

Agenda

Partner, Shareholder and Trustee Executive Sub-Committee



Thursday, 23 March 2023 at 6.30 pm

New Council Chamber, Town Hall, Reigate



This meeting will take place in the Town Hall, Castlefield Road, Reigate. Members of the public, Officers and Visiting Members may attend remotely or in person.

All attendees at the meeting have personal responsibility for adhering to any Covid control measures. Attendees are welcome to wear face coverings if they wish.



Members of the public may observe the proceedings live on the Council's [website](#).

Members:

T. Archer (Chair) and M. A. Brunt (Leader)

T. Schofield

V. H. Lewanski

Mari Roberts-Wood
Managing Director

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Reigate & Banstead
BOROUGH COUNCIL
Banstead | Horley | Redhill | Reigate

1. Apologies for absence

To receive any apologies for absence.

2. Minutes of the previous meeting (Pages 5 - 8)

To approve the minutes of the previous meeting on 26 January 2023 as a correct record.

3. Declarations of interest

To receive any declarations of interest.

4. Acquisition of property in Redhill (Pages 9 - 22)

To obtain authority to acquire two property interests in Redhill, which form part of a strategic site, subject to the usual due diligence.

5. Greensand Holdings Limited - Funding requirement (Pages 23 - 34)

To consider providing additional funds to Greensand Holdings Limited.

6. Insurance/indemnity for Council Company Member and Officer Directors/Board Representatives (To Follow)

To consider insurance/indemnity for Council Company Members and Officer Directors/Board Representatives.

7. Exempt business

RECOMMENDED that members of the Press and public be excluded from the meeting for the following item of business under Section 100A(4) of the Local Government Act 1972 on the grounds that:

- (i) It involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 1 A of the Act; and
- (ii) The public interest in maintaining the exemption outweighs the public interest in disclosing the information.

8. Any other business

To consider any other urgent business.



Our meetings

As we would all appreciate, our meetings will be conducted in a spirit of mutual respect and trust, working together for the benefit of our Community and the Council, and in accordance with our Member Code of Conduct. Courtesy will be shown to all those taking part.



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Notice is given of the intention to hold any part of this meeting in private for consideration of any reports containing "exempt" information, which will be marked accordingly.

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BOROUGH OF REIGATE AND BANSTEAD

PARTNER, SHAREHOLDER AND TRUSTEE EXECUTIVE SUB-COMMITTEE

Minutes of a meeting of the Partner, Shareholder and Trustee Executive Sub-Committee held at the New Council Chamber - Town Hall, Reigate on 26 January 2023 at 6.30 pm.

Present: Councillors T. Archer (Chair), T. Schofield and V. H. Lewanski (Vice-Chair)

Visiting Members: Councillors M. Blacker, P. Chandler, J. Essex, N. Harrison, J. King

38. APOLOGIES FOR ABSENCE

Apologies for absence from the Leader, Councillor Brunt.

39. MINUTES OF THE PREVIOUS MEETING

RESOLVED to approve the minutes of the previous meeting on 17 November 2022 as a correct record.

40. DECLARATIONS OF INTEREST

There were no declarations of interest.

41. GOVERNANCE OF COUNCIL'S CHARITABLE TRUSTS

Chairman and Executive Member for Investment and Companies, Councillor Archer, introduced the report on the Governance of the Council's Charitable Trusts. This recommended the Committee adopts the extension of the terms of reference of the Commercial Ventures Executive Sub-Committee, renamed the Partner, Shareholder and Trustee Executive Sub-Committee, as approved by Council on 1 December 2022.

The report also recommended the Committee approves the Charities' Trustee Annual Reports and Accounts for the financial year 2021 to 2022 attached to the report; and recommends the Committee authorises the Council's finance team to submit these to the Charity Commission by 31 January 2023.

Charities registered in England or Wales must send an annual return to the Charity Commission or report their income and spending every year. The Council is sole trustee for seventeen charitable trusts. The charitable trusts and the Council's duties as trustee are set out in the report.

The recommendations, as set out in the report, allow the Council's charities to meet their legal obligations to submit an annual return and accounts.

