware of the overspend in 2018 (as detailed in section 3.6.1)). We have identified a number of instances where formal reports to Members were not full and frank or lacked sufficient detail, as set out in the following sections.

3.5.1.1 Lack of detail in LBC's annual budgets and BBB's annual business plans

LBC's annual budget included the annual sum to be paid to BBB as part of its Capital Programme. Included as part of the budget, is a statement made by the Section 151 Officer about the robustness of estimates made and the adequacy of proposed reserves which is a statutory report made under Section 25 of the Local Government Act of 2003. Risk assessment by the Chief Finance Officer is a fundamental part of being able to decide if estimates and reserves are both robust and adequate. According to Ms Kerswell, best practice would have been to highlight the risk associated with LBC's payments to BBB as part of the Section 25 statement, as it was such a significant investment at over £200m of expenditure and given the level of risk LBC carried in regard to it. We note that no reference to the risk of LBC's investments were made in these statements for the 2015 – 2020 period and that just one risk was entered in LBC's corporate risk register, relating to BBB not delivering on its development or return expectations. According to Kroll's review of the risk register, this risk was withdrawn by Ms Mustafa in November 2019. No Project specific risks were entered into the risk register by Ms Mustafa. 4

The loan funds to be paid to BBB by LBC (which included loans for all projects undertaken by BBB) were included as one line on the Capital Programme, being the only formal approval of Cabinet and Council for these amounts. An expected dividend receivable from BBB of £2.2 million (which had been

[100] A list of Project-related Cabinet reports including lead Officers, and finance and legal risk sign off is included in section 29.

decreased from earlier expectations of £3.37 million)[101] was disclosed as a way of funding budget overspend in the 2019/2020 budget. This £2.2 million dividend was highlighted in the Section 25 statement for the 2019/2020 year, along with the fact that LBC had been prudent in decreasing the amount. The budget was set in February 2019, and by March 2019, BBB's negative equity position was at £1.3 million. BBB's business plan for 2019/2020 included profit expectations of £10.32 million, but in reality, the company made a loss of £0.80 million for the period ending March 2020. Ms Taylor, who signed off the Section 25 statement, was a director of BBB between January 2016 and January 2019, and it is reasonable to assume that she would have had access to some level of detail around BBB's management accounts.[102] However, we note that the February 2019 budget was approved only a short time after Ms Taylor took over from Mr Simpson on 1 February 2019 as Section 151 Officer (he was in post until 30 January 2019). Although we have been informed by LBC that Mr Simpson was involved in the budget process for 2019/2020,[103] Mr Simpson stated to Kroll that he withdrew from the budget process after his resignation in October 2018.

BBB's annual business plans (which were approved by Cabinet at the same meeting as the annual budget) were the only formal reporting mechanism of BBB results to Cabinet/Council and formed the basis of Cabinet's approval for additional funding to be provided to BBB. These reports lacked any detail in reporting on the Project, however Mr Lacey stated to Kroll that these reports were not intended to provide detailed project by project updates. Firstly, loan drawdown requests for BBB (as included in the business plans) were provided in an aggregated amount, and not shown on a scheme - by-scheme basis. Secondly, once it became clear that the Project was going to be overbudget, the impact of the Project-related overspend on BBB's profits was not specifically highlighted. Given that for many Members, these were the only reports that were being received from BBB, they did not contain sufficient detail to allow LBC to hold BBB accountable to the Project. Ms Mustafa, and subsequently Jaqueline Harris-Baker ("Ms Harris-Baker" LBC's Monitoring Officer) presented a covering report to BBB's Business plans in 2019 and 2020 respectively to the Streets, Environments and Homes Sub-Committee ahead of Cabinet approval, however in practice, according to emails reviewed by Kroll, Mr Lacey authored initial drafts of the reports and according to minutes of meetings, presented the updates to the Committee on their behalf.[104]

[101] As detailed in section 9.7.2.4.3 this dividend was included in the expected budget savings as an assumption for future years in the 2017/2018 and 2018/2019 budgets, although not included in the base budget for those years.
[102] According to the minutes of these meetings, management accounts were discussed at the BBB Board meetings in July 2018. 618106, although the update referenced the fact that BBB's data was in the process of being transferred from LBC's accounting system. BBB's accounting information had been housed on LBC's accounting system between incorporation and June 2018.
[103] We have not conducted a detailed review into the process of the 2019/2020 budget, but LBC have provided Kroll with emails showing that Mr Simpson was included in correspondence around the 2019/2020 budget (and provided comments on it). See section 9.7.2.4.3
[104] See section 9.8.3

3.5.1.2 Decision around closure options for the Project

The October 2015 Cabinet report and appended Mott MacDonald Summary Matrix did not sufficiently highlight the lack of clarity around the £30 million budget, the discrepancy to cost estimates prepared by external advisors, and the necessary scope decisions that needed to be made in order to meet that budget. This document did not include a preferred option between full or partial closure. Ms Negrini, in consultation with the Deputy Head of Communications who stated that a preferred option should be provided to Members,[105] edited the document with the apparent intention[106] of making the full closure option appear more favourable. The fact that the Summary Matrix prepared by Mott MacDonald was edited, was not disclosed to Members.

3.5.1.3 June 2016 Cabinet report did not sufficiently highlight the process of BBB's appointment to the Project or its difference to BBB's other projects

The Project was significantly different to other projects undertaken by BBB, as detailed in section 3.2.2. This report included a number of projects that BBB was to be appointed to, in addition to the Project. However, all of the other projects were to be transferred to BBB via a transfer of land interests, whereas BBB's appointment to the Project was under a license, as detailed in section 3.2.1.1. The difference in risk profile between the Project (under license[107]) and other projects (under land transfer[108]) that BBB was appointed to were not adequately described or explained to Members in the June 2016 Cabinet report, which recommended the decision by Cabinet to appoint BBB to the Project.[109]

As detailed in section 3.1, BBB was reliant on cross subsidization from the wider College Green scheme, which increased the risk profile of the development as a whole, as overspend on the Project would impact BBB's profitability on the wider scheme. Furthermore, as concluded by GT, the license allowed but did not require BBB to conduct the works, therefore, the license agreement contained no enforcement mechanisms to hold BBB to a specific budget or timeline. As detailed in section 3.4.1, the Head of Terms agreement with Croydon College (which owned significant parts of the land for

[105] 537977. See section 6.7.2.1 and section 6.8.1
[106] 387849, 387850.
[107] BBB does not obtain ownership of the land and the project is a net cost to BBB.
[108] BBB obtains ownership of the land.
[109] Although the June 2016 Cabinet report recommended that Cabinet approve the disposal of a number of sites to BBB, including College Green, and approve the funding required by BBB to progress the development of these sites, the report did not recommend that Cabinet specifically approve LBC's license to BBB for the Project. Mr Simpson was given delegated authority by Cabinet to progress this.

the College Green scheme) were also not finalised. These risks were not adequately highlighted to Members ahead of their decision.

This finding was also highlighted in a draft internal audit report issued in November 2020, which included in its findings the fact that the risk and difference in contracts considered for the Project from BBB's standard projects was not sufficiently highlighted to Cabinet in its June 2016 report and therefore, Members were not provided with sufficient information for an approval. However, this was later disputed by LBC legal staff,[110] as they indicated that the decision was made in a delegated decision after the Cabinet meeting in June 2016.[111]

3.5.1.4 Communication of Project progress to Scrutiny and Overview – October 2017

In October 2017, the Project was included on the agenda of the Scrutiny and Overview Committee and an update of budget and timeline were presented by BBB. Mr Lacey stated at this meeting that "*we're still on track to be able to deliver this with Vinci with works to be completed in November, and equally we're still within the original budget we agreed with Vinci*".[112] Although the contract with Vinci had not been finalised, and an estimate of total Project cost was not drafted until January 2018, internal estimates estimated the Project cost at £34 million at this date. The risks relating to the condition of the ground, removal of concrete and the fact that the foundations had been there for a long time were mentioned by Mr Lacey.[113] However, Mr Lacey's statement does not reflect the frequent communications about budget concerns detailed in section 3.3.2 or the fact that just a few weeks before the Scrutiny and Overview Committee meeting, a document was circulated to the Fairfield Board which indicated the risk of delay on the timeline (documented as November 2018) at a 60% likelihood.[114] Two weeks after the Scrutiny and Overview Committee meeting, minutes of a meeting[115] between BBB and their subcontractors (Gleeds and Vinci) highlighted that the work programme for the Project was beginning to enter 2019, although this meeting was not attended by Mr Lacey himself. As detailed in section 3.3.4, this was reported to LBC through the Fairfield Board in early 2018.

Although more detail had been requested by Cllr Godfrey (Cabinet Member for Culture, Leisure and Sport – LAB) ahead of the meeting (particularly he requested a detailed delivery schedule) no such

[110] LBC Draft Report – Fairfield Halls Deliver
[111] According to Ms Kerswell, even if the decision to enter the licence was made by delegated approval, the licence was still referenced in the Cabinet report, and therefore, there was still a requirement to provide Members with sufficient information on the risks, as detailed in this section.
[112] https://www.youtube.com/watch?v=yM3l3Gwx9Q4, 15:42
[113] Included in the minutes of this meeting.
[114] 933287, 933295
[115] 2062129

detail was provided by Mr Lacey further to what was provided in the report and appendices to the Scrutiny and Overview meeting. Although Mr Lacey admitted that the timing was "*an ongoing discussion with the contractor*"[116] he reiterated his confidence in Vinci to complete on time and on budget. The fact that Vinci was not able to provide certainty about completion timescales just over a year before the promised delivery date, and more than a year after the appointment of BBB to the Project, presented a risk to the Project's completion timeline, and possibly reflected the fact that there was at the time still no finalised scope of works as the Project design had not yet been finalised (see section 3.3.4). None of these issues were listed on LBC's corporate risk register or reported to Members, and Mr Lacey's statements to the Scrutiny and Overview committee did not highlight the known uncertainties detailed above. Mr Lacey stated to Kroll that his presentation to Scrutiny and Overview Committee had been accurate and that the Chair of the committee had been satisfied with the level of detail provided.

3.5.1.5 Mischaracterisation of the impact of overspend – Scrutiny and Overview committee February 2020

The impact of the Project overspend on LBC was not always reported accurately by officers to Cabinet and Scrutiny and Overview. Firstly, our review has identified references (see below) by LBC Officers to the fact that the overspend did not have a financial impact on LBC itself, and was a BBB issue (which is contrary to one of the key reasons LBC incorporated BBB, namely to obtain distributions of its profits, see section 3.2). As LBC was the sole shareholder and sole funder of BBB, any impact on BBB's profits would ultimately impact LBC. We noted this particularly at the February 2020 Scrutiny and Overview Committee meeting, where Ms Mustafa stated that "*the Council hasn't spent £42 million, a private company, albeit owned by the Council has to refurbish that building and get their return*".[117] This statement does not accurately reflect the impact on LBC's finances of a Project-related loss to BBB resulting in lower profit distributions (as well as the risk of loan defaults and increased debt and loan servicing payments in the event BBB was not profitable).[118]

Communications around the same time also included reference to a "public" figure when referring to the cost of the Project. In February 2020, when responding to media questions, Ms Mustafa confirmed that the "public" figure of the total cost of the Project should be reported as £42 million, as this was the same figure that had been provided to the Scrutiny and Overview Committee. This

[116] https://www.youtube.com/watch?v=yM3l3Gwx9Q4, 19:38, 20:10
[117] https://webcasting.croydon.gov.uk/croydon/8414-Scrutiny-Overview-Committee 1:05:30
[118] We also note that, under the initially considered land transfer structure, LBC's finances would have been negatively impacted as an increase in Project costs would have resulted in lower payments by BBB to LBC in respect of residual land values for the College Green scheme, according to a former director of BBB.

figure represented only the total of the main Vinci contract at October 2018,[119] and not the total Project cost (including other advisor fees and post contract variations) at the time of that statement in February 2020, which was known by Ms Mustafa to be at least £55.6 million based on financial reports produced by Gleeds.[120] This was never formally reported to members at Cabinet and Scrutiny and Overview Committee or placed on the risk register.

3.5.1.6 Inability to provide detailed breakdowns of Project spend

Ahead of the February 2020 Scrutiny and Overview Committee meeting (the same meeting referred to above), Councillor Sean Fitzsimons (Chair of the Scrutiny and Overview Committee, LAB) asked Mr Lacey to provide detailed explanations of costs contributing to the overrun: "*One of the questions that was asked to me was about the breakdown of costs and how it went from £30 to £42.6 million*"[121] and "*whether any further increases were expected"*[122]. Mr Lacey did note that there was some uncertainty in this amount: "*I don't anticipate that figure will rise. We do still have to negotiate the final account with the contractor"*[123]. As detailed above, this figure represented only the total of the main Vinci contract at October 2018,[124] and not the total Project cost (including other advisor fees and post contract variations) at the time of that statement in February 2020, which was known by Ms Lacey to be at least £55.6 million based on financial reports produced by Gleeds. Mr Lacey stated to Kroll that he made it clear that the amount did not include public realm and car park works which were not included in the £42.6 million amount. Neither Councillor Oliver Lewis ("Cllr Lewis", Cabinet Member for Culture and Regeneration - LAB) nor Mr Lacey provided a detailed breakdown of the costs. A report prepared for this meeting also did not include a breakdown of costs, although a summary list of works was included.

It is not clear whether the lack of detail was due to an inability to provide such detail or a lack of willingness to provide clarity. However, it is likely to be at least partly due to an inability to provide such a detailed breakdown, as we note that concern was raised about inaccurate records both at LBC and at BBB in relation to the Project by GT in RIPI2.[125] Ms Kerswell has informed Kroll that if Officers or Cabinet Members are faced with a question to which they do not have the full information to hand, the common practice is to offer to respond to the committee in writing after the meeting and supply

[119] Which itself included only 46 of the 144 total number of change orders that had been approved by Gleeds at that date, which meant this figure was not likely to be a final cost amount.
[120] According to the latest available Gleeds financial report, which was dated September 2019.
[121] https://webcasting.croydon.gov.uk/croydon/8414-Scrutiny-Overview-Committee 11:10
[122] Minutes of Scrutiny and Overview Committee_10 February 2020
[123] https://webcasting.croydon.gov.uk/croydon/8414-Scrutiny-Overview-Committee 11:40
[124] Which itself included only 46 of the 144 total number of change orders that had been approved by Gleeds at that date, which meant this figure was not likely to be a final cost amount.
[125] We note that until mid 2018, LBC was responsible for record keeping of BBB, by way of a Service Level Agreement.

that information. We note that this doesn't appear to have been offered here by Cllr Lewis, Ms Mustafa or Mr Lacey. Mr Lacey stated to Kroll that his presentation to Scrutiny and Overview Committee had been accurate.

Ms Mustafa, who attended the Scrutiny and Overview Committee meeting as Executive Director of Place and the Officer responsible for the Project, when asked about the cost of the Project directly, did not offer an alternative view to Mr Lacey, stating *"the Council hasn't spent £42 million, a private company, albeit owned by the Council has to refurbish that building and get their return"*[126] as detailed in section 3.5.1.5 above.

3.5.2 Frequent informal reporting to Members

It appears that a number of informal or non-public briefings took place between Officers and Members,[127] and between BBB and Members. While we have identified evidence that these meetings occurred (for example emails discussing briefings, notes from briefings), and that the Project was occasionally discussed at these meetings from agendas and occasional notes, we have not identified comprehensive notes or minutes of these meetings and the vast majority of these briefings occurred verbally. In particular, Cllrs Alison Butler (Cabinet Member for Homes, Regeneration and Planning and Deputy Leader – Statutory), Simon Hall (Cabinet Member for Finance and Resources) and Timothy Godfrey (Cabinet Member for Culture, Leisure and Sport) (all LAB) were briefed, and Cllr Tony Newman (Leader) (LAB) was updated on the Project. As the Project was important within LBC's broader regeneration strategy, it was feasible that Members were keen to receive progress updates. A summary of Project related briefings to Members is included in section 9.7.2.5 and TABLE 53 in the body of this report.

3.6 Conclusion

Taking into account all of the above, it seems clear that the delivery overrun and, more specifically overspend of the Project, was facilitated as a result of governance failures, but also failures on the part of key stakeholders involved to relay, report and escalate, in a transparent manner, known risks and overspend in relation to the Project and to treat BBB as an entity independent of LBC.

The inclusion of the Project within the College Green scheme[128] represented an opportunity to reduce LBC's commitment in its capital allocation from the allocated budget of £30 million to £12 million,

[126] https://webcasting.croydon.gov.uk/croydon/8414-Scrutiny-Overview-Committee 1:05:30
[127] See section 9.7.2.5
[128] As detailed in the October 2015 Cabinet report

through the anticipated cross subsidisation of the Project from anticipated profits earned. However, the allocated budget was never based on realistic costings or a workable scope, and this fact was never reported to Cabinet. LBC's desire to implement the scheme, with its resultant housing and regeneration benefits, coincided with the set-up of a housing development company in the form of BBB, a developer without any track record of delivery. This represented an opportunity to fund the scheme "off balance sheet" to LBC, although in practice all of the associated risks were still present. Despite being off- balance sheet, the risks remained very real for the taxpayers of Croydon and have since materialised, as LBC has taken on the financial cost of the Project.

The subsequent overspend, which was also never reported to Cabinet, was due in large part to the fact that a workable final design was only finalised in October 2018, more than a year after the appointment of Vinci as contractor for the Project and less than a year from when the project was completed. This was all facilitated by the fact that the Project was incorporated into BBB's overall performance, with very little Project specific information being provided to Cabinet in the annual business plan and to Scrutiny and Overview Committee.

Throughout 2018, more and more senior Officers at LBC and Mr Lacey as Managing Director of BBB, became aware of the fact that the Project was going to go over the 2016 Cabinet agreed budget of £30m. However this overspend appears not to have been formally reported to Cabinet. By the end of 2018, several senior LBC Officers were aware of the budget overrun, but also failed to report this to Cabinet.

We have identified that a small number of key individuals (both senior Officers at LBC, and a small group of Cabinet Members) shared knowledge and responsibility for the decisions that were made, how these were implemented as well as the lack of formal reporting back to Cabinet / Council.

We have been provided with extracts of relevant employment contracts, parts of LBC's constitution, and relevant sections of the Local Government Act and the Local Government and Housing Act by Officers at LBC. Senior Officers at LBC were under obligations contained in their employment contracts and in LBC's constitution (including its financial regulations) (by virtue of their chief officer status at LBC) to safeguard the public purse and taxpayers' interests and manage risk effectively and avoid any unlawful expenditure. LBC's three statutory Officers (Head of Paid Service, Section 151 Officer and Monitoring Officer) were under personal statutory duty contained in the Local Government and Housing Act of 1989 and the Local Government Act of 1972 as detailed in sections 3.6.1 and 3.6.2. The Section 151 Officer (or Chief Financial Officer) is a professionally qualified accountant and is therefore subject to the professional standards and guidance of the professional governing body (the Chartered Institute of Public Finance and Accountancy or CIPFA) which has also published a description of this role.

As detailed above, we have summarised under two main categories in the following sections the main actions / inactions of Senior Officers identified in the course of our Review.

- The failure to escalate known risks and overspend (see section 3.6.1); and,
- The failure to treat BBB as an independent company (see section 3.6.2).

We have also considered where the action, or failure to act may be considered not in line with the obligations on these individuals in terms of the positions they held at the time.

3.6.1 Failure to escalate known risks and overspend

Our Review has found that certain senior Officers and Cabinet Members at LBC knew about the Project overspend since mid-2018. It was discussed and frequently included in the meeting packs for the Fairfield Board and Growth Board throughout 2018. Rather than any one individual being singularly accountable, as a result of the combination of a number of individuals (Ms Negrini, Ms Mustafa, Ms Taylor, Mr Simpson and latterly Ms Simmonds) failing to act in line with proper processes, as well as a structural failure of such processes, this overspend, which was reported to the Growth Board in November 2018, was not escalated in the appropriate manner or reported formally to Members at Cabinet / Scrutiny and Overview / Council until a February 2020 Scrutiny and Overview committee meeting (where the total Project cost was reported as £42.6 million, see section 3.5.1.5 above), about eighteen months later. This was six months after the Project had finished and therefore it was impossible for Members to have taken action as to mitigating the risks.

In addition to the requirement to act in line with LBC processes, these Officers were under personal obligations to "*give advice and information to Members*"[129] and to provide "*Regular, up to date information on matters that can be considered appropriate and relevant to their needs*"[130] as per Part 5B of LBC's constitution. These Officers were all categorised as Chief Officers, and their contracts of employment contained certain obligations around their organizational responsibilities including the responsibility of Chief Officers to "*at all times give to the Council … such explanations, information and assistance as they may require for the performance of their duties*" and "*manage their*

[129] LBC Constitution (version September 2017 in place to June 2018), Part 5B: Protocols on Staff – Councillor relations par 1.8 (extract).
[130] LBC Constitution (version September 2017 in place to June 2018), Part 5B: Protocols on Staff – Councillor relations par 1.10 (extract).

responsibilities in such a way as to provide the best possible service to the members of the public."[131] Alongside these obligations, which applied to all of the Officers listed below, certain Officers were under additional obligations as a result of the specific positions they held. The failure of these Officers to ensure that the overspend was publicly reported may be considered to be not in line with these obligations, as detailed below and summarised in TABLE 4.

Specifically, the following Officers were aware of Project related risks and/or the fact that the Project spend had exceeded its budget:

Shifa Mustafa ("Ms Mustafa", Executive Director of Place November 2016 – July 2021 and director of BBB January 2019 to September 2020) was chair of the Fairfield Board (LBC's primary oversight body for the Project) and the Growth Board (which the Fairfield Board reported into). In her position as Executive Director of Place, she was ultimately responsible for LBC's Place department, which included the Project[132]. As part of her role, she was the Risk Owner for the Project until February 2019,[133] in terms of LBC's risk management framework. Ms Mustafa was first formally made aware of the possibility of Project overspend in February 2018 but failed to ensure that this was reported publicly until February 2020 (in a meeting of the Scrutiny and Overview Committee):

- Ms Mustafa was first formally made aware of the projected Project overspend in February 2018,[134] when she received[135] a document pack ahead of a scheduled meeting of the Fairfield Board (of which she was the chair). This showed the expected completion costs of the Project at £38.95 million (at that point this was £5 million over budget).[136]
- Ms Mustafa cancelled the February 2018 Fairfield Board meeting[137] for reasons unknown, and the £5million overspend was not discussed at this forum until two months later, at the next meeting of the Fairfield Board in April 2018. Between these two meetings, Ms Mustafa presented a Cabinet report recommending BBB's annual business plan and lending for the next year for approval on 26 February 2018; she made no reference to the Project overspend in this report.
- Ms Mustafa did escalate the overspend to the Growth Board of which she was also chair, and the overspend was included in the document pack for the Growth Board on a number

[131] Provisions contained in the employment contracts of all Chief Officers as confirmed to Kroll by LBC staff.
[132] As well as all other projects to which LBC appointed BBB.
[133] When Ms Simmonds set up the formal BBB Monitoring Group (see section 4.3.4)
[134] After requesting this information in January 2018.
[135] 941278, 941279
[136] BBB's budget had been adjusted to £34.5 million, on the basis that they had been awarded £4.5 million in funding from Coast to Capital.
[137] 948082

of occasions from April 2018.[138] However, by the end of 2018, the projected outturn spend for the Project was reported as £50.4 million, at that point approximately £15 million over the budget.[139] Ms Mustafa did mention the Project to Ms Negrini during a one to one meeting with her in June 2018 where the notes specify "*Fairfield Halls – slippage & overspends - SM wants to appoint independent project manager/client- losing trust in programme Action: SM to speak to Richard [Simpson] for advice"* [140] We have not identified evidence to indicate whether the meeting with Mr Simpson ever took place, or the outcome thereof. The meeting notes also do not state whether the amount of the projected overspend was discussed. Apart from this reference, the projected overspend was not escalated any further than the Growth Board, as per the Growth Board's terms of reference[141] which directed Ms Mustafa to escalate to ELT or Members. Ms Mustafa also failed to ensure that the risk raised by the Project overspend was entered into LBC's corporate risk register, despite being the risk owner until February 2019.

- Despite having been aware of this significant leap in the Project's costs versus budget, Ms Mustafa presented reports recommending BBB's annual business plan and required lending for approval to the Streets, Environments and Homes Scrutiny subcommittee in January 2019,[142] and Cabinet in February 2019.[143] BBB's 2019/2020 business plan, which was attached to her reports included a recognition of £0 profit on the College Green scheme without explanation, and represented the only indication of the Project overspend or its impact on BBB. Ms Mustafa failed to refer to this significant change in assumption in either of the two reports mentioned above and the required funding of £78 million was subsequently approved by Cabinet.

<u>Hazel Simmonds appointed as interim director of district centres and regeneration in July 2018 took on the client role for BBB for LBC.</u> Ms Simmonds was appointed responsible for the overall oversight of LBC's relationship with BBB (referred to by LBC as the "BBB clienting role"[144]) from October 2018. As part of her role she attended meetings of several LBC governance bodies, including the Asset Board and the Growth Board, and she chaired the BBB Monitoring Group from February 2019 to August 2019. As detailed above, Ms Simmonds took over from Ms Mustafa as risk owner for BBB (which

[138] See Ref 5_Table 49 for details.
[139] See Ref 5_Table 49
[140] 638212.
[141] Growth Board Terms of Reference
[142] 22 January 2019 Streets, Environment and Homes Scrutiny Subcommittee report *Brick by Brick Business Plan 2019/20*. 253693
[143] 25 February 2019 Cabinet report *Brick by Brick Business Plan 2019/20*. 262323
[144] It is our understanding that the role was referred to as the "BBB clienting role" because it was responsible for oversight of LBC's relationship with BBB as a client of BBB (i.e. in the context of receiving homes)

included the Project) in February 2019 (before stepping down from this role in August 2019). Ms Simmonds was first made aware of the total estimated Project cost in August 2018[145] but did not ensure that the overspend was reported publicly:

- Ms Simmonds received papers for Growth Board meetings in August 2018 (which was cancelled) and October 2018.[146] The papers for these meetings included the total Project cost at £46.8 million and £49.8 million respectively.
- Ms Simmonds attended the November 2018 Growth Board meeting[147] and the papers for this meeting included the total estimated Project cost at £50.4 million.[148]

Although she was aware of the Project overspend, and the responsible risk owner for the Project between February 2019 and August 2019, Ms Simmonds failed to ensure that the overspend was reported publicly, or entered into LBC's corporate risk register.

Despite being responsible (under her employment contract) for managing her "*responsibilities to provide the best possible service to the members of the public*"[149] in terms of her employment contract, Ms Simmonds delayed establishing additional governance (such as the BBB Monitoring Group) as detailed in section 3.4. She set up the board in February 2019 but canceled its first meeting and then its third meeting.

Ms Simmonds was asked to contribute to an internal audit review of the governance of BBB but she cancelled a meeting with the auditor and the audit was completed without any awareness of the client management arrangements in place.

Richard Simpson ("Mr Simpson" Executive Director of Resources September 2016 to March 2019, Section 151 Officer September 2016 to January 2019 and director of BBB May 2015 to January 2016):[150] In this role, Mr Simpson was the Chief Financial Officer of LBC and was responsible for managing LBC's finances and budget. In this role, he was under a statutory obligation contained in Section 151 of the Local Government Act 1972 whereby he was responsible for the "*proper administration*" of LBC's financial affairs. This obligation is further described in LBC's constitution in much detail, but particularly relevant to this point are the following: the Chief Financial Officer is

[145] She received board papers for the August 2018 Growth Board meeting, although we note that this Growth Board meeting was cancelled.
[146] 153199 and 257016 [Emails for Growth Board papers Aug 2018 and Oct 2018]
[147] November 2018 Growth Board notes [251636, 251637, 1596711, 1596712, 1596713]
[148] November 2018 Growth Board papers [251636, 251637, 1596711, 1596712, 1596713]
[149] Employment contract_Hazel Simmonds
[150] Prior to this Mr Simpson was Assistant Chief Executive Officer (Corporate Resources) and Section 151 Officer between January 2015 and September 2016, and Director of Finance and Assets and Section 151 Officer between March 2013 and January 2015. Mr Simpson had worked for LBC in various roles since August 2005.

ultimately responsible for "*arranging and managing corporate risk management arrangements*"[151], "*delivering effective systems of internal control*"[152], "*the operation of the Council's accounting system*"[153], and, together with the Monitoring Officer, is responsible for "*advising full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget or policy framework*"[154]. Along with the Executive Directors, Mr Simpson (as Section 151 Officer) was also responsible for agreeing the financial implications of all proposals in the process of advising Cabinet and Committee Members of these proposals.[155]

- Mr Simpson was aware of risks and issues relating to profits from the College Green scheme from December 2017, when he received a report from BBB detailing projected losses on the wider scheme (detailed in section 3.2.2.1) which were not reported to Members.[156]
- Mr Simpson was aware of the internally reported Project overspend, but failed to ensure that this was publicly reported. Based on documentation available for review, he first became aware of the overspend of the Project when he attended the April 2018 Growth Board meeting.[157] The papers for this meeting showed the estimated total Project cost at £39.9 million.[158] Between September 2018 and November 2018, Mr Simpson and Mr Lacey exchanged a series of letters[159] discussing the Project overspend and its impact on BBB. At this point, he was made aware that the Project overspend resulted in the College Green scheme's profits being fully allocated against it, with an overall profit from the scheme to BBB being estimated at £0. Mr Simpson provided an update to the October 2018 Growth Board meeting around the contents of these letters[160] but did not ensure the issue was reported to Cabinet.
- Although Mr Simpson did take steps to improve the governance structures of BBB (see below) he failed to ensure that the Project overspend or the impact thereof on BBB was publicly disclosed to Members prior to his stepping down as LBC's Section 151 Officer in January 2019. According to Ms Taylor, Mr Simpson did not provide a proper handover or any indication of high-risk areas when he left LBC and she took over as interim Section 151

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[151] LBC Constitution (version September 2017 in place to June 2018), Part 4H Financial Regulations paragraph 7.1: Risk Management and Insurance.
[152] LBC Constitution (version September 2017 in place to June 2018), Part 4H: Internal Control par 8.2
[153] LBC Constitution (version September 2017 in place to June 2018), Part 4H: Systems and procedures paragraph 12.2
[154] LBC Constitution (version September 2017 in place to June 2018),Part 4H: Financial Regulations par 17.5: The Statutory Officers
[155] LBC Constitution (version September 2017 in place to June 2018), Part 4H Financial Management paragraph 17.13: Devolution of Financial Management – Executive Directors
[156] April 2018 Growth Board papers [904539, 904540, 904541, 904542, 904543, 904544, 904545, 90456]
[157] April 2018 Growth Board meeting
[158] Mr Simpson also received the papers for the July 2018 Growth Board meeting which included the estimated total Project cost at £42.8 million [988618, 988621]
[159] 1546454 and letters dated 25 October 2018 and 7 November 2018
[160] October 2018 Growth Board notes [257016, 257017, 257018]

Officer in February 2019, however, this fact is disputed by Mr Simpson as set out in detail in the main body of the report[161]. As Section 151 Officer, Mr Simpson would have been aware of his statutory duties to report matters of risk and budgetary overspend to Members.

- Mr Simpson was ultimately responsible for internal controls at LBC. According to our Review, no changes were made to LBC's governance structures until the second half of 2018, after the Project overspend became known internally. This might potentially be seen as a failure of Mr Simpson's constitutional obligation to implement internal controls, as well as his duties as a Section 151 Officer for the "*proper administration*" of LBC's finances. Suggestions for changes to the governance structures of LBC were made by Mr Simpson in November 2018,[162] which was after he became aware of the Project overspend as detailed above.
- Mr Simpson was responsible for ensuring that Members were advised of the financial implications of all proposals contained in reports to Cabinet. Mr Simpson was the Lead Officer on the June 2016 Cabinet report (see section 3.5.1.3), which failed to adequately highlight the risks and implications of the Project to Members. This might potentially be considered a failure of his obligation in terms of the Constitution to provide the financial implications of Cabinet decisions to Members.

In summary, Mr Simpson was aware of a number of risks and issues relating to the Project, including the overspend, and did not report these to Cabinet or to Members, despite being under obligations to do so (as set out above).

Lisa Taylor ("Ms Taylor", Director of Finance and Risk and Deputy Section 151 Officer until February 2019, Section 151 Officer February 2019 to February 2021[163] and director of BBB January 2016 to January 2019): Until she became Section 151 Officer in February 2019, Ms Taylor was a senior member of LBC's finance team and deputy Section 151 Officer. She attended two meetings of the Fairfield Board (chaired by Ms Mustafa). Following her appointment as the Section 151 Officer, she also attended meetings of the BBB Monitoring Group and took over the chair of these meetings in September 2019 from Ms Simmonds. She also attended the BBB Shareholder and Investment Board meetings when these commenced in September 2019. Ms Taylor was under the same statutory and

[161] As detailed in section 9.8.2 and 9.7.2.4.3

[162] 1591347, 1591348. Suggestions were made to Ms Negrini, and subsequently forwarded to Ms Simmonds by Ms Harris-Baker.

[163] Between February 2019 and November 2019, Ms Taylor was LBC's Interim Section 151 Officer, whereafter the appointment became permanent. We note that her appointment as permanent Section 151 Officers was made after the reopening of the Fairfield Halls.

constitutional obligations as those detailed for Mr Simpson above, following her appointment as Section 151 Officer in February 2019.

- Ms Taylor was aware of the Project overspend from April 2018 when she attended the Fairfield board meeting detailed above (chaired by Ms Mustafa), at which point the estimated total Project cost was detailed as £39.9 million.
- Along with Ms Mustafa and Mr Lacey, she received several Fairfield Board and Growth Board papers during 2018 and 2019, which included reference to the expected Project cost (as shown in TABLE 52).
- Although she was aware of the Project overspend, on 25 February 2019 she presented LBC's annual budget (which included an estimate for BBB funding for the 2019/2020 year and expected dividends and interest payments) to Cabinet for approval, with no reference to it.

As stated above, Ms Taylor informed Kroll that she was not provided with a proper handover on the Project when she took on the role of Section 151 Officer in February 2019, detailed further in the body of the report.[164] Ms Taylor as the Section 151 Officer would have been aware of her statutory duties to report matters of risk and budgetary overspend to Members, and did not do so.

<u>Jo Negrini ("Ms Negrini", LBC's Chief Executive Officer April 2016 – September 2020)[165]:</u> In this role she was ultimately in charge of the governance and management of LBC, as well as having ultimate oversight of reports from Officers to Members, and LBC's annual budget. In addition to being a key proponent of the Project in her prior roles as Executive Director of Development and Environment and as Executive Director of Place, she was a key proponent of the Project's initiation and advocate of its integration into Brick by Brick.

As Chief Executive Officer and Head of Paid Service, Ms Negrini was under statutory obligation in terms of Section 4 of the Local Government and Housing Act 1989 for the management of LBC. These obligations are further described in Part 4H of LBC's constitution as follows: "*The Head of Paid Service is responsible for the corporate and overall strategic management of the authority as a whole. They must report to and provide information for the Cabinet, the full Council, and other committees. The Head of the Paid Service is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organization*"[166]. Ms Negrini was notified

[164] Refer to section 9.8.2 and 9.7.2.4.3

[165] Ms Negrini was Acting Chief Executive between April 2016 and July 2016. Before her appointment to this role, she was the Executive Director of Place between April 2015 and April 2016)

[166] LBC Constitution (version September 2017 in place to June 2018), Part 4H: Devolution of Financial Management – Statutory Officers par 17.3.

of the Project overspend in September 2018 and failed to ensure that this was reported publicly at that time:

- Ms Negrini received an email from Mr Lacey in September 2018 with the Fairfield Board packs from December 2017 to June 2018 attached. The cover of the email reads: "*we [BBB] have always been clear with the council team that this scheme would cost more than budgeted"*.[167] Following the September 2018 email, Ms Negrini did take steps to change the governance processes for BBB, including her agreement of Mr Simpson's proposals for a new client bord for BBB, and the appointment of Ms Simmonds to chair this body, however, Grant Thornton's RIPI2 concluded that these governance changes were not robustly designed. Practically, the governance changes did not result in the overspend being reported until February 2020.

Ms Negrini also received the above-mentioned correspondence between Mr Simpson and Mr Lacey,[168] and therefore was aware of the fact that the Project overspend had a serious impact on BBB's profitability on the College Green scheme, but failed to ensure that the overspend or its implications on BBB were reported publicly to Members. In her role as Head of Paid Service, she was ultimately responsible for all reports that were made to Cabinet / Council and the failure of these reports to present the overspend to Cabinet / Council.

Colm Lacey ("Mr Lacey", Director of Development from September 2014-Jan 2016 and Managing Director of BBB from January 2016 to January 2022): Mr Lacey was the Managing Director of BBB from January 2016 onwards. Mr Lacey stated to Kroll that following his appointment to BBB, he was advised by LBC to segregate himself from involvement in internal LBC processes in relation to BBB. As such, he stated that he never provided any recommendations to Cabinet and he was not responsible for directly appraising Cabinet. However, he was an LBC Officer until his formal secondment to BBB in October 2018, so until that date, he was still under the obligations detailed above.[169] As Managing Director of BBB, Mr Lacey had overall responsibility for delivering the Project to LBC. We have identified a number of internal communications from Mr Lacey to other BBB employees or directors across 2016 and 2017 suggesting that the Project was not economically viable and would be difficult for BBB to deliver within LBC's budget, as detailed in section 3.3.2 and 3.2.2. As detailed in section 3.5.1.4, in October 2017, Mr Lacey presented an update to LBC's Scrutiny and

[167] 339390
[168] 1549330 and 1308865.
[169] This was confirmed to us by LBC HR.

Overview Committee where he stated that the Project was due to be delivered on time and within budget, which did not reflect the internal concerns at that time.

We note that BBB did provide regular reports of the projected overspend of the Project to the Fairfield Board, and as Managing Director of BBB, Mr Lacey was ultimately responsible for these updates. He also received the Fairfield Board meeting pack in February 2018, which showed the expected completion costs of the Project at £38.95 million (at that point this was £5 million over budget). We note that in January 2018 (shortly before this update to the Fairfield Board was sent) Mr Lacey submitted BBB's annual business plan and covering report to LBC's Scrutiny and Overview Committee, with no reference to the projected overspend.. Mr Lacey attended several Fairfield Board meetings throughout 2018[170] where the Project overspend was discussed and the figure included in the meeting packs. In addition to the regular updates provided by BBB to the Fairfield Board, Mr Lacey did inform Ms Negrini of the overspend in September 2018 as detailed above. Although he was aware of the Project overspend, in January 2019 Mr Lacey submitted and presented BBB's annual business plan, and as stated above, the only reference to Project overspend or its impact on BBB was the recognition of £0 profit on College Green without any explanation. At the February 2020 Scrutiny and Overview meeting, the first time that Project overspend was publicly disclosed to Members, Mr Lacey stated that the Project's total cost was £42.6 million, although at this date, the total estimated cost reported internally was £50.4 million.[171] Mr Lacey did state clearly that he was referring to the contracted cost on the Project specifically, and the Vinci contract was signed for that amount (as detailed in section 3.3.3) but he made no reference to the known and significant number of variation orders not included in this contract amount, which ultimately resulted in a significant increase to the overall cost of the Project.[172]

We also note that Jaqueline Harris-Baker ("Ms Harris-Baker", LBC's Monitoring Officer between May 2016 and June 2021[173] and Executive Director of Resources between March 2019 and June 2021[174]) was also made aware of the projected overspend in relation to the Project, as she received papers ahead of a Growth Board meeting in January 2019. Although these papers showed that the projected

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[170] Mr Lacey also attended the Growth Board meeting in January 2018, although the Project overspend was not discussed at this meeting. He received Growth Board meeting packs for subsequent meetings in 2018 (as shown in TABLE 52 although he did not attend any further meetings of the Growth Board according to the notes of these meetings.

[171] See TABLE 52 – figure per August 2019 Fairfield Board.

[172] As shown in TABLE 37 post contract variations were calculated by BBB as £6.4 million

[173] In an acting capacity between May 2016 and March 2017

[174] In an interim capacity between March 2019 and November 2019.

total cost of the Project was estimated at £50.4 million,[175] Ms Harris-Baker did not report the estimated overspend to Cabinet/Council.

The above senior Officers[176] were aware, albeit at different times, about the Project cost and overspend, and failed to ensure that this was publicly reported to Members (other than directly to a small group of Members with direct involvement in the Project or Growth Board)[177] prior to February 2020. They were aware (or should have been aware) of the potential impact that this could have on LBC and had a statutory duty and contractual responsibility to escalate this to ELT Cabinet / Scrutiny and Overview / Council. They met as an executive leadership team every week and also with Cabinet Members nearly every week, so had plenty of opportunity to raise this and advise upon the risks and overspend. They all had a reporting relationship with the Chief Executive Officer, during which concerns could be raised and also made regular Cabinet member briefings during which these concerns could have been raised. Several public reports relating to the Project were presented before Cabinet and subcommittees, which did not highlight the projected overspend.[178] They failed to ensure that Members had relevant information to hand when making decisions pertaining to LBC's budget and the approval of BBB's lending.

The above failure of Officers to report the overspend was accompanied by the fact that the overspend was made known to a small group of Cabinet Members (Cllrs Butler, Hall, King (Cabinet Member for Transport, Environment and Regeneration), Lewis and Scott (Cabinet Member for Transport, Environment and Regeneration)– all LAB)[179] who received information in relation to the projected overspend through receiving papers for, and attending meetings of, the Growth Board where the projected overspend was discussed. These Members also failed to formally report back to full Cabinet and Council. Although they were present at these meetings, based on available minutes no questions about the total estimated cost of the Project of £50.4 million were raised by them at the February 2019 Cabinet meeting where BBB's annual business plan was presented, and Cabinet approved the additional funding for BBB.

We note that both Cllrs King and Scott stated to Kroll that they only attended a few meetings of the Growth Board during their time as Cabinet Members, and only stayed for parts of the meeting (where

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[175] As detailed in TABLE 52

[176] Hazel Simmonds (then Director of District Centres and Regeneration) was aware of the Project overspend by November 2018.

[177] Cllr Butler, Cllr Hall and Cllr Scott. [April Growth Board 904539, July Growth Board 988618, October Growth Board 257016, November Growth Board 251636]

[178] See TABLE 33

[179] These Members attended Growth Board meetings or received Growth Board papers as detailed in TABLE 52. We have also identified the Councillor Patsy Cummings attended the meetings and received the papers, although she did not appear to have involvement in the Project outside of these meetings.

agenda items relevant to their portfolio were discussed). Both Cllr King and Cllr Scott confirmed to Kroll that they did not recall the projected overspend being discussed at the Growth Board meetings attended by them.[180] Cllr King and Cllr Scott's responses are included in more detail in the body of this report.[181] Cllr Hall provided a written response to Kroll (a summary of this statement is included in the body of this report[182]) which indicated that he had been informed by Officers that the financial risk of the Project lay with BBB and not LBC.

Our Review also found that certain Members (Cllrs Butler, Hall, Godfrey and Newman (all LAB) in particular) received frequent updates and briefings from LBC Officers. As stated above, while we are not able to conclude comprehensively on whether they knew the full extent of the issues related to the Project, we know that the Project was discussed at these briefings, as detailed in the body of the report.[183] We also note that because there was no formal reporting mechanism on the Project specifically, there was no platform for the full Council to be made aware of the issues with the Project apart from the very high-level business plan.

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[180] Cllr Scott also noted that the Growth Board was primarily an Officer board, which Members attended from time to time. He also stated that the Board papers often arrived at short notice.

[181] See section 9.7.2.1.1

[182] See section 9.7.2.5

[183] A summary of these briefings is included in TABLE 53. Written responses provided to Kroll by Cllr Hall and Cllr Newman are included in section 9.7.2.5.

TABLE 4 **Failure to escalate known risks overspend: Summary Table**

This table contains a summary of the details described above, with reference to the relevant sections in the detailed report

Name	Failure identified	Relevant areas of obligation	Reference to detailed section of the report
Ms Mustafa	Failure to report known risks and overspend	<u>Relevant contractual obligations</u> Document: Summary of principal conditions of employment issued on 7 October 2016 – subsection 8: Organisational responsibilities: Applicable extracts: - "accountable to the Council for the effective and efficient running of the services assigned to your department" - "shall at all times give to the Council … such explanations, information and assistance as they may require for the performance of their duties" - "It is a requirement of the role of all Chief Officers that they should manage their responsibilities in such a way as to provide the best possible service to the members of the public (or in the case of internal services to those other parts of the organisation) who are their customers, and to direct their activities towards the highest possible standards of customer care within the policy requirements of the Council and according to the resources available" <u>Relevant constitutional obligations:</u> Document: LBC Constitution (version September 2017 in place to June 2018) - Part 4H Financial Regulations, par 3.5 Budget Preparation: *"Each of the Executive Directors will be expected formally to sign off their budget with the Chief Financial Officer before submission to Cabinet"* - Part 4H Financial Regulations, par 3.11: Capital Programme *"Programme and Project managers, along with the relevant Executive Director must ensure any variances to budget are reported as soon as they are aware of them"* - Part 4H Financial Management paragraph 17.13: Devolution of Financial Management – Executive Directors *"Executive Directors are responsible for ensuring that Cabinet and Committee Members are advised of the financial implications of all proposals and that financial implications have been agreed by the Chief Financial Officer"* - Part 4H Financial Regulations paragraph 7.4: Risk Management and Insurance *"At a departmental level Executive Directors , Directors and Heads of Service should ensure that risk assessments are conducted, followed by appropriate work to manage the risks identified and to monitor current and emerging risks"*	Section 9.8.1 No escalation to Cabinet / Council of projected overruns and the impact to BBB 10.7.1Mischaract erisations to Scrutiny and Overview Committee in February 2020

Name	Failure identified	Relevant areas of obligation	Reference to detailed section of the report
Ms Simmonds	Failure to report known risks and overspend	<u>Relevant contractual obligations:</u> Document: Summary of principal conditions of employment issued on 31 December 2019 – subsection 8: Organisational responsibilities: Applicable extracts: - "accountable to the Council for the effective and efficient running of the services assigned to your department" - "shall at all times give to the Council … such explanations, information and assistance as they may require for the performance of their duties" - "It is a requirement of the role of all Chief Officers that they should manage their responsibilities in such a way as to provide the best possible service to the members of the public (or in the case of internal services to those other parts of the organisation) who are their customers, and to direct their activities towards the highest possible standards of customer care within the policy requirements of the Council and according to the resources available" - "As a Chief Officer you have the right to report on the conduct of your professional responsibilities or any responsibility imposed by statute" <u>Relevant constitutional obligations:</u> - Part 4H: Internal control par 8.3: "Executive Directors are responsible for establishing sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economic efficiency and effectiveness and for achieving their financial performance targets." - Part 4H Financial Regulations paragraph 7.4: Risk Management and Insurance "*At a departmental level Executive Directors , Directors and Heads of Service should ensure that risk assessments are conducted, followed by appropriate work to manage the risks identified and to monitor current and emerging risks*"	Section 9.8.1 No escalation to Cabinet / Council of projected overruns and the impact to BBB Section 9.8.6 Risks not recorded in accordance with LBC's risk management framework Section 9.8.7 Delay in setting up Officer-led BBB Monitoring Group
Mr Simpson	Failure to report known risks and overspend	<u>Relevant contractual obligations:</u> Document: Summary of principal conditions of employment issued on 12 September 2016 – subsection 8: Organisational responsibilities: Applicable extracts: - "accountable to the Council for the effective and efficient running of the services assigned to your department" - "shall at all times give to the Council … such explanations, information and assistance as they may require for the performance of their duties" - "It is a requirement of the role of all Chief Officers that they should manage their responsibilities in such a way as to provide the best possible service to the members of the public (or in the case of internal services to those other parts of the organisation) who are their customers, and to direct their activities towards the highest possible standards of customer care within the policy requirements of the Council and according to the resources available" - "As a Chief Officer you have the right to report on the conduct of your professional responsibilities or any responsibility imposed by statute" <u>Relevant statutory obligations:</u> Document: Section 151 of the Local Government Act 1972 - Local authorities are required to "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs".[184] - "Proper administration" not defined in SECTION 151 OFFICER, but CIPFA guidance includes the following [potentially relevant extract only]: o Ensuring the authority's (and ultimately its members') responsibility for securing proper administration of its financial affairs <u>Relevant constitutional obligations:</u> Document: LBC Constitution (version September 2017 in place to June 2018) - Part 4H Financial Regulations, par 3.5 Budget Preparation: "*Each of the Executive Directors will be expected formally to sign off their budget with the Chief Financial Officer before submission to Cabinet*"	Section 7.8.2 The June 2016 Cabinet report did not adequately highlight known risks to Cabinet Section 8.8.1 Withdrawal of Croydon College land not disclosed to Cabinet Section 8.8.2 Change in Project's funding structure not highlighted in BBB business plan or LBC budget

[184] Local Government Act 1972, Section 151

Name	Failure identified	Relevant areas of obligation	Reference to detailed section of the report
		- Part 4H Financial Regulations, par 3.11: Capital Programme "*Programme and Project managers, along with the relevant Executive Director must ensure any variances to budget are reported as soon as they are aware of them*" - Part 4H Financial Management paragraph 17.13: Devolution of Financial Management – Executive Directors "*Executive Directors are responsible for ensuring that Cabinet and Committee Members are advised of the financial implications of all proposals and that financial implications have been agreed by the Chief Financial Officer*" - Part 4H Financial Regulations paragraph 7.1: Risk Management and Insurance "*The Chief Financial Officer has responsibility for establishing and delivering corporate risk management arrangements across the Council.*" - Part 4H: Internal Control par 8.2 "The Chief Financial Officer is responsible for advising on effective systems of internal control … They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use." - Part 4H: Financial Regulations par 17.5: The Statutory Officers "*The Monitoring Officer, together with the Chief Financial Officer is responsible for advising full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget or policy framework*" - Part 4H: Devolution of Financial Management – Statutory Officers par 17.8 "*To ensure that all financial implications of all reports are agreed and approved with the responsible Heads of Finance prior to their submission to the Cabinet, a Committee, the Executive Leadership Team or other bodies within and external to the Council.*" - Part 4H: Devolution of Financial Management – Statutory Officers par 17.10 [extract]: "advising on the corporate financial position and on the key financial control necessary to secure sound financial management … providing financial information" - Part 4H: Devolution of Financial Management – Statutory Officers par 17.14 Executive Directors "*It is the responsibility of Executive Directors to consult with the Chief Financial Officer and seek approval on any matter liable to affect the Council's financial materially, before any commitments are incurred*". <u>Relevant professional standards:</u> Document: The Chartered Institute of Public Finance & Accountancy (CIPFA) – The role of the chief financial officer in Local Government	Section 9.8.1No escalation to Cabinet / Council of projected overruns and the impact to BBB
Ms Taylor	Failure to report known risks and overspend Failure to ensure proper governance processes in place	<u>Relevant contractual obligations:</u> Document: Summary of principal conditions of employment issued on 12 September 2016 – subsection 8: Organisational responsibilities: Applicable extracts: - "accountable to the Council for the effective and efficient running of the services assigned to your department" - "shall at all times give to the Council … such explanations, information and assistance as they may require for the performance of their duties" - "It is a requirement of the role of all Chief Officers that they should manage their responsibilities in such a way as to provide the best possible service to the members of the public (or in the case of internal services to those other parts of the organisation) who are their customers, and to direct their activities towards the highest possible standards of customer care within the policy requirements of the Council and according to the resources available" - "As a Chief Officer you have the right to report on the conduct of your professional responsibilities or any responsibility imposed by statute" <u>Relevant statutory obligations:</u> Document: Section 151 of the Local Government Act 1972 - Local authorities are required to "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs".[185] - "Proper administration" not defined in SECTION 151 OFFICER, but CIPFA guidance includes the following [potentially relevant extract only]: o Ensuring the authority's (and ultimately its members') responsibility for securing proper administration of its financial affairs	Section 9.8.1 No escalation to Cabinet / Council of projected overruns and the impact to BBB

[185] Local Government Act 1972, Section 151

Name	Failure identified	Relevant areas of obligation	Reference to detailed section of the report
		Relevant constitutional obligations: Document: LBC Constitution (version September 2017 in place to June 2018) - Part 4H Financial Management paragraph 17.13: Devolution of Financial Management – Executive Directors "*Executive Directors are responsible for ensuring that Cabinet and Committee Members are advised of the financial implications of all proposals and that financial implications have been agreed by the Chief Financial Officer*" - Part 4H Financial Regulations paragraph 7.1: Risk Management and Insurance "*The Chief Financial Officer has responsibility for establishing and delivering corporate risk management arrangements across the Council.*" - Part 4H: Internal Control par 8.2 "The Chief Financial Officer is responsible for advising on effective systems of internal control … They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use." - Part 4H: Financial Regulations par 17.5: The Statutory Officers "*The Monitoring Officer, together with the Chief Financial Officer is responsible for advising full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget or policy framework*" - Part 4H: Devolution of Financial Management – Statutory Officers par 17.8 "*To ensure that all financial implications of all reports are agreed and approved with the responsible Heads of Finance prior to their submission to the Cabinet, a Committee, the Executive Leadership Team or other bodies within and external to the Council.*" - Part 4H: Devolution of Financial Management – Statutory Officers par 17.10 [extract]: "advising on the corporate financial position and on the key financial control necessary to secure sound financial management … providing financial information" - Part 4H: Devolution of Financial Management – Statutory Officers par 17.14 Executive Directors "*It is the responsibility of Executive Directors to consult with the Chief Financial Officer and seek approval on any matter liable to affect the Council's financial materially, before any commitments are incurred*". Relevant professional standards: Document: The Chartered Institute of Public Finance & Accountancy (CIPFA) – The role of the chief financial officer in Local Government	
Ms Negrini	Failure to report known risks and overspend Failure to ensure proper governance processes in place	Relevant contractual obligations: Document: Summary of principal conditions of employment issued 19 July 2016 subsection 8: Organisational responsibilities: Applicable extracts: - "accountable to the Council for the effective and efficient running of the services assigned to your department" - "shall at all times give to the Council … such explanations, information and assistance as they may require for the performance of their duties" - "It is a requirement of the role of all Chief Officers that they should manage their responsibilities in such a way as to provide the best possible service to the members of the public (or in the case of internal services to those other parts of the organisation) who are their customers, and to direct their activities towards the highest possible standards of customer care within the policy requirements of the Council and according to the resources available" - "As a Chief Officer you have the right to report on the conduct of your professional responsibilities or any responsibility imposed by statute" Document: Job Description - Chief Executive and Head of Paid Service [Note - this document is not referred to in the employment contract] - page 4 - "Act as the Council's principle adviser on strategy and policy ensuring the Council is advised appropriately about relevant issues and developments and ensure that appropriate strategies, plans and programmes are in place and strategic projects delivered". - "Demonstrate good governance including regularity, probity and control in the discharge of all functions and responsibilities." - "Able to work well with Elected Members of all parties, in particular providing sound, focused and impartial and proactive advice; and with the ability to manage different agendas effectively." Relevant statutory obligations:	Section 6.8.1Lack of clarity around documentation prepared for November 2015 Scrutiny and Overview Committee meeting Section 8.8.1Withdrawal of Croydon College land not disclosed to Cabinet

Name	Failure identified	Relevant areas of obligation	Reference to detailed section of the report
		Document: Local Government and Housing Act 1989, section 4 (2) It shall be the duty of the head of a relevant authority's paid service, where he considers it appropriate to do so in respect of any proposals of his with respect to any of the matters specified in subsection (3) below, to prepare a report to the authority setting out his proposals. (3) Those matters are— (a) the manner in which the discharge by the authority of their different functions is coordinated; (b) the number and grades of staff required by the authority for the discharge of their functions; (c) the organisation of the authority's staff; and (d) the appointment and proper management of the authority's staff. <u>Relevant constitutional obligations:</u> Document: LBC Constitution (version September 2017 in place to June 2018) - Part 4H: Devolution of Financial Management – Statutory Officers par 17.3: "*The Head of Paid Service is responsible for the corporate and overall strategic management of the authority as a whole. They must report to and provide information for the Cabinet, the full Council, and other committees. The Head of the Paid Service is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organization".* - Part 5B: Protocols on Staff – Councillor relations par 1.8: "*The role of staff is to give advice and information to Members and to implement the policies determined by the Council*" - Part 5B: Protocols on Staff – Councillor relations par 1.10: Expectations [extract] "*Regular, up to date information on matters that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities and positions that they hold".*	Section 9.8.1No escalation to Cabinet / Council of projected overruns and the impact to BBB
Mr Lacey	Failure to report known risks and overspend	<u>Relevant contractual obligations:</u> - Document: Director of Development – role profile - Supports the Council's Cabinet and elected Members by: - providing advice and guidance; - ensuring the effective implementation of its decisions; taking delegated decisions within the Council's Financial Regulations; and, - enabling the effective scrutiny of services and decisions. "Negotiate contracts and design contract management systems, in full accordance with corporate frameworks and policies." - "Specify, manage and monitor service level agreements with other council departments and contracts with external contractors relating to capital delivery." <u>Relevant constitutional obligations:</u> Document: LBC Constitution (version September 2017 in place to June 2018) - Part 5B: Protocols on Staff – Councilor relations par 1.8: "*The role of staff is to give advice and information to Members and to implement the policies determined by the Council*" - Part 5B: Protocols on Staff – Councillor relations par 1.10: Expectations [extract] "*Regular, up to date information on matters that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities and positions that they hold*" Document: LBC Constitution version January 2020 (in place until March 2020) - Part 1 paragraph 3.13: The Scrutiny and Overview Committee "*Members, the Chief Executive and Executive Directors or other senior staff are under a duty to attend the Scrutiny and Overview Committee or Sub-Committee to answer questions*"	Section 8.8.1Withdrawal of Croydon College land not disclosed to Cabinet Section 8.8.4Lack of clarity around Project budget and timeline in report to the Scrutiny and Overview Committee in October 2017 Section 9.8.1No escalation to Cabinet / Council

Name	Failure identified	Relevant areas of obligation	Reference to detailed section of the report
			of projected overruns and the impact to BBB 10.7.1Mischaracterisations to Scrutiny and Overview Committee in February 2020
Ms Harris-Baker	Failure to report known risks and overspend	<u>Relevant contractual obligations</u> Document: Summary of principal conditions of employment issued on 7 October 2016 – subsection 8: Organisational responsibilities: Applicable extracts: - “accountable to the Council for the effective and efficient running of the services assigned to your department” - “shall at all times give to the Council … such explanations, information and assistance as they may require for the performance of their duties” - “It is a requirement of the role of all Chief Officers that they should manage their responsibilities in such a way as to provide the best possible service to the members of the public (or in the case of internal services to those other parts of the organisation) who are their customers, and to direct their activities towards the highest possible standards of customer care within the policy requirements of the Council and according to the resources available” <u>Relevant constitutional obligations:</u> Document: LBC Constitution (version September 2017 in place to June 2018) - Part 4H Financial Regulations, par 3.5 Budget Preparation: *“Each of the Executive Directors will be expected formally to sign off their budget with the Chief Financial Officer before submission to Cabinet”* - Part 4H Financial Regulations, par 3.11: Capital Programme *“Programme and Project managers, along with the relevant Executive Director must ensure any variances to budget are reported as soon as they are aware of them”* - Part 4H Financial Management paragraph 17.13: Devolution of Financial Management – Executive Directors *“Executive Directors are responsible for ensuring that Cabinet and Committee Members are advised of the financial implications of all proposals and that financial implications have been agreed by the Chief Financial Officer”* - Part 4H Financial Regulations paragraph 17.4: Devolution of Financial Management: *“The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and for reporting any actual or potential breaches of the law or maladministration to the full Council.”* - Part 4H Financial Regulations paragraph 17.5: Devolution of Financial Management: "*The Monitoring Officer, together with the Chief Financial Officer is responsible for advising full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget or policy framework.”*	Section 9.8.1No escalation to Cabinet / Council of projected overruns and the impact to BBB

3.6.2 Failure to treat BBB as an independent company

LBC's decision to appoint BBB to the Project and its subsequent failure to treat BBB as an independent commercial entity, contributed significantly to the overrun and overspend. The fact that BBB's board agreed to take on the Project even though they expressed doubts [186] about completing it within budget, and that it would not be ultimately profitable without the wider College Green scheme, highlights the fact that BBB was acting in the interests of LBC in taking the Project on, although this should be noted within the context of LBC being BBB's 100% shareholder, with different risks than those associated with an external company.

