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Contact Officer:

John Armstrong, Democratic Services Manager
Tel: 01483 444102

18 September 2017

Dear Councillor

Your attendance is requested at a meeting of the **EXECUTIVE SHAREHOLDER AND TRUSTEE COMMITTEE** to be held in the Council Chamber, Millmead House, Millmead, Guildford, Surrey GU2 4BB on **TUESDAY, 26 SEPTEMBER 2017** at 6.00 pm.

Yours faithfully

James Whiteman
Managing Director

MEMBERS OF THE EXECUTIVE SHAREHOLDER AND TRUSTEE COMMITTEE

Chairman:
Councillor Paul Spooner
(Leader of the Council and Lead Councillor for Planning and Regeneration)

Vice-Chairman:
Councillor Matt Furniss
(Deputy Leader of the Council and Lead Councillor for Infrastructure and Governance)

Councillor Richard Billington, Lead Councillor for Rural Economy, Countryside, Parks and Leisure
Councillor Michael Illman, Lead Councillor for Finance and Asset Management
Councillor Iseult Roche, Lead Councillor for Project Aspire, Health, Safeguarding and Sport

Authorised Substitute Members:

Councillor David Bilbé, Lead Councillor for Economic Development and Tourism
Councillor Philip Brooker, Lead Councillor for Housing and Environment
Councillor Geoff Davis, Lead Councillor for Special Projects and Social Enterprise
Councillor Graham Ellwood, Lead Councillor for Licensing and Community Safety
Councillor Nikki Nelson-Smith, Lead Councillor for Social Welfare, Heritage and the Arts

WEBCASTING NOTICE

This meeting will be recorded for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be recorded, except where there are confidential or exempt items, and the footage will be on the website for six months.

If you make a representation to the meeting you will be deemed to have consented to being recorded. By entering the Council Chamber, you are also consenting to being recorded and to the possible use of those images and sound recordings for webcasting and/or training purposes.

If you have any queries regarding webcasting of meetings, please contact Committee Services on 01483 444102.

QUORUM 3

THE COUNCIL'S STRATEGIC FRAMEWORK

Vision – for the borough

For Guildford to be a town and rural borough that is the most desirable place to live, work and visit in South East England. A centre for education, healthcare, innovative cutting-edge businesses, high quality retail and wellbeing. A county town set in a vibrant rural environment, which balances the needs of urban and rural communities alike. Known for our outstanding urban planning and design, and with infrastructure that will properly cope with our needs.

Five fundamental themes that support the achievement of our vision:

- **Our Borough** - ensuring that proportional and managed growth for future generations meets our community and economic needs
- **Our Economy** - improving prosperity for all by enabling a dynamic, productive and sustainable economy that provides jobs and homes for local people
- **Our Infrastructure** - working with partners to deliver the massive improvements needed in the next 20 years, including tackling congestion issues
- **Our Environment** - improving sustainability and protecting our countryside, balancing this with the needs of the rural and wider economy
- **Our Society** - believing that every person matters and concentrating on the needs of the less advantaged

Your Council – working to ensure a sustainable financial future to deliver improved and innovative services

Values for our residents

- We will strive to be the best Council.
- We will deliver quality and value for money services.
- We will help the vulnerable members of our community.
- We will be open and accountable.
- We will deliver improvements and enable change across the borough.

Mission – for the Council

A forward looking, efficiently run Council, working in partnership with others and providing first class services that give our society value for money, now and for the future.

AGENDA

ITEM NO.

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES

2 DISCLOSURE OF INTERESTS

In accordance with the Councillors' Code of Conduct, a councillor is required to disclose at the meeting any disclosable pecuniary interest (DPI) that they may have in respect of any matter for consideration on this agenda. Any councillor with a DPI must not participate in any discussion or vote regarding that matter and they must also withdraw from the meeting immediately before consideration of the matter.

If that DPI has not been registered, the councillor must notify the Monitoring Officer of the details of the DPI within 28 days of the date of the meeting.

3 GUILDFORD SPORTS GROUND CHARITY ANNUAL RETURNS FOR YEAR ENDED 31 MARCH 2016 (Pages 1 - 14)

4 WOODBRIDGE ROAD SPORTSGROUND - VARIATION OF THE TRUST TO REMOVE DESIGNATED LAND (Pages 15 - 22)

5 SHAREHOLDER GENERAL MEETING FOR NORTH DOWNS HOUSING LIMITED AND GUILDFORD BOROUGH COUNCIL HOLDINGS LIMITED (Pages 23 - 86)

Please contact us to request this document in an alternative format

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Executive Shareholder and Trustee Committee Report

Report of Director of Resources

Author: Joyce Hamilton, Principal Corporate Services Solicitor

Tel: 01483 444053

Email: joyce.hamilton@guildford.gov.uk

Lead Councillor responsible: Paul Spooner

Tel: 07970 953232

Email: paul.spooner@guildford.gov.uk

Date: 26 September 2017

Guildford Sports Ground Charity Annual Returns year ending 31 March 2016

Executive Summary

The terms of reference for the Committee include the completion and submission of Charity Annual Account returns and the Charity Annual Trustee Report to the Charity Commission on behalf of the Guildford Sports Ground charity, also known as Woodbridge Road Sports Ground ("the Charity"). Attached at Appendix 1 are the Charity Annual Account returns for the year ending 31 March 2016, which were submitted on 31 May 2017.

Recommendation to Committee

- (1) That the Guildford Sports Ground Charity Annual Account returns for the year ending 31 March 2016, as set out in Appendix 1 to this report, be noted.
- (2) That the Principal Corporate Services Solicitor be authorised in consultation with the Chairman and the Parks and Landscape Manager to draft the Charity's Annual Trustee Report for the year ending 31 March 2016.

Reason for Recommendation:

To comply with the legal requirement that the Charity must keep its registered details up-to-date. If the Trustee fails to submit these returns, it could result in the Charity Commission removing the charity from its register and taking further action.

1. Purpose of Report

- 1.1 This report presents the Charity's Annual Account Returns for the year ending 31 March 2016 for noting. This report also explains the legal requirement to submit the Charity's Annual Trustee Report to the Charity Commission (template attached at Appendix 2).

2. Background

- 2.1 Trustees have overall control of the Charity and are responsible for making sure it is doing what it was set up to do.
- 2.2 Trustees must make sure the Charity complies with charity law requirements and other laws that apply to it. Trustees should take reasonable steps to read relevant guidance and keep the Charity's details on the Charity Commission register up to date. Trustees must ensure they send the right financial and other information to the Commission in their Annual Returns.
- 2.3 Trustees must decide what will best enable the Charity to carry out its purpose, make balanced and adequately informed decisions, thinking about the long term as well as the short term.
- 2.4 Trustees must avoid putting themselves in a position where their duty to the Charity conflicts with their personal interests and / or interests of the Council.
- 2.5 The terms of reference for the Trustee include the completion and submission of an Annual Account return and an Annual Trustee Report to the Charity Commission. The Charity's Annual Account return was submitted on 31 May 2017 with the Annual Trustee Report stated to follow.
- 2.6 The Executive Shareholder and Trustee Committee acts as the Charity's sole Trustee, allowing the management of the Charity to be kept separate, as far as possible, from the usual business of the Council. The Annual Trustee Report can be completed and submitted to the Charity Commission.
- 2.7 The draft Trustee Report and draft policies and procedures will be presented to the Trustee at a future meeting for debate. The Principal Corporate Services Solicitor will seek authorisation from the Trustee to submit the Trustee Report and relevant policies and procedures to the Charity Commission.

3. Financial Implications

- 3.1 There are no financial implications arising from this report.

4. Legal Implications

- 4.1 The bulk of charity law is contained in the Charities Act 2011. The Charity Commission registers and regulates charities in England and Wales. The Commission is responsible for ensuring that charities meet their legal requirements, including providing information on their activities each year.
- 4.2 The Commission has powers to take enforcement action against charities where there is malpractice or misconduct.

5. Human Resource Implications

5.1 There are no human resource implications arising from this report.

6. Conclusion

6.1 The role of the Trustee is to manage the Charity in a manner that is clearly distinct from usual Council business. When making decisions, the Trustee has a duty to act in the Charity's best interests. There is a legal requirement to submit an Annual Trustee Report for the Charity to the Commission.

7. Background Papers

Charity Commission guidance

- Charity trustees and decision making
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/583855/CC27_new.pdf
- Conflicts of interest
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/636091/CC29.pdf

Executive Report 18 July 2017 (Item 11)

<http://www2.guildford.gov.uk/councilmeetings/documents/g604/Public%20pack%2018th-Jul-2017%2019.45%20Executive.pdf?T=10>

8. Appendices

Appendix 1: Charity's Annual Account returns for the year ending 31 March 2016

Appendix 2: Annual Trustee report template

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Guildford Sports Ground
Charity Registration Number: 305056
Trustees Annual Report for the period:
1 April 2015 to 31 March 2016

To follow

Guildford Sports Ground

Charity Registration Number: 305056

Receipts and Payments Account for the period 1 April 2015 to 31 March 2016

| | Unrestricted Funds 2015-16 £ | Unrestricted Funds 2014-15 £ |
|---------------------------------|---------------------------------------|---------------------------------------|
| Receipts | | |
| Rents | 15,139 | 14,935 |
| Donations | 102,013 | 68,491 |
| Total | 117,152 | 83,426 |
| Payments | | |
| Total | 117,152 | 83,426 |
| Surplus/Deficit for year | - | - |

Guildford Borough Council manages and maintains the sports ground. The donations represent the payments made, net of any rents received.

Statement of assets at the end of the period

Assets retained for the charity's own use:

Woodbridge Road Sports Ground

Sports Pavilion

Groundsman's cottage

INDEPENDENT EXAMINER'S REPORT

To the trustees of Guildford Sports Ground Trust

I report on the accounts of the trust for the year ended 31 March 2015, which are set out on pages xx to xx.

Respective responsibilities of trustees and independent examiner

The charity's trustees are responsible for the preparation of the accounts. The charity's trustees consider that an audit is not required for this year under section 144(2) of the Charities Act 2011 (the 2011 Act) and that an independent examination is needed.

It is my responsibility to:

- examine the accounts under section 145 of the 2011 Act
- follow the procedures laid down in the general Directions given by the Charity Commission under section 145(5)(b) of the 2011 Act
- to state whether particular matters have come to my attention

Basis of independent examiner's report

My examination was carried out in accordance with the general Directions given by the Charity Commission. An examination includes a review of the accounting records kept by the charity and a comparison of the accounts presented with those records. It also includes consideration of any unusual items or disclosures in the accounts, and seeking explanations from you as trustees concerning any such matters. The procedures undertaken do not provide all the evidence that would be required in an audit and consequently no opinion is given as to whether the accounts present a 'true and fair view' and the report is limited to those matters set out in the next statement.

Independent examiner's statement

In connection with my examination, no matter has come to my attention:

- (1) which gives me reasonable cause to believe that, in any material respect, the requirements:
 - to keep accounting records in accordance with section 130 of the 2011 Act, and
 - to prepare accounts which accord with the accounting records and comply with the accounting requirements of the 2011 Acthave not been met, or
- (2) to which, in my opinion, attention should be drawn in order to enable a proper understanding of the accounts to be reached.

Name: Sue Reekie



Relevant professional qualification or body: CPFA

Address: 1 Appletree Court, Old Merrow Street, Guildford, GU4 7ER

Date: 15 May 2017

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Trustees' Annual Report for the period

Agenda item number: 3

| | | | | | | | |
|-------------|-------------------|-------|------|-----------|-----------------|-------|------|
| | Period start date | | | | Period end date | | |
| From | 01 | April | 2015 | To | 31 | March | 2016 |

Section A Reference and administration details

| | |
|---|---|
| Charity name | Guildford Sports Ground |
| Other names charity is known by | N/A |
| Registered charity number (if any) | 305056 |
| Charity's principal address | Millmead House, Millmead |
| | Guildford, Surrey |
| | |
| | Postcode GU2 4BB |

Names of the charity trustees who manage the charity

| | Trustee name | Office (if any) | Dates acted if not for whole year | Name of person (or body) entitled to appoint trustee (if any) |
|----|--------------|-----------------|-----------------------------------|---|
| 1 | | | | |
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Names of the trustees for the charity, if any, (for example, any custodian trustees)

| Name | Dates acted if not for whole year |
|------|-----------------------------------|
| | |
| | |
| | |

Names and addresses of advisers (Optional information)

Appendix 2

| Type of adviser | Name | Address |
|-----------------|------|---------|
| | | |
| | | |
| | | |
| | | |

Name of chief executive or names of senior staff members (Optional information)

| |
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| |
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Section B Structure, governance and management

Description of the charity's trusts

Type of governing document
(eg. trust deed, constitution)

How the charity is constituted
(eg. trust, association, company)

Trustee selection methods
(eg. appointed by, elected by)

| |
|--|
| |
| |
| |

Additional governance issues (Optional information)

You **may choose** to include additional information, where relevant, about:

- policies and procedures adopted for the induction and training of trustees;
- the charity's organisational structure and any wider network with which the charity works;
- relationship with any related parties;
- trustees' consideration of major risks and the system and procedures to manage them.

| |
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Section C Objectives and activities

Summary of the objects of the charity set out in its governing document

| |
|--|
| |
|--|

Summary of the main activities undertaken for the public benefit in relation to these objects (include within this section the statutory declaration that trustees have had regard to the guidance issued by the Charity Commission on public benefit)

Additional details of objectives and activities (Optional information)

You **may choose** to include further statements, where relevant, about:

- policy on grantmaking;
- policy programme related investment;
- contribution made by volunteers.

