

# SOUTHWARK AND CROYDON: Setting up public private partnerships

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Council and Croydon Council

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Croydon Urban Regeneration Vehicle  
Croydon Council Case Study, March 2009



## SOUTHWARK AND CROYDON: Setting up public private partnerships

The final meeting of the TEN Group considered the lessons from setting up public private partnerships to develop Bermondsey Square in Southwark and a number of major sites owned and occupied by Croydon Council, using one the first Local Asset Based Vehicle (LABV) to be set up by a local authority. Partnerships can range from partnerships in spirit or contractual partnerships, using Development Agreements to joint companies and Special Purpose Vehicles, and even not for profit trusts. The Southwark meeting complemented lessons that had been learnt from previous visits, including the models of a public private company used to develop Vathorst in Amersfoort, and the different arrangements at Paddington Basin and Swiss Cottage.



The new square which is used by the Bermondsey Antiques Market and a Farmers Market and for events such as the LLC Bike Ride

The meeting provided a unique opportunity to compare approaches and to learn from those directly involved. We are very grateful to all who made it possible, including Igloo who provided the space for the meeting. Tim Thompson, Project Director at Southwark Council and Chris Brown, Chief Executive of Igloo led the tour of Bermondsey Square



Apartment roof gardens

and kicked off the meeting, and a presentation was given by Emma Peters, Executive Director and Malcolm Lyon, Project Manager at Croydon. The excellent case study provided by Croydon (Appendix B) should make it much easier (and hopefully less expensive) for others to follow the route they have pioneered.

Apart from the quality of the discussion, highlights of the visit were not only looking out from the top of the Bespoke Hotel and the private roof gardens, but also seeing a mixed use scheme that really works. This was confirmed by the numbers of people using the Moroccan restaurant where some of us ate afterwards, and the transformation that has taken place along Bermondsey Street over the last decade.

The briefing pack summarised a range of alternative ways in which local authorities can raise capital for projects, along with an evaluation of the basic LABV model. Public private partnerships offer a number of benefits, but can also be quite intimidating. The discussion concentrated on the issues of most concern to members: securing a mix of uses, setting up a partnership, making a scheme financially viable, managing relationships with both councillors and the immediate community, and changing the image of a bad area.

## Securing a mix of uses

Mixed use schemes are notoriously difficult to set up, because developers and investors tend to specialise in either commercial or housing development and because a site will often have one use that is value maximising. While the general aim in both cases was to secure higher quality and mixed use development on sites owned by the Council that were not prime candidates for private investment, the situations were in fact very different. Bermondsey was a former industrial area on the site of a former abbey. A wave of investment was already underway in North Southwark around the site of London Bridge Station. The location was not far from where regeneration already had taken place, but the site was quite small (1 ½ acres). Archaeological investigations proved protracted and expensive. Southwark first went out for ideas, and then worked up a brief for what the Council wanted to achieve, which included retaining the Bermondsey Antiques Market,



The boutique hotel offer a special place to stay



Bermondsey Antiques Market

while attracting new shops, a hotel, a cinema, and a mix of housing. There were extensive consultations with ideas displayed in portacabins on the site. Igloo (along with Urban Catalyst at the time) was selected because their proposal not only best met the brief but also offered the Council the best financial return.

Croydon had a boom in the 1950s and 60s and then languished. There is a million sq ft of empty offices, and despite ambitious masterplans, first by Urban Initiatives and then Will Alsop, little had been seen to happen apart from projects such as the tram and the new library, which has started to give the town a Continental feel. Though there is more retail space in the town centre, than in Bluewater, promised private developments have

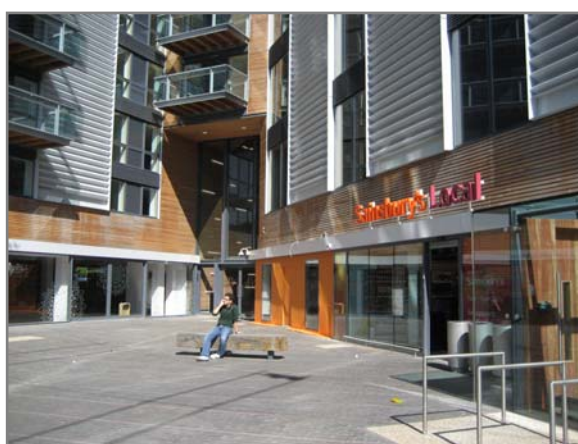


failed to materialise and much of the centre looks dated and somewhat unfriendly compared with out of town developments. A new Conservative Council and Chief Executive were concerned about the low level of office demand, and the need to show early results. Furthermore the Council's own office accommodation was very unsatisfactory. The priority was therefore to pump prime the office market and to make the most of surplus local authority assets as a means of changing the town centre's image. The Council has updated the policy framework, for example to make the most of the transport capacity, and initiated masterplanning work with the main stakeholders.

## Setting up a partnership

The process of setting up a public private partnership involves both time and money, and sharing the risks and rewards is inherently tricky.

Bermondsey Square is a conventional public private partnership in which the developer operates on a lease and is granted the freehold when the scheme is complete as agreed, with a lease back to the Council of the antiques market (for one morning a week). The scheme aroused



The Sainsburys serves both the local community and Bermondsey Square

some controversy and so success depended on the commitment shown by both the Council officer responsible and the developer in delivering what they had promised. There are very few developers able and willing to undertake mixed use development so the Council was fortunate in attracting the right partner for this particular project. The legal issues were relatively straightforward in producing a development agreement that transferred the freehold once all the agreed works had been completed. However it was difficult at first to build up trust that the developer would deliver what had been promised.

In Croydon, the Council needed to take a greater degree of risk and to create the capacity to undertake a range of projects, using its own demand for a new Public Service Delivery Hub of some 22,000 sq metres to kick start regeneration. As the Council owns sites in the town centre, it is able to 'sweat the assets' and secure better returns than simply continuing to occupy its current premises. This was achieved by setting up a 50:50 Limited Liability Partnership to bring together Council and private skills, and to open up new sources of capital. The Croydon Urban Regeneration Vehicle (CURV) provides access to John Laing Projects and Development's development expertise, and harnesses the design skills of an in-house Council team. In all some £450 million of development is expected to be procured through CURV over a 7-8 year period.

