

Executive Shareholder and Trustee Committee Report

Ward(s) affected: All

Report of Director of Resources

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North Downs Housing Limited and Guildford Borough Council Holdings Limited Annual Accounts 2018-19

Executive Summary

On 23 February 2016, the Executive resolved to establish two wholly owned companies; North Downs Housing Limited (the "Housing Company") and Guildford Borough Council Holdings Limited (the "Holding Company"). The Council is the sole shareholder of Guildford Borough Council Holdings Ltd and in turn Guildford Borough Council Holdings Ltd is the sole shareholder of North Downs Housing Ltd.

At its meeting on 26 September 2017, the Executive Shareholder and Trustee Committee (ESTC) held a shareholder Annual General Meeting (AGM) for both companies. At the meeting, the committee:

- appointed the Directors of each company for a 4-year term
- agreed a delegations matrix setting out the role of the directors of each board and the role of the ESTC
- approved the updated North Downs Housing Business Plan 2016-2046

It is noted that no AGM has been held by either company since September 2017 and that there is no requirement to hold an AGM, as neither company is a publicly traded company. However, under local government transparency requirements the holding of an AGM and publication of relevant board minutes would be good practice.

The accounts of each company have been prepared and approved by each Board and submitted to companies house in line with relevant timescales. The accounts of North Downs Housing Ltd are disclosed at Appendix 1 and the accounts of Guildford Borough Council Holdings Ltd are disclosed at Appendix 2. The ESTC are asked to note the accounts in respect of each company.

Recommendation to Executive/ Committee/ Council *(delete as appropriate)*

That the Committee

1. Notes that the Board of North Downs Housing have approved the annual report and accounts at Appendix 1 and submitted them to Companies House
2. Notes that the Board of Guildford Borough Council Holdings Ltd have approved the annual report and accounts at Appendix 2 and submitted them to Companies House
3. Notes the resignation of Adrian Maunders from the Board of the Holding Company
4. Notes the appointment of Councillor Tom Hunt to the Board of the Holding Company
5. Notes the appointment of Directors of North Downs Housing as set out in paragraph 3.7

Reason(s) for Recommendation:

To fulfil the Council's corporate governance duties in respect of its subsidiary companies.

Is the report (or part of it) exempt from publication? *(delete as appropriate)*

No

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. Strategic Priorities

- 2.1 The Council is in the process of updating its Corporate Plan and Strategic Priorities. At its meeting on 21 January 2020 the Executive approved the draft strategic priorities for public consultation. The strategic key theme 'Improved Council' proposes a key priority to improve transparency, consultation and community engagement and to use new ways of working to improve value for money and customer service.
- 2.2 The establishment of the Housing Company in 2016 was part of introducing new ways of working at the Council. The objectives of the Housing Company 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

3. Background

- 3.1 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.
- 3.2 On 23 February 2016, the Executive resolved to establish two wholly owned companies; North Downs Housing Limited (the "Housing Company") and Guildford Borough Council Holdings Limited (the "Holding Company"). The Council is the sole shareholder of Guildford Borough Council Holdings Ltd and in turn Guildford Borough Council Holdings Ltd is the sole shareholder of North Downs Housing Ltd.
- 3.3 At its meeting on 26 September 2017, the Executive Shareholder and Trustee Committee (ESTC) held a shareholder annual general meeting for both companies. At the meeting, the committee:
- appointed the Directors of each company for a 4-year term
 - agreed a delegations matrix setting out the role of the directors of each board and the role of the ESTC
 - approved the updated North Downs Housing Business Plan 2016-2046
- 3.4 The nominated directors appointed in September 2017 were as follows:

Guildford Borough Council Holdings Ltd

Adrian Maunders: Chief Executive, English Rural Housing

Andrew Hodges: Accountant (Retired)

Dennis Paul: former Councillor, Guildford Borough Council

James Whiteman: Managing Director, Guildford Borough Council

North Downs Housing Ltd

Sarah Creedy: Chair – Strategic Policy Direction – Lawyer (Retired) & Honorary Alderman