A Committee Member asked if all the accounts had been audited prior to submission to the Charity Commission. Pat Main, Chief Finance Officer, confirmed that the requirement from the Charity Commission was for independent

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examination, not audit, which is determined by the nature of the charitable trusts and income receipts each year. Four of the charitable trusts were subject to independent examination by a qualified accountant, as set out in the report, which satisfies the requirements of the Charity Commission.

A Visiting Member asked for assurance that all relevant procedures and processes had been in place historically. Joyce Hamilton, Strategic Head of Legal and Governance, confirmed that the Council has always previously submitted annual accounts on the relevant charitable trusts. Last year, the governance arrangements had been reviewed to give more visibility to the Council and wider public as set out in the report to Council, approved on 1 December 2022.

RESOLVED – that the Partner, Shareholder and Trustee Executive Sub-Committee AGREED;

- (i) **To approve the Council’s Trustee Annual Reports (TARS) and Annual Accounts for 2021/22;**
- (ii) **To authorise Council’s Finance Team to submit the TARS and Annual Accounts to the Charity Commission by 31st January 2023.**
- (iii) **To adopt the extension of the terms of reference of the Commercial Ventures Executive Sub-Committee, renamed as the Partner, Shareholder and Trustee Sub-Committee, as approved by Council on 1 December 2022.**

42. COMPANIES PERFORMANCE UPDATE - WINTER 2022

Members received the twice-yearly report which provides an overview of the performance of companies owned or part-owned by the Council. It is prepared on a biannual basis as part of the governance oversight of the Council’s investments and was reviewed by the Overview and Scrutiny Committee on 8 December 2022.

Their observations were discussed in that meeting’s Exempt discussions and are now included in the Exempt report to the agenda this evening.

There are three active companies which the Council owns, or part-owns and these are:

- Greensand Holdings Limited, a property investment and development company wholly owned by the Council, which owns an office building and a plot of development land;
- Horley Business Park Development Limited Liability Partnership (LLP), a joint venture to bring forward planning for and development of the proposed Horley Business Park. The Council is a partner of this LLP; and
- Pathway for Care Limited, a supported living provider, of which the Council is a minority shareholder.

The report contains information on these companies, the Council's financial involvement with them, and an overview of their recent performance from the Council's perspective.

Councillor Archer responded to questions raised regarding the companies and noted that any commercially sensitive matters may need to be discussed in private.

There were no questions from Committee members.

A Visiting Member asked about recent changes to local government guidance on commercial investments and asked for more detail on how this might impact the performance of the companies owned or part-owned by the Council such as Greensand Holdings Limited.

The Chief Finance Officer gave an overview of the key changes in government regulations both in terms of a local authority's ability to borrow from the Public Works Loans Board (PWLB) and the criteria and types of activity that councils are allowed to borrow to fund. PWLB funding is available for creation of assets for operational service delivery and to support regeneration of a local authority's assets in a local area.

This followed a shift in central government's funding strategy to local government in recent years as a response to a few high profile local authorities nationally who were exposed to risk in this area. Councils are no longer eligible to borrow to fund purely commercial activities to generate income. In summary, it was a very different position from a few years ago when funding was more freely available to invest in commercial assets.

Further information was set out in the Council's Capital Investment Strategy and Treasury Management Strategy.

RESOLVED – that the Partner, Shareholder and Trustee Executive Sub-Committee agreed to note the Companies Performance Update – Winter 2022 as set out the report.

RESOLVED – that the Partner, Shareholder and Trustee Executive Sub-Committee agreed to note the Companies Performance Update – Winter 2022 exempt report and observations of the Overview and Scrutiny Committee from the exempt Part 2 section of its meeting on 8 December 2022.

43. GREENSAND HOLDINGS LIMITED - FUNDING REQUIREMENT

As noted at the start of the meeting, this item was withdrawn from the agenda at the meeting pending further advice. This agenda item will be brought to a future meeting of this Committee.

