

Brighton & Hove City Council

Policy & Resources Committee

Agenda Item 12

Subject: i360 Loan Restructure

Date of meeting: 7th July 2022

Report of: Executive Director Economy, Environment & Culture

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 This report seeks agreement to a proposed restructure of the loan made to the i360. It follows on from the report to this committee on 12th May 2022, where the committee requested additional information in order to reach a decision. The proposed restructure would protect the public purse by prioritising repayment of the council's loan as quickly as possible.
- 1.2 The report also seeks agreement for how to treat the £4.060m loan made by the Coast to Capital LEP, which was novated to the city council (at no cost to the council).

2. Recommendations

- 2.1 That the committee agrees to the loan restructure principles as set out at Appendix 1 and delegates authority to the Executive Director Economy, Environment and Culture and the Executive Director Governance, People and Resources, in consultation with the i360 Members' Working Group, to negotiate a revised loan agreement based on those restructure terms and enter into any legal agreements necessary to effect that restructure.
- 2.2 That the committee agrees to also restructure the novated LEP loan in line with the principles set out at Appendix 1 and delegates authority to the Executive Director Economy, Environment & Culture and the Executive Director Governance, People and Resources; in consultation with the i360 Members' Working Group, to include the restructured LEP loan in the revised loan agreement documents referred to at recommendation 2.1, above.

3. Context and background information

- 3.1 The principles of a loan restructure were agreed by Members in December 2019, but the Covid-19 pandemic struck before the restructure could be enacted. A report to this committee on 12/05/22 set out more of the background, included as Appendix 2. The May 2022 committee report also

set out a proposed new restructure based on the latest forecast for the attraction. The proposed restructure is intended to protect the public purse by prioritising getting the council's loan repaid as quickly as possible. At the May committee meeting, Members requested further detail in order to make a decision.

- 3.2 Since that meeting, officers have met again a number of times with the i360 board, along with Avison Young, the council's advisers. There have also been further meetings with the i360 Member Working Group to determine and feedback on detail that members requested. Avison Young created a new document summarising the loan restructure and setting out heads of terms. Whilst the proposal has not materially changed since the previous P&R Meeting, additional detail has been added to flesh out the terms of the deal and to provide further information, as requested by Members.
- 3.3 This additional detail is in the Appendix 1 document. When designing the loan restructure, Avison Young have taken into account the following objectives of the Council.
- Full recovery of the original loan (including deferred payments to date)
 - Recovery of the loan in the shortest possible time
 - The recovery of the loan while ensure the viability and growth of the i360 business plan.
- 3.4 The main principle of the restructure is a cash sweep. This means that every six months the council takes all cash within the business, leaving only an operational cash float. Where there is reference to a minimum payment, for clarity, this refers to a minimum the cash sweep has to achieve or the i360 is in default. Payment to the council of any cash in the business over that minimum sum is not optional: it is all taken.
- 3.5 The proposed loan restructure has been done in a manner which seeks to align the objectives of the i360 with those of the council to drive performance. This ensures the council achieves full recovery of its loan whilst the i360 is able to become a more prosperous business that continues to support the visitor economy.
- 3.6 Previous reports have set out the fact that the i360 has made a significant contribution to the city's visitor economy since being built. In December 2019 the i360 commissioned an [Economic and Social Impact Report](#) which set out that by the time it was written the i360 had already had an £89.6m positive impact on the local economy.
- 3.7 As well as that financial impact, the i360 has driven regeneration of a part of the seafront that had started to appear run down. It acted as a catalyst for the public realm works either side of the attraction, including new events spaces, creative retail outlets and new attractions like the Upside Down House. Some of those public realm works were directly funded by the i360. The attraction continues to draw visitors along to that part of the seafront, and has become an iconic part of the city's seafront. The management of the i360 are now creating [new visitor draws such as the Drop360 abseiling](#)