Professional advice was provided by King Sturge and Eversheds along with some input from 4Ps (now Local Partnerships) which brought the fee bill to some £2 million. Costs were contained through these being based on a success fee, that is the full fees would not have been charged if the scheme had not gone ahead. The partnership promised immediate results, rather than being dependant on a developer who may not move once they have been selected. Furthermore by setting up CURV the Council can take on a whole range of different projects and areas, without having to go through an expensive tendering process again.

## Making a scheme financially viable

Development involves taking a long-term view, as it can take many years to assemble sites, secure planning permission, and then build and occupy the new space. In the first instance Southwark Council raised £100,000 to develop and de-risk the brief, using an 'Ideas' competition. The site was then sold for 'best consideration'. The development of Bermondsey Square was then made viable by being carried out in three and a half phases. It was only feasible because Igloo has a long-term interest of at least 20 years, which allows it to ride the ups and downs of the property market. This is because Igloo is a specialised investment vehicle funded by a number of pension funds. They managed to get the Council to accept the need for wealth creation in what was traditionally a very poor area, and undertook the most profitable parts first, with the social housing coming in at the end. Fortuitously in this location the different ground floor uses had similar values. The site was originally seen as valueless, but it still involved a major effort to retain Council support and 'broker agreement' between all the interests. Thus the brief required a cinema, and the developer was able to find someone independent willing to run a very small (50 seat) independent cinema and bar. Over one difficult period the London Development Agency helped out by loaning £3/4 million.



An independent cinema and bar occupies the ground floor with apartments above

The great advantage of CURV is that it can borrow funds from the Public Works Loan Board at much lower rates than any developer can access, and without as much effort. But this was only possible because there were potential schemes that would enable the loan to be serviced and repaid. However as a Limited Liability Partnership the scheme would not be attractive to pension funds interested in a long term investment (but a Limited Partnership [LP] would be attractive). As a 50:50 partnership CURV is not subject to having to publicise projects through OJEU and is therefore able to act relatively quickly. The arrangement appealed to a Conservative Council as a 'market

solution’. Significantly there are no politicians on the board. There are three Directors who are Chief Officers of Croydon Council (but not the Development Director, who might have a conflict of interest), and three from John Laing Developments. The company is able to use whatever contractors it wants. The two sides are held together by sharing the profits from development, with the Council putting in its buildings (with 40% of the value being treated as equity), while John Laing puts in funds. The Council therefore gets an income related to the assets it put in, but as CURV invests its funds, the interest reduces.

## Managing relationships

Public and private organisations have different motives and ways of behaving. One of the keys to the success of Bermondsey Square has been managing the site intensively, which has enabled good relations to be built with the different tenants, and the Chief Executive of Igloo actually lives near the site! The market traders and the firm that rents out the stalls, are notoriously difficult to please, but have helped create a unique identity for the development. The Council still collects the fees from the market traders and is responsible for the public realm. It was also responsible for assembling the whole site, and there were some tricky relationships with adjoining properties to be negotiated. The Council changed in 2002 which set the project back 18 months and so a lot of time had to go into building relationships. This was helped by having a project officer with a specific responsibility for the wider regeneration area.



View from the hotel looking down on to the Square, Sainsburys and offices above it and to the right the award winning bike shed

The Croydon partnership was set up relatively quickly and the process started in April 2007, with the partner selected a year later. This was achieved through a two stage process in which they first sought expressions of interest, which were evaluated carefully against a questionnaire with over 50 questions. The Council then entered into Competitive Dialogue with the three best contenders. There are 48 documents that specify the relationships in three key areas. Croydon’s Chief Executive acts as the Chair, and John Laing provide management services for a fee. However there could be conflicts when it comes to expenditure on the public realm or leisure facilities. There is an issue of whether the company should have dedicated staff, and better information might have been provided on the desired masterplan. Undoubtedly a key is a commitment to ‘joined-

up' management, for example Total Place, and the arrangement would not suit every Council.

## Changing an area's image

Investors are generally risk averse, while community groups generally distrust both developers and councils, so the process of raising demand and values is extremely hard to get going, and can easily get out of control. The image of Bermondsey, which was once very rough, has been transformed by retaining all the main buildings that lie within the Conservation Area of Bermondsey Street, and gradual gentrification, with a good range of specialist shops and design oriented businesses. For Chris Brown the key to success was 'searching for the potential direction and then magnifying it'. Undoubtedly the quality of the architecture and urban design has also been vital, as has retaining the old antiques market throughout the development period.



For Croydon it is still early days, but the masterplans now are taking in transport and energy as well as the public realm, and therefore are much more real than their predecessors. Croydon has secured a lot of positive publicity for setting up CURV which should help in attracting other investors, and in retaining key employers. In turn the lead taken by the Council has helped in attracting good staff, and the Council's design team were recently profiled in a feature in the Observer.

## Conclusions

By comparing and contrasting two very different approaches a number of useful conclusions emerged, and we have set out ten general principles:

1. Public private partnerships are an important way of accessing private development skills and finance, while making better use of Council property assets where the Council occupies outmoded buildings or underused sites.
2. It is important to decide the level of intervention or sharing of risk that is needed, which depends on the state of the local property market and private sector confidence at the time.



3. A straightforward sale works best when the Council knows what it wants on the site and this will produce a positive property value. A Local Asset Based Vehicle works best when there are a number of sites, which need low cost finance to develop them.
4. In both cases a balance must be sought between following European Union procurement rules (which come into play when works are specified), securing an appropriate partner, and keeping transaction costs within reason.
5. The development partners should have a long-term interest in placemaking, and as there are few such firms around they need to be courted and evaluated against multiple criteria which are clear from the outset.
6. By going for 'Competitive dialogue', it is possible to get to know who you will be working with, and the prospective partners can be used to select two or three bidders from those who return outline proposals.
7. You should control your professional advisors and not be led by them. This may mean employing other consultants as a 'critical friend' and to provide objective advice on the range of models.
8. The other public sector agencies also need to be brought along, as do politicians, to avoid it becoming a political football.
9. You should avoid inflexible and over-expensive service contracts but consider having an independent chair and secretariat, and a Project Board or equivalent for key projects.
10. Be realistic about the development potential and likely value, which means investing in site master planning and urban design upfront.



