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| <b>Signed off by</b>    | Director of Commercial and Investment         |
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| <b>To</b>               | Overview & Scrutiny Committee                 |
| <b>Date</b>             | Thursday, 18 March 2021                       |
| <b>Executive Member</b> | Portfolio Holder for Investment and Companies |

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|------------------------------|-----------|
| <b>Key Decision Required</b> | No        |
| <b>Wards Affected</b>        | All Wards |

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| <b>Subject</b> | Companies Performance Update – Spring 2021 |
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| <b>Recommendations</b>  |
| <p><b>1. To note the Spring 2021 Companies Performance Update, as set out in the report, and to make any observations for consideration by the Commercial Ventures Executive Sub-Committee.</b></p>   |
| <b>Reasons for Recommendations</b>  |
| To consider the performance of companies owned or part-owned by the Council, as of Spring 2021  |
| <b>Executive Summary</b>  |
| <p>This report provides an overview of the performance of the companies currently owned, or part-owned, by the Council.</p> <p>These companies currently consist of Greensand Holdings Limited, Horley Business Park Development LLP, and Pathway for Care Limited.</p> <p>All these companies are currently considered to be performing overall in line with the Council’s current objectives and expectations.</p> <p>Additional commercially sensitive supporting information is detailed in the exempt report set out in the Part 2 section of this agenda.</p> |

## **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. 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 LLPs are governed by the Companies Act 2006; The Limited Liability Partnerships Act 2000; and The Limited Liability Partnerships Regulations 2001 (as amended principally by the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009).

## **Background**

3. Local Authorities face ongoing financial challenges in recent years, due to a combination of reductions in central government funding, and increasing demand on services in many areas. Whilst Reigate and Banstead Borough Council has maintained a generally strong financial position, it remains essential for the Council to generate income beyond its statutory funding, if it is to continue to deliver and maintain the high level of services it currently provides and has planned to continue to provide as part of the Corporate Plan 2020-2025.
4. Whilst the Council pursued commercial activities before 2019, there was a Commercial Governance Review in 2018. Following that review, the activities have been overseen by the Commercial Ventures Executive Sub-Committee, and integrated within the Council's wider Service and Financial Planning.
5. These activities take place within financial limits set out as part of the Council's budget and capital programme.
6. To support good governance of the Council's companies, the Overview and Scrutiny Committee and the Commercial Ventures Executive Sub-Committee receive regular updates on the performance of these companies.
7. The last full update was considered in Autumn 2020.

## **Key Information**

8. As identified in the Executive Summary, the Council currently owns or part-owns three companies. These are Greensand Holdings Limited, Horley Business Park Development LLP, and Pathway for Care Limited.
9. All these companies are currently considered to be performing in line with the Council's current objectives and expectations.
10. More detail of the current status and performance of the Council's interest in each company is set out below.

### **Greensand Holdings Limited**

11. Greensand Holdings Limited is a property investment and development company, established to facilitate the Council's property investment activities. It is wholly owned by the Council. The creation of the company was authorised by the Executive on 15 September 2016.

12. The company was initially funded through a loan from the Council. It generates an income from one of its property holdings and provides an income to the Council through interest on the loan.
13. The company has received £13,258,009 in loan funding from the Council.
14. The company currently holds one active property, which provides a rental income sufficient for the company to meet its loan obligations to the Council.
15. The current Directors of the company are William Pallett, Derek Beck and Councillor R. Michalowski.
16. The company, from a shareholder perspective, is currently judged to be performing well.
17. The Directors' Report and Audited Financial Statements for the year ended 31 December 2019 for Greensand Holdings Limited were provided as Annex 1 to the Companies Performance Update – Autumn 2020. The reports for the year ended 31 December 2020 have not yet been prepared.
18. Additional details are available in the exempt report set out in the Part 2 section of this agenda.