Furthermore, LBC's decision to appoint BBB to the Project despite its lack of technical expertise in the area (as raised by LBC Officers in section 3.2.2) and without any mitigation of this skills gap, likely contributed to the number of significant areas of poor contract management (the fact that the design was not substantially completed by the time Vinci was appointed without a full contract price being agreed being a key example of such a lack of skill) that contributed to the overspend and overrun. We also note that for much of the period (January 2016 to November 2020), BBB did not have a senior, qualified finance director on staff, which also likely led to issues in that area.

This is further emphasised by the fact that by funding the Project via loans to BBB, LBC could effectively move the financing for the Project out of its own capital programme, and record it on its balance sheet as a loan receivable from BBB. This allowed LBC to allocate the capital originally allocated to the Project to other areas, while still delivering the Project. The loans related to the Project were subsumed into LBC's lending to BBB as a whole and became almost invisible. Ultimately, Cabinet, Scrutiny and Overview and Council were provided with no information on a scheme-by-scheme basis for these BBB loans, resulting in loans to BBB being approved on an aggregate basis, without any project level details being provided and with no formal signed legal loan agreements in place. The Section 151 Officer (Mr Simpson between 2016 and January 2019 and Ms Taylor from February 2019 to September 2019) was responsible for providing these reports to Cabinet, Scrutiny and Overview and Council, and Cabinet and Council Members were ultimately responsible for approving these budgets.

LBC also failed to robustly monitor its transactions with BBB on an ongoing basis as detailed in section 3.4 above. Ms Negrini was initially responsible for the set-up of the governance structures of BBB. Overall governance bodies that were considered in the documentation around the set-up of BBB[187]

[186] As shown in section 3.2.2, we have identified correspondence between BBB directors that show they raised concerns about the profitability of the Project.
[187] 16 March 2015 Cabinet report *Homes – our 10 priorities* [14476] and February 2016 Delegated Decision report

were not implemented until February 2019 (Officer led monitoring body) and September 2019 (Member led monitoring body).

Our review has also highlighted a number of conflicts of interest, further underlining the point that BBB was not acting independently of LBC. The Officers below would have been responsible for declaring and managing conflicts of interest within areas under their responsibility as included in LBC's code of conduct. In addition, according to LBC's employee code of conduct, Jaqueline Harris-Baker (Monitoring Officer April 2017 – June 2021) was responsible for receiving all declarations of conflicts of interest and was therefore ultimately responsible for ensuring that potential or existing conflicts of interests were managed. in order to protect LBC. Specific examples are included below:

- Mr Lacey's appointment as an independent director of BBB in December 2018 could be seen as a potential conflict, as he was Director of Development at LBC until shortly before that date, and then became an employee of BBB following that date. The Record of Delegated Decision referred to independent directors of BBB as those not appointed by LBC, so Mr Lacey's transfer to being an employee of BBB was in line with this. However, this definition of independent director is not in line with best practice - according to the UK Corporate Governance Code, an employee of a company is not considered to be independent. Mr Lacey's appointment was agreed with Ms Harris-Baker[188].
- Ms Mustafa, who was Executive Director of Place (and therefore had significant oversight and decision-making authority related to payments and other transactions between LBC and BBB) also acted as a director of BBB, which was highlighted as a conflict of interest by several LBC advisors. Given her position, it is likely that Ms-Harris Baker was aware of Ms Mustafa's appointment[189] and should have been aware of the conflict this presented, as the possibility had been previously raised by LBC legal. Although Ms Mustafa reported this conflict to BBB's Board in April 2019[190] (more than 2 months after her appointment) and to LBC,[191] this conflict existed between January 2019 and September 2020 and was only managed by Ms Mustafa's resignation from the BBB Board in September 2020.
- Mr Simpson and Ms Taylor as Section 151 Officers failed to ensure that Project-related payments to BBB were supported adequately by signed loan documentation and were in line with amounts budgeted / approved by LBC, resulting in more than £60 million being paid to BBB in relation to the £30 million Project budget agreed by Members, although, as detailed in section 9.8.2, they both disputed this. The fact that Ms Taylor and Mr Simpson

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[188] 780347
[189]As detailed in section 9.8.5, legal advice had been sought for Ms Mustafa's appointment.
[190] April 2019 BBB Board meeting minutes. This was the first meeting since her appointment in January 2019.
[191] See section 9.8.5

were providing senior financial oversight to BBB[192] while at the same time in senior financial management positions at LBC (and responsible for approving loan payments to BBB) can be viewed as a potential conflict of interest. Ms Taylor was also responsible for signing off financial risks to LBC in relation to loans made to BBB, while a director of BBB. Given her position, Ms Harris-Baker would or ought to have been aware of the potential conflict of interest this structure presented. Furthermore, according to LBC's current Chief Executive, both of these Officers would have had to agree the internal audit plan and have dialogue with the external auditor which does not appear to have covered the issues raised in this report.

Reports and presentations to Members failed to adequately highlight the inherent risks and uncertainties before the commencement of the Project (the risks presented by BBB taking the Project on without experience, and the structure of the Project via cross-subsidised profits) and failed to report fully and accurately the extent of the cost and timeline issues and significant changes to the funding model and risks such as the loss of the College Green land that were known internally at the time. The responsible Executive Directors (Ms Mustafa and later Ms Simmonds and Ms Harris-Baker) were responsible for highlighting financial implications of these reports to Cabinet under LBC's constitution. Mr Simpson and later Ms Taylor, as Section 151 Officers, were ultimately responsible for signing off on any financial implications.

In conclusion, Ms Negrini and Mr Simpson together raised the possibility of incorporating BBB as a solution to LBC's housing delivery constraints. Ms Negrini and Mr Lacey were the architects of its operational and governance procedures which did not adopt the arms-length recommendations set out in the legal advice from Pinsent Masons.[193] As a consequence of its resulting lack of independent operation, governance and oversight, several other senior Officers at LBC (including Mr Simpson, Ms Mustafa, Ms Taylor and Ms Harris-Baker) then failed to act independently or sufficiently to manage conflicts of interest between LBC and BBB and the delivery of the Project, and mitigate its risks.

[192] We note that Mr Simpson disputes the fact that he provided senior financial oversight to BBB and stated to Kroll that he was acting to preserve LBC's financial interests, as detailed further in section 7.7.1.2.

[193] Which, as detailed in section 3.2.2.1 highlighted the importance of protecting the independence of the housing company and the need for it to act at arm's length from LBC in order to protect the LBC from breaches to state aid and public procurement regulation.

TABLE 5 **Failure to treat BBB as an independent company: Summary table**

This table contains a summary of the details described above, with reference to the relevant sections in the detailed report

Name	Failure identified	Relevant areas of obligation	Reference to detailed section of the report
Ms Negrini Mr Simpson	Failure to safeguard the independence of BBB 3.2LBC's council-owned company and its appointment to the Project	Relevant contractual obligations: Document: Summary of principal conditions of employment issued 19 July 2016 subsection 8: Organisational responsibilities: Applicable extracts: - "It is a requirement of the role of all Chief Officers that they should manage their responsibilities in such a way as to provide the best possible service to the members of the public (or in the case of internal services to those other parts of the organisation) who are their customers, and to direct their activities towards the highest possible standards of customer care within the policy requirements of the Council and according to the resources available" Relevant constitutional obligations: - Part 4H: Internal control par 8.3: "Executive Directors are responsible for establishing sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economic efficiency and effectiveness and for achieving their financial performance targets." -	Section 7.8.1 BBB's independence was not sufficiently safeguarded
Mr Simpson Ms Taylor	Failure to ensure robust monitoring of amounts paid to BBB 3.23.2LBC's council-owned company and its appointment to the Project	Relevant constitutional obligations: Document: LBC Constitution (version September 2017 in place to June 2018) - Part 4H: Internal Control par 8.2 "The Chief Financial Officer is responsible for advising on effective systems of internal control … They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use."	Section 9.8.2 Poor financial monitoring

Name	Failure identified	Relevant areas of obligation	Reference to detailed section of the report
		<u>Relevant statutory obligations:</u> Document: Section 151 of the Local Government Act 1972 - Local authorities are required to "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs".[194] - "Proper administration" not defined in SECTION 151 OFFICER, but CIPFA guidance includes the following [potentially relevant extract only]: ○ Ensuring the authority's (and ultimately its members') responsibility for securing proper administration of its financial affairs	
Ms Harris-Baker Ms Mustafa Mr Lacey Mr Simpson Ms Taylor	Failure to manage conflicts of interest between acting on behalf of LBC and acting on behalf of BBB 3.2.2.2Lack of independent governance and oversight	<u>Relevant constitutional obligations</u> Document: LBC Constitution version 13 December 2018 (in place until June 2019) - Part 4I Tenders and Contracts Regulations Paragraph 6: Declaration of Interest "*In the event that a conflict of interest arises all Council officers must notify their Executive Director and the Council Solicitor and Monitoring Officer, in writing, as soon as is reasonably practical*"	9.8.5 Poor management of conflicts of interest
Ms Mustafa Ms Harris-Baker	Reliance on information received from BBB in LBC Officer reports 3.5.1.1Lack of detail in LBC's annual budgets and BBB's annual business plans	<u>Relevant constitutional obligations</u> Document: LBC Constitution version 13 December 2018 (in place until June 2019) - Part 4I Tenders and Contracts Regulations Paragraph 6: Declaration of Interest "*In the event that a conflict of interest arises all Council officers must notify their Executive Director and the Council Solicitor and Monitoring Officer, in writing, as soon as is reasonably practical*"	9.8.2 Reliance on BBB to present Officer led reports to Members

[194] Local Government Act 1972, Section 151

Name	Failure identified	Relevant areas of obligation	Reference to detailed section of the report
Overall governance failure	Reliance on Scrutiny and Overview Committee to conduct Project governance 3.5Lack of robust reports to Cabinet / Council		9.8.4 Reliance on Scrutiny and Overview Committee to conduct Project governance

3.7 Looking ahead: Mitigations and improvements implemented by LBC

We are aware of substantial changes to processes and structures within LBC since the Project and BBB related issues were identified. We know that formal disciplinary proceedings were agreed to be undertaken with regard to Ms Mustafa and Ms Simmonds both of whom resigned before the process could be concluded. A number of key individuals have also resigned and, subsequent to the appointment of Ms Kerswell as CEO, a new senior leadership team has been appointed.

We note that a number of recommendations for improvement have been made in the two Reports in the Public Interest ("RIPI") published by Grant Thornton UK LLP ("GT"), LBC's external auditors. Kroll has interviewed Jane West (Section 151 Officer since March 2022) who is responsible for overseeing LBC's response and implementation of these recommendations. She has informed Kroll that certain of the recommendations have been prioritised and LBC's response to the priority recommendations will go before the Audit and Governance Committee meeting in September 2022, and the remainder will go before the Audit and Governance Committee meeting in November 2022. According to the Agendas of the Audit and Governance Committee, the action plan on recommendations contained in the RIPI2 were discussed at meetings on 13 October 2022.

We note that there have also been improvements made in the implementation of LBC's processes around risk management and internal audit. Risk management is now discussed formally at the corporate management team on a monthly basis (comprising a review of all red-rated corporate risks). Internal audit is also now reporting regularly to the corporate management team, with a standing agenda item on the monthly meetings.

Internal audit, who receive copies of all CMT papers in advance, also has the authority to place an item on the agenda of any CMT and attend any meeting they need to.

4 Overview and context

This section provides an introduction to the London Borough of Croydon ("LBC"), some of the key individuals involved in the Project and respective governance structures, and a timeline of key events in with relevance to the Project:

- Section 4.1 provides an introduction to LBC leadership and some of the key individuals involved;
- Section 4.2 provides an overview of the Project within LBC's policy and strategic framework;
- Section 4.3 provides an overview of the Officer-led governance bodies relevant to the Project; and,
- Section 4.4 outlines the Member-led governance bodies relevant to the Project.

An overview of the headings used in our report is included in section 4.4.1.

4.1 Introduction to the key individuals involved

The operations and functions of LBC are carried out at two different levels. Political decisions, and therefore strategy, is decided by elected Councillors ("Cllrs" or "Members"), who are accountable to the residents of the Borough for their actions through regular elections. Officers are non-party political appointees[195] and public servants, who are tasked with advising members prior to decisions and then implementing those decisions and ensuring the delivery of day-to-day services provided by LBC.

4.1.1 LBC Membership

4.1.1.1 Council

For the period covered by this report, LBC had 70 Members. Since May 2022, the Council has implemented a change of its governance model whereby it has 70 Councillors and an elected executive Mayor. At the Annual Council meeting, appointments of Members are made to either the Cabinet or Scrutiny and Overview committees and the executive and non-executive decision-making bodies which control the functions of the Council. All governance bodies apart from the Cabinet are appointed on a proportionate basis to the number of seats occupied by each political party. The party elected to a majority forms the administration and are appointed to the Cabinet. Members appointed

[195] At a senior level Officers are politically restricted by law, and prohibited from having an active political role.

to Cabinet meet to agree the council tax setting budget once a year and to recommend this to Council which all Members attend.

Between 2006 and 2014, the Conservatives held a majority within the Council. In 2014, Labour won a majority from the Conservatives[196], and the Labour majority appointed a Leader of the Council, Cllr Tony Newman, for a four-year period. Another local government election in May 2018 was again won by Labour.[197] In the Autumn of 2020, a number of significant changes took place to the political leadership of the Council. A vote of no confidence in the Leader, Cllr Tony Newman (LAB), and the Cabinet Member for Finance and Resources, Cllr Simon Hall (LAB) was defeated by 40 votes to 28 on 28 September 2020. On 9 October 2020, Cllr Hall resigned from his Cabinet position, and on 12 October 2020 Cllr Newman also resigned as Leader. Both Members remained part of Council. On 22 October 2020, the new Leader of the Council, Cllr Hamida Ali (LAB), was appointed along with a new Cabinet, and the Labour Party administration continued its majority control of Croydon Council. On 23 October 2020, RIPI1 was published. A government inspection "*Rapid Review*" Team was appointed on the 10 November 2020 to assess if commissioners needed to be sent into Croydon. On the 11 November 2020 the first of four Section 114[198] notices was published.

4.1.1.2 Cabinet

By law, Cabinet must comprise the Leader and up to 10 Members. Cabinet Members following the May 2014 election, along with subsequent changes have been included in TABLE 6 below.

TABLE 6 LBC Cabinet following the May 2014 elections (LAB)

Role	May 2014 – Apr 2018 (elected period)	May 2018 – Sept 2020 (elected period)	New Cabinet – elected period Oct 2020 – May 2022[199]
Leader	Tony Newman	Tony Newman	Hamida Ali (Leader)
Deputy Leader (Statutory) & Homes and Regeneration / Homes, Regeneration & Planning[200] / Homes & Gateway[201]	Alison Butler	Alison Butler	Stuart King (Deputy Leader & Croydon Renewal)

[196] Labour won 40 seats and the Conservatives won 30 seats.
[197] Labour won 41 seats and the Conservatives won 29 seats.
[198] Councils are required to publish a Section 114 notice when they are unable to balance their budget.
[199] The Cabinet roles changed in October 2020 with the election of the new Cabinet. This column includes the names of the new roles in brackets.
[200] The Cabinet Role was redefined to Homes, Regeneration & Planning in the 2015/16 electoral year.
[201] The Cabinet Role was redefined to Homes & Gateway in the 2018/19 electoral year.

Role	May 2014 – Apr 2018 (elected period)	May 2018 – Sept 2020 (elected period)	New Cabinet – elected period Oct 2020 – May 2022[199]
Deputy Leader & Clean Green Croydon	Stuart Collins	Stuart Collins	Muhammad Ali (Sustainable Croydon)
Finance & Treasury / Finance & Resources[202]	Simon Hall	Simon Hall	Callton Young OBE (Resources & Financial Governance)
Transport & Environment / Transport, Environment & Regeneration[203]	Kathy Bee / Stuart King[204]	Stuart King and Paul Scott (job share)	Jane Avis (Homes & Gateway Services to May 2021); Patricia Hay Justice (Homes – May 2021 to May 2022)
Culture, Leisure & Sport	Timothy Godfrey	Oliver Lewis	Oliver Lewis (Culture & Regeneration)
People & Communities / Families, Health & Social Care[205]	Louise Woodley	Jane Avis	Janet Campbell (Families, Health & Social Care)
Safety & Justice / Communities, Safety & Justice[206] / Safer Croydon & Communities[207]	Mark Watson / Hamida Ali[208]	Hamida Ali	David Wood (Safety, Communities and Resilience to May 2021)
Economic Development / Economy & Jobs[209]	Toni Letts / Mark Watson[210]	Manju Shahul-Hammed	Manju Shahul-Hammed (Economic Recovery & Skills to May 2021, subsequently Communities, Safety and Business Recovery)
Children, Families & Learning / Children, Young People & Learning[211]	Alisa Flemming	Alisa Flemming	Alisa Flemming (Children, Young People and Learning)

Cabinet was responsible for making decisions and directing the implementation of the political strategy decided by the Leader. The Cabinet Members most critical to the Project are shown in TABLE 7:

[202] The Cabinet Role was redefined to Finance & Resources in the 2018/19 electoral year.
[203] The Cabinet Role was redefined to Transport, Environment & Regeneration in the 2018/19 electoral year.
[204] Stuart King replaced Kathy Bee during the 2016/17 electoral year.
[205] The Cabinet Role was redefined to Families, Health & Social Care in the 2015/16 electoral year.
[206] The Cabinet Role was redefined to Communities, Safety & Justice in the 2015/16 electoral year.
[207] The Cabinet Role was redefined to Safer Croydon & Communities in the 2018/19 electoral year.
[208] Hamida Ali replaced Mark Watson during the 2016/17 electoral year.
[209] The Cabinet Role was redefined to Economy & Jobs in the 2015/16 electoral year.
[210] Mark Watson replaced Toni Letts during the 2016/17 electoral year.
[211] The Cabinet Role was redefined to Children, Young People & Learning in the 2015/16 electoral year.

TABLE 7 **List of Key Cabinet Members (LAB)**

Role	Name	Period
Leader	Tony Newman	2014-2020
Homes & Regeneration	Alison Butler	2014-2020
Finance & Treasury	Simon Hall	2014-2020
Culture, Leisure & Sport	Timothy Godfrey Oliver Lewis	2014-2018 2018-2020
Transport, Environment & Regeneration	Paul Scott	2018-2020

Cabinet was provided with information and policy advice by Officers in the form of Cabinet reports for the purposes of decision-making and accountability. These reports were signed off by a Lead Officer and contained a set of recommended decisions for the relevant topic, together with support papers and information relevant to the decision. Cabinet reports also included legal and financial considerations on the decisions, input by Officers within LBC's Legal and Finance functions. Cabinet reports could include a Part A (available in the public) and Part B (which included commercially sensitive information and was not disclosed publicly). Matters discussed in private (i.e. Part B) are governed by legal threshold and are decided at each meeting by the Members present whether it is a private report or not.

4.1.1.3 Council Sub-Committees – Scrutiny and Overview Committee

A number of Full Council committees were established as per the constitution. The most relevant to the Project was the Scrutiny and Overview Committee. Scrutiny is a statutory function within local government. The purpose of scrutiny committees, according to government guidelines, is to scrutinise decisions that the Council executive is planning to make, planning to implement, or has already made or implemented.[212] Any Member of a scrutiny committee has the right to refer a relevant matter to the committee; scrutiny committees may then issue reports, hold meetings, and, if needed, provide recommendations to enable improvements to policies and draw attention to issues. Scrutiny committees also have the power to "call-in" decisions made by Cabinet or Council, which they may then review and recommend that the relevant forum reconsider. Government guidelines suggest that call-in be used as a final resort after other methods of engagement have failed. Scrutiny committees cannot direct the Council, the executive, or external bodies to act upon

[212] *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities*, Ministry of Housing, Communities and Local Government, May 2019.

their findings or recommendations, but they can recommend that a decision is reconsidered by the Council.

The makeup of scrutiny committee Members should reflect the political balance of the local authority[213] and it was confirmed to Kroll by the Scrutiny Support Officer that this was the case at LBC. LBC had a main Scrutiny and Overview Committee and three sub-committees:

- the Children and Young People Sub-Committee;
- the Health and Social Care Sub-Committee; and
- the Streets, Environments and Homes Sub-Committee.[214]

The Scrutiny and Overview Committee held seven to eight meetings a year, while the sub-committees held five to six a year, although this was flexible.[215] Six Members sat on the Scrutiny and Overview Committee at LBC, proportionate to the overall political balance of the Council, the workplan for which is set once a year, normally being signed off in June in the first meeting of the municipal year and with budget and the capital plan generally featuring.[216] Project-specific Scrutiny and Overview Committee meetings are detailed in the relevant sections of the report.

4.1.2 LBC Officers

LBC Officers are employees of LBC responsible for advising members and implementing the political strategy of the Leader and Cabinet and managing LBC on a day-to-day basis. LBC has seven Statutory Officer positions, of which three are relevant to the Project and have roles which are responsible for elements of governance within LBC. The roles and responsibilities of Statutory Officers relevant to the Project are shown in TABLE 8 below:

TABLE 8 Role of Statutory Officers
Overview of roles of Statutory Officers in local authorities[217]

Statutory Officer	Description of Roles and Responsibilities	LBC Employee
Chief Executive / Head of Paid Service	Ensure that all functions of the Local Authority are properly coordinated, organise staff, appoint proper management	Nathan Elvery *(Feb 13–Apr 16)* Jo Negrini *(Jul 16–Sep 20)*

[213] Overview and scrutiny in local government, Briefing Paper Number 06520, 21 June 2019.
[214] https://www.croydon.gov.uk/council-and-elections/council-committees-and-meetings/committees-boards-and-meetings/scrutiny/how-scrutiny-croydon-works
[215] Interview of Scrutiny Support Officer.
[216] Interview of Scrutiny Support Officer.
[217] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/914651/Annex_2_-_Statutory_officers.pdf

Statutory Officer	Description of Roles and Responsibilities	LBC Employee
Section 151 Officer / Chief Financial Officer	Ensure that the financial affairs of the authority are properly administrated and that the financial functions are fit for purpose.	Richard Simpson *(Mar 13–Jan 19)* Lisa Taylor *(Feb 19*[218]*–Feb 21)*
Monitoring Officer	Report on matters they believe to be illegal or account to maladministration, responsible for matters relating to the conduct of Councillors and Officers, and responsible for the operation of LBC's constitution.	Julie Belvir (Until Feb 16)[219] Gabriel MacGregor (Feb 16 – May 16) Jacqueline Harris-Baker (acting, May 16 – Mar 17) Jacqueline Harris-Baker (Mar 17 – Jun 21)

Alongside the statutory Officers, LBC senior management comprised a group of Executive Directors, in charge of managing the departments of LBC. Several individuals occupied non-statutory senior chief officer management positions or both statutory and non-statutory positions at LBC during the duration of the Project of relevance, as set out in TABLE 9 below:

TABLE 9 **Officers relevant to the Project (by alphabetical order)**
Overview of individuals and professional history of LBC

Name and Abbreviation	In role at LBC
Jacqueline Harris-Baker ("Ms Harris-Baker")	Various roles *(May 98 – Aug 06)* Deputy Council Solicitor (*Aug 06 – Mar 12)* Head of Social Care and Education Law (*Mar 12 – May 16)* Head of Social Care and Education Law and Acting Monitoring Officer *(May 16 – Dec 16)* Interim Director of Law and Governance and Monitoring Officer *(Dec 16 – Mar 17)* Director of Law and Governance and Monitoring Officer *(Mar 17 – Feb 19)* Interim Director of Resources and Monitoring Officer *(Mar 19 – Nov 19)* Executive Director of Resources and Monitoring Officer *(Nov 19 – Jun 21)*
Colm Lacey ("Mr Lacey")	Former Director of Development (LBC) *(Sep 14 – Sep 18)* Managing Director (BBB) *(Oct 18 – Feb 22)*
Edward McDermott ("Mr McDermott")	Various roles *(Jun 07 – Feb 12)* Departmental Client Officer *(Feb 12 – Oct 12)* Regeneration Manager (*Jan 13 – Nov 17)* Senior Regeneration Manager *(Dec 17 – Aug 18)*
Sean Murphy ("Mr Murphy")	Various roles *(Jul 00 – Jan 02)* Corporate Solicitor *(Jan 02 – Jun 07)*

[218] We understand that there was a slight overlap between Mr Simpson leaving and Ms Taylor taking over as Section 151 Officer.
[219] London Borough of Croydon Statement of Accounts 2015/16

Name and Abbreviation	In role at LBC
	Principal Corporate Solicitor (Regeneration) *(Jul 07 – Apr 17)* Head of Property and Commercial Law and Deputy Monitoring Officer *(Apr 17 – Feb 19)* Acting Director of Law and Governance and Deputy Monitoring Officer *(Feb 19 – Mar 21)*
Paula Murray ("Ms Murray")	Acting Director of Culture *(Sep 16 – Aug 18)* Creative Director *(Aug 18 – Dec 20)*
Shifa Mustafa ("Ms Mustafa")	Executive Director of Place *(Nov 16 – Jul 21)*
Joanne Negrini ("Ms Negrini")	Executive Director of Development and Environment *(Jan 14 – Apr 15)* Executive Director of Place *(Apr 15 – Apr 16)* Interim Chief Executive Officer *(Apr 16 – Jul 16)* Chief Executive Officer and Head of Paid Service *(Jul 16 – Sep 20)*
Hazel Simmonds ("Ms Simmonds")	Director of District Centres and Regeneration *(Jul 18 – Dec 18)* Executive Director of Gateway, Strategy and Engagement *(Jan 19 – Dec 19)* Executive Director of Localities and Residents Pathway *(Jan 20 – Sep 22)*
Richard Simpson	Various roles *(Aug 05 – Jan 10)* Director of Financial Services and Deputy Section 151 Officer *(Jan 10 – Mar 13)* Director of Finance and Assets and Section 151 Officer *(Mar 13 – Jan 15)* Assistant Chief Executive (Corporate Resources) and Section 151 Officer *(Jan 15 – Sep 16)* Executive Director of Resources *(Sep 16 – Mar 19)* Section 151 Officer *(Sep 16 – Jan 19)*[220]
Lisa Taylor ("Ms Taylor")	Head of Finance and Deputy Section 151 Officer *(Feb 14 – Mar 16)* Assistant Director of Finance and Deputy Section 151 Officer *(Apr 16 – Jan 17)* Director of Finance, Investment & Risk and Deputy Section 151 Officer *(Jan 17 – Mar 19)* Director of Finance, Investment & Risk and Interim Section 151 Officer *(Feb 19 – Oct 19)* Director of Finance, Investment & Risk and Section 151 Officer *(Oct 19 – Feb 21)*

4.2 The Project within Croydon's wider policy and strategic objectives

In the London Plan, published in 2011 by the Mayor of London, Croydon was declared an Opportunity Area and as a key place of growth in Outer London. As a result, a number of coordinated Masterplans were produced by LBC to provide guidance around how to transform Croydon's city centre. One of

[220] Mr Simpson was Section 151 Officer until 30 January 2019 , Ms Taylor assumed the role of Section 151 Officer in February 2019.

these Masterplans was the Fairfield Masterplan, (the "Masterplan"), which set out not only the proposed refurbishment of Fairfield Halls, but also the redevelopment of the surrounding area into a new cultural and learning centre with a "*sustainable mix of residential, cultural, educational, commercial uses and a well-connected and high-quality public realm*".[221] It was planned that the site would include a mix of new residential and commercial developments, in order to meet LBC's affordable housing aims and goals to bring new jobs to the borough.[222]

In March 2013, a report submitted to Cabinet as to whether the Masterplan should be adopted as planning guidance set out how it supported LBC in meeting a number of its Sustainable Community Strategy themes, including:

- Safer, stronger and more sustainable communities.
- Promoting economic growth and prosperity.
- Improving health and wellbeing.
- Improving the environment.

On 11 March 2013[223], the Masterplan was formally adopted as internal planning guidance by LBC. A number of further masterplans had also been developed in this period, in line with the recognition of Croydon as an opportunity area. These related to other areas within the Brough including East Croydon (March 2011), West Croydon (July 2011) and Mid Croydon (July 2012) around the same time period. The final Masterplan, being for Old Town, was also adopted as a supplementary planning document in December 2014.[224]

4.3 Project-related governance bodies (Officer-led)

Governance of the Project needs to be understood in the context of LBC's governance of BBB and involved both Officers (discussed in this section 4.3) and Members (discussed in section 4.4). At BBB's inception, it was intended that its governance by LBC was to be undertaken at both at both an Officer level (by way of LBC Officers acting as shareholder representatives (Directors) on BBB's board and BBB reporting into Officer led governance bodies) and at a Member level (by way of a Member-led steering group and approval of BBB's business plans).[225] The June 2016 Cabinet decision stated that the risks identified in the report would be mitigated by this governance structure, some of which was

[221] Fairfield Masterplan, December 2012
[222] Fairfield Masterplan, December 2012. Cabinet report entitled "*Cultural Quarter – Rejuvenating Fairfield*", 15 September 2014
[223] Cabinet report entitled "*The Fair Field Masterplan – Approval to adopt as interim planning guidance*", 11 March 2013
[224] https://www.croydon.gov.uk/planning-and-regeneration/planning-policy/further-planning-guidance/masterplans
[225] 1040066.

never fully implemented, and some parts only introduced after Fairfield Halls was reopened in September 2019.

Kroll's commentary around the governance and oversight of the Project considers the following groups:

- project-level boards with responsibility for overseeing the Project – initially the Fairfield Halls & College Green Integrated Programme Board (the "Programme Board") in September 2014, and subsequently the Fairfield Project Board (the "Fairfield Board")[226];
- Growth Board with responsibility for the Growth Plan (which included the Project);
- the BBB client monitoring group (the "BBB Monitoring Group"); and
- the Executive Leadership Team with overall responsibility for the management of LBC.

Although these were Officer-led groups, Cabinet Members did attend both the Growth Board and the BBB Monitoring Group at various points. Whilst not unusual to have mixed member officer boards, it is not considered good governance practice to have a blurring of the roles of Officer and Member oversight. GT highlighted this concern in RIPI1, published in October 2020.

We note that minutes of these internal LBC boards frequently did not contain significant detail, so it has not always been possible to determine internal messaging with clarity from the minutes and documents available.

4.3.1 Programme Board

The Programme Board was established in November 2014 following the decision to formally integrate the Fairfield Halls and College Green schemes. According to its terms of reference, the Programme Board would be responsible for delivering the combined Fairfield Halls and College Green development. Ms Negrini (at the time Executive Director of Development and Environment), the original chair of the Programme Board, proposed that Mr Lacey (at the time Director of Development) be made Chair of the Board, given that she was Head of the Growth Board. This allowed for a clear escalation path from the Programme Board to the Growth Board.[227] The key members of the Programme Board are detailed in TABLE 10:

[226] There was a previous incarnation of the Programme Board that met once in 2014, which was focused on the Fairfield Halls "*Modernisation"* project, being a standalone refurbishment.
[227] According to the minutes of the Programme Board's first meeting in November 2014.

TABLE 10 **Members of the Programme Board**
Extracted from meeting minutes

Name	Position
Colm Lacey	Director of Development, Chair of the Board
Jo Negrini	Executive Director of Development and Environment
Simon Thomsett	Chief Executive of Fairfield (Croydon) Ltd, the operator of Fairfield Halls
John Bartliff	Trustee of Fairfield (Croydon) Ltd
Jane Doyle	Director of Culture
Richard Simpson	Executive Director of Resources and Section 151 Officer
Ed McDermott	Regeneration Manager
Clive Burley	Client and Operations Manager of the Capital Delivery Hub
Tim Naylor	Director for Planning

The Programme Board included Members of the operator, Fairfield (Croydon) Limited, which allowed the operator to provide its input in the planning for the Project. The last known meeting of the Programme Board was in November 2016[228], and it appears to have been dissolved as Fairfield Halls was closed in July 2016. It was replaced by the Fairfield Board in May 2017.

4.3.2 Fairfield Board

The Fairfield Board replaced the Programme Board as the Project-specific governance body within LBC. The Fairfield Board was set up in response to findings contained in a internal audit report that was finalised in June 2017, and raised the lack of a Project-specific LBC meeting between November 2016 and April 2017 (when the internal audit review was taking place).[229] This was discussed in the first Fairfield Board meeting minutes in May 2017, and according to Ms Mustafa, it was initiated in "*response to an internal audit that regular governance was needed for this project*" as, following the dissolution of the Programme Board in November 2016, no such body existed within LBC.[230] The fact that the Project was being discussed at the Growth Board meetings during between November 2016 and April 2017 was highlighted as a possible mitigating factor in responses to the internal audit report. However, there was no explanation for the significant time period (seven months) where there was a lack of dedicated oversight board for the £30 million Project.

[228] We have not identified minutes for this Programme Board meeting. We understand this is the case from an internal audit report produced in June 2017.
[229] 26053
[230] Fairfield Board Notes dated 24 May 2017

The composition of the Fairfield Board (detailed in TABLE 11) was similar to the Programme Board detailed above, although the operator, Fairfield (Croydon) Limited, was no longer represented as their contract had been ended with the closure of Fairfield Halls in July 2016.[231] The members of the Fairfield Board are outlined below. Mr Lacey, the Managing Director of BBB, attended to provide updates on behalf of BBB.

TABLE 11 Members of Fairfield Board

Name	Role
Shifa Mustafa	Executive Director of Place, Chair of the Fairfield Board
Paula Murray	Acting Director of Culture
Lisa Taylor	Director of Finance, Investment & Risk and Deputy Section 151 Officer
Sean Murphy	Head of Property & Commercial Law and Deputy Monitoring Officer
Susie Rundle	Communications Manager (attendance as required)

The terms of reference of the Fairfield Board state that all red risks, financial and delivery issues should be escalated to the Growth Board, which was also chaired by Ms Mustafa. The Fairfield Board discussed issues relating to the Project, including Project-related risks, which were recorded in a Project-specific risk dashboard. Updates from BBB were generally provided by Mr Lacey. As per Kroll's review of the Growth Board minutes, red-rated risks were generally escalated to this board, in line with the terms of reference. In addition, the need to update relevant Members was discussed at the first meeting, with Ms Mustafa noting that these updates to relevant Members would be undertaken on an as needed basis. It should be noted that, unlike Ms Negrini (see section 4.3.1), Ms Mustafa did not step aside as the Fairfield Board Chair when also carrying out duties as the Chair of the Growth Board, meaning that she was effectively escalating issues relating to the Project to herself.

4.3.3 Growth Board

The Growth Board's purpose was to direct LBC's Growth Agenda, specifically to ensure delivery of the Growth Plan, Growth Promises and Ambitious for Croydon outcomes.[232] The Growth Board is formally referenced in the financial regulations included in LBC's constitution. The terms of reference

[231] Fairfield (Croydon) Limited entered creditors voluntary liquidation on 7 July 2017 and was dissolved on 1 July 2020.
[232] Growth Promises was published by the Cllr Newman (Leader of LBC) and titled "The Croydon Promise – Growth for All", dated September 2014. This set out LBC's £9 billion investment plan up to 2020, and includes plans for Central Croydon area, including the Fairfield Halls. Ambitious for Croydon set out the overarching ambitions of the administration for the term of office and was the Labour Party's manifesto

for the Growth Board were agreed on 19 January 2015.[233] The Growth Board had the authority to make recommendations regarding disposals and acquisitions valued over £100,000 and had the responsibility to escalate to the Corporate Leadership Team[234] where the following tolerances were breached or become likely to be breached.[235]

- Project Budget: overspend by £50,000 or 1 percent of project value, whichever is greater;
- Timescale: where a project was likely to exceed its funding deadline and not deliver within its academic year target or will slip into other financial years;
- Scope: where significant change of scope or quality is proposed; and
- Risks or Issues to Highlight: where a project is at risk of being unable to operate within its agreed budget plus contingency to deliver.

We note that the terms of reference for the Fairfield Board stated that certain items were to be escalated from the Fairfield Board to the Growth Board. Ms Negrini initially chaired the Growth Board, with Ms Mustafa taking over as Chair from November 2016 following her appointment as Executive Director of Place, replacing Ms Negrini when she became the Chief Executive.[236] The Growth Board did not meet for several months between May 2017 and January 2018 (seven months) – we have not received an explanation for this gap. This was in addition to the absence of Fairfield Board meetings between November 2016 and April 2017.

The membership of the Growth Board was large, and there were frequent substitutions of membership and guests invited to discuss a particular project. The terms of reference indicate that Mr Lacey, Mr Simpson and Mr Murphy were standing members of the Growth Board, alongside Ms Negrini and later Ms Mustafa as Chair. We are also aware that Ms Taylor, Ms Simmonds and several Members attended meetings, including Cllr Butler, Cllr Hall, Cllr King and Cllr Lewis (all LAB).

4.3.4 BBB Monitoring Group

The BBB Monitoring Group was established in February 2019, three years after the set-up of BBB in 2016, although its first meeting was cancelled and the first meeting later took place in April 2019. The BBB Monitoring Group was set-up as an overall Officer-led governance body, with Cllr Butler (Cabinet Member for Homes & Gateway Services LAB), and Mr Lacey attending meetings. We have seen email

[233] We have not verified whether the Growth Board was formally granted delegated powers from the Council or Cabinet in line within the January 2015 terms of reference. We have made enquiries with LBC to this effect and not been provided with further information in this regard
[234] CLT
[235] Growth Board terms of reference, 19 January 2015
[236] 1780523

evidence which shows that Mr Lacey was asked to sense check the proposed terms of reference, but he did not have a significant role in drafting them.[237]

Ms Simmonds, then Executive Director of Gateway, Strategy & Communications ("Ms Simmonds"), was the Chair of the BBB Monitoring Group. Ms Simmonds also acted as the Senior Responsible Owner as client lead for LBC, and sponsor of BBB.[238] Our observations around the delay in establishing this body are included in section 9.8.7. In September 2019, Ms Taylor took over as the Chair of the BBB Monitoring Group.

4.3.5 Executive Leadership Team

Executive Leadership Team ("ELT"), also referred to by LBC as Corporate Leadership Team ("CLT"), comprised the executive directors of each department and the CEO and was the most senior management group of Officers at LBC. Meetings for this group took place on a weekly basis.

The name of this group of senior Officers has changed over time but held broadly the same or similar purpose. Prior to June 2013, the group was known as the Corporate Management Team. We have identified an email circulated to senior Officers in the same month stating the name had been changed to Corporate Leadership Team.[239] LBC's financial accounts further state that the name was in fact changed from CMT to the Executive Leadership Team ("ELT") at the start of the 2015/16 financial year.[240]

One instance of an escalation by Ms Mustafa (in her capacity as a non-executive director of BBB) to ELT was noted, although this escalation related to general BBB matters and did not relate directly to the Project. Ms Mustafa raised concerns about the new pay policy and the debt to equity ratio of BBB (see section 9.7.2.1.2) in an email to ELT, although her email did not detail the nature of her concerns.

4.4 Project-related governance bodies (Member-led)

The BBB Shareholder and Investment Board was set up as a formal interface between Members, Officers and BBB by way of a Member-led body. The February 2016 Delegated Decision report and Cabinet reports about the Project made continuous reference to the set-up of a Member-led information governance body for BBB since 2016.[241] The BBB Shareholder and Investment Board was

[237] 157988
[238] The SRO had overall responsibility for the project (i.e. to ensure that it remained on target to deliver the expected objectives and benefits, the risks and issues are kept under control and is delivered within budget and on schedule). 313166
[239] 1099310
[240] London Borough of Croydon Statement of Accounts 2015/16.
[241] June 2016 Cabinet report

eventually set up in October 2019, more than three years after BBB's appointment to the Project and after the reopening of Fairfield Halls. It was chaired by Cllr Butler. Cllr Hall and Cllr Scott (all LAB) also attended. This Board had formal responsibility to monitor the BBB Business Plan, as well as risks associated with the operations and performance of the company.[242] Regular updates were provided by Mr Lacey to the Board. The Board comprised of the following members as shown in in TABLE 12:

TABLE 12 Membership of the BBB Shareholder and Investment Board

Name	Role
Cllr Alison Butler (LAB)	Deputy Leader (Statutory) and Cabinet Member for Homes & Gateway
Cllr Simon Hall (LAB)	Cabinet Member for Finance and Resources
Cllr Paul Scott (LAB)	Joint Cabinet Member for Transport, Environment & Regeneration
Jaqueline Harris-Baker	Executive Director of Resources and Monitoring Officer
Sean Murphy	Acting Director of Law and Governance and Deputy Monitoring Officer
Amar Kansal	Solicitor
Felicia Wright	Head of Finance, Investment and Risk
Lisa Taylor	Director of Finance, Investment and Risk and Section 151 Officer
Steve Wingrave	Head of Asset Management (attendance as required)

The minutes for an ELT meeting held in June 2019 state that the Officer-led BBB Monitoring Group and a Member-led BBB Shareholder and Investment Board (this board) were being established simultaneously, and that it was important their terms of references were aligned. The minutes of the ELT meeting state the BBB Monitoring Group would report into the BBB Shareholder and Investment Board.[243] Minutes from the BBB Monitoring Group meeting itself from June 2019 highlighted the group had been set up in a monitoring capacity, and was not a decision making group in itself.[244] Mr Lacey commented in September 2020 that the structure assisted with escalating issues which required clarification from the LBC.[245]

The Shareholder and Investment Board was responsible for discussing all BBB projects. The first noted discussion of the Project specifically at this meeting was on 17 September 2020 in relation to a

[242] 164645, 164657
[243] 615509
[244] 615597, 615596
[245] 618110

"*review*" of LBC's council-owned properties.[246] These minutes show that there was some concern around the future of BBB, particularly around lack of funding as a result of this review. It was discussed that:

"*The Fairfield Homes site is important in paying the cost of the refurbishment of Fairfield Halls and it is hoped that these works will continue. AB asked how we can protect the company and investment at the current stage – because the council doesn't have the finance to do this, BBB is looking to secure funding elsewhere*."[247]

We note that shortly after this meeting and following a change in the leadership of the Council and its Cabinet in November 2020, LBC decided to wind down BBB. The first meeting in October 2019 was held shortly before the reopening of Fairfield Halls, so therefore it was not monitoring the Project during the majority of construction phase.[248] The first meeting was nearly four years after BBB commenced its operations[249], so there was no Member-led governance structure during that period and no formal body for any of the non-executive directors or council appointed observers to which the BBB Board could formally report back. Furthermore, it was not made clear how the Members on the Shareholder and Investment Board would report back to full Council or Cabinet, as noted in the RIPI2.

LBC's Head of Fraud, Risk and Insurance stated to Kroll that the Member-led General Purposes and Audit Committee ("GPAC"), was responsible for overseeing LBC's exposure to risks (including financial risks), according to its terms of reference. He further explained to Kroll that as such, BBB's annual financial statements should have been reviewed by this body. In addition, this body was also responsible for reviewing LBC's corporate risks (detailed further in section 11.1). We have not undertaken a detailed review of the GPAC reports, but according to Kroll's review of the agenda items, GPAC received a report on BBB's 2017 annual audited financial statements at its meeting in July 2018.[250] In July 2019, GPAC received a draft of BBB's 2018 annual financial statements.[251] No significant items of challenge around governance were documented in these minutes, although questions were raised as to whether the final audit reports were to be presented to Members.

[246] We understand this to be the PwC review into strategic options for all council-owned companies. We understand this was initiated by Ms Kerswell (the new interim Chief Executive) following her appointment, in order to address the funding and future of BBB.

[247] BBB Shareholder and Investment Board minutes dated 17 September 2020

[248] 737033

[249] January 2016

[250] GPAC minutes 18 July 2018

[251] GPAC minutes 11 July 2018

4.4.1 Overview of the Report

We have written this report as a chronology, detailing the events as they occurred year by year. Our observations are categorised under the following different headings for each section:

TABLE 13 Explanation of headings included in our report

Report section	Overview of contents
Evolution of Council-owned company / BBB	Includes events and decisions that were made in the run up to the incorporation of BBB, as well as changes in BBB's operational structure following its incorporation.
Advisors and Consultants	Both LBC and BBB appointed several advisors and consultants throughout the Project in several capacities. This heading includes Kroll's observations around the engagements with these advisors.
Evolution of the Project structure	The Project went through a number of different structures over this period, and this heading includes any changes to the Project structure.
Financing of the Project	Includes financing of the Project from the perspective of payments between LBC and BBB, and from the perspective of LBC's capital allocations included in its annual budget.
Project related risks	Includes Project related risks resulting from events that occurred during the year. Includes any risks that were flagged by LBC and risks identified by Kroll.
Governance	Includes governance of the Project from LBC and BBB's perspective, and includes reports to Members not included elsewhere.
Conclusion	Provides Kroll's conclusion around the events that occurred, and highlights any significant governance failures.

Full names and roles of the key individuals detailed in this report are set out in TABLE 7 List of Key Cabinet Members (LAB), TABLE 8 Role of Statutory Officers and TABLE 9 Officers relevant to the Project (by alphabetical order).

5 Project related events up to and including 2014

As already detailed in section 4.2 in May 2014 LBC changed from a Conservative majority to a Labour majority Council. During 2014, decisions were made to progress the incorporation of a Council-owned housing company. In parallel, following discussions around the refurbishment of Fairfield Halls carried over from previous years, discussions at LBC gained momentum and a number of steps were taken to progress this. These items are detailed in the relevant sections of the report under the headings explained in TABLE 11.

5.1 Evolution of a Council-Owned Company to Deliver Housing Objectives

Two reports were prepared during 2014 that progressed discussions around LBC's Council-owned housing company:

- In March 2014 a discussion paper regarding the possibilities of incorporating a housing company titled "*Housing Delivery SPV*" ("the Housing Delivery Report") prepared by a Senior Regeneration Manager;[252] and
- In September 2014 a report which was based on the Housing Delivery Report was presented to Cabinet which recommended the creation of such a company and titled "*Wholly Owned Housing Company – an option for tackling the shortage of homes in Croydon*" ("the September 2014 Cabinet report"). The Housing Delivery Report was the basis of the September 2014 Cabinet report.

