

# Guildford Borough Council

Report to: Executive Shareholder and Trustee Committee

Date:

Ward(s) affected: All

Report of Director: Legal & Democratic Services, Monitoring Officer

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Report Status: Open

## Appointment of Directors to Guildford Borough Council Holdings

### 1. Executive Summary

The Committee is asked to appoint two further directors to the Board of Guildford Borough Council Holdings Limited (the “Company”) company number 10152910.

### 2. Recommendation to Committee

That the Committee approves:

- 2.1. Jo Knight be appointed as a director of Guildford Borough Council Holdings to take effect on the Company receiving notice from the Council for a term of 4 years.
- 2.2. Tom Hunt be appointed as a director of Guildford Borough Council holdings to take effect on the Company receiving notice from the Council for a term ending on 7 January 2028.
- 2.3. the Executive Head of Service for Legal & Democratic Services to make a further appointment, if possible, of a director to Guildford Borough

Council Holdings to take effect on the Company receiving notice from the Council for a term of 4 years.

### **3. Reason(s) for Recommendation:**

- 3.1. To ensure that the Company has sufficient directors to enable decisions to be made, in particular to allow for the approval of the accounts which are due to be submitted in March 2024.
- 3.2. The appointment of directors to the Company can be undertaken by the Board but at present the Board is not quorate and therefore the only decisions which can be made is a request to the Council for the appointment of additional directors. It is also advisable to have sufficient directors to ensure that the Board remains quorate and provide some flexibility. In accordance with Article 21.2.1 of the Articles of Association that Council is able to appoint directors to the Board. This will ensure resilience and that the Board are able to fulfil their statutory duties in a timely manner.

### **4. Exemption from publication**

- 4.1. No

### **5. Purpose of Report**

- 5.1. To promote good governance by the Council as shareholder of the Company by the appointment of additional directors to ensure that the Company remains quorate and can take decisions efficiently.

### **6. Strategic Priorities**

- 6.1. The Company supports all the Council's strategic priorities and at present particularly supports the provision of homes and facilitates housing that people can afford being the holding company for North Downs Housing.

### **7. Background**

- 7.1. On 23 February 2016, the Executive resolved to establish the Company of which the Council is the sole shareholder.

- 7.2. The Company has two current directors Ian Doyle (term expiring 3 January 2026) and Dennis Paul (term expiring 28 April 2024). Tom Hunt is a former director of the Board but his term expired on 7 January 2024 and the Board did not convene to reappoint him although he has continued to act in the capacity of a director.
- 7.3. Directors are appointed for a term of four years and are then automatically retired, unless they are reappointed in accordance with Article 21.4.4. Under Article 21.4.5 no director can be appointed for more than eight years in aggregate.
- 7.4. The Council as the sole shareholder of the Company is the ultimate owner of the Company and it is in the Council's interests to ensure that the Board is quorate and the directors are able to meet their statutory obligations. In order for the Board to be quorate there must be at least three directors, of whom one must be an Officer of the Council and one must be a Member of the Council.
- 7.5. In appointing directors to the Board, the Council should be mindful of the need to appoint individuals with the necessary skills and expertise. Tom Hunt has been a director of the company and has the historical knowledge and understanding to provide ongoing stability and consistency and it is therefore recommended that he is reappointed. Jo Knight has offered to be appointed as a director of the company and has significant accountancy experience which will assist in the timely preparation and submission of the company accounts.
- 7.6. At present a third director has not been identified and the Committee is asked to give the Executive Head of Service for Legal & Democratic Services to authority to appoint a further director if a suitable volunteer presents themselves. This would mean that there would be a Board of five directors providing appropriate resilience and flexibility.

## **8. Consultations**

- 8.1. No consultation is required in relation to this recommendation.

## **9. Key Risks**

- 9.1. The Board are currently unable to make decisions which will impact on the filing of the accounts leaving the directors at risk of prosecution.

## **10. Financial Implications**

- 10.1. There are no financial implications

## **11. Legal Implications**

- 11.1. The Council, acting through the Executive Shareholder and Trustee Committee, has the power to operate and manage the Company using the general power of competence under s1 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.

- 11.2. This report is prepared in compliance with the above mentioned legislation as well as the Companies Act 2006. 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). An elected member on a board of directors has a statutory duty to promote the success of the company and to exercise independent judgement in the same manner as any other director. Those appointed as directors should be aware of these duties.

- 11.3. When appointing directors, it is essential to consider that the duty of any company director is to act in the interests for the company for the benefit of its shareholders as a whole. The Council should only appoint directors with the necessary skills to act in the Company's interests.

- 11.4. As set out above the Council has the necessary power to make the appointments detailed within this report in accordance with the Articles of Association for the Company.

## **12. Human Resource Implications**

12.1. No Human Resource implications apply to this report. Appointment as a director is done on a completely voluntary basis.

## **13. Equality and Diversity Implications**

13.1. The Publish Sector Equality Duty has been considered has been considered in the context of this report and it has been concluded that there are no equality and/or diversity implications arising directly from this report.

## **14. Climate Change/Sustainability Implications**

14.1. Not applicable

## **15. Summary of Options**

15.1. Retain the current position. This option will mean that the Board will not be quorate and the directors will be unable to undertake their statutory duties.

15.2. Appoint one additional director. This option presents a risk that if one director is unavailable the Board will not be quorate and given that decisions may need to be made expeditiously this is not recommended. It is also noted that the term for one of the remaining directors expires in April at which point the Company will not be quorate.

15.3. Appoint three additional directors to the Board to provide resilience and ensure that the Board is able to continue making decisions as required.

## **16. Conclusion**

16.1. The Committee is asked to appoint the directors as set out in the recommendations so that the risk is minimised and the Company is able to continue operating.

## **17. Background Papers**

None

## **18. Appendices**

None