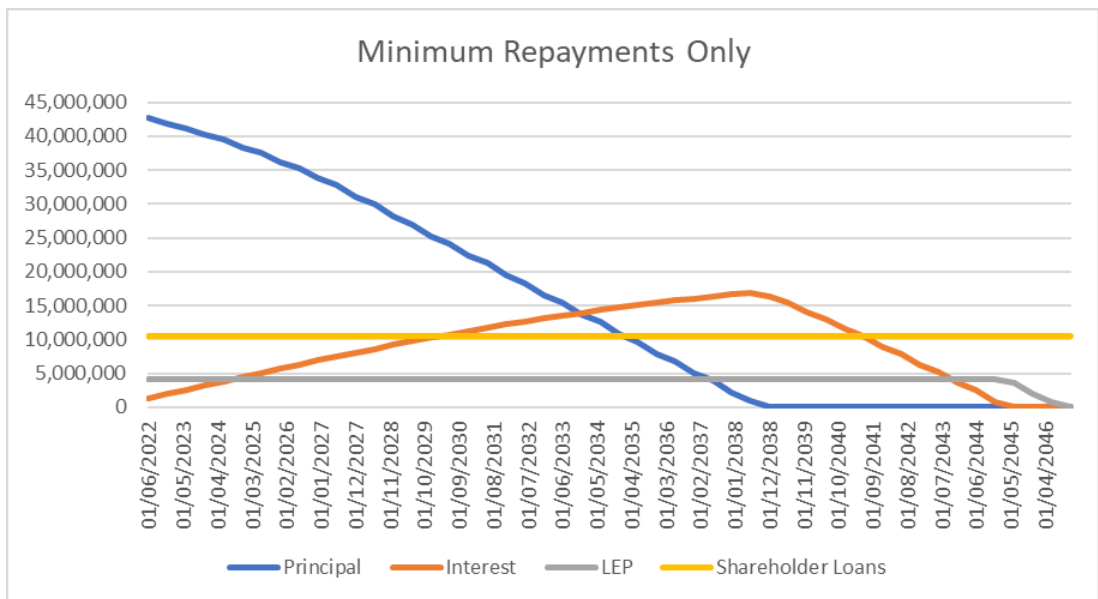
[and the Walk360 sky walk](#). Were the i360 to close down, that positive impact would be lost.

Key Considerations

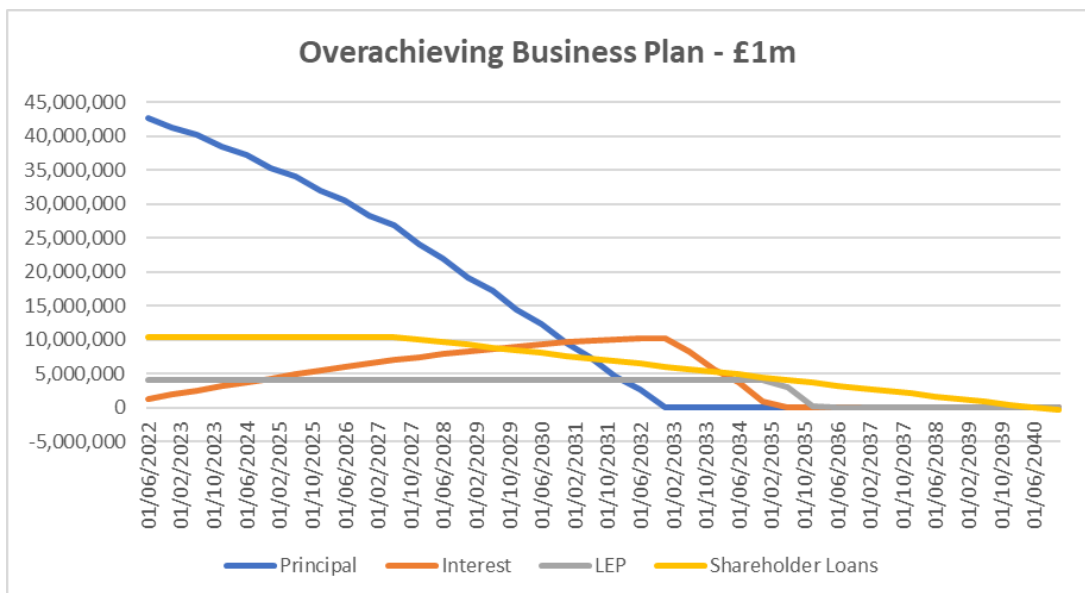
- 3.8 In previous discussions a number of issues have emerged that should be clarified in this report.
- 3.9 If the city council were not to agree a restructure then the alternative option is to enforce the council's rights under the current loan agreement to step in and take control of the attraction. As part of the early work done when the i360 first reported it could not make some of its loan payments in full, the city council asked Avison Young to look at the options open to it, including using those step in rights. [This was reported to Policy, Resources & Growth Committee in December 2018](#). The [Avison Young Report concluded](#) that stepping in was not necessarily the option that would result in the city council getting the largest amount of its money back as it would immediately result in a write down of the value of the asset. The council is also not best placed to operate the i360, and so a public procurement would need to be run to find an operator and the report concluded that it was not clear that an operator offered the best option due to their need to extract a management fee. For that reason it was not recommended to step in at that time and in doing so fix the value of the asset at a low point.
- 3.10 The existing management of the i360 has the council's confidence, and the steps they are taking to drive visitor numbers, broaden the appeal of the attraction, improve the food, drink and event offer and cut their cost base show they have a good grasp of the business. It is not presently considered that the council would drive additional income by taking over the attraction; so the best way to drive income that the council can then take via the cash sweep is to support the existing board and management.
- 3.11 It may be useful for members to better understand the identities and skills of the i360 Board of Directors. The current directors do not take any money out of the business for fees or expenses. They have invested over £10m in the business in the form of loan notes. Set out at Appendix 3 is a short description of the members of the board and their areas of expertise. Many were closely involved in the creation and operation of the London Eye and have been involved in the i360 project since its inception. Between them they have a wide range of skills and experience which they make freely available to the business due to the investment of their own money in the attraction.
- 3.12 Another consideration is whether the city council should offer the i360 the ability to take a share of the money the attraction makes to repay loan note holders if it outperforms its proposed business plan and remains on track with the cumulative minimum payments for a period of five years. Quite reasonably, this raises the question of why should the council let money be paid to those loan note holders – most of whom are shareholders – when the council is owed money? A more generous incentive mechanism was included in the loan restructure agreed in December 2019 and, as then, the