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44. EXEMPT BUSINESS

RESOLVED that: Members of the Press and public be excluded from the meeting for the following item of business under Section 100A(4) of the Local Government Act 1972 on the grounds that:

- (i) It involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act as the information in the report relates to the financial or business affairs of the authority; and
- (ii) The public interest in maintaining the exemption outweighs the public interest in disclosing the information.

45. ANY OTHER BUSINESS

There was no other business.

The Meeting closed at 6.55 pm



SIGNED OFF BY	Chief Finance Officer
AUTHOR	Daniel Jones, Property Services Manager,
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TO	Partner, Shareholder and Trustee Executive Sub-Committee
DATE	23/03/2023
EXECUTIVE MEMBER	Portfolio Holder for Investment and Companies

KEY DECISION REQUIRED	Y
WARDS AFFECTED	Earlswood and Whitebushes

SUBJECT	Acquisition of Property in Redhill
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<p>RECOMMENDATIONS</p> <p>That the Chief Finance Officer in consultation with the Executive Members for Investment & Companies and Finance & Governance, be authorised to:</p> <p>(i) Acquire the Freehold and Long Leasehold properties referred to in Part 2 of this report; and</p> <p>(ii) Agree any variations to the heads of terms and to the acquisition price further to external valuation advice and due diligence investigations.</p>
<p>REASONS FOR RECOMMENDATIONS</p> <p>To obtain authority to acquire, subject to the usual due diligence, two property interests in Redhill which form part of a strategic site, the primary purpose of which is to support future regeneration objectives in the area.</p>

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EXECUTIVE SUMMARY

This report seeks authority to acquire one freehold interest and one long leasehold interest in two properties in Reading Arch Road, Redhill. Full details of the Council's offer, the financial implications and the property addresses are set out in the report in Part 2 of the agenda.

The acquisitions present an opportunity for the Council to increase its strategic land holdings in Redhill town centre. These additional ownerships would give the Council the majority interest in this land holding with a view to potential future developments on the site, which is allocated in the Development Management Plan.

The Partner, Shareholder and Trustee Executive Sub-Committee has authority to approve the recommendations.

STATUTORY POWERS

1. Section 1 of the Localism Act 2011 gives local authorities a general power of competence that enables them to do anything that a private individual is entitled to do, as long as it is not expressly prohibited by other legislation.
2. As the primary purpose of this acquisition is to support delivery of the Council's regeneration ambitions to achieve socio-economic benefits for residents of the borough, it is therefore compliant with CIPFA's Prudential Code for capital finance in local authorities and associated borrowing regulations.

BACKGROUND

3. A site at Reading Arch Road has been allocated in the Council's Development Management Plan (DMP) for a retail and residential development.
4. The Council already owns a significant part of the allocated site, having acquired additional freehold and long leasehold interests in 2021.
5. These acquisitions represent a further opportunity to continue assembling the site in advance of any possible future compulsory purchase in order to enable redevelopment of the site and realise the planning and regeneration benefits envisaged by the DMP allocation.

KEY INFORMATION

6. Seven of the nine units on the site, along with the access road, are already in the Council's freehold ownership.
7. Four of these units are subject to long leases and the proposed acquisition would extinguish one of those long leasehold interests and leave just one industrial unit plus two areas of open storage and ancillary land/buildings in third party freehold ownership.
8. Acquisition of the interests will also enable the Council to generate additional rental income from market lettings in the short to medium term.

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9. A plan of the site showing the Council's existing ownership, long leasehold interests and the interests to be acquired is included in the exempt Part 2 report on this agenda.

OPTIONS

10. The Sub-Committee has two options:

Option 1: Acquire the Freehold and Long Leasehold Interests. This is the recommended option. Subject to a successful due diligence process, the Council will acquire property that adds to an existing strategic interest in Redhill, which will help realise additional regeneration benefits in the future.

Option 2: Do nothing. This option is not recommended as it could compromise the Council's ability to compulsorily purchase parts of the site in the future if it has not taken reasonable steps to acquire interest by negotiation.