At this time, LBC was not the only council considering the use of such a housing company, the London Borough of Newham had set up its own housing company and both Ms Negrini and Mr Lacey moved to Croydon from Newham.[253] Nor was this housing company the first council-owned company incorporated by LBC, as summarised in section 5.1.5. The increased usage of council-owned companies to increase revenues from property and land portfolios was a response to certain Central

[252] This paper was drafted by a Senior Regeneration Manager. 1561109 and 1561110. We have first identified the paper being circulated in July 2014 from the Senior Regeneration Manager to Mr Simpson, however it is stated in the email that the paper was prepared in March 2014 for the then Head of Housing Development & Regeneration. 1307379

[253] Mr Lacey stated to Kroll that in his role at Newham, he engaged with the company as a senior member of the Regeneration and Planning department, but did not have any direct involvement in the company.

Government actions, such as a decline in allocated funding that meant local authorities were led to seek alternative sources of revenue.[254]

5.1.1 The housing shortage within Croydon

From May 2014, the new Labour administration made tackling the housing crisis in Croydon a political priority. Their manifesto, 'Ambitious for Croydon', set out that over 10,000 people were on housing waiting lists in the Borough, and increased pressures from the Government's changes to local housing allowances and housing benefits added further strain to the shortfall.[255]

Additional detail on the housing shortage was included in the September 2014 "*Wholly Owned Housing Company – an option for tackling the shortage of homes in Croydon*" Cabinet report, which set out that the Borough was in need of 27,000 new homes between 2021 to 2031, or a total of 1,430 new homes per year (for the 10 years between 2014/2015 and 2024/2025). The need was compared to average actual delivery of new homes at around 509 per year, therefore a substantial increase in housing delivery was required to meet the estimated demand. Furthermore, LBC's delivery of new affordable housing to date had been able to provide affordable rents at 65% of market rents, however, any future housing delivered under the existing funding strategies would be provided at 80% of market rents, which was described as less affordable.

5.1.2 Financial difficulties experienced by Croydon in 2014

LBC would have struggled to deliver on these housing delivery objectives if they continued their existing funding strategy. LBC was using its Housing Revenue Account ("HRA")[256] to fund its delivery of affordable housing within the Borough. According to the September 2014 Cabinet report, by this date, there was limited borrowing headroom within the HRA account, and it was expected that the borrowing cap on this account would be reached within the next two financial years, which would result in LBC being unable to borrow further through this account for the next 28 years. This funding limitation would have severely restricted LBC's ability to deliver its' affordable housing objectives and resulted in the need for a new strategy for the delivery of housing.

We understand the limited funding headroom in the HRA account stemmed from a change in Government policy whereby the Government bought out the previous HRA Housing subsidy

[254] https://researchbriefings.files.parliament.uk/documents/CBP-8142/CBP-8142.pdf
[255] https://silo.tips/queue/ambitious-for-croydon?&queue_id=-1&v=1668183824&u=MzcuMTU2LjczLjEzNg==
[256] A council's HRA records the expenditure and income arising from the provision of housing accommodation by local housing authorities. The HRA is part of the General Fund, but is ring-fenced for specific transactions.

system.[257] Croydon increased its HRA borrowing to make a payment to the Government to fund the buyout, which was made from Councils that were in surplus each year. In March 2012, LBC borrowed £223.1 million in order to pay the Government the historic HRA debts, which were to be financed and repaid from the HRA over a 30-year period.[258] The new legislation involved the replacement of a national HRA subsidy system with a new system of self-financing, which was put in place from April 2012.[259]

5.1.3 The decision to incorporate an LBC-owned housing company

The September 2014 Cabinet report set out LBC's case for the formation of a wholly-owned housing company as a way to deliver on LBC's affordable housing objectives without being limited by the borrowing restrictions on the HRA. The September 2014 Cabinet report was signed off by Mr Simpson and Ms Negrini as joint lead Officers, and included Cllr Hall and Cllr Butler as joint lead Cabinet Members (LAB). The report made the below recommendations for the Cabinet to review:

- to agree in principle of the establishment of an LBC-owned housing company;
- to agree that further work be undertaken by Officers to progress this objective; and
- to note the intention of Officers to present a development programme and business case in the first quarter of 2015 in relation to progressing the incorporation of a housing company.

The Cabinet approved the Officers' recommendations, and no further discussions were referenced in the meeting minutes.

5.1.4 The risks and benefits associated with the LBC-owned housing company

The 'Housing Delivery SPV' paper and September 2014 Cabinet report both set out the significant risks, costs and benefits to LBC resulting from the incorporation and operation of a wholly-owned housing company. The estimated costs considered in the report were company set up costs estimated at £200,000, although the report did not provide any detail on how these were derived, and stated that these were based on comparable companies.

Little consideration was given to the benefits, costs and risks of using other funding options. In the September 2014 Cabinet report, two other options were briefly recorded as "*considered and*

[257] Localism Act 2011
[258] General Fund & HRA Budget 2014/15, Cabinet report dated 10 February 2014. July Financial Review, Cabinet report dated 15 July 2013. Housing Strategy 2011/12-2015/16, Cabinet report dated 19 March 2012. The debts were in relation to LBC's self-financing valuation, following a change in Government legislation. LBC decided that rather pay annual instalments to pay off the debt, they would borrow the amount and pay off in one standalone payment.
[259] https://www.legislation.gov.uk/ukpga/2011/20/contents/enacted

rejected" with only a sentence for each option. Firstly, the "*do nothing*" approach, was rejected on the basis that it would not address the severe shortage of homes. Secondly, to continue with the HRA funded housing programme in place at that time, which faced imminent borrowing caps was also rejected. Neither option was covered in detail in the report.

The option to use Croydon Homes, a not-for-profit company set up by LBC in August 2008 (see section 5.1.5), was also briefly discussed in both the 'Housing Delivery SPV' paper and September 2014 Cabinet report, however it was decided that the vehicle was not suitable due to its not-for-profit status and restrictions on the usage of its surpluses, which could not have been used to fund other projects. The risks and benefits outlined are included in TABLE 12 below.

TABLE 14 Benefits and Risks set out in the September 2014 Cabinet Report[260]

Benefits	Risks
Bypassing procurement processes. The company would be able to be contracted by LBC to deliver services without the need to enter into formal procurement processes under the European Union procurement regime. The September 2014 Cabinet report noted that the company would provide a vehicle for future regeneration projects and, due to the separation of the council, would be able to tender for Council services, such as landlord services.	***Risk of default on Council funding.*** The principal financial risk discussed in both reports was the risk that the company would be unable to repay its loans due to LBC if there were unexpected changes in market conditions. Despite being a principal risk, no mitigation strategies were proposed in the reports, although both advised that the risk necessitated a financial model with strong sensitivity analysis.
Overcoming HRA constraints. Incorporation would allow LBC to overcome limitations on its borrowing through the HRA and access a wider array of funding options including from LBC's General Fund, equity investment through LBC purchasing shares, section 106 commuted sums and third-party investment.	***Issues with state aid compliance, as well as Section 123 (best consideration) of the Local Government Act 1972.*** The key commercial considerations set out in the report were compliance with state aid legislation, as well as ensuring best value in disposals from LBC. The Cabinet report states the considerations needed to be appraised and validated by BBB's financial model.
Securing long-term income. The company would provide LBC with a way to secure a long-term income stream from market rentals and private sales which could have subsidised the provision of affordable tenures and offer the potential to generate a long-term surplus in the General Fund.	
Divestment of Right to Buy requirements. Incorporation would allow LBC to divest its requirement to offer Right to Buy, enabling it to	

[260] A table comparing these risks with the materialised risks is included in section 15.

Benefits	Risks
retain its housing stock, or allow it to be sold by the company at market value to maximise return on investment.[261]	

5.1.5 Previous housing vehicles used by LBC

It is important to caveat that wholly-owned housing companies, or vehicles through which to deliver housing goals, were not a novel idea at the time of the September 2014 Cabinet report. LBC had two companies for this purpose in which they held financial interests.

- Croydon Homes Limited, a not-for-profit company that was incorporated on 28 August 2008. The company is inactive and appears to have never been used by LBC.
- Croydon Council's Urban Regeneration Vehicle ("CCURV"), a limited liability partnership that was registered on 24 October 2008 as a joint venture between LBC and a subsidiary of British developer John Laing Group.[262]

CCURV was placed into members voluntary liquidation on 27 September 2016, and subsequently dissolved on 27 May 2018. CCURV was briefly considered to undertake the College Green scheme during 2014, which was later awarded to BBB. There had been a governance review into CCURV completed in October 2013, which reported on issues with the flow of information between the entity and LBC.[263]

5.1.6 The role of the Place Department in the setup of the Council-owned Company

Mr Lacey, joined LBC in August 2014 as Director of Development, shortly before the September 2014 decision to incorporate the company.[264] In October 2014, Mr Lacey was emailed an outline work programme on the company's creation by a Senior Regeneration Manager, on the basis that Mr Lacey needed to be kept updated as he had plans for a Development Company for LBC.[265]

Mr Lacey appears to have taken over responsibility of setting up the Council-owned company. Mr Lacey emailed Ms Negrini separately on 7 October 2014, asking whether his team (Development)

[261] In April 2012 (the same time as Localism Act 2011 became active), the Right to Buy discount was increased to a maximum of £75,000 or 60% of the house value. In March 2013, the maximum discount for London was increased to £100,000. Therefore, we understand that Councils took on debt for their housing stock but were also under obligation to sell at a heavy discount with Right to Buy. Certain councils therefore looked to circumnavigate this option in the context of falling central Government grants, which led to the creation of wholly owned development/housing companies to own newly built housing stock.
[262] John Laing Projects & Developments (Croydon) Limited
[263] 550128
[264] 2023503
[265] 59577

should be leading on the set up of the Housing Company. Mr Lacey responded further, saying "*I think it's definitely something my team should be leading on. I'm not sure why a Council Housing Company*[266] *would be different from a Council Development Company? Shouldn't we just have a development company (which can do housing and/or enter into JVs) and an RP?"*.[267] Ms Negrini responded positively to Mr Lacey, saying "*Yes – that's the idea. It'll come under your Places – Investment CC project"*.[268]

Mr Lacey proceeded to then take on Senior Responsible Officer responsibilities for the Project, according to internal documentation within the Place Department, and would become the company's Managing Director in January 2016, and finally transferred to the company in October 2018 as discussed in later sections.[269] A number of Place Department employees transferred over to the company (initially under a Service Level Agreement as detailed in section 7.1.1) once it started operating, which according to several interviews left LBC internally with a lack of capacity in respect of managing development and housing projects.

5.2 Contractors, advisors and consultants

No significant Project-related advisor appointments were made in 2014. We have seen correspondence that the appointment of advisors was delayed as, according to a letter from Ms Negrini,[270] LBC had decided to review the timing, scope and procurement method to be used for the Project.

5.3 Evolution of the Project structure

LBC had been considering the Project since around 2010 (see section 5.4 for further detail), and a Masterplan had been created in 2012. The decision to refurbish the Fairfield Halls therefore pre-dated the Labour administration elected in 2014. The Project had been considered on a standalone basis and a Capital Programme report from 2012/2013 highlighted that the site was in need of modernisation if it was to remain a key operational asset within the Borough.91 By March 2013, the Cabinet adopted the Fair Field Masterplan as interim planning guidance, which set out LBC's regeneration aspirations for Fairfield Halls and the surrounding area.

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[266] Mr Lacey stated to Kroll that this referred to the establishment of a Housing Registered Provider.
[267] Registered Provider is any person body or entity which is registered with the Housing and Communities Agency as a provider of social housing.
[268] 64041. "Investment CC project" is understood to mean the Croydon Challenge, an internal project to identify cost savings and efficiencies, in particular in the Place Department.
[269] 57612
[270] 571520

During late 2013 and 2014 the Project structure was changed, in that recommendations were made to integrate the Project within the development of the surrounding College Green area.

5.3.1 November 2013 decision to consider integrating the refurbishment and College Green development projects

In November 2013, a Cabinet report entitled "*Fairfield Halls Capital project position update and capital investment*" was presented to Cabinet that recommended primarily to progress an 'enhanced project' being a combined scheme of the Fairfield Halls refurbishment and the College Green development. The Cabinet report also recommended that the lead Officers report back to the Cabinet by September 2014 with a complete concept design for an integrated project, together with the appointment of a development partner to agree how the project would be delivered.

The lead Officers were Paul Spooner (then Interim Executive Director of Development and Environment) and Mr Greenhalgh (then Executive Director of Children, Families and Learning). Cllr Tim Pollard (Cabinet Member for Children, Families and Learning, CON) and Cllr Jason Perry (Cabinet Member for Planning, Regeneration and Transport, CON) were the lead Cabinet Members for the report and the Cabinet agreed with the recommendations put forward within it.

5.3.2 September 2014 decision to formally integrate the refurbishment and College Green development projects

In September 2014, a Cabinet report entitled "*Cultural Quarter – Rejuvenating Fairfield*" was presented to Cabinet following the previous report in November 2013. Ms Negrini (then Executive Director of Place) was the lead Officer, and Cllr Timothy Godfrey (Cabinet Member for Culture, Leisure and Sport, LAB) was lead Member for the report. This report recommended that the refurbishment of Fairfield Halls be integrated within the surrounding College Green area as part of a wider development scheme. This new integrated scheme was re-named the Cultural Quarter by LBC, and was a key component in delivering LBC's Growth Plan, involving the creation of new homes and jobs for the Borough's residents.

The report recommended that the Cabinet Member for Homes and Regeneration, Cllr Butler (LAB), and Ms Negrini, be given delegated authority to take decisions to progress the Cultural Quarter (hereafter known as the "College Green scheme"), including entering into relevant agreements to progress the vision and proposals of the Project. The report also stated that discussions on the procurement and development route were ongoing and would be finalised for LBC to restart the tendering process in 2015.[271]

The Cabinet agreed with the report's recommendations and the College Green scheme was formed.

5.4 Evolution of the Project budget

As detailed above, LBC had been considering the refurbishment of Fairfield Halls since 2010. They engaged Keith Williams Architects ("KWA"), whose subcontractors Davis Langdon produced several cost estimates, which are summarised in TABLE 15 below, with additional detail provided in section 17.

TABLE 15 Summary of cost estimates for the Project from external advisors between 2010 and 2013

Date	Advisor	Type of cost estimate	Cost
January 2010	KWA[272]	Range of options from "Do Nothing" to "New build"	Ranged from between £40 million to £70 million (excluding "Do nothing" option)
September 2011	Davis Langdon[273]	Refurbishment only Refurbishment only plus "non-priority items"	£27 million £27 million + £8.75 million
January 2013	Davis Langdon[274]	Revised estimates for three options from January 2010	Ranged between £39.7 million and £49.4 million

The cost estimate dated September 2011 was in line with LBC allocated funding of £27 million and was attached to the Capital Programme pro-forma shown in TABLE 16 below. The £8.75 million of "*non-priority*" items were not included in the Capital Programme funding. However, both earlier (January 2010) and later (January 2013) cost estimates exceed the allocated funding by at least £10 million.

[271] LBC had previous sought to engage multi-disciplinary consultants in 2012 to help progress the Project, however, the procurement exercise was paused in November 2012 given wider pressures on the wider capital programme and a further review on delivery options, including the 'enhanced' project eventually agreed by Cabinet in November 2013. In August 2012, LBC sent PQQ's for a construction manager, multi-disciplinary design team and cost consultant. https://democracy.croydon.gov.uk/Data/Corporate%20Services%20Committee%20(Archived)/20140402/Agenda/csc20140402_11_01_report5705.pdf?cmte=CSC&meet=16&href=/akscroydon/images/att3713.pdf
[272] 1422313, 1422314
[273] 1402015, 1402017
[274] 1306512

5.5 Financing of the Project

5.5.1 Capital allocations in LBC's budget

LBC had to decide how to fund the Project and as a result, funding was allocated for it in its Capital Programme. The Capital Programme was a part of the annual budget that set out LBC's planned capital expenditure for the following three years. Review of LBC's budgets show that planned capital expenditure had been set aside for the Project since the 2011/2012 year, in line with earlier plans for the refurbishment of Fairfield Halls (see section 5.3). The planned capital expenditure increased by £3.75 million between 2011/2012 and 2014/2015 as shown in the below table. The increase was due to the approval of the Project's integration with College Green. The Capital Programme allocations for the Project did change over time and are set out in the proceeding sections.

TABLE 16 LBC's Capital Programme allocations for the Project in 2011/12 and 2014/15

Budget Year	Allocation within Capital Programme	Future funding	Total	Source
2011/12	£27 million	£3 million	£30 million	Initial Capital Programme proforma, 6 September 2011[275]
2014/15	£21 million	£12.75 million	£33.75 million	Cabinet report entitled "*General Fund & HRA Budget 2014/2015*", 10 February 2014[276]

5.5.2 Recommended changes to funding resulting from the College Green scheme plan

Mr Simpson provided comments on the financial implications of combined project in the September 2014 Cabinet report, and set out an amended funding structure based on the Cabinet report's recommendations.[277] In these comments, Mr Simpson set out that the College Green scheme was seen as an opportunity to utilise a planned "*Revolving Investment Fund*", with "*a payment from the*

[275] 1397500. LBC's finalised Capital Programme for 2011/12 is not available online.
[276] Lead Officer Mr Simpson, Cllr Mike Fisher (Conservative Leader), Cllr Steve O'Connell (Conservative Cabinet Member for Finance and Performance Management) and Cllr Dudley Mead (Conservative Deputy Leader and Cabinet Member for Housing).
[277] Cabinet report entitled "*Cultural Quarter – Rejuvenating Fairfield*", 15 September 2014.

Capital Programme required for the public facilities within the development". The report also recommended the total funding be decreased from £33.75 million (set out in the 2014/15 budget) to £33.54 million to account for land acquisition costs.[278]

The decision to establish a "*Revolving Investment Fund*" from LBC's borrowing was made by Cabinet two weeks after the College Green scheme was approved, in the 29 September 2014 Cabinet decision detailed in section 5.1.3.[279] This is the same meeting where Cabinet approved the Council-owned company. The recommendation was part of a larger report about implementing LBC's Growth Plan, which the "*Revolving Investment Fund*" would support, and was led by Ms Negrini.[280]

5.6 Governance

During 2014, governance of the Project was primarily undertaken as follows:

- Project specific governance by the Fairfield & College Green Integrated Programme Board ("Programme Board") (see section 5.6.1); and
- Overall governance by the Growth Board (see section 5.6.2).

5.6.1 Programme Board

As discussed in section 4.3.1, the Programme Board was established in November 2014 for Project specific governance. The minutes noted that funding for the Project needed to be "*transparent and within clear boundaries"*, and that Members would need to be regularly updated.[281]

The Programme Board met again in December 2014, where several items of note were raised, which continued throughout the Project:

- The Programme Board was intending to appoint consultants to progress the Project (the appointment of advisors and consultants is discussed further under the respective headings in sections 6 to 9);
- Simon Thomsett (the director of the then operator of Fairfield Halls, Fairfield (Croydon) Limited) raised the concern that "*there was not sufficient budget to meet the aspirations of*

[278] The Cabinet report did not set out a comparison between the past and proposed budgets.
[279] The decision made by Cabinet did not allocate funds to the proposed RIF, instead it stated they would be exploring contributions ranging from council funding and the use of the Council pension fund to partnerships with private investors and pension funds.
[280] Cabinet report entitled "*Growth for the Prosperity for All: Growth Plan & District Centre Investment and Place Plans"* dated 29 September 2014. Ms Negrini was the lead Officer. Cllr Newman, Cllr Butler and Cllr Letts were the lead Cabinet Members.
[281] Minutes of Programme Board, November 2014

the board" (the discrepancy between the budget and the aspirations of the Project are discussed further under the respective headings in sections 6 to9); and,

- Mr Simpson advised that the budget had been reduced to £12 million, which represented a significant decrease from the £33.75 million commitment outlined in section 5.5. The decrease in capital allocation is detailed further in section 5.5.2

5.6.2 Growth Board

We have identified one meeting of the Growth Board taking place in November 2014 which referenced the Project, summarised in TABLE 17 below:

TABLE 17 Summary of Growth Board Minutes, 2014

Date	Key Attendees	Notes
27 November 2014	Mr Lacey, Ms Negrini, Mr Simpson	Mr Lacey[282] submitted a feasibility funding request for College Green ahead of meeting on 27 November 2014 of £1.315 million.[283] The feasibility costs were to cover design, planning, legal and project management fees ahead of submitting a planning application. The minutes record that the funding request was discussed and agreed.

LBC used the above referenced funding to engage Mott MacDonald in March 2015 to take on this role, covered at section 5.6.2. No areas of concern have been raised in relation to the Growth Board's governance in 2014.

5.7 Conclusions

Our review of events in 2014 concluded on the following:

5.7.1 Insufficient consideration of risks but housing company was the only way to deliver on policy objectives

As detailed in section 5.1, LBC's decision to create a wholly-owned housing company was led on the Officer side mainly by Mr Simpson and Ms Negrini. A number of significant benefits and risks with regards to the creation of BBB, including the risk of default on LBC funding should there be a change in market conditions were raised (see section5.1.4). The September 2014 Cabinet report did not consider any mitigation strategies to this, other than looking to seek third-party investment funding

[282] At the time Mr Lacey was Director of Development at LBC.
[283] 37663

(which ultimately never occurred). In addition, it was recommended a financial model and sensitivity analysis be undertaken to understand the levels of risks associated with a default. Kroll has not identified any evidence of such an exercise taking place.

It should be noted that, as LBC wished to pursue addressing housing issues within the Borough, they had little option to do this other than through the creation of a housing company. A large outstanding debt incurred through HRA borrowing meant that other funding options were limited, and LBC had few options to utilise other types of funding for housebuilding. As detailed in 5.1.4, several benefits for this option had also been identified.

We note that, as detailed further in section 9.8.2, during 2018 LBC's auditors had concluded that LBC could be expected to deliver a balanced budget in the medium term.

5.7.2 There were initial disparities between cost estimates provided by consultants for the Project, and LBC's capital allocation

Initial cost estimates presented by KWA in June 2010, based on specifications put forward by LBC at the time, estimated that different iterations of the Project would cost between £40 and £70 million. Despite this, in 2011/12 LBC decided to commit £27 million to the Project in its Capital Programme over the proceeding five years, £13 million short of KWA's lowest initial estimates.

Given the amount of time that elapsed between KWA's initial appraisal (June 2010) and the engagement of Mott MacDonald (March 2015), who undertook further cost estimates (see section 6.4), it is unlikely many people at LBC who were later involved in the Project as it progressed into integration with College Green, were aware of estimates provided by KWA. It should also be noted that between 2010 and 2014, both the Project and LBC underwent significant changes, as detailed in this section 5.3. The presentation by KWA was shared between senior LBC Officers, including then Chief Executive Jon Rouse, soon-to-be Chief Executive Nathan Elvery[284] and Mr Simpson (Executive Director of Resources and Section 151 Officer). [285] Mr Simpson was the only Officer to be continuously involved in the Project until his departure in March 2019, 6 months before Fairfield Halls opened).

[284] Mr Elvery was appointed as Chief Executive in February 2016.
[285] 1422313, 1422314

6 Project related events in 2015

Following the decisions taken in 2014 to progress the housing company and the Project, significant decisions were made related to both of these developments. A number of key events in relation to the Project occurred during 2015, which are highlighted below, and detailed in the relevant sections of the report under the headings explained in TABLE 11:

- Work commenced during 2015 to inform a hybrid planning application for the Project, coordinated chiefly by consultants Mott MacDonald;
- The wholly-owned housing company was incorporated as Brick by Brick Croydon Limited in May 2015 following Cabinet approval in March 2015; and,
- In October 2015 a Cabinet decision setting out additional detail of the Project structure and a closure strategy for Fairfield Halls was made. was made.

6.1 Evolution of BBB

6.1.1 Incorporation of Brick by Brick Croydon Limited

In March 2015, the results of a business case[286] were presented to Cabinet in a report titled "*Homes – Our 10 Priorities*" which set out the proposed structure of an LBC development company. The lead Officers for the Cabinet report were Ms Negrini and Mr Greenhalgh. Cllr Butler (LAB) and Cllr Hall (LAB) were the named Cabinet Members.

Cabinet agreed with the proposal highlighted in the March 2015 Cabinet report and through a key decision, approved that the delegated authority be given to the Executive Director of Place (then Ms Negrini), in consultation with other Members and Officers[287] to establish and operate the proposed development company.

This resulted in the incorporation of Brick by Brick Croydon Limited ("BBB") on 6 May 2015 (registration number 09578014)[288] as a private company, wholly owned by LBC, with Mr Simpson, then Assistant Chief Executive (Corporate Resources) and Section 151 Officer, as sole director. According to its financial statements, the company had no activity between incorporation and

[286] Kroll has not reviewed the business case on which this report was based
[287] Cllr Butler, Mr Murphy and Ms Belvir
[288] Operating under the registered name LBC Shelfco Limited from 6 May 2015 to 15 January 2016.

December 2015. This is corroborated by Kroll's review of communication, which has identified limited correspondence relating to operational matters pertaining to BBB during this time.

Kroll notes that the timeline for the incorporation of BBB appears to have been accelerated following the initial proposal in late 2014 to establish such a vehicle in 2018, although the reason for this is unclear.[289] By way of example, the September 2014 report advised that a full financial options appraisal of housing delivery options was required before the presentation of the business case to Cabinet, however, we have been unable to locate such a full financial options appraisal or the business case upon which the March 2015 Cabinet report is based.[290]

Further actions undertaken by Ms Negrini under the delegated authority in relation to the operational set up of BBB are detailed in section 7.

6.1.2 BBB's proposed funding structure

BBB was to be 50% funded by LBC (including loan funding and equity funding) in accordance with the advice in the March 2015 Cabinet report, and legal advice received in advance of this (see section 6.6). LBC's 50% funding of BBB was to be provided through its borrowing through a "*Revolving Investment Fund*".[291] This was agreed to in September 2014 (see section 5.3.2). The Cabinet report did not contain any detail around the source or method of obtaining the proposed 50% externally generated funding.

Discussions around the proportion of debt to equity of LBC's funding of the company were noted, and detailed further in sections 8 and 9.

6.2 Contractors, advisors and consultants

Following on from the approval by the Growth Board in December 2014 (see section 5.6.2), LBC needed to engage consultants to assist them in executing the Project. In February 2015, LBC put out a competitive tender to the Housing and Communities Agency Multi-Disciplinary panel to provide a

[289] Two LBC risk registers dated 20 October 2014 and 4 December 2014 stated that the incorporation of a housing company was being explored for "*three to four years [sic] time (2018)*". 569920 and 1477543. This item remained on the Risk Register until May 2018. 1930241.

[290] Email correspondence suggests a working programme was established to progress the incorporation of a development company, and legal advice was sought. The Working Programme was to include a cross-departmental group from LBC, and was to consider among other things, detailed financial appraisals on a site-by-site basis, appraise the development company against other delivery options. This working programme included the requirement for a full financial appraisal of delivery options.

[291] Noted in the Cabinet report as being funded by "*S106 receipts, the new homes bonus, prudential borrowing through the Council's general fund and potential funding from investment companies and financial partners*".

range of services, consisting primarily of: (i) project and cost management; (ii) engineering; (iii) architecture; and (iv) planning. The original tender was to progress the Project to planning application stage, at which point the services would be re-tendered.

Mott MacDonald, a local engineering consultancy firm, was successful in its application for the role, consisting of them as main contractors, together with Rick Mather Architects providing architecture and masterplanning services and Turley, which provided planning and masterplanning services.[292] Mott MacDonald was formally engaged to start work on the Project on 30 March 2015.

6.3 Evolution of Project structure

6.3.1 The October 2015 Cabinet Decision

On 20 October 2015, Cabinet approved a report put forward by Ms Negrini recommending the inclusion of Croydon College's land interests in the College Green scheme, requesting approval in principle of outline proposals for the planning submission, and a decision to close Fairfield Halls for the duration of the Project. The report was entitled "*College Green Cultural and Educational Quarter",* and formed the basis of key decision 23/15/CAB. Cllr Butler and Cllr Godfrey (both LAB) were the listed Cabinet Members on the Cabinet report.

Ms Negrini presented the report to provide an update on the plans for the Project and the wider College Green scheme. The report primarily sought approval from the Cabinet to:

- Permanently close Fairfield Halls for the duration of the Project;
- Include the Croydon College land interests (including the existing building and the Barclay Road Annexe) within the College Green scheme, subject to planning approval; and
- Delegate authority to Ms Negrini and Mr Simpson, in consultation with Cllr Butler and Cllr Hall (both LAB), to progress the Project, including entering into commercial contracts involving the acquisition or disposal of land.

6.3.1.1 Project to be funded from wider scheme

The proposed College Green scheme would comprise a mixed-use development on the area of land around Fairfield Halls, some of which (like the Fairfield Halls) was LBC-owned, and some of which was not. The Cabinet report set out the following in relation to the structure of the funding.

[292] 241032

At this time, £12 million was available in LBC's capital budget for the Project, a reduction from the £33.75 million investment commitments set out in the 2014/2015 Capital Programme. The basis for the reduction was that, in order to reduce up front expenditure on the Project by LBC, that profits generated from the wider College Green scheme, being the sale of newly built properties, would be used to subsidise the proposed works. The Cabinet report states *"£12 million is currently available to fund the transformation works. The intention is for the wider College Green development to further subsidise the proposed works to enable a more comprehensive scheme*".[293]

No additional detail was provided in the report, but we understand this to meant that income from sales of homes built on the surrounding land to Fairfield Halls within the wider scheme would fund additional works for the Project. No total amount for the works to Fairfield Halls was provided in this Cabinet report.

The Cabinet report noted that Phase 1 of the scheme would comprise the Project, and a high-quality mixed-use scheme on the LBC owned land surrounding it.

6.3.1.2 Engagement with other landowners

The Cabinet report set out that Croydon College, who operated from a site within the College Green area, was a key stakeholder in delivering the wider College Green scheme. The report set out that the planning application to be submitted for the College Green scheme involved a proportion of accommodation to be built on the existing Croydon College owned sites, being the main College building and the Barclay Road Annexe.

The Cabinet report stated that the plan was for LBC to provide a new college facility for Croydon College on the Barclay Road Annexe site and some of LBC-owned land at College Green. The new college facility would be funded by the development value (i.e. sales price of new development properties) of the remaining Croydon College owned land (the existing building). The resulting profits from the sale of these properties was key to the Project as they would cross-fund the remainder of the budget.

The report noted that Heads of Terms had been drafted for proposals with Croydon College that had been discussed at a September 2015 Governors' meeting, and they had agreed to work with LBC to progress the scheme in line with these proposals, subject to a formal legal agreement. The initial draft

[293] Cabinet report titled "*College Green Cultural and Educational Quarter*", 20 October 2015

Heads of Terms was shared internally at LBC between Mr Lacey, Mr Simpson, Ms Negrini and Nathan Elvery, former Chief Executive of LBC, in the same month.[294]

6.3.1.3 Additional documentation around Fairfield Halls closure

The main decision taken by Cabinet in October 2015 was around whether to adopt a phased closure approach for the Project, or permanently close the Fairfield Halls for the duration of the refurbishment. Mott MacDonald prepared a Summary Matrix document for this meeting in September 2015, that assessed the potential advantages and disadvantages of each approach and the impact on costs for this meeting ("the Summary Matrix"). We understand this wasn't presented to Cabinet, but was instead used as a basis for discussion for the lead Officers (Ms Negrini).

The Summary Matrix made reference to a £30 million objective budget set by LBC in June 2016, including contingency costs and professional fees. There was a lack of clarity around how the £30 million budget would be achieved, and Mott MacDonald highlighted in the matrix that significant decisions would need to have been made surrounding the budget:

"Achieve £30,000,000 amount of refurbishment works (including contingency and fees). ***This is a proportion of the total outlined in the scope of works so some significant decisions need to be made about what will be included.*** *For the purpose of this exercise, we have assumed it includes a significant element of building services and building fabric renewal (i.e. [sic] all venues, foyer, kitchen and back of house affected)."*[295]

A brief summary of the two options provided in the Summary Matrix is as follows:

TABLE 18 Two options for the refurbishment presented to LBC Cabinet – 20 October 2015

	Single Closure Option	Phased Closure Option
Description	Close entire complex from mid/late 2016	Short closure between July to Nov 2016 (apart from Sundays when the building would be open) Reopening for Christmas period (2016) Phased approach across the building for remainder of works

[294] 528127
[295] Summary Matrix for Discussion dated 25 September 2015 prepared by Mott MacDonald and presented to Cabinet on 20 October 2015

	Single Closure Option	Phased Closure Option
Timescales	Typical 2-year construction programme	Typical 3 year construction programme
Phasing	Single phase of works. Total closure, no use of building or income during works. Significant lost revenue and additional costs to Fairfield operations that have not been taken into account in the estimate.	After initial closure, discrete areas can be closed as necessary, but in general, 2 of the 3 venues will need to stay open. Construction work to take place out of hours to avoid affecting performances during the day or evening.
Costs[296]	Base project costs £30m (including contingencies and fees)	Base project costs £30m. Increased costs for Phasing[297] would be subject to the value of the Project but were estimated at £4.8m
Risks	Single opening date Simpler procurement process New businesses all starting at once, increasing demands on management on opening date	Risk of missing sectional openings of individual venues Higher risks of sectional completion and damages might put contractors off bidding Commercial units can be staggered to suit operations – potential early revenue stream

The Summary Matrix advised that savings of approximately £4.8 million would be made from proceeding with the full closure option against the proposed £30 million budget, as well as reducing the proposed delivery schedule by 12 months. Cabinet approved the decision to fully close the Fairfield Halls in order to realise these potential savings in October 2015.

6.3.2 The November 2015 Growth Board Special Session – BBB considered for delivery of the Project

On 9 November 2015, the Growth Board held a special session on the future operations of BBB, and its ability to deliver LBC's housing objectives. A presentation was prepared by Arcadis[298], where the option of BBB taking on the Project was suggested. No minutes were recorded for the meeting. A number of individuals received the meeting agenda, including Mr Lacey, Mr Murphy, Mr Simpson and

[296] This was quantified as £31.1 million in the Cost Summary document also prepared by Mott MacDonald. This is also the first reference in a document presented to Members which referenced a £30 million budget following the September 2014 Cabinet decision

[297] Includes: Increased preliminaries, additional out of hours working, higher level of subcontractor management associated with out of hours working and temporary solutions to maintain old and new building services and safety systems working in parallel.

[298] Arcadis incorporated additional work from consultants EC Harris and Hyder. 7079

Ms Belvir. This is the first known reference to BBB in some form being commissioned to take on the Project.

The presentation recommended a 'joint venture' delivery option for the College Green scheme, outlining that the wider had "*complex integrated delivery, specialist user requirements, high programme and cost risk*". As an alternative, Arcadis suggested works on the Project to be procured separately as a straight construction contract.[299] We understand Arcadis to mean a 'joint venture' between BBB and an external developer. Arcadis set out additional strengths and weaknesses of the proposed approach, summarised below.

TABLE 19 Summary of Arcadis' strengths and weaknesses for joint venture delivery option, Fairfield Halls and College Green, November 2015

Strengths	Weaknesses
LBC would retain a degree of control.	Less control over the scheme and quality of final product.
A joint venture reduced the risks associated with delivery.	A reduced share of the profits in line with reduced risk.
A reduction in financial exposure.	LBC would not have full control over the destiny of Fairfield Halls.
A reduction in direct management costs.	
Partner expertise could be procured for mixed-use schemes similar to the wider project.	

6.4 Evolution of Project budget

As Mott MacDonald commenced their engagement to support a planning application, initial cost estimates were produced for the Project in line with the requirements set out by LBC. The cost estimates produced were significantly higher than: (i) the Capital Programme funding of £12 million agreed in February 2015; and (ii) the £33.75 million investment commitment made in the previous years' Capital Programme.

The cost estimates produced by Mott MacDonald were completed under the Royal Institute of British Architects ("RIBA") Plan of Works guidelines.[300] The cost estimates were created on an 'appraisal' basis, being the earliest stage in the RIBA Plan of Works, which was focused on the "*identification of*

[299] 7079

[300] This is the definitive model for building design and construction process planning in the UK.

client needs and objectives, business case and possible constraints on development".[301] Mr Lacey stated to Kroll that these estimates represented an "all-in" design,[302] which sought consent for a set of works to be delivered by BBB (the Project). The fact that the estimates presented an "all-in" design was in line with information provided to Kroll by representatives of MottMacDonald:

6.4.1 The May 2015 Draft Cost Estimate

Mott Macdonald shared their first draft cost estimate on 6 May 2015.[303] The cost estimate was produced for the full College Green development, of which the Project was a constituent. The Project cost was estimated at a total at £72.7 million, comprising of the main refurbishment scope (£53.3 million) and planned new build requirements[304] (£19.4 million).[305] According to representatives of MottMacDonald, this cost estimate represented the aspirational development of Fairfield Halls (referred to by Mr Lacey above as the "all-in" design), and the scope was later reduced (as detailed in section 6.4.3).

TABLE 20 RIBA Appraisal Stage Cost Plan for Fairfield Halls Refurbishment, May 2015

Contents	Amount (GBP)
(i) Fairfield Halls Refurbishment	
Refurbishment – phased budget 2015	12,000,000
Refurbishment – phased approach (scope to be defined)	15,000,000
Refurbishment – phased approach (developed scope defined)	10,000,000
Subtotal	**37,000,000**
Temporary Works – maintaining aspects of business operations (10%)	3,700,000
Abnormals allowance (10%)	3,700,000
Subtotal	***44,000,000***
Contingency, construction inflation and tender inflation (20%)	8,880,000
Total of (i) Fairfield Halls Refurbishment	**53,280,000**
(ii) Fairfield Halls New Build	
East Building	12,811,000

301 https://www.bparchitecture.co.uk/downloads/resources/RIBA-Outline2007.pdf
302 Mr Lacey stated that this would allow a flexible proposal which would allow LBC to implement a scope once they had contracted an operator, and would allow them to alter or contract additional works in the future, as LBC's needs might change.
303 239173
304 Being a new building in the north-east corner of the site, as well as proposed new frontage onto College Green and delivery access to the Concert Hall.
305 239175

Contents	Amount (GBP)
North Extension	684,000
Subtotal	**13,495,000**
Temporary Works – maintaining aspects of business operations (10%)	1,349,500
Abnormals allowance (10%)	1,349,500
Subtotal	**16,194,000**
Contingency, construction inflation and tender inflation (20%)	3,238,800
Total of (ii) Fairfield Halls New Build[306]	**19,433,000**
Total of (i) and (ii)	**72,713,000**

The report went on to state: "*during the next design development process we would look to identify, in more detail, any of the abnormals and temporary works currently included within the cost plan and try to reduce the level of cost by implementing appropriate measures to manage the risk*".[307]

The cost estimate was accepted by LBC to be an initial estimate. Mr McDermott of LBC discussed the cost estimates with Mott MacDonald, Turley and Rick Mather Architects on 8 May 2015, noting that because of the early stage of the cost estimate, it was subject to change. Mr Lacey was also circulated a copy of the meeting minutes, which stated that when the cost estimate was brought up, "*it was noted that at that stage costs are **very high level and presented with a margin of error**. The cost plan will be developed in more detail as the design progresses*".[308] Mr Lacey and Mr McDermott, based on our review of email correspondence, were the two LBC employees who contemporaneously received copies of the cost estimate.[309]

6.4.2 The September 2015 Cost Estimate

A further cost estimate was issued by Mott MacDonald on 30 September 2015 for £83.2 million, a £10 million increase on the cost estimate produced four months earlier. The document stated that the cost estimate was benchmarked against Mott McDonald's database and recently tendered projects in close proximity and similarity to Fairfield Halls, and was based upon a phased approach, whereby Fairfield Halls would be closed from July to November 2016 and works would be completed outside of normal working hours after the initial closure period.[310] The cost estimate was still

[306] Rounded from £19,432,800 as per Mott MacDonald documentation
[307] 239176
[308] 239379
[309] 239173, 239176
[310] 74067

produced in the early stages of the RIBA Plan of Works guidance, given the design had yet to be finalised.[311]

TABLE 21 **RIBA Cost Plan for Fairfield Halls Refurbishment, September 2015**

Contents	Amount (GBP)
Fairfield Halls Refurbishment – phased approach	73,400,000
Construction inflation and tender inflation[312]	9,830,000
Total	**83,230,000**

This updated cost estimate included an additional £10 million for the cost of the Project. Mott MacDonald were unable to provide details on additional works undertaken by their quantity surveyor between May and September 2015. At this point, the scope and design had not been agreed and finalised. Mott MacDonald have advised that this document was shared with Mr McDermott on 9 October 2012. We have not identified in our dataset any further reference to the September 2015 cost estimate, who it was shared with or forwarded on to.[313]

6.4.3 The November 2015 Cost Summary

In November 2015, a further document was produced outlining a core scope of works for the Project. According to representatives from Mott MacDonald,[314] the document was produced ahead of the Scrutiny and Overview Committee meeting on 9 November 2015 concerning the call-in of the decision to permanently close Fairfield Halls (see section 6.3.1), and following a two-day meeting between Mott MacDonald's quantity surveyor and Mr McDermott. The Summary Matrix produced by Mott MacDonald for the same Scrutiny and Overview Committee meeting outlined that LBC and Mott MacDonald were working towards a £30 million budget for the Project, albeit this figure had yet to be approved by Cabinet.[315] The cost summary set out a project cost of £31,132,157, with potential savings of £4,860,952 identified from having a permanent closure. This meant the net cost of the core scope of works prepared was £26,271,205.[316]

[311] Either the Appraisal or Design Brief stage, based on documentation prepared by Mott MacDonald
[312] Tender inflation was calculated at 4.83% of the £73.4 million, and construction inflation was included at 8.16% of the aggregate of £73.4 million and the tender inflation amount
[313] Documentation provided by Mott MacDonald
[314] Kroll interviewed representatives from Mott MacDonald for the purposes of this review.
[315] The £30 million budget was approved by Cabinet on 30 June 2016
[316] 238387

Kroll has been advised by representatives of Mott MacDonald that the Summary Matrix and core scope of works was prepared by them at the request of the client (BBB) for an indication of what might be bought for £30 million. At the time the Summary Matrix was prepared, the core scope of works had not been drawn up as a coordinated design, was untested and did not represent a real scheme.[317] According to them, the core scope of works would not meet the aspirations of the client, which were at the time estimated at approximately £70 million as per the previous cost estimates prepared by them (see sections 6.4.1 and 6.4.2).

According to representatives from Mott MacDonald, this core scope was the only agreed core scope of works provided to them by LBC until August 2016 (see section 7.4.1 for further detail). They kept the core scope of works in their proposal for reference, as it was the only indication until that point that they'd received from LBC which provided an indicative scope.

6.5 Financing of the Project

The February 2015 Capital Programme resulted in a significant reduction in the capital funding to be provided by LBC for the Project, which was signaled by Mr Simpson in the December 2015 Programme Board meeting (see section 6.7.2). £12 million was assigned in the Capital Programme over a three-year period for the Project (see TABLE 22), compared with: (i) the £33.75 million investment commitment set out in the 2014/15 Capital Programme up to 2018; and (ii) the £33.5 million set out in the September 2014 Cabinet reporting recommending the integrated project, again up to 2018.

TABLE 22 Capital Programme funding agreed by LBC, February 2015 (GBP)

	2015/16	2016/17	2017/18	Total
Fairfield Halls	3,000,000	4,000,000	5,000,000	12,000,000

There is limited correspondence around why the Project's capital allocation was so substantively decreased. By October 2015, when Cabinet deliberated on whether to fully or partially close the venue (see section 6.3.1), it was stated in the relevant Cabinet report that the wider College Green development would subsidise the proposed works alongside the £12 million Capital Programme budget.

[317] According to information from representatives of Mott MacDonald, the core scope did omit certain key items, such as site surveys, material investigations and geotechnical investigations, as these were originally intended to form part of an "Enabling Works" package. Despite advice by Mott MacDonald to carry out these works in advance of the RIBA 4 to 7 commission, the Enabling works package was instructed concurrently (severely compromising the flow of information available to prepare the RIBA 4 design).

6.6 Contracting and legal risks

Legal advice received from LBC's external legal advisors, and LBC's internal legal team highlighted the importance of protecting the independence of the housing company and the ability for it to act at arm's length from LBC, in particular the need for the company to obtain funding from sources external to LBC, and for the company to not be under management supervision of LBC.

- Legal advice from external counsel is shown in section 6.6.1; and,
- Legal advice included by LBC's internal legal team is shown in section 6.6.2.

As detailed in section 8.6.5 legal advice was again sought in 2017.

6.6.1 Legal advice on incorporation highlighted importance of external funding and more than 50 percent external directors, to safeguard independence

In February 2015 Pinsent Masons LLP ("Pinsent Masons") provided legal advice on the planned incorporation of LBC's housing company which included the following recommendations around the set-up of the company in the context of potential breaches of state aid and procurement regulation:

- the company was to be mainly financed by the private sector;
- the company was not subject to the management supervision of LBC (or any other contracting authority);
- that LBC appointed fewer than 50% of its directors; and,
- the company would operate for purely commercial purposes.[318]

The legal advice prepared by Pinsent Masons acknowledged that LBC's preferred option was to retain ownership of the share capital, and reiterated the importance of Board independence as a mitigation for not having external ownership (i.e. LBC should appoint less than 50 percent of the Board). Furthermore, the document also highlighted the need for BBB to be operationally and financially independent of LBC and states that "*it is important to remember that one needs to look through the structures created and examine the reality of the situation. If, despite the structures, the Dev Co*[319] *is controlled by or dependent upon the Council then the risk that it could be viewed as a "Contracting Authority" is increased*."[320] As the company evolved, it never received any external funding and was entirely dependent upon LBC, and therefore not in line with the memo prepared by Pinsent Masons and this was recognised in RIPI 2 by GT.

[318] 10612
[319] The memorandum produced by Pinsent Masons referred to the housing company as "Dev Co"
[320] 10612

The memo noted the following: *At the point at which Development Company is established, it will have no trading history and is likely to have limited assets. The Council and Development Company will, therefore, have to think about financing at the appropriate time".*[321]

Mr Lacey stated to Kroll that there was a discussion with Pinsent Masons about the definition of funding and that proceeds from sale of properties injected into the company would comprise external funding. He also stated to Kroll that his transfer to BBB did not result in a lack of management independence, as he was advised to separate himself from LBC's internal Project-related processes in order to avoid a conflict arising.

We note that in November 2016, LBC Officers[322] received a draft for discussion document from Gowling WLG,[323] which appeared, according to Officers contained "*disjointed*"'[324] advice to that received from Pinsent. We note that this advice was referenced in RIPI2, but we have not identified a finalised version in our dataset.

This legal advice stated that, because it was the intention of LBC that BBB satisfied the "commercial/industrial character" test,[325] and if BBB satisfied this test, it was unlikely that BBB would be able to obtain a Teckal[326] exemption for the Project. The solution provided by the Gowling advice was that the arrangement be structured so as not to put an express obligation on BBB to undertake the works (i.e. the licence option).

6.6.2 Legal risks included in March 2015 Cabinet Report highlighted the importance of external funding and external Board members to safeguard BBB's independence

LBC's internal legal team agreed with the legal advice provided by Pinsent Mason. This is evidenced by comments from Sean Murphy (at the time Principal Corporate Solicitor Regeneration) that were included in the March 2015 Cabinet report on behalf of the Council Solicitor & Director of Democratic & Legal services (at the time Julie Belvir) which emphasised the following:

- The company should not be more than 50 percent funded by LBC (the Cabinet report stated that funding takes into account all forms of income received);

[321] 10612
[322] The following Officers had sight of this document: Sean Murphy, Edward McDermott, Colm Lacey (BBB Managing Director).
[323] 33674 and 33632
[324] 33673
[325] The legal advice stated that LBC had been previously advised that this meant that BBB should effectively operate as a private developer would.
[326] A Teckal exemption is an exemption from the requirement of a competitive tender per public procurement regulations provided to a wholly owned subsidiary of a contracting authority.

- The company should not be subject to management supervision by LBC and,
- If the company was to remain at arm's length from LBC it should not be subject to a Teckal exemption[327] when applying for contracts from LBC (i.e. it should apply for contracts that are put out to tender).

The March 2015 Cabinet report also noted that this separate but wholly owned company would allow LBC to be flexible to pursue projects both individually, and through a partnership or joint venture whilst operating outside of the European Union procurement regime.

6.7 Governance

6.7.1 BBB Governance

According the to the March 2015 Cabinet report, the proposed company was to be incorporated as a commercial vehicle, with a Board that comprised 50 percent LBC appointees, but would not be subject to management supervision by LBC, with the exception of the influence of its board members.

6.7.2 LBC Governance

6.7.2.1 The November 2015 Scrutiny and Overview Committee meeting about the closure of Fairfield Halls

The October 2015 Cabinet decision to fully close the Fairfield Halls was called-in by the Scrutiny and Overview Committee on 9 November 2015. The decision was called in for two main reasons, being: (i) the recommendation to permanently close Fairfield Halls was not consistent with the most effective financial function of the venue and LBC; and (ii) that a risk assessment ought to be undertaken to understand the threats to Fairfield Halls' operations due to the closure. The Members[328] who called in the decision proposed that the October 2015 Cabinet decision be rescinded, and that the College Green scheme be reconsidered to allow Fairfield Halls to operate during the refurbishment. Councillor Sara Bashford (CON), who presented the Call-In stated that there was a "*lack of detail in the report which was considered by Cabinet and it did not provide sufficient detail of the financial risk to the council*".[329]

[327] A way of setting up a Council owned subsidiary so that the Council can award contracts directly to the subsidiary avoiding the need to tender

[328] 14 Members of the Council.

[329] Minutes of Scrutiny and Overview Committee meeting 9 November 2015

An amended version of the Summary Matrix prepared by Mott MacDonald (see section 6.4.3) was presented at the meeting of the Scrutiny and Overview Committee, on 9 November 2015. Two versions of the Summary Matrix document have been reviewed by Kroll:

- The main version that was originally circulated on 25 September 2015 by Mott MacDonald to LBC and ran to four pages long; and,
- The document presented to the Scrutiny and Overview Committee on 9 November 2015 which was just over two pages in length and remained dated 25 September 2015.[330]

Kroll has identified that Ms Negrini edited the original document received from Mott MacDonald to make it more favourable to the full closure option before presenting it to the Scrutiny and Overview Committee on 9 November 2015, as explained below:

According to our review, Mott MacDonald had previously provided their approval to LBC to release the full version of the Summary Matrix.[331] Ms Negrini sought advice from the LBC Deputy Head of Communications, on whether to release the full document, stating "*I was originally thinking of an extract (attached) but felt a lack of transparency would end up the issue. In some ways, it's good that the public/opposition see that our professional team are impartial*".[332] The response from the Deputy Head of Communications noted that the original Summary Matrix did not have an explicit preferred option and LBC would need to be clear on that in their reasoning for full closure.[333] Ms Negrini subsequently stated (in an email to Mr McDermott, with Mr Lacey in copy) that she believed only an extract should be released that dealt with issues raised at the Cabinet meeting, and proceeded to circulate a new draft that included her revisions on 29 October 2016.[334]

The main omissions from the second Summary Matrix presented to the Scrutiny and Overview Committee on 9 November 2015 were around the impacts on operations and a mitigation approach against the phased approach of works. The options assessed for operational impacts suggested a phased approach would be best placed to mitigate these issues. The operational risks detailed in the Mott MacDonald document are appended in section 18.[335]

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330 70639, https://democracy.croydon.gov.uk/Data/Scrutiny%20&%20Overview%20Committee/20151109/Agenda/soc20151109_05_04_appendix_35dca.pdf?cmte=SOC&meet=14&href=/akscroydon/images/att6245.docx
331 70716
332 387849, 387850
333 537977
334 70716, 70717
335 Kroll has not conducted a review of the post closure operations of BH Live, and therefore we are not able to conclude on whether any of these operational risks materialised.

The Committee rejected the call-in put forward and resolved that no further action was required in respect of the October 2015 Cabinet decision.

6.7.2.2 Programme Board

The Programme Board met seven times during 2015, with all meetings being attended by Mr Lacey and Mr McDermott. A summary of the meeting minutes has been included below for reference. There were a number of key themes stemming from these meetings which adequately reflected the risks relating to the Project at the time. No significant issues of concern have been identified over the governance of the Project through the Programme Board during 2015.

Firstly, there was significant comment across the year on engagements with Croydon College, one of the key landowners and stakeholders in the wider project. Updates to the Programme Board indicate that, by September 2015, LBC had agreement with the College in principle only, to provide a new facility on the College Green site. This is reflective of our review of internal communications, whereby the College agreed, subject to legal agreement, involvement in the wider scheme in September 2015 (see section 6.3).

Secondly, there had been high-level discussions around initial delays to the Project's timeline on a range of issues, including: (i) primarily the delay of finalizing concept and developed design by October 2015; (ii) delays in finalizing the planning application; and (iii) delays to urgent works requested by the operator, Fairfield (Croydon) Limited. These works appear to have included minor fixes, such as to the kitchen in the Fairfield Halls, ahead of the planned larger scale refurbishment.

Finally, there was a reference in the December 2015 meeting to discussions being held with external developers on taking on the wider College Green project. The minutes do not record discussions around documentation prepared by Mott MacDonald, for example the May, September and November 2015 cost estimate documentation outlined in section 6.4. Discussions around budget mainly reference the £12 million approved in LBC's Capital Programme, and that LBC were looking at possible external funding options as of September 2015, including from Coast to Capital.