Section D

Achievements and performance

Summary of the main achievements of the charity during the year

A large, empty rectangular box with a thin black border, occupying the majority of the page. It is intended for the summary of the charity's main achievements during the year.

Section E Financial review

Brief statement of the charity's policy on reserves

N/A

Details of any funds materially in deficit

N/A

Further financial review details (Optional information)

You **may choose** to include additional information, where relevant about:

- the charity's principal sources of funds (including any fundraising);
- how expenditure has supported the key objectives of the charity;
- investment policy and objectives including any ethical investment policy adopted.

Section F Other optional information

Section G Declaration

The trustees declare that they have approved the trustees' report above.

Signed on behalf of the charity's trustees

| | | |
|--|--|--|
| Signature(s) | | |
| Full name(s) | | |
| Position (eg Secretary, Chair, etc) | | |
| Date | | |

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Executive Shareholder and Trustee Committee Report

Report of Director of Environment

Author: Paul Stacey (Parks and Landscape Manager)

Tel: 01483 444720

Email: Paul.Stacey@guildford.gov.uk

Lead Councillor responsible: Paul Spooner

Tel: 07970 953232

Email: Paul.Spooner@guildford.gov.uk

Date: 26 September 2017

Woodbridge Road Sportsground – Variation of the Trust to remove designated land

Executive Summary

Guildford Borough Council, is the Sole Trustee of the Woodbridge Road Sportsground Charitable Trust, (Charity Number 305056) (The Trust). The Sole Trustee has undertaken a consultation in accordance with Section 121(2) of the Charities Act 2011 in respect of the disposal of the Groundsman's Cottage at Woodbridge Road Sportsground by way of variation of the Trust to remove designated land. The Cottage is surplus to requirements as there is no longer a need for a residential groundsman on the site and the cottage is restricted for this purpose.

Therefore, the cottage is a liability and burden to the Trust as it is vacant and cannot be occupied under the restrictions of the Trust. This report sets out the background to the site, consultation responses, and recommendations for the Trustee and Shareholder Committee to consider to further the purposes of the Trust.

Recommendation to Committee

- (1) That the Woodbridge Road Sportsground Trust be varied to remove the restriction on keeping the Groundsman's Cottage as designated land to allow for the disposal of the property with the proceeds being subject to the terms of the Trust.
- (2) That the capital receipt be invested specifically in refurbishing the existing pavilion to provide fit for purposes changing rooms, toilets and clubroom to enable the playing of sports and other activities in accordance with the vesting deed to support current and further use by the community.

Reasons for Recommendations:

To fulfil the role of sole trustee considering the vesting deed and to further the purposes of the trust.

1. Purpose of Report

- 1.1 This report is to ensure that the Sole Trustee fulfils its duty under the Charities Act 2011.
- 1.2 This report provides the background to the site and seeks approval from the Committee to vary the Woodbridge Road Sportsground Trust to remove the restriction on keeping the Groundsman's Cottage as designated land. This will allow for the disposal of the property with the proceeds being subject to the terms of the Trust, specifically, that the capital receipt is invested in refurbishing the existing pavilion. This will enable the provision of fit for purpose changing rooms, toilets and clubroom to enable the playing of sports and other activities in accordance with the vesting deed to support current and further use by the community.

2 Background to the site

- 2.1 A Charitable Trust of the Woodbridge Road Sportsground land was created on 9 August 1912 by a deed of conveyance and declaration of trust (the Vesting Deed) executed on that date by Sir Harry Waechter who several months earlier acquired two parcels of leasehold land from the Earl of Onslow to form the sportsground.
- 2.2 Guildford Borough Council owns the freehold of the Woodbridge Road Sportsground (including its associated land and buildings) as the sole charitable trustee under a charitable trust (registered charity number 305056). The site became an unincorporated charity, which was registered with the Charity Commission on 15 September 1964.
- 2.3 The larger part of the sportsground has been the home of Guildford Cricket Club since 1922 and a formal lease was entered into with effect from 1 April 2002 for a period of 25 years. The Club have delivered an annual cricket festival for over 75 years at the site. The Club enables players from under 9 years old right through to senior cricket for both males and females.
- 2.4 Along with a pavilion, a small number of outbuildings have been developed since the 1960s including a scorer's hut and garages for grounds maintenance equipment.
- 2.5 There has also been a groundsman's cottage on the site since the 1930s, which was occupied by a Council employee under a service occupation agreement until their recent retirement.
- 2.6 The Council continues to subsidise the charity by maintaining the site and buildings.

3. The Vesting Deed and Charitable Purposes

- 3.1 The Vesting Deed stipulates a number of uses and restrictions which the trustee must comply with as follows:

.....DO hereby covenant with the Donor his heirs executors administrators and assigns that the land hereby assured shall not at any time hereafter be used for any purposes other than as a ground for playing cricket football hockey lawn tennis or other games or pastimes or as a ground on which cycling foot racing jumping or other athletic sports may take place or on which military manoeuvres or drill may take place or on which agricultural flower or other shows or exhibitions promenade or other concerts and entertainments firework displays bazaars meetings conferences or other assemblies of a like nature and that no buildings shall at any time hereafter be erected thereon except buildings such as pavilions drill halls club rooms for territorials or other national reserve or such other buildings as may be usual or necessary on grounds devoted to outdoor recreation PROVIDED ALWAYS that such buildings shall be and remain under the control of the Trustees subject as hereinafter mentioned and in particular with the exception of an entrance lodge or dwelling accommodation for any persons employed as groundsmen or caretakers of the buildings to be erected as aforesaid no buildings to be used as a dwelling house shall be erected on the said premises or any part thereof.....

4. The Groundsman's Cottage

- 4.1 The Sportsground site includes a Groundsman's Cottage, which can only be occupied by a groundsman that works on this charitable site under provisions of the Vesting Deed. Subsequent to the retirement of the previous incumbent, this property is no longer required, as the whole site is now managed by mobile and non-resident staff.
- 4.2 Following on from discussion and advice from the Charity Commission, it was agreed that it could be appropriate to dispose of the property to provide funding to the Trust subject to undertaking a public consultation in accordance with Section 121 (2) of the Charities Act, and for any representations made to be considered by the Trustee before removing the cottage from the designated land to enable its disposal.
- 4.3 That consultation has now been undertaken through signage and plans displayed on site and advertisement in the local press (see Appendix 1). This occurred between 22 August 2017 and 22 September 2017.

5. Consultation Responses

- 5.1 There have been no consultation responses received for the Trustee to consider.

6. Trustee Implications

- 6.1 The cottage now has no purpose in furthering the Woodbridge Road Sportsground Trust and is a liability for the Trust to maintain as there is no longer a requirement for a residential groundsman on the site. The cottage no longer has a role in delivering public benefit.

6.2 As the Trustee has received no consultation responses, it is recommended that the Trustee agrees to vary the Woodbridge Road Sportsground Trust to remove the restriction on keeping the Groundsman's Cottage as designated land to allow for its disposal with the proceeds being subject to the terms of the Trust.

6.3 To further the purposes of the Trust, it is recommended that the capital receipt is invested in refurbishing the existing pavilion to provide fit for purposes changing rooms, toilets and clubroom to enable the playing of sports and other activities in accordance with the Vesting Deed to support current and further use by the community.

7. Human Resource Implications

7.1 There are no human resource implications arising from this report.

8. Financial Implications

8.1 It is estimated that the Trust will receive a capital receipt of between £575,000 and £650,000, which must be wholly reinvested in the Trust.

8.2 To retain a vacant building will cost the Trust approximately between £3,000 and £12,000 per annum in maintenance and security costs. On top of lost rent of approximately £8,000 per annum through no longer having an occupier, the Trust will have to bear new costs of up to £20,000 per annum, for which it would have to find funding from the Council or other sources.

9. Legal Implications

9.1 The bulk of charity law is contained in the Charities Act 2011. The Charity Commission registers and regulates charities in England and Wales. The Commission is responsible for ensuring that charities meet their legal requirements, including providing information on their activities each year.

9.2 The Commission has powers to take enforcement action against charities where there is malpractice or misconduct.

10. Summary of Options

Option 1:

10.1 To agree to vary the Woodbridge Road Sportsground Trust to remove the restriction on keeping the Groundsman's Cottage as designated land to allow for the disposal of the property with the proceeds being subject to the terms of the Trust.

10.2 To invest the capital receipt specifically in refurbishing the existing pavilion to provide fit for purpose changing rooms, toilets and clubroom to enable the playing of sports and other activities in accordance with the Vesting Deed to support current and further use by the community.

Option 2:

- 10.3 To not agree to vary the Trust leaving the Trust with the liability of maintaining a vacant cottage which it would not be able to be let due to the restriction on the cottage being occupied by a groundsman for the site. This would require the Trust to find a further £20,000 per annum to keep it safe and secure or to let it fall into disrepair. This would severely compromise the Trust's ability in delivering its charitable purposes.
- 10.4 The Committee is recommended to pursue Option 1 as it is in the best interests of the Trust and furthering the objects of the Trust and public benefit.

11. Conclusion

- 11.1 Option 1 is in the best interests of the Trust. It would not be prudent to burden the trust with the liability of a vacant cottage, as this would detract from the Trustee's ability to deliver the objects of the Trust and public benefit.
- 11.2 The pavilion is in poor condition unable to meet the needs of modern society, sport and recreational activity and to further public benefit and it is recommended the funding is specifically reinvested in this to encourage and improve community access and use.

12. Background Papers

Charities Act 2011

http://www.legislation.gov.uk/ukpga/2011/25/pdfs/ukpga_20110025_en.pdf

Charity Commission Guidance

Sales leases transfers or mortgages: what trustees need to know about disposing of charity land

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/622147/CC28.pdf

13. Appendices

Appendix 1: Consultation Advertisement

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PUBLIC NOTICE

Under section 121(2) of the Charities Act 2011

Guildford Borough Council is the Sole Trustee of the Woodbridge Road Sportsground Charitable Trust, Registered Charity Number 305056.

The Trustee, hereby gives notice for the purposes of section 121(2) of Charities Act 2011 that they propose to dispose of part of the site known as Sports Ground Cottage, Wharf Road, Guildford, GU1 4RP (subject to contract). The disposal will be by way of freehold sale comprising an area of 308 square metres inclusive of the cottage. A plan of the land in question is appended to this notice.

Any representation about this proposal should be made in writing and sent by email to:

- Paul.Stacey@guildford.gov.uk
- Parks and Leisure Services, Guildford Borough Council, Stoke Park Nursery, Nightingale Road, Guildford GU1 1ER

So as to be received by 22nd September 2017

Guildford Borough Council

Sole Trustee

Sports Ground Cottage



Publication Date: 2017-08-11



Scale at A4:
1:1,250

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Executive Shareholder and Trustee Committee Report

Report of Director of Resources

Author: Joyce Hamilton, Principal Corporate Services Solicitor

Tel: 01483 444053

Email: joyce.hamilton@guildford.gov.uk

Lead Councillor responsible: Paul Spooner

Tel: 07970 953232

Email: paul.spooner@guildford.gov.uk

Date: 26 September 2017

Shareholder General Meeting of North Downs Housing Limited and Guildford Borough Council Holdings Limited

Executive Summary

The Council is sole shareholder of North Downs Housing Limited (the "Housing Company"). The Housing Company's parent company is Guildford Borough Council Holdings Limited (the "Holding Company"). This report sets out details of the nominated Directors to the boards of both companies, and the Company Secretary. It also includes as Appendices 1 and 2 the Delegation Matrix, and a copy of the approved Business Plan for the Housing Company.