Gordon Jackson: Councillor, Guildford Borough Council

Nigel Manning: Councillor, Guildford Borough Council

Steve White: Deputy Managing Director, Guildford Borough Council

Sue Reekie: Accountant (Retired)

- 3.5 Since 2017, Adrian Maunders has resigned from the Board of the Holding Company and Nigel Manning and Steve White have resigned from the Board of the Housing Company. In line with the Delegations Matrix, the relevant boards appointed replacement directors but the appointments need to be confirmed by the ESTC at the next Annual General Meeting.
- 3.6 In 2018, Councillor Mike Parsons replaced Councillor Nigel Manning and Councillor Caroline Reeves replaced Councillor Gordon Jackson as Directors of North Downs Housing. The change was due to the re-appointment of Councillors Manning and Jackson to the Council's Executive.
- 3.7 Following the local borough election in May 2019, Councillor Caroline Reeves subsequently resigned from and Councillor Gordon Jackson was re-appointed to the board of North Downs Housing Ltd. In addition, Councillor Tom Hunt has been appointed to replace Adrian Maunders on the Board of Guildford Borough Council Holdings Ltd. The current Directorships are now summarised as follows:-

Guildford Borough Council Holdings Ltd	North Downs Housing Ltd
Hon. Freeman Andrew Hodges	Hon. Alderman Sarah Creedy
Councillor Tom Hunt	Councillor Gordon Jackson
James Whiteman	Sue Reekie
Dennis Paul	Mike Parsons

- 3.8 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.
- 3.9 The Council as the sole shareholder of the Holding Company is the ultimate owner of both the Housing Company and the Holding Company. 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).
- 3.10 The Housing Company is a private company limited by shares. 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).
- 3.11 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) however they can do so if they wish. It is noted that an AGM has not been held since September 2017 for either company.

- 3.12 The companies have both appointed an external company secretary; Quorum Corporate Services Limited who have undertaken the relevant filing of information with Companies House on behalf of the Companies.

North Downs Housing Ltd

- 3.13 The accounts of North Downs housing Ltd are presented at Appendix 1. The North Downs Housing Business Plan for 2016 to 2046 did not anticipate the company being profit making until year 5 however, the accounts show that the Company made an operating profit of £22,941 for the financial year 2018-19. Unfortunately due to the need to recognise an unrealised loss on the revaluation of property assets on its balance sheet, the company recognised an overall loss for the financial year of £638,536.
- 3.14 The company held fixed asset investments on its balance sheet of £7.1million. The investments comprise of residential property for rent in the borough of Guildford. The long term liabilities of the company of £4.9million relate to the loan between the Council and the company. After liabilities, the net assets of the company are £2.3million. The called up share capital of the company is £3million.

Guildford Borough Council Holdings Ltd

- 3.15 The accounts of Guildford Borough Council Holdings Ltd are presented at Appendix 2. The company has no tradeable activities of its own and its main purpose is to be the holding company shareholder for North Downs Housing Ltd and any other wholly owned companies that the Council may choose to set up in due course. As such the income and expenditure account records a small loss relating to administrative and interest expenses of £444. The company has recorded assets of £3million representing its equity shareholding of North Downs Housing Ltd.

4. Consultations

- 4.1 No consultations have been undertaken in relation to this report.

5. Key Risks

- 5.1 The Council currently manages the financial, housing management and housing acquisitions functions for the companies under a Service Level Agreement (SLA). However, due to changes in staffing some of these roles are currently vacant which puts the Council's ability to meet its SLA at risk. In addition, as the companies expand, additional resource to service them will also be required. A further risk and consideration is that the company secretariat role is currently outsourced. To improve governance arrangements, it is considered it would be beneficial to bring this function back in house. It is proposed that the Director of Service Delivery and the Director Resources discuss this matter with the relevant company boards.