6.7.3 Growth Board

The Growth Board met seven times during 2015, including holding one special session in November 2015 (detailed in section 6.3.2).

In May 2015 the Project's 'Initiation Document', being the internal LBC document assigning responsibility roles, setting deadlines and budgets for the Project, was approved by the Growth Board. Mr McDermott was enlisted as the 'responsible manager', having oversight for the day-to-day management, whereas Mr Lacey was the 'project sponsor', having overall accountability for project spend and delivery. The document was presented eight months after Cabinet approved bringing forward the College Green scheme.[336]

The Project Initiation Document did not include information on the costs and financial benefits, which were said "*to follow*".[337] The Document did reference that the £12 million budget assigned from the Capital Programme was considered a constraint as at May 2015. It also stated that LBC were looking at delivery options for the land involved in the scheme and had not yet formally decided their delivery strategy. It was noted that the "*Croydon Development Company*"[338] was going to deliver the proposed new building for Croydon College, however the report did not clarify whether BBB would also take on the Project or deliverables on land owned by other parties. The Project Initiation Document was approved by the Growth Board at this meeting. Comments around legal advice within the Project Initiation Document were limited to contracts, discussions with landowners, land acquisitions and compulsory purchase orders (if necessary). No further governance concerns have been identified by Kroll during this period.

6.7.4 Ad hoc reports to Members during 2015

We are aware of two meetings held with Members explicitly concerning the Project during 2015, based on internal email correspondence. These briefings, held by Ms Negrini, Mr Lacey and Mr McDermott for Cllr Butler and Cllr Godfrey (both LAB), were held in both October 2015. Minutes of these meetings have not been obtained, although we are aware the first meeting was focused on the revenue generating aspects planned, such as hospitality (as requested by Cllr Godfrey).[339]

[336] 989723
[337] 989723. We have not identified an updated Project Initiation Document containing the costs and financial benefits within our dataset.
[338] Potentially BBB at this time.
[339] 83272

6.8 Conclusions

6.8.1 Lack of clarity around documentation prepared for November 2015 Scrutiny and Overview Committee meeting

We have identified omissions in the documents provided to the November 2015 Scrutiny and Overview Committee by Ms Negrini (then Executive Director of Place) that meant there was a lack of clarity in decision-making, as Members were not provided with an accurate portrayal of the Project's plans at the time. Whilst we appreciate that the Scrutiny and Overview Committee is not able to overrule decisions made by Cabinets, it has an important function to advise and reconsider such decisions. We note that this was a call-in request by Members to assess the earlier Cabinet decision, and therefore, the omissions meant that the Project was able to continue without Members being fully appraised of the facts relating to full or partial closure of Fairfield Halls and the financial implications at the heart of that choice.

First, Ms Negrini edited[340] a document that was prepared by Mott MacDonald and presented to the November 2015 Scrutiny and Overview Committee as part of a presentation by Officers, including Ms Negrini and Mr Lacey (section 6.7.2.1). The document was a Summary Matrix on the advantages and disadvantages of a full or partial closure to Fairfield Halls, prepared by Mott MacDonald. In consultation with the Deputy Head of Communications, who had advised that disclosures to the Scrutiny and Overview Committee should present a preferred position, Ms Negrini removed comments from Mott MacDonald on the negative impact on operations of a full closure, and proposed mitigation measures against the phased works. Full closure was the preferred option presented to the Cabinet, who had agreed to Ms Negrini's proposals three weeks prior in a Cabinet meeting. We understand from interviews that relations between the operator of Fairfield Halls, Fairfield (Croydon) Limited, and LBC had broken down by this point and the full closure was seen as a way to remove the company as operators.

Secondly, up to and including the Scrutiny and Overview Committee meeting in November 2015, concerns were raised by Members that they had not been provided with all reports produced by Mott MacDonald. We have identified a report produced in September 2015 by Mott MacDonald, being an order of cost estimate stating the Project had a proposed cost of £83.2 million, including both construction and inflationary costs.[341]

[340] 70716, 70717 and 70639
[341] Mott MacDonald had been appointed by LBC in May 2015, see section 6.2

This report, and in particular the cost figure, was never shared with Members based on our review of internal communications and interviews. The figure was reflective of LBC's ambitions for the Project, being in the early stages of RIBA appraisal, and would require significant reductions in scope in order to meet LBC's proposed budget of £30 million. Our understanding based on discussions with Mott MacDonald and a review of electronic data is that Mr McDermott received the September 2015 cost estimate, however we have not been able to verify that the document was sent on to Mr Lacey, or Ms Negrini.

Thirdly, a cost summary was prepared by Mott MacDonald and Mr McDermott ahead of the Scrutiny and Overview Committee meeting in November 2015, which totaled £31.1 million (see section 6.4), prepared with LBC's £30 million budget in mind. We understand from our interview with Mott MacDonald that the scope of works underpinning the cost summary had not been drawn up as a coordinated design, was untested and did not represent a real scheme. The Summary Matrix document itself (which was shared with the Scrutiny and Overview Committee) stated that significant decisions were required from LBC on what to include in their scope to achieve a £30 million refurbishment, which had not yet taken place.

Furthermore, we are aware that, shortly before the October 2015 Cabinet meeting where the decision to close Fairfield Halls was made, Cllr Butler (LAB) received a Cabinet Member Briefing on 6 October 2015 with Ms Negrini and Mr Lacey in attendance, in which the Project was discussed. The minutes of the meeting recorded that the College were being engaged with and that a Cabinet Report was in draft, including a recommendation for the inclusion of the College's land on the site. There were no references in the meeting minutes to possible budget issues in light of the May 2015 cost estimates, prepared by Mott MacDonald (we note the September 2015 cost estimate was sent after this meeting).[342]

6.8.2 LBC rejected recommendations from an external consultant to pursue the wider project as a joint venture to minimise risk

A Growth Board special session was held in November 2015, where Arcadis presented to the Board a set of recommendations for BBB, including development strategies for the more complex projects being proposed by LBC, including the Project.

[342] The September 2015 Cost Estimate was shared by Mott MacDonald with Mr McDermott on 9 October 2015, three days after the Cabinet Member Briefing, according to documentation provided by Mott MacDonald. 7846, 7847

Arcadis provided a recommendation that the Project be undertaken as a joint venture, as it involved a complex integrated delivery and specialist user requirements, alongside high programme and user costs. Whilst we have not identified a definitive email rejecting a joint venture approach, minutes of BBB Board meetings indicate that the BBB Board first discussed the possibility of BBB undertaking the Project and the College Green scheme at its meeting on 26 April 2016.[343] Mr Lacey then emailed Ms Negrini a week and a half later to advise that BBB had agreed in principle to take on the College Green scheme, subject to a review of the financial position of the wider project. This is covered in greater detail in the next section.

[343] 39277

7 Project related events in 2016

A number of key events in relation to the Project occurred during 2016, which are highlighted below, and detailed in the relevant sections of the report under the headings explained in:

- BBB became operational during early 2016 and operational and governance structures were set up for the company;
- LBC appointed BBB to a number of projects (including the Project) by way of a Cabinet decision dated 20 June 2016; and,
- In July 2016, Fairfield Halls was closed and enabling works commenced.

7.1 Evolution of BBB

Following more than six months of inactivity after its incorporation in May 2015, BBB started becoming operational in January 2016. A list of 54 potential development sites was prepared that month, in a document entitled Brick by Brick Croydon Limited – Summary of sites to be delivered”.[344]

7.1.1 Operational structure of BBB agreed in the Record of Delegated Decision dated 10 February 2016

Communications around BBB’s set up and operational structure resumed in early 2016, during the process of preparing an update report to LBC’s executive leadership team. As detailed in section 6.1, Ms Negrini (in consultation with Members and Officers[345]) was given delegated authority to establish and operate the housing company by Cabinet approval in March 2015. On 10 February 2016, Ms Negrini signed a document titled “Record of Delegated Decision – Development Company Structures and Processes” (hereafter referred to as the “Record of Delegated Decision”) wherein she provided an update on the progress made in line with Cabinet’s approval. Whilst the Record of Delegated Decision was signed off by Ms Negrini, it appears to have been based on a document authored by Mr Lacey which was a draft document for discussion with the BBB Board entitled ‘Company Structures and Processes’ dated 25 January 2016 (one day before the inaugural BBB Board meeting). This document appears to have formed the basis of the Record of Delegated Decision.[346] Mr Lacey stated

[344] 39370
[345] Cllr Butler, Mr Murphy and Ms Belvir
[346] 39371

to Kroll that he authored the document based on the recommendations in the March 2015 Cabinet report, and sought input from a number of LBC departments, including HR and legal.

This document set out the approved BBB legal, financial and commercial workings that would govern the relationship between LBC and BBB and covered in detail the following areas:

- The Board structure and membership (set out in section 7.6.1);
- The human resourcing arrangements (set out in section 7.1.3);
- The proposed financing arrangements (set out in section 7.5.1); and,
- The processes and governance for monitoring the performance of the company, and approving future business plans (set out in section 7.4).

7.1.2 Appointment of Mr Lacey as Managing Director

Mr Lacey's appointment as BBB's Managing Director was agreed at the first BBB Board meeting on 26 January 2016, and was approved by LBC in the Record of Delegated Decision dated 10 February 2016. Under the arrangement Mr Lacey remained an employee of LBC and retained his LBC email inbox and office space, however his work for BBB was covered under a Service Level Agreement ('SLA') between BBB and LBC, which was referenced in the Record of Delegated Decision.[347] Similarly, a number of other LBC employees who worked for BBB were covered by this agreement.

7.1.3 New articles of association filed in November 2016

BBB filed a new version of its Articles of Association in November 2016. Kroll's review has not identified any communications outlining the reasons for the amended articles, which allowed BBB to undertake non-housing real estate projects such as the Project. The amended articles were discussed and approved by the BBB Board on 4 October 2016, although no reasons for the amendment were minuted.[348] We note that the first version of BBB's Articles of Association[349] were not tailored to the company or include a clause around business purpose. As a result, the amendment may have been made simply to bring them in line with BBB's operational purpose, and was in line with the intentions of the March 2015 Cabinet report, which states "*Although delivery of housing will be the main*

[347] Staff recharges for Mr Lacey's LBC role (Director of Development) were included with a list of staff recharges for other LBC staff who supported BBB in a list approved by the BBB Board on 4 October 2016. The Service Level Agreement set out how BBB was able to use certain of LBC's services, for example Legal and Finance functions.

[348] Minutes of BBB Board meeting 4 October 2016.

[349] Minutes of BBB Board meeting, 4 October 2016 - 39229

purpose of the company, its objectives will be widely enough drafted to incorporate other forms of Development such as commercial/office development where appropriate".[350]

According to the amended Articles of Association, BBB's purpose was broadened from solely undertaking housing development activities to including other property development activities such as commercial development:

- Deliver new and improved homes of mixed tenure with long-term economic and social benefits for the people of the borough of Croydon;
- Carry out commercial development;[351]
- Dispose of existing property and/or acquire new property in accordance with the terms of the prevailing Business Plan;
- Procure and/or deliver the repairs and maintenance service to some or all of the properties;
- Develop commercial units and private residential units for private rental and/or sale; and,
- Carry out the activities described in articles in the best interests of the Company, on sound commercial principles and with a view to profit, at all times in accordance with the Business Plan.

We note that the updated articles of association were filed after BBB had been appointed to the Project. However, the previous version of BBB's articles of association (filed at BBB's incorporation) did not have a business purpose clause, therefore, they did not appear to specifically exclude BBB undertaking the Project. Therefore, we are not able to conclude that the Project would have been outside of the allowed business purpose of BBB at the date of appointment.

7.2 Contractors, advisors and consultants

Following BBB's appointment to the Project in June 2016 (see section7.3.2), a number of advisors proceeded to be appointed, as set out below:

- Mott MacDonald entered into an agreement with BBB for the provision of multi-disciplinary consultancy services on 11 July 2016.[352] Mott MacDonald informed Kroll during interview that had previously been engaged by LBC in relation to the Project (see section 6.2), for the purposes of submitting a hybrid planning application in February 2016.
- Gleeds UK ("Gleeds"), a property and construction consultancy, was appointed in July 2016 as cost manager and project manager for the Project;

[350] Cabinet report *Homes – our 10 priorities,* 16 March 2015
[351] This included the Project
[352] 2041797

- Rick Mathers Architects ("RMA")[353] engagement as architects on the Project was transferred from LBC to BBB in August 2016; and,
- General Demolition Limited ("General Demolition") was appointed to carry out enabling works on the Project[354] in August 2016.

7.3 Evolution of the Project structure

Sections 5.3 and 6.3 set out the evolution of the Project structure and the decision to incorporate the Project within the College Green scheme. This section sets out the following developments which took place during 2016:

- Project-related discussions held by BBB around its appointment to the Project;
- LBC Cabinet's approval of BBB's appointment to the Project in June 2016; and,
- Comments and concerns around the Project structure raised by BBB's Board.

7.3.1 Timeline of BBB discussions around its appointment to the Project

The BBB Board first discussed the possibility of BBB undertaking the Project and the College Green scheme at its meeting on 26 April 2016.[355] Although no decision was minuted, the minutes include an action point for Mr Lacey to circulate a financial analysis for College Green after the meeting.[356]

In an email dated 5 May 2016 (just over a week after the 26 April 2016 board meeting) Mr Lacey informed Ms Negrini that he had presented the College Green scheme to the BBB Board who were "*happy in principle to take it on, subject to review of financials*". Mr Lacey specified that "*Richard (via 31Ten)*" had completed the financials which would be sent to the BBB Board for approval.[357]

On 6 May 2016, Mr Lacey circulated the financial analysis, which was conducted by consulting firm 31 Ten[358] to the BBB Board.[359] The report was circulated to Jayne McGivern, Jeremy Titchen and Ms Taylor. 31 Ten had originally been engaged by Mr Simpson in March 2015 in respect of College Green

353 Now known as MICA Architects
354 General Demolition were also engaged to carry out enabling works for the Fairfield Homes part of the development, however this is out of Kroll's scope. General Demolition was not appointed through a competitive tendering process – the tender report produced by Gleeds in February 2017 on General Demolition's appointment stated that "*the project was not opened to the wider market as very early on-site presence had been required*". The report went on to state General Demolition had previously won competitive projects with Gleeds and were able to provide the necessary resource at short notice. (Reference 35281). Kroll's review of communication has not identified any challenge by BBB to this suggestion by Gleeds.
355 39277
356 The financial analysis was circulated on 6 May 2016
357 330025. Mr Simpson stated to Kroll that he had not been involved in the work conducted by 31Ten.
358 31Ten is a consultancy firm working with public sector organisations in the fields of strategy, leadership, assets, procurement, regeneration, housing and organisational change. https://www.31tenconsulting.co.uk/about/.
359 43364, 43368

and the proposed Revolving Investment Fund.[360] It concluded[361] that Phase 1 of the College Green scheme (which included the Project) was only viable[362] if incorporated into a wider development, and, if it was to be incorporated, based on assumptions made, would result in a surplus of £19.5 million (representing an internal rate of return of 12%).[363] The financial appraisal included a £12 million contribution to the Project costs from LBC, which was consistent with the amount LBC allocated in the 2015/2016 Capital Programme (see section 6.5), but has a discrepancy of £3 million to the 2016/2017 Capital Programme allocation (discussed further in section 7.5.2). On 10 May 2016 Ms McGivern agreed to proceed with the Project following review of the financial analysis.[364]

However, it was clear that at and prior to the next Board meeting of 27 June 2016,[365] a week after BBB's appointment to the Project by Cabinet, the Board still had questions around the financial appraisal. Email correspondence between Mr Titchen and Mr Lacey shows that discussions were taking place around the assumptions used in the financial analysis (see section 7.3.3). The BBB Board meeting minutes for the meeting on 27 June 2016 recorded that Mr Titchen requested additional information on the financial appraisal prepared by 31 Ten.[366] The minutes included an action point for Mr Lacey to circulate an updated paper with input from 31 Ten in response to Mr Titchen's questions. At this meeting, the Board also discussed the Project in the context of deciding to begin enabling works. The meeting was attended by Mr Lacey, Ms McGivern, Mr Titchen, Ms Taylor, Mr Simpson and Cat Janman (BBB Development Officer), with apologies from Ms Negrini.

According to Kroll's review of BBB's Board meeting minutes, the directors approved BBB's undertaking of the Project in January 2017 (see section 8.7).

7.3.2 June 2016 Cabinet approval of BBB's appointment to the Project under license

On 20 June 2016, Cabinet approved the appointment of BBB by LBC to a list of projects (including the Project) and the disposal of various pieces of land to BBB. This was included as part of Key Decision 14/16/CAB. The approval was made on the basis of a Cabinet report titled "*Brick by Brick Croydon*

[360] 1461589
[361] 6391
[362] The analysis concluded: "*Based on these results, Phase 1 is not viable on a standalone basis, as it is only realising 8.9% profit against a hurdle rate of 15 to 25%.*"
[363] We note that the 31 Ten report stated that BBB desired an internal rate of return of 20%, but the College Green scheme estimated 12%
[364] 45626
[365] This meeting was initially scheduled for 7 June 2016 and the agenda indicated that the following two papers were included as discussion points: Brick by Brick Sites and Land – "*LBC Cabinet report to follow – CL*" and College Green paper. 39280, 39276
[366] BBB Board Meeting Minutes, 27 June 2016 (87474)

Limited – Property and Financial" on which Mr Simpson was listed as the lead Officer and Cllr Butler (LAB) and Cllr Hall (LAB) were listed as Cabinet Members.

The Cabinet report was shared with informal Cabinet on 3 June 2016.[367] The Part B of the Cabinet report appended a proposed BBB programme and the estimated viability and costs of the Project.[368] The details for College Green were not included in the version circulated on this date. Final versions of the Cabinet report and the schedule were sent from Mr Lacey to Ms Negrini on 8 June 2016, 12 days before the meeting.[369] The figures were included in the final Part B Cabinet report.

The report included a number of relevant items pertaining to the Project which assist in developing an understanding of the intended contracting structure for delivery of the Project at that time, the nature of information provided to Cabinet in relation to LBC's intended financial exposure to the Project, and how governance of BBB was intended to take place.

By way of example the report set out that, as LBC remained the owner of the land on which Fairfield Halls was located, they had decided to contract BBB to deliver the Project under a licence agreement, which would allow BBB to gain entry to Fairfield Halls for the purposes of carrying out the Project. This was commented upon in RIPI2 and the implications of not having to publicly procure for the work by virtue of the licence was made clear in the RIPI2. GT concluded that the licence allowed but did not require BBB to conduct works, therefore the agreement did not allow LBC to hold BBB to a defined budget and timeline.

Furthermore, BBB's delivery of the Project, as part of the College Green scheme, was outlined in the report as taking place in two separate phases:

- Phase 1: Comprising the Project, the initial residential development, the enabling works for a new facility for Croydon College, and some public realm works – where LBC held land interests and/or options; and,
- Phase 2: Comprising the delivery of a new Croydon College building, redevelopment of the existing Croydon College land, and the remaining public realm works.

In relation to LBC's financial exposure to the Project, the report disclosed that the recommended decision included a "*£30 million investment into BBB*" and that BBB would "*complete a £30m package*

[367] Including Cllr Butler, Cllr Hall and Cllr Newman.
[368] 115898
[369] 1563494

of refurbishment to Fairfield Halls". The exact funding structure of this £30 million investment[370] was not detailed, however we note that the October 2015 report (see section 6.3.1) had included reference to the fact that LBC was to contribute £12 million towards the Project. The Part B of the June 2016 Cabinet report included outline numbers for the proposed College Green scheme at that time, including that the development scenario was for 1,300 residential units, the £30 million "*investment"* into Fairfield Halls, a new College building, public realm improvements and associated infrastructure. The Part B further noted that the commercial advice at the time did not indicate a land premium, and that "*a specific appraisal would be completed to determine the final land value once planning consent is in place"*.[371]

Therefore, our understanding of the funding structure of the two Cabinet reports when read together, is that LBC would contribute £12 million of the £30 million investment into the Project, and the remaining £18 million was to be subsidised by BBB's profits from the wider College Green scheme.[372]

The report requested that Cabinet take note of ongoing governance and monitoring processes in relation to LBC's governance of BBB to mitigate the risks which were set out in the report, as follows:

- A detailed business plan for BBB was to be reviewed and agreed with LBC annually;
- The Board of BBB included two independent directors (see section 7.1), and was to receive ongoing information; and,
- A new Member Steering Group (see section 7.1) was being established, to be chaired by Cllr Butler (LAB).

The report recommended that Cabinet approve the following:

- That the sites listed in the appendix be disposed of to BBB subject to satisfactory terms and conditions being reached to the satisfaction of Mr Simpson and Cllr Butler;
- The lending to BBB to progress the development of sites and obtain professional services. This funding was to comprise development finance and working capital, and Part B of the Cabinet report stated that the total scheme was expected to be £271 million[373], although the amount that Cabinet was asked to approve was not detailed in the report. The structure

[370] At the time, LBC had publicly announced the £30 million investment into Fairfield Halls through press releases, for example in Your Croydon, 26 February 2016. https://news.croydon.gov.uk/a-new-fairfield-takes-a-step-closer/
[371] We understand this to be the 31 Ten appraisal. 1563495
[372] The £30 million figure was not mentioned in the October 2015 Cabinet report, however was the budget based on internal documentation and the Summary Matrix prepared by Mott MacDonald for the November 2015 Scrutiny and Overview Committee meeting. This reflects the financing structure of our understanding of the two Cabinet reports read together.
[373] Excluded College Green costs. Made up of £237,519,423 (projected construction costs) and £34,217,434 (projected fees)

described in the report was in line with the funding structure included in the Record of Delegated Decision (i.e. funding would be sought on a site-by-site basis). Mr Simpson, in consultation with Cllr Hall (LAB), was to be given delegated authority by Cabinet approval to finalise the terms of the lending agreements; and

- That where necessary, and subject to the approval of Mr Simpson and Cllr Hall, the sites listed in the appendix be appropriated for planning purposes.

The report included a list of 40 other projects to be delivered by BBB via land transfer agreements. The report contained comments from Mr Murphy, acting on behalf of the Monitoring Officer, that LBC should satisfy itself that it obtains best consideration on the sale of these pieces of land to BBB.[374]

7.3.3 BBB Board's documented concerns as to the viability of the Project but ultimately accepted the risk in light of the revenue from the College Green scheme

7.3.3.1 BBB Board's documented concerns about the Project

Based on Kroll's review of email communication, the Project was considered by the BBB Board at the time of its approval, to be commercially unviable (i.e. likely to cost more than the £30 million allocated by LBC) and as a result impact BBB's estimated profits from the College Green scheme. According to Kroll's interview with a former independent director of BBB, its directors had concerns about the Project's viability at inception. These included: 1) the likelihood for the Project to go over the £30 million investment set out by LBC, and 2) the fact that the Project was only ultimately profitable when incorporated in the larger College Green scheme. The former BBB director told Kroll that his concerns as to the adequacy of the £30 million allocated at the time were based on his experience[375] of similar refurbishments of historical buildings where challenges arose in accurately estimating costs due to the limited nature of surveys allowed before works can begin, and the types of materials typically used in buildings built in a similar time period to Fairfield Halls. As detailed in section 8.2.2.2, a significant amount of asbestos was subsequently found at Fairfield Halls, which contributed to the cost increases for the Project.

[374] This is mentioned here for context, but not directly relevant to the Project as BBB did not acquire land from LBC for this purpose.

[375] A former independent director of BBB stated to Kroll in interview that in his experience, it was challenging to get an accurate cost estimate ahead of starting a refurbishment project, particularly in an historical building, as the extent of any surveys allowed ahead of time are limited. Therefore, he stated that it was normal for there to be uncertainty around the extent of any potential issues (for example asbestos), hence his concern about the Project being likely to exceed the £30 million cost

Although these concerns were not documented in BBB's 2016 board minutes[376], we have found email correspondence in June 2016 between the directors that outline their concerns: In an email to Mr Lacey, Mr Titchen stated "*Substantive cost overruns or less House Price Inflation in this connection will quickly lead to loss given projected profit is just £9.3m for the first phase and £19m overall based on very beneficial growth scenarios".* Mr Lacey's responded via email *"I agree, and I think this one is never going to be better than marginal*".[377] Ms Negrini, Mr Simpson and Ms Taylor were copied into this correspondence. We have not identified any evidence to suggest these comments were shared contemporaneously with Members.

The fact that such discussions occurred is supported by review of later Board minutes, which stated that the BBB Board had accepted the Project, even though it was viewed at the time (assumed to be before the June 2016 Cabinet decision when BBB was appointed) to be not commercially sensible to take it on. By way of example, the minutes of a BBB Board meeting held on 8 April 2019[378] record a discussion about the Project between Mr Lacey and Martin Evans (who had been appointed as Chair to the Board in early 2019). At this meeting, Mr Lacey is reported to have stated that the Board had decided to go ahead with the Project "*even though it was not commercially sensible to do so. The board took the decision knowingly [sic] that was the case*". According to these minutes, Mr Lacey is further reported to have commented that "*no one wished to take on the project*" and that "*it was not a viable scheme to start with at 30 million*".[379] These concerns were not recorded in BBB Board meeting minutes contemporaneously during 2016 suggesting a lack of challenge during Board meetings, or inaccurate record keeping. The 8 April 2019 meeting was attended by Mr Evans, Mr Lacey and Ms Mustafa (in an LBC Observer capacity). Comments raised by Mr Lacey were not relayed by Ms Mustafa to ELT in a meeting on 10 April 2019 or 17 April 2019 (the meetings immediately following this BBB board meeting) based on a review of agenda papers.[380]

7.3.3.2 BBB Board's ultimate acceptance of the Project

According to Kroll's interview with a former independent director of BBB, the Board was satisfied with the conclusion of the financial appraisal (conducted by 31 Ten) and agreed to deliver the College Green scheme because it was expected to be profitable for BBB in aggregate (i.e. within the larger

[376] The fact that these concerns were not recorded in BBB Board meeting minutes during 2016, suggests a lack of challenge during Board meetings, or inaccurate record keeping.
[377] 48054
[378] 618108
[379] 618108
[380] 864991, 814604

scheme). Furthermore, Mr Lacey told Kroll that, although the Project had a non-standard risk profile, the Board drew comfort from the fact that:

- A planning application had been submitted for the proposed redevelopment;
- That LBC clearly shared a desire to see the College Green land developed in the manner proposed;
- That there was strategic planning policy in place to enable development; and
- That LBC (being BBB's shareholder) owned significant portions of the land necessary for the wider phased development and would therefore be in a position to transfer the land to BBB.

In addition, Mr Lacey stated in response to our written questions, that the Board took comfort from the fact that Croydon College, the other significant landowner of land in the College Green area, was committed to the development (note that Croydon College later withdrew from the scheme[381] see section 8.6.1) and that the BBB Board had approved taking on the Project after receiving external advice, due to the potential commercial benefit to the company from its incorporation into the wider scheme and resultant expected profit.[382] It should be noted that email correspondence involving Mr Lacey described the Project in June 2016 as "*marginal at best*"[383] which we understand referred to the 31Ten analysis detailed in section 7.3.1 above, which indicated that Phase 1 of the College Green scheme would result in a lower than desired profitability.

As detailed in section 7.3.1 BBB's articles required it to undertake projects with a profit motive. However, we note that although the Project was expected to be over-budget, a financial analysis for the College Green scheme (including the Project) provided to the BBB Board directors (see section 7.3.1) estimated that the College Green scheme as a whole would be profitable by £19.5 million. It is therefore unlikely that the decision to undertake the Project was a breach of the articles of association, as the extent to which it would incur overspend was unknown.

7.4 Evolution of the Project budget

Our review found that, throughout 2016, concerns were raised about the lack of a final scope for the Project, and the fact that the planned proposal was not in line with the £30 million cost that LBC had publicly agreed to (in the June 2016 Cabinet decision set out in section 7.3.2):

[381] LBC never secured a contractual interest in Croydon College, meaning the College were able to remove themselves from negotiations at no great cost, whilst LBC had committed significant costs to the Project.
[382] Mr Lacey's response to Kroll's questions dated 25 October 2022
[383] 48054

7.4.1 Mott MacDonald proposal – April 2016

Following the first cost estimate of £73 million plus contingencies produced in May 2015 (see section 6.4.2) and the meeting to discuss a core scope of works totaling £30 million in November 2015 (see section 6.4.3), Mott MacDonald issued a draft proposal for the design and construction stages[384] of the Fairfield Halls refurbishment (this was a more advanced RIBA stage than the previous cost estimate which, according to Kroll's interview with Mott MacDonald, would usually be used all the way to completion of a construction project). However, the proposal set out "*a broad scope of potential refurbishment amounting to a capital value in the order of approximately £60 million*" indicating that in Mott MacDonald's view, certainty around scope had not yet been reached.

The draft proposal went on to state that, in order to meet the £30 million budget set out by LBC, the broad scope (a developed design of £60 million[385]) had been reduced to a new "*core scope of works*" to fall within budget. The proposed "*core scope of works*", which was the same as that presented to the Scrutiny and Overview Committee in November 2015, had an estimated construction cost of £27.8 million (a reduction of £32.2 million from the "*broad scope*" outlined in the proposal).[386] A further £15.4 million of additional items were highlighted in the proposal, that could have been considered if extra funding had become available to the Project.[387] Based on our review of the document, we presume that these items were preferred items in the £32.2 million cut from the broad scope.

Mott MacDonald explained to Kroll during interview that the "*core scope of works*" referenced above referred to the same scope of works that had been discussed at the November 2015 meeting, and, for the reasons detailed in section 6.4.3 could not be considered a final agreed scope. They further stated to Kroll that, throughout their engagement, they had limited interaction with Mr Lacey and therefore struggled to obtain access to senior staff within BBB (such as Mr Lacey) to obtain senior level approval for the core scope of works. In August 2016, shortly before they left the Project, an additional reduced brief was agreed and referred to as "Reduced Option 1". Mott MacDonald left the Project shortly after this point, as according to them, the client failed to appreciate the impact and consequent additional design cost for the revisions required for producing this option.

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384 RIBA stages four to seven which presents a more advanced stage of design than the May 2015 Stage 1 cost estimate
385 A breakdown of this figure has not been identified and was included in the wording of Mott MacDonald's proposal
386 238015
387 Appended in section 21

7.4.2 Additional cost estimates prepared by Gleeds – July 2016

Gleeds (which had been appointed as project manager for the Project by BBB in July 2016, see section 7.2) was instructed to work on plans to bring the budget under the £30 million threshold. In several communications between Gleeds and Mr Lacey, they provided options to BBB on a reduced scope for the Project given issues maintaining the £30 million budget. In one such email in July 2016, Gleeds produced an options analysis based on a reduced scope. the five options prepared assumed a base construction cost of £20.8 million, with a total project budget of £29.9 million.[388] However, these options were not considered final work plans - as detailed in section 8.4.1 the documents prepared by Gleeds did not meet the scope and budget required by BBB, this is evidenced when discussions were picked up in early 2017. Internal email correspondence between Mr Lacey and Mr McDermott also highlighted that Gleeds had multiple attempts to bring the projected costs of the Project within budget, with Mr McDermott stating *"[a Gleeds employee] has had another go at the cost plan to bring it under £30m. Apparently there were 2 lifts costed so he has taken one out"* in July 2016.[389] A representative of Gleeds remarked himself that by January 2017 they still had not agreed a finalised scope[390], and that they were overbudget at that time (correspondence referred to an amount of £34 million, which is approximately £4 million overbudget). Mr Lacey remarked to BBB's Director of Development in internal correspondence at this time in response to Gleeds' comment that "*the whole thing is very unviable… Defs can't be any more than £30m. We'll need to reduce scope if necessary*".[391]

7.4.3 Discussions around budget pressures – July 2016 to December 2016

Between June 2016 (BBB's appointment to the Project) and December 2016, Kroll's review has identified communication between LBC Officers and BBB staff about Project related cost pressures, confirming that at this time, there were issues with the Project budget and scope.

An LBC-commissioned review of the Fairfield Halls refurbishment by the Theatre Trust highlighted concerns over the budget.[392] LBC commissioned the review to obtain additional advice and guidance on the development of the new venue's operating model and tender brief.[393] The report, which was published in September 2016, stated that "*the current budget of £30 million [would be] under*

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[388] 24157, 24158. The options were focused around five key themes, being a revised baseline, arts and revenue-focused, building longevity-focused, high impact-focused and operational-focused
[389] 24345
[390] 69977
[391] 40515
[392] The date of the commission is unknown
[393] http://www.theatrestrust.org.uk/how-we-help/case-studies/1160-fairfield-halls

considerable pressure from the ambitions of the current proposal".[394] These concerns were raised by local campaign groups against the closure of Fairfield Halls, including the Save Fairfield Halls group.[395]

7.5 Financing of the Project

Our review identified the following in relation to the Project's and BBB's financing relevant to the 2016 period:

- The agreed funding structure for BBB projects was set out in the Record of Delegated Decision of February 2016 (see section7.5.1);
- LBC's Capital Programme included an allocation of £9 million in relation to the Project (see section 7.5.2);
- Practical arrangements around BBB's funding detailed in section 7.5.3; and,
- That an application for extra funding for the Project and College Green was made in July 2016 (see section 7.5.4).

7.5.1 Agreed funding structure for BBB projects

The Record of Delegated Decision[396] discussed in section 7.1 included the following points around BBB's funding structure:

- Funding was to be applied for by BBB on a project-by-project basis and comprise equity funding and debt funding;
- The funding was to be allocated from LBC's Revolving Investment Fund (which refers to external lending obtained by LBC, to be invested into BBB). This funding strategy gave rise to a risk of default, as LBC would still need to repay its loans if BBB defaulted.[397] The proposed strategy for managing this risk was set out in the Record of Delegated Decision as including a robust assessment process to be followed for each scheme, and the BBB's ability to cross-fund repayment from other profitable schemes in its portfolio.
- External funding was something to be considered in the future, once the company was established.

[394] 18500
[395] 18499
[396]Record of Delegated Decision_February 2016
[397] The document states: "*The financial risk to the council of this approach relates mainly to default on the loan if the development was not successful. The risk would be 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.*"

BBB's overall funding request for the following year was to be presented in its annual business plans, which were required to be agreed between LBC and BBB.

7.5.2 Allocated capital to the Project in LBC's budget

The 2016/2017 Capital Programme (signed by Mr Simpson as Lead Officer) included a total of £9 million in capital allocation which represented estimated spend for the Project over the coming three years, being:

- £4 million in the 2016/2017 year;
- £5 million in the 2017/2018 year; and
- No capital spending for the 2018/2019 year.

The Cabinet report which included the Capital Programme stated that there was an "*Investment in Fairfield Halls estimated at £30m".* LBC's net contribution contained in the Capital Programme was £9 million, with the remainder being made up of "*land values"*, being the value of land transferred from LBC to the prospective developer and "*sales on the rest of the site*", being the properties built as part of the College Green scheme.[398]

This represented a decrease from the £12 million allocated in 2015/2016 and it is not clear why this decrease took place. It is inconsistent with the 31 Ten financial appraisal obtained by the BBB directors in June 2016, which refers to a £12 million contribution from LBC (see section 7.3).

7.5.3 Financing of BBB operations

During the 2016 year BBB did not maintain its own bank account. As a result, LBC paid expenses (such as contractors' costs) on behalf of BBB, rather than by way of a project-specific loan. According to the RIPI2, there was a discrepancy between LBC and BBB's records in the amount paid in respect of the Project (by LBC on behalf of BBB) during the 2016/2017 financial year, in that LBC recorded an amount of £1.2 million whereas BBB recorded an amount of £1.5 million.

[398] 22 February 2016 Cabinet Report *General Fund & HRA Budget* presented by Mr Simpson as Lead Officer.

We note that the total discrepancy for the Project-related spend was ultimately resolved between LBC and BBB as recorded in the RIPI2, and that some of was explained by differences in allocation by different financial years.[399]

7.5.4 Application for Coast to Capital funding

At around the same time as the closure of the Fairfield Halls facility in June 2016, LBC applied to obtain funding from Coast to Capital, a local enterprise partnership providing funding and grant opportunities to the public sector. LBC applied for £23.5 million in additional funding for the College Green scheme as a whole. According to the funding request, this comprised the forecasted funding gap estimated by LBC for the first phase of the College Green scheme, which encompassed the Project, public realm works and 223 homes on the wider College Green site.[400] This funding gap was broken down into the following amounts in the submission as summarised by Stephen Tate, then Director of District Centres & Regeneration in a briefing to Cllr Newman (LAB):[401]

- £3 million for the Project (comprising the difference between the total cost of the Project[402] and the £30 million in "*committed funding"* by LBC)*;*[403]
- £10.5 million for the first phase of housing; and,
- £10 million for the public realm aspect of the College Green scheme.

LBC was successful in obtaining £14.2 million in funding for the College Green scheme.[404] In order to secure the approved funding, a more detailed business case was required, which was prepared jointly by LBC, BBB and Gleeds.[405]

The business case was submitted to Coast to Capital on 26 April 2017, with BBB listed as the lead organisation.[406] The detailed business case included a claim of £14.2 million and stated the funds would be used to cover the financial viability gap, "*unlocking development of the site and allowing*

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[399] A complete reconciliation between the two accounts was conducted for the purposes of the RIPI2. We note further that BBB's directors' response to the RIPI2 stated that, as LBC was providing finance services on behalf of BBB (per the Service Level Agreement per the Record of Delegated Decision), the accuracy of financial reporting was beyond the control of BBB
[400] 529264, 600759
[401] 529264
[402] The briefing note set out a total cost of the Project at £33 million. We are unclear of the basis of this number
[403] Inferred to have been £12 million in LBC capital programme funding and £18 million resulting from the sale of homes built in the scheme
[404] According to a report presented to the Growth Board in April 2017. 23541
[405] 23541
[406] 21974: On 12 April 2017 Mr Lacey raised concerns about the potential funds awarded by Coast to Capital being transferred through LBC to BBB. He stated that it had been previously agreed with Coast to Capital that the funding would go directly to BBB, and if it came through LBC there was a risk that it would violate state aid regulations, as LBC would be allocating grant funding to a private sector developer. 66359, 66368: This was also mentioned in the RIPI 2. LBC Finance staff stated to Kroll that there were no concerns about state aid from LBC's perspective.

for the speedy delivery of Phase 1 [of the College Green development]".[407] Of the £14.2 million claimed, £3 million was earmarked for the creation of a new gallery space in Fairfield Halls, with £11.2 million for infrastructure and project enablement. £1.5 million of this £11.2 million was for demolition works on the Fairfield Halls site, meaning £4.5 million in total of the claimed funding was for the Project specifically.

BBB was successful in obtaining the grant (as detailed in section 8.4.2), the Coast to Capital funding was received by LBC and applied to BBB by way of a back-to-back loan. Concerns were raised by Coast to Capital as to the use of this money and this was covered in RIPI2.

7.6 Contracting and legal risks

A number of risks relevant to both BBB and the Project were highlighted and discussed during the course of 2016, as set out below:

7.6.1 HR risks highlighted around Mr Lacey's appointment

As detailed in section 5.1.6 Mr Lacey had expressed his interest in being involved in progressing the Council-owned company. Following his expression of interest, Ms Negrini confirmed his involvement, as also detailed in section 5.1.6 Kroll's review has not identified any evidence of a formal recruitment process for Mr Lacey's appointment as BBB's Managing Director; it appears he was transferred to the role from his position as Director of Development at LBC. In email communications around the proposed Record of Delegated Decision eventually signed in February 2016, LBC Legal raised in late January 2016[408] the need for clarity on the proposed recruitment process for the Managing Director role at BBB, and clarity around the application and appointment of Mr Lacey, then LBC's Director of Development, to the role, and whether a transfer of undertaking ("TUPE") would apply. The Director of Human Resources set out to Ms Negrini and Mr Lacey that "*I think there needs to be more clarity about the proposed recruitment process to the CEO role and how it might be that the Council's Director of Development is enabled to apply and undertake this role e.g. will TUPE apply, or might the Board and Council determine to fill the post through a commissioning arrangement with the Council*".[409]

[407] 21974
[408] 238221
[409] 238188. Mr Lacey stated to Kroll that the commissioning arrangement referred to the Service Level Agreement that was ultimately signed between LBC and BBB.

This concern does not appear to have been alleviated; an email sent four days later[410] from LBC HR to Mr Lacey confirmed that LBC's Legal and HR teams still required more clarity around the HR and Legal aspects of staff recruitment. However, the email concluded that the departments were satisfied on the basis the decision could be 'reversed' if it was subsequently thought that a different decision should have been taken. A former BBB independent director stated to Kroll, that according to his recollection, Mr Lacey was appointed as Managing Director of BBB because of his experience at a council-owned company at London Borough of Newham, although Mr Lacey stated to Kroll that he engaged with the company as a senior member of the Regeneration and Planning department, but did not have any direct involvement in the company.

7.6.2 Heads of Terms with Croydon College not executed and withdrawal of Croydon College from the College Green scheme

As detailed in section 6.3.1.2 the Heads of Terms agreement with Croydon College was not finalised by the end of 2015. Throughout 2016, we have identified a number of emails containing drafts of the Heads of Terms, but these were still not executed by the time of the June 2016 Cabinet decision,[411] posing a major risk to LBC given that BBB required the land as part of its housing development. Updates to the Programme Board dashboard in both January and March 2016 highlighted that legal agreements were still being drafted and negotiated.[412] Mr Lacey, Ms Negrini, Mr Simpson and Mr McDermott received copies of these dashboards.[413] Growth Board dashboard updates did not reference the ongoing contract negotiations in January 2016 and March 2016.[414]

Based on Kroll's review of the 31 Ten appraisal[415] prepared for BBB's board meeting in October 2016 (four months after the Cabinet decision), we understand that the land owned by Croydon College was going to be used for 1,105[416] out of 2,401 residential units in total and therefore comprised a significant element of the total scheme, amounting to almost 50% of the total number of homes to be built. The profitability of the scheme therefore depended substantially on this land being available, and the fact that the agreement hadn't been finalised before the June 2016 Cabinet decision represented a significant risk.

[410] 238245

[411] Mr Lacey stated to Kroll that, in his recollection, the Heads of Terms were agreed on the evening before the Cabinet meeting and noted that the governor of Croydon College attended the June 2016 Cabinet meeting. However, we note that, ultimately, the contract was not signed, and Croydon College was able to withdraw without breaching the contract.

[412] 318201, 618362

[413] 318200, 618359. Mr Lacey did not receive the papers for the March 2016 meeting based on email correspondence,

[414] 545847, 544219

[415] Discussed at BBB's board meeting on 4 October 2016: 39339, 39336 and 44990

[416] Comprising of 560 residential units on College Site East and 545 residential units on College Site West

7.6.3 Internal audit and RIPI2 raised concerns about the June 2016 Cabinet report

A draft of an LBC internal audit report on the Project, issued in November 2020[417], raised the fact that the legal arrangements with BBB in relation to the Project were significantly different from other engagements with BBB, but that this was not highlighted appropriately in the June 2016 Cabinet report. Specifically, BBB was reliant on cross subsidisation from the wider College Green scheme, which increased the risk profile of the development as a whole, as overspend on the Project would impact BBB's profitability on the wider scheme. As a result, the draft internal audit report concluded that Cabinet in 2016 was not provided with sufficient legal and financial advice to make an informed decision. This finding was removed from the final internal audit report following comments from Mr Murphy[418] that the Cabinet decision was not the ultimate authorisation to proceed with the Project, as the Cabinet approval was for Mr Simpson (in consultation with Cllr Hall (LAB)) to make the final arrangements for the projects to be delivered by BBB, by way of a delegated authority (see section 7.3.2), however, we note that even if the decision was made by delegated authority, the parameters for making the decision should still have been made clear to Cabinet, as detailed in section 7.8.2. The final report was circulated to Mr Murphy, Ms Mustafa, Ms Taylor, Stephen Wingrave, the Head of Asset Management and Estates, and Simon Maddocks, the Head of Internal Audit.[419]

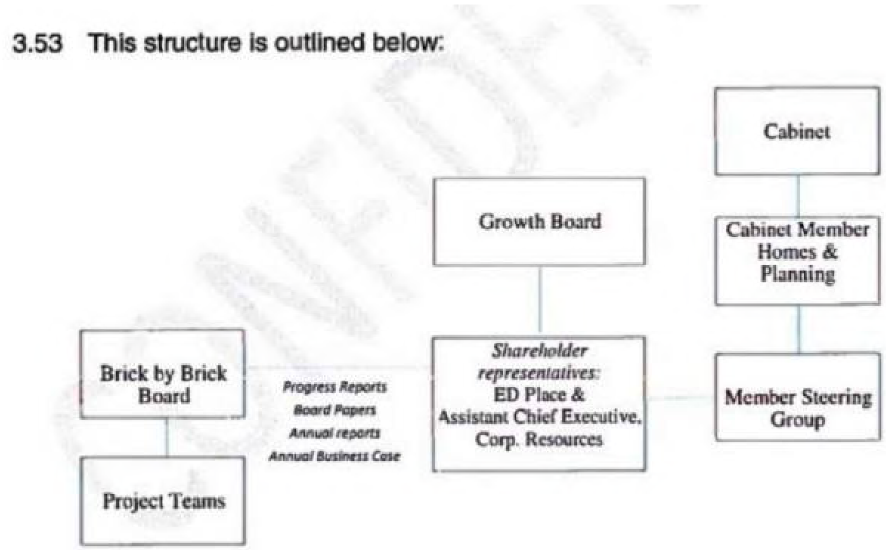
Furthermore, as concluded by GT in RIPI2 the license (see section 7.3.2) allowed but did not require BBB to conduct the works, therefore, the license agreement contained no enforcement mechanisms to hold BBB to a specific budget or timeline.

7.7 Governance

Governance of the Project needs to be understood in the context of the broader governance of BBB by LBC. For the Project, LBC undertook governance at both the individual Project level (i.e. a project management board for the Project) and at a wider level (i.e. an oversight board[420] responsible for overseeing all BBB projects with LBC as included in LBC's Growth Plan). In addition to the project management board and the oversight board, governance structures were to be set up to allow monitoring and oversight by Members. These are set out schematically in the February 2016 Record of Delegated Decision section on the structure and set up of BBB (see section 7.1), an extract of which is included in FIGURE 1:

[417] The work formed part of the 2019/20 Internal Audit Plan which covered the Project (including BBB's appointment). The initial draft was first issued in October 2020, within the context of the PwC Strategic Review.
[418] 817197 and LBC Draft Report – Fairfield Halls Delivery 2019-20 FINAL
[419] 1084247, 1084248
[420] This was referred to as the Growth Board

FIGURE 1 **LBC governance structures of BBB and its projects**[421]



We note that some of these structures (for example the Member Steering Group) was only implemented after the completion of the Project, as detailed in section 4.4.

7.7.1 BBB Governance

7.7.1.1 Appointment of the BBB Board

The composition of the Board, which was appointed on 26 January 2016[422] is shown in TABLE 23 below. We note that LBC approval was not given until 10 February 2016 (per the Record of Delegated Decision signed by Ms Negrini), four days after the directors were appointed according to corporate records.

TABLE 23 **Table of BBB Board of Directors (February 2016)**

Name	Title	Description	LBC Role
Colm Lacey	Managing Director (BBB)	Council-appointed Executive Director	Former Director of Development
Lisa Taylor[423]	Non-Executive Director	Council-appointed Non-Executive Director	Head of Finance and Deputy Section 151 Officer

[421] 1040066
[422] According to BBB's financial statements for the year ending 2016, filed on 5 October 2017
[423] Replaced Mr Simpson at BBB's first Board meeting on 26 January 2016

Name	Title	Description	LBC Role
Jayne McGivern	Non-Executive Director	Independent Non-Executive Director	Former Chair of CCURV
Jeremy Titchen	Non-Executive Director	Independent Non-Executive Director	N/A

The Board minutes of BBB's first board meeting on 26 January 2016 stated that Mr Simpson and Ms Negrini would attend Board meetings as shareholder representatives, with observer status (Ms Negrini was replaced by Ms Mustafa, the new Director of Place, as per the minutes of the November 2016 board meeting).[424] The January 2016 minutes also stated that Mr Simpson, who had been sole director of the company since its incorporation, had stood down because of a conflict of interest between a role on BBB's Board and his role as Section 151 Officer at LBC.[425] Mr Simpson was replaced by the individuals detailed in the above table. Jeremy Titchen (Mr Titchen) and Jayne McGivern (Ms McGivern) were appointed as independent directors with experience in the property development sector.

Subsequent changes to BBB's board are appended in section 19 and referred to in other sections of this report as they are relevant to other time periods. We note that Ms McGivern had been the Chair of a previous Council-owned company, CCURV, which had previously been used by LBC to deliver on its regeneration objectives but was not appointed by LBC to undertake the Project (see section 5.1.5).

7.7.1.2 Senior level financial oversight provided by LBC

The RIPI2 reported that BBB did not appoint a finance director until in late 2020, following the publication of PwC's strategic report (see section 10.1.2) and almost four years after BBB started operations in January 2016. We note that a finance and operations manager was appointed in December 2017. A former independent director of BBB interviewed by Kroll stated that according to his recollection, the senior financial oversight role was filled by Mr Simpson and Ms Taylor before this time. We note that Mr Simpson was also attending BBB Board meetings as an LBC observer, and that Ms Taylor was an LBC appointed director. Both of these roles were set up to represent LBC's interests on BBB's board, however at the same both appointees also held senior roles in LBC's finance team. At the time, LBC was performing day to day finance tasks for BBB according to the Service Level Agreement[426] between the two entities. Therefore, a lack of operational independence between LBC and BBB resulted from them also providing day to day senior financial oversight of BBB.

[424] 45312
[425] Mr Simpson's resignation from BBB's Board was disclosed in BBB's financial statements for the year ending 2016
[426] The Service Level Agreement was set out in the Record of Delegated Decision dated February 2016

Mr Simpson stated to Kroll that he was not responsible for financial advice to the Board in any way, and acted for the Shareholder (LBC) at all times, as it was important for LBC as the shareholder to have financial oversight of BBB.

7.7.2 LBC governance

7.7.2.1 Lack of clarity in BBB's appointment to the Project

Kroll has not identified any formal documentation around LBC's decision to appoint BBB to the Project or BBB's agreement to undertake it, other than the June 2016 Cabinet report detailed in section 7.3.2 where Cabinet provided its approval. An Officer at LBC stated to Kroll that he recalled questions were raised to Ms Negrini[427] as to its suitability for the Project - some Officers[428] had raised concerns that BBB did not have the specialist expertise required to undertake a complex refurbishment project of that nature, and had been specifically incorporated by LBC to conduct housing development.

As detailed in section 6.3.2 in November 2015 LBC Officers attended a presentation where BBB was recommended to take on the Project (although the recommendation was for BBB to take it on in a joint venture). The College Green scheme did contain a housing element, the development of which would have fallen squarely within BBB's planned remit, and, as BBB was incorporated to deliver LBC's housing objectives, this may have contributed to the appointment of BBB by LBC. However, as Mr Lacey commented in response to questions about the Project in April 2019 Board meeting minutes "*no one wished to take on the project*"[429] (see section 7.3.3.1), which may indicate that BBB was LBC's only option for delivering the Project.

A former BBB independent director informed Kroll during interview that it was his understanding that BBB took on the Project at the request of LBC. We have not identified any formal request by LBC to BBB or any minuted approval by the directors of BBB to undertake the Project during 2016,[430] before LBC's decision to appoint BBB to the Project at the June 2016 Cabinet meeting. According to the former director, it was their recollection that many discussions between BBB and LBC happened outside of BBB Board meetings, although the Board was usually notified subsequently (although according to them, it was not possible to know for certain that such updates were complete). We have not identified any formal notification from BBB to LBC as to their agreement to undertake the

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[427] We were not able to clarify this with Ms Negrini as she withdrew agreement to respond to our questions in writing (as detailed in section 16.

[T]he Officer could not recall who raised the questions

[429] 618108

[430] Minuted approval by the BBB Board was given in their meeting on 3 January 2017 following their review of the 31 Ten appraisal

scheme, other than an email dated 5 May 2016 email from Mr Lacey to Ms Negrini discussed in section 7.3.1.

7.7.3 Project-specific governance

LBC Officers' project-specific governance continued through the Programme Board with escalation to the Growth Board, as outlined in section 4.3.

We note that the Growth Board was updated on the Project at several points during 2016. These updates were done at a BBB level and comprised updates on BBB's operational structure and board appointments. According to the minutes of the Growth Board meeting on 7 December 2016, Mr Lacey provided a verbal update on the Project and stated that the Project was on schedule and on cost.

7.8 Conclusions

7.8.1 BBB's independence was not sufficiently safeguarded

As detailed in section 6.6 one of the key issues highlighted in the external legal advice received from Pinsent Masons in 2015, was the importance of BBB's independence from LBC. Although two independent directors with experience in the property development sector were appointed, we noted significant risks to this independence, mostly as a result of the operational set up of BBB, for which Ms Negrini (in consultation with Officers and Members) was given delegated authority by Cabinet in March 2015 (see section 6.1.1). Ms Negrini's activities in line with the delegated authority were documented in the February 2016 Record of Delegated Decision signed by her and included deficiencies in ensuring BBB's independence from LBC as follows:

- No strategy for obtaining external funding: As per section 7.5.2 external funding was not obtained at the outset of BBB's operations, even though this was one of the recommendations from both external and internal legal advice (see section 6.6), putting its independence at risk;
- Key senior staff (including Mr Lacey) were moved from LBC to BBB, contrary to the recommendation for the company to have management independence from LBC (see section 6.6). Before he was officially seconded to BBB in 2018 (detailed further in section 9.1), Mr Lacey operated within LBC governance structures as a member of staff and continued to be based within LBC's offices until BBB moved to its own office premises in George Street during 2019[431]; and,

[431] According to BBB's 2019/2020 Business Plan, the company was intending to move to its offices during that year.