rationale is that rewarding the i360 for over-performing the targets offers an incentive to the owners to continue to invest their time and knowledge in managing the business so helping to repay the city council quicker. Avison Young has modelled various scenarios (see appendix 1) which show that if the attraction outperforms the business plan then the rate of repayments to the city council is also accelerated and the council reclaims money owed to the public purse much sooner.

3.13 In the scenario that the i360 makes the minimum repayments, then the council gets repaid after 25 years. Obviously, the loan note holders would not start getting repaid until after 25 years. This is shown in the graph below:



3.14 In a scenario where the i360 achieves the business plan and makes a further £1m per year from year 6 onwards, and there is a 60/40 split of that income above the business plan, then the council actually gets repaid within 14 years:



- 3.15 It is therefore clear that incentivisation drives faster repayment of the loan to the council. If the council does not offer this ability to repay the loan note holders, then there is no personal incentive for the i360 board and management to continue to invest all the time they do in managing the business and driving performance – and in doing so accelerating the payments to the council.
- 3.16 Furthermore, the 60/40 split (in favour of the council) has been modelled to show that there is no possibility that the loan note holders would get fully repaid before the city council.
- 3.17 At the May committee meeting, there was also a question about the need to put money into a Maintenance Reserve Account. This raised questions as to whether the attraction would need significant investment for major repairs that would make the repayment plan impossible in later years and/ or whether the life span of the attraction was such that it would reach a point where it needs to be decommissioned towards the end of the loan period, potentially leaving a liability for the council.
- 3.18 One of the i360 Board members was the original engineering designer and remains the board member with responsibility for the technical side of the attraction. He has the most knowledge of the working of the vertical cable car. He has prepared a Maintenance / Repairs / Renewals Sinking Fund Information Paper at Appendix 4. This paper sets out that the i360 was designed with a 50 year design life – that is not to say it is expected to stop operating in year 51, but it is a *minimum* design life (with proper maintenance). The paper looks at the expected costs of maintenance and it is not thought necessary to commence building up a reserve until 2027/28. Thereafter an annual contribution to the reserve of £150k would build up to £1.5m by the 20th year after the 2016 opening.
- 3.19 Finally, the other regular question that is raised is whether the council could not better use the money it invested into the i360 to deliver basic services or other capital projects like new homes. However, the money invested into the i360 was a loan derived from the Public Works Loan Board. The money was borrowed solely to make this investment. It was not taken from council reserves, and was a capital loan that could not be used to fund public services. Alternative capital loans, such as those used to build new council homes, must have their own viable business case. The existence of this loan to the i360 does not prohibit the council from borrowing money to undertake those other important functions.

4. Analysis and consideration of alternative options

- 4.1 This report considers alternative options including stepping in and taking control of the attraction or not offering an incentive to repay loan note holders. However, as this report and appendix 1 set out, these options are not considered to be the best way for the city council to get its loan repaid as quickly as possible.