Recommendation to Committee

That the Committee:

- (1) supports the proposed appointment of the persons listed in paragraph 2.4 of this report as Directors for the Holding Company and the Housing Company, for a period of four years;
- (2) notes the resignation of a Director to the board of the Holding Company;
- (3) notes the Delegation Matrix, as set out in Appendix 1 to this report; and
- (4) notes the approved Business Plan for the Housing Company, as set out in Appendices 2 and 3 of this report.

Reason for Recommendation:

To promote good governance by demonstrating a separation between the Council's role as the Municipal Authority and the Council's role as sole shareholder in the Companies.

1. Purpose of Report

- 1.1 This report presents several company documents and reports to ensure the Council, as sole shareholder, is fully briefed and up to date with company

business. This will assist the shareholder to perform its role and monitor performance.

- 1.2 This report also presents details of the nominations for appointment of the Directors for both the Housing Company and the Holding Company.

2. Background

- 2.1 The most effective Boards of Council companies strike the right balance between commercial decision-making and accountability. These two concepts are not mutually exclusive as elected members may have commercial business acumen that can add value to a company board.

- 2.2 The offices of the original directors of the Holding Company and Housing Company expired on 28 April 2017, but have been extended pending the establishment of this Committee.

- 2.3 The original Directors were as follows:

Guildford Borough Council Holdings Ltd

- Adrian Maunders: Chief Executive, English Rural Housing (Chairman)
- Andrew Hodges: Accountant (Retired)
- Dennis Paul: Councillor, Guildford Borough Council
- Sue Sturgeon: **Resigned**

North Downs Housing Ltd

- Sarah Creedy: Lawyer (Retired) (Chairman)
- Gordon Jackson: Councillor, Guildford Borough Council
- James Whiteman: Managing Director, Guildford Borough Council
- Sue Reekie: Accountant (Retired)

- 2.4 The nominated directors are now as follows:

Guildford Borough Council Holdings Ltd

- Adrian Maunders: Chief Executive, English Rural Housing
- Andrew Hodges: Accountant (Retired)
- Dennis Paul: Councillor, Guildford Borough Council
- James Whiteman: Managing Director, Guildford Borough Council

North Downs Housing Ltd

- Sarah Creedy: Chair – Strategic Policy Direction – Lawyer (Retired)
- Gordon Jackson: Councillor, Guildford Borough Council
- Nigel Manning: Councillor, Guildford Borough Council
- Steve White: Deputy Managing Director, Guildford Borough Council
- Sue Reekie: Accountant (Retired)

- 2.5 The duty of any company director is to act in the best interests of the company for the benefit of its shareholders as a whole. An elected member on a board of directors therefore has a statutory duty to promote the success of the company and to exercise independent judgement in the same manner as any other director.
- 2.6 The Council as the sole shareholder of the Housing Company is the ultimate owner of both the Housing Company and the Holding Company.
- 2.7 The Housing Company's objectives are:
- To meet in such manner as the Company thinks fit identified housing need and increase the provision of new housing in the Guildford Borough and surrounding areas;
 - To generate returns for the Council's general fund;
 - To accelerate development of brownfield land in the Guildford Borough; and
 - To carry on any other business or do such other things which may seem to the Company capable of being conveniently carried on in connection with any of the specified objects, or calculated to enhance the value of the Company's services, assets, property or rights.
- 2.8 Under the Companies Act 2006, a director must exercise the care, skill and diligence, which would be exercised by a reasonably diligent person (the full test is set out in more detail within the Companies Act; there is both an objective test and a subjective test).
- 2.9 The Housing Company is a private company limited by shares and the Model Articles do not apply to it. Part 4 of the Articles of Association for the Housing Company sets out the parameters for decision making by its shareholder. (See also articles 37 to 47 Companies Act 2006 for further background).
- 2.10 Subject to certain conditions being satisfied, members (i.e the shareholders) have the right to require the directors to call a general meeting (*section 303, Companies Act 2006*). Members of private companies also have the right to require the company to circulate a written resolution (*section 292*).
- 2.11 Members also have the right to require the directors to circulate a statement with respect to a matter referred to in a proposed resolution or other business to be dealt with at a meeting (including an annual general meeting (AGM)) (*section 314*).
- 2.12 The Housing Company and the Holding Company are not public companies or private traded companies, therefore under the Companies Act; they are not required to hold an Annual General Meeting (AGM).
- 2.13 The appointed company secretary is:
Quorum Corporate Services Limited
67 High Street
Chobham
Surrey GU24 8AF
<http://www.quocorp.co.uk/>

3. Financial Implications

- 3.1 There are no financial implications arising from this report.

4. Legal Implications

- 4.1 The bulk of company law is contained in The Companies Act 2006. This Act is the main piece of legislation, which governs company law in the UK and came into force in October 2009.
- 4.2 Companies House is responsible for incorporating and dissolving limited companies. They also register company information and make it available to the public.
- 4.3 The prime aims of the Act are to modernise and simplify company law, to codify directors' duties, to grant improved rights to shareholders, and to simplify the administrative burden carried by UK companies.

5. Human Resource Implications

- 5.1 There are no human resource implications arising from this report.

6. Conclusion

- 6.1 The Council currently has two Companies. It is important there is an appropriate governance structure in place to ensure the Council as sole shareholder performs its role in a manner that is distinct from Council business.

7. Background Papers

The Companies Act 2006

<http://www.legislation.gov.uk/ukpga/2006/46/contents>

Executive Report 18 July 2017 Items 10 and 11, pg 295

<http://www2.guildford.gov.uk/councilmeetings/documents/g604/Public%20reports%20pack%2018th-Jul-2017%2019.45%20Executive.pdf?T=10>

Companies House and general guidance

<https://www.gov.uk/government/organisations/companies-house>

<https://www.gov.uk/government/collections/companies-house-guidance-for-limited-companies-partnerships-and-other-company-types>

8. Appendices

Appendix 1: Delegations Matrix

Appendix 2: North Downs Housing Limited 2016-2046 Business Plan

Appendix 3: **(Not for Publication)** North Downs Housing Limited 2016 – 2046
(Business Plan, Annex 2 Financial Information)

Delegations Matrix

This Delegations Matrix is to be reviewed annually at the respective annual general meetings (or equivalent) of both the parent holding company (“Holdco”) and North Downs Housing Limited (“Opco”), as part of which any proposed variations can be raised by either Holdco or Opco.

North Downs Housing Limited (“Opco”), is permitted to adopt a scheme of delegations to enable its housing management supplier to effectively deliver the business of the company. It shall only delegate decisions in respect of entering into contracts up to the value delegated to an OpCo Director under the terms of this delegations matrix.

Holdco and Opco Boards, and their Directors, shall in all cases consider whether a matter for decision may require reference to Guildford Borough Council (“GBC”), notwithstanding the delegations below (e.g. due to the reputational or other potential impacts on GBC as shareholder or otherwise).

Unless otherwise stated in this matrix decisions being made by GBC as shareholder will be made by the Executive.

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|---|---|------------------------------|--------------------------------|--------------------|--------------------------------|--|
| | Corporate matters | | | | | |
| 1 | Amendments to the Delegation Policy: <ul style="list-style-type: none"> • as between GBC and Holdco; • as between Holdco and Opco | Decision | Recommendation Decision | | Recommendation | |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|---|---|---|---|--------------------|--|--|
| 2 | Approval and adoption of the Opco Business Plan and material amendments thereto. | Decision | Recommendation | | Recommending and implementing Business Plan | Drafting and updating Business Plan |
| 3 | Material alteration of the nature/scope of the Holdco or Opco business, closing down/commencing any new business, which is not ancillary or otherwise incidental to the Business Plan and/or Articles. | Decision | Recommendation | | | |
| 4 | Acquiring, disposing or agreeing to acquire or dispose of any tangible, physical asset of the business (or intellectual property rights held by Opco), any interest in any asset of the Business (including the exercise of an option). | Decision (where not ancillary or otherwise incidental to the Business Plan) | Decision If in excess of £12,000,000 (twelve million pounds) per event or where such disposal requires a third party consent, breach of which would place GBC in default (and provided in either case where ancillary or otherwise incidental to the | | Decision Up to £12,000,000 (twelve million pounds) per event (where ancillary or otherwise incidental to the Business Plan) | Decision Up to £400,000 (four hundred thousand pounds) per event (where ancillary or otherwise incidental to the Business Plan) |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|---|--|------------------------------|--|--------------------|---------------------------------------|---|
| | | | Business Plan) | | | |
| 5 | Declaring or paying any distribution in respect of surpluses, assets or reserves of Holdco and Opco. | Decision | Recommendation | | In relation to assets only a decision | In relation to assets only a recommendation |
| 6 | Forming any Subsidiary. | Decision | Recommendation | | Recommendation | |
| 7 | Acquiring shares in any other company (subscription or transfer) or any other similar interest in another entity including a limited liability partnership or limited partnership, entering into joint ventures or partnerships or profit sharing. | Decision | Recommendation or decision where ancillary to the delivery of the Business Plan. | | | |
| 8 | Alteration of authorised or issued share capital, or classification thereof, allotment of share capital or securities, granting options or rights to subscribe to the issuing of share | Decision | Recommendation | | | |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|----|---|---|--|---|---|--|
| | capital, of Holdco. | | | | | |
| 9 | Making any petition or passing any resolution to wind up Holdco or making any application for an administration or winding up order or any order having similar effect in relation to Holdco or giving notice of intention to appoint an administrator or file a notice of appointment of an administrator. | Decision | Recommendation | | | |
| | Operational matters | | | | | |
| 10 | Recruitment and selection of individuals. | Decision To appoint HoldCo Directors | Decision To appoint Hold Co and Opco Directors (in accordance with the principles of Council policies). | | Decision To appoint OpCo Board directors | Opco Managing Director authorised to appoint all other Opco roles in accordance with best practice and to act as a responsible employer. |
| 11 | The engagement of (and terms of engagement) of consultants. | | Decision If in excess of £10,000,000 (ten million pounds) | Decision If between £5,000,001 (five million and one | Decision Up to £5,000,000 (five million pounds) (annualised) | Decision Up to £400,000 (four hundred thousand pounds) (annualised) |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|----|---|------------------------------|---|--|---|--|
| | | | (annualised) | pounds) and ££10,000,000 (ten million pounds) (annualised) | | |
| 12 | The engagement of (and terms of engagement) of contractors. | | Decision If in excess of £10,000,000 (ten million pounds) each event | Decision If between £5,000,001 (five million and one pounds) and ££10,000,000 (ten million pounds) each event | Decision Up to £5,000,000 (five million pounds) each event | Decision Up to £400,000 (four hundred thousand pounds) each event |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|----|---|---|--|---|--|--|
| 13 | Any other commitment to contract expenditure. | | Decision If in excess of £10,000,000 (ten million pounds) each event | Decision If between £5,000,001 (five million and one pounds) and £10,000,000 (ten million pounds) each event | Decision Up to £5,000,000 (five million pounds) each event | Decision Up to £400,000 (four hundred thousand pounds) each event |
| 14 | Acquisition of a property interest, submission of any planning application (or appeals), entering into deeds (easements, wayleave, etc.) or other such matters. | Decision (where not ancillary or otherwise incidental to the Business Plan) | Decision If in excess of £12,000,000 (twelve million pounds) per event <u>or</u> where such disposal requires a third party consent, breach of which would place GBC in default (and provided in either case where ancillary or | | Decision Up to £12,000,000 (twelve million pounds) per event (where ancillary or otherwise incidental to the Business Plan) | Decision Up to £400,000 (four hundred thousand pounds) per event (where ancillary or otherwise incidental to the Business Plan) |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|----|--|------------------------------|--|--------------------|-----------------------------------|---|
| | | | otherwise incidental to the Business Plan) | | | |
| 15 | Termination of or variation to secondment arrangements (depending on to which company) | | Decision | Recommendation | Decision | Recommendation |
| 16 | Entry into confidentiality agreements (depending on which company is giving). **NOTE: all such confidentiality agreements shall not preclude the sharing of information with GBC and shall be reported by Opco at Holdco board meetings as a standard agenda item** | | Decision | Recommendation | Decision | Recommendation |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|----|--|--|---------------------|---------------------------|---|---|
| 17 | Commencing any claim, proceedings or other litigation brought by or settling or defending any claim, proceedings or other litigation brought against Holdco (or Opco), except in relation to debt collection, anti-social behavior orders, damage to property by tenants and other matters that may require litigation in the ordinary course of business, (where the claim, proceedings or other litigation has a potentially material impact on the reputation of GBC/Holdco/Opco or has a potential material cost implication for GBC/Holdco/Opco). | Approval required where the claim, proceedings or other litigation has a potentially material impact on the reputation of GBC/HoldCo/OpCo or has a potential material cost implication for GBC/HoldCo/OpCo | | | All claims, proceedings or other litigation not subject to column 3 (“GBC as Shareholder of Holdco”). | |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|----|--|------------------------------|----------------|--------------------|-----------------------------------|---|
| 18 | Termination by Holdco or Opco companies of any of their material contracts, where this will have a material impact on the delivery of services to GBC or by GBC. | Decision | Recommendation | | | |
| 19 | Entering into material contracts not contemplated by the Business Plan or based on decisions taken by the GBC Executive/Council. | Decision | Recommendation | | | |
| 20 | Disposing of a <u>substantial</u> part of the business and/or assets outside of the scope of Business Plan. | Decision | Recommendation | | | |
| | Finance | | | | | |
| 21 | Approval of statutory accounts. | | Decision | | Decision | |
| 22 | Changing accounting and reporting policies of Holdco and/or Opco. | Decision | Recommendation | | | |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|----|---|---|---|--|-----------------------------------|---|
| 23 | Approving the repayment of any external loans. | Decision | Recommendation (e.g. early repayment) | | | |
| 24 | Entering into (or agreeing to enter into) any borrowing or leasing arrangement in relation to working capital on behalf of Holdco and giving any security in respect of any such borrowing or leasing (including creating any encumbrance over the whole or any part of the undertaking or assets of Holdco or over any capital of Holdco). | Above £1,000,001 (one million and one pounds) when included in Capital Programme of GBC (and up to £500,000 above the approved budget if not already in Capital Programme) - GBC Cabinet Decisions not within the approved Capital Programme will need to be taken by Full Council | Decision Up to £1,000,000 (one million pounds) **NOTE: Holdco can delegate to two directors** | | | |
| 25 | Appointment of auditors. | | Decision | | | |
| 26 | Giving a guarantee, suretyship, bond or indemnity to secure the liabilities of any person or assume the obligations of any | Decision Above £5,000,000 (five million pounds) (calculated on a cumulative basis) | Decision Between £100,000 (one hundred thousand pounds) and £5,000,000 (five million | Recommendation Below £100,000 (one hundred thousand | | |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|----|--|--|---|---|--|--|
| | person. | | pounds) (calculated on a cumulative basis) Recommendation Above £5,000,000 (five million pounds) (calculated on a cumulative basis) | pounds) (calculated on a cumulative basis) | | |
| 27 | Write down of Holdco or Opco asset value, or writing off debts. | Decision above £1,000,001 (one million and one pounds) per event | Between £500,001 (five hundred and one thousand pounds) and £1,000,000 (one million pounds) per event Recommendation above £1,000,001 (one million and one pounds) per event | | Between £100,001 (one hundred and one thousand pounds) and £500,000 (five hundred thousand pounds) per event | Up to £100,000 (one hundred thousand pounds) per event |
| 28 | Making any agreement with any revenue authorities or any other taxing authority or making a claim, disclaimer, election or consent in relation to Holdco, its/ their | | Decision | | Recommendation | |