- Financial oversight was provided by senior LBC finance staff (the Section 151 Officer and the Deputy Section 151 Officer) as opposed to independent employees (as detailed in section 7.7.1.2): a Finance Director was only appointed in November 2020 although before this time, BBB had a Head of Operations, who took on the finance manager role in place (from the end of 2017). This represents a deficiency in the design of the set-up of BBB in the Record of Delegated Decision, which did not recommend the appointment of an independent Financial Director.

The issues above present significant governance failings and as lead Officer and holder of the delegated decision from the March 2015 Cabinet report, Ms Negrini was responsible for proper implementation of BBB governance structures. In addition, as detailed in section 7.3.2, Mr Simpson was given delegated authority to implement LBC's projects with BBB, and therefore was also responsible for ensuring that appropriate governance structures were in place. At the time Ms Negrini was Executive Director of Place, and shortly afterward (in April 2016) became interim Chief Executive Officer. As Executive Director of Place, Ms Negrini was under obligations contained in Part 4H of the financial regulations in LBC's constitution[432] to ensure that proper internal controls were implemented. Mr Simpson was the Section 151 Officer at this time, and was responsible for ensuring that LBC's finances were protected from risk, and that LBC acted lawfully. As Section 151 Officer, he was ultimately responsible for advising on internal controls[433] and in that role, was responsible for ensuring these significant governance failings did not continue.

The issues around the lack of independence between BBB and LBC was also raised in RIPI2 where GT concluded that BBB's lack of independence from LBC left LBC open to challenge around the lawfulness of its transactions with LBC, particularly around the possibility of providing unlawful state aid, and the procurement processes.

In addition we also note that there was a lack of clarity around the timeline of BBB's appointment to the Project as BBB's Board minutes document formal minuted approval of undertaking the Project in January 2017, more than seven months after BBB was approved as the delivery vehicle to take on the Project by Cabinet (see section 7.3.1). Whilst we have seen indications across both late 2015 (the Arcadis presentation detailed in section 6.3.2), and in 2016, where BBB were considering their appointment to the Project (and Cabinet finally provided its approval in June 2016 set out in section

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[432] LBC Constitution (version September 2017 in place to June 2018) [432] Part 4H Par 8.3: "Executive Directors are responsible for establishing sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economic efficiency and effectiveness and for achieving their financial performance targets."

[433] LBC Constitution (version September 2017 in place to June 2018): Part 4H: Internal Control par 8.2 "The Chief Financial Officer is responsible for advising on effective systems of internal control … They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use."

7.3), we have not identified a formal documentation setting out the basis for BBB's appointment to the Project and their suitability for taking it on. Ms Negrini had been provided with delegated authority to progress the Project in the October 2015 Cabinet decision, and according to our understanding, would have been responsible for documenting the basis for LBC's decision to appoint BBB to the Project.

7.8.2 The June 2016 Cabinet report did not adequately highlight known risks to Cabinet

The June 2016 Cabinet report detailed in section 7.3 prepared by Mr Simpson, presented a significant milestone in Cabinet's awareness of the Project, yet it failed to highlight significant Project related risks, and contained limited detail and very limited information on the financial implications or known risks of the Project or the College Green Scheme. Broad reference was made to how BBB would fund projects, the fact that LBC was exposed to risk of default on its loans to BBB, and risks related to LBC's engagement of BBB on their portfolio of sites as a whole. Reference was made to the Project and the College Green scheme, this was limited to BBB's appointment to the Project, the fact that refurbishment works would take place under a licence agreement, and that the investment into the Project would be £30 million. Specifically, the following risks were not included at all:

- Risk to budget: The £30 million budget is referred to as an "*investment*" or a "*package of works*". This does not accurately reflect that, as detailed in section 7.4 , there was still significant uncertainty about the Project scope and it had not been agreed;

Although we have not identified specific evidence that Mr Simpson was aware of the above, as Section 151 Officer of LBC, Mr Simpson had statutory responsibility to ensure that the financial affairs of LBC were properly administered and that the financial functions were fit for purpose. Mr Simpson ought to have sufficiently highlighted the risks in awarding the Project to BBB within the Cabinet report, or in discussions prior to the Cabinet meeting.

- Non-standard risk profile: The June 2016 Cabinet report failed to highlight the fact that the Fairfield Halls refurbishment risk profile was different to the other projects to be undertaken by BBB included in the Cabinet report.
    - No detail was given around the potential impact to BBB arising from the fact that the Project would essentially be a net cost for BBB, and the extent to which its funding was heavily reliant on the successful realization of profits from Phase 2 for the overall scheme to be profitable. This was a financial risk to LBC, as BBB, and therefore LBC's,

profits were particularly sensitive to cost overruns on the Project or changes in house prices effecting the profitability of the overall scheme.

- The legal arrangements for the Project were substantially different to the other projects to be delivered by BBB included in the June 2016 Cabinet report (as raised by internal audit and detailed in section 7.6.3). Mr Simpson was the lead Officer for the June 2016 report, and was a key Officer involved in the October 2015 report,[434] and would have been aware of the risks involved in the Project's structure. Mr Simpson himself engaged 31 Ten to undertake the analysis on the Project's viability on behalf of LBC and BBB[435] and was aware of the risks around the Project's funding structure.

- Execution risk: As detailed in section 6.3.1, the initial plan for the College Green scheme included land owned by Croydon College, for which LBC had started negotiating a draft agreement in September 2015. However, this agreement was not finalised by June 2016, and therefore was not legally binding, but this fact or any risks or issues potentially arising from it was not specifically highlighted in the report.
  - As detailed in section 7.3.2 the report did mention that Phase 1 of the College Green scheme comprised the areas where LBC owned the land or had land options. However, no mention was made of the potential financial impact to BBB around the unfinalised agreement with Croydon College.
  - Mr Simpson was included in email correspondence around the draft agreement with Croydon College in September 2015.[436] As the lead Officer for the report, it would have been his responsibility to clarify whether or not the agreement had been finalised, and disclose the risk if it had not been finalised.

As detailed above, a number of key risks were not disclosed to Cabinet in this report. Mr Simpson was the lead Officer and the Section 151 Officer and had a duty[437] and opportunity to make Cabinet aware of relevant risks through disclosures in this report but failed to do so. The implication of this is that Cabinet was not informed of the risks surrounding a £30 million decision, which ultimately ended up costing LBC £73 million.

[434] Mr Simpson approved the Finance risks for the October 2015 Cabinet report.
[435] 1563773
[436] 528127
[437] His obligation to make Cabinet aware of financial implications of all reports is contained in LBC's Constitution under Par 17.8 of Part 4H- Devolution of Financial Management – Statutory Officers: "*To ensure that all financial implications of all reports are agreed and approved with the responsible Heads of Finance prior to their submission to the Cabinet, a Committee, the Executive Leadership Team or other bodies within and external to the Council.*"

8 Project related events in 2017

A number of key events in relation to the Project occurred during 2017, which are highlighted below, and detailed in the relevant sections of the report under the headings explained in TABLE 10:

- BBB appointed Vinci as the main contractors on the Project;
- Croydon College withdrew their land from the College Green scheme as a result of the College experiencing financial difficulties;[438]
- The Project's funding structure changed as a result of the successful external funding application, and changes in LBC's capital programme allocations.

8.1 Evolution of BBB

No significant changes occurred in the evolution of BBB during this year in the context of the Project.

8.2 Contractors, advisors and consultants

BBB appointed a number of advisors to the Project during 2017:

- Vinci Construction UK Limited ("Vinci") was appointed as principal contractor in May 2017 (see section 8.2.2); and,
- Negotiations with BH Live (the operator for the venue) commenced, although the contract was only finalised in 2018 resulting in a significant delay in obtaining clarity on the final design (see section 9.2.4).

8.2.1 Termination of Mott MacDonald

From July 2016, when Gleeds was appointed as cost managers for the Project, Mott MacDonald's role changed from a multi-disciplinary contract as detailed in section 7.2, to include mainly engineering works on the Project. The design work previously included in Mott MacDonald's scope was carried out by RMA. On 12 September 2017, Mr Lacey of BBB wrote to Mott MacDonald to exercise their right to terminate the consultancy services agreement between both parties.[439]

Mott MacDonald responded to BBB on 26 September 2017 to advise they were considering challenging BBB on the validity of the termination, that they had substantial legal claims over breach

[438] As a result of these financial difficulties, a bank charge was placed over their land, resulting in their withdrawal
[439] 2041797

of contract and that BBB had not acted in a "*spirit of mutual trust and cooperation*".[440] Mott MacDonald and LBC[441] subsequently entered into a legal dispute regarding unpaid change control notices. Mott MacDonald contended that LBC required "*fundamental changes*" to the Project (following their initial appointment in March 2015) with these changes being captured in change control notifications that Mott MacDonald were not paid for. The basis for the termination, according to Kroll's interview with representatives from Mott MacDonald, was that the fixed fee structure agreed was no longer viable given that it did not take into account the significant number of scope changes instructed by LBC. At the time of the termination in September 2017, the design and scope had not been finalised with BBB. This was more than 12 months after the June 2016 Cabinet approval, and just over 12 months before the Project was due to be completed (November 2018).

Mott MacDonald had a multi-disciplinary team in place in terms of architects and project managers and were replaced by RMA and Gleeds.

8.2.2 Vinci's appointment and contracting issues

On 9 May 2017, following a competitive tender process administrated by Gleeds which commenced in February 2017, a representative of Gleeds emailed Mr Lacey and Robin Firth,[442] the BBB Development Manager assigned to the Project, to advise of its recommendation that Vinci[443] be appointed for the main contract works of Fairfield Halls. The tender process was competitive and involved four prospective bidders to undertake the Project. The works tendered for included the following:

- The refurbishment of Fairfield Halls, including the Ashcroft Theatre and Concert Hall and ancillary areas;
- Demolition and reconstruction of the Arnhem Gallery; and
- The construction of a new gallery and cloister adjacent to the existing building.

The final first stage price put forward by Vinci was £25,623,708, based on Gleeds' tender report.[444] According to Kroll's review of a tender report published by Gleeds, Vinci were recommended by Gleeds as the preferred bidder, their bid was rated as the highest technical score and the lowest bid price. We have not been able to identify within available data the tender documents issued to

[440] 477283
[441] We are currently unaware of why legal action was pursued against LBC, and not BBB
[442] Mr Firth joined BBB in January 2017. According to his LinkedIn profile, Mr Firth was previously a Project Manager at Synergy LLP, a construction consultancy, prior to his role at BBB. Mr Firth was responsible for the management of the Project on a day-to-day basis at BBB
[443] The legal entity was Vinci Construction UK Limited
[444] 33084, 33085

prospective contractors and the scope to which they were asked to bid against. It is not clear the basis against which these bids had been prepared, as the final design hadn't been completed.

It was recommended that a traditional contract be adopted for the contractor. A single contract would be entered into for the refurbishment that was considered separate from other phases of the larger College Green scheme. The traditional form of contract meant the design was required to be prepared by BBB's consultants and completed before contractors were invited for tender, and subsequently carried out, the construction. This type of contract generally requires the design to be completed ahead of the contract starting works, so that the build phase can be properly costed and quoted for, planned and executed, however, as stated in section 9.2, the design was only completed in 2018. If design changes are made subsequently, the cost would generally be borne by the client and not the contractor. In contrast, a design and build contract, an alternative form of contract, would have meant that the responsibility for preparing both the design and the build phases would be on the contractor. However, the design was not finalised, so the final contracting arrangements with Vinci differed from that proposed in the initial tender, as highlighted below.

8.2.2.1 Pre-construction services agreement ("PCSA")

Vinci and BBB entered into a pre-construction services agreement ("the PCSA") in July 2017 as works commenced on the Project. Gowling WLG, a law firm, were engaged to provide advice on the drafting and negotiation of contracts between Vinci and BBB, with the support of Gleeds. It is our understanding from interviews with BBB subcontractors, that such a PCSA would ordinarily be used for a short period of time, to allow Vinci to access the site, conduct some scoping works, and allow them to establish a reliable quote for further works. This understanding was corroborated in correspondence between Gleeds, Gowling WLG and Mr Lacey and Mr Firth on behalf of BBB, which set out that:

"*Under the PCSA the parties agree to work together to finalise the contract sum. At the request of BxB we included a confirmation by Vinci that the contract sum will not exceed £[x] but Vinci have deleted this provision. Is that acceptable? In practice, if BxB were not happy with the final contract sum ascertained pursuant to the PCSA they could choose not to place the main contract with Vinci – in practice, the tender process is open book and the contractor prices the design undertaken by the design team. The contractor therefore does not have control over the contract value to a full extent.*"[445]

[445] 38995

Kroll's review of email correspondence and documents surrounding the PCSA between Vinci and BBB highlighted a number of issues in relation to how it was practically applied, compared to the original intention. These largely arose from the fact that the design of the Project remained unfinalised until October 2018. As a result, although the PCSA was originally intended to only run until the end of July 2017 (i.e. one month) and have a contract value of £517,547, instead it was extended on a nearly monthly basis to March 2018, resulting in a total spend of £5.3 million.[446]

The extensions primarily arose as a result of Vinci experiencing delays in procuring subcontractors to the project, given that the Project design had yet to be fully finalised and agreed by BBB and RMA. On 31 August 2017 Vinci submitted their proposal for the contractor works to BBB. This amounted to £35.1 million – more than the Project budget, and significantly above the £25.6 million they'd originally quoted and had been awarded the contract upon.[447] Kroll has not identified significant correspondence around this figure, and Gleeds started recommending a change in approach shortly after the proposal was submitted (see section 8.2.2.2).

8.2.2.2 Early works contract

By November 2017 Gleeds was recommending a change in contracting approach, whereby Vinci would enter into an Early Works Contract with BBB, which would allow progress to be maintained on the site, as well as ongoing value engineering and scope changes to bring the Project within budget. This was set out in a report issued by Gleeds to BBB which set out a number of key areas and events that formed the basis of their recommendation to switch the contracting approach. These items included:

- ***Vinci's Budget***. Vinci's tender[448] for contracting works dated August 2017 (referred to as the stage 2 tender in Gleeds' report) was submitted later than anticipated owing to the non-availability of certain subcontractors for tender on certain packages that formed part of the Project, and a complex procurement process. They had yet to reach "*cost certainty"* given that design wasn't finalised and therefore the packages Vinci would procure through subcontractors were not set.
- ***Asbestos***. A significant quantity of asbestos was found in the building which required removal, significantly impacting time and cost.

[446] 71347

[447] We have not found Vinci's original proposal in our database, although reference to it is made in emails. 1996209

[448] The original tender submitted by Vinci was discounted. This was based on a price dictated by the procurement of packages based on the design at the time

- ***Delay in contract amendments.*** Gowlings, BBB and Vinci had not sufficiently agreed amendments to the main contract.
- ***Changes in scope***. There had been an increase in architectural scope items including the replacement of certain items, as opposed to the "*retaining and refurbishment"* approach. Examples of this taking place included on doors and radiators.

8.3 Evolution of the Project structure

A number of significant events occurred during 2017 that affected the Project structure, which are covered elsewhere in this section, including:

- The withdrawal of College Green (detailed in section 8.6.1); and,
- The change in financing for the Project between LBC and BBB (detailed in section 8.5)

8.4 Evolution of the Project budget

8.4.1 Further discussions around the Project scope and budget

We have already detailed in section 7 that discussions were ongoing in 2016 about concerns around the Project scope. We note that there were many discussions ongoing at this time, with many different proposals and options being provided from different professional advisors (architects, quantity surveyors etc), some of which later fell away. Our review of communications in early 2017 indicate that pressure on the budget continued and BBB and LBC failed to agree the necessary scope changes to address this.

Following on from Gleeds amended cost estimate (see section 7.4.2) the cost plans being produced by Gleeds were still considered over budget according to internal communications as of January 2017. In a response to a request from Paula Murray, then Creative Director of LBC, to Gleeds for specifications to be given to prospective operators in January 2017, Reece Costain of Gleeds responded that the design was not yet completed and that "*the current cost plan is not a finalised specification and drawings document… we are currently working on the scope (and have produced an itemized schedule of reductions) as we are currently over-budget*".[449]

In a separate enquiry in January 2017, Mr Lacey raised this budget excess with Amena Matin, then Head of Development at BBB, stating "*We need to get to a fixed £30m ASAP! I thought we were there*

[449] 40515

a month or so ago." Ms Matin responded by stating "*the cost has currently gone up to £34m which is a result of the asbestos and increased level of M&E requirement*".[450]

Ms Matin raised the prospect of Coast to Capital funding in January 2017 being used to bridge the excess, however Mr Lacey responded "*Nope. The whole thing is very unviable so we need all the CTC [Coast to Capital] Money just to get back to zero. Defs can't be more than £30m. We'll need to reduce spec if necessary*".[451] None of this uncertainty was flagged to Members in the BBB Business Plan for 2017/18.

By April 2017, there was still a significant discrepancy between forecasted costs and the budget that had not been fully dealt with. BBB, RMA and Gleeds held a value engineering meeting on 13 April 2017, whereby they sought to bridge the gap in the latest cost plan, which valued the Project at £33.9 million, against the £30 million budget. A number of possible value engineering options were proposed which sought to bring down the budget, including:[452]

- Potential savings of £2.8 million by carrying out the new Cloister and Gallery construction at a later date.
- Potential savings of £2.25 million on the Arnhem Gallery; and
- A partial refurbishment of the façade and roofs, resulting in savings of £750,000.

The April 2017 value engineering meeting minutes recorded that Mr Lacey was reluctant to implement the changes as they all amounted to significant changes in scope. The minutes stated the £4.5 million in Coast to Capital funding was to be allocated to the budget to cover this excess. By May 2017, BBB were successful in their application for £4.5 million in Coast to Capital grant funding.

8.4.2 Increase of the Project budget to £34.5 million following successful application of Coast to Capital funding

Following the successful application of the funding from Coast to Capital (see section 7.5.4), internal communications such as monthly reporting at the Fairfield Board referred to the budget for the Project at £34.5 million from May 2017 onwards. In May 2017 Gleeds requested confirmation[453] from

[450] 40515
[451] 40515
[452] 33093
[453] This was following a value engineering meeting held in May 2017

Mr Firth and Mr Lacey that the budget had been increased to £34.5 million from £30 million, as follows:[454]

- £30 million – Original Budget
- £3 million – Coast to Capital Gallery Budget
- £1.5 million – Coast to Capital Demolition Budget

Whilst not confirmed in email by Mr Lacey, the budget as reported to the Fairfield Board and Growth Board was amended to £34.5 million from May 2017 onwards, in recognition of the Coast to Capital funding.

8.5 Financing of the Project

8.5.1 Allocated capital in LBC's budget

LBC's 2017/2018 budget included a total of £35 million in their capital programme for the Project as follows:

- £5 million – Fairfield Halls – Council (referring to LBC's capital allocation for the year); and,
- £30 million Fairfield Halls – Brick by Brick (referring to amount LBC intended to lend to BBB in relation to the Project).

The capital to be provided by LBC decreased from £9 million allocated in 2016/17 to £5 million[455] in 2017/2018. This represented a significant change in the funding structure of the Project, as, according to the Capital Programme allocation for 2017/2018, BBB was now expected to fund £30 million from profits from the College Green scheme, an increase from £18 million to be funded by BBB in 2016 (see section 7.5.2). The accompanying Cabinet report, presented by Mr Simpson, stated "*investment in Fairfield Halls estimated at £35 million, both through Brick by Brick and by the Council directly*".[456]

It is not clear whether the £5 million related to LBC's contribution related to the additional funding received through Coast to Capital (see section 8.4.2).

[454] 33023

[455] It is not clear whether the £5 million related to LBC's contribution related to the additional funding received through Coast to Capital (see section 8.4.2), however, we have seen no other reference of an increase to the Project budget other than the increase to £34.5 million detailed in section 8.4.2 as a result of the Coast to Capital funding. It should be noted that there were separate line items in the capital programme for the BBB programme through the revolving investment fund (£328 million) and College Green (£14 million), that did not provide further details on whether any of this funding was assigned to the Project. £14 million of income was recorded from Coast to Capital, however it is likely this went towards the College Green line item.

[456] Cabinet report 20 February 2017 *General Fund & HRA Budget 2017/20*

This structure change was inconsistent with the 31 Ten appraisal obtained by the BBB directors in May 2016, which referred to a £12 million contribution from LBC (see section 7.3.1) and therefore represented a change in the assumptions used in that appraisal.

This change allowed LBC to allocate the capital funding originally intended for the Project to other areas, while still delivering the Project by using BBB. As detailed in section 8.8.2, the changes in the financing of the Project were not highlighted in reports to Members, and were referenced only in the actual line item in the capital programme, and the line from Mr Simpson's report quoted above.

8.5.2 Financing of BBB operations

As detailed in section 7.5.3, BBB continued not to have its own bank account in 2017, up to two years after it commenced operations. As a result, LBC paid expenses (such as contractors' costs) on behalf of BBB rather than by way of a project specific loan. According to the RIPI2, there was a discrepancy between LBC and BBB's records in the amount paid in respect of the Project (by LBC on behalf of BBB) during the 2016/2017 financial year, in that LBC recorded an amount £9.5 million whereas BBB recorded an amount of £1.5 million.

We note that the total discrepancy for the Project-related spend was ultimately resolved between LBC and BBB as recorded in the RIPI2, and that some of was explained by differences in allocation by different financial year.[457] As detailed further in section 10.3, a complete reconciliation was done for the purposes of the RIPI2.

8.5.3 LBC made payments to BBB without executed loan agreements

Concern regarding the lack of loan agreements between LBC and BBB was raised by LBC Officers in mid-2017, by which date LBC had advanced £10.5 million to BBB without supporting loan agreements including all financing for the year 2017/18[458] (£9 million). This financing related to broader BBB funding requirements than just the Project and wider College Green Scheme.

In respect of this spend, Mr Simpson took action on the lack of signed loan documentation and emailed Ms Taylor on 14 July 2017 stating *"I need you and the team to be more proactive on this. Given the £9m spend it clearly put [sic] the authority at significant risk*."[459] However we note that, in

[457] A complete reconciliation between the two accounts was conducted for the purposes of the RIPI2. We note further that BBB's directors' response to the RIPI2 stated that, as LBC was providing finance services on behalf of BBB (per the Service Level Agreement per the Record of Delegated Decision), the accuracy of financial reporting was beyond the control of BBB
[458] LBC's financial year end was March. The 2017/2018 year covered the period April 2017 to March 2018
[459] 958729

accordance with the Cabinet Report dated 20 June 2016, delegated authority for LBC funding to BBB had been granted to Mr Simpson (in his role as Assistant Chief Executive, Corporate Resources and Section 151 Officer) in consultation with the Cabinet Member for Finance and Treasury (Cllr Hall (LAB)). As such, we would expect that Mr Simpson would have been aware of the level of approved funding and the existence, or lack thereof, of supporting loan documentation.

Mr Simpson responded[460] to Kroll's written questions that there had been no formal extension on the funding, and therefore he asked Ms Taylor to resolve the issue. He further remarked the overall spend was included within LBC's capital budget, which is correct albeit there had been changes in the funding structure as further explored in section 8.5.1. Mr Simpson stated to Kroll that he understood the agreements to be signed and agreed, and that it was not the role of the Section 151 Officer to check all contracts and documents were physically signed, nor to ensure that the records were kept after having left LBC. Furthermore, he stated that there was no commercial disagreement between LBC and BBB on the interest rate or the 75% debt and 25% equity amounts. However, according to LBC's constitution, the Section 151 Officer was responsible for ensuring that LBC's funds were being safeguarded.

8.6 Contracting and legal risks

Several significant Project-related risks came to light during 2017, as detailed below.

8.6.1 Withdrawal of Croydon College

As already detailed in section 6.3.1.2, the land owned by Croydon College was needed for a significant portion of the College Green scheme as almost 50% of the housing was to be built on land owned by the College. In addition, the heads of terms for the agreement with the college weren't executed at the time of the June 2016 Cabinet decision, yet the financing of the Project relied upon this land being included.[461] Neither of these factors were made clear to Members in the June 2016 Cabinet report.

In April and May 2017, a number of variations to the existing draft head of terms were discussed between LBC, BBB, Croydon College and their legal teams. By mid-2017, the potential of withdrawal of Croydon College from the agreement was reported to the Fairfield Board. This was due to financial

[460] Mr Simpson's response to Kroll dated 28 October 2022

[461] The June 2016 Part B Cabinet report did not include a detailed breakdown on the financial returns expected on the project. The spreadsheet attached to the report stated there was an assumed profit on cost of 15 percent, and construction costs were estimated at £3,000 per square foot. These estimates were based on the development scenario which included Croydon College's involvement in the scheme.

difficulties experienced by the College, and the fact that the bank had a first charge on the land that was needed for the scheme.[462]

This matter was discussed at a Fairfield Board meeting on 24 May 2017, where it was noted that there was an issue with the Croydon College's involvement in the wider regeneration scheme, described as "*a huge risk to BBB*".[463] Subsequent discussions between BBB (led by Mr Lacey) and Croydon College ensued according to the Fairfield Board meeting minutes, without success. The Growth Board met on 17 May 2017, where Mr Lacey gave a verbal update on BBB including the Project. The meeting notes state that the "*New college element going slowly. College Green/Fairfield – (RS) [Mr Simpson] confident that this will be deliverable*". The minutes make no reference to the significant risks associated with Croydon College's withdrawal.[464] Mr Lacey, Mr Simpson and Ms Mustafa attended the Growth Board meeting.

In June 2017 LBC requested that the College sell their land at the Barclay Road Annexe to BBB and made an offer of £2.9 million for the land.[465] The offer was presented to Croydon College in a letter sent by Ms Negrini on 19 June 2017, giving an acceptance deadline of 26 June 2017. Mr Lacey was primarily responsible for drafting the letter, he received input from Mr Simpson, Ms Mustafa and Mr Murphy. Mr Lacey advised in email correspondence that "*Pinsent [Masons] felt that [the offer] should come from Jo as Frances [of Croydon College] has written to her*".[466]

Croydon College responded on the same day, advising that they were not willing to accept LBC's offer but were willing to work towards a solution with LBC. The letter from the College referred to the draft heads of terms, which meant that no contractual agreement had been executed.[467] As detailed further at section 8.6.1, the fact that this agreement was never executed prior to the commencement of the Project left LBC and BBB open to significant risk. The Growth Board met again in June 2017, with Mr Lacey again giving verbal updates on the Project. The minutes record that they were "*looking at alternative schemes involving the College involving purchasing the land on Barclay Road Annex*", and that Mr Lacey, Ms Mustafa and Ms Negrini would be meeting with Croydon College. There was no reference to Croydon College's initial rejection or the continuing risk posed to the financial viability of the Project contained within the minutes. Mr Lacey stated to Kroll that his recollection was that his update at this meeting included commentary about the potential withdrawal of Croydon College, which is evidenced by the fact that the minutes refer to potential alternative schemes being

[462] BBB Board meeting minutes 10 May 2017
[463] 36960
[464] Growth Board Meeting Minutes, 17 May 2017
[465] 36960
[466] 55182, 55369 and 50456
[467] 132742

discussed, and that Officers were aware of the potential withdrawal of Croydon College. Ms Mustafa, Mr Lacey and Mr Simpson attended the Growth Board meeting.[468]

By the end of 2017 Croydon College was no longer considered part of the scheme. The College rejected the offer of purchase for the land and proceeded to negotiate with an unrelated buyer in early 2018. On 20 July 2018, Croydon College disposed of its freehold interest in the Barclay Road Annex, selling the land to Stonegate Homes (Croydon) Limited for £5.2 million. In 2019, BBB submitted a new planning application to change the housing allocation on the remaining parcels of land. The reason provided for this additional planning application given by Mr Lacey to the Scrutiny and Overview Committee's Streets, Environment and Homes Sub-Committee[469] was due to an increase in Project costs and changes in ownership of the land holdings. Kroll has not identified any formal notice by Officers to Cabinet of the withdrawal of the Croydon College land or any other notification of the significant changes in the scheme that had to be made as a result, or any changes in the advice given to Members in the June 2016 Cabinet report.

8.6.2 Potential loss on College Green scheme raised by BBB

In December 2017, Luke Chiverton, BBB's Head of Operations, authored a report titled "*College Green Funding Update*" which indicated that the College Green scheme was projected to make a loss of £10.48 million, if no estimates were revised.[470] This report highlighted a risk of impact to LBC as shareholder (i.e. lower future returns from BBB) rather than as funder (no impact on loan repayments were highlighted). The report was discussed at the BBB Board meeting on 14 December 2017:

"*CL presented the wider appraisal for the scheme showing a c£10mil issue in the appraisal, predominantly due to the extent of investment into FFH and the absence of revenue from a phase 2 (college). The board noted and agreed this position. CL will continue to attempt to maximise revenue and minimise spend through the wider project*."[471]

Although not directly referenced in the report, the main factors that appear to have effected this negative impact on the Project were: (i) the increase in funding required from BBB on the Project as

[468] 3517
[469] Meeting dated 22 January 2019 (see section 9.7.2.4.1)
[470] According to Kroll's discussions with Mr Chiverton, he wrote the report shortly after starting at BBB, and the report was written for the purposes of BBB management and presented the situation on that date. It was never revised or updated. 1306923
[471] 49517

highlighted in LBC's capital programme (see section 8.5.1); and (ii) the withdrawal of Croydon College from the College Green scheme (see section 8.6.1).

Mr Simpson was sent this report on 18 December 2017 by Mr Lacey "*Let's chat though [sic] when you get a chance*".[472] Mr Simpson forwarded this to Ms Mustafa on 27 June 2018.[473] Mr Simpson, Ms Mustafa and Ms Taylor were all recorded as absent for the December 2017 BBB Board Meeting, according to available minutes.[474] Mr Lacey stated to Kroll that BBB minutes and board papers were distributed to all directors, but Kroll's review of these doucments indicates that the appraisal was not included in the packs sent out.[475]

8.6.3 Contracting strategy required final design to be completed before appointment of contractor

In the process of administrating the tender for a main contractor, Gleeds recommended to LBC that a traditional contract be adopted for the contractor, and that a single contract be entered into for the refurbishment of Fairfield Halls that was considered separate from other phases of the larger College Green scheme (such as Fairfield Homes). The traditional form of contract required the design to be completed by BBB's consultants, following which subcontractors would be procured by the main contractor. We understand, based on interviews, that this type of contract generally required the design to be completed ahead of the contract starting works, so that the build phase can be properly costed and quoted for, planned and executed. If design changes are made subsequently, the cost would generally be borne by the client and not the contractor.

According to Mr Lacey, public facing cultural buildings such as Fairfield Halls would require significant design work to be completed as the project proceeded, as it was not possible to conduct comprehensive surveys and pre-design all components. In addition, Mr Lacey stated that the inability to define a fully fixed specification for a scope of works was a failure by LBC, in part a result of LBC's delay in appointing an operator (see 8.6.4). However, as detailed in section 8.2.2, the final design for the Project was not completed before the appointment of Vinci in May 2017.

[472] 1306922
[473] 1773711
[474] 950059
[475] 890368, 890373

8.6.4 Delay in the appointment of BH Live as operator

The lack of final agreed design should be viewed in the context of the delay around appointing the Fairfield Halls' operator, BH Live. As BH Live was to be responsible for operating the venue, it was important to get its input into final design specifications. We note that there were significant delays to finalising their contract, and although this is not specifically mentioned as the reason, this would have affected its relationship with LBC and likely raised the possibility of BH Live exiting the Project. The potential loss of BH Live was discussed at the Fairfield Board meeting and it was indicated that this was a red risk to LBC in November 2017.[476] Mr Murphy, Ms Murray resolved to set up measures to reassure BH Live, including entering into a possible memorandum of understanding with them around the Project's deadline.

8.6.5 Legal comments around the need for 50% external finance requirement not actioned

The objectives for the funding of BBB to be at least 50% external to LBC was again referenced in a legal review conducted by Gowling WLG (LBC's legal advisors) for LBC in May 2017, however, the document did not comment on the lack of external funding, nor include an action point for BBB to obtain external funding.[477]

As detailed in the advice obtained in 2015 (see section 6.6), this was a key characteristic in order for the company to be able to operate outside of the European Union procurement regime, and so that BBB could be awarded contracts for the procurement of works and services without being required to go through a full competitive procurement process. Otherwise, contracts awarded to BBB could be considered state aid and therefore subject to legal challenge. These documents considered that external funding from third parties should be obtained to make up the balance of the loan funding, although no detail on the source or method of acquiring external loan funding was considered. The March 2015 Cabinet report stated that external funding included income received by BBB. Contrary to the 2015 document, external loan funding was never obtained, and we have seen no evidence to provide a reason why this was never done, or seen any analysis or consideration of income received to make up the external funding requirements.

[476] Fairfield Board Meeting, 22 November 2017
[477] 618190

8.7 Governance

8.7.1 BBB governance

We note that minuted approval for undertaking the College Green scheme was only provided by the BBB Board on 3 January 2017.[478] This means that between June 2016 and January 2017, BBB had undertaken enabling works for the Project without final board approval, although board discussions indicate that the BBB Board was aware of these activities, as a BBB Board meeting on 26 June 2016 included reference to discussions of the Project in the context of beginning enabling works.

Day to day management of the Project BBB would be done by a dedicated project team. BBB's project team[479] was responsible for the management of various contractors. For the Project, the BBB project team was also responsible for reporting regularly to LBC's Project designated Fairfield Board (which consisted of LBC Officers from across different areas of LBC, see section 4.3.2). BBB provided regular updates to the Fairfield Board, and our comments on these meetings are included in section 8.7.2.2.

8.7.2 LBC Governance

LBC governance is covered under the following headings:

- Project-related governance issues highlighted by internal audit are detailed in section 8.7.2.1;
- Project related discussions and escalations between the Fairfield Board and the Growth Board are detailed in section 8.7.2.2; and,
- Reports to Members are included in section 8.7.2.3.

8.7.2.1 Project-related governance issues highlighted by internal audit in June 2017 resulting in the establishment of the Fairfield Board

An internal audit report dated June 2017 raised two issues related to LBC's governance of the Project as set out below:

[478] BBB Board meeting minutes, 3 January 2017
[479] For the Project team, this consisted of Mr Firth and Mr Lacey

TABLE 24 Internal audit issues and risks in relation to the Project

Issue	Risk
The Project Initiation Document ("PID") for the Project was in first draft, out of date, and had not been signed[480]	There is a risk that expectations are not managed, resources to complete the project are not identified, and any potential risks or issues are not identified and addressed timeously.
The Programme Board last met on 8 November 2016[481] and no monthly progress reports are prepared.	There is a risk of inadequate challenge and oversight of the project and the successful delivery of its benefits.

Following this internal audit report the first Fairfield Board meeting took place in May 2017.[482] The Fairfield Board replaced the Programme Board as the Project specific governance body within LBC (see section 4.3.2). Although there was no LBC governance body in place between the Programme Board and the set-up of the Fairfield Board, works on the Project were ongoing (see section 8.2)

8.7.2.2 Discussions at Fairfield Board escalated to Growth Board

As introduced in section 4.3.2, the terms of reference of the Fairfield Board required escalation of key issues to the Growth Board (see section 4.3.3). A number of key Project-related topics were discussed at this Board during 2017 as shown in TABLE 25:

TABLE 25 Discussion of key project-related issues at Fairfield Board and escalation to Growth Board, 2017

Topic of discussion at Fairfield Board	Escalation to Growth Board	Relevant Section
The potential withdrawal of the Croydon College land.	Update provided by Mr Simpson at Growth Board meeting on 17 May 2017: *"New college element going slowly College Green/Fairfield – (RS) confident that this will be deliverable".*[483]	8.6.2
The delay in the appointment of BH Live as operator which was rated as a red risk to LBC in November 2017 due to the impact on the finalisation of the design of the Project.	It is not clear whether this issue was raised appropriately to the Growth Board, as the dashboard for the Growth Board discussed at the meeting in January 2018 included Fairfield Halls operator as an	8.6.4

[480] Covered in section 6.7. The PID did not include information on the Project's finances and costs when circulated to the Growth Board

[481] The internal audit report notes that top risks were reported to Growth Board on a monthly basis

[482] This is before the date of the internal audit report. The reason for this is that the action was implemented before the report was finalised

[483] Growth Board Meeting Minutes, 17 May 2017

Topic of discussion at Fairfield Board	Escalation to Growth Board	Relevant Section
	"*Amber*" risk instead of a "*Red*" risk as discussed at the Fairfield Board, with the description "*pressure on budget for final detailed specification for Fairfield Halls*".[484] Ultimately, BH Live remained as the operator of Fairfield Halls.	
Discussions around a potential delay to the Project: On 4 October 2017, emails were exchanged between Ms Murray and Mr Lacey, in relation to a scheduled Fairfield Project Board meeting.[485] The emails included a risk register for the Project[486], which listed the risk of the construction phase of the Project not being completed on time as 60% likely. This meeting was subsequently cancelled and the issue was discussed at the next Fairfield Board meeting in January 2018 (see section 9.7.2).	N/A as only discussed at Fairfield Board in January 2018.	

Discussions around Project overspend continued in 2018, during which the estimated cost to complete the Project was getting progressively larger. Our commentary around escalation of these costs is detailed in section 9.8.1. It is not clear from any of the escalation events detailed in TABLE 25 that the projected overspend was acted upon by formal disclosure to Members.

8.7.2.3 Reports to Members during 2017

8.7.2.3.1 Approval of BBB's annual business plan and LBC's budget

In February 2017, BBB's annual business plan was approved by Cabinet for the first time since its incorporation. The business plan provided overall information on BBB's future projects and included no Project specific detail. The business plan was accompanied by a Cabinet report which listed Ms Mustafa as the lead Officer and Cllr Butler and Cllr Hall (both LAB) as lead Cabinet Members. The Cabinet report included reference to the £30 million investment into the Project, and listed an expected completion date of November 2018 – this is broadly consistent with what was included in the June 2016 Cabinet report. BBB's business plan included a reference to equity funding, but this was not referred to in the Cabinet report.

[484] 133153. Nov – Dec 2017 Growth Board Risk RAG sent in advance of Jan 2018 meeting
[485] 933287
[486] 933295, Dated 28 September 2017

The Cabinet report stated that the total anticipated loan from LBC to BBB for 2017/2018 was expected to be £291.7 million.[487] The Part B papers confirmed this amounted to £74.7 million in equity investment, and the remaining funding sourced (£217.3 million) as senior debt.[488] Following the recommendation by Ms Mustafa's Cabinet report, Cabinet approved the anticipated loan drawdowns included in BBB's annual business plan totaling the same amount.

On the same date, 20 February 2017, LBC's annual budget was presented to Cabinet and included details on LBC's funding of BBB and the Project (as detailed in section 8.5.2). Mr Simpson acted as the Lead Officer for the Cabinet budget report, with Cllr Newman, Cllr Hall and Cllr Butler (all LAB) acting as the lead Cabinet Members. The amounts included:

- £328 million for the revolving investment funding of BBB, denoted by "*BBB – RIF*";
- £30 million referenced as "*Fairfield Halls – BBB*"; and
- £5 million referenced as "*Fairfield Halls – LBC*".

The £30 million figure is the same mentioned in the June 2016 Cabinet report, but no reference is made to the change in funding structure as detailed in section 8.5.

8.7.2.3.2 Update to the Scrutiny and Overview Committee on the progress of the Project

The Project was discussed in a Scrutiny and Overview Committee meeting in October 2017. The report to the Scrutiny and Overview Committee was led by Ms Mustafa, Mr Lacey and Ms Murray (see section 8.8.4). According to Kroll's review, the disclosures in this Scrutiny and Overview Committee meeting did not sufficiently highlight the risk and uncertainty of assumptions around budget and timeline known to BBB and LBC at this time (see section 8.8.4).

8.8 Conclusions

8.8.1 Withdrawal of Croydon College land not disclosed to Cabinet

The RIPI2 outlined that, by May 2017, Croydon College was no longer in a position to sell a portion of their land to LBC, because of its own financial difficulties. This resulted in a significant reduction in the number of residential units planned for the wider College Green development, and was seen as a key risk to BBB as it affected the financial viability of the Project (given it was to be funded from the

[487] This was broadly set out in the June 2016 Part B Cabinet report
[488] 710857. 25 percent equity, 75 percent debt.

profits of the residential units). The contract with Croydon College was never finalised beyond "heads of terms", allowing them to withdraw without breach of contract, in itself a major governance failure (which was highlighted by GT in RIPI2). At this point, according to its records, LBC had spent approximately £9.5 million on the scheme[489] (as detailed in section 8.5.2).

The following Officers were aware that the draft agreement had not been signed and/or that Croydon College was withdrawing their land from the scheme (section 8.6.2):

- Mr Murphy (LBC Council Solicitor and deputy monitoring officer) was copied into correspondence between April 2017 and May 2017 where various versions and revisions to the Heads of Terms are being discussed;[490]
- Mr Lacey (BBB's Managing Director) was aware that Croydon College was withdrawing, as the Fairfield Board minutes in May 2017 refer to correspondence between him and Croydon College;[491]
- Ms Taylor (Deputy Section 151 Officer) and Ms Mustafa (Executive Director of Place and chair of the Fairfield Board and Growth Board) were aware of the intention by Croydon College to withdraw because it was reported at the Fairfield Board meeting in May 2017 which they both attended;[492]
- Mr Simpson (Section 151 Officer) attended the Growth Board meeting in May 2017,[493] where the issue was discussed. The minutes noted that he was confident the issue would be resolved. Mr Simpson also had sight of a draft of the letter sent by Ms Negrini mentioned below;[494]
- Ms Negrini (Chief Executive Officer) wrote to Croydon College on 19 June 2017 with an offer for BBB to buy the land, which was rejected; and,
- Croydon College sold their land to a third party in July 2018.

[489] Although BBB's records indicated a significantly lower amount of £1.5 million. The discrepancy is discussed in more detail in section 8.5.2.
[490] Mr Murphy was copied into correspondence with Pinsent in April 2017 following a revised Heads of Terms action plan discussion in April 2017 (34060). A further meeting was held on 4 May 2017 between Croydon College, BBB and their respective legal counsels to discuss the agreement. Mr Murphy is copied into an updated version of the agreement (6711). Mr Murphy is also copied on correspondence in May 2017 whereby the legal teams are informed by Small Solutions, a professional advisor to the College, that they require a further Board Meeting to discuss changes to the Heads of Terms (34128).
[491] Fairfield Board minutes May 2017
[492] Ibid. Ms Taylor stated to Kroll that she was not responsible for reporting this issue, as Mr Simpson, who was her senior officer at LBC, was aware of the situation, and stated to the Growth Board in May 2017 that he was confident it would be resolved.
[493] Growth Board meeting notes May 2017
[494] 55182

Although the Officers above were aware of the withdrawal of Croydon College and the significant risk it presented to the Project (as detailed in section 8.6.1.), no disclosure about this fact was made at the October 2017 Scrutiny and Overview Committee meeting (see section 8.7.2.3.2).

At this meeting, no reference to the significant financial risk of the withdrawal of Croydon College leading to the need for a new planning application was detailed by Mr Lacey. The fact that the agreement was never signed presented a significant risk to the College Green scheme, and both BBB and LBC. Furthermore, the fact that risks around the withdrawal of the land were never reported was a significant lack of transparency by Mr Lacey (and Ms Mustafa, who signed the respective Scrutiny and Overview Committee report). Mr Lacey stated to Kroll that he reported the issue to the Fairfield Board (as detailed above), and was not responsible for updating the Scrutiny and Overview Committee with this risk as it did not have an impact on the delivery of the Project (which was the subject of the Scrutiny and Overview Committee meeting), and it was not his role as BBB Managing Director to do so. These issues were not flagged in the BBB Business plan and the need for a changed financial model for the Project was not highlighted either.[495]

The only formal disclosure of the issue to Members[496] identified by Kroll was at the Streets, Environment and Homes Scrutiny Sub-Committee meeting in January 2019, approximately six months after Croydon College sold their land to a third party, and more than a year after the possibility became known by Officers, where Mr Lacey referred to a new planning application being submitted for the Fairfield Homes site, detailed in section 9.7.2.4.1.[497]

8.8.2 Change in Project's funding structure not highlighted in BBB business plan or LBC budget

As detailed in section 8.3, the Project's funding structure had changed significantly from the previous disclosure to Cabinet in October 2015 (see section 6.3.1.1) where it was reported that £12 million was going to be funded by LBC and the remainder of the costs would be funded by the wider scheme. The decrease in capital funding provided by LBC, included by Mr Simpson in LBC's 2017/2018 budget, resulted in an increase in the extent to which BBB's profits from College Green would be required to subsidise the Project, placing significant pressure on profits. We have not seen any formal notification of this significant change to the risks to the Project

495 This is disputed by Mr Lacey, who stated to Kroll that once the withdrawal of Croydon College was fully confirmed, the following BBB Business Plan reflected updated assumptions on Fairfield Halls. We understand this to refer to the 2019/2020 business plan, our comments regarding this business plan are detailed in section 9.7.2.4

496 According to Mr Simpson lead Members were aware that the College had decided not to sell its land to LBC.

497 Minutes of the Streets, Environment and Homes Scrutiny Sub-Committee dated 22 January 2019.

(which was a major project for LBC at the time) to Scrutiny and Overview, Cabinet or Council, apart from the actual line item in LBC's budget, and the line item in Mr Simpson's accompanying report quoted in section 8.5.1. This was not highlighted in Mr Simpson's Section 25 statement accompanying LBC's annual budget, where the Section 151 Officer is required to advise Council on the robustness of budget estimates.

The change in funding structure was also not highlighted in BBB's annual business plan or its accompanying Cabinet report (signed off by Ms Mustafa as lead Officer) which was presented to Cabinet on the same day as the 2017/2018 budget. In addition, we note that both reports contain very little Project-specific information (which was also highlighted by RIPI2).

As detailed in section 8.4.2, the Project's budget had also increased from £30 million, and we did not note any discussion in the Cabinet meeting minutes about the change in this figure. This was a lack of transparency about a key part of the Project, and its impact on BBB, and represented a significant governance failure. As detailed in LBC's constitution, Officers are obliged to provide appropriate and necessary information to Members.[498]

8.8.3 No external loan was ever obtained by BBB

In addition to our observation about BBB's independence not being safeguarded (see section 7.8.1), the fact that LBC provided 100% loan funding to BBB (contrary to the advice received in 2015 (see sections 6.6.1 and 8.6.5)) exposed LBC to significant risk from BBB. This meant that LBC effectively assumed the sole risk of any failed developments in the case that BBB would not be able to repay its loans. The non-payment of loans was considered as a key risk in the 29 September 2014 Cabinet report, discussed in section 5.1.4.

As detailed in section 7.7.1, Ms Negrini was responsible for the proper implementation of BBB's operational and governance structures. She was supported in this by Mr Simpson (Section 151 Officer). Mr Simpson, responded in written questions that the funding was always 100 percent council funded from inception, and that there was an intention to move away from that funding structure over time. This explanation does is not consistent with the documents we have reviewed in the course of this Review as summarised above, and we have not found any disclosure to Scrutiny and Overview or Cabinet where the move away from the funding structure detailed in the Delegated Decision report[499] was explained or submitted for approval. However, Mr Simpson stated to Kroll that

[498] Part 5B: Protocols on Staff – Councillor relations par 1.10: Expectations [extract] "*Regular, up to date information on matters that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities and positions that they hold*"
[499] Delegated Decision report February 2016 stated that BBB would be funded by LBC loans on a project specific basis.

it was the intention for LBC to fund BBB and any external funding would have required a guarantee by LBC, so LBC would also have assumed the risks if BBB had been externally funded. Mr Simpson also stated to Kroll that, according to him, there was no rule that LBC couldn't wholly fund BBB, and according to him, it was not unusual as the majority of council-owned companies were funded in this way.

As detailed in section 8.7.2.3.1, Ms Mustafa was the lead Officer responsible for presenting BBB's annual business plans and an accompanying Cabinet report[500] before Cabinet. This Cabinet report made no reference to the financial risks undertaken by LBC in not adhering to the legal advice received. The finance risks section in this Cabinet report were not signed off, which is not in line with LBC's constitution.[501]

8.8.4 Lack of clarity around Project budget and timeline in report to the Scrutiny and Overview Committee in October 2017

Although not as significant as the items listed above, the update to the Scrutiny and Overview Committee in October 2017 was not fully transparent in the way that budget and timeline were disclosed:

8.8.4.1 Project expected to be completed on time and on budget

There is no reference in the Scrutiny and Overview Committee report to budget or timeline of works, beyond the comment that "*The construction process is subject to ongoing Asbestos review*". The minutes for the meeting comment on budget and timeline more specifically, with Mr Lacey stating that the work being carried out by Vinci was on track to be completed by November 2018 and that LBC was within the original budget that they had agreed with Vinci.[502.] Upon further questioning by Cllr Fitzsimons (LAB) of the achievability of staying within budget, a recording of the meeting shows Mr Lacey reiterating more than once his confidence in Vinci completing the asbestos removal and MEP[503] strip-out work on time and within budget and stating that the budget should allow for any unexpected costs and challenges.[504] However, he later stated that timing is "*an ongoing discussion with the contractor*" and that Vinci will be able to provide "*more certainty*" about completion

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[500] February 2017 Cabinet report *BBB Annual Business Plan 2017-2018*

[501] Part 4H Financial Management paragraph 17.13: Devolution of Financial Management – Executive Directors "*Executive Directors are responsible for ensuring that Cabinet and Committee Members are advised of the financial implications of all proposals and that financial implications have been agreed by the Chief Financial Officer*"

[502] https://www.youtube.com/watch?v=yM3l3Gwx9Q4, 15:42.

[503] Mechanical, electrical and plumbing services

[504] https://www.youtube.com/watch?v=yM3l3Gwx9Q4, 19:16, 22:47, 24:48

timescales as more work is done to, for example, discover and remove asbestos and assess the state of the concrete.[505] No greater detail was provided evidencing Mr Lacey's confidence in the timeline or budget, except for his assertion that, at the time of the meeting, they are "*around a fifth of the way through the budget*".[506]

8.8.4.2 Requests for additional detail made before the meeting

We note that correspondence from Cllr Godfrey (LAB) ahead of this meeting specifically requested additional details around the Project costs. Our review of internal emails indicated that Cllr Godfrey highlighted that the report he received was *"brief"* and that the Scrutiny and Overview Committee would likely *"want to see more detailed delivery schedules at this time, alongside some cost details and finer detail of spec"*, to which Ms Murray (LBC Director of Culture) responded that the meeting is *"More about meeting operator* […] *than on build schedules"*, despite having previously mentioned that the brief from the Chair of the Scrutiny and Overview Committee was to *"focus on an update on the capital side"*.[507] We have not identified any evidence to suggest that the additional detail requested by Cllr Godfrey was provided. Mr Lacey stated that he did not recall being asked for additional detail ahead of the meeting, and that he was not asked for additional detail during the meeting.

8.8.4.3 Disclosures did not fully present the risks known at the time

The report set out in section 8.8.4.2 did not highlight the known risks of the Project going over time and budget. BBB employees had already expressed concern around the Project budget (see section 8.4.1) and an internally circulated Fairfield Board risk register indicated a risk that the Project is not completed on time. Approximately one month prior to this Scrutiny and Overview Committee meeting, on 4 October 2017, emails had been exchanged between various individuals, including Ms Murray, Mr Lacey, Ms Mustafa and Ms Taylor, in relation to a scheduled Fairfield Project Board meeting.[508] The emails had included a risk register for the Project[509], which listed the risk of the construction phase of the Project not being completed on time as 60% likely. We note that this was not fully discussed by the Fairfield Board until January 2018 or escalated to the Growth Board until April 2018 (see section 9.7.2.1.1), but the risk registers were circulated in October 2017.

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505 https://www.youtube.com/watch?v=yM3l3Gwx9Q4, 19:38, 20:10.
506 We have not been able to verify from BBB's internal records whether this was the case.
507 124780.
508 933287
509 Dated 28 September 2017

9 Project related events in 2018-2019

A number of key events in relation to the Project occurred during 2018-2019,[510] which are highlighted below:

- Expected costs to completion for the Project went above the budget for the first time in January 2018, and continually increased throughout 2018 and 2019;
- In February 2019 increasing costs resulted in BBB reporting a profit of £0 on the College Green scheme (but without highlighting this adequately in their business plan);
- In February 2019, the Client Monitoring Board, chaired by Ms Simmonds, was set up, with the first meeting being held in April 2019;
- In September 2019, Fairfield Halls reopened; and
- In September 2019, the first meeting of the BBB Shareholder and Investment Board was held, chaired by Cllr Butler (LAB).