# Appendix A

## Participants and apologies

### Participants

Chris Berry, Chief Planning & Regeneration Officer, LB Redbridge  
Chris Brown, Chief Executive, Igloo  
Nicholas Falk, Director, URBED  
Sue Foster, Director of Place Shaping and Enterprise, LB Enfield  
Karen Galey, Head of Economic Development, LB Waltham Forest  
Pat Hayes, Executive Director of Regeneration and Housing, Ealing Council  
David Hennings, Head of Regeneration, Catalyst  
Tom Jeffrey, Director, Environment, Culture and Public Participation, Croydon Council  
Malcolm Lyon, Project Manager, Croydon Council  
Shifa Mustafa, Assistant Director of Development, Waltham Forest Council  
Emma Peters, Executive Director, Croydon Council  
Daniel Ratchford, Strategic Director of Environment and Leisure, LB Sutton  
Darren Richards, Head of Planning and Transportation, LB Sutton  
Tim Thompson, Project Director Canada Water & Bermondsey Spa Regeneration, Southwark Council  
Ed Watson, Assistant Director Planning and Public Protection, Camden Council  
Anne Wyatt, Project Manager, URBED

### Apologies

Chris Donovan, Assistant Director (Strategy, Planning & Regeneration), Bexley Council  
Marc Dorfman, Assistant Director Planning & Regeneration, Haringey Council  
Mark Lucas, Head of Regeneration, Redbridge Council  
Brendan Walsh, Director of Regeneration and Community Development, Ealing Council





## **Croydon Council - Case Study**



## **Croydon Urban Regeneration Vehicle Procurement of Private Sector Partner**

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## **1. Purpose of Document**

This document sets out the strategy and process for the procurement of a private sector partner (PSP) to enter into a joint venture (JV) to develop Council assets. The JV has been badged as Croydon Urban Regeneration Vehicle (CCURV) which embraces the Council's commitment to regeneration of the Borough and where possible injects its own assets to support the regeneration process.

The aim of the document is to act as a case study in the use of the Competitive Dialogue process as defined by the Public Contracts Regulations 2006. In doing so it is set in the context of the process undertaken in the selection of a PSP for CCURV.

In addition, the document addresses some of the 'Prevailing Themes' arising from the creation of CCURV and the 'Challenges Ahead'.

## **2. Background**

It was proposed that CCURV would be a 50/50 joint venture between the Council and its PSP. Its primary purpose was to take forward and physically develop the sites transferred to it by the Council. It is also intended that CCURV would pursue new development opportunities which meet its development criteria where the opportunity arose.

Additionally, the Council would commit to the development of a new Public Service Delivery Hub (PSDH) consisting of 22,000 sqm as part of the project's development objectives. This is planned to be the 1<sup>st</sup> phase of a campus approach to the delivery of public services involving the Council and other public and voluntary sector partners on the Fell Road/ Mink Walk/ Davis House block.

The organisation to become the Council's PSP needed to be experienced in undertaking complex regeneration projects and be capable of offering full design, specification and relocation advice for the Council's pre-let requirement. It must also be capable of investing in CCURV's development programme.

The Council holds a substantial portfolio of assets within central Croydon and the wider borough. This comprises operational assets, development sites and both commercial and residential non-operational properties. The Council was aware that it faced a variety of challenges and opportunities which have arisen from changing local and national circumstances.

The Council had recognised that if real improvements were to be made to the borough, the conditions need to be created to ensure that a significant platform was in place from which the objectives can be fulfilled and that without external

funding and investment this platform could not be created. It was essential that the achievement of sustainable regeneration is a core theme within the Council's property activities, in support of the Council's vision and the sustainable community strategy.

Following Cabinet approval of the Outline Business Case in March 2007, the EU Competitive Dialogue process commenced in April 2007 when the OJEU Notice was posted. Commercial Close reached in November 2008. The CCURV LLP Partnership is 50/50 owned between John Laing Projects and Developments (JLPD) and the Council.

### **3. Objectives of the Council for CCURV**

The following objectives were set for CCURV and have been incorporated in the Partnership Business Plan:

- Enhancing the quality of design in Croydon and ensuring that the Council has an influence in place shaping in the centre of Croydon.
- Ensuring that regeneration of the centre of Croydon and ultimately the wider borough is achieved.
- Encouraging employment to generate and encourage the growth of a buoyant economy.
- Ensuring that development projects offer the best and most appropriate use of sites, employing good quality design, both now and in the future.
- Revitalising town and district centres whilst retaining Croydon's character and sense of community.
- Providing affordable housing and supporting the long term aim of increasing the number of residential accommodation units available in the centre of Croydon, this includes a drive towards higher quality and higher density residential accommodation within the centre.
- Providing a better environment.
- Ensuring that environmental and sustainability objectives are achieved as set out in the Environmental Policy and Green Commitment.
- Ensuring a whole life approach in determining the best use of assets.
- Providing place-shaping accommodation to meet the Council's short term accommodation requirements.
- Consolidating the Council's office holdings and reducing operating costs across the Council's occupied estate.
- Providing future proofing to accommodate potential changes in the need for core Council office space.
- Targeting investment in quality of place and creating healthy, safe, sustainable communities to help attract and retain businesses and skilled people within central Croydon and the wider borough.



#### 4. Principal Development Sites

The principal development sites, committed to CCURV at establishment of the vehicle were:

- **Taberner House:** This is a 19 storey office block built in 1960's that presently provides the main civic accommodation for the Council and drop-in facilities ('Access Croydon') for a number of core services. The building is located adjacent to Queens Gardens and Park Lane. The Council believes that this building is at the end of its economic life. The Council will require relocating from this site in order to release it for re-development.



- **Fell Road:** This is a 5 storey 1960s office block currently occupied by the Council. The site is adjacent to Queens Gardens, Taberner House and the historic Town Hall and Clock Tower. The Council will need to relocate prior to development of this site, which has been designated as the location for the first phase of the new PSDH.



- **Tamworth Annex:** This building is currently used by Croydon Council and the NHS for the delivery of mental healthcare facilities. The building occupies a large site and is not listed.



- **College Green:** There are several components to this site:
  - Designated public open space.
  - A building owned by Croydon College
  - An underground and multi-storey car park providing approximately 1,300 spaces in total currently leased to the RBS and operated by NCP. The lease incorporates an option for the Council to 'call' for the surrender of the ground lease in return for the payment of an agreed capital sum.



This is the most complex site within the portfolio. It had been assumed that any development of the site will need to be undertaken in phases. As a minimum, the development would require land assembly of the Fairfield Multi-storey Car Park and the Croydon College Barclay Road site.

- **Fairfield Halls:** Fairfield Halls comprises an arts, entertainment and conference centre, providing a concert hall and theatre amongst other facilities. At this stage Fairfield Halls site has not been included in the portfolio to be transferred to CCURV. However, during the Competitive Dialogue bidders were asked to demonstrate how they would incorporate Fairfield Halls into a wider master plan for the site.