| | Activity | GBC as Shareholder of Holdco | Holdco Board | Holdco Director(s) | Opco Board North Downs Housing | Single Opco Director North Downs Housing |
|--|-----------------------------------|-------------------------------------|---------------------|---------------------------|---|---|
| | business, assets or undertakings. | | | | | |



North Downs Housing Ltd

2016 – 2046 Business Plan

Contents

- Executive Summary
 - The Business
 - Our market
 - Who we are
 - Financial projections
 - Funding requirements and expected returns
- The Business
 - Background
 - Company purpose
 - The business environment
- Our market and competitors
 - Supply and demand trends
 - Prospective customers
 - Alternative suppliers
- Sales and Marketing
- Operations
 - Initial management arrangements
 - Procurement arrangements
- Financial
 - Financial requirements
 - Assumptions
 - High level cash flow year 1-5
 - Viability assessment
 - Sensitivity analysis
- Risks
 - Financial
 - Operating
 - Supply/Demand
 - Political influence

North Downs Housing Ltd

2016 – 2046 Business Plan

Executive Summary

1.0 The Business

1.1 North Downs Housing Ltd (NDH) is the housing trading arm of Guildford Borough Council. The company has been set up by the Council and is owned by Guildford Borough Council Holdings Ltd. This company in turn is wholly owned by Guildford Borough Council. NDH is a separate legal entity managed by independent Directors.

1.2 NDH has been set up to deliver on the 4 objectives set out below:

- to meet in such manner as the Company thinks fit, identified housing need and increase the provision of new housing in the Guildford borough and surrounding areas;
- to generate returns for the Council's General Fund;
- to accelerate development of brownfield land in the Guildford borough;
- to carry on any other business or do such other things which may seem to the Company capable of being conveniently carried on in connection with any of the above specified objects, or calculated to enhance the value of the Company's services, assets, property or rights.

1.3 Its purpose is to enable the Council to offer a wider range of housing products and solutions to those in our community who for whatever reason find access to purely market-based options a challenge.

The company will therefore deliver homes for rent and homes for sale. The company will principally focus on the lower quartile of the housing market including the rental sector.

1.4 NDH must also deliver an income stream to the Council to reflect the investment it makes in the company.

2.0 Markets

2.1 The Guildford borough housing market is buoyant and noticeably more resilient than the markets in most areas across the South East. In terms of both capital and rental values, it is more closely aligned to the London housing market than much of the South East.

2.2 Demand for all housing tenures is high across all areas of the borough. The western part of the borough is slightly less popular but we are seeing the price differential reducing.

2.3 In the short to medium-term, there is little evidence that the number of new dwellings provided will materially exceed the rolling five-year average. This level of supply will be insufficient to have any noticeable impact on market prices.



2.4 During the last recession, the impact on the local housing market was less marked than across the country. Whilst we saw some house price reductions in most cases it was a reduction in the rate of price inflation rather than absolute falls. The local economy and housing market rebounded more quickly than elsewhere.

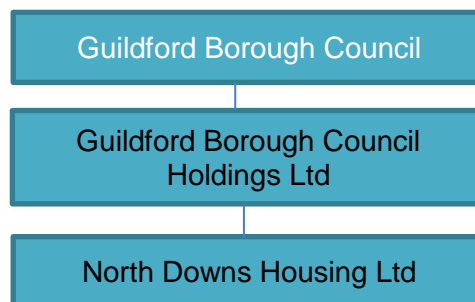
2.5 NDH will be focusing on the rental sector recognising that ‘shared living’ accommodation has a role to play. This market has been particularly resilient with good quality properties which are well managed and maintained being in high demand. There is little evidence of rents reducing; however, there is no certainty that this will remain the case. A large reduction in market rents would represent a significant challenge to the company should this occur in the short to medium-term.

The shareholder recognises this risk but view the company as a long-term investment. They are prepared to support the company financially to overcome any short-term shortfalls subject to being satisfied as to the long-term viability of the company.

2.6 There are no large-scale landlords operating in the borough apart from social housing landlords. Most own less than five properties and have few economies of scale. Private sector landlords tend to rely on local managing agents who in turn manage relatively small portfolios compared to the major social housing landlords operating in the borough.

3.0 Who are we

3.1 The chart below sets out the ownership structure



3.2 The Directors have been appointed for both companies, initially for 12 months and are:

Guildford Borough Council Holdings Ltd

- Adrian Maunders – Chief Executive, English Rural Housing
- Andrew Hodges – Accountant (Retired)
- Dennis Paul – Councillor, Guildford Borough Council
- James Whiteman – Managing Director, Guildford Borough Council



North Downs Ltd

- Gordon Jackson – Councillor, Guildford Borough Council – Lawyer (Retired)
- Sarah Creedy – Chair – Strategic Policy Direction – Lawyer (Retired)
- Steve White – Director of Resources, Guildford Borough Council
- Sue Reekie – Accountant (Retired)

4.0 Financial Projection

4.1 NDH was set up on 28 April 2016. The company intends to grow initially by acquiring properties. Its cumulative acquisition and development target for the 5 years period up to 2021 is:

| 2016/17 | 2017/18 | 2018/19 | 2019/20 | 2020/21 |
|---------|---------|---------|---------|---------|
| 4 | 29 | 85 | 125 | 200 |

4.2 NDH intends to create a development pipeline. As a new entrant to a market where land availability is heavily constrained, achieving this will be challenging.

It is likely that over the first five years NDH will be heavily reliant on the Council to deliver development opportunities. It will, however, proactively seek development opportunities that do not involve reliance on the Council.

Where possible NDH preference is to expand through development should appropriate opportunities arise. In this case, the company will revise its targets for each of the categories.

5.0 Funding requirements and projection

5.1 This initial Business Plan anticipates that over the next 5 years the company will require access to funding of up to £50 million.

Of this, £30 million would be loan capital with the balance (£20 million) being an equity investment.

5.2 The Business Plan makes a series of assumptions, which have been incorporated into a financial model spanning a 30-year period. For the purposes of our financial model, it has been assumed that at this point, the company will be dissolved and all assets sold, debt repaid and share capital redeemed.

5.3 The company projects it will achieve a gross initial yield of 4.5%.

5.4 On the assumption that the Council continues to structure its investments on a 60:40 debt : cash equity basis, NDH project the Council will achieve an equity return of 7.5% (nominal, post-tax) over the 30-year period reflected in the financial model.



North Downs Housing Ltd

2016 – 2046 Business Plan

1.0 The Business

1.1 North Downs Housing Ltd (NDH) has been set up by Guildford Borough Council to increase the availability of housing that is more affordable to local residents whilst at the same time generating a financial return to the Council. It will achieve this through property acquisitions and new developments.

1.2 Before setting up the company, a number of Council committees considered the proposal with the assistance of Pricewaterhouse Coopers (PwC) Consultants. The proposal received wide support and the company was set up with the Articles of Association set out below.

1.3 NDH has been set up to deliver on the 4 objectives set out below:

- to meet in such manner as the Company thinks fit, identified housing need and increase the provision of new housing in the Guildford borough and surrounding areas;
- to generate returns for the Council's General Fund;
- to accelerate development of brownfield land in the Guildford borough;
- to carry on any other business or do such other things which may seem to the Company capable of being conveniently carried on in connection with any of the above specified objects, or calculated to enhance the value of the Company's services, assets, property or rights.

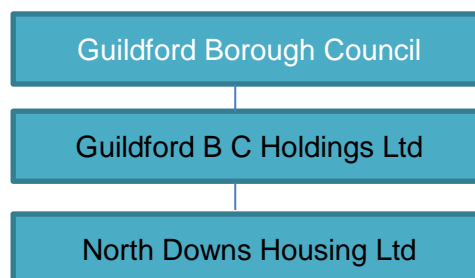
1.4 The Articles of Association are set out in full in Annex 1.

1.5 The NDH Board of Directors comprises:

- The Independent Chairman
- Three Directors, at least one to be independent
- One Director of the Council

The quorum for Directors Board meetings is three.

1.6 The chart below sets out the ownership structure





- 1.7 The Council, which is the sole shareholder, has appointed Directors for both companies, initially for 12 months. The Directors are:

Guildford Borough Council Holdings Ltd

- Adrian Maunders – Chief Executive, English Rural Housing
- Andrew Hodges – Accountant (Retired)
- Dennis Paul – Councillor, Guildford Borough Council
- James Whiteman – Managing Director, Guildford Borough Council

North Downs Ltd

- Gordon Jackson – Councillor, Guildford Borough Council – Lawyer (Retired)
- Sarah Creedy – Chair – Strategic Policy Direction – Lawyer (Retired)
- Steve White – Director of Resources, Guildford Borough Council
- Sue Reekie – Accountant (Retired)

- 1.8 The Shareholder Committee is the Council's Executive for both Guildford Borough Council Holdings Ltd and NDH. Elected Members who are appointed as either Guildford Borough Council Holdings Ltd or NDH board directors, will not be full members or substitutes of the Shareholder Committee.