9.1 Evolution of BBB

In 2018, BBB underwent a process to employ staff on a more formal basis (as opposed to using LBC employees under the a Service Level Agreement agreed in 2016).[511] This process was initiated by an undated delegated decision[512] circulated at a BBB Board meeting held on 26 July 2018.[513] This decision approved the transfer of employees from LBC to BBB and was approved by Ms Mustafa and Cllr Butler (LAB) and also recommended an increase in the salaries of the transferred employees (comparable to roles at public/private sector developers) which was is in line with a desire by BBB to retain its own qualified staff.

As part of this decision, from July 2018, LBC sought to formalise Mr Lacey's appointment by way of a one-year secondment at the end of which he would be fully transferred to BBB.[514] This decision included a suggestion to increase Mr Lacey's salary as Managing Director from £127,000 to between £205,000 and £350,000.[515] The comparator source was vaguely recorded as "*Public/ Private sector developers (available positions)*". However, review of electronic documentation, has shown that Mr

[510] Project-related events during 2018 and 2019 have been combined in this section, as some key findings and governance failures span both years
[511] According to BBB's 2019 financial statements, the company employed 25 staff, and transferred 9 staff from LBC under a Transfer of Undertaking
[512] 1826830
[513] According to Mr Lacey, he recused himself for this decision
[514] 7494
[515] This suggestion was made by way of a Record of Delegated Decision prepared by Ms Mustafa in consultation with Cllr Butler

Lacey's actual salary increase was significantly lower than the amount suggested, for the following reasons:

- BBB's Board were circulated a new draft pay and remuneration policy issued on 11 May 2018, which set out the role of Managing Director[516] and included a salary band of between £150,000 and £180,000, dependent on their grade within the role.[517]
- A draft contact of employment between Mr Lacey and BBB was provided to Mr Lacey, which states that his initial annual salary would be £150,000.[518]
- This document stated that Lacey would also be admitted to the Local Government Pension Scheme as part of his BBB employment, as the company was maintaining 'admitted' body status[519] (thereby maintaining his Defined Benefit pension);
- At their meeting on 26 July 2018, the BBB Board noted the staffing changes and Mr Lacey's proposed secondment from LBC employment into BBB. Mr Lacey abstained from the vote due to potential conflicts of interest.[520]
- The above-mentioned contract of employment was signed by Mr Lacey and his period of employment commenced on 1 October 2018.[521]
- Total directors' remuneration (which would have included Mr Lacey's remuneration, as he was a director of BBB) disclosed by BBB was £147,756 for the 15 months ending March 2019, and £210,329 for the 12 months ending March 2020. This remuneration figure included salary, pension contributions and remuneration paid to non-executive directors. Although the exact proportion of the directors' remuneration paid to Mr Lacey is unclear, Mr Evans (BBB non-executive director) was in his role during the financial year ending March 2020, and therefore the total directors' remuneration would have included his fees. It is likely that Mr Lacey's salary increased slightly, but the total paid to Mr Lacey was below the £210,000 to £350,000 suggested above.
- A May 2019 pay policy also detailed proposed directors' fees for the Independent Chair of the Board of £20,000 (fees for other independent directors were proposed at £16,000), although Mr Lacey stated to Kroll that he never received the proposed directors' fees at any point. [522]

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516 The role is described in this document as Chief Executive, we have referred to it as Managing Director to be consistent with other sections of the report
517 1826828, 1826829
518 1826828, 1826829
519 2004469
520 BBB Board meeting minutes, 26 July 2018
521 2004469
522 BBB Pay Remuneration Policy Appendix 1. We have not conducted a detailed review of payments made by BBB to verify this statement.

Kroll has not identified evidence to suggest that he obtained any personal gain from the Project outside of his remuneration in role and as a director of BBB. Although we did not identify any evidence to show that his appointment to the role followed a rigorous recruitment process, the salary eventually rewarded to Mr Lacey was below the one benchmarked and approved by Ms Mustafa against market rates. In May 2019, Ms Mustafa circulated the proposed BBB Board meeting papers with Ms Taylor, Ms Harris-Baker, Ms Negrini and Ms Simmonds, raising concerns over BBB remuneration policy (approximately six months after Mr Lacey signed his contract for BBB), see section 9.7.2.1.2.[523]

9.2 Contractors, advisors and consultants

Significant developments around the appointment of contractors, advisors and consultants during this period mainly related to the Vinci contract, as detailed below:

9.2.1 PCSA renewed until March 2018

As detailed in section 8.2.2.1, the PCSA was continually extended until the end of March 2018, with a final cost of £5.3 million compared to the amount of £0.5 million originally budgeted and as a result of almost monthly extensions to the contract.

9.2.2 Early Works Contract

As detailed in section 8.2.2.2, by November 2017 Gleeds had recommended that Vinci and BBB enter into an Early Works contract to replace the PCSA. Following the completion of the PCSA in March 2018, the Early Works contract was entered into between Vinci and BBB to allow works to progress prior to the completion of the main contract. The Early Works contract had a value of £16.7 million according to a memorandum update from Mr Lacey to the BBB Board in June 2018 and included items such as demolition and mechanical and electrical soft strip, groundworks, decoration and drainage.[524] According to interviews, the Early Works Contract was entered into as Vinci, BBB and Gleeds had yet to fully finalise a schedule of works and scope. According to Kroll's interview with a construction expert engaged by BBB to conduct a post contract review, this was a major risk area for the Project.[525]

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[523] 684010
[524] 981067
[525] Interview with BBB subcontractor who conducted the post contract review

9.2.3 Deed of Variation / Final Contract

By October 2018, BBB and Vinci had entered into a Deed of Variation on the Early Works Contract, whereby the remaining work items had been agreed to the amount of £42.6 million. This contract superseded the Early Works Contract and the PCSA and the total contract amount included all work conducted by Vinci under the two previous contracts. The Deed of Variation and resulting contract only covered a proportion of the change instructions agreed by Vinci, BBB and Gleeds, (46 out of 144 comprising change instructions 01 to 46 and PCSA 01 to 20), therefore it was likely that the total cost of the Project would increase above the £42.6 million, to incorporate the cost for the additional 78 change orders. A total of 144 change instructions to the scope had been agreed at this point between Vinci, BBB and Gleeds during the Project thus far, each including numerous line items for amendments and changes to the scope.[526] A summary breakdown of the £42.6 million is included below.

TABLE 26 Summary of agreed Deed of Variation Contract, October 2018

Detail	Amount (GBP)
Main works packages	31,114,942.22
Provisional sums	1,818,777
CDP contingency	50,000
Take off contingency on measured works	325,210
PCSA instructions	199,471
On site delays (piling and groundworks)	119,647
Change orders (1-46)[527]	1,167,184
Increased scaffold hire periods	139,655
Allowance for design changes to 6 September 2018	1,298,198
Sub-total	***36,233,084***
Preliminaries	3,955,460
Scaffolding	582,495
Sub-total	***40,771,039***
Overheads and profit (3.5%)	1,426,986
Insurance (1%)	421,980

[526] A post-contract review was conducted on the variation orders, see section 10.2.1

[527] Note the contract stated 1-45, however the same amount is referred to when as change orders 1-46

Detail	Amount (GBP)
Total	42,620,005

9.2.4 Appointment of BH Live as operator for the Fairfield Halls venue

In January 2018, LBC was in the final stages of engaging BH Live as operator of the venue.[528] As detailed in section 8.6.4, the delay in the appointment of BH Live was a risk to the Project, because the input required from the operator was key in finalising the design of the Project.

9.3 Evolution of the Project Budget

During 2018, it became clear that the expected cost to completion for the Project was in excess of the £34.5 million budgeted (initial £30 million plus the £4.5 million from Coast to Capital). During 2019, the expected cost to completion continued to increase.

9.3.1 Increasing costs in 2018 and 2019

As detailed in section 4.3.2, a Project dashboard (including projected outturn cost) was prepared and provided at Fairfield Board meetings. By the end of 2017, it became clear that there were cost and timeline issues related to the Project. BBB and Gleeds had regular update meetings with Vinci in the period leading up to the finalisation of the Early Works Contract. A high-level summary of these meetings is appended in section 20. Based on Kroll's review of notes from these meetings, it is clear that BBB was aware of significant cost pressures from Vinci's appointment date in May 2017 through to December 2017, but was unable to provide any certainty to LBC on the projected Project cost (as detailed in section 8.4, where cost communications around budget uncertainty during 2017 are discussed).

In January 2018, the Fairfield Board requested a detailed cost estimate to be provided by BBB and Gleeds was requested to provide this calculation by BBB. Their analysis showed that, from January 2018 onwards, the expected cost to completion for the Project was above that budgeted and agreed by members in June 2016 at £30 million.

In January 2018, the expected cost to completion calculated by Gleeds was £38.9 million, and by the end of 2018, after the Vinci contract had been signed, this had increased to £50.4 million. In

[528] The engagement with BH Live is mentioned here for context and the impact that the delay had on the final design for the Project. The engagement itself was not a focus of our review

September 2019, the same month that the Project was completed, the cost to completion was calculated at £55.6 million.

Kroll's review of Gleeds' financial reports and how this information was communicated by BBB to LBC is summarised below:

- Gleeds prepared a financial report (including a cost estimate as at December 2017) and provided this to BBB on 5 February 2018. At the same time, other monthly reports prepared by Gleeds highlight Project-related issues; and,
- Only the best-case cost estimate from Gleeds' financial report (which relied on the assumption that all cost savings were accepted) was shared with the Fairfield Board.[529] This figure was £38.95 million. The total anticipated Project cost, prior to estimated savings was £42.94 million.

Mr Lacey, Ms Mustafa and Ms Taylor received papers for the Fairfield Board meeting in February 2018 highlighting this increased cost, albeit the meeting was cancelled. The same individuals attended the Fairfield Board meeting in April 2018, where the costs presented had increased to £39.9 million. The same figure was presented at a Growth Board meeting a week later, which was also attended by Mr Simpson and Ms Mustafa. Mr Lacey, Ms Mustafa, Mr Simpson and Ms Taylor all received papers for the Growth Board meeting. The minutes record that there were issues around the cost plan, and that BBB were looking at additional funding sources to "*close the gap"* on the refurbishment. Mr Chiverton presented the BBB dashboard at this meeting on behalf of BBB in Mr Lacey's absence.[530]

A significant contributing factor to the increasing Project costs was the fact that the Vinci contract had increased to £42.6 million (significantly higher than the budget) by October 2018. In the run up to finalising Vinci's contract, BBB and Gleeds were making use of Value Engineering Adjustment (VEA)[531] opportunities to attempt to keep the Project within budget, by exploring reductions in material cost or other ways in which to bring the cost to budget.

In September 2018, Mr Lacey wrote to Ms Negrini summarizing cost reports produced since December 2016. Mr Lacey's email stated that not all value engineering adjustment proposals, which were put forward to reduce Vinci's contract sum and keep the Project in budget, had been accepted

[529] The fact that the estimate was a best-case scenario was not reported to the Fairfield Board, based on our review of the papers circulated.
[530] Growth Board meeting minutes, 18 April 2018
[531] Value Engineering, being the process or identifying cost efficiencies through material substitutions or scope changes to decrease the price of a project

by the "*Board*".[532] Mr Lacey stated, "*throughout this time we have been exploring VE opportunities to bring the cost back to budget and presenting them to the Board for comment. Many of these were rejected as too extreme (e.g., losing the cloister, not fitting out the Arnhem etc.) but some were accepted and have since been achieved*".[533]

9.3.2 Cost increases discussed by BBB and LBC in September to November 2018

Between September 2018 and November 2018, Mr Lacey and Mr Simpson exchanged a series of formal letters (sent via email) to discuss the overruns on the Project. A letter sent by Mr Lacey[534] to Mr Simpson outlined the total expected costs and revenues of the Project and the College Green scheme (this was in response to a letter from Mr Simpson to Mr Lacey in September 2018, requesting details on the overspend).[535] Mr Lacey stated that the anticipated Project costs was £49.2 million (net of Coast to Capital funding), which BBB would need to fund entirely out of their profits from the remaining part of the College Green scheme, (as per the amended Project structure detailed in section 8.5.1). The amount required by BBB to fund the Project overspend meant that BBB would need to recognise the entire future profit it expected from the College Green scheme on 7 November 2018 (£16.2 million from the sale of homes and £2 million income from the energy centre) against the overspend. These actions were agreed by Mr Simpson.[536]

Mr Simpson stated to Kroll that the agreement with BBB resulted in LBC receiving £6 million in equity out of the scheme later than planned, and this had a minimal impact on LBC's Medium Term Financial Strategy,[537] and as detailed in section 9.7.2.1.1, this plan was discussed at the Growth Board. He further stated that in his view this was a reasonable set of actions for LBC to agree to and that they had a minimal impact on the Medium Term Financial Strategy. This action was noted by the external auditor in RIPI2 as a clear example of the failure of BBB and LBC to treat each other as separate legal entities. This represented a significant turning point in the College Green scheme, as it was by this point no longer expected to be profitable and therefore likely to impact on BBB's profitability overall and therefore impact the ability of the company to pay dividends and interest on its loans to LBC.

As detailed in section 9.7.2 the only way that this was disclosed to Members was through an expected profit of £0 for College Green in BBB's annual business plan in February 2019. The Section 151 Officer

[532] According to our understanding of the Project governance structures, this refers to the Fairfield Board
[533] 339390
[534] Dated 25 October 2018
[535] 1546354, 1308497, 1582913
[536] Dated 7 November 2018
[537] Mr Simpson stated that this was because the MTFS written by him and approved by Cabinet in 2018 was prepared on the principle that profits of BBB were included in earmarked reserves rather than in the base budget.

(Ms Taylor at that time) did not draw any of this significant change to the funding and risk profile of a £30million project either in the body of the report or in the Section 25 statement.

9.4 Evolution of the Project structure

No significant developments in the Project structure occurred during 2018 and 2019 that are not referenced elsewhere in this section.

9.5 Financing of the Project

9.5.1 Allocated capital in LBC's budget

No Project specific funding was included in LBC's Capital Programme for 2018/2019 and 2019/2020, as LBC had stopped recognising Project funding separately from BBB's other funding in its Capital Programme. Funding approved by LBC's Council for BBB as a whole for the two years was as follows:

- 2018/19: £214.84 million; and
- 2019/20: £50 million.[538]

9.5.2 Financing of BBB's operations

From mid-2018, BBB maintained its own bank account, and was therefore able to receive loan payments from LBC. This resulted in a change in the way BBB's operations were financed, as follows:

- A facility agreement for Phase 1 of College Green was drawn up towards the end of 2017; and
- a new loan drawdown process for drawdowns under the facility agreement was agreed.

Our conclusions on project-related financial monitoring are included in section 9.8.

9.5.2.1 The College Green Phase 1 Facility Agreement

Review of a number of unsigned draft agreements indicate that LBC funded BBB by way of a facility agreement in respect of Phase 1 of the College Green scheme (including the Project). A version circulated in September 2017[539] granted a maximum facility amount of £95,436,691.50 (representing the estimated total development cost, with a note for this sum to be confirmed by BBB) repayable by

[538] This amount decreased in 2019/2020 and increased again in 2020/2021 to £183.21 million. The reason for this is not disclosed in the budget, but, as we have highlighted elsewhere, LBC was under significant pressure in 2019/2020, and as a result may have decreased its loan payments
[539] 922942, 922943

31 March 2022. The agreement stated the loan was for demolition works, the redevelopment of Fairfield Halls, the creation of "*a new high quality public real space*", and the development of a 218-unit residential site. The £30 million Project budget was not set out in the facility agreement, and the total of the facility was not split into the different components of Phase 1, which contributed to a lack in transparency.

This facility agreement was never executed and signed. According to Kroll's review, the reason for this appears to be due to a failure by Mr Lacey to provide additional details to LBC such as the total development cost and a valuation of the site.[540] Mr Lacey stated to Kroll that he was unable to provide this information as he had not received final design information from LBC. An LBC Officer sent email reminders requesting the additional information in January and April 2018,[541] however no response has been identified. We have not seen any evidence of the non-signed facility agreement being escalated through either the Fairfield Board or Growth Board.

9.5.2.2 The loan drawdown process

In June 2018, shortly after BBB obtained their own bank account, LBC's Head of Corporate Finance[542] suggested to formalise the process of loan drawdown requests sent by BBB to LBC. LBC's Head of Corporate Finance proposed that BBB would send LBC an executed 'Request Letter', countersigned by a quantity surveyor, attaching a certificate which would contain details of expected expenditure incurred by BBB in relation to the project in question. In addition, 75 percent of the expenditure was to be funded by a loan (i.e. debt), with 25 percent funded by equity. This approach was agreed with Mr Chiverton at BBB.[543]

However, by the time of the first drawdown requests submitted by BBB, at the end of June 2018[544] no Request Letters were submitted. Instead, an excel schedule was shared between BBB and LBC, which included: (i) the facility name; (ii) requested loan drawdown; and (iii) requested equity drawdowns. There were no further details on what the drawdowns were to be used for, save for high-level details in the body of the request email on occasion, and no sign-off from a quantity surveyor. The email from Mr Chiverton stated: *"I propose to send all of the drawdown requests going*

[540] 940875, 940876
[541] 617556. Email dated 22 January 2018 sent from Anna Chiverton (Regeneration Solicitor) to Mr Lacey, Mr Chiverton, Stephen Wingrave, Ms Taylor, Mr Geary and Mr Murphy. Email dated 6 April 2018 sent from Anna Cameron to Mr Lacey, Mr Chiverton, Mr Wingrave with Mr Murphy copied.
[542] Ian Geary
[543] 1984669. Please see section 7.5.1 around the setup of BBB and that funding would be provided in an equity/debt mix, albeit the precise ratio was not defined
[544] 1979000

forwards in this format." The payment was approved by LBC despite it not following the previously agreed process.

According to Kroll's review, payments to BBB were in fact made by the Corporate Finance team within LBC (after being approved by Mr Simpson or Ms Taylor, the Section 151 Officers) following drawdown requests from BBB as follows:

- Mr Chiverton (BBB Finance) sent an email request to LBC's Head of Corporate Finance with an attached excel spreadsheet outlining the amounts required per scheme/project;
- This was subsequently forwarded on to the relevant Section 151 Officer (Mr Simpson or Ms Taylor) who would approve via email; and
- LBC Corporate Finance would then make the payment.

The following Project-related loan payments were approved by the respective Section 151 Officers:

- Mr Simpson approved a total of £9.6 million in 2018;
- Mr Simpson approved £7.7 million in January 2019; and
- Ms Taylor approved a total of £40.5 million from February 2019 to December 2019.

Mr Simpson ceased to be Section 151 Officer in January 2019 and Ms Taylor replaced him as Section 151 Officer from February 2019. A schedule of all Project-related loan payments made to LBC is appended in section 26. We note that the schedule of payments for the Project was backloaded and therefore, Ms Taylor approved a larger amount of payments.

9.6 Contracting and legal risks

As detailed in section 8.6 poor contract management and a lack of finalised design contributed to overruns on the Vinci contract in 2017. As detailed in section 9.2.1 to 9.2.3 above, this continued into 2018. According to Kroll's review of regular project update meetings (appended in section 20) Vinci advised that the lack of engagement on the Main Contract was having a "detrimental effect" on their tender offer. This lack of engagement was also referred to by Mott MacDonald in their discussions with Kroll, relating to the delays around getting approval on the core scope of works as detailed in section 6.4. Mott MacDonald told us that their day-to-day interactions were with Mr McDermott who was the project manager, however in their view he didn't appear to have much decision-making authority. Their interaction with Mr Lacey was minimal.

As detailed in section 9.2 the fact that Vinci's final contract did not include all 144 change orders meant that the final contract cost was highly likely to rise above the £42.6 million agreed in October 2018.

9.7 Governance

9.7.1 BBB governance

9.7.1.1 Mr Lacey appointed as an independent director of BBB

Mr Lacey was appointed as an independent director of BBB on 31 December 2018,[545] even though he was at the time the company's Managing Director and an ex-employee of LBC. The Record of Delegated Decision referred to independent directors of BBB as those not appointed by LBC, so Mr Lacey's transfer to being an employee of BBB was in line with this. However, this definition of independent director is not in line with best practice – according to the UK Corporate Governance Code, an employee of a company is not considered to be independent.

His appointment was proposed by Mr Lacey himself in an email dated 28 March 2018 to Ms Mustafa (later forwarded to Mr Simpson) which also states that legal advice had been sought from "*Jackie in Legal*" (understood to refer to Ms Harris-Baker (then Director of Law and Monitoring Officer)).[546] The appointment was made as part of the transfer of staff considered in the second (undated) Record of Delegated Decision detailed in section 9.1 and discussed at BBB's Board in July 2018. The decision was approved by Ms Mustafa and Cllr Butler (LAB), indicating that LBC agreed that, following Mr Lacey's transfer from LBC's employment, he could assume a position as an independent director. As detailed in section 9.1, BBB's pay policy recommended remuneration of £20,000 for directors' fees for this role. Mr Lacey stated to Kroll that he never received any directors' fees for his role on the Board.[547]

We note that while he was an employee of LBC, Mr Lacey included his involvement in BBB in his annual declaration of interest forms submitted to LBC.

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545 Mr Lacey took Mr Titchen's place on the Board.
546 780347
547 We have not conducted a detailed review of payments made by BBB to verify this statement.

9.7.1.2 Ms Mustafa appointed to the BBB Board resulting in a conflict of interest

Ms Mustafa's appointment to the BBB Board in January 2019[548] was raised in Mazar's internal audit report as being a conflict of interest, as she also held the positions of Executive Director of Place (we note that she was also the Chair of the Fairfield Board and Chair of the Growth Board for some of this time).[549] As Executive Director of Place, she would have had significant oversight and decision-making authority regarding LBC's governance and control of BBB, which would have conflicted with her Companies' Act responsibility to act in the best interest of BBB. We note that in BBB Board minutes, Ms Mustafa only disclosed her position as Executive Director of Place at the meeting held on 8 April 2019, more than two months after she was appointed to the role.[550] Ms Mustafa did include her appointment to BBB's Board in a declaration of interests form submitted to LBC. This form was signed by Ms Negrini as her line manager, and included a comment from Ms Negrini as Ms Mustafa's line manager "*Legal advice was sought and acted on in deciding that Shifa was an appropriate officer to represent the Council on BBB Board*".[551] Mr Lacey stated to Kroll that he had raised this concern, but the legal advice sought by LBC (mentioned above) confirmed there was no conflict of interest.

We note that this conflict was not managed by LBC, and furthermore that the potential for a conflict to arise (particularly for LBC nominated board members) was highlighted as a key point of discussion in correspondence around the Record of Delegated Decision by LBC Legal. It is not clear from our review how this conflict was managed during her appointment to BBB's board until her resignation for this reason in September 2020[552], two months prior to the publication of PwC's November 2020 Strategic Report.

9.7.1.3 Updated pay policy presented to BBB's Board

An updated pay policy[553] was presented to the BBB Board at the May 2019 meeting. According to the minutes of this meeting, the pay policy had already been agreed by LBC by way of a delegated decision (it is Kroll's understanding that the previous approval referred to the delegated decision report which was approved by Ms Mustafa and circulated to the BBB Board ahead of the July 2018

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548 Ms Mustafa replaced Ms Taylor. Ms Taylor resigned on 29 January 2019, and was appointed as LBC's Section 151 Officer shortly afterwards.
549 Mazars Internal Audit Report on Fairfields and BBB, November 2020
550 618108
551 Shifa Mustafa_Declaration of interest form
552 Ms Mustafa's resignation was two months before the November 2020 publication of the PwC report
553 BBB Pay Remuneration Board 230519 and BBB Pay Remuneration Policy Appendix 1.

meeting referred to in section 9.7.1.1) and was being presented to the Board as part of its annual review of the policy. The pay policy recommended the following:

- BBB employees be given a 3.1% salary increase (benchmarked against inflation);
- Maximum bonuses of 20% were detailed in the policy, but Mr Lacey stated at the meeting that no bonuses would be paid (because targets had not been met); and,
- Salary band per level were documented, but Mr Lacey stated at the board meeting that no employee will progress to a higher band.

This pay policy appears reasonable, although we do note that Ms Mustafa (at the time the LBC appointed director of BBB) raised a query around it, although she did not provide any specific detail around her objection. Her escalation of this matter is detailed in section 9.7.2.1.2.

9.7.1.4 Lack of documented Board challenge

According to Kroll's review of BBB Board minutes, the level of challenges recorded in the BBB Board meeting minutes varied (for example, the October 2016 and November 2016 minutes record detailed discussions about the 31Ten financial appraisal prepared for the Board (see section 7.3.3.2), but does not appear to be substantial until the appointment of Martyn Evans as a non-executive director on 29 January 2019.

For example, no questions from directors were recorded in the minutes when Mr Lacey proposed BBB's procurement strategy at the Board meeting held in August 2016[554], nor when a 'detailed' plan of the College Green development was presented to the Board at the May or June 2017 Board meeting[555] (where the possibility of Croydon College withdrawing from the College Green scheme was raised) nor when Mr Lacey reported an expected 15- 20% overspend in relation to the Project in the March 2018 Board meeting.[556] Mr Lacey stated to Kroll that according to his recollection. this was not an accurate representation of the Board discussion of these items.

Although the BBB Board considered the financial appraisal and raised concerns about the Project before approving it in January 2017 (as detailed in section 7.3.3), much of this discussion took place in emails and was not documented in the minutes. According to Kroll's review of BBB Board minutes, the first time the Project itself was properly challenged was at the 8 April 2019 Board meeting[557], where Mr Evans, one of BBB's independent directors, challenged Mr Lacey's explanation that the

[554] 44837
[555] 60026, 116239. We note that McGivern suggested that the Board identified who governed Croydon College
[556] 618116
[557] 618108

Project was funded through "*the surrounding residential developments*", enquired what would happen in a "*worst-case scenario*" and advised that he "*would not have taken this on*".

9.7.2 LBC Members and Officers

9.7.2.1 Escalation of increasing Project costs

Our review has found that senior Officers and certain Cabinet Members were aware of the Project projected overspend from early to mid-2018. The projected overspend, which by the end of 2018 had reached £50.4 million, a number of Officers and certain Cabinet Members had either attended meetings or received papers from the Fairfield Board and Growth Board which would indicate the likelihood of a significant overspend. This included:

- Officers: Mr Lacey, Ms Mustafa, Mr Simpson, Ms Taylor and Ms Simmonds
- Members: Cllr Hall, Cllr Butler, Cllr Scott and Cllr King[558] (All LAB)

This was not formally reported to Members at a Cabinet, Scrutiny and Overview Committee or Council level until a February 2020 Scrutiny and Overview Committee meeting, which was two years after the first projected overspend was first internally reported.

9.7.2.1.1 Escalation during 2018

Initial reporting of the Project overspend discussed in section 9.3 was done through BBB's regular reports to the Fairfield Board, where the results of Gleeds' regular financial reports on the Project (see section 23) were discussed. The Fairfield Board was then responsible for escalation to the Growth Board, and the Project overspend was regularly included in the Growth Board meeting packs and discussed at the Growth Board meetings a number of times (although the Growth Board minutes stated that monitoring of the overspend would be done by the Fairfield Board). A list of all meetings of the Fairfield Board and Growth Board meetings, Officers and Members that attended the meetings, and Officers and Members that received the meeting packs is appended in section 27. TABLE 27 below shows the earliest known date that individuals were notified of the Project's projected overspend.

[558] As part of their job share as Cabinet Member for Transport, Environment and Regeneration. Cllr Patsy Cummings (LAB) also attended some of the Project-related Growth Board meetings, she was not part of Cabinet, and we have not identified any other reference to her in relation to the Project.

TABLE 27 **Knowledge of overspend by Officers and Members**

Name	Role	Date	Detail	Reference
Mr Lacey	Managing Director of BBB	February 2018	Received Fairfield Board pack with Project outturn cost shown at £38.95 million.	941278
Ms Mustafa	Executive Director of Place	February 2018	Received Fairfield Board pack with Project outturn cost shown at £38.95 million.	941278
Ms Taylor	Director of Finance, Investment & Risk and Deputy Section 151 Officer	February 2018	Received Fairfield Board pack with Project outturn cost shown at £38.95 million.	941278
Mr Simpson	Executive Director of Resources, Section 151 Officer	April 2018	Received Growth Board pack with Project outturn cost shown at £39.9 million.	904539, 9184521
Cllr Butler (LAB)	Cabinet Member (Homes)	April 2018	Cllr Butler received an email from Denise Dixon at LBC, which included the Project dashboard included at the Feb 2018 Fairfield Board meeting.	132864
Cllr Hall (LAB) Cllr Scott (LAB)	Cabinet Member (Finance) Cabinet Member (Environment, Transport and Regeneration)	July 2018	Received Growth Board pack with Project outturn cost shown at £42.8 million	988618 [559]
Ms Simmonds	Director of District Centres and Regeneration	August 2018	Received Growth Board pack with Project outturn cost shown at £50.4 million (See section 9.8.7)	153199
Cllr Stuart King (LAB)[560]	Cabinet Member (Environment, Transport and Regeneration) LAB Councillor	October 2018	Attended Growth Board meeting where update was provided by Mr Simpson and Project outturn cost shown £49.8 million in accompanying papers.	257016

[559] Also sent to Cllr Butler

[560] Cllr Patsy (LAB) Cummings also attended this meeting. She was not part of Cabinet at this time, and we have not identified any other Project-related reference to Cllr Patsy Cummings in the course of this review.

Name	Role	Date	Detail	Reference
Ms Negrini	Chief Executive Officer	September 2018[561]	Mr Lacey sent an email to Ms Negrini, with the Fairfield Board packs attached. The cover of the email reads: "*we [BBB] have always been clear with the council team that this scheme would cost more than budgeted*".	339390

A number of actions / failures to act by the individuals above contributed to a delay in escalation within LBC:

- The Fairfield Board (chaired by Ms Mustafa) requested an estimate of costs to completion following uncertainties around Project delays discussed at a Fairfield Board meeting on 8 January 2018[562] where a *"Delay around precise construction scope of works and timetable"*[563] was raised, which resulted from a delay in appointing the operator. The Project cost report was prepared by Gleeds;
- After receiving the papers, which included the requested estimate of costs to completion, Ms Mustafa cancelled the February 2018 Fairfield Board meeting and discussion of the overspend was delayed until the next meeting in April 2018. BBB's annual business plan was presented to Cabinet on 26 February 2018, just over two weeks after the February Fairfield Board meeting was scheduled and then cancelled. Ms Mustafa's assistant noted in the email cancellation that "*Shifa has looked over the programme report and doesn't feel that much has changed since the last meeting AND given that a couple of pressing things have come up which must be given priority today she has decided to cancel*". This is despite it being the first occasion a precise overspend and red risk ratings were assigned and raised to the Fairfield Board. Mr Lacey also didn't plan to attend this meeting, delegating to Mr Firth (the BBB project manager).
- Ms Mustafa cancelled the August 2018 Growth Board meeting after another significant increase in expected Project cost was reported in the papers (from £42.8 million to £46.8 million).
- Ms Mustafa discussed the Project in a one to one meeting with Ms Negrini in June 2018 where the notes specify "*Fairfield Halls – slippage & overspends – SM wants to appoint independent*

[561] It is likely that Ms Negrini knew before this date, as she had one to one meetings with Ms Mustafa in June 2018 where the Project was discussed, but the notes do not specifically mention that the amount of the overspend was discussed. 638212.
[562] Delay first reported in Fairfield Board papers circulated on 4 October 2017. The meeting scheduled for the next day was cancelled without an explanation.
[563] Fairfield Board meeting minutes, 8 January 2018

project manager/client- losing trust in programme Action: SM to speak to Richard for advice" [564] We have not identified evidence to indicate whether the meeting with Mr Simpson ever took place, or the outcome thereof. The meeting notes also do not state whether the amount of the projected overspend was discussed.

In September 2018, Mr Lacey shared a complete set of Fairfield Board updates with Ms Negrini, outside of the escalation path from Fairfield Board to Growth Board. Mr Lacey's covering email noted "*RE our discussion earlier re FFH, just to confirm we have always been clear with the council team that this scheme would cost more than budgeted*".[565] The document was also shared with Mr Simpson.[566]

In October 2018, Mr Simpson provided an update to the Growth Board, following his correspondence with Mr Lacey and the agreement reached between them in terms of the projected overspend of the Project (detailed in section 9.3.2). As detailed in TABLE 52, this meeting was attended by Ms Mustafa, and Cllrs Cummings, Hall, King and Scott (all LAB).[567]

Ms Simmonds (who was responsible for overall BBB governance as LBC client for BBB, see section 9.8.7) was or ought to have been aware of the significant overspends on the Project at the time – she received papers for Growth Board meetings in August, October and November 2018, which included details of the projected outturn cost, and attended the November 2018. No escalation was made to ELT or Members about this. The overspend was also not acknowledged or scrutinised in the BBB Business Plan brought to Members in January 2019.

Mr Lacey stated to Kroll that following his appointment to BBB, he was advised by LBC to segregate himself from involvement in internal LBC processes in relation to BBB in order to avoid a potential conflict of interest between his Companies Act duties to act in the best interests of BBB and his duties to LBC. As such, he stated that he never provided any recommendations to Cabinet and he was not responsible for directly appraising Cabinet.[568] Mr Lacey did present reports to Scrutiny and Overview and the Streets, Environment and Homes Scrutiny Subcommittee (see section 22) which we have

[564] 638212.
[565] 339390
[566] 339390
[567] Cllr Cummings was not on the Cabinet and we did not identify any other Project related reference to her in the course of our review. Cllr King stated in interview to Kroll that he did not recall a discussion about the Project overspend having taken place, although he also stated that he only attended a few Growth Board meetings and didn't stay for the whole meeting because of work commitments. The Project was not within Cllr King's portfolio and we have not noted any other Project-related reference to Cllr King during the course of our review. Cllr Scott also stated to Kroll that he did not recall being aware of the ongoing extent of costs being reported every month. He also stated to Kroll that his focus for attending the meetings and reading the papers was on items related to his portfolio, and left once these were covered. He noted that the Growth Board was primarily an Officer board, which Members attended from time to time. He also stated that the Board papers often arrived at short notice.
[568] A list of Cabinet reports including lead Officers are detailed in section 29

commented on in this section, and he stated that these updates were provided by him as Managing Director of BBB in the context of updates to BBB's shareholder (LBC). However, we note that he was an LBC Officer until his formal secondment to BBB in October 2018, so until that date, he was still technically an employee of LBC as confirmed to Kroll by LBC HR.

We have not identified any other Project-related reference to Cllr Patsy Cummings in the course of our review. On 3rd February 2023 Cllr King was interviewed by Kroll. During the interview he stated that he had no recollection of a discussion specifically related to overspend on the Project taking place during these Growth Board meetings. He stated that he attended no more than two or three Growth Board meetings. Because of his work commitments at the time (he worked full time in the central London and his office hours were 09:00 to 17:00), he had to be in the office, and he would often leave daytime meetings prior to their conclusion. Cllr King's portfolio related to Environment and Transport, and the Project was not within Cllr King's portfolio. We have not identified any other Project-related reference to Cllr King during the course of this review. Cllr Scott stated to Kroll that he only attended a few meetings of the Growth Board during his time as Cabinet Member, and only stayed for parts of the meeting (where agenda items relevant to his portfolio were discussed). Cllr Scott confirmed to Kroll that he did not recall the projected overspend being discussed at the Growth Board meetings attended by him.[569] Cllr Hall and Cllr Newman provided a written statement to Kroll of their view of the communication received by them around projected overspend, a summary of which is included in section 9.7.2.5.

9.7.2.1.2 Escalation during 2019

Reporting of the overspend by BBB to the Fairfield Board, with escalation to the Growth Board continued until March 2019, although after that date, the Project cost was no longer regularly reported. Ms Harris-Baker received Growth Board papers for the January 2019 meeting, which indicated the projected overspend at £50.5 million.

It was only reported twice post March 2019 (in June 2019 and September 2019) to the Fairfield Board but was not reported to the Growth Board on these occasions as it had ceased meeting after March 2019. A complete list references to the Project cost in Fairfield Board and Growth Board meeting packs is included in section 27.

[569] Cllr Scott also noted that the Growth Board was primarily an Officer board, which Members attended from time to time. He also stated that the Board papers often arrived at short notice.

In addition to the escalation of projected overspend, we have identified one instance of an escalation that did not directly relate to the Project: An email chain were Ms Mustafa raised two concerns around BBB to ELT ahead of BBB's May 2019 board meeting (shortly after her appointment as BBB director (see section 9.7.1.2)):[570]

- The fact that BBB was requesting equity funding from LBC; and,
- The fact that BBB was tabling an updated pay policy.

In her escalation email, Ms Mustafa states "*please see attached BxB papers for board meeting today. There is a proposal at item 9 to change the way the company draws down finance from the council. Not sure what Councils position is? Also see pay proposals again not sure what our position is.*"[571] Ms Mustafa's email did not detail the nature of her concerns. In follow up emails, Officers state that these issues would be taken up by the BBB Shareholder Investment Group, and these were discussed at that meeting, although no resolution was minuted.[572] Furthermore, from review of the May 2019 BBB Board meeting minutes, we note that BBB directors questioned whether Ms Mustafa understood her role on the Board "*ME states that the primary responsibility of the board is to the shareholder but the individual director responsibilities are to the company*".[573]

Kroll's comments around the equity funding are detailed in section 9.8.8. Kroll's comments around the pay policy are detailed in section 9.7.1.3

9.7.2.2 Suggested governance improvements

During 2018 and 2019, a number of suggestions for improvements to LBC's governance and monitoring of BBB as a whole were made. According to RIPI2, not all of these changes actually resulted in improvements, which we have detailed below. Furthermore, as detailed in section 9.8.7, there was a delay in implementing these improvements.

In September 2018, Hazel Simmonds (then Director of District Centres and Regeneration)[574] was appointed by Ms Negrini to oversee the BBB clienting arrangements from LBC's side.[575] She confirmed her appointment to this role in an email dated 18 September 2018, where she stated: "*I confirm I*

[570] 684010
[571] 684010
[572] 14.10.19 Notes BBB Shareholders meeting
[573] 1712618
[574] Ms Simmonds joined LBC in July 2018
[575] It's unclear what triggered Ms Negrini to appoint Ms Simmonds to this role. The appointment took place at a meeting between Ms Simmonds, Ms Negrini and Ms Mustafa

that I am happy to take on housing management[576] as we briefly discussed"[577] This role was to comprise a holistic overview of all monitoring and governance activities of BBB. Ms Simmonds appears to have taken on this responsibility from at least October 2018 onwards, where she disclosed in internal email correspondence that she was responsible for "clienting" BBB on a copy of her CV.[578]

In November 2018, Mr Simpson sent an email to Ms Negrini outlining the result of a governance review conducted by him in the same month around LBC's governance processes around its relationship with BBB. We have not identified any communication to set out the reason for Mr Simpson conducting this review, although Mr Simpson was in correspondence with Mr Lacey at this time around the probability of an overspend on the Project, as covered in section 9.3.2. Mr Simpson's email included a memorandum around BBB's governance structures, copying in Ms Harris-Baker and Mr Murphy.[579] The report made a number of recommendations to be implemented, including:

- The creation of a shareholder review meeting, which would receive updates on the delivery of BBB's annual business plan and provide an opportunity for proposals on other areas of BBB's operations that would require shareholder approval (this became the BBB Shareholder and Investment Board detailed in section 4.4);
- The creation of a clear client lead for LBC, to act in instances where BBB were delivering services to the Council. This would be managed through the same process as other capital projects (as detailed above, this role was given to Ms Simmonds who was given responsibility to set up the BBB Monitoring Group, see section 4.3.4)
- That due to the above recommendation, Growth Board no longer had a role in the oversight of the whole BBB programme as it was instead focused on projects delivered directly for LBC.

By 12 November 2018, Ms Harris-Baker had forwarded the memorandum onto Ms Simmonds, who then proceeded to start drafting the terms of reference for the new BBB Monitoring Board.[580] The BBB Monitoring Board had its first meeting planned for February but that was subsequently cancelled. The first meeting was held in April 2019.

GT concluded in the RIPI2, that a number of the establishment of the BBB Monitoring Group did not actually result in improvements to LBC's governance of BBB:

[576] Understood to refer to LBC client role in relation to BBB and Croydon Affordable Homes
[577] 311512
[578] 299329. LBC's view is that Ms Simmonds was responsible for the clienting of BBB from joining LBC in July 2018
[579] 1591347, 1591348
[580] 253373

- In September 2019, the chair role was taken over by Ms Taylor, Section 151 Officer, who was also responsible for approving all payments to BBB on a monthly basis. Although this was the month the Project was completed, and therefore the change had little effect on the Project, GT highlighted the fact that appointing the Section 151 Officer to the chair of the BBB Monitoring Group was a weakness in the escalation path;
- GT commented that Cllr Butler (LAB) was included on the distribution list for BBB Monitoring Board meetings and attended them, as did Mr Lacey, then a BBB employee. In their view, it was not best practice to have a Member on the Officer-led group, although it was acknowledged it was not a legal or regulatory requirement.

Ms Taylor provided a substantive response to her role in the BBB Monitoring Group in writing to Kroll. She advised that she was asked to take the role over from Ms Simmonds and had great difficulty in getting senior LBC staff to attend the meeting, including the Executive Director of Place (Ms Mustafa) and the Executive Director of Resources (Jacqueline Harris-Baker). She acknowledged the meetings were not always effective given a lack of engagement from senior Officers.

9.7.2.3 Reports to Members in 2018

9.7.2.3.1 Scrutiny Sub-Committee review of BBB's annual business plan

In 2018, BBB's annual business plan was presented to the Streets, Environments and Homes Scrutiny Sub-Committee ("the Scrutiny Sub-Committee") before it went to Cabinet for approval. A full list of the times BBB's annual business plan (accompanied by an Officer report) was reviewed by the Scrutiny Sub-Committee is appended in section 22. In 2018, the annual business plan was presented to the Scrutiny Sub-Committee on 23 January 2018, and the lead Officer for the report was Mr Lacey (at the time BBB's Managing Director and before his official secondment to BBB), and Cllr Butler (LAB) was the lead Cabinet Member.

9.7.2.3.2 Cabinet approval of BBB's annual business plan and LBC's budget

In February 2018, BBB's annual business plan was approved by Cabinet following its review by the Scrutiny Sub-Committee. The business plan was accompanied by a Cabinet report which listed Ms Mustafa as the lead Officer and Cllr Butler and Cllr Hall (both LAB) as lead Cabinet Members. This approval took place at the same meeting as LBC's annual budget was approved by Cabinet and sent onto Full Council for final decision. The business plan provided overall information on BBB's future projects, and contained figures for BBB as a whole with little project-specific detail. No reference was made in the 2018/2019 business plan or budget regarding the significant Project-related events, such as the loss of Croydon College, that occurred during 2017 (detailed in section 8). The report received comments from Ms Taylor and Mr Murphy in respect of the Business Plans finance and legal considerations.[581] The Cabinet report included reference to the Project as follows:

No reference was made to the Project cost exceeding £30 million. The report stated: "*The company is currently projecting to achieve a profit of c£21m on its existing development activity, in addition to the £30m investment into the refurbishment of Fairfield Halls*."[582] As detailed in section 8.4.2, the Project budget was increased to £34.5 million in internal correspondence following the successful application of the Coast to Capital funding. Furthermore, as detailed in section 9.7.2.1.1 on 8 February 2018, about two weeks before the report was presented, Ms Mustafa was sent a document pack in advance of a Fairfield Board meeting which included the Project cost at £38.9 million. However, Ms Mustafa cancelled the scheduled meeting and the Project overspend was only discussed at the next meeting of the Fairfield Board in April 2018.

The Cabinet report stated that the total anticipated funding requirement of BBB for 2018/2019[583] was expected to be £164.8 million for the next year, with £123.6 million of this being loan funding and £41.2 million being equity funding, although no project-level detail of this lending was presented. Although the amounts were split between loan funding and equity funding in the report, in LBC's Capital Programme, the total amount paid to BBB was funded by its lending from the Revolving Investment Fund. Despite the fundamentally changed risk profile and knowledge of overspending, the report did not draw any of these issues out for Members' consideration. Following the recommendation by Ms Mustafa's Cabinet report, Cabinet approved the anticipated loan drawdowns included in BBB's annual business plan as shown in TABLE 28:

TABLE 28 Funding recommendations by LBC Officers as per BBB annual business plan 2018/19

Date	Lead Officer	Cabinet Member(s)	Total anticipated loan per recommendation in Cabinet Report[584]
26 February 2018	Ms Mustafa	Cllr Butler, Cllr Hall	£164.8 million

[581] Ms Taylor approved financial and risk assessment considerations included in the report. Ms Taylor was also a director of BBB at the time. Mr Murphy provided legal comments on behalf of Ms Harris-Baker
[582] Cabinet report titled "*Brick by Brick Business Plan 2018/2019*", 26 February 2018
[583] No reference to debt / equity ratio was made in the 2017/2018 Cabinet report although it was referred to in the 2017/2018 business plan
[584] This does not represent the actual funding paid by LBC to BBB

On the same date, 26 February 2018, LBC's annual budget was presented to Cabinet and included the following, as shown in TABLE 29, in relation to LBC's funding of BBB and the Project:

TABLE 29 Funding amounts included in LBC's annual budget 2018/19

Date	Lead Officer	Cabinet Member(s)	BBB programme including Fairfield Halls	Borrowing – Revolving Investment Fund
26 February 2018	Mr Simpson	Cllr Newman, Cllr Hall and Cllr Butler	£164,839[585]	£194 million[586]

9.7.2.4 Reports to Members in 2019

9.7.2.4.1 Scrutiny Sub-Committee review of BBB's annual business plan

In 2019, the BBB's annual business plan was presented to the Scrutiny Sub-Committee on 22 January 2019, and the lead Officer for the report was Ms Mustafa, and Cllr Butler (LAB) was the lead Cabinet Member. The change in lead Officer from 2018 from Mr Lacey to Ms Mustafa was likely as a result of Mr Lacey's formal transfer to BBB (see section 9.1), as he was no longer an LBC Officer and could therefore not lead Officer reports. However, he still attended the meeting and spoke to the report. Mr Lacey stated to Kroll that he was required to draft and present the business plan to LBC (BBB's shareholder).

Mr Lacey stated in his comments on GT's RIPI2, that the issues with the College Green scheme profit were made clear[587] in this business plan. However, according to Kroll's review of the business plan the profit of the College Green scheme was presented as £0 in the report without explanation of the impact to BBB or to LBC:

Firstly, the fact that the College Green scheme differed from BBB's other schemes was mentioned as follows without a reference to the impact thereof (i.e. the fact that the Project was a net cost meant that any overspend would have a direct impact on BBB's profits): "*The College Green scheme operates slightly differently [from BBB's other projects]. The Fairfield Homes element is a standard residential*

585 For the 2018/2019 year only. £30 million and £20 million were included for the 2019/2020 and 2020/2021 years respectively.
586 For the 2018/2019 year only. A further £37 million and £20 million for the 2019/2020 and 2020/2021 years respectively was also included.
587 Mr Lacey stated that this referred to the fact that commentary around the College Green scheme was included in the business plan.

scheme and therefore has a financial viability … The Fairfield Halls and Public Realm elements are purely expenditure (with no profit element) and are therefore based on a set of detailed cost plans".[588]

Secondly, the College Green scheme profit was disclosed as £0 as shown in Figure 2 below. The accompanying explanation (quoted above) did not make clear to Members that the £0 profit on College Green was as a result of the expected profits being used to cover the Project overspend (as detailed in section 9.3.2) No additional explanation or comment in the business plan or accompanying Scrutiny Sub-Committee report that highlighted or explained the change in College Green profit from the previous year (where no Project-specific details were provided) or the impact of the change on BBB's profits or risks to LBC.

Figure 2 College Green profit disclosed as £0

6.18 A summary of projected sales income is shown below.

Type of Sale	Existing Programme (£m)	College Green (£m)	Pipeline Programme (£m)	Total Development Revenue (£m)
Private	218.43	140.52	133.21	**492.16**
Shared Ownership	93.89	22.62	52.28	**168.79**
Affordable Rent	45.50	0.00	44.26	**89.76**
Commercial	3.47	12.03	0.00	**15.50**
Other	3.05	2.34	1.64	**7.03**
TOTAL	**364.34**	**177.51**	**231.39**	**773.24**
ESTIMATED PROFIT	**39.78**	**-**	**24.83**	**64.61**

9.7.2.4.2 Cabinet approval of BBB's annual business plan and LBC's budget

In February 2019, BBB's annual business plan was approved by Cabinet following its review by the Scrutiny Sub-Committee. The business plan was accompanied by a Cabinet report which listed Ms Mustafa as the lead Officer and Cllr Butler (LAB) and Cllr Hall (LAB) as lead Cabinet Members. As detailed above, the business plan included a reference to the expected £0 profit on the College Green scheme. The Cabinet report did include the following relevant detail:

- The Cabinet report did refer to BBB's overall expected profits and interest payments (to LBC) expected to be made by BBB, but without any explanation of the impact that expected profits

[588] BBB Business Plan 2019/2020

on College Green of £0 would have on BBB: "*The company is currently projecting to achieve a profit of c£65m on its existing development activity… interest charged on loans made to BBB to fund the BBB residential programme is projected to generate c£15m for the Council*".[589]

- The Cabinet report made reference to the funding split between debt and equity. Total funding for BBB was estimated at £78 million for the next year, with £58.5 million of this being loan funding and £19.5 million being equity funding. The report stated that this funding would be allocated from LBC's current year capital allocation of £30 million for BBB, and the remainder would be funded from slippage from the 2018/2019 budget of £100 million.
- The Cabinet report also stated that BBB would become self-financing after 2021/2022, which represented an extension from the previous year's report which stated that BBB would become self- financing after 2018/2019. Although this statement had a significant impact on LBC (as it would need to wait an additional 3 years than previously disclosed to receive any interest or loan payment), the impact was not highlighted and no explanation was provided.

However, the change in expected profits from the College Green scheme (see section 9.7.2.4.1) and the significant Project related overspend (see section 9.3.1) were not highlighted in the Cabinet report.

Following the recommendation set out in Ms Mustafa's Cabinet report, Cabinet approved the business plan and anticipated loan drawdowns included in BBB's annual business plan as shown in TABLE 30:

TABLE 30 Funding recommendations by LBC Officers as per BBB business plan 2019/2020

Date	Lead Officer	Cabinet Member(s)	Total anticipated loan per recommendation in Cabinet report[590]
25 February 2019	Ms Mustafa[591]	Cllr Butler, Cllr Hall	£78 million

On the same date, 25 February 2019, LBC's annual budget was presented to Cabinet and included the following, as shown in TABLE 31, in relation to LBC's funding of BBB and the Project:

[589] Cabinet report titled "*Brick by Brick Business Plan 2019/2020*", 25 February 2019
[590] This does not represent the actual funding paid by LBC to BBB
[591] Finance approval was provided by Ms Taylor

TABLE 31 **Funding amounts included in LBC's annual budget**

Date	Lead Officer	Cabinet Member(s)	BBB programme including Fairfield Halls	Borrowing – Revolving Investment Fund[592]
25 February 2019	Ms Taylor	Cllr Newman, Cllr Hall and Cllr Butler	£30 million[593]	£37.273 million[594]

9.7.2.4.3 BBB dividend used to fund budget shortfall

We note that in its annual 3 year budget for the previous two years (2017/2018 and 2018/2019), LBC had forecast a dividend income from BBB of £3.37 million to be received in 2019/2020. We understand that this was not included in the formal base budget for these years, but did form part of the assumptions for future years provided to Cabinet for approval. The dividend was decreased to £2.2 million in the 2019/2020 budget. This dividend was mentioned as an income to fund some of LBC's more than £5 million revenue overspend for that year, in the statutory statement required by Section 25 of the Local Government Act prepared by the Section 151 Officer (Ms Taylor) to provide assurance over the robustness of reserves. The level of uncertainty around this dividend was not highlighted to members.

It is unclear whether the dividend expected by LBC was to be paid from BBB's 2018/2019 year or BBB's 2019/2020 year. We note that the budget was presented to Cabinet and Council in February of 2019, a month before the March 2019 year end of BBB, when it made revenues of £13,750 in total, significantly lower than the estimated dividend. Ms Taylor, as a director of BBB until January 2019 would have had some knowledge of the low levels of revenue earned by BBB to date, and that a profit distribution of £2 million out of 2019 earnings was not possible.

Based on the forecasts included in BBB's annual business plan for 2019/2020, it expected to make a profit of £10.32 million, sufficient to make a distribution of £2.2 million from 2020 earnings.[595] However, BBB had not yet made a profit, and as shown in TABLE 32, the company made a loss of £0.8 million that year.

592 Includes BBB and Croydon Affordable Homes
593 For the 2019/2020 year only. £20 million was included for the 2020/2021 year
594 For the 2019/2020 year only. A further £20 million was included for 2020/2021 year
595 BBB annual business plan 2019/2020

TABLE 32 **Annual BBB revenue and profits (GBP)**

	2016	2017[596]	2019[597]	2020	2021
Revenue	-	-	13,750	23,031,968	92,788,823
Profit/(loss)	(1,088,108)	(267,052)	(774,952)	(803,451)	(25,955,226)

According to minutes from a Council Tax and budget Scrutiny and Overview Committee meeting on 4 March 2019 (unrelated to the Project), Members questioned the inclusion of the dividend in LBC's budget, however LBC Officers who responded that the dividend was based on a prudent estimate of BBB's profits: "*In a response to a question from the Committee about the assumed dividend of £2.2 million from BBB, it was highlighted that LBC had not yet received a dividend since the company was set up. As there were now 20 separate schemes in the process of completion, the dividend had been based on a prudent assumption of profit available in 2019/2020*."[598]

We note that Ms Taylor, who signed off the Section 25 statement, was a director of BBB between January 2016 and January 2019, and it is reasonable to assume that she would have had access to some level of detail around BBB's management accounts.[599] However, we note that the February 2019 budget was approved only a short time after Ms Taylor took over from Mr Simpson on 1 February 2019 as Section 151 Officer (he was in post until 30 January 2019). Although we have been informed by LBC that Mr Simpson was involved in the budget process for 2019/2020,[600] Mr Simpson stated to Kroll that he withdrew from the budget process after his resignation in October 2018.