A further provisional list of Phase 2 sites was identified during the Competitive Dialogue process and subject to feasibility and best value tests can be expected to be commitment to CCURV within 12 months of its establishment.

## **5. CCURV Structure**

At commencement of the Competitive Dialogue it was expected that the partnership will be established for a period of up to 28 years, in which the Council and the successful PSP will each hold a 50% interest. The value of the Council's 50% interest would be quantified through the bidding process and based upon the value of the assets it commits to the vehicle.

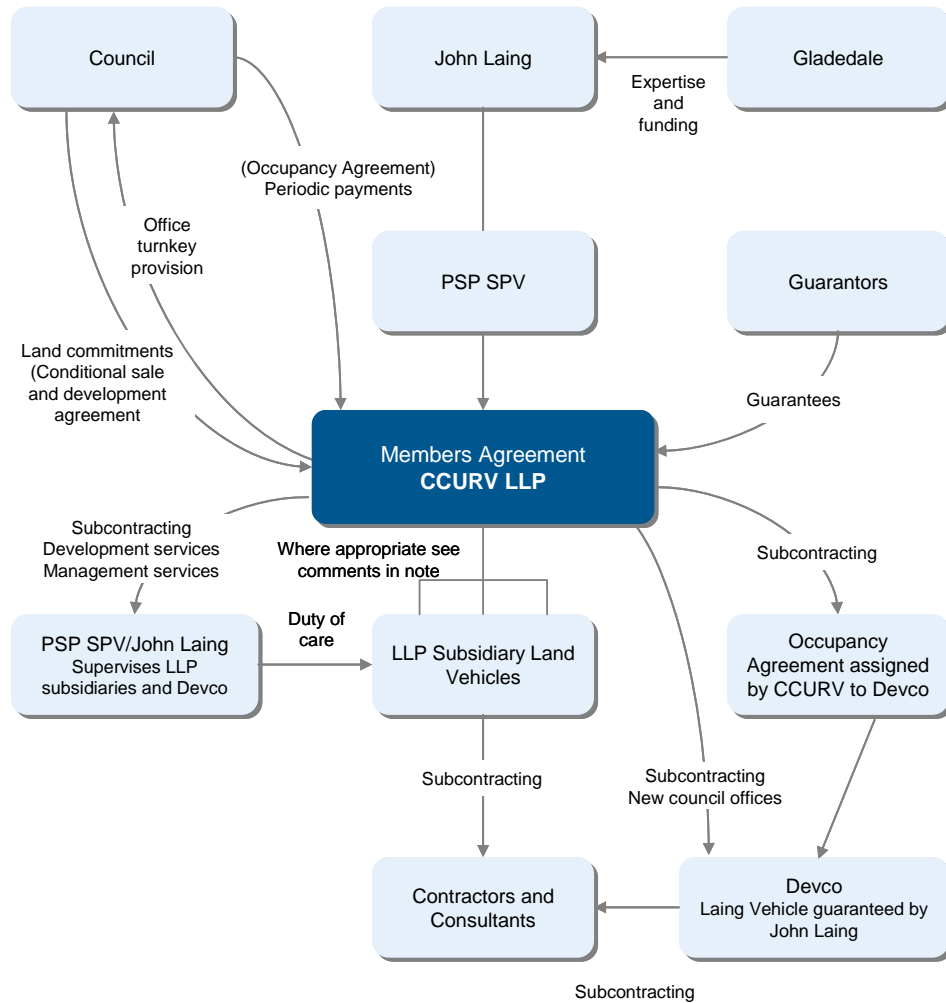
The role of CCURV will be to undertake development activity including land assembly, master planning, marketing and some physical development in line with the Council's objectives and by reference to the business plans agreed by the Council.

The legal structure of the partnership would be agreed with the PSP, which will be a Limited Liability Partnership (LLP) and would be established to afford partners the required levels of corporate governance and financial and operational efficiency.

The bidding process established a transfer value for each of the assets to be transferred into CCURV and this will form the basis of the PSP's required cash contribution to the partnership. It was anticipated that any development profits that are generated by CCURV's activities will be distributed in accordance with the partners' equity contributions (50/50).



Case Study – CCURV Procurement



## 6. The Private Sector Partner

The successful partner would be required to during the Competitive Dialogue process to demonstrate:

- It can marry its own skills and strengths in property management and development with the property potential inherent within the portfolio.
- Evidence its ability to access capital to form the basis of its 50% stake in CCURV including its commitment to access such capital and its covenant strength, and therefore unlock opportunities. The evaluation process will test thoroughly bidders' ability to access and commit such funds, debt and equity as well as a clear commitment to funding regeneration activity.
- The ability to enter into a long term partnering arrangement which will commit to delivering the development projects and unlock value within the portfolio of transferred assets.
- A shared commitment to the Council's aspirations for the borough.
- A commitment to achieve a balance between the financial and social benefits in the short and, more importantly long term.

- The skills and capacity to advise the Council on achieving its occupational objectives.

## 7. Overview of the Competitive Dialogue Process

The Competitive Dialogue process can be broken down into the following key stages, as used in the selection process for a PSP:

- Expressions of Interest and Pre-qualification (Selection of long-list)
- Invitations to Submit Outline Proposals - Competitive Dialogue (Stage 1)
- Competitive Dialogue (Stage 2)
- Calling Submission and Evaluation of Final Tenders
- Contract Finalisation and Commercial Close

Full and formal guidance to the Competitive Dialogue process can be found elsewhere.

## 8. Project Management Structure

CCURV and its objectives are complex and whilst the model used had been tried and tested in public sector bodies such as the regional development agencies and British Waterways, the Council was the first local authority to proceed with this model. This being the case a strong project management structure was required bringing together experienced external advisers and an internal team which, while not having direct experience of the CCURV model, had at least PPP/PFI, property development, urban design and estate management experience.

The project management structure followed the principles of PRINCE2. The key roles:

Role	Description
Project Sponsor - Nathan Elvery (Director of Finance & Resources/ Executive Director of Resources & Customer Services)	Strategic sponsorship of the CCURV programme.
Project Owner Tony Middleton (Divisional Director Asset & FM/ Director of Regeneration & Infrastructure)	Tactical ownership and direction of the CCURV programme.
CCURV Client Programme Manager - Malcolm Lyon	Responsible for the programme management for the Council, including matrix management of internal and external resources, lead negotiations for the client-side and advice/reporting to senior management and members.
Principal Surveyor – Anjli Gupta	Responsible for the client management input to development site opportunities, technical advice and a member of the client negotiating/evaluation team.