- 1.9 The role of the Shareholder Committee will be not operational. The Shareholder Committee will have powers to make decisions on behalf of the Council. It can:

- recommend, where relevant:
 - the appointment of the Chairman of the Board and
 - the constitution of the Board of Directors
- receive, review and approve the Business Plans for both Guildford Borough Council Holdings Ltd and NDH
- recommend to the Council how the company should be funded with particular reference to any funding provided by the Council to either company
- review the financial performance of the companies and
- make recommendations to the Council on how it should exercise the functions flowing from its ownership of shares

- 1.10 The Shareholder Committee will meet at least annually to consider and review the matters identified above and, where necessary, call extraordinary meetings to accommodate the business identified above.

- 1.11 NDH operates within a long established sector that is subject to a variety of sector specific controls. These are not considered unduly burdensome and the regulators generally adopt a light touch regulatory approach.

The principal controls fall into three categories:

- Tenancy rights – examples relate to tenancy security and rights to have the property properly maintained.
- Health and safety – examples include gas safety and fire protection.



- Financial control – examples include protection of tenants' deposits and mechanisms to ensure the sector is not involved in money laundering.

- 1.12 As NDH is not operating as a social housing provider, it is not subject to regulation by the Homes and Communities Agency. It will, however, become a voluntary member of the Housing Ombudsman Service.
- 1.13 NDH as a matter of policy will operate to high standards and aims to be a landlord of first choice for local residents. Whilst it is a newly established company, it will seek to build on the strong brand its shareholder has in the local housing market.
- 1.14 NDH will maintain an effective service and financial performance management reporting system that will include effective reports to the Shareholder Committee.
- 1.15 NDH will be mindful of the potential conflict of interest that might exist between the Council in its capacity as a 'regulatory authority' and will manage its affairs accordingly.

2.0 Market and competition

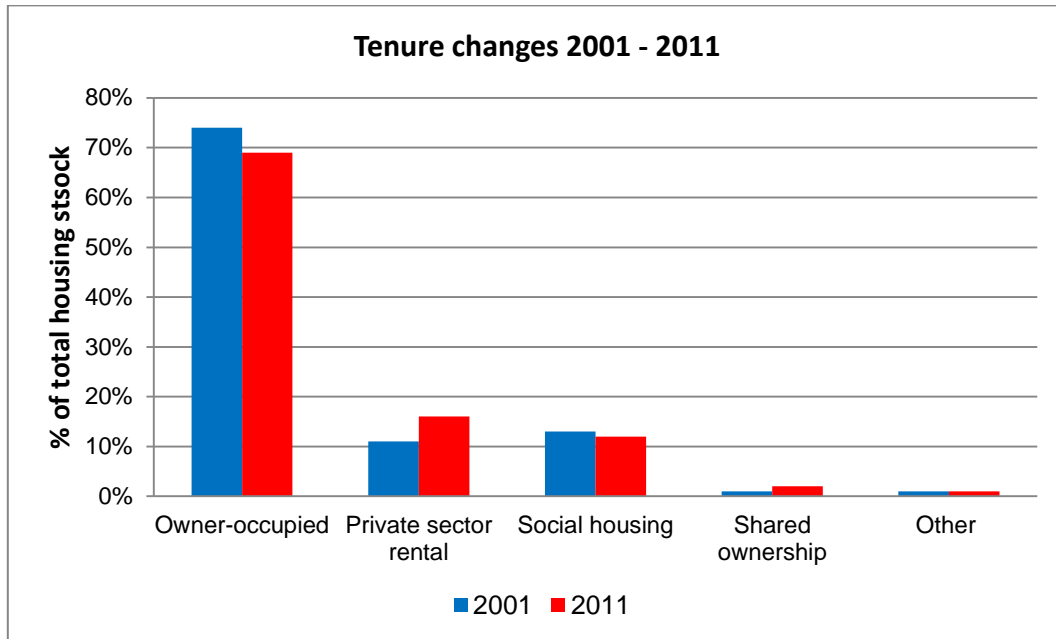
- 2.1 NDH will initially be operating within the borough of Guildford. The local housing market is buoyant and has proved to be resilient during times when there is a downturn in the housing market.

Over time, it may expand its property portfolio to areas outside the Borough where acquisition and development opportunities may be greater.

- 2.2 The supply of new homes in the area has been relatively low over the last five years reflecting the local planning environment. Whilst the Council is making good progress to adopt a new Local Plan, which includes an ambitious new build target, there are significant constraints to overcome.
- 2.3 The area is an attractive place to live and has excellent transport links to other parts of the country, particularly London. Heathrow and Gatwick are easily accessible as are number of regional employment centres.

Employment in the area is high. Both the private sector and public sector struggle to recruit, particularly lower paid staff, because of the high cost of owning or renting in the borough.

- 2.4 Demand for rental property in the borough is high as increasing numbers are unable or have chosen not to buy. The chart below shows the tenure trends over the last 15 years based on the latest available Census data. Without major and sustained Government intervention, it is unlikely we will see any meaningful reversal of this trend.



- 2.5 There are no landlords of scale operating in the local private rental sector market (PRS). The majority of landlords own fewer than five properties. This may change as institutional investors seek stable long-term returns outside the established equity and bond markets. Currently these investors prefer new build properties in high-rise flatted developments aimed at relatively high-income households. On this basis, there is no immediate direct competition to NDH.

Recent changes introduced by the Government make “buy to let” less financial attractive for smaller investors, particularly those on a higher tax band. The phased reduction in tax relief is phased over the next three years so we may not see an immediate impact. However, it is possible we will not only see higher rents being charged to offset the increased costs but a change in landlord profile.

- 2.6 The dominant landlords in the borough are social housing landlords – the Council and a number of housing associations. The Council is not legally able to hold PRS directly and to date, the local housing associations have not been significant players in the local PRS market.
- 2.7 With low supply and high demand, property prices in the borough are high, with the average house price being in the region of £480,000 (April 2016). The table below shows property transactions by price band over the last year.

| Price band £'000's | House sales March 2015 – April 2016 |
|--------------------|-------------------------------------|
| £0 - 200 | 189 |
| £201- 300 | 541 |
| £301- 400 | 631 |
| £401- 500 | 466 |
| £501- 600 | 219 |
| £601 | 588 |
| Total sales | 2634 |



- 2.8 During the last year, average house prices have increased by 7%. The Brexit referendum does not appear to have caused any reduction in house prices but did have an impact on transaction numbers. It remains to be seen if this is a short-term effect.
- 2.9 The availability of suitable properties to acquire will become a challenge as the company seeks to expand, if it is to avoid distorting the lower end of the housing market. This may prove to be a constraint.
- 2.10 NDH intends to grow through development as well as acquisition. The development opportunities are limited in the immediate future, however once the proposed Local Plan is approved further opportunities will exist. In the meantime, NDH will proactively seek development opportunities on small sites.

A number of local employers are recognising that they may have to offer housing solutions for their employees if they are to recruit and retain staff. The company is well placed to assist.

- 2.11 **Prospective customers:** NDH has identified a number of prospective customers:
- **Tenants** – the company will initially offer accommodation to smaller households with properties largely being let to working households. It is likely households will have total household incomes in the range £30,000-£65,000 pa.
 - **Owner-occupiers** – any developments the company carry out will be aimed at the lower end of the market (i.e. less than £450,000). Consideration will be given to including some element of part rent : part buy on larger developments once the company expands sufficiently.
 - **Small landlords** – as the company expands and builds management capacity it will offer a management service to small local landlords and public sector residential property owners.

- 2.12 **Alternative suppliers:** Small-scale private landlords dominate the local PRS market. There is increasing evidence that not only institutional investors but also housing associations are prepared to enter the PRS market. Their preference is to develop larger-scale schemes exclusively for rent.

Such schemes minimise both management and maintenance costs but rely on appropriate schemes gaining planning consent. Many schemes consist of flatted developments aimed at younger tenants. Town centre sites fit in well with this concept.

- 2.13 In time, there is scope for NDH to consider entering into joint-venture schemes with these new operators, particularly on any large-scale land holdings currently owned/controlled by the Council. In the short term, the principal NDH competition will come from developers and Housing Associations seeking to acquire development land.



- 2.14 In terms of acquisitions, the challenge will be to avoid creating upward pressures on market prices for first time buyers or small landlords.

3.0 Sales and marketing

- 3.1 NDH will work quickly to establish a strong brand in the local market. It will use a variety of media to do so.

- 3.2 NDH is entering a market where potential tenants use a relatively small number of letting agents and the internet to access rental properties. In order to contain costs it is important NDH quickly establish a local presence.

As the majority of prospective tenants search for properties online, the cost of entry has reduced considerably with it no longer being essential to have a 'high street' presence.

- 3.3 NDH will initially use 'online real estate' portal providers such as Rightmove and Zoopla to market properties and if necessary local letting agents to market their properties.

The company will develop an enhanced website once the initial acquisition phase is completed.

- 3.4 NDH will develop a communication strategy in parallel with its expansion programme. It is planned to offer longer tenancies with a view to providing a more stable renting option than the current market generally offers. This should reduce tenancy turnover and therefore our need for an extensive/costly sales and marketing service.

NDH will seek to ensure the management arrangements are robust and mechanisms are in place to minimise void periods and rental loss.

4.0 Operations

- 4.1 NDH will initially manage its property portfolio through a series of service level agreements with the Council. These agreements will cover:

- Acquisition and disposal of properties including land
- Marketing, letting and management of individual properties
- Development of new properties
- Financial management and reporting for company activities
- Legal support associated with the management of its property portfolio.

NDH will annually review these agreements to ensure they accurately reflect the support required and that it remains in the best interests of the company to continue the arrangements.

- 4.2 As the company expands, NDH may recruit its own staff. The timing will depend on how quickly the company can expand and how diverse its operations become. It is unlikely that the company will be in a position to recruit staff until late 2018 to early 2019.



- 4.3 NDH will use other suppliers to support those provided by the Council where it is more cost-effective to do so. Examples include conveyancing and specialist development expertise.
- 4.4 Whilst NDH is wholly owned by the Council, it falls outside the provisions of the Public Contract Regulations. It is therefore free to procure services from the market in a manner that is in the best interests of the company.

NDH will procure in accordance with its approved Procurement Policy.

- 4.5 NDH will comply with the relevant legislation and guidance concerning Data Protection, including adopting suitable policies and procedures to ensure data is adequately safeguarded.
- 4.6 NDH recognises it will be involved with requests made under the Freedom of Information Act 2000. It will maintain a record management system that complies with the relevant guidance concerning the maintenance and management of records.

NDH will fully co-operate with the Council to enable it to respond to all FOI requests and provide such information to the Council as it may require.

5.0 Financial

- 5.1 NDH initially will operate a traditional property investment model. The company will be financed through a series of loans and equity investments. Without an established track-record, the most likely funder in the early stages will be the sole shareholder.
- 5.2 The Council has agreed to provide an initial loan of £1.44 million to the company and make an equity investment of £0.96 million. It is hoped that a further loan facility of up to £23 million will be made available during 2017-2019 on a 60:40 loan : equity basis.

The loans will be on a drawdown basis and the intention is to use this facility when individual properties are acquired and/or developed.

Financing requirements (Acquisitions & Developments)

- 5.3 The table below sets out the projected capital investment proposed over the next five years on acquisitions and development activity. The exact timing and ratio of acquisition to development will reflect available market opportunities.

| | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 |
|------------------------------|------------|------------|-------------|-------------|-------------|
| Number of properties | 4 | 21 | 60 | 40 | 75 |
| Annual investment | £1,147,700 | £6,609,300 | £17,344,000 | £10,189,000 | £19,771,000 |
| Cumulative investment | £1,147,700 | £7,757,000 | £25,101,000 | £35,290,000 | £55,061,000 |

5.4 The table below sets out the financing in more detail.

| Year | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 |
|--------------|-------------------|-------------------|--------------------|--------------------|--------------------|
| Loan | £688,620 | £3,965,580 | £10,406,400 | £6,113,400 | £11,862,600 |
| Equity | £459,080 | £2,643,720 | £6,937,600 | £4,075,600 | £7,908,400 |
| Total | £1,147,700 | £6,609,300 | £17,344,000 | £10,189,000 | £19,771,000 |

5.5 The initial loan for the first eight properties is on a variable repayment basis at an interest rate of 5.25% (5% over base rate). The cash flows for planned acquisitions up to 2021 will be insufficient to support the costs associated with the loan (interest/repayments) until year seven. The Council has agreed to roll-up the payments due, to maintain a positive cash flow for the company.