Mr Simpson also stated to Kroll that the budgets prepared by him did not include profits from BBB in the base budget. This is correct, but, as detailed above, an expected future dividend from BBB was included in the assumptions for future years in the 2017/2018 and 2018/2019 budgets prepared by him. We note also that until as late as July 2018 (while Mr Simpson was the Section 151 Officer) LBC's auditors stated that "*on the basis that you delivered a balanced budget in 2017/2018 and can*

596 12 months ending December 2017

597 15 months ending March 2019

598 Included in the report to Council dated 4 March 2019 – *Council tax and budget report* led by Ms Taylor as Section 151 Officer. Quote refers to a question from the Council Tax and Budget Scrutiny section of the report.

599 According to the minutes of these meetings, management accounts were discussed at the BBB Board meetings in July 2018 (618106), although the update referenced the fact that BBB's data was in the process of being transferred from LBC's accounting system. BBB's accounting information had been housed on LBC's accounting system between incorporation and June 2018.

600 We have not conducted a detailed review into the process of the 2019/2020 budget, but LBC have provided Kroll with emails showing that Mr Simpson was included in correspondence around the 2019/2020 budget (and provided comments on it).

reasonably be expected to do so in 2018/2019" they "*concluded that the risk we identified in respect of your budget position has been sufficiently mitigated and that you have proper arrangements*"[601].

9.7.2.5 Ad hoc reports to Members

Kroll has identified correspondence that suggests that certain Members received detailed briefings about the Project from LBC Officers and that some of these updates occurred during 2018. These include Cllrs Butler, Godfrey, Newman and Lewis (all LAB). We have identified several outlook meetings with the subject related to the Project, as well as email updates or emails requesting in person updates or briefings. Given the fact that the Project was important within LBC's broader regeneration strategy, it was feasible that Members were keen to receive progress updates. From agendas attached to some email correspondence, it is clear that these meetings related to the Project, although it is not possible to say for certain exactly what was discussed due to a lack of detailed minutes. We are not able to conclude whether or not the overspend and overrun was discussed in depth but, based on the number of meetings related to the Project, we can say that it appears unlikely that they were not informed at least to some extent. However, we note that Members were not formally responsible for project-managing the Project. An extract of the most relevant meetings identified by Kroll is appended in section 28.

Mr Simpson also confirmed to Kroll in responses to written questions that he updated Cllr Hall (LAB) in conversations, after his correspondence with Mr Lacey about the overspend on the Project detailed in section 9.3.2.

Cllr Hall and Cllr Newman stated in a written response to Kroll that they had acted on the advice of Officers at all times, and were advised that the financial risk regarding the Fairfield Halls refurbishment lay with BBB and not LBC. Furthermore, they stated that in regard to the BBB 2019/2020 business plan, Officers advised that any overruns would be managed by BBB (by an expansion of the College Green scheme and/or using forecast profits on other housing projects). They stated further that they had been advised by Officers that Members should have no directorial input into the decisions made by BBB and were informed that BBB was stating clearly that they were in detailed negotiations with contractors with a view to reducing the likely final cost from any headline figure. They stated that all of this was outside of the purview of Members.

[601] Page 30 of the Public Pack – Agenda Item 8: General Purposes and Audit Committee 18 July 2018.

Kroll requested to interview the remaining Members named above, but our invitations were not accepted or responded to, and we were therefore unable to confirm the content of the discussions of these meetings.

9.7.2.6 Risk management process

According to Kroll's discussions with Malcolm Davies, LBC's Head of Fraud, Risk and Insurance, the risk management framework and policy at LBC has not changed significantly over the last several years, although some improvements have been made in the implementation thereof (these are detailed in section 11.1). However, as detailed in section 9.8.6 the risk management framework was not adhered to.

Mr Davies explained the risk management framework and process as follows:

- There are two levels of risk management applicable within LBC. Firstly, risks are managed on a project basis, with each project management team being responsible for recording and monitoring project level risks. In practice, these project related risk registers are maintained locally in excel spreadsheets, although some project managers did record the risks in LBC's risk management system ("JCAD").
- Secondly, risks that are considered to impact LBC on a corporate level, are recorded as corporate risks in JCAD. The framework indicates that a corporate level risk is identified according to criteria of likelihood and impact published in a "*One Page Guide*" by LBC's risk management team. We note that a financial loss of £5 million or higher is classified as a high impact risk.

There is no automatic escalation of project related risks to the corporate risk register; according to Mr Davies, completeness of corporate risks was promoted by way of a quarterly update between the risk team and LBC's risk owners in different areas. Executive Directors are defined as risk owners and therefore ultimately responsible for the proper identification, recording and management of risks within their area.

Risks within the corporate risk register should have been monitored regularly by LBC's Senior Leadership Team. In practice, Mr Davies said that this happened about five times a year during the period between 2014 to 2020, in advance of the Audit and Governance Committee. At this meeting, the red risks would also be reviewed by Members.

9.8 Conclusions

9.8.1 No escalation to Cabinet / Council of projected overruns and the impact to BBB

As detailed in section 8, the following significant Project-related events occurred during 2017 which had a significant impact on the profitability assumptions used in the College Green financial appraisal:

- Withdrawal of Croydon College land (see section 8.6.1); and,
- Profit warning on College Green scheme (see section 8.6.2).

In addition to the above, during 2018, increasing Project costs were escalated within LBC throughout the year, with an expected cost of £50 million by the end of 2018 (see section 9.3) which was known by several Officers, and Members as shown in TABLE 25.

There were several reports to Cabinet Members at the beginning of 2018/2019 and 2019/2020 where Officers had the opportunity to escalate Project related issues to Cabinet and Scrutiny and Overview but did not do so as shown in TABLE 33:

TABLE 33 **Reports to Members in 2018 and 2019**
A summary of all Project-related Cabinet reports indicating lead Officers, and legal and finance sign off is included in section 29.

Date	Cabinet report	Officer lead	Member lead	Action
23 January 2018	Scrutiny Sub-Committee: Brick by Brick Business Plan 2018/2019	Mr Lacey	Cllr Butler (LAB)	Review of BBB Business plan
26 February 2018	Cabinet: Brick by Brick Business Plan 2018/9	Ms Mustafa[602]	Cllr Butler (LAB), Cllr Hall (LAB)	Approval of BBB Business plan and funding to BBB of £164.8 million
26 February 2018	Cabinet: General Fund & HRA Budget 2018/9	Mr Simpson	Cllr Newman (LAB), Cllr Hall (LAB) and Cllr Butler (LAB)	Approval of LBC's budget
27 February 2018	Report above presented to Council	N/a	Cllr Newman (LAB) Cllr Hall (LAB) Cllr Butler (LAB)	Approval of LBC's budget - report above presented to Council

[602] Finance risks signed off by Ms Taylor (at the time Deputy Section 151 Officer and also a director of BBB). This represents a potential conflict of interest, see section 9.8.5

Date	Cabinet report	Officer lead	Member lead	Action
22 January 2019	Scrutiny Sub-Committee: Brick by Brick Business Plan 2019/2020	Ms Mustafa (BBB business plan presented by Mr Lacey)	Cllr Butler (LAB)	Scrutiny Sub-Committee: Brick by Brick Business Plan 2019/2020
25 February 2019	Cabinet: Brick by Brick Business Plan 2019/20	Ms Mustafa	Cllr Butler (LAB) Cllr Hall (LAB)	Cabinet: Brick by Brick Business Plan 2019/20
25 February 2019	Cabinet: General Fund & HRA Budget	Ms Taylor	Cllr Newman (LAB), Cllr Hall (LAB) and Cllr Butler (LAB)	Approval of LBC's budget
4 March 2019	Council: Council tax and budget report	N/a	Cllr Newman (LAB) Cllr Hall (LAB) Cllr Butler (LAB)	Approval of LBC's budget

Even though the projected overspend for the Project was known by the lead Officers and ought to have been known by lead Members (either because of their attendance at the Growth Board, or from our analysis detailed in section 9.7.2.1), Cabinet/Council was not formally appraised of the increases in Project budget in these reports or meetings:

- In February 2018, no significant Project related details were formally provided to Cabinet (either in BBB's business plan, LBC's budget or the accompanying Cabinet reports shown in TABLE 33) in advance of the recommendation for Cabinet to approve £164.8 million funding to be provided to BBB for the 2018/2019 (as detailed in section 9.7.2.3); and,
- In February 2019, the only significant Project related detail formally provided to Cabinet (either in BBB's business plan, LBC's budget or the accompanying Cabinet reports shown in TABLE 33) was that estimated profit on the College Green scheme was disclosed at £0 in BBB's annual business plan, although the significance of this was not clarified or highlighted and the impact to BBB was not explained. Cabinet approved £78 million in funding to be provided to BBB for the 2019/2020 year, following the recommendation made in the Cabinet report (see section 9.7.2.4.

This represents a significant governance failure by the statutory officers (Chief Executive Officer, Section 151 Officer and Monitoring Officer) who together are responsible for all reports going to Cabinet as per par 17.8 of Part 4H – Devolution of Financial Management of LBC's constitution,[603] and the Chief Officers involved (Ms Mustafa) who had a responsibility to ensure that Members were

[603] *"To ensure that all financial implications of all reports are agreed and approved with the responsible Heads of Finance prior to their submission to the Cabinet, a Committee, the Executive Leadership Team or other bodies within and external to the Council."*

informed of all financial implications of reports presented by them (as per Part 4H – Financial Management Par 17.13 Devolution of Financial Management – Executive Directors of LBC's constitution,[604] as well as their employment contracts).

Several Cabinet Members (Cllr Butler – Cabinet Member Homes, Cllr Hall – Cabinet Member Finance, Cllr Scott and Cllr King (Joint Cabinet Members for Environment, Transport and Regeneration)[605] – (All LAB) received papers or attended three important Growth Board meetings during 2018 (as shown in TABLE 27) which included information about the projected overspend in the board packs and in the meetings themselves (see TABLE 52). Although they were in a position to have been aware of the projected overspend, these Cabinet Members did not raise the Project overspend when BBB's annual business plan was discussed at the public Cabinet meetings shown in TABLE 33 above, and as a result the overspend was not publicly discussed.

We note that both Cllrs King[606] and Scott stated to Kroll that they only attended a few meetings of the Growth Board during their time as Cabinet Members, and only stayed for parts of the meeting (where agenda items relevant to their portfolio were discussed). Both Cllr King and Cllr Scott confirmed to Kroll that they did not recall the projected overspend being discussed at the Growth Board meetings attended by them. Cllr Scott also stated to Kroll that the Growth Board was primarily an Officer board, which Members attended from time to time. He also stated that the Board papers often arrived at short notice. Cllr Hall and Cllr Newman provided a written statement to Kroll of their view of the communication received by them around projected overspend, a summary of which is included in section 9.7.2.5.

9.8.2 Poor financial monitoring

As set out in section 9.5, the following issues existed with the financial monitoring of the Project facility agreement:

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604 *Executive Directors are responsible for ensuring that Cabinet and Committee Members are advised of the financial implications of all proposals and that financial implications have been agreed by the Chief Financial Officer"*

605 Cllr Patsy Cummings also attended and received papers, but she was not a Cabinet Member during this period and does not appear to have any role within the Project outside of this.

606 Cllr King stated to Kroll that he only attended a handful of Growth Board meetings because another topic (the closure of the Black Horse Bridge) that was related to his portfolio, was being discussed. Cllr King stated that he didn't recall any discussion of the projected overspend for the Project taking place at the meetings he attended, and stated furthermore that he tended to leave after this issue had been discussed, as the meetings took place during the day, and he had a job in central London at the time. We note that the Project was not within his portfolio at the time and was only one of a number of topics discussed at these Growth Board meetings.

- The facility agreement was not executed, and therefore there was no contractual basis in place;
- The Project investment amount was not ring-fenced from the rest of the Phase 1 facility agreement; and,
- The agreed drawdown process set out in the agreement was not adhered to.

In addition to the issues highlighted above, we have already discussed the discrepancies in recording of payments, during the period when LBC was responsible for BBB's accounting (as detailed in sections 8.5.3 and 9.5.2).

These loan payments were approved by the respective LBC Section 151 Officer in role at the point of approval. Mr Simpson was responsible for approving a total of £17,303,328 and Ms Taylor was responsible for approving a total of £39,490,970 in Project-related loan payments, as shown in section 9.5.2. A loan payment of £1 million was approved by the Head of Corporate Finance on 20 December 2019, when Ms Taylor was on annual leave. The payments for the Project were back ended and as Ms Taylor was Section 151 Officer for the final 18 months of the Project she approved a larger proportion of the payments. The fact that the loan payments were approved in spite of these issues represents a failure in financial governance, which falls under the responsibility of the Section 151 Officer who is responsible for ensuring the "*proper administration"* of LBC's financial affairs, in accordance with Section 151 of the Local Government Act 1972.

Mr Simpson (Section 151 Officer from 2013 until January 2019) stated to Kroll that he approved the loan payments on the basis that the facility agreement had been reviewed by finance and legal, and then approved by the appropriate Officers, and that there was no disagreement over the terms by the parties.[607] He stated that he understood the agreements to be signed, and, as detailed in section 8.5.3, took action when he found out the agreements were not signed. He added that the payments were in the approved capital budget for loans to BBB.

Ms Taylor (Section 151 Officer between February 2019 and February 2021)[608] stated to Kroll that she relied on the fact that her predecessor (Mr Simpson) had put in place appropriate governance activities (including finalising the execution of the loan agreements) and that a review of all prior decisions is not possible or appropriate when taking over a new role. She stated that she did not have a proper handover when Mr Simpson left and neither Mr Simpson, nor Ms Negrini, Ms Mustafa or Ms Harris-Baker raised any significant issues with her when she took over the role in February 2019.

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[607] Mr Simpson did not provide detail around who these Officers were.

[608] The period between February 2019 and October 2019 was on in the capacity of Interim Section 151 Officer

We note that this was accepted as reasonable by GT in the RIPI2: "*We accept the representations from the subsequent Section 151 Officer that as an ongoing project, there was an assumption that appropriate arrangements were in place.*" Furthermore, she stated that, although she was aware of the fact that the projected spend was greater than the amount originally approved, she had no reason to believe that this had not been formally approved prior to her appointment. We note that Ms Taylor's tenure as Section 151 Officer overlapped only briefly with the period before the reopening of Fairfield Halls.

Mr Simpson disputes Ms Taylor's position as set out above and stated to Kroll that in his view this was untrue; in his opinion Ms Taylor should have had a strong understanding of the issues relating to the Project, for the following reasons:

- Ms Taylor had been Deputy Section 151 Officer for 6 years before taking over from him;
- Ms Taylor and Mr Simpson had weekly one to one meetings on finance and financial risks;
- MsTaylor was responsible for the finance team;
- Mr Simpson gave four months' notice of his resignation and continued to meet one to one with Ms Taylor in this regard;
- Mr Simpson stated he met with his successor as Executive Director of Resources (Ms Harris-Baker) and Section 151 Officer (Ms Taylor) together, to discuss key issues; and,
- Ms Taylor was a director of BBB for 3 years prior to becoming Section 151 Officer.

Furthermore, Mr Simpson stated to Kroll that he spent the most significant amount of his time between 2017 and 2019 delivering LBC's Childrens' services (which had received an inadequate judgement), as his role as Executive Director of Resources spanned wider than the finance department. As a result, he stated to Kroll that he placed significant reliance on Ms Taylor (at the time Deputy Section 151 Officer) to lead the finance team and ensure operational finance processes were fit for purpose.

We note that Ms Taylor and Mr Simpson declared their involvement with BBB (for the period during which they were directors of BBB as detailed in TABLE 46) to LBC in their declaration of interest forms.

9.8.3 Reliance on BBB to present Officer led reports to Members

As detailed in section 4.1.1.3 the Streets, Environment and Homes Scrutiny Sub-Committee reviewed BBB's annual business plan before it was presented to Cabinet. LBC Cabinet Members stated that the oversight function provided at this Scrutiny Sub-Committee was evidence of a robust review of BBB's business plans. However, we have identified evidence to suggest that Officers took little ownership of the reports they presented at these committee meetings, relying on information provided by BBB with little evidence of challenge. A summary of these reports and emails identified by Kroll is summarised in TABLE 34:

TABLE 34 Officer reports authored by Mr Lacey

Date	Cabinet report	Officer lead	Member lead	Finding
22 January 2019	Scrutiny Sub-Committee: Brick by Brick Business Plan 2019/2020	Ms Mustafa	Cllr Butler (LAB)	Email correspondence shows that Mr Lacey (then Managing Director of BBB, and no longer an LBC Officer) originally authored the report and forwarded it to Cllr Butler for review on 9 January 2019.[609] Ms Mustafa's name was subsequently added as lead Officer.[610] Mr Lacey also presented the BBB business plan during the meeting.
4 February 2020	Scrutiny Sub-Committee: Brick by Brick Business Plan 2020/2021	Ms Harris-Baker	Cllr Butler (LAB)	Email correspondence shows that Mr Lacey (then Managing Director of BBB, and no longer an LBC Officer) originally authored the report and forwarded it to LBC legal for review.[611] Email correspondence indicates that Ms Harris-Baker reviewed the report *"I was informed the report is currently with Jaqueline"*[612] Ms Harris-Baker's name was subsequently added as lead Officer in her capacity as Executive Director of Resources.[613] Mr Lacey also presented the BBB business plan during the meeting. The first draft of this report was circulated by Mr Lacey on 4 January 2020 to a group of Officers including Ms Mustafa, a month before the meeting.[614] The latest draft was circulated by Mr Lacey on 27 January 2020, just over a week before the meeting.[615]

The Officers' covering reports were supposed to detail Officers' analysis of BBB's business plans (including any identified risks) and table the recommendation to approve BBB's annual business plan proposed by the Officers. The fact that the Officer reports were authored by Mr Lacey shows a lack

[609] 193781. Email correspondence suggests the report was also reviewed by Cllr Hall.
[610] Streets, Environments and Homes Scrutiny Sub-Committee report 22 January 2019.
[611] 690100
[612] 690100
[613] Streets, Environments and Homes Scrutiny Sub Committee report 4 February 2020.
[614] 3 January 2020, 690100
[615] 690100

of segregation of duties between the information provided by BBB and the independent analysis of this information by Officers. The Officers were responsible according to LBC's constitution for ensuring that information in a report presented by them provides accurate and necessary information to Members.[616] We have already detailed above in section 9.8.1 that the report presented by Ms Mustafa to the Streets, Environment and Homes Scrutiny Sub-Committee did not draw attention to key Project-related risks (of projected overspend) and did not highlight the fact that the College Green scheme profit was recorded as £0.

Furthermore, we note that Mr Lacey presented BBB's annual business plan during the meetings on behalf of Ms Mustafa (January 2019) and Ms Harris-Baker (January 2020) respectively. This further underlines the lack of segregation of duties, in relation to the presentation of these reports. Kroll was told in interview with one former member of the LBC finance team, that BBB's business plans were often provided to LBC a day or two before the presentations, which did not allow sufficient time for a robust review of these reports. The emails identified in TABLE 36 above suggest that the final drafts were circulated by Mr Lacey about a week before the meetings. Mr Lacey stated to Kroll that he populated a standard LBC template report with information from the BBB business plan and circulated this to Officers.

9.8.4 Reliance on Scrutiny and Overview Committee to conduct Project governance

As detailed above, no formal Project-related reports outside of BBB's annual business plan, and LBC's annual budget were presented to Cabinet, Scrutiny and Overview and Council. The Scrutiny and Overview Committee had responsibility for the majority of Project-related governance from a Members' perspective as follows:

- Annual review of the Project in its yearly workplan; and,
- Annual review of BBB business plans in advance of the presentation of these documents to Cabinet (through the Streets, Environment and Homes Scrutiny Sub-Committee).

Additional details around the operations and process of the Scrutiny and Overview Committee are included in section 4.1.1.3. However, as detailed in that section, Scrutiny is a review and oversight function, not a decision-making function, and it is therefore unclear whether the Scrutiny process was the correct way to monitor BBB's and the Project's operations. It is not clear how BBB could be held to account by review of the Scrutiny process alone, as decision-making powers (for example, the

[616] LBC Constitution Part 4H: . Part 4H Financial Management paragraph 17.13: Devolution of Financial Management – Executive Directors "*Executive Directors are responsible for ensuring that Cabinet and Committee Members are advised of the financial implications of all proposals and that financial implications have been agreed by the Chief Financial Officer*"

approval of loan funding), were made at a Cabinet / Council level. Monitoring of BBB by Scrutiny and Overview Committee was not included in the Record of Delegated Decision.

Furthermore, our review of the Scrutiny and Overview Committee meeting minutes has shown that in general, there was a lack of challenge by Members on the Scrutiny Committee to BBB updates, until at least 2018. Our review has shown that in general, focus was on the projects, delivery, planning and other matters, and limited time was spent on the financial forecasts. We note that GT's RIPI1 also included a comment about the lack of challenge by Members.

9.8.5 Poor management of conflicts of interest

As detailed in section 9.7.1 two appointments were made to BBB's Board which could be viewed as potential conflicts of interest:

- Mr Lacey (who was appointed as an independent director of BBB although he was an employee of LBC until shortly before his appointment).
- Ms Mustafa (who was appointed as a director of BBB although she was also Executive Director of Place with oversight responsibilities for BBB on the LBC side).

In addition, potential conflicts existed between the senior financial roles at LBC and BBB. We have already discussed in section 7.8.1 that senior financial oversight to BBB was provided by senior LBC finance officers, particularly Mr Simpson and Ms Taylor (particularly in the period between 2016 – 2017), when they both also held senior finance roles within LBC (Section 151 Officer and Deputy Section 151 Officer respectively) which resulted in a lack of segregation of duties between LBC and BBB. Ms Taylor was also on the Board of BBB between January 2016 to January 2019, which meant she had a statutory duty to LBC and a duty to act in the best interests of BBB in terms of the Companies Act. In addition to the above, we also highlight another potential conflict where Ms Taylor signed off on the Finance Risks section of the 2018/2019 Cabinet report where BBB's loan funding was approved (see TABLE 33). At the time she was a director of BBB and charged with operating in the company's best interests.

According to employees' code of conduct, Officers were responsible for notifying LBC's Monitoring Officer of any conflicts of interest. However, in reality, we were informed by LBC staff that declaration forms were signed off by Executive Directors or the CEO (where the individual completing the form was an Executive Director). The forms were submitted to Democratic Services, and advice was sought from the Monitoring Officer where necessary, although we've not seen any formal documentation of this.

Kroll's review of the declaration of interest forms indicates the following:

- Mr Lacey provided a declaration of interest for his role at BBB while he was an employee of LBC (see section 9.7.1.1);
- Ms Mustafa provided a declaration of interest for her role at BBB from shortly after her appointment to BBB's Board. Ms Negrini, Ms Mustafa's line manager, referenced in the form that legal advice had been acquired in terms of Ms Mustafa's appointment (see section 9.7.1.2);
- Mr Simpson declared his appointment as a BBB director (resignation in January 2016) in his declaration of interest form submitted to LBC; and,
- Ms Taylor declared her appointment as a BBB director between January 2016 and January 2019 in her declaration of interest forms submitted to LBC. Mr Simpson as her line manager, approved these forms.

It is our understanding that as Monitoring Officer, Ms Harris-Baker was responsible for protecting and managing LBC's conflicts of interest, as the employee code of conduct stated that the Monitoring Officer should receive all declarations of interest from Officers. The particular examples identified above indicate a governance failure in the identification and management of conflicts of interest. This is compounded when viewed in the context of LBC's overall failure to ensure the independence of BBB (as we have set out in section 7.8.1) and the lack of robust financial monitoring by LBC finance (as we have set out in section 9.8.2).

Ms Harris-Baker, was aware of Mr Lacey's appointment as an independent director of BBB as detailed in section 9.7.1.1. Given her position, it is likely that she was aware of Ms Mustafa's position as well.[617] Ms Mustafa's conflict was only managed by her resignation in 2020 after it was raised in an advisor's report.

9.8.6 Risks not recorded in accordance with LBC's risk management framework

LBC's risk management process is outlined in section 11.1. The risks related to the Project (identified as red risks by the Fairfield Board and Growth Board risk dashboards) were never recorded as corporate level risks in LBC's risk registers, even though the Project ultimately resulted in an overspend in excess of the £5 million threshold for inclusion in LBC's corporate risk register[618]. According to Kroll's interview with Malcolm Davies (LBC's Head of Fraud, Risk and Insurance), Ms

[617]As detailed in section 9.7.1.2, Ms Mustafa's declaration of interest for contained the following comment inserted by Ms Negrini (Ms Mustafa's line manager): "*Legal advice was sought and acted on in deciding that Shifa was an appropriate officer to represent the Council on BBB Board*". Shifa Mustafa Declaration of interest form

[618] As documented in LBC's corporate risk management framework.

Mustafa, as Executive Director of Place was the risk owner for this area (until February 2019, when Ms Simmonds was appointed). She was therefore ultimately responsible for oversight of risk management.

As detailed in section 9.7.2.1, Ms Mustafa was aware of the issues related to the Project and as the risk owner, therefore should have recorded these risks in the corporate risk register according to LBC's risk management framework detailed above.[619] This would have facilitated management and oversight of the risks by the Executive Leadership Team and Members (through the General Purposes and Audit Committee, see section 4.4). Kroll was not able to verify the reasons for her not recording the Project risks in the corporate risk register, as she did not respond to our invitation to be interviewed.

When Ms Simmonds took on the responsibility as the client for BBB she would have assumed responsibility for risk management of BBB in February 2019 and was explicitly tasked with doing so in the terms of reference of the BBB Monitoring Group. However, she never compiled any risk register for that body. Both Ms Simmonds and Ms Mustafa were Executive Directors, and therefore were obligated in terms of LBC's constitution to ensure that risks were identified, monitored and managed on an ongoing basis within their area of responsibility. This is set out in par 7.4 in Part 4H: Financial Regulations of LBC's Constitution: "*At a departmental level Executive Directors, Directors and Heads of Service should ensure that risk assessments are conducted, followed by appropriate work to manage the risks identified and to monitor current and emerging risks*"[620]

It is important to recognise the amount of money approved by Cabinet for LBC to loan to BBB in the financial years 2018/2019 (£164.8 million) and 2019/2020 (£78 million) during which little to no governance was in place.

9.8.7 Delay in setting up Officer-led BBB Monitoring Group

As detailed in section 9.7.2.2 the Officer led BBB Monitoring Group was only established in February 2019, meeting for the first time in April 2019, more than three years after BBB became operational. Therefore, there was no overall monitoring of LBC's relationship as a client of BBB for more than three years, resulting in a lack of overall oversight of the relationship. While not directly related to the Project, the lack of oversight of BBB as a whole was a factor in contributing to the poor governance, particularly as this body would have increased the number of Officers involved in the

[619] According to Kroll's interview with Malcolm Davies, Head of Fraud, Risk and Insurance
[620] LBC's Constitution: Part 4H Financial Regulations: Par 7.4

governance of the Project and capacity to deal with the many issues arising from such a complex Project.

Ms Negrini, as LBC's CEO was identified by RIPI2 as being ultimately responsible for the delay between the set-up of BBB, and the BBB Monitoring Group arrangements being put in place (as detailed in section 9.7.2.2). Ms Negrini was responsible for establishing "*a framework for management direction, style and standards and for monitoring the performance of the organisation*".[621]

However, Ms Simmonds is responsible for the delay between her appointment to the role in October 2018 and the BBB Monitoring Group's first meeting in April 2019. Ms Simmonds had operated in a supportive capacity when reporting to Ms Mustafa during July 18 – December 18 as client lead in advance of a formal body being set up. As an Executive Director, Ms Simmonds was responsible under LBC's constitution for "*establishing sound arrangements for planning, appraising, authorising and controlling their operations*".[622]

9.8.8 No equity funding provided to BBB

We have already set out in section 7.8.1 that BBB's independence was not sufficiently safeguarded because no external funding (funds from sources outside of LBC) was ever provided, nor was there a plan in place to work towards obtaining external funding and this was contrary to external and internal legal advice received at the time of set up. In addition, frequent reference was made in LBC documentation around the intention of providing LBC's funding to BBB by way of a debt to equity ratio of 75:25 (which was reported to Cabinet on several occasions, see section 9.7.2.3.2 and 9.7.2.4.2. According to Kroll's interviews with BBB directors, the company never received any equity funding from LBC. This meant that all funding received from LBC was loan funding, which would have to be repaid, and resulted in a newly established company starting operations with no equity funding from its sole shareholder. BBB's directors stated to Kroll that this resulted in BBB needing to fund its working capital from project-related loans, which placed the company in a precarious financial position, in their view.

[621] LBC Constitution Part 4H: Devolution of Financial Management – Statutory Officers par 17.3
[622] LBC Constitution Part 4H: Internal Control par 8.3

10 Project related events from 2020 onwards

The Project was completed in September 2019, following which a number of snagging issues and minor additional works were carried out in late 2019 and 2020. A number of key events occurred in relation to LBC's relationship with BBB, and its effect on the Project. These are highlighted below, and detailed in the relevant sections of the report under the headings explained in TABLE 13:

- In February 2020, Cabinet approved BBB's annual business plan and approved that LBC lend £76.02 million to BBB;
- A BBB related update was provided to the Scrutiny and Overview committee in February 2020;
- LBC received the first of its RIPI's in October 2020, which raised concerns around LBC's deteriorating financial position;
- In November 2020, LBC received the results of a strategic review conducted by Price Waterhouse Coopers into its Council-owned companies;
- LBC's financial position deteriorated significantly, resulting in its filing of a section 114 notice in November 2020 which meant that its expenditure exceeded its funding, with a budget deficit of £66 million; and
- Several post-contract reviews and reconciliations were conducted on the final result of the Project.

10.1 Evolution of LBC and its relationship with BBB

10.1.1 GT's first RIPI

GT issued the first of its RIPI's in October 2020. The RIPI raised a number of concerns around LBC's deteriorating financial performance and resilience, citing decreasing levels of reserves, significant overspend in areas of adult social care and children's social care, as well as increasing levels of borrowing, and a failure to implement recommendations made by GT in previous financial reports. The RIPI1 also highlighted the contribution of LBC's large amounts of borrowing for the purposes of investing in its Council-owned companies (of which BBB was one) to this strained financial position.

Furthermore, GT raised concerns about a significant overspend recorded in the 2019/2020 budget monitoring, which were reduced following "*corporate adjustments*" of £17.7 million. According to RIPI1, these adjustments were accepted by Members without an appropriate level of challenge. In addition, the RIPI1 mentioned that included in the budget savings for 2020/21, was an expected dividend from Brick by Brick of £3 million (and noting that LBC had already lent BBB £200 million and had not yet received any dividends or interest payments).

The RIPI included a recommendation for Council, Cabinet and the Scrutiny and Overview Committee to display greater rigour in challenging assumptions before approving budgets.

10.1.2 PwC strategic review

In November 2020, LBC received the results of a strategic review of its Council-owned companies (included BBB), produced by Price Waterhouse Coopers ("PwC").[623] This was commissioned by LBC in the context of their deteriorating financial situation, which resulted in the section 114 notice being issued.

This report set out a number of strategic options for LBC's consideration in relation to BBB of which it recommended the most efficient use of public money the last risky and cost effective solution was for LBC continue to trade BBB with limited further build out. The review noted that this would require LBC to maintain a continued investment in BBB before a cash return was generated, and write off substantial loan funding and accrued interest. The PwC report also recommended a significant amount of further work to ensure robust financial information is available to allow Council to make a fully informed decision. A key recommendation was the appointment of a qualified Director of Finance for BBB (as detailed in section 7.1.1 senior level financial oversight was provided by LBC, which was a failure of governance). In response to PwC's strategic review, LBC Cabinet responded as shown in TABLE 35:

TABLE 35 Cabinet decisions in response to PwC strategic review

Date	Decision
25/11/2020	Cabinet decision (reference 88/20) to note PwC's recommendations and to refer the report to the next Scrutiny and Overview Committee meeting, to conduct further work on the options put forward by PwC regarding LBC's interest in Brick by Brick, to agree to the continuation of funding of Brick by Brick, subject to reviews of unit purchases and construction funding on a site by site basis, and to agree that all site transfers to Brick by Brick be halted until the completion of the options appraisal. Included as part of Key Decision 3320CAB
18/02/2021	Cabinet decision (reference 19/21) on further BBB decisions related to moving the funding to 100% loans, approval of units, withdrawal of certain projects

[623] The review included BBB, Croydon Affordable Homes LLP, The Growth Zone, The Revolving Investment Fund and Taberner House project

Date	Decision
	Included as part of Key Decision 0621CAB

10.1.3 Appointment of new BBB Board

The resignation of Mr Evans and Mr Lacey on 25 November 2020 (see section 18) following LBC's response to PwC's Strategic Report marked a change in BBB's governance. The Cabinet report states that LBC had the right to alter BBB's articles of association, and appoint/remove directors. LBC intended to appoint new directors with a strong background in Finance in order to fully respond to issues set out in RIPI1 and the PwC strategic review.

The new board recommended by PwC and appointed by LBC in November 2020 comprised directors that were all independent of LBC. The purpose of this new board was to sell the existing property portfolio held by BBB and to ultimately wind down the company, which followed LBC's decision to stop contracting BBB for new development opportunities following LBC's decision to halt the appointment of BBB to any new development projects (see section 10.2.2).

10.2 Evolution of the Project structure

10.2.1 Post contract review undertaken by BBB directors

BBB directors told Kroll that Chronos, an expert in construction delay matters, were engaged to conduct a post contract review of the account and administration of the contract with Vinci. Kroll spoke to a representative of Chronos, who worked as a subcontractor on this matter and undertook the main works on the contract review. A review was done on contract variation orders (see section 9.3.1), and according to his review, no variation orders were identified that were not signed off by Gleeds. The post contract review found that payments to Vinci were adequately supported by signoffs from quantity surveyors and that he did not identify any payments that would warrant further investigation.

10.2.2 LBC's decision to withdraw from the College Green scheme and novate the Project related contracts

In March 2021, as part of LBC's review of BBB following the receipt of PwC's strategic report, LBC reviewed its relationship with BBB and decided to discuss disposal options for the College Green land, effectively withdrawing from the College Green scheme. This meant that LBC would no longer make any land transfers to BBB, removing the scheme's income-producing benefit for BBB as the housing element had been removed. Mr Lacey stated to Kroll that the decision to not transfer the land by LBC removed the key condition precedents included in the contract, and as a result, LBC became liable for the works undertaken on the College Green scheme to date.

In May 2021, the Cabinet agreed that the Project's existing contracts would be novated from BBB to LBC, including the Vinci contract. This was so that LBC could enforce any warranties or guarantees as LBC's funding of BBB had been converted from loans to capital expenditure upon external advice.

10.3 Evolution of the Project budget

A final cost accounting exercise was undertaken for the Project by LBC finance for the purposes of GT's RIPI2. The exercise confirmed the total cost incurred by BBB on the College Green scheme was £67.5 million, wholly funded by LBC and that there were discrepancies between LBC's and BBB's records in how this funding was recorded by BBB, as shown in TABLE 36.

TABLE 36 Final cost account agreed between LBC and BBB (GBP)

Financial Year	LBC funding provided to BBB	Expenditure per BBB's ledger
2016/2017	£1.2 million	£1.5 million
2017/2018	£9.5 million	£7.5 million
2018/2019	£19.9 million	£30.3 million
2019/2020	£37.2 million	£27 million
2020/2021	-	£1.2 million
TOTAL	**£67.8 million**	**£67.5 million**
Adjustments (late VAT and invoices)	(£0.3 million)	
TOTAL	**£67.5 million**	**£67.5 million**

BBB's new directors (see section 10.1.3) conducted their own internal investigation and review into BBB's finances during the field work conducted for the RIPI2, a draft of this document was provided to Kroll. According to their investigation, not all the sums included in RIPI2 were related to the Project (some related to other parts of Phase 1 of College Green). We have included their break down in TABLE 37 below for context and completeness:

TABLE 37 **BBB's record of costs related to the Project (GBP)**
From BBB's accounting records, as provided to Kroll by the independent directors' report prepared in response to RIPI2

Description	Amount
Building contract (Vinci contract sum)	£42,620,005
Post-contract variations	£6,394,230
Acceleration instructed by LBC	£848,616
Building works (VAT)	£21,000
Design fees	£1,416,345
Additional costs post contract (eg asbestos, additional works, planning costs)	£4,855,579
BBB Management costs	£623,650
Subtotal – Fairfield Halls	***£56,779,425***
Fairfield Homes	£6,057,481
Fairfield Public Realm	£2,915,416
Fairfield Car Park	£3,701,335
TOTAL	**£69,453,658**

We note that BBB had requested accelerations and post contract variations comprised £7,242,846 in response to pressure to open in late 2019, and subsequent snagging issues identified. This is in line with our review about the significant number of change orders not included in Vinci's final contract price, as detailed in section 9.2.3

10.4 Financing of the Project

No additional significant developments relevant to the Project were identified that are not mentioned elsewhere in this section.

10.5 Contracting and legal risks

No additional significant developments relevant to the Project were identified that are not mentioned elsewhere in this section.

10.6 Governance

A number of inaccurate statements were made in early 2020 around the cost of the Project. Ms Mustafa, who was involved in both internal discussions responding to media enquiries on the Project's cost, and who presented at the Scrutiny and Overview Committee meeting in February 2020 which involved a discussion on costs, was aware based on email correspondence that that the Project cost exceeded that advised to Members and media organisations.

10.6.1 Reports to Members – Scrutiny and Overview Committee (February 2020)

We have identified several instances whereby LBC Officers did not provide full and frank statements to Members as to the impact of the overspend on the Project and its impact on the Council, a number of which took place during the Scrutiny and Overview Committee meeting in February 2020.

First, in response to a question from Cllr Sean Fitzsimons, the Chair of the Scrutiny and Overview Committee (LAB), about how the £42 million was a good use of money, Ms Mustafa relayed to the Scrutiny and Overview Committee in response to a question on the Project's costs that "*the Council hasn't spent £42 million, a private company, albeit owned by the Council has to refurbish that building and get their return*".[624] The statement does not accurately reflect the impact on LBC's finances of a Project-related loss to BBB resulting in lower profit distributions (as well as the risk of loan defaults and increased debt and loan servicing payments in the event BBB was not profitable). This was emphasised again by Cllr Oliver Lewis (Cabinet Member for Culture, Leisure and Sport – LAB) at the same meeting, where he stated that, although the costs of the Project had been *"significant"*, there was *"in some ways no cost to the Council or the Croydon taxpayer because the money has been found through releasing the value of the development potential of the land"*.[625]

Secondly, the report prepared ahead of the Scrutiny and Overview Committee meeting stated that the estimated cost of the Project was £42.6 million, and that final accounts were pending. Mr Lacey stated to Kroll that he made it clear that the amount did not include public realm and car park works which were not included in the £42.6 million amount. However, we note that the most recent financial report at that time prepared by Gleeds on the Project, from September 2019, estimated the projected outturn cost of the Project to be £55.4 million, a mischaracterisation of approximately £13 million. Internal discussions identified in February 2020 indicate that LBC were referencing the £42.6 million as a "*public figure"* in response to media questions and are covered in section 10.6.1 below.

[624] https://webcasting.croydon.gov.uk/croydon/8414-Scrutiny-Overview-Committee 1:03:00, 1:05:30
[625] https://webcasting.croydon.gov.uk/croydon/8414-Scrutiny-Overview-Committee 10:03

Thirdly, there were concerns during the Scrutiny and Overview Committee meeting that a breakdown in costs in relating to the overspend had not been provided. Cllr Fitzsimons, asked Mr Lacey to prepare "*detailed explanations of all the costs and total figure to the meeting*".[626] Despite this, when questioned about the cost of the Project and how it had increased from £30 million to £42.6 million, neither Cllr Lewis nor Mr Lacey provided a breakdown of the costs, with Mr Lacey instead attributing the increase in budget to nothing more specific than *"design and development"*, *"things that we found on site that we didn't anticipate when we started the project"*, such as asbestos, a decision to replace cladding rather than refurbish it, and changing construction costs and regulations, such as fire regulations.[627] Mr Lacey anticipated he did not expect the cost figures to rise, but did state that "*works are still underway"* and that "*anything could happen in final account negotiations"*.[628] A report was provided ahead of the meeting[629] which stated the following: "*The current estimate of the Halls refurbishment works is £42.6m, with final accounts pending".* An appendix to this report set out a Summary Scope of Works, but cost breakdowns for the different factors were not provided in this report.

Mr Lacey stated to Kroll that at the time, there were additional costs under discussion relating to additional LBC requirements (which we understand to refer to the variation orders detailed in TABLE 37 which comprised £6.4 million). These figures were not communicated to the Scrutiny and Overview Committee either by Mr Lacey or by Ms Mustafa.

10.6.2 Media statements – February 2020

In early February 2020, emails were exchanged between Emma Lindsell, the Director of Economic Growth, Ms Mustafa, and Susie Rundle, a Communications Manager, discussing how to respond to questions submitted to LBC by *Live UK* magazine about Fairfield Halls. These included a specific query about the final cost of the refurbishment, asking *"Is it higher than the previously stated £42 million?"*[630] Ms Rundle asked Ms Mustafa and Ms Lindsell if they are *"still saying the cost is £42m"*, to which Ms Lindsell replied that *"£42m is the public figure (pending final reckoning)"*.[631] Later emails show Ms Mustafa signing off on stating the cost as £42 million to *Live UK*, despite Ms Mustafa attending Growth Board and Fairfield Board meetings across 2019 which referenced a cost of the Project in excess of £50 million.[632] Additionally, on 6 February 2020, Ms Rundle asked Ms Mustafa

[626] 210265
[627] https://webcasting.croydon.gov.uk/croydon/8414-Scrutiny-Overview-Committee 14:31
[628] https://webcasting.croydon.gov.uk/croydon/8414-Scrutiny-Overview-Committee 11:37
[629] Project update to Scrutiny and Overview Committee – February 2020 titled *Fairfield Halls* (Lead Officer Paula Murray)
[630] 1820672
[631] 1820672
[632] 1687041

what the response should be to the *Croydon Advertiser*, after they asked about the cost of the Project and referenced a £60 million figure in *Private Eye*. Ms Rundle asked, *"Assume the response is that the current estimated cost is £42.6m, as set out in the scrutiny report?"* to which Ms Mustafa replied, *"Yes I agree we just re state what's in the scrutiny report"* [sic].[633]

10.7 Conclusions

10.7.1 Mischaracterisations to Scrutiny and Overview Committee in February 2020

Section 10.6.1 details that Mr Lacey (at the time the Managing Director of BBB) also provided incorrect information around the total cost of the Project to the Scrutiny and Overview Committee in February 2020 where he stated that the Project cost was £42.6 million and not expected to increase (although he did acknowledge that the final accounts with Vinci were pending), despite having received having received board papers for both the Fairfield Board and Growth Board which included an estimated total Project cost of £50.4 million at both boards from November 2018 onwards, as detailed in TABLE 52. Furthermore, as detailed in section 9.2.3, in October 2018, not all of the variation orders that had been agreed between Vinci and BBB were included in the contract price of £42.6 million.

Section 10.6 details that Ms Mustafa provided incorrect information around the total cost of the Project to the Scrutiny and Overview Committee in February 2020 where she stated that the Project cost was £42.6 million despite having received board papers for both the Fairfield Board and Growth Board which included an estimated total Project cost of £50.4 million at both boards from November 2018 onwards, as detailed in TABLE 52. The figure used by Ms Mustafa was reflective of the agreed contract amount with Vinci in October 2018, but was exclusive of further change instructions and other costs such as consultants' fees. Ms Mustafa was the Chair of both the Fairfield Board and the Growth Board as detailed in section 4.3.

Furthermore, the comments did not accurately reflect the structure of the Project and the full material impact that it would have on BBB's finances, and ability to pay LBC dividends and interest on the loans extended.

We note that the conclusions reached by the Committee (as documented in the minutes for this meeting) included the following:

[633] 1644056

"That the Fairfield regeneration scheme is complex in nature, with separate but interdependent schemes taking place at the Halls and across the surrounding public real and amenities. As the different schemes have evolved, it has become increasingly difficult to easily understand what work was being commissioned and at what cost. The Council could have communicated this information more effectively as the scheme evolved to help ensure that there was a better understanding of the scheme."[634]

[634] Minutes of Scrutiny and Overview Committee meeting – 10 February 2020.

11 Improvements and mitigations enacted by LBC since 2020

While improvements and mitigations enacted by LBC since 2020 have not been subject to detailed analysis or testing for completeness or effectiveness, we have considered them as part of the background and context on describing how LBC has moved forward since the Project.

In our fact-finding and background discussions, we have identified a number of such improvements and mitigations, and we note that the advisors' reports also included detailed recommendations.

11.1 Improvements to the implementation of existing risk management processes

We noted in section 9.8.6 that LBC's risk management processes were not followed in certain instances. Specifically, red-rated risks relating to significant overspend or timeline extensions were not recorded in LBC's corporate risk register.

According to Kroll's discussions with Malcolm Davies, Head of Fraud, Risk and Insurance, monitoring of LBC's corporate red-rated risks by the Senior Leadership Team has increased to a monthly basis since the appointment of the new CEO. According to him, this has been due to an increase in the implementation of the existing policy, rather than a new policy being implemented.

11.2 Improvements to the reporting of the internal audit functioning

According to Kroll's interview with Dave Philips, LBC's interim Head of Internal Audit, since the appointment of the new CEO, the reporting line of the Head of Internal Audit has improved. Previously, the Head of Internal Audit reported to the Director of Finance and occasionally to the Director of Corporate Affairs, however a new dotted reporting line to the CEO has been implemented. Philips told us that he now attends the monthly Senior Leadership meetings, where he provides a regular internal audit update to the Senior Leadership Team. Internal audit issues are escalated to the Audit Governance Committee meeting (which includes Members), which meets eight times per year and is now independently chaired.

11.3 Progress against recommendations in the GT RIPI's

The two RIPIs prepared by GT included a significant number of recommendations for the consideration of LBC. Jane West, current Section 151 Officer and Stephen Laurence-Orumwense (current Monitoring Officer) are responsible for responding to these recommendations on LBC's behalf. Kroll interviewed Ms West, and she informed us that the recommendations related to the Project (included in the RIPI2) were prioritised and would be presented to the Council by way of the Audit and Governance Committee meeting in October 2022.[635] Kroll notes that these Committees' minutes are publicly available and are therefore a public update. Ms West further stated to Kroll that the update made in response to GT's recommendations will be incorporated into the internal audit programme and tested in their upcoming programme of work.

In May 2021, the Cabinet agreed that the Project's existing contracts would be novated from BBB to LBC, including the Vinci contract. This was so that LBC could enforce any warranties or guarantees as LBC's funding of BBB had been converted from loans to capital expenditure upon external advice.[636]

In November 2022, LBC issued a further section 114 notice, meaning LBC believes it is unlikely to balance its budget in the forthcoming 2023/24 financial year. The medium term financial strategy update, presented to Cabinet in November 2022, highlighted that there were further legacy financial issues that had yet to be resolved, and a "*toxic debt burden*" on LBC's budget was in part caused by the impact of BBB's finances on LBC. The Cabinet report stated that new management had been installed at BBB to minimise future losses.[637]

At the date of completion of this review, LBC had received agreement for additional capitalisation of £161 million for legacy issues, and a further capitalisation agreement for the 2023/2024 financial year. In addition, a request to the government was made to write off £540 million of LBC's debt.

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[635] Audit and Governance Committee, 13 October 2022
[636] Cabinet report, 17 May 2021
[637] Cabinet report, 30 November 2022

12 Appendices - List of Individuals and Roles

TABLE 38 List of Individuals and Roles

Name	Abbreviation	Roles
Alison Butler	Cllr Butler	Deputy Leader (Statutory) & Cabinet Member for Homes
Colm Lacey	Mr Lacey	Director of Development (LBC) *(Sep 14 – Sep 18)* Managing Director (BBB) *(Oct 18 – Feb 22)*
Edward McDermott	Mr McDermott	Various roles *(Jun 07 – Feb 12)* Departmental Client Officer *(Feb 12 – Oct 12)* Regeneration Manager (*Jan 13 – Nov 17)* Senior Regeneration Manager *(Dec 17 – Aug 18)*
Hazel Simmonds	Ms Simmonds	Interim Director of District Centres and Regeneration *(Jul 18 – Dec 18)* Executive Director of Gateway, Strategy and Engagement *(Jan 19 – Dec 19)* Executive Director of Localities and Residents Pathway *(Jan 20 – Sep 22)*
Jacqueline Harris-Baker	Ms Harris-Baker	Various roles *(May 98 – Aug 06)* Deputy Council Solicitor (*Aug 06 – Mar 12)* Head of Social Care and Education Law (*Mar 12 – May 16)* Head of Social Care and Education Law and Acting Monitoring Officer *(May 16 – Dec 16)* Interim Director of Law and Governance and Monitoring Officer *(Dec 16 – Mar 17)* Director of Law and Governance and Monitoring Officer *(Mar 17 – Feb 19)* Interim Director of Resources and Monitoring Officer *(Mar 19 – Nov 19)* Executive Director of Resources and Monitoring Officer *(Nov 19 – Jun 21)*
Jane West	Ms West	Corporate Director of Resources and Section 151 Officer *(Mar 22 – present)*
Jayne McGivern	Ms McGivern	BBB appointed Director *(Jan 16 – Jan 19)*
Jeremy Titchen	Mr Titchen	BBB appointed Director *(Jan 16 – Dec 18)*
Joanne Negrini	Ms Negrini	Executive Director of Development and Environment *(Jan 14 – Apr 15)* Executive Director of Place *(Apr 15 – Apr 16)* Interim Chief Executive *(Apr 16 – Jul 16)* Chief Executive and Head of Paid Service *(Jul 16 – Sep 20)*

Name	Abbreviation	Roles
Katherine Kerswell	Ms Kerswell	Interim Chief Executive *(Sep 20 – May 21)* Chief Executive Officer and Head of Paid Service *(May 21 – present)*
Lisa Taylor	Ms Taylor	Head of Finance and Deputy Section 151 Officer *(Feb 14 – Mar 16)* Assistant Director of Finance and Deputy Section 151 Officer *(Apr 16 – Jan 17)* Director of Finance, Investment & Risk and Deputy Section 151 Officer *(Jan 17 – Mar 19)* Director of Finance, Investment & Risk and Interim Section 151 Officer *(Mar 19 – Oct 19)* Director of Finance, Investment & Risk and Section 151 Officer *(Oct 19 – Feb 21)*
Luke Chiverton	Mr Chiverton	Interim Finance Manager (LBC) *(Dec 16 – Nov 17)* Head of Operations (BBB) *(Dec 17 – unknown)*
Mark Norrell	Mr Norrell	BBB appointed Director *(Jul 2019 - Nov 2019)* Director of Facilities and Support Services (LBC) *(Mar 2015 – Nov 2019)*
Martyn Evans	Mr Evans	BBB appointed Director *(Jan 19 – Nov 20)*
Nathan Elvery	Mr Elvery	Director of Finance *(Aug 04 – Apr 05)* Director of Finance and Resources *(Apr 05 – Jul 08)* Executive Director of Resources & Customer Services and Chief Executive *(Jul 08 – Jul 14)* Chief Executive and Head of Paid Service *(Jul 14 – Jun 16)*
Oliver Lewis	Cllr Lewis	Cabinet Member for Culture, Leisure & Sport *(May 18 – May 22)*
Paul Scott	Cllr Scott	Cabinet Member for Transport, Environment & Regeneration (job-share, *May 18 – Oct 20*)
Paula Murray	Ms Murray	Acting Director of Culture *(Sep 16 – Aug 18)* Creative Director *(Aug 18 – Dec 20)*
Richard Simpson	Mr Simpson	Various roles *(Aug 05 – Jan 10)* Director of Financial Services and Deputy Section 151 Officer *(Jan 10 – Mar 13)* Director of Finance and Assets and Section 151 Officer *(Mar 13 – Jan 15)* Assistant Chief Executive (Corporate Resources) and Section 151 Officer *(Jan 15 – Sep 16)* Executive Director of Resources (*Sep 16 – Mar 19)* and Section 151 Officer *(Sep 16 – Jan 19)*
Robert Ward	Cllr Ward	Vice-Chair of the Scrutiny and Overview Committee *(May 18 – May 22)*

Name	Abbreviation	Roles
Robin Firth	BBB Project Manager	BBB Project Manager *(Jan 17 – Oct 19)*
Sean Fitzsimons	Cllr Fitzsimons	Chair of Scrutiny Overview Committee *(June 15 - May 22)*
Sean Murphy	Mr Murphy	Various roles *(Jul 00 – Jan 02)* Corporate Solicitor *(Jan 02 – Jun 07)* Principal Corporate Solicitor (Regeneration) *(Jul 07 – Apr 17)* Head of Property and Commercial Law and Deputy Monitoring Officer *(Apr 17 – Feb 19)* Acting Director of Law and Governance and Deputy Monitoring Officer *(Feb 19 – Mar 21)*
Shifa Mustafa	Ms Mustafa	Executive Director of Place *(Nov 16 – Jul 21)*
Simon Hall	Cllr Hall	Cabinet Member for Finance & Treasury / Finance & Resources *(May 14 – Oct 20)*
Stephen Lawrence-Orumwense	Mr Lawrence-Orumwense	Director of Law and Monitoring Officer *(July 22-Current)*
Stuart King	Cllr King	Cabinet Member for Transport, Environment & Regeneration (job-share, *May 18 – May 21*) Leader of the Opposition *(May 21 – present)*
Timothy Godfrey	Cllr Godfrey	Cabinet Member for Culture, Leisure & Sport *(May 14 – May 18)*
Tony Newman	Cllr Newman	Leader of the Council *(May 14 – Oct 20)*

13 Appendices - List of third-party consultants and advisors

TABLE 39 List of third-party consultants and advisors

Name	Abbreviation	Role
BH Live	BH Live	Operator of the Fairfield Halls venue after reopening
Fairfield Halls (Croydon)	Fairfield Halls (Croydon)	Operator of the Fairfield Halls venue before the refurbishment.
Keith Williams Architects	KWA	Appointed by LBC to undertake several options analyses for the planned refurbishment of Fairfield Halls *(Jan 2010)*
Mott Macdonald	Mott Macdonald	Appointed by LBC to bring forward the College Green scheme plans with a multi-disciplinary team from March 2015 to September 2017
Pinsent Masons LLP	Pinsent	Engaged by LBC to provide external legal advice *(dates unknown)*
Gowlings WLG	Gowlings	Engaged by LBC as external legal advisors *(dates unknown)*
Gleeds	Gleeds	Engaged by BBB to do cost management, project management and quantity surveying for the Project *(Jul 16)*
General Demolition	General Demolition	Engaged by BBB to undertake demolition and initial enabling works before the appointment of Vinci *(Feb 2017)*
Vinci Construction UK Ltd	Vinci	Engaged by BBB as main contractor of the Project *(May 17)*
Steve Hardy Consulting	Steve Hardy	Engaged by BBB to undertake a post-contract review of the Vinci contract *(dates unknown)*

Name	Abbreviation	Role
Rick Mather Architects (now known as MICA)	RMA	Engaged by BBB to undertake design work related to the Project *(Mar 15)*

14 Appendices - List of Custodians

TABLE 40 **List of Custodians**[638]

Name	Description	Size of data received (GB)	Size of data after de-duplication (GB)	Number of documents in database
Allison Butler	Priority custodian	59.16	37.66	158,645
Colm Lacey	Priority custodian	29.96	14.31	74,773
Data Room		15.54	11.85	8,562
Hazel Simmonds	Priority custodian	29.17	14.78	72,470
Jacqueline Harris-Baker	Priority custodian	34.32	29.03	222,964
Jo Negrini	Priority custodian	78.15	64.81	328,786
Lisa Taylor	Priority custodian	70.70	58.87	416,976
Luke Chiverton (BBB)	Additional custodian	11.36	10.82	59,465
Richard Simpson	Priority custodian	147.17	35.23	312,761
Robin Firth (BBB)	Additional custodian	12.60	10.84	36,175
Shifa Mustafa	Priority custodian	120.66	36.79	267,736
Simon Hall	Priority custodian	27.88	17.97	113,099
TOTAL		**636.67**	**342.96**	**2,072,412**

[638] The operator of a mailbox belonging to an organisation, in this case LBC or BBB.