<b>Role</b>	<b>Description</b>
Urban Design (Planning) - Andrew Beedham and Peter Fletcher	Technical advice and feedback during the Competitive Dialogue, preparation of planning briefs and liaison with planning team.
Legal Services - Sean Murphy	Technical support of Council legal requirements and quality assurance of external legal advisers.
Corporate Finance – Marion Kelly (to November 2007) Warren Tricker (to November 2007) Peter Davis (from December 2007)	Lead on the Council's financial position, sign-off of PSC and act as a member of the negotiation/evaluation team.
Technical & Financial (External Advisers) - King Sturge	To provide external financial and technical advice and guidance on the structure of the deal and the financial model. Day to day organisation of the Competitive Dialogue process. Member of the negotiation/evaluation team
Legal (External Advisers) - Eversheds	To provide legal advice to the Council, drafting of partnership documentation and act as a member of the negotiation/evaluation team.
4Ps – Andrew Rowson	To provide external tactical support and guidance to the Council. Member of the negotiation/evaluation team.

## **Internal Team**

Another challenge was to put together a team which could dedicate the appropriate amount of time at the right time to the project. The nature of the Council and its (competing) workloads is that appointing to the core internal team had been relatively straight forward, however, the ability of each member of the team to focus on the job at hand throughout to procurement process was at times strained. That said the team, through core continuity in some roles and by setting up complementary roles, had allowed the project to continue without a major risk occurring. Risk mitigation was helped by the support of the 4Ps (see below) and having two experienced firms (King Sturge and Eversheds) acting as external advisers.

## **Appointment of External Advisers**

In view of the relatively novel structure of the CCURV model it was essential that the Council recruited external advisers whom it had confidence would provide the right quality of advice, knowledge of the technical, legal and commercial matters.

The Council undertook two selection exercises, the first using the OGCs SCat procedure which two firms were invited to tender for the technical and financial adviser role. King Sturge who had worked with British Waterways and the RDAs were successful in the selection process.

Secondly, three legal firms, including one from the Council’s framework agreement, were invited to tender. Eversheds were successful, and brought experience of working on the RDA model.

The appointment of these two firms was critical to the success of the project in reaching Commercial Close.

Further limited external advisers were used for specialist roles such as surveyors.

### **Support from the 4Ps**

As this project was a ground breaker for local authorities, the 4Ps designated CCURV as a ‘pathfinder’ project and therefore provided support from the Head of their Property and Regeneration team. Andrew Rowson joined the team following the pre-qualification stage. He was involved in the evaluation of the Outline Submissions, attended the majority of the Competitive Dialogue meetings and provided ad-hoc guidance on procedural and other matters as they arise. Bringing a fresh pair of eyes (with experience of the wider local authority regeneration agenda) to the team clearly added value to the process, even if in some cases it is reaffirming the Council were on the right track.

Also, Andrew Rowson drew on his 4Ps colleagues to provide specialist and/or specific advice and guidance as appropriate.

## **9. Timetable**

Event	Timing
OJEU Notice Posted	April 2007
PQQ Returned	June 2007
Invitation to Submit Outline Proposals (CD1)	July 2007
Outline Submissions Received	August 2007
Competitive Dialogue Stage 2 Commences	October 2007
Call Final Tenders	February 2008
Final Tenders Submitted	February 2008
Cabinet Approval – Selection of PSP	June 2008
Cabinet Approval – Move to Commercial Close	November 2008
Commercial Close and Establishment of CCURV	November 2008

## **10. Expressions of Interest and Pre-qualification**

The objectives of this stage was to seek expressions of interest in tendering for the role of PSP and in doing so go through a formal pre-qualification exercise resulting in a long-list of bidders to be invited to submit Outline Proposals.

While a formal OJEU notice would be issued, a considerable effort was made to warm the market up and take market soundings (previously done during OBC stage). As the OJEU was planned for April 2007, the Council used the opportunity to promote the project at MIPIM (March 2007), including the production of a short DVD.

The OJEU notice was posted in April 2007 however the formal launch was programmed to coincide with Croydon Expo 07 in early May. The launch event was attended by over 90 from the industry. The launch event also allowed the Council to demonstrate support at Member level including attendance from the Leader and Cabinet lead for Regeneration as well as key senior officers.

As a result the Council received 19 expressions of interest to the Memorandum of Information issued. Following a period of evaluation a long list of 8 firms/consortia were selected to proceed to the next stage of the competition.

### Key Issue for this Stage

One key issue which came out of this stage was the requirement under the Competitive Dialogue process to set the evaluation criteria for the competition. It became clear from the advice received from Eversheds that the team would need to set the evaluation criteria for the whole process from the outset. This does become a challenge in that through each stage of the Competitive Dialogue process the amount of detail and information provided by bidders differs and in some cases certain evaluation criteria is not tested at all (e.g. quantum of the financial offer is only tested at final offers, while ‘Quality of Consortium’ is key in the pre-qualification exercise, but less so at final offers in that it was previously tested and the bidders would not be there if the team was not strong from the outset).

Great care therefore needs to be taken over setting the allocation of scoring percentages at the commencement of the process, needing to balance the objectives and demands of each stage of the selection process.

The evaluation criteria used was:

Criteria No. (weighting)	Criteria	Sub Criteria (weighting)
1 (8%)	Quality of consortium	Design and property team (3%) Financing partners (4%) Experience of working together (1%)
2 (34%)	Financial Offer	Quantum of offer* (17%) Robustness of offer (incl. covenant strength, transparency of consortium)

Criteria No. (weighting)	Criteria	Sub Criteria (weighting)
		and guarantee arrangements) (11%) Caveats (incl. pricing, flexibility, general qualifications) (6%)
3 (30%)	Physical proposals	Meeting the Council's relocation objectives (7.5%) Meeting the Council's regeneration objectives (7.5%) Deliverability (incl. planning and market risks) (5%) Urban design (5%) Mix of uses (incl. provision of public realm) (5%)
4 (14%)	Approach to partnership	Approach to Business Plans (5%) Approach to partnership working (5%) Resourcing plan (3%) Flexibility (incl. approach to Council occupancy and other future requirements) (1%)
5 (14%)	Structure of CCURV	Acceptance of legal and operational principles (5%) Acceptance of project documentation (5%) Approach to asset transfers (incl. taxation and accounting matters) (4%)

## 11. Invitation to Submit Outline Proposals

An Invitation to Submit Outline Proposals (ISOP) was issued to 8 firms/consortia of which 5 returned Outline Proposals. The Council's aim was to use an ISOP to reduce the number of Candidates moving forward into further detailed dialogue to three.