5.6 The repayment of the first loan provided by the Council assumes that the repayment is made on a cash-sweep basis. This means only operating surpluses will be used to make loan repayments. If there is an outstanding balance on the loan at the time of sale of a property or at Year 30, this could be repaid using the sale proceeds if circumstances dictate.

In the event the company has insufficient cashflows to service its loans on a long-term basis, the company has the option to sell assets to enable any outstanding loans to be repaid should shareholder support not be forthcoming.

Assumptions

5.7 The financial model for NDH uses the assumptions set out below.

| Item | Assumption |
|--|-------------------------------------|
| Borrowing rate | 5.25% |
| Repayment method | Cash sweep |
| Equity investment/unit | 40% unit cost |
| Inflation - CPI | 2% |
| Rental inflation | CPI + 1% |
| Expenditure inflation | 2% |
| Annual house price inflation | 5% |
| Av. Monthly rent 2 bed | £1,050 |
| Av. purchase price 2 bed | £350,000 (house) £280,000 (flat) |
| Void and bad debts allowance | 5% (PRS) |
| Management fee/unit | 8% of rent |
| Other costs including - marketing fees, maintenance, legal, valuations, stamp duty | At cost |



- 5.8 The shareholder recognises that the company will not be in a position to pay dividends on its investment for a considerable period. In the light of the projected capital growth of the portfolio, the shareholder is comfortable with this position.
- 5.9 Whilst NDH propose to hold the properties in its portfolio for the long term it will review its holdings on an annual basis to ensure they are performing adequately.
- 5.10 Based on the financial modelling carried out to date and the assumptions set out in 5.7 NDH have set the following target returns:

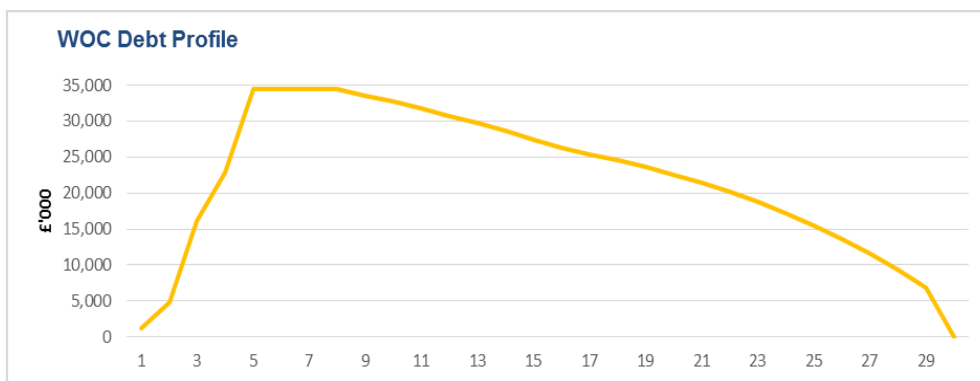
| | |
|----------------------|------|
| Gross initial yield | 4.5% |
| Net initial yield | 2.2% |
| 30-year total return | 7.5% |

Viability assessment

- 5.11 The following sections set out in more detail the projections in respect of the initial five years financing phase to assess the viability of the investment. Three indicators have been used to make this assessment. These are:

- NDH Debt profile – the ability to repay the loan within 30 years
- Interest cover – extent NDH interest rates are covered by its net rental income
- Shareholder equity return – the return on the investment made by the shareholder

- 5.12 **Debt profile:** Based on a 60% gearing, NDH will need to increase its total debt, reflecting the need to roll up interest payments of around £3.328 million. Depending on the timing of acquisition, this peak funding requirement will arise in 2020-21. The company will start to service its debt around 2021-2022 with the final payment made in 2045-46. The debt profile is reflected in the chart below.



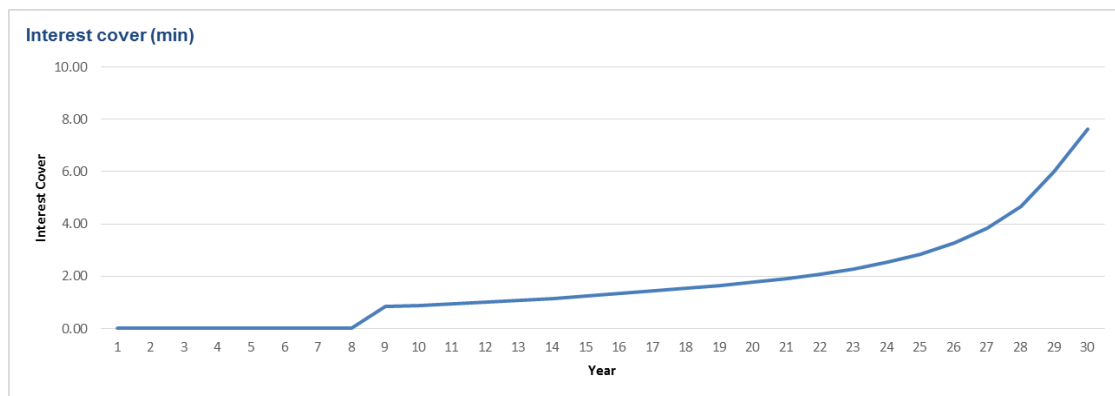
- 5.13 The analysis shows NDH can meet its loan repayment obligations. If the company were able to negotiate future loans on an interest only basis, this would change the debt profile substantially.
- 5.14 **Interest cover:** This reflects the ability and extent to which NDH can service the interest payments from its net rental income. Analysis shows that in the first five



years, it cannot meet its interest payment obligations but the situation steadily improves with rental growth.

While income and cost inflation rates have been projected to increase at the same rate, the net rental figure will improve over time.

- 5.15 The chart below shows how the interest rate cover ratio improves over time. Increasing the size of the portfolio will improve the interest cover ratio, as the company is able to spread its fixed costs over an increased asset base.



- 5.16 NDH recognises that should the inflation assumptions made prove to be incorrect, this will directly impact on the interest rate cover ratio. The model is particularly sensitive to lower rates of rental growth.

5.17 **Shareholder equity return:**

| Shareholder return over 30 years | |
|----------------------------------|--------------|
| Total return at year 30 | £196,555,000 |
| Equity (Internal rate of return) | 7.6% |

- 5.18 **Sensitivity analysis:** The long-term nature of the business makes it susceptible to a number of market and operational risks. These fall broadly under three headings:

- property acquisition prices
- operating cash flow – includes loan rates, income and cost inflation rates and void costs
- property disposal prices

The following table summarises the impact of a series of changes in the assumptions we have made.



| Shareholder return | Base case | Rent Inflation | | | House price inflation | Borrowing rate | | | Operating costs |
|--|-----------|----------------|----------|----------|-----------------------|----------------|----------|----------|-----------------|
| | | + 1% | - 1% | - 2 % | | +2% | + 1% | - 1% | |
| Total return at year 30* | £198,436 | £213,714 | £185,475 | £174,409 | £101,891 | £204,986 | £201,418 | £195,876 | £196,555 |
| Return over first five years – incl dividends* | £3,239 | £3,375 | £3,107 | £2,881 | £2,908 | £3,074 | £3,221 | £3,234 | £3,136 |
| Equity IRR (cash and land) % | 7.67 | 8.03 | 7.31 | 6.98 | 5.0 | 7.03 | 7.42 | 7.83 | 7.60 |
| Return on shareholder investment | 7.85 | 8.62 | 7.16 | 6.56 | 3.90 | 6.65 | 7.36 | 8.20 | 7.73 |

Note: * '000s

5.19 The analysis shows the viability of the company is most sensitive to changes in the following assumptions:

- **Rate of rent inflation:** This is our greatest risk should rents increase more slowly than assumed, conversely it is the factor that would most increase the viability of the company if the rates were higher than projected.
- **Increase in loan interest:** The flexible nature of the property portfolio together with the inherent flexibility in its loan arrangements will allow the company to mitigate the impact of a material increase in debt servicing costs.
- **House price inflation:** This factor's greatest impact is on the equity return to the shareholder. The assumed rate used in the base assessment is conservative when taken over a 30-year period. However, what is difficult to assess is the likelihood of a major and long-term market price correction.

6.0 Risks

6.1 NDH, whilst operating in an established market and using a familiar model faces a series of risks. Property markets are cyclical in nature, prone to unconnected financial shocks and are subject to political interference nationally.

6.2 As a new entrant, it faces challenges from the existing local providers both in terms of visibility and having an established supply chain. These will be quickly overcome. Establishing a strong portfolio will be more difficult and will take time.

6.3 The company has identified the following as key risks:

- Financial environment
- Operating
- Supply/demand
- Political influence



6.4 **Financial** – there are a number of key risks:

- Funding costs – the company in the early stages has to rely on the Council for both loan and equity finance. Loans will be influenced by the circumstances prevailing at the time.
- Funding availability – changes in national or local policies may limit the Council's ability to grant loans and/or make equity investments.

Over time, NDH may need to finance its expansion plans externally.

- Cash flow – in the early days NDH will not generate significant income to service its debt/operating costs. The rate of rental growth will determine how quickly this changes and relies on local market conditions. Operating costs may be higher and rental income lower with a consequential impact on the cash flows currently projected.

The company relies on the rental income to service its debt and fund its operating costs. We have to recognise there is increasing uncertainty around the wider economy. The rate of inflation appears to be increasing whilst there continues to be a strong downward pressure on wages. This could further reduce the ability of tenants to meet their rental obligations. In turn, this may create pressure to reduce market rents, particularly at the lower end of the spectrum.

- Capital appreciation – The property market has historically been cyclical in nature and we have to recognise that from time to time there will be market corrections. NDH plans to hold its properties for the long-term and therefore will not be directly affected by individual corrections. However, over time, the projected level of capital appreciation may be less than forecast and that will reduce the long-term returns it can deliver.

6.5 **Operating risks:** These are principally:

Tenancy issues – whilst most tenants fully comply with their tenancy obligations, this is not universally the case. Bad debts, high repair costs and prolonged void periods can be the result. To mitigate these risks, lettings will focus initially on those best placed to sustain their tenancy.

As the portfolio grows, the impact of such issues will be less but in the early days, they could have a disproportionate effect on our cash flow.

- Health and safety – the consequence of not managing the health and safety issues are serious.

6.6 **Supply and demand:** These will increase in importance as the company expands and as both national and local housing/planning policies evolve.

6.7 Expansion by acquisitions will be constrained by not only the availability of suitable properties but also the impact an acquisition programme might have on the local market.



Expansion through development relies on being able to acquire suitable sites in an extremely competitive market. Until NDH is seen as an established player in the market it will prove challenging.

- 6.8 The proposed Local Plan represents a major opportunity however until this has been approved the limited scale of development in the borough continues to exert significant upward cost pressures in respect of land and property.
- 6.9 Looking ahead over the next five years, there are no developments currently planned that will materially influence demand for rental accommodation in the borough. National policies remain focused on supporting home ownership, however recent announcements suggest there may be greater focused help to the PRS market.
- 6.10 **Political influence:** the company, through its Directors, will need to develop a relationship with the Council. For both it will be new and each will need to work through their respective boundaries. This will be greatly assisted through the common objectives they have, however at times there may be differences in how best to achieve them.

This risk should not be overstated, nevertheless it is important for both parties to recognise the risk exists.

- 6.11 As already mentioned, the greater risk arises as a result of national policies. There remains a lack of clarity from the government on the extent they are happy for local authorities to trade in local housing markets. This reflects wider housing policies and how they use the housing market to manage the wider economy.

The change in SDLT rates is a recent example of how changes in national policy can adversely affect a business such as NDH.

Annexes

- 1 Articles of Association
- 2 Financial information (see "Not for Publication" item 14 elsewhere on this agenda)

Agenda item number: 5

Appendix 2



Annex 1

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION OF NORTH DOWNS HOUSING LIMITED



PART 1

INTERPRETATION AND LIMITATION OF LIABILITY

1 Model articles not to apply

The model articles for private companies limited by shares contained in Schedule 1 of The Companies (Model Articles) Regulations 2008 (SI 2009/3229) as amended prior to the date of adoption of these Articles shall not apply to the Company. References to the “Articles” shall be to the following articles of association as amended from time to time.