LEGAL IMPLICATIONS

11. As identified in the Statutory Powers section of this report, the Council has a general power of competence that enables them to do anything that a private individual is entitled to do, as long as it is not expressly prohibited by other legislation.
12. In accordance with section 120 of the Local Government Act 1972 the Council has also has the power to acquire land by agreement for the benefit, improvement, or development of its area.
13. The CIPFA Prudential Code for Capital Finance in Local Authorities and the CIPFA Code of Practice for Treasury Management stipulate that Councils are not allowed to borrow to invest solely for financial return. However, the purpose of these acquisitions is for longer term planning and regeneration benefits, with the future role of the wider site confirmed via an existing Local Plan allocation.
14. There is no legal duty to consult the public on any commercial terms of the acquisition.
15. Although the Council is not under an explicit duty to acquire property at market value it still must have regard to its fiduciary duties. Accordingly, the acquisition will be supported by a formal "Red Book" valuation.
16. Legal advice will be sought as necessary throughout the process.

FINANCIAL IMPLICATIONS

17. The purchase price, acquisition costs and other financial implications are set out in the exempt Part 2 report on this agenda.
18. The purchase will be funded through prudential borrowing, the costs of which can be accommodated within the treasury management budget over loan term.

EQUALITIES IMPLICATIONS

19. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;

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- Advance equality of opportunity between people who share those protected characteristics and people who do not;
- Foster good relations between people who share those characteristics and people who do not.

20. The three parts of the duty applies to the following protected characteristics: age; disability; gender reassignment; pregnancy/maternity; race; religion/faith; sex and sexual orientation. In addition, marriage and civil partnership status applies to the first part of the duty.

21. There are no direct equalities implications arising from this report and the recommended actions are not considered to present any change to the Council's Public Sector Equality Duty.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

22. There are no direct environmental sustainability implications arising from this report.

COMMUNICATION IMPLICATIONS

23. There are no direct communications implications arising from this report.

RISK MANAGEMENT CONSIDERATIONS

24. All asset investment activities carry an inherent level of risk, however, all usual and appropriate due diligence will be carried out when acquiring the property. An overview of general risks associated with commercial asset activity, and risk management/mitigation measures, is included within the Commercial Strategy Part 2.

25. Additional risk management considerations are set out in the exempt Part 2 report on this agenda.

CONSULTATION

26. The Portfolioholders for Investment & Companies and Finance & Governance have been consulted about the proposed acquisition.

POLICY FRAMEWORK

27. The recommendations of this report are consistent with the Council's Policy Framework and support the Council's "Reigate & Banstead 2025" five-year plan objectives to drive the continued economic prosperity of the borough, facilitate improved business infrastructure, and confirm the borough's reputation as a great place to do business. As noted above, the recommendations are aligned with the Development Management Plan.

28. The proposals are also consistent with the objectives of the Asset Management Plan 2023 - 2028 and Commercial Strategy.

BACKGROUND PAPERS

None

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Signed off by	Strategic Head of Legal & Governance
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To	Partner, Shareholder and Trustee Executive Sub-Committee
Date	Thursday, 23 March 2023
Executive Member	Portfolio Holder for Investment and Companies

Key Decision Required	Y
Wards Affected	(All Wards);

Subject	Greensand Holdings Limited - Funding Requirement
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Recommendations
<p>(i) To approve a further injection of equity funds into Greensands Holdings Limited. This will be effected by the subscription for additional ordinary shares up to the value of £1,300,000;</p> <p>(ii) That the Strategic Head of Legal and Governance, in consultation with the Chief Finance Officer and the Members of the Partner, Shareholder, Trustee Sub-Committee be authorised to accept offers to subscribe for additional equity issued by the Company within agreed parameters;</p> <p>(iii) That the Strategic Head of Legal and Governance, in consultation with the Chief Finance Officer and the Members of the Partner, Shareholder and Trustee Sub-Committee be authorised to undertake the transactional steps required to ensure that any additional equity is subscribed for and issued in compliance with prevailing company law;</p> <p>(iv) To receive a further report on the plans for Greensand Holdings Limited when the details are confirmed.</p>
<p>Details are set out in the Exempt report in the Part 2 section of this agenda.</p>

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Reasons for Recommendations
The injection of additional equity funding into Greensand Holdings Limited (“the Company”) will allow it to continue trading and to carry out urgent and essential works at its property, Crown House, Redhill.
Partner, Shareholder, Trustee Executive Sub-Committee has authority to approve the above recommendations.