6. Financial Implications

- 6.1 The Council has an approved a budget of £25.3million split between £15.2million loan financing to North Downs Housing (60%) and £10.1million equity financing

to Guildford Borough Council Holdings Ltd (40%) to enable North Downs Housing to implement the first four years of its 2016 to 2046 business plan.

- 6.2 As at 31 March 2019, the Council had spent £7.7million of its approved budget and a further £5.6million has been spent to date during 2019-20.

7. Legal Implications

- 7.1 The Council, acting through the Executive Shareholder and Trustee Committee, has the power to operate and manage the above mentioned companies using the General Power of Competence under Section 1 of the Localism Act 2011. In exercising its powers over the company, the Council remains subject to its general duties, such as its fiduciary duty, and must exercise the power with a proper purpose.
- 7.2 S2 of the Localism Act 2011 confirms that the Council's exercise of powers over the companies is limited where it overlaps with a power which pre-dates it. Accordingly, the Council must comply with S95 of the Local Government Act 2003 and the Local Government (Best Value Authorities)(Power to Trade)(England) Order 2009.
- 7.3 This report is prepared in compliance with the abovementioned legislation as well as The Companies Act 2006.
- 7.4 It is confirmed that the appointments detailed within this report comply with the requirements of the Articles of Association for Guildford Borough Council Holdings Ltd and North Downs Housing Ltd.

8. Human Resource Implications

- 8.1 There are no human resources implications as a result of this report.

9. Equality and Diversity Implications

- 9.1 There are no equality and diversity implications as a result of this report.

10. Climate Change/Sustainability Implications

- 10.1 There are no climate change / sustainability implications from this report.

11. Executive Advisory Board comments

- 11.1 EAB has not been consulted about this report on the basis that the accounts report historic performance of the company. It would be relevant for the EAB to be involved in reviewing any update to the business plan for North Downs Housing going forward however, this is being covered by the Overview and Scrutiny Committee (see below).

12. Suggested issues for overview and scrutiny

- 12.1 A review of North Downs Housing Business Plan is scheduled for the O&S committee on 2 June 2020.

13. Summary of Options

- 13.1 No options have been considered.

14. Conclusion

- 14.1 The Executive Shareholder and Trustee Committee is asked to note the accounts for the Council's subsidiary companies, Guildford Borough Council Holdings Ltd and North Downs Housing Ltd which have been presented as part of this report. The ESTC is also asked to approve the change in directorship for both companies.

15. Background Papers

1. Executive report 23 February 2016 'Establishment of North Downs Housing Ltd'
(<http://www2.guildford.gov.uk/councilmeetings/documents/s4601/Item%2006%20-%20North%20Downs%20Housing%20Ltd%202.pdf>)
2. Executive Report 18 July 2017 'North Downs Housing Ltd Business Plan 2016 to 2046'
(<http://www2.guildford.gov.uk/councilmeetings/documents/s8240/Item%2010%20-%20North%20Downs%20Housing%20Ltd%20report%20with%20amends%204%20july%202017.pdf>)
3. Executive Shareholder and Trustee Committee report 26 September 2017 'Shareholder general meeting of North Downs Housing Ltd and Guildford Borough Council Holdings Ltd'
(<http://www2.guildford.gov.uk/councilmeetings/documents/s8673/Item%2005%20-%20Shareholder%20General%20Meeting%20of%20North%20Downs%20Housing%20Ltd.pdf>) where an update business plan for North Downs Housing was also approved
(<http://www2.guildford.gov.uk/councilmeetings/documents/s8675/Item%2005%20-%20Shareholder%20General%20Meeting%20of%20North%20Downs%20Housing%20Ltd%20-%20App%203%20-%20NDH%20Business%20Plan.pdf>)

16. Appendices

Appendix 1 – North Downs Housing Ltd Annual Report and Financial Statements for the year ended 31 March 2019

Appendix 2 – Guildford Borough Council Holdings Ltd Annual Report and Financial Statements for the year ended 31 March 2019