2 Defined terms

2.1 In these Articles, unless the context requires otherwise—

“**Act**” means the Companies Act 2006;

“**bankruptcy**” includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

“**board**” means the board of directors of the Company;

“**business day**” means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;

“**chairman**” has the meaning given in article 14;

“**chairman of the meeting**” has the meaning given in article 45;

“**Companies Acts**” means the Companies Acts (as defined in section 2 of the Act), in so far as they apply to the Company;

“**Conflict**” has the meaning given in article 17.1;

“**council**” means Guildford Borough Council or any successor body thereto;

“**councillor director**” means an elected member of the council who is appointed as a director of the Company;

“**delegation matrix**” the delegation matrix document adopted and approved by the council and the holding company at the date of adoption of these Articles as amended from time to time by the Company (and if required with the consent of the council and/or the holding company in accordance with article 5.2);

“**director**” means a director of the Company, and includes any person occupying the position of director, by whatever name called;

“**distribution recipient**” has the meaning given in article 37.2;

“**document**” includes, unless otherwise specified, any document sent or supplied in electronic form;

“**electronic form**” has the meaning given in section 1168 of the Act;

“**eligible director**” means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);

“**fully paid**” in relation to a share, means that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company;

“**hard copy form**” has the meaning given in section 1168 of the Act;

“**holder**” in relation to shares means the person whose name is entered in the register of members as the holder of the shares;



“holding company” shall mean the Company which is the holder of the entire issued share capital of the Company from time to time;

“independent director” means a director of the Company (who is not a local authority person);

“instrument” means a document in hard copy form;

“local authority person” means any person:

a) who is a member of the council;

b) who is an officer of the council;

“officer director” means an officer of the council who is appointed as a director of the Company;

“ordinary resolution” has the meaning given in section 282 of the Act;

“paid” means paid or credited as paid;

“participate”, in relation to a directors’ meeting, has the meaning given in article 12;

“proxy notice” has the meaning given in article 51;

“shareholder” means a person who is the holder of a share;

“shares” means shares in the Company;

“special resolution” has the meaning given in section 283 of the Act;

“subsidiary” has the meaning given in section 1159 of the Act;

“transmittee” means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and

“writing” means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

2.2 Unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.

2.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.

2.4 A reference in these Articles to an **“article”** is a reference to the relevant article of these Articles unless expressly provided otherwise.

2.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of—

2.5.1 any subordinate legislation from time to time made under it, and

2.5.2 any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.

2.6 Any phrase introduced by the terms **“including”**, **“include”**, **“in particular”** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.



3 Liability of members

The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

4 Objects clause

4.1 The objects for which the Company is established are:

4.1.1 to meet in such manner as the Company thinks fit identified housing need and increase the provision of new housing in the Guildford borough and surrounding areas;

4.1.2 to generate returns for the council's general fund;

4.1.3 to accelerate development of brownfield land in the Guildford borough; and

4.1.4 to carry on any other business or do such other things which may seem to the Company capable of being conveniently carried on in connection with any of the above specified objects, or calculated to enhance the value of the Company's services, assets, property or rights.

4.2 In pursuance of the object set out in article 4.1, the company has the power to:

4.2.1 buy, lease or otherwise acquire and deal with any property real or personal and any rights or privileges of any kind over or in respect of any property real or personal and to improve, manage, develop, construct, repair, sell, lease, mortgage, charge, surrender or dispose of or otherwise deal with all or any part of such property and any and all rights of the company;

4.2.2 borrow and raise money in such manner as the directors shall think fit and secure the repayment of any money borrowed, raised or owing by mortgage, charge, lien or other security on the company's property and assets;

4.2.3 invest and deal with the funds of the company not immediately required for its operations in or upon such investments, securities or property as may be thought fit;

4.2.4 subscribe for, take, buy or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority in any part of the world;

4.2.5 lend and advance money or give credit on such terms as may seem expedient and with or without security to customers and others, to



enter into guarantees, contracts of indemnity and suretyships of all kinds to receive money on deposit or loan upon such terms as the company may approve and to secure or guarantee the payment of any sums of money or the performance of any obligation by any company, firm or person including any holding company or subsidiary;

- 4.2.6 lobby, advertise, publish, educate, examine, research and survey in respect of all matters of law, regulation, economics, accounting, governance, politics and/or other issues and to hold meetings, events and other procedures and co-operate with or assist any other body or organisation in each case in such way or by such means as may, in the opinion of the directors, affect or advance the principal object in any way;
- 4.2.7 pay all or any expenses incurred in connection with the promotion, formation and incorporation of the company and to contract with any person, firm or company to pay the same;
- 4.2.8 enter into contracts to provide services to or on behalf of other bodies;
- 4.2.9 provide and assist in the provision of money, materials or other help;
- 4.2.10 open and operate bank accounts and other facilities for banking and draw, accept, endorse, issue or execute promissory notes, bills of exchange, cheques and other instruments;
- 4.2.11 incorporate subsidiary companies to carry on any trade; and
- 4.2.12 do all such other lawful things as are incidental or conducive to the pursuit or to the attainment of any of the object set out in article 4.1.



PART 2

DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

5 Directors' general authority

5.1 Subject to any provision of these Articles to the contrary (including but not limited to article 5.2), the directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

5.2 Any matters which require the consent of council and/or the holding company pursuant to the delegation matrix from time to time shall not be carried out without the prior written consent of the council and/or the holding company (as appropriate) and each of the directors shall use their respective rights and powers to procure, so far as they are each able, that no such matter is carried out unless the required consent has been given. In particular no amendment or variation to the delegation matrix which would reduce or limit those matters which require the consent of the council and/or the holding company shall be approved by the Company without the prior written consent of the council and/or the holding company (as appropriate).

6 Shareholders' reserve power

6.1 The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action.

6.2 No such special resolution invalidates anything which the directors have done before the passing of the resolution.

7 Directors may delegate

7.1 Subject to the Articles (and in particular article 5.2), the directors may delegate any of the powers which are conferred on them under the Articles—

7.1.1 to such person or committee;

7.1.2 by such means (including by power of attorney);

7.1.3 to such an extent;

7.1.4 in relation to such matters or territories; and

7.1.5 on such terms and conditions,

as they think fit, and the directors may make any rule which they think fit about how any such delegation should operate.



7.2 If the directors so specify, any such delegation (subject to article 5.2) may authorise further delegation of the directors' powers by any person to whom they are delegated.

7.3 The directors may revoke any delegation in whole or part, or alter its terms and conditions.

8 Committees

8.1 Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the Articles which govern the taking of decisions by directors.

8.2 The directors may make rules of procedure for all or any committees, which prevail over rules derived from the Articles if they are not inconsistent with them.

DECISION-MAKING BY DIRECTORS

9 Directors to take decisions collectively

9.1 The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 10.

9.2 If—

9.2.1 the Company only has one director for the time being, and

9.2.2 no provision of the Articles requires it to have more than one director,

the general rule does not apply, and the director may (for so long as he remains the sole director) take decisions without regard to any of the provisions of the Articles relating to directors' decision-making.

10 Unanimous decisions

10.1 A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

10.2 Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it, or to which each eligible director has otherwise indicated agreement in writing.

10.3 A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.



11 Calling a directors' meeting

- 11.1 Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.
- 11.2 Notice of any directors' meeting must indicate—
 - 11.2.1 its proposed date and time;
 - 11.2.2 where it is to take place; and
 - 11.2.3 if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
- 11.3 Notice of a directors' meeting must be given to each director, but need not be in writing.
- 11.4 Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company at any time before or after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

12 Participation in directors' meetings

- 12.1 Subject to the Articles, directors participate in a directors' meeting, or part of a directors' meeting, when—
 - 12.1.1 the meeting has been called and takes place in accordance with the Articles; and
 - 12.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 12.2 In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.
- 12.3 If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

13 Quorum for directors' meetings

- 13.1 At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 13.2 Subject to article 13.3, the quorum for the transaction of business at a meeting of directors shall be three eligible directors.



13.3 For the purposes of any meeting (or part of a meeting) held pursuant to article 0 to authorise a director's conflict, if there are fewer directors in office of any class other than the conflicted director(s) who would constitute a quorum, the quorum for such meeting (or part of a meeting) shall be the remaining eligible directors.

13.4 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision—

13.4.1 to request that the holding company appoint further directors in accordance with the Articles, or

13.4.2 to call a general meeting so as to enable the shareholders to appoint further directors.

14 Chairing of directors' meetings

14.1 The directors may appoint a director to chair their meetings. The first chairman shall be the director holding the position of managing director of the Company.

14.2 The person so appointed for the time being is known as the chairman.

14.3 The directors may terminate the chairman's appointment at any time and appoint a replacement.

14.4 If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

15 Casting vote

15.1 If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairman or other director chairing the meeting has a casting vote.

15.2 Article 15.1 shall not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the Articles, the chairman or other director is not an eligible director for the purposes of that meeting (or part of a meeting).

16 Transactions or other arrangements with the Company

16.1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Companies Acts, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company—



- 16.1.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
 - 16.1.2 shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
 - 16.1.3 shall be entitled to vote at a meeting of directors or of a committee of the directors, or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested;
 - 16.1.4 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
 - 16.1.5 may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
 - 16.1.6 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.
- 16.2 For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- 16.3 Subject to article 16.4, if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.
- 16.4 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

17 **Directors' conflicts of interest**

17.1 The directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director (an **“Interested Director”**) breaching his duty under section 175 of the Act to avoid conflicts of interest (a **“Conflict”**).

17.2 Any authorisation under this article 0 will be effective only if—

17.2.1 the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;

17.2.2 any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and

17.2.3 the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.

17.3 Any authorisation of a Conflict under this article 0 may (whether at the time of giving the authorisation or subsequently)—

17.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;

17.3.2 provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict;

17.3.3 provide that the Interested Director shall or shall not be an eligible director in respect of any future decision of the directors in relation to any resolution related to the Conflict;

17.3.4 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;

17.3.5 provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and

17.3.6 permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or



for, the directors to the extent to which they relate to such matters.

- 17.4 Where the directors authorise a Conflict the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the directors in relation to the Conflict.
- 17.5 The directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation of variation, in accordance with the terms of such authorisation.
- 17.6 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.
- 17.7 For the purposes of sections 175 and 180(4) of the Act and for all other purposes, it is acknowledged that a director may be or become subject to a Conflict as a result of his also being or having been (or being party to an agreement or arrangement or understanding or circumstances under which he may become) an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or a direct or indirect investor in and/or otherwise involved with or interested in, any of the council, the Company, its subsidiaries, any of its holding companies or any subsidiary of any of its holding companies (as such terms are defined in section 1159 of the Act) or any of its shareholders.
- 17.8 No director shall be in breach of the duty to avoid conflicts of interest in section 175 of the Act as a result of, and no authorisation is required in respect of, any Conflict envisaged by article 17.7 having arisen or existing in relation to him.

18 Records of decisions to be kept

- 18.1 The directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.
- 18.2 Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.

19 Directors' discretion to make further rules

Subject to the Articles, the directors may make any rule which they think fit about how they take decisions and hold meetings, and about how such rules are to be recorded or communicated to directors.



APPOINTMENT OF DIRECTORS

20 Number of directors

Unless otherwise determined by the holding company, the number of directors shall not exceed eight but shall not be less than three and the board of directors shall comprise of such directors as the holding company shall from time to time determine.

21 Methods of appointing directors

21.1 Any person who is willing to act as a director, and is permitted by law and these Articles to do so, may be appointed to be a director—

21.1.1 by the holding company, or

21.1.2 by a decision of the directors.

21.2 The holding company shall from time to time have the right, by notice in writing addressed to the Company, to:

21.2.1 appoint and maintain in office such number of directors as the holding company shall determine; and

21.2.2 remove any such person as a director of the Company and to appoint a replacement.

21.3 Any appointment or removal of a director in accordance with article 21.2 shall take immediate effect upon receipt (or deemed receipt) by the Company of such notice in writing, or the production of such notice in writing at a meeting of the directors or, if later, the date (if any) specified in such notice.

21.4 Subject to article **Error! Reference source not found.**:

21.4.1 the first directors of the Company (the “**first directors**”) being those in office at the date of appointment of these articles shall be appointed for a fixed term of twelve months, at the end of which each of the directors shall retire from the board unless he is re-appointed pursuant to article 21.1 and/or article **Error! Reference source not found.**;

21.4.2 any directors appointed by the directors pursuant to article 21.1.2 shall hold office only until the following annual general meeting and if such directors are not re-appointed at such general meeting, he must vacate office at the end of the meeting;

21.4.3 any other directors appointed pursuant to article 21.1 and/or article **Error! Reference source not found.** shall be appointed for a fixed term of four years, save where a shorter term is set prior to appointment (the “**fixed term**”). The fixed term for any directors appointed by the directors pursuant to article 21.1.2 who have



been re-appointed at an annual general meeting pursuant to article 21.4.2 shall commence from the date of the directors' appointment by the directors;

21.4.4 directors shall retire from the board at the end of the fixed term but shall be eligible for re-appointment for a further term of four years, or such shorter term as is set prior to such re-appointment, at the end of which the directors shall retire from the board and shall not be re-appointed as a director; and

21.4.5 any directors who have been in office for an aggregate term of eight years shall not be eligible to be re-appointed as a director.