Statutory Powers
<ol style="list-style-type: none">1. Section 1 of the Localism Act 2011 gives local authorities a general power of competence that enables them to do anything that a private individual is entitled to do, as long as it is not expressly prohibited by other legislation. Section 4 of the same Act directs that anything which is done for purely commercial purposes should be done through a company structure.2. Companies and the rights of shareholders are governed by the Companies Act 2006.

Background
<ol style="list-style-type: none">3. The relevant background is set out in the exempt report in the Part 2 section of this agenda.

Options
<ol style="list-style-type: none">4. The options available to the Executive are set out below: Option 1: To approve a further injection of equity funds into Greensands Holdings Limited, effected by the subscription for additional ordinary shares up to the value of £1,300,000 and to authorise the Strategic Head of Legal and Governance, in consultation with the Chief Finance Officer and Members of the Partner, Shareholder, Trustee Sub-Committee to accept offers subscribe for additional equity issued by the Company within agreed parameters. This is the recommended option as it will support the Council’s objectives, for the company. Option 2: To not authorise the injection of equity funds into Greensand Holdings Limited. This is not the recommended option as it will not support the Council’s objectives and may have a negative impact on the sustainability of the company’s business model.

Legal Implications
<ol style="list-style-type: none">5. Section 1 of the Localism Act 2011 provides local authorities with the power to do anything an individual may do, subject to a number of limitations. This is referred to as the ‘general power of competence’. A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the

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benefit of others; ie. this includes the setting up of companies as alternative delivery vehicles to exercise its powers and duties. In exercising this power, a local authority is still subject to its general duties (such as the fiduciary duty it owes to its rate and local taxpayers and to the public law requirements to exercise the general power of competence for a proper purpose).

Financial Implications

6. The injection of additional equity (transacted by the purchase of further ordinary shares in the Company) will be funded through prudential borrowing and accounted for in line with the Council's treasury management and investment policies.
7. Officers have consulted the Council's legal advisors who have confirmed that the injection of additional equity funding is legally permissible and have validated the Council's understanding of the processes that will need to be followed to ensure that this is done in a way that is compliant with prevailing company law. The Council has also received confirmation that the injection of capital into the Company does not breach the current Subsidy Control regulations. It is proposed that the Company will approve the issue of additional equity by ordinary resolution (by way of a written resolution) and will issue a single Subscription Agreement (which will establish the overarching requirement for additional equity with the Council and the subscription tranches) and the investment of individual tranches will be authorised by minuted directors' decisions taken at Company Board meetings (subject to the relevant voting conditions as set out in the Articles of Association).

Equalities Implications

8. There are no direct equalities implications of this decision, and the loan will have no negative or discriminatory effects upon any individuals with protected characteristics.

Communication Implications

9. There are no communication implications. The PSTSC, acting as the Council's Shareholder representative, has taken this decision in order to ensure that it is supporting the Company to continue to operate on a financially sustainable basis.

Environmental Sustainability Implications

10. The Council is committed to taking action to address environmental sustainability and climate change issues. All works being carried out at Crown House are being undertaken by accredited contractors. In addition, the outcome of these work will be to improve the Energy Performance Certificate (EPC) rating of the property.

Risk Management Considerations

11. The proposed additional equity funding will assist the company to continue to operate on a sustainable basis and will ensure that PSTSC is meeting its obligations and responsibilities as the Council's shareholder representative.

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12. The Council recognises that all investment activities represent a risk.

Human Resources

13. There are no implications arising from this report.

Policy Framework

14. Supporting Greensand Holdings Limited to proceed with its plans as set out in the Exempt part 2 section of this agenda, supports the effective management of the Council's investment and is consistent with the objectives of the Council's Corporate Plan and commercial strategy.

Background Papers

Greensand Holdings Limited - Funding Requirement EXEMPT report