The shortlisted bidders were asked to respond to 51 questions designed to cover the evaluation criteria (main exception was 'Quantum of Offer'). Care was taken to set questions which sought enough detail to enable the Council to select the most promising 3 bidders for the final stage of the Competitive Dialogue process including submission of Final Tenders.



Some of the key areas were:

- Confirmation of the quality of the firm/consortia bidding and its professional team, through indicative and emerging proposals for the sites and the civic offices provision.
- A willingness to commit to the Council's objectives for CCURV with a commitment to regeneration and the development of further assets whatever the size.
- A steer on their preference for the legal structure of CCURV in particular LP or LLP.
- Commitment to the proposed Loan Note structure.

At this stage the Council is asking bidders to commit significant resources to the process, with the odds still 5 to 1. It is important to invest time getting the right balance on information required to enable a valued assessment of the bids. A key risk here is that one bidder, with potential may lose the opportunity to score higher because they have lacked detail in their submission while in essence committing to the approach set out in the Council's ISOP.

In addition, because proposals are outline at this stage, there is more judgement asked of the evaluation team to predict the deliverability of those proposals in the long run, bearing in mind a considerable amount of design development and detail added before Final Tenders submitted. The evaluation team benefited from a system of individual followed by team marking, thereby giving a broad analysis of the bids submitted. Also involvement of the Urban Design team from Transport and Planning Department was a great help in giving direction to bidders on the planning constraints in line with the Council's UDP and as part of the evaluation process on deliverability.

## **12. Competitive Dialogue Stage 2**

An extensive Competitive Dialogue process was embarked on at the outset with 3 shortlisted bidders (City 3 Partnership, John Laing and Land Securities Trillium). Following the initial rounds of the Competitive Dialogue meetings City 3 Partnership withdrew from competition leaving the two remaining bidders.

The Competitive Dialogue process was generally run along 3 streams, design and property, commercial and legal. This approach worked generally very well, though there was some clear overlap requiring joint coverage of topics. One important aspect of this process was to ensure that there was not too much compartmentalisation of knowledge on the Council team's side. In particular, while the members of the team clearly needed to cover the commercial aspects of the deal, it was extremely helpful that they attend some of the design and property meetings as this gave them a solid understanding of the links between what was to be delivered and the commercial impact.

Once the team had embarked on the Competitive Dialogue Stage 2, it became clear that the time allowed for bidders and dialogue between the bidders and the Council team was not enough. The Council offered an extension of the Competitive Dialogue period from mid-December to mid-January with the Final Tenders required at the end of February 2008. The bidders and the Council used this period productively with Final Tenders to be called in the first week of February. To give bidders confidence that no material changes were expected in what would be required at final tender stage, the Council issued a draft Invitation to Submit Final Tenders in late December. The Bidders repaid that confidence and agreed to have a relatively short Final Tender period, approximately 3 weeks.

### **13. Calling, Submission and Evaluation of Final Tenders**

The tactic of issuing a draft Final Tender document, allowed the two bidders to meet the short deadline for submission of Final Tenders. In retrospect this worked well and allowed the Council to keep open the Competitive Dialogue process as long as practical. This approach worked since if in those last few weeks the Competitive Dialogue was restricted to fine tuning a small number of issues (not necessarily the same for both bidders).

The Evaluation of Final Tenders was undertaken by the Evaluation team. This team had essentially been the same team throughout the whole procurement process, apart from a couple of exceptions, where individuals moved on and replaced by a new member. However, keeping the core team together and using that team which was involved in the Competitive Dialogue negotiation meetings meant that final evaluation was relatively straight forward. It is important that when evaluating bids on such a complex and multi-facet vehicle, those involved have been on the journey, understand why decisions were made during the Competitive Dialogue and where we arrived at.

Furthermore, while views were sought throughout the Competitive Dialogue process from other groups, for instance presentations to senior management and members, feedback on proposals from the Urban Design team and planners, it was considered important to the integrity of the process that that core team only scored the bids.

Once the evaluation process was completed, a report was produced which included an updated public sector comparator. The evaluation results were set out in the report to Cabinet in June 2008, in which Cabinet were asked to approve John Laing Projects and Developments as preferred Private Sector Partner. The recommendation subsequently reviewed and endorsed by Scrutiny and Overview Committee, who backed the recommendation.

John Laing Projects and Developments (JLPD) were selected Preferred Private Sector Partner (PPSP) in June 2008.

#### **14. Contract Finalisation and Commercial Close**

The Council moved to PPSP at a time of major economic uncertainty, this being said both parties maintained a positive position taking the long term view for the partnership. Working within the restrictions of the Competitive Dialogue process, the partnership documents were finalised, albeit over a longer period than planned. The teams were required to respond to the prevailing market conditions in finalising the partnership arrangements without re-opening the negotiation process.

In view of the quantum of this deal to the Council it was decided to return to Cabinet for final approval to move to Commercial Close, immediately prior to this the report was considered by Scrutiny and Overview Committee. In reporting to Cabinet and Scrutiny & Overview Committee, the team was able to report that the deal had been shared with the district auditor and had received a letter of comfort from them over the approach and the ability of the Council to enter into such a partnership. Secondly, another important opinion from Deloitte sought and reported was over Accounting Treatment of both the Public Service Delivery Hub and CCURV itself. PWC acted as a 'critical friend' for the finance team during this period.

Cabinet approval was given to move to Commercial Close in November 2008 and Commercial Close achieved on 28 November 2008.

#### **15. Client-side Management**

It is critical that there is a strong client-side management team in place post establishment of the vehicle. The core Council team involved in the Competitive Dialogue process has been retained to manage the client function in the early stages of the operation of CCURV. The Council at the time of completing this case study (March 2009) was in the process of restructuring the Directorate of Regeneration and Infrastructure with a permanent client team to be embedded in the Strategic Development Section. In addition, important links and support will come from the Corporate Finance team. In addition, a Project Board has been formed to manage the PSDH programme, the PSDH being a key CCURV deliverable. This also has links into the Service Transformation team, again close working relationships have been established between this team and the Client Team.