15 Appendices – Table of known versus materialised risks for BBB

TABLE 41 **Comparison of known risks versus materialised risks based on September 2014 Cabinet report**

Risk	Materialised Risk
Risk of default on Council funding.	BBB repeatedly failed to repay loans and the interest payable to the Council, which was a significant contributor to the first Section 114 notice in late 2020. RIPI1 provides additional detail: *"At 31 March 2019 of the £221 million loan agreements between the Council and Brick by Brick, £99 million had been drawn down with a further £94 million drawn down in 2019/20. £110 million of those loans were due for repayment [by October 2020] and had not yet been received by the Council."* *"at 31 March 2020, the Council was yet to receive loan interest payments from Brick by Brick of £14.4 million, of which £5 million was outstanding at 31 March 2019."*
Issues with state aid compliance	RIPI1 highlighted that the lack of properly executed written contracts and loan agreements meant payments to BBB were a significant state aid risk.
Secured long-term income (Benefit)	BBB continued to extend the time they would repay loans granted by the Council across the 2018/19, 2019/20 and 2020/21 business plans. This meant the Council had received minimal return on investment as at the publication of RIPI2 in January 2022.

16 Appendices - List of individuals invited to interview

TABLE 42 List of individuals invited for interview

Name	Main Role	Attended Interview (Y/N)
Current Officers		
Matthew Davis	Director of Corporate Finance	Y
Malcolm Davies	Head of Fraud, Risk & Insurance	Y
Steve Iles	Director of Public Realm	Y
Katherine Kerswell	Chief Executive and Head of Paid Service	Y
David Phillips	Internal Auditor	Y
Peter Mitchell	Director of Commercial Investments	Y
Nish Popat	Director of Finance	Y
Susie Rundle	External Communications and Engagement Manager	Y
Simon Trevaskis	Scrutiny Support Manager	Y
Jane West	Section 151 Officer	Y
Steve Wingrave	Head of Asset Management and Estates	Y
Former Officers		
Mark Adams	Senior Regeneration Manager	N
Denise Dixon	Programme Assurance Director	N
Paul Forrester	Head of Growth Zone	Y
Jaqueline Harris-Baker	Monitoring Officer	No response
Ed McDermott	Regeneration Manager	No response
Sean Murphy	Director of Legal and Deputy Monitoring Officer	N
Paula Murray	Creative Director	No response
Shifa Mustafa	Executive Director of Place	No response
Tim Naylor	Head of Spatial Planning	No response
Jo Negrini	Chief Executive Officer	Withdrawn-see section 2.2.4

Name	Main Role	Attended Interview (Y/N)
Mark Norrell	Director of Facilities and Support Services	Y
Julia Pitt	Head of Gateway Services	No response
Richard Simpson	Section 151 Officer	Written responses only
Lisa Taylor	Section 151 Officer	Written responses only
Felicia Wright	Head of Finance	Y
BBB Employees and Directors		
Luke Chiverton	Head of Operations	Y
Alison Coutinho	Head of Development	No response
Martyn Evans	Non-Executive Director	No response
Colm Lacey	Managing Director	Withdrawn - see section 2.2.4 Written response only
Amena Matin	Head of Development	No response
Jayne McGivern	Non-Executive Director	No response
Ian O'Donnell	Non-Executive Director	Y
Andrew Percival	Managing Director	Y
Paul Pollard	Commercial Director	Y
Jeremy Titchen	Non-Executive Director	Y
Duncan Whitfield	Non-Executive Director	Y
Current and Former Members		
Hamida Ali	Leader	Y
Alison Butler	Deputy Leader and Cabinet Member for Homes & Regeneration	No response
Timothy Godfrey	Cabinet Member for Culture, Leisure & Sport	N
Simon Hall	Cabinet Member for Finance & Resources	Written response – see 2.2.5
Stuart King	Cabinet Member for Transport, Environment & Regeneration	Y
Oliver Lewis	Cabinet Member for Transport, Environment & Regeneration	No response
Tony Newman	Leader	Written response – see 2.2.5

Name	Main Role	Attended Interview (Y/N)
Paul Scott	Cabinet Member and Chair of Planning Committee	Withdrawn -see section 2.2.4
Robert Ward	Member of Scrutiny and Overview Committee	Y
Professional Advisors		
Gleeds	Project Managers and Quantity Surveyors	N
Grant Thornton	Auditors and Authors of RIPI1 and RIPI2	Y
Mott MacDonald	Professional advisor (LBC/BBB)	Y
Steven Hardy Consulting	Professional advisor	Y

17 Appendices - Early cost estimates created for LBC

This appendix details cost estimates created by LBC's external advisors between 2010 and 2013:

Officers suggest a budget of between £20 million and £30 million in January 2010

The first reference to a potential budget estimate for the Project which Kroll identified was in January 2010 in a report to Leadership[639] entitled "*Fairfield Halls*". The report stated that Fairfield Halls in its current form was coming to the end of its useful life and was in need of either refurbishment or redevelopment as it was in a state of gradual commercial decline. The report also recommended that a future capital allocation in LBC's budget of between £20 and £30 million was required to refurbish Fairfield Halls.

Professional advisors created cost estimates with a range of between £40 million and £70 million in June 2010

However, there was a near immediate disparity in the budget suggested by Officers and those by professional advisors. LBC engaged Keith Williams Architects ("KWA") in January 2010 to undertake an options study on redevelopment options for Fairfield Halls.[640] Davis Langdon, a construction company, was subcontracted by KWA to provide cost estimates on these options, which were presented to LBC's Leadership group (presumed to mean Cabinet) in June 2010. All options presented to Cabinet except the 'do nothing' approach were at least £10 million higher than the maximum of £30 million suggested to Leadership for the development.

[639] Assumed to mean senior Officers. The report was authored by Pauline Scott-Garrett, Director of Culture and Sport, and Tony Middleton, Director of Regeneration and Assets. 1527248

[640] 1422313, 1422314

TABLE 43 **Fairfield Halls Options Study prepared by KWA and Davis Langdon, June 2010**

Option #	Scheme	Approximate Area of Deliverable (Sq Feet)	Outline Cost (GBP '000)
A	Do nothing	13,500	18,000,000
B	Refurbishment	13,500	40,000,000
C	Refurbishment and reduced new build	12,700	41,500,000 – 45,000,000
D	Refurbishment and new build	13,700	49,000,000
E	New build	13,500	70,000,000
F	DCA option ½ rebuild	7,650	41,000,000

Second cost estimate suggests £27 million + £8.75 million non-priority items in September 2011

A second cost estimate[641] prepared by KWA and Davis Langdon in September 2011 included a cost consultant report and cost estimate, that were in line with LBC's capital programme funding structure of £27 million. This was an amended Option B from and included two parts:

- A cost consultant report prepared solely on refurbishment with a budget of £27 million; and,
- A cost estimate prepared solely on refurbishment that included the £27 million above and a further £8.75 million in "*non-priority items*" to be considered should additional funding or savings become available.

Further action on these cost estimates was paused, as LBC was considering the possibility of integrating the Project and the College Green scheme.

Third options analysis suggests cost estimate of £39 million to £49 million in January 2013

In January 2013, Options B, C and D were revisited at the request of LBC's Steering Group on the Project and shared internally in an update to political Leadership in January 2013.[642] No significant changes were made to the original cost estimates as shown in the table above. The refurbishment only option was still estimated at £39 million, £12 million above the £27 million in the September

[641] 1402012, 1402014, 1402015, 142017

[642] 1306512. The Steering Group is believed to involve former Council employees such as Jane Doyle, the former Director of Community and Support Services for Children, Family and Learners, and Tony Antoniou, a former Director of Regeneration and Economy. The narrative itself was contained in a Microsoft Excel sheet, and shared by Mr Simpson ahead of the political Leadership meeting

2011 cost estimate. The covering sheet in the Microsoft Excel containing the updated options appraisal findings noted that it was "*necessary to undertake a significant re-appraisal of aspirations if the overall project budget of £27m is to be maintained*."[643]

TABLE 44 **Revised KWA estimate, January 2013**

Option #	Scheme	Original Cost	Revised Cost (January 2013)
B	Refurbishment	£40,000,000	£39,691,550
C	Refurbishment and reduced new build	£41,500,000 – £45,000,000	£41,684,500
D	Refurbishment and new build	£49,000,000	£49,384,900

643 1306512

18 Appendices - Summary matrix of operational risks surrounding closure (September 2015)

TABLE 45 **Summary Matrix of Operational Risks (September 2015**
This table is a summary of the review of phasing of the Project, prepared by Mott MacDonald on 25 September 2015

Area	Single Closure Option	Phased Closure Option
Staffing	Likely significant redundancies and loss of continuity to business.	Possible reduction in staff owing to fewer facilities.
Performances and Programme	Current performers required to relocate. Future plans for medium/long term affected. Second tier regular users find other locations and don't return.	Some disruption to performances, performances pre- booked to provide confidence. Consideration of temporary facilities for continuity, with summer closure minimizing impact on operations.
Audiences	High risk of losing audience as regulars find other venues. Covent Garden experience suggests it takes years to reattract audiences.	Lower risk of losing audience, particularly if venue closures are timed to the off-season.
Funding	Funding streams may stop, difficult to re-establish. Possible increase in fees for using new building may be disincentive.	Impact on funding streams reduced through continuity.

19 Appendices - BBB Directors

There have been a number of resignations and new appointments to the directors of BBB, as detailed in the below table. A draft copy of the non-executive director terms[644] suggests that the initial term for a director would be for two years, however, there has been considerable turnover, particularly amongst LBC- nominated directors.

TABLE 46 **Table of BBB Directors between 2016 and 2022**

Name	Role	Appointment	Resignation
Richard Simpson	Council-nominated	06/05/2015	26/01/2016
Colm Lacey	Managing director	26/01/2016	25/11/2020
Jeremy Titchen	Independent	26/01/2016	31/12/2018
Jayne McGivern	Independent	26/01/2016	29/01/2019
Lisa Taylor	Council-nominated	26/01/2016	29/01/2019
Shifa Mustafa	Council-nominated	29/01/2019	04/09/2020
Martyn Evans	Independent	29/01/2019	25/11/2020
Mark Norrell	Council-nominated	18/07/2019	13/11/2019
Julia Pitt	Council-nominated	01/05/2020	06/10/2020
Ian O'Donnell	Independent	25/11/2020	Present
Duncan Whitfield	Independent	25/11/2020	Present
Andrew Percival	Managing director	19/01/2022	Present
Griffith McCallum Marshalsay	Independent	24/01/2022	Present

[644] 36542

20 Appendices - Initial project meetings between BBB and their advisors

Once BBB had engaged its key advisors for the Fairfield Halls refurbishment project, including Vinci, RMA and Gleeds, monthly project meetings were held from May 2017 onwards discussing the project. It is clear from the minutes of these meetings there were initial concerns over a number of issues on the project, and that they were unable to determine with reasonable certainty the projected cost of the project until January 2018, when Gleeds produced their first financial report.

The key issues highlighted in the report were around the continued extension of the PCSA, the inability of Gleeds to reach cost certainty as well as the need to assess value engineering options and savings, Vinci's contract proposal, delays in the procurement of subcontractors and additional asbestos causing delays to the work programme.

In addition to the report, BBB held formal monthly meetings with their key contractors on the Project, being Vinci, Gleeds and RMA. The minutes of these meetings reflect the findings of Gleeds' report, highlighting the continued delays of the PCSA, issues around achieving cost certainty and being able to provide an accurate cost of the Project, and earlier signs of the work programme being over-budget and delayed from October 2017 onwards. A summary of these meeting minutes is included in the table below, which set out consistent concerns over the Project's delivery and cost from Vinci's appointment.

TABLE 47 **Summary of formal progress meetings between BBB, Vinci, RMA and Gleeds**

Date	Source	BBB Attendees	Details
17/05/2017	2062124	Lacey, Firth	The Project Pre-Start Meeting. Vinci remarked it was confident it could deliver the Project to the standard requested. Confirmation of a commercial review meeting before the end of May regarding scheduled dates for valuations, payments and valuations of variations procedure. Vinci aiming for 80% cost certainty.
21/06/2017	2062125	Firth	Confirmation that the PCSA had been signed. Procurement of subcontractors by Vinci being driven towards 80% cost certainty by the end of July. noted by Gleeds that the cost plan was "*back to back*" with the client budget. On the latest value engineering proposals, savings were required to be introduced, "*especially on engineering*".

Date	Source	BBB Attendees	Details
19/07/2017	2062126	Firth	Target on cost certainty delayed until end of August 2017, a number of issues were raised including that the dates for tender returns on packages were put back as no responses were received for engineering services and that there were clarifications on the main works programme. Gleeds commented that the October and November 2018 date for opening "*has to remain*". It was noted that potential savings were required in value engineering.
23/08/2017	2062127	Firth	PCSA was extended to 4 September 2017. Procurement towards 100% cost certainty targeted was moved to 4 September 2017. Advised that a cost report was due in the week commencing 28 August 2017, continued to reference need for value engineering.
20/09/2017	2062128	Firth	PCSA again extended to 6 October 2017. Vinci submitted its draft price on 1 September 2017. Advised ongoing cost certainty exercises were ongoing. There was discovery of additional asbestos pin risers and on plugs in the plant room which were a "*major concern*", resulting in the survey taking longer than expected. RMA representative commented that he was "*surprised with outcome of asbestos survey and why there is so much more being identified.*"
18/10/2017	2062129	Firth	PCSA again extended to 10 November 2017. Vinci advised the lack of engagement on the main contract was having a "*detrimental effect*", and that they were preparing their tender offer (being the contract sum). The procurement towards cost certainty was ongoing. Delays were reported in respect of numerous items, including asbestos evidence throughout the buildings which had a knock-on effect to the strip-out of Arnhem, Ashcroft, and the Concert Hall basement. Concerns raised by BBB that the programme was showing progress dates into 2019. BBB reinforced that the Project had a £30 million budget.
15/11/2017 19/12/2017	2062130	None	PCSA again extended to 5 January 2018, advised an Early Works Contract was under consideration with timetable to coincide with the expiry of PCSA. Minutes noted that there were continuing delays due to a lack of construction information being available and agreed of the Main Contract conditions and value. Advised of programme changes to Ashcroft and Arnhem based on asbestos removal. As a recovery measure, Vinci was asked to provide a detailed programme outlining the impact of 'soft openings' in November 2018. The procurement towards 100% cost certainty had been achieved.

Date	Source	BBB Attendees	Details
10/01/2018	2055643	Radziwonik	PCSA again extended to 19 January 2018, Early Works Contract ready for execution alongside expiring PCSA. Construction programme reports completion dates now between January and April 2019. BBB concerns highlighted again around completion dates flowing into 2019, and communication during 2018 was key.
29/01/2018	2058325	Lacey, Firth, Radziwonik	Scope reduction meeting convened to receive clear direction on budget and shortfall, a list of options were to be presenting ranging from full scope reduction to buildings to minimal intervention. Representative from MICA commented that there was a prospect value engineering savings may wither if delays continue and whether they could descope further on areas such as the cloister. Lacey commented *"cannot see this [happening] as integral part of the product. More likely prospect is finding extra money."*
22/02/2018	2058214	None	PCSA again extended to 2 March.
21/03/2018	2057024	Firth	PCSA to finish and Early Works Contract to be executed.

21 Appendices - Mott MacDonald's additional scope of works

Mott MacDonald's April 2016 proposal included a core scope of works and an additional scope of works. The additional scope of works included a further £15.4 million of possible additions to the core scope of works and were included in Mott MacDonald's proposal if additional funds were to become available. The additional fees are detailed below:

TABLE 48 Additional scope of work items in Mott MacDonald proposal (March 2016)

Additional scope of work items	Amount (GBP)
Forecourt	1,500,000
Ashcroft Fly Tower	1,800,000
North Façade	2,000,000
East Façade	1,600,000
West Façade	1,600,000
Demolition of 1980s Extension	200,000
Energy Centre Construction and Fit-Out	3,900,000
Gallery Construction	2,800,000
Total	**15,400,000**

22 Appendices - Project-related Scrutiny meetings

TABLE 49 Scrutiny Committee Meetings concerning the Project

Date	Committee	Officer	Cabinet Member	Summary of Report	Summary of outcome (full detail included in the minutes)
09/11/2015	Scrutiny & Overview	Belvir	Butler, Godfrey	Call-In of 20 October 2015 Cabinet decision concerning closure options.	The committee resolved not to recommend that Cabinet rescind the full closure decision.[645]
20/09/2016	Streets, Environment & Homes	Lacey	Butler	Update on BBB	The committee noted the update.[646]
01/11/2016	Scrutiny & Overview	Negrini, Murrey, Lacey	Butler, Godfrey	Fairfield Halls Update	The committee noted the updates contained in the report and resolved to meet in a year to discuss progress.[647]
31/10/2017	Scrutiny & Overview	Mustafa, Murray, Lacey	Butler, Godfrey	Fairfield Halls Update (Work Programme)	The committee welcomed the presentation and requested further information around BH Live and the final design, which was to be shared in due course.[648]
23/01/2018	Streets, Environment & Homes	Lacey	Butler	BBB Business Plan 2018/19	The committee approved the business plan for Cabinet review, subject to an amendment

645 https://democracy.croydon.gov.uk/CeListDocuments.aspx?CommitteeId=166&MeetingId=976&DF=09%2F11%2F2015&Ver=2
646 https://democracy.croydon.gov.uk/Data/Scrutiny%20Streets,%20Environment%20&%20Homes%20Sub-Committee/20161122/Agenda/seh20161122_01_01_minutes_2016.09.2043bb.pdf?cmte=SEH&meet=3&href=/akscroydon/images/att8065.docx
647 https://democracy.croydon.gov.uk/Data/Scrutiny%20&%20Overview%20Committee/20161101/Agenda/soc20161101_08_01_work_programme17aa.pdf?cmte=SOC&meet=17&href=/akscroydon/images/att8036.doc
648 201710_Scrutiny Committee Fairfield Update Minutes

Date	Committee	Officer	Cabinet Member	Summary of Report	Summary of outcome (full detail included in the minutes)
					so that residents living close to a site should have priority access to affordable units.[649]
11/12/2018	Scrutiny & Overview	N/A (verbal update from BH Live)	N/A (verbal update from BH Live)	Update from Fairfield Halls Operator, BH Live (Work Programme)	Recommended that BH Live and other project leads meet with Cllr Stranack and the Mobility Forum with regards to accessibility.
22/01/2019	Streets, Environment & Homes	Mustafa[650], Lacey, Simmonds[651]	Butler	BBB Business Plan 2019/20	Scrutiny of BBB Business Plan.[652]
14/01/2020	Scrutiny & Overview	N/A	N/A	Leader's Question Time	The committee requested an update on the provision of 200 car parking spaces at Fairfield Halls. Concluded that it would be preferable when planning future projects to include potential cost ranges rather than providing a specific cost total.
04/02/2020	Streets, Environment & Homes	Harris-Baker[653] Lacey[654]	Butler	BBB Business Plan 2020/21	Requested earlier engagement in the reporting writing with the Chair of the committee to refine the report. Consideration to be given on improving public understanding of the relationship between LBC and BBB. [655]

649 Scrutiny Streets Environment Homes Subcommittee minutes_Jan 2018
650 Ms Mustafa was the Lead Officer on the BBB Business Plan 2019/2020
651 . Ms Simmonds and Mr Lacey (as Managing Director of BBB) also attended. Mr Lacey presented the business plan
652 Scrutiny Streets Environment Homes Subcommittee minutes_Jan 2019
653 Ms Harris-Baker was the Lead Officer on the BBB Business Plan 2020/2021.
654 Mr Lacey attended the meeting (as the Managing Director of BBB) and presented the business plan
655 Scrutiny Streets Environment Homes Subcommittee minutes_Jan 2020

Date	Committee	Officer	Cabinet Member	Summary of Report	Summary of outcome (full detail included in the minutes)
10/02/2020	Scrutiny & Overview	Murray,[656] Mustafa, Lacey[657]	Lewis	Update on Fairfield Halls	The conclusions included that it had become difficult to understand the work that had been commissioned on the Project, and at what cost. Communication could have been improved. A value for money judgment would be made once a breakdown in costs had been finalised.[658]
21/12/2020	Scrutiny & Overview	Kerswell, Buss	Ali	Strategic review of companies and other investment arrangements	Several, including a request to see the second-phase of the PwC report into Council-owned companies, a recommendation that BBB's failure to produce monthly management accounts be addressed as soon as possible, the identification of a lack of governance and management systems as a recurring theme in multiple reports, and a request that the annual business case for BBB continue to receive scrutiny. Scrutiny in response to RIPI1.
09/02/2021	Scrutiny & Overview	Kerswell, Buss	Ali	Review of BBB	Several, including recommendations that a mechanism be put in place to scrutinise any further lending to BBB, that a review of past lending to BBB be undertaken to ensure legal compliance, and that regular reviews of all Council companies be undertaken.

[656] Ms Murray was the Lead Officer on this report.
[657] Ms Mustafa and Mr Lacey also attended this meeting and provided updates and responded to questions.
[658] Scrutiny Committee Meeting minutes_10 Feb 2020

Date	Committee	Officer	Cabinet Member	Summary of Report	Summary of outcome (full detail included in the minutes)
27/05/2021	Scrutiny & Overview	Kerswell, Buss	Ali	Call-In of 17 May 2021 Cabinet decision concerning the future of BBB.	Covering Fairfield Halls as part of a review of a Cabinet decision on the future of Brick by Brick, eventually concluding the decision ought to proceed.
06/07/2021	Scrutiny & Overview	Hussein	Ali	Ongoing review of Brick by Brick and the future of the company	Scrutiny Committee formally requesting further information to be provided concerning the redevelopment of Fairfield Halls. Fairfield Halls also discussed as part of another report on the future of Brick by Brick.
17/08/2021	Scrutiny & Overview	Hayward, Iles	Lewis	Review of the decision on the novation of building works and professional services contracts from Brick by Brick for Fairfield Halls.	Several, including requests for information about the breakdown of costs included in the £69 million referenced in the report, and a recommendation that the completion of the refurbishment of FFH is confirmed as a priority by the Cabinet.
01/03/2022	Scrutiny & Overview	Kerswell, Ennis, Jones	N/A	Scrutinising the action plan created in response to RIPI2	Several, including recommendations that the plan for project governance should be reflective of each project's scale and that progress reports on major projects will include assurance of the legality of arrangements and will be made available to the Scrutiny Committee.

23 Appendices - Observations related to Vinci's appointment

Gleeds was involved in recommending a procurement strategy to BBB as to how it might go about appointing the main contractor to the Project to carry out major works. Gleeds circulated its 'Procurement Strategy Report' on 21 February 2017,[659] which set out the various strengths and weaknesses of different procurement approaches for the contractors and made an ultimate recommendation for process. In general, Gleeds surmised that BBB needed a strategy that:

- Would provide certainty of dates for completion given the tight work programme.
- Provide best price certainty before the start of construction.
- Enabled the contractor to start work on the earliest practical date, with design specifications "*full and unambiguously defined*" before the invitation of bids.

It was recommended that a traditional contract be adopted for the contractor, and a single contract would be entered into for the refurbishment of Fairfield Halls that was considered separate from other phases of the larger College Green scheme (such as Fairfield Homes). The traditional form of contract meant the design would need to be completed by BBB's consultants, before subcontractors were procured by the main contractor. We understand, based on interviews, that this type of contract generally requires the design to be completed ahead of the contract starting works, so that the build phase can be properly costed and quoted for, planned and executed. If design changes are made subsequently, the cost would generally be borne by the client and not the contractor.

Kroll has not identified the Request for Proposal ("RFP") documentation sent out by Gleeds to prospective contractors in our database. We have reviewed a report named 'Stage 1 Tender Report and Recommendation', which was circulated by Gleeds on 5 May 2017 and recommended the appointment of Vinci Construction UK Limited as the main contractors.[660]

We have noted a number of areas of interest in relation to this report.

- ***Technically compliant error.*** In the Executive Summary, a table summarizing the outcome of the procurement process states that Vinci's bid was not technically compliant when

[659] This document was referred to as an updated version. Kroll has not identified a previous version of this report in the dataset
[660] The 'Updated Procurement Strategy Report' recommended a two-stage procurement process, whereby Stage 1 would be carried out over a five-week period and Stage 2 over a seven week period. The report noted that there was a general unwillingness from the market to enter into a single-stage tender process given the significant cost of single stage tenders. We have not identified a Stage 2 tendering report to date

answering a 'yes/no' criteria, however in the outcome section the bid is stated as "*technically and commercially compliant*".

- ***Longest bid time.*** Vinci's bid had the longest time to completion when compared with other contractors, with their proposal stating it required 74 weeks to complete the Project. Based on this, the estimated date for completion from the date of the report being issued was 5 October 2018, which was still in line with LBC's "*Autumn 2018 completion*" target. Tenderers had been instructed to base their tender on a contract period of 78 weeks, with contractors having the ability to offer an alternative contracting period.
- ***Equalised pricing.*** Vinci's initial tender price was the highest submitted, totalling £25,662,101 or £25,704,664.[661] During evaluation, the Gleeds Cost Manager reviewed the submitted bids for any errors in pricing, and made price corrections to all four tender prices. The resulting equalization meant Vinci became the lowest bid, with an adjusted price of £25,632,708.

[661] There is a discrepancy in the report on what Vinci's original pricing was, with Section 3 (Tender Opening and Initial Opening) reporting £25,661,101, and Section 6 (Evaluation) reporting £25,704,664. In both cases, Vinci had the highest pricing

24 Appendices - Project outturn costs as calculated by Gleeds

From January 2018, Gleeds continued to issue periodical financial reports to BBB, which were subsequently reported to the Fairfield Board (which included LBC Officers) as part of the Project dashboard circulated in advance of these meetings. A timeline of the financial reports identified by Kroll and the anticipated Project costs has been included below, whereby the cost of the Project was first estimated to be above that budgeted by LBC in February 2018, with regular increases up to September 2019, at which point the anticipated cost was in excess of £55.6 million.

TABLE 50 **Summary of available Gleeds Financial Reports, February 2018 to September 2019**

Report #	Date	Anticipated project cost (GBP)	Potential outturn cost if VE achieved (GBP)
1	05/02/2018	42,940,000	38,950,000
2	20/02/2018	44,300,000	37,510,000
4	17/05/2018	44,360,000	41,860,000
5	23/07/2018	46,780,000	46,780,000
6	01/10/2018	50,390,000	50,390,000
10	31/01/2019	50,390,000	50,390,000
12	31/03/2019	50,390,000	50,390,000
13	21/05/2019	50,390,000	50,390,000
15	06/08/2019	55,714,000	55,714,000
16	25/09/2019	55,661,000	55,661,000

25 Appendices - Timeline of January 2018 request for project costs

Based on the frequent meetings between BBB and Gleeds in late 2017 and early 2018 it is clear that BBB was aware of significant cost pressures from Vinci's appointment date to December 2017, but was unable to provide any certainty to LBC on the projected Project cost. Kroll's review of Gleeds' financial reports and how this was communicated to LBC has identified the below:

- In January 2018, the LBC Fairfield Board requested a detailed cost estimate to be provided by BBB;
- Gleeds then prepared a financial report (including a cost estimate as at December 2017) and provide this to BBB on 5 February 2018. At the same time, other monthly reports prepared by Gleeds highlight Project-related issues;
- Only the best-case cost estimate of £38.9 million from Gleeds' financial report (including the assumption that all cost savings were accepted) was shared with the LBC Fairfield Board). The full anticipated project cost at this point, excluding any value engineering proposals realised that had been proposed, was £42.9 million, a difference of £4 million.
- Gleeds prepared a number of other monthly reports which included Project related cost estimates, that have been summarised in the previous section.

Fairfield Board requests detailed cost projection in January 2018

The Fairfield Board met on 8 January 2018 and the minutes record that the Project's finances were discussed. They state that there was an overspend that was being managed, "*around bids/scaling down with exact figure to be confirmed. Wider loss will come out of Brick-by-Brick profit*".[662] The BBB Head of Development, Catherine Radziwonik, shared an update internally with Robin Firth, the Project Manager for BBB, following on from the Fairfield Board meeting, stating: "*For next month Shifa [Mustafa] needs more clarity on programme and cost. Gleeds have not formally advised of a programme over, although this is being shown on Progress Meeting updates by Vinci, Gleeds are continuing to work with Vinci to bring the programme back on track. Until all subcontractor returns have been assessed based on the VE programme the cost position cannot be fixed. The aim is to VE the cost back to budget.*

[662] Fairfield Board Meeting Minutes, 8 January 2018

We need to start contingency planning for a potential programme extension and cost overrun. The mitigation strategy for programme extension will have to be developed by Gleeds and Vinci, and based on the formal notification of a Programme overrun. The aim is to VE the project to the budget, I am not sure what options are available if this cannot be achieved."[663]

Gleeds prepared a detailed financial report to December 2017 with an estimated range of final cost outcomes

Following this request, Gleeds started to prepare a detailed financial report. The first draft of this financial report was shared with BBB two weeks after the request from LBC, on 24 January 2018. This financial report, made up to December 2017, quantified the forecasted total anticipated costs of the Project for the first time.[664] The anticipated cost for the project was £38.95 million, which was made on the assumption that all value engineering proposals were accepted by BBB and savings realised. This marked the first formal estimation of overspend on the Fairfield Halls project, representing a 13 to 30 percent increase over budget.[665] The total anticipated project cost, prior to the estimated savings, was £42.94 million. A final version of the report was circulated by Gleeds to BBB on 5 February 2018 which reflected the same anticipated cost of the project £?? .[666]

At the same time, Gleeds circulated its monthly project report to BBB on 6 February 2018 for the period up to the end of January 2018.[667] This report highlighted a number of key risk areas around the Project at the same time the overspend was first formally issued to the Project Board. These included:

- ***Contract***. The ongoing delays with agreeing contracts with Vinci, in part due to the fact there was not a finalised defined scope of works.
- ***Financials***. Vinci's tender offer put forward on 1 September 2017 for £35.1 million exceeded the project's budget and mitigation factors were being considered to reduce this amount and bring the project within budget, including scope reduction and value engineering.
- ***Design***. The development and coordination of the Stage 4 design package had yet to be completed. This led to risks in achieving the approved budget, meant that additional value engineering was being introduced and late design changes meant there were delays in procurement by Vinci to subcontractors to fulfil the scope.

663 2059126
664 2053602, 2053603
665 £30 million approved by Cabinet, £34.5 million including Coast to Capital funding
666 2055119, 2055120
667 2065219

Gleeds' best-case estimate is reported back to the Fairfield Board in February 2018

The full financial report does not appear to have been shared by BBB with LBC. The Project dashboard was updated ahead of a scheduled Fairfield Board meeting on 8 February 2018, to reflect the £38.95 million figure. There was no narrative within the dashboard to explain this was the best outcome and the range of costs from Gleeds was £38.9 million to £42.9 million. An Executive Officer at LBC circulated the previous meeting minutes, project dashboard and agenda to the Fairfield Board on 7 February 2018. The Executive Officer name noted in email correspondence that Mr Lacey was not going to attend, and was to be represented by Mr Firth. We have identified that the meeting was cancelled by Ms Mustafa. Ms Lackenby wrote in the email, that "*Shifa has looked over the programme report and doesn't feel that much has changed since the last meeting AND given that a couple of pressing things have come up which must be given priority today she has decided to cancel*". The meeting was cancelled despite it being the first occasion a precise overspend and red risk ratings were assigned and raised to the Fairfield Board. It is unclear whether any escalation took place to Members at this point.[668] None of the attendees raised any objections or concerns via email about the meeting being cancelled.

[668] 948082

26 Appendices - Approval of Phase 1 College Green facility payments

The process for the loan payments between BBB and LBC is detailed in section 9.5.2.2.

Kroll has reviewed all available drawdown requests made between 28 June 2018[669] and 20 December 2019, the last known drawdown request. In total, £57.8 million was requested to be drawn down on the Project during this time period, without an executed loan agreement, contract or in line with the proposed conditions set out in the draft agreement. Each drawdown was approved by the Section 151 Officer in place at the time, being Mr Simpson and Ms Taylor. The Head of Corporate Finance was required to approve one drawdown in December 2019 owing to Ms Taylor's absence.[670]

TABLE 51 **Summary of drawdowns made by BBB against facility agreements from June 2018 to December 2019 (GBP)**

Date	Total Amount	Project Amount	Approval	Source
28/06/2018	1,072,373	-	Mr Simpson	1988783, 2013173
17/08/2018	2,620,644	-	Mr Simpson	2005552, 1063429
10/09/2018	4,643,442	1,962,409	Mr Simpson	2003865, 1559538
16/10/2018	4,286,317	2,193,761	Mr Simpson	1998874, 1552697
05/11/2018	5,983,665	2,983,200	Mr Simpson	2008544, 74345
07/12/2018	6,510,689	2,436,842	Mr Simpson	2004529, 1546203
14/01/2019	7,243,060	3,935,982	Mr Simpson	1987442, 1550997
31/01/2019	13,633,103	3,791,134	Mr Simpson	2027014, 1552380
15/03/2019	5,827,352	2,533,301	Ms Taylor	2037781, 1231772
03/04/2019	8,435,080	4,751,381	Ms Taylor	1989686, 1229944
03/05/2019	8,925,480	5,124,660	Ms Taylor	2022195, 1255160
04/06/2019	10,072,685	5,500,000	Ms Taylor	1980658, 1239242
01/07/2019	12,750,000	6,000,000	Ms Taylor	1978811, 1228470
30/07/2019	14,731,628	3,581,628	Ms Taylor	1990918, 1206209
28/08/2019	14,350,000	6,000,000	Ms Taylor	1130963, 1000687

669 This was the date of the first formal drawdown request on facility agreements identified, which included drawing on funds for the College Green project.
670 19804670

Date	Total Amount	Project Amount	Approval	Source
04/10/2019	14,350,000	6,000,000	Ms Taylor	1145051, 1201586
20/12/2019	9,952,769	1,000,000	Head of Corporate Finance	1094659, 1094657
	145,387,287	**57,794,298**		

27 Appendices - Escalation of project costs within LBC

Kroll's review of minutes of meetings and correspondence around those meetings has identified that many of the key Project-related issues were discussed at the various boards attended by BBB employees and LBC Officers on a fairly regular basis (discussions with Members are detailed in section28). By 2018, knowledge about the overspend had become widely known. The tables below show attendance at these meetings, recipients of the board papers, and the development of reported Project overspend for 2018 at Fairfield Board and Growth Board meetings. As detailed in section 9.7.2.1, the Fairfield Board was responsible for escalation to the Growth Board, and the Project overspend was regularly included in the Growth Board meeting packs and discussed at the Growth Board meetings a number of times (although the Growth Board minutes stated that monitoring of the overspend would be done by the Fairfield Board). The table also shows how payments to BBB in respect of the Project, and Cabinet approvals for funding to BBB continued during this time.

TABLE 52 **Projected outturn costs reported to Fairfield Board and Growth Board (GBP)**

Date	Source	Board	Attendees[671]	Received Papers	Amount	Payments to BBB per College Green Phase 1 Facility Agreement[672]	Cabinet Approval for BBB funding (Business Plan)
08/01/2018	946581, 941281	Fairfield	Lacey, Murphy, Mustafa, Taylor	Lacey, Murphy, Mustafa, Taylor	34,500,000		
24/01/2018	210237, 904546	Growth	Mustafa, Taylor	Lacey, Murphy, Simpson, Taylor Butler, Hall	34,500,000		

[671] Based on available minutes
[672] Total payments as at February 2018, February 2019 and December 2019, as detailed in section 26

Date	Source	Board	Attendees[671]	Received Papers	Amount	Payments to BBB per College Green Phase 1 Facility Agreement[672]	Cabinet Approval for BBB funding (Business Plan)
08/02/2018	941278	Fairfield	Cancelled	Lacey, Murphy, Mustafa, Taylor	38,950,000		
26/02/2018						-	164.8 million
11/04/2018	72272, 74012	Fairfield	Lacey, Mustafa, Taylor	Lacey, Murphy, Mustafa, Taylor	39,900,000		
18/04/2018	909434, 1001122	Growth	Lacey, Mustafa[673]	Lacey, Murphy, Mustafa, Simpson, Taylor	39,900,000		
28/06/2018	66026, 1767202	Fairfield	Lacey, Mustafa	Lacey, Murphy, Mustafa, Taylor	42,801,000		
11/07/2018	5494, 1001121	Growth	Mustafa Hall, Scott	Lacey, Murphy, Mustafa, Simpson, Taylor Scott, Hall	42,801,000		
22/08/2018	296702, 54647, 140124	Growth	Cancelled	Lacey, Mustafa, Simmonds, Simpson, Taylor[674]	46,800,000		
24/09/2018	1065751, 1767403	Fairfield	Lacey, Mustafa	Lacey, Murphy, Mustafa, Taylor	49,800,000		
03/10/2018	71718, 251637	Growth	Mustafa, Simpson Cummings, Hall, King, Scott	Lacey, Murphy, Mustafa, Simmonds, Simpson, Taylor Hall, King, Scott	49,800,000		

[673] Listed as both an attendee and apologies.
[674] Final papers were never circulated. A call for papers was issued on 13 August 2018. 296702

Date	Source	Board	Attendees[671]	Received Papers	Amount	Payments to BBB per College Green Phase 1 Facility Agreement[672]	Cabinet Approval for BBB funding (Business Plan)
14/11/2018	251636, 182349	Growth	Mustafa, Simmonds Cummings, King, Lewis[675]	Lacey, Murphy, Mustafa, Simmonds, Simpson, Taylor Cummings, Hall, King, Scott	50,390,000		
06/12/2018	2058437, 74015	Fairfield	Lacey, Murphy, Mustafa	Lacey, Murphy, Mustafa, Taylor	50,390,000		
16/01/2019	72012, 199189	Growth	Murphy, Mustafa, Simpson Cummings, Hall, King	Harris-Baker, Murphy, Mustafa, Simpson, Taylor Butler, Cummings, Hall, King, Scott	50,390,000		
25/02/2019						17.3 million	78 million
25/03/2019	1162203, 1795544	Fairfield	Mustafa	Lacey, Murphy, Mustafa, Taylor	50,390,000		
10/04/2019	199180	Growth	Minutes not identified	Harris-Baker, Murphy, Mustafa, Taylor Butler, Hall, King, Scott	50,390,000		
20/05/2019	2059346, 1742459	Fairfield	Mustafa	Lacey, Murphy, Mustafa	Not included		
26/06/2019	1792364, 2059468	Fairfield	Mustafa	Lacey, Murphy, Mustafa	50,390,000		

[675] The Growth Board minutes for January 2019 record that Cllr Lewis was not present for the November 2018 meeting. 199189

Date	Source	Board	Attendees[671]	Received Papers	Amount	Payments to BBB per College Green Phase 1 Facility Agreement[672]	Cabinet Approval for BBB funding (Business Plan)
03/07/2019 [676]	1157104	Growth	Cancelled	Papers not circulated	Not included		
01/08/2019	1714027, 1762793	Fairfield	Mustafa	Lacey, Murphy, Mustafa	50,390,000		
02/09/2019	1763615, 1795555	Fairfield	Lacey, Mustafa	Lacey, Murphy, Mustafa	Not included		
24/02/2020						57.8 million[677]	76.02 million

[676] The 3 July 2019 meeting appears to have been the last meeting of the Growth Board. A full agenda and papers were not circulated, nor the minutes of the previous meeting
[677] As at December 2019

28 Appendices - Updates from LBC Officers to Members

TABLE 53 **Extract of update/briefing meetings and emails between LBC Officers and Members**

The table below contains an extract of the most relevant evidence for briefings or updates between LBC Officers and Members in relation to the Project. Written responses were provided by Cllr Hall and Cllr Newman around the Project-related information received by them. A summary of this is included in section 9.7.2.5

Reference	Date	From	To	Content
7532[678]	16/12/2014	Negrini	Cllr Godfrey	*"Communication with Members needs to be maintained. JN to meet with Councillor Godfrey next week"*
83272	05/10/2015	Negrini	Cllr Godfrey, Cllr Butler, Lacey	Agreed to request for a full briefing from the project team. Minutes for this briefing were found and indicate that the Project was discussed.
21820	24/11/2015	Janman, Lacey	Cllr Godfrey, Cllr Butler, Negrini, McDermott	Fairfield briefing
112377	01/02/2016	Negrini	Cllr Butler	Confirming request for a grid on projects, including FFH, with timescale to completion *"and a fortnightly update on where we are"*
219716	21/07/2016	Lacey	Cllr Butler, Cllr Newman	Attached a briefing on Fairfield (219717)
88467	27/07/2016	Cllr Newman	Lacey, Cllr Butler	Reply: *"Can myself have a monthly side of A4 update following each monthly meeting"*
158461	06/01/2017	Lacey	Mustafa, Negrini, Cllr Butler	Timeline of project – FFH completion = October 2018; info to be passed to Newman

678

Reference	Date	From	To	Content
152521	24/01/2018	Cllr Beckford	Mustafa, Lacey, Cllr Butler, Cllr Godfrey	*"The Leader has requested an urgent briefing on Fairfield Halls, which he says must take place this week He can be available tomorrow (Thursday 25th Jan) between 11am and 3pm or on Friday 26th Jan between 2 and 4:15pm"*[679]
134513	24/05/2018	Lacey	Cllr Newman, Cllr Butler	*"I'm meeting Paula on Monday to discuss the BH Live issue and we will get back to you with an update after this. To confirm, nothing has changed from our side since the last Cabinet paper and we are still working to the same date and spec"*
134743	24/05/2018	Cllr Newman	Lacey, Mustafa, Cllr Butler, Cllr Lewis	Reply: *"Thank you but I need to see that in writing from you to Neil so BHL have a green light that cannot be disputed in terms of signing and proceeding"*
137353	25/05/2018	Lacey	Mustafa, Murray, Cllr Newman, Cllr Butler, Cllr Lewis	Reply: *"We are completely happy to reconfirm to BH Live that there is no change to the current anticipated completion dates OR the current agreed spec, but Paula and I are clear that this is already their current understanding and is not the specific issue which is preventing them from signing.* *What they need from us is a greater level of contractual certainty around the attribution of costs in the event of a delay to completion. There are a variety of ways of giving them this, and that is what Paula and I (and Richard S if necessary) are currently resolving.* *We'll keep you updated and we have a meeting scheduled in the next week or so with BH Live where we can finalise and resolve any issues they may have."*
Section 9.7.2.5	Late 2018	Mr Simpson	Cllr Hall	*As detailed in section* 9.7.2.5, *Mr Simpson stated to Kroll that he updated Cllr Hall verbally on the projected overspend in relation to the Project. It is our understanding that this discussion took place*

[679] Nothing of significance in the emails in the period around this time – potentially the catalyst for this meeting was the FFH commentary in the Cabinet meeting on the 22nd, when concerns were raised by the opposition about meeting the deadline for completion, and this subsequent article in the *Croydon Advertiser*: https://www.croydonadvertiser.co.uk/news/croydon-news/fairfield-halls-rebuild-doubts-cast-1111357

Reference	Date	From	To	Content
				around the time discussions between Mr Lacey and Mr Simpson were taking place regarding the overspend (see section 9.3.2).

29 Appendices – Finance and legal risk sign off for Project-related Cabinet reports

TABLE 54 Table of legal and finance sign off for Project related Cabinet reports

Date	Decision	Report	Lead Officer	Lead Cabinet Member	Finance sign-off	Legal sign-off
11-Mar-13	To adopt the Fair Field Masterplan as Interim Planning Guidance	The Fair Field Masterplan - Approval to adopt as interim planning guidance	Paul Spooner, ED of Planning and Environment Mike Kiely, Director of Planning & Building Control	Cllr Jason Perry (CON Cabinet Member for Planning, Regeneration and Transport)	Approved by Dianne Ellender (Head of Finance, Planning & Environment Department) on behalf of Richard Simpson (Director of Finance)	Approved by Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor and Monitoring Officer.
18-Nov-13	Increasing the budget to £33.75 million plus a further £3 million as a result of inclusion in College Green scheme	Fairfield Halls Capital project position update and capital investment	Paul Spooner, ED of Planning and Environment Paul Greenhalgh, ED Children, Families & Learning	Cllr Tim Pollard (CON Deputy Leader (Communications) & Cabinet Member for Children, Families and Learning) Cllr Jason Perry (CON Cabinet Member for Planning, Regeneration and Transport)	Approved by Richard Simpson, Director of Finance and Assets	Approved by Sean Murphy, Principal Corporate Solicitor (Regeneration) on behalf of the Council Solicitor and Monitoring Officer
15-Sep-14	Not a key decision	Cultural Quarter - Rejuvenating Fairfield	Jo Negrini, ED of Development and Environment	Cllr Timothy Godfrey (LAB Cabinet Member for Culture, Leisure and Sport)	Approved by Richard Simpson, Director of Finance and Assets and S151 Officer	Approved by Sean Murphy, Principal Corporate Solicitor (Regeneration) on behalf of the Council Solicitor and Monitoring Officer

Date	Decision	Report	Lead Officer	Lead Cabinet Member	Finance sign-off	Legal sign-off
29-Sep-14	Not a key decision	Wholly Owned Housing Company - An option for tackling the shortage of homes in Croydon	Richard Simpson Director of Finance and Assets Jo Negrini, ED of Development and Environment	Cllr Alison Butler (LAB Deputy Leader and Cabinet Member for Homes and Communities) Cllr Simon Hall (LAB Cabinet Member for Finance and Treasury)	Approved by Lisa Taylor - Head of Finance and Deputy S151 Officer	Approved by Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor and Monitoring Officer.
16-Mar-15	Approve ED of Place (in consultation with the Cabinet Member for Homes and Regeneration, Director of Finance and Council Solicitor and Monitoring Officer) be given executive delegated authority to undertake relevant steps to establish and operate a Development Company in line with the proposed structure set out in this report.	Homes - our 10 priorities	Jo Negrini, ED Place Paul Greenhalgh, ED People	Cllr Alison Butler (LAB Deputy Leader (Statutory) and Cabinet Member for Homes and Communities) Cllr Simon Hall (LAB Cabinet Member for Finance and Treasury)	Approved by Lisa Taylor - Head of Finance and Deputy S151 Officer	Approved by Sean Murphy, Principal Corporate Solicitor (Regeneration) on behalf of the Council Solicitor and Monitoring Officer
20-Oct-15	As detailed in section 6.3.1	College Green Cultural and Educational Quarter	Jo Negrini, ED of Place	Cllr Alison Butler (LAB Deputy Leader (Statutory) and Cabinet Member for Homes, Regeneration and Planning) Cllr Timothy Godfrey (LAB Cabinet Member for Culture, Leisure and Sport)	Approved by Richard Simpson, Assistant Chief Executive (Corporate Resources and S151 Officer)	Approved by Sean Murphy, Principal Corporate Solicitor (Regeneration) on behalf of the Borough Solicitor & Director of Legal & Democratic Services

Date	Decision	Report	Lead Officer	Lead Cabinet Member	Finance sign-off	Legal sign-off
20-Jun-16	As detailed in section 7.3.2	Brick by Brick Croydon Limited - Property and Financial	Richard Simpson, Assistant Chief Executive (Corporate Resources and S151 Officer)	Cllr Alison Butler (LAB Deputy Leader (Statutory) and Cabinet Member for Homes and Communities) Cllr Simon Hall (LAB Cabinet Member for Finance and Treasury)	Approved by Richard Simpson, Assistant Chief Executive (Corporate Resources and S151 Officer)	Approved by Sean Murphy, Principal Corporate Solicitor (Regeneration) on behalf of the Acting Council Solicitor and Acting Monitoring Officer
20-Feb-17	Not a key decision	Brick by Brick Development Company - Business Plan	Shifa Mustafa, ED of Place	Cllr Alison Butler (LAB Deputy Leader (Statutory) and Cabinet Member for Homes and Communities) Cllr Simon Hall (LAB Cabinet Member for Finance and Treasury)	No sign-off although there is a finance section	Approved by Sean Murphy, Principal Corporate Solicitor (Regeneration) on behalf of the Acting Council Solicitor and Acting Monitoring Officer
26-Feb-18	Not a key decision	Brick by Brick business plan 2018/2019	Shifa Mustafa, ED of Place	Cllr Alison Butler (LAB Deputy Leader (Statutory) and Cabinet Member for Homes and Communities) Cllr Simon Hall (LAB Cabinet Member for Finance and Treasury)	Approved by Lisa Taylor - Director of Finance, Investment and Risk	Approved by Sean Murphy, Principal Corporate Solicitor (Regeneration) on behalf of the Acting Council Solicitor and Acting Monitoring Officer
25-Feb-19	Not a key decision	Brick by Brick Business Plan 2019/20	Shifa Mustafa, ED of Place	Cllr Alison Butler (LAB Deputy Leader (Statutory) and Cabinet Member for Homes and Communities) Cllr Simon Hall (LAB Cabinet Member for Finance and Treasury)	Approved by Lisa Taylor - Director of Finance, Investment and Risk (S151 Officer)	Approved by Sean Murphy, Director of Law and Governance, and Deputy Monitoring Officer.

Date	Decision	Report	Lead Officer	Lead Cabinet Member	Finance sign-off	Legal sign-off
24-Feb-20	Not a key decision	Brick by Brick Business Plan 2020/21	Jaqueline Harris-Baker, ED of Resources	Cllr Alison Butler (LAB Deputy Leader (Statutory) and Cabinet Member for Homes and Communities) Cllr Simon Hall (LAB Cabinet Member for Finance and Treasury)	Approved by Lisa Taylor - Director of Finance, Investment and Risk (S151 Officer)	Approved by Sean Murphy, Director of Law and Governance, and Deputy Monitoring Officer.

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