22 Termination of director's appointment

22.1 A person shall be ineligible for appointment to the board and if already appointed shall cease to be a director as soon as—

22.1.1 that person ceases to be a director by virtue of any provision of the Act or is prohibited from being a director by law;

22.1.2 that person has for more than six consecutive months been absent without permission of the directors from meetings of directors held during that period and the directors resolve that person's office be vacated;

22.1.3 a bankruptcy order is made against that person;

22.1.4 a composition is made with that person's creditors generally in satisfaction of that person's debts;

22.1.5 a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;

22.1.6 notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms;

22.1.7 that person is removed by the holding company by a notice in writing to the Company;

22.1.8 that person is or becomes a person disqualified from being an elected councillor of a local authority; or

22.1.9 that person is removed from office by a resolution of or written notice signed by not less than three quarters of all the other directors from time to time.

23 Directors' remuneration

- 23.1 Directors may undertake any services for the Company that the directors decide.
- 23.2 Independent directors (and not councillor directors or officer directors) are entitled to such remuneration as the directors determine—
- 23.2.1 for their services to the Company as directors, and
- 23.2.2 for any other service which they undertake for the Company.
- 23.3 Subject to the Articles, remuneration of an independent director may—
- 23.3.1 take any form, and
- 23.3.2 include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- 23.4 Unless the directors decide otherwise, such remuneration accrues from day to day.
- 23.5 Unless the directors decide otherwise, directors are not accountable to the Company for any remuneration which they receive as directors or other officers or employees of the Company's subsidiaries or of any other body corporate in which the Company is interested.

24 Directors' expenses

The Company may pay any reasonable expenses which the directors and the secretary properly incur in connection with their attendance at—

- 24.1 meetings of directors or committees of directors,
- 24.2 general meetings, or
- 24.3 separate meetings of the holders of any class of shares or of debentures of the Company,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

25 Secretary

The directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.



PART 3

SHARES AND DISTRIBUTIONS

SHARES

26 All shares to be fully paid up

- 26.1 No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the Company in consideration for its issue.
- 26.2 This does not apply to shares taken on the formation of the Company by the subscribers to the Company's memorandum.

27 Allotment of shares

- 27.1 Save to the extent authorised by these Articles, or authorised from time to time by the holding company, the directors shall not exercise any power to allot shares or to grant rights to subscribe for, or to convert any security into, any shares in the Company.
- 27.2 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.

28 Powers to issue different classes of share

- 28.1 Subject to the Articles, but without prejudice to the rights attached to any existing share, the Company may issue shares with such rights or restrictions as may be determined by the holding company.
- 28.2 The Company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

29 Company not bound by less than absolute interests

Except as required by law, no person is to be recognised by the Company as holding any share upon any trust, and except as otherwise required by law or the Articles, the Company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

30 Share certificates

- 30.1 The Company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.
- 30.2 Every certificate must specify—
 - 30.2.1 in respect of how many shares, of what class, it is issued;



30.2.2 the nominal value of those shares;

30.2.3 that the shares are fully paid; and

30.2.4 any distinguishing numbers assigned to them.

30.3 No certificate may be issued in respect of shares of more than one class.

30.4 If more than one person holds a share, only one certificate may be issued in respect of it.

30.5 Certificates must—

30.5.1 have affixed to them the Company's common seal, or

30.5.2 be otherwise executed in accordance with the Companies Acts.

31 Replacement share certificates

31.1 If a certificate issued in respect of a shareholder's shares is—

31.1.1 damaged or defaced, or

31.1.2 said to be lost, stolen or destroyed,

that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

31.2 A shareholder exercising the right to be issued with such a replacement certificate—

31.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;

31.2.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and

31.2.3 must comply with such conditions as to evidence, and indemnity and the payment of a reasonable fee as the directors decide.

32 Share transfers

32.1 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.

32.2 No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.

32.3 The Company may retain any instrument of transfer which is registered.

32.4 The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.



- 32.5 The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

33 Transmission of shares

- 33.1 If title to a share passes to a transmittee, the Company may only recognise the transmittee as having any title to that share.
- 33.2 A transmittee who produces such evidence of entitlement to shares as the directors may properly require—
 - 33.2.1 may, subject to the Articles, choose either to become the holder of those shares or to have them transferred to another person, and
 - 33.2.2 subject to the Articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- 33.3 Transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

34 Exercise of transmittees' rights

- 34.1 Transmittees who wish to become the holders of shares to which they have become entitled must notify the Company in writing of that wish.
- 34.2 If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- 34.3 Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

35 Transmittees bound by prior notices

If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name, or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 34.2, has been entered in the register of members.

DIVIDENDS AND OTHER DISTRIBUTIONS

36 Procedure for declaring dividends

- 36.1 The Company may by ordinary resolution of the holding company declare dividends, and the directors may decide to pay interim dividends.



- 36.2 A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- 36.3 No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- 36.4 Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.
- 36.5 If the Company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrears.
- 36.6 The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- 36.7 If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

37 Payment of dividends and other distributions

- 37.1 Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by such means of payment as the directors may determine.
- 37.2 In the Articles, "**the distribution recipient**" means, in respect of a share in respect of which a dividend or other sum is payable—
 - 37.2.1 the holder of the share; or
 - 37.2.2 if the share has two or more joint holders, whichever of them is named first in the register of members; or
 - 37.2.3 if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

38 No interest on distributions

- 38.1 The Company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by—
 - 38.1.1 the terms on which the share was issued, or
 - 38.1.2 the provisions of another agreement between the holder of that share and the Company.



39 Unclaimed distributions

39.1 All dividends or other sums which are—

39.1.1 payable in respect of shares, and

39.1.2 unclaimed after having been declared or become payable,

may be invested or otherwise made use of by the directors for the benefit of the Company until claimed.

39.2 The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it.

39.3 If—

39.3.1 twelve years have passed from the date on which a dividend or other sum became due for payment, and

39.3.2 the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company.

40 Non-cash distributions

40.1 Subject to the terms of issue of the share in question, the Company may, by ordinary resolution of the holding company on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

40.2 For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution—

40.2.1 fixing the value of any assets;

40.2.2 paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and

40.2.3 vesting any assets in trustees.

41 Waiver of distributions

41.1 Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the Company notice in writing to that effect, but if—

41.1.1 the share has more than one holder, or



41.1.2 more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

CAPITALISATION OF PROFITS

42 Authority to capitalise and appropriation of capitalised sums

42.1 Subject to the Articles, the directors may, if they are so authorised by an ordinary resolution of the holding company—

42.1.1 decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and

42.1.2 appropriate any sum which they so decide to capitalise (a "capitalised sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.

42.2 Capitalised sums must be applied—

42.2.1 on behalf of the persons entitled, and

42.2.2 in the same proportions as a dividend would have been distributed to them.

42.3 Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.

42.4 A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.

42.5 Subject to the Articles the directors may—

42.5.1 apply capitalised sums in accordance with articles 42.3 and 42.4 partly in one way and partly in another;

42.5.2 make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and

42.5.3 authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in



respect of the allotment of shares and debentures to them under this article.

PART 4

DECISION-MAKING BY SHAREHOLDERS

ORGANISATION OF GENERAL MEETINGS

43 Attendance and speaking at general meetings

43.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

43.2 A person is able to exercise the right to vote at a general meeting when—

43.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and

43.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

43.3 The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.

43.4 In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.

43.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

44 Quorum for general meetings

No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum. The presence of a duly authorised representative of the holding company shall constitute a quorum.

45 Chairing general meetings

45.1 If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.

45.2 If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start—



45.2.1 the directors present, or

45.2.2 (if no directors are present), the meeting,

must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

45.3 The person chairing a meeting in accordance with this article is referred to as “the chairman of the meeting”.

46 Attendance and speaking by directors and non-shareholders

46.1 Directors may attend and speak at general meetings, whether or not they are shareholders.

46.2 The chairman of the meeting may permit other persons who are not—

46.2.1 shareholders of the Company, or

46.2.2 otherwise entitled to exercise the rights of shareholders in relation to general meetings,

to attend and speak at a general meeting.

47 Adjournment

47.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.

47.2 The chairman of the meeting may adjourn a general meeting at which a quorum is present if—

47.2.1 the meeting consents to an adjournment, or

47.2.2 it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.

47.3 The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.

47.4 When adjourning a general meeting, the chairman of the meeting must—

47.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and

47.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.



- 47.5 If a general meeting is adjourned, the Company must give notice of the time and place to which it is adjourned:
 - 47.5.1 to the same persons to whom notice of the Company's general meetings is required to be given, and
 - 47.5.2 containing the same information which such notice is required to contain.
- 47.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS

48 Voting: general

A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.

49 Errors and disputes

- 49.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 49.2 Any such objection must be referred to the chairman of the meeting, whose decision is final.

50 Poll votes

- 50.1 A poll on a resolution may be demanded—
 - 50.1.1 in advance of the general meeting where it is to be put to the vote, or
 - 50.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
 - 50.2 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
 - 50.3 A demand for a poll may be withdrawn if—
 - 50.3.1 the poll has not yet been taken, and
 - 50.3.2 the chairman of the meeting consents to the withdrawal.
- A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.



50.4 Polls must be taken immediately and in such manner as the chairman of the meeting directs.

51 Content of proxy notices

51.1 Proxies may only validly be appointed by a notice in writing (a “**proxy notice**”) which—

51.1.1 states the name and address of the shareholder appointing the proxy;

51.1.2 identifies the person appointed to be that shareholder’s proxy and the general meeting in relation to which that person is appointed;

51.1.3 is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and

51.1.4 is delivered to the Company in accordance with the Articles and any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate,

and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting.

51.2 The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

51.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

51.4 Unless a proxy notice indicates otherwise, it must be treated as—

51.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and

51.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

52 Delivery of proxy notices

52.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.

52.2 An appointment under a proxy notice may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.



- 52.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- 52.4 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

53 Amendments to resolutions

- 53.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if—
 - 53.1.1 notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
 - 53.1.2 the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- 53.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if—
 - 53.2.1 the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
 - 53.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- 53.3 If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

PART 5

ADMINISTRATIVE ARRANGEMENTS

54 Means of communication to be used

- 54.1 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company.
- 54.2 Any notice, document or other information shall be deemed served on or delivered to the intended recipient—
 - 54.2.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five business days after posting either to an address



outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);

- 54.2.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;
- 54.2.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
- 54.2.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this article, no account shall be taken of any part of a day that is not a business day.

- 54.3 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.
- 54.4 Subject to the Articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.
- 54.5 A director may agree with the Company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

55 No right to inspect accounts and other records

Except as provided by law or authorised by the directors or an ordinary resolution of the Company but save for the external auditor appointed by the Company and representative of the chief financial officer of the council no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a shareholder.

56 Provision for employees on cessation of business

The directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that subsidiary.



DIRECTORS' INDEMNITY AND INSURANCE

57 Indemnity

57.1 Subject to article 57.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled—

57.1.1 each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer—

- (a) in the actual or purported execution and/or discharge of his duties, or in relation to them; and
- (b) in relation to the Company's (or any associated Company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated Company's) affairs; and

57.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 57.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

57.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

57.3 In this article—

57.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and

57.3.2 a "relevant officer" means any director or other officer or former director or other officer of the Company or an associated Company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act, but excluding in each case any person engaged by the Company (or associated Company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).



58 Insurance

58.1 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.

58.2 In this article—

58.2.1 a “**relevant officer**” means any director or other officer or former director or other officer of the Company or an associated Company (including any such Company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act, but excluding in each case any person engaged by the Company (or associated Company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor),

58.2.2 a “**relevant loss**” means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer’s duties or powers in relation to the Company, any associated Company or any pension fund or employees’ share scheme of the Company or associated Company, and

58.2.3 companies are “**associated**” if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

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

Agenda item number: 5
Appendix 3

Document is Restricted

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