To support this client function, a User Manual is being developed. The User Manual when completed will be a comprehensive suit of documents divided into the following parts:

- Guide to the User Manual
- High Level Guide to the Partnership
- Guide to Partnership
- Budget Management and Affordability
- Stakeholders, Communication and Public Consultation
- Client Management Role
- Risk Management

## **16. Prevailing Themes**

In embarking on the CCURV joint venture using the Competitive Dialogue process there are a number of prevailing themes on which to reflect now that the Council has passed Commercial Close and is in the early months of operating CCURV with JLPD. While not comprehensive the following is a retrospective Council view of the position.

### **Innovation and Best Practice**

Croydon Council is the first local authority to enter into the Local Asset Backed Vehicle model used. This model had previously been used by a number of Regional Development Agencies (e.g. EMDA and One North East) and British Waterways. In view of its pathfinder status the 4Ps provided support to the project throughout the Competitive Dialogue process and was used as a case study in their [name] publication.

The project was also innovative in that the deal was anchored by the Council's requirement for a new 22,000 sqm PSDH and its objective to cover the cost of this new building through the value created by the surplus sites transferred into CCURV. This added an extra dimension to the Competitive Dialogue process, in that the Council was looking for a partner which both could successfully deliver the commercial development sites and manage the delivery of the PSDH.

It is hard to define Best Practice when 'Pathfinding', however the Council used many of the lessons learnt from more traditional PFI/PPP projects, applied PRINCE 2 and our external advisers King Sturge and Eversheds brought with them their experience on the Regional Development Agencies projects.

*[To be added: Appendix Lessons Learnt = Sign-posting best practice for similar CD LABV procurements]*

## **Outcomes for Local People**

The outputs for CCURV is likely to deliver around £450m of development providing initially much needed regeneration to the Town Centre but later the district centres and wider Borough. In achieving this there will be a number of important outcomes for local people:

**Public Services Delivery Hub:** This new building will be the first phase of a campus approach to public services involving the Council and its public and voluntary sector partners. 'Access Croydon' will be the centrepiece of the new building with ground floor public access to a comprehensive set of services from housing to the Registers Office.

**Improvements to Public Realm:** As part of the redevelopment of four contingent sites will facilitate a major upgrade of the public realm, to include but not limited to:

- Pedestrian at grade access across Park Lane linking College Green to Queens Gardens.
- Enlargement of the Queens Gardens green space and reduction in shadowing at peak lunchtime usage.
- Re-working of College Green to allow for public entertainment space, better links and interface with Fairfield Halls and improved access to East Croydon station and Park Hill park.
- Pedestrian access from new PSDH to Queens Gardens.

**New Homes:** While the final mix on the development sites will be reviewed in the light of prevailing market conditions, it is expected that a large number of new homes will be built across the CCURV sites to include both market and affordable homes.

**Jobs:** With £450m of development spread over 7 to 8 years initially, it can be expected that there will be considerable job opportunities for local people. The Council and CCURV will be expecting the CCURV contractors to work with local training providers, such as Croydon College, to provide opportunities for placements on development projects.

Also there can be expected to be long-term commercial, public sector and retail jobs created through the regeneration of these sites.

**Cultural Quarter:** The initial development sites sit within the Cultural Quarter of the Town Centre. Where possible and practical the development sites will complement the existing fair and strategy. The re-design of College Green to act as an entertainment space, supported by ground level retail outlets and linked to the Fairfield Halls is an example.

## Members Engagement

The programme has had considerable support and engagement from Members throughout the Competitive Dialogue process, but also in the earlier stage with the first key milestone of Cabinet approval of the Outline Business Case in March 2007.

The project has had clear direction from Leadership and active ongoing involvement from the Cabinet Member for Regeneration throughout. In addition, the opposition group were engaged and briefed through the procurement process. This included presentations from the two shortlisted bidders prior to final evaluation of the Final Tenders.

Also, the team went to Scrutiny and Overview Committee at selection of Preferred Private Sector Partner and prior to Cabinet authorisation to move to Commercial Close. Scrutiny and Overview Committee commented in [find]

Key events involving Members:

Event	Timing
Cabinet Approval of Outline Business Case and agreement to proceed with Competitive Dialogue Process	March 2007
Launch Event for Industry	May 2007
Bidders Presentations to both Leadership and Opposition Group	May 2008
Cabinet Approval of Preferred Private Sector Partner	June 2008
Scrutiny and Overview Committee Review of Cabinet decision	July 2008
Scrutiny and Overview Committee (Pre-Cabinet decision)	November 2008
Cabinet Approval to move to Commercial Close	November 2008

It is important to state that while Members were engaged throughout the Competitive Dialogue process, and feedback considered by the Evaluation team, the marking and evaluation of bids at each stage was solely left to the Evaluation team.

The other key point is that Commercial Close took place at a time of major economic uncertainty. The support of both the Senior Management team and Members was vital to completing the deal and the creation of CCURV.



## Maximising Value of the Council Assets

A key driver for the Council in using this Local Asset Backed Vehicle Model was to maximise the value of the Council assets. This vehicle had been tested and used by the Regional Development Agencies and British Waterways. Evidence was that up to 40% more value could be obtained over the traditional sale route.

While the Council had been relatively successful in its disposals programme, it believed that further value could be attained and the Urban Regeneration Vehicle route was explored. This resulted in an Outline Business Case being produced backing the URV route which was approved by Cabinet in March 2007.

The main reasons for creating added value are:

- **Transfer values** higher than the book value, obtained by offering a group of assets and potentially further pipeline of sites. Value also added through opportunities for land assembly of adjacent sites, College Green is a prime example.
- A 50% share in **Developer Profits**. This opportunity is lost through traditional method of land disposal. While 'overage' clauses have been used in the past, realising 'overage' payments is not particularly transparent.
- **A and B Loan Notes** which attract a coupon (interest) on the value of the assets committed or transferred into the Partnership. The A Loan Coupon applies from commencement of the partnership related to the unmatched JLPD A Loan and the B Loan Coupon from transfer of the assets at the point of the 'Readiness for Development criteria' is achieved for each development site.

However, the partnership is not without risk to the Council, though safeguard have been built into the Partnership Agreement which mitigate exposure to risk and in many ways limits the risk to the added value created through pursuing this Local Asset Backed Vehicle route.

A further important point to make is that it is not just about maximising value in cash terms. Also important, if not just as, is the benefits to the regenerative impact re-developing these sites will have in kick-starting the Council's programme for the Borough, initially in the Town Centre. Traditionally once assets have been sold the Council is then at the mercy of the pace the developer wishes to develop out the sites. Being a 50/50 partner in CCURV allows the Council to ensure sites a moved forward in line with the business objectives set at the start of the Competitive Dialogue process.