5. Community engagement and consultation

- 5.1 The council is due to continue to receive 1% of ticket sales in perpetuity to spend on local initiatives with about 25% of this sum allocated to fund part of the landscaping works and discussions continue with local organisations about how to spend the remainder.
- 5.2 The i360 Member Working Group has been kept apprised of progress with both the measures to improve performance and the work around the restructure and have been consulted on taking this approach.

6. Conclusion

- 6.1 Restructuring the principal loan as set out at appendix 1, is considered to represent the best way to protect the public purse. It helps to keep the i360 operating as a viable concern that continues to contribute to the local visitor economy, which also enabling the city council to withdraw all spare cash to repay the council's loan and cover finance costs incurred by the council as quickly as possible. It then enables recovery of the LEP loan to offer a future receipt to the council to partially cover the addition income from the 'margin' that is being foregone.

7. Financial implications

- 7.1 The proposed loan restructure is set out in the body of the report and in the appendices and aims to recover all outstanding debt as quickly as possible. In summary the outstanding balance of the i360 loan with the council including accrued interest up to 31/12/2021 is £42.871m; the interest rate on the original loan to the i360 was 6.53% made up of 2.78% direct interest charged to the council by the PWLB and a margin of 3.75%. In addition to the council loan, a loan from Coast to Capital Local Enterprise Partnership (C2CLEP) of £4.060m has been novated to the council at no cost to the council.
- 7.2 The proposed restructure provides a minimum cash sweep every 6 months over a revised loan period of 25 years and will prioritise the outstanding debt first, then the interest accrued on the reducing balance of debt at a rate of 3% (with effect from 1/1/2022). Once the Council Debt and interest is paid then the cash sweeps will clear the novated loan from C2CLEP.
- 7.3 The repayment schedule assumes a minimum cash sweep that reflects seasonal variations of the attraction and is set at a level that is lower than the expected cash surpluses set out in the business plan projections. If the i360 exceeds the minimum cash sweeps then outstanding debts will be repaid earlier than the revised loan term.
- 7.4 To address concerns about uncertainty around the level of the June 2022 payment, the i360 has already made a payment of £0.700m on account of the cash estimated to be available at 30 June. Whether any more will be payable (under the cash sweep arrangements) will be largely governed by the effect on visitor numbers of the current travel disruption.

Name of finance officer consulted: James Hengeveld Date: 24/06/2022

8. Legal implications

- 8.1 The Council's proposed restructure of the loans is permitted under the current UK Subsidy Control regime as it will comply with the market economy operator principle. This means that it is not considered a subsidy because the Council is acting as a commercial investor would in the same situation. This position will be supported by the Council's external advisors, Avison Young. The market economy operator principle will continue to be available once the Subsidy Control Act comes into force (expected to be in Autumn this year). The Council continues to take external legal advice in relation to the legal documents required to restructure the loans. The legal implications of enforcing the Council's security were set out in full in the report which went to Policy, Resources & Growth Committee in June 2018.

Name of lawyer consulted: Alice Rowland Date: 26/06/22

9. Equalities implications

- 9.1 The i360 is accessible throughout to people with disabilities and has improved access to the seafront lower promenade by the building of a new lift to the east. Unisex toilets are open to members of the public who are not using the centre or visiting the attraction. The i360 has introduced a range of concessions for local residents and free tickets for local schools. The i360 is a living wage employer and does not offer zero-hour contracts. There is an apprenticeship scheme in place and training opportunities for staff at all levels of the organisation.

10. Sustainability implications

- 10.1 The i360 is a low energy user, with energy recovery when the pod is descending. The installation of heat pumps provides air heating and cooling in the pod and main building and provides an estimated 30% of the total thermal heating energy use. All electricity is purchased from renewable energy sources. Grey water and rainwater recycling has been included. Purchasing policies are based on sourcing environmentally friendly local products particularly the Sky Bar, café and restaurant.
- 10.2 At the end of the life of the attraction, decommissioning the i360 in a way that fits with circular economy goals will remain the responsibility of the owners.

Supporting Documentation

1. Appendices

1. Restructure Summary Note and Heads of Terms
2. P&R Committee Report from 12th May 2022.
3. i360 Board Member Profiles

4. Maintenance / Repairs / Renewals Sinking Fund Information Paper
2. **Background documents**
 1. [Brighton i360 Economic and Social Impact Report](#).