## **Sustainability**

Sustainability was considered on two fronts, the first in terms of regeneration and the impact of the re-development of the sites commitment in supporting the wider regenerative objectives of the Council; and secondly the requirements of the quality of build whether BREEM rating or Sustainable Homes rating.

In terms of regeneration this has been covered at 'Outcomes for Local People', as essentially, the same themes apply to sustainability, even though the impact goes wider than just local people. Making Croydon an attractive place to work, visit and live is a key goal of the Council and this can only be achieved if the regenerative initiatives whether driven through CCURV and/or other major developments go ahead and ideally complement one another.

It is planned a minimum two Combined Heat and Power Energy Centres will be developed and depending on further detailed master planning a possible third. These CHP Energy Centres are expected to linked into the Council's wider proposals (in its early feasibility stage) for developing a district heating system.

There is a requirement for the new PSDH to be built to BREEAM Excellent standards. Key features include a Climate Wall, Chilled Beam system and a CHP Energy Centre.

There is a requirement that any new homes will be built to Sustainable homes rating 4.

## **Partnership Working**

One of the high level evaluation criteria used for the Competitive Dialogue process was 'Approach to Partnership' attracting 14% of the marks, of which 'Approach to Partnership Working' attracted 5%. The Council therefore from the outset of the Competitive Dialogue process attached considerable importance to selecting a PSP who was not only committed to the partnership working approach, but was a partner the Council could work with over what would be a long period.

CCURV also set the challenge of partnership working in that it would on three levels. The first is through the Council's 50/50 joint ownership of the CCURV LLP, secondly through JLPD acting in the Development Manager role on behalf of CCURV and thirdly through the requirement of CCURV and ultimately JLPD (as Development Manager) to deliver the Council's new PSDH.

Critical to the success of this CCURV partnership is to have well thought out partnership documentation which both parties are fully committed to and support the relationships rather than hinder those relationships. In arriving at the final

partnership documentation, it was essential that robust governance procedures were adopted to ensure probity and transparency. This was achieved through initial drafting from the Council legal and other team members and subsequently through the dialogue process with the bidders. While not a comprehensive list, some of the key features around 'Approach to Partnership' were:

- Creating a Partnership Business Plan which embeds the Council's objectives for CCURV in that plan.
- Creation of the LLP Board approach within the partnership (Board's are not technically required for a LLP) and the application of the 'Delegation Policy'.
- Development site Business Plans.
- Change Mechanism (particularly important with regard to business plans and risk sharing)
- Risk sharing and the allocation of risk and reward between the partners.

One important factor which assisted JLPD was their commitment to keep the team which bid on the CCURV team post creation (to date this has been the case).

Another factor which is less easy to quantify, but important is the bidders approach to 'listening' and this should be two way. If a bidder does not listen during the dialogue process in competition then they are hardly likely to listen when they are in situ.

Finally, as described previously, having a robust client management team is essential if the partnership is the work successful once established. While the partnership documentation sets out relatively clear lines of responsibility for the respective parties, in essence much of the day to day work requires a joint approach and mutual support. This is whether in holding public consultation exercises, talking to public sector partners about opportunities or achieving vacant possession of the Fell Road site.

This section can be summed up by "**Chose the right partner, be the right partner**".

## 17. Challenges Ahead

While the purpose of this document is a Case Study covering the Competitive Dialogue procurement route, it does give the opportunity to signal the

'Challenges Ahead' for the Council and CCURV in the first six months of CCURV's existence and in its early years of operation. The key challenges are:

**Establishing the Governance Structures:** It is one thing having robust governance arrangements written into the partnership documents however, the governance arrangements need implementing and embedded into the operation and culture of the working partnership. The following are just a selection of examples:

- **LLP Partnership Board:** The key decision making body for CCURV which meets monthly. Three Board Representatives from each shareholder though one vote for each shareholder. Issue for the individuals is that when acting in this capacity their overriding interests are that of CCURV. Tone of early meetings will set the tone of the partnership working?
- **Client-side Team:** Establishment of the client-side team is critical to the success of the partnership and to ensure that Council objective from the partnership are met. As this is a pathfinding scheme in the local authority sector means that the ability to retain the core team with their experience and knowledge of the project going forward will be very important. However, that core team needs widening with important links into the Corporate Finance function and the Service Transformation team in particular. This is set against a background of major restructuring of the Planning, Regeneration and Conservation directorate.
- **Commercial:** The Council needs to implement governance structures to safeguard its commercial and financial interests. CCURV has a complex commercial structure which should not be underestimated.
- **User Manual:** A comprehensive User Manual will be developed to support the client team and those who later may replace existing team members. Some key sections were drafted prior to Commercial Close but further work required before a full suite of documents will be completed.

**Economic Uncertainty:** Commercial Close took place at a time of economic uncertainty. Proposals for each of the development sites as set out in the business plans will need to be reviewed and amended if necessary. This is likely to apply more to the first phase of College Green with a planning application proposed for late 2009/early 2010.

On a positive side the early land assembly of Davis House has been a success securing senior debt funding and the investment is being actively managed.

**Public Services Delivery Hub:** This is potentially an early win for the partnership. However, 2009 will be a very active year for both parties with the aim of achieving planning permission and de-commissioning of Fell Road before the year end. This is particularly the case for the Council which has a major programme of work to meet all its obligations working in parallel and jointly with JLPD.

**Public Sector Partners:** The CCURV Partnership offers great opportunities for the Council to engage and promote partnerships with our public and voluntary sector partners. The vision of a Public Services Campus covering the current Fell Road/ Mint Walk/ Davis House sites requires major buy-in from other public sector partners whether the PCT, Police and/or Courts Services.

The College Green site is adjacent to both Croydon College and the Magistrates' Courts. Land assembly of the College's Barclay Road Annex is a key aim. Also there are potential opportunities to engage with the Metropolitan University who are exploring links with the College. Another opportunity is the Immigration and Borders Agency (Home Office) which is a big employer in the town and are currently reviewing their office requirements.

**Future Sites:** The Partnership was set up to allow further assets to be transferred in. The Council has a provisional list of 8 to 10 sites some of which can be easily taken forward as a development, while others are much more complicated. By moving these sites forward, the Council has the opportunity to spread its commercial risk, in particular in the early years of the partnership.

March 2009