#### **Horley Business Park Development Limited Liability Partnership**

19. Horley Business Park Development LLP is a joint venture which was set up to bring forward planning, and subsequent development, of employment land in the Horley area. The creation of the company was authorised by the Executive on 15 October 2015, and a joint venture with Millhill Properties (Horley) Limited and Berwick Hill Properties Limited was established in 2016.
20. The partnership is funded through loans from the Council and its partners. It does not currently generate a profit, but is working towards the future development of the proposed Horley Business Park as a long term project.
21. Future plans are being revised in light of the occurrence of Covid-19, but progress continues to be made.
22. As per the question and response at Council on 11 February, a number of trees on land owned by Millhill Properties were felled in November 2020, without the knowledge or approval of the Council. As identified, there is a limited amount that can be shared at this time regarding the Council's relationship with Millhill, but as noted in February, the Council has acted via the Tree Preservation Process and is cooperating with the Police and Forestry Commission.
23. The Annual Report and Financial Statements for the year ended 31 December 2019 for Horley Business Park Development LLP were provided as Annex 2 to the Companies Performance Update – Autumn 2020. The reports for the year ended 31 December 2020 have not yet been published.
24. Additional details are available in the exempt report set out in the Part 2 section of this agenda.

#### **Pathway for Care Limited**

25. Pathway for Care Limited provides supporting living facilities and support for their residents at a number of sites in the borough and surrounding areas. As a

shareholder, the Council is able to provide local expertise and experience in supporting vulnerable residents. The creation of the company was authorised by the Executive on 14 July 2016.

26. The Council is a minority shareholder in the company, with the majority shareholding held by Transforming Healthcare Group Limited. The Council has the right to appoint a director to the board of the company.
27. The Council also holds £1.1m redeemable preference shares in the company, redeemable in April 2023, which were converted from the Council's £1.1m loan to the company. When redeemed, these will provide a capital receipt for the Council, subject to the company holding sufficient funds to honour the redemption at that time.
28. The Council also stands to receive income from any dividends paid by the company. Total dividends are stipulated to be 50% of net profits generated by the company, subject to cash flow. Whilst the company has been investing in growing its services, it had not generated a profit until last year, and therefore had not yet provided a dividend income to the Council. Over 2020, the company reduced its voids, revised its operating model and consistently generated a monthly profit.
29. The company reported retained earnings of £8,623 for the year to 31 July 2020. This represents a net profit and will be monitored with regard to the coming year's earnings to ensure the Council's preference shares in the company are repaid when funds are available for distribution.
30. The current Directors of the company are Paul Green, Warren Richards; and Councillor V. Lewanski, the Council appointed Director.
31. The Annual Report and Financial Statements for the year ended 31 July 2020 for Pathway for Care Limited are provided as Annex 1 to this item.
32. Additional details are available in the exempt report set out in the Part 2 section of this agenda.

### **Forthcoming Business**

33. The Council is currently developing Part 2 of its Commercial Strategy. This will help set out the Council's approach to further investments.
34. As individual projects are developed, these will be brought forward for consideration by relevant committees, and will be available for scrutiny as required.

### **RBBC Limited**

35. RBBC Limited was incorporated on 30 September 2020 following the dissolution of the original RBBC Limited. It was created for the purpose of preserving the name to allow the Council to use the company name in the future. The directors, appointed for incorporation purposes, are the Director of People and the Director of Place. The company is inactive.

### **Legal Implications**

36. There are no direct legal implications of this report.

37. Where are decisions are made which effect the Council's companies, the legal implications of these decisions will be considered as part of the decision making process in each case.

### **Financial Implications**

38. There are no direct financial implications of this report. The Council's annual statement of accounts incorporates the financial position of its companies as part of its group financial statements.

39. Where are decisions are made which effect the Council's companies, the financial implications of these decisions will be considered as part of the decision making process in each case.

### **Equalities Implications**

40. 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;
- 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.

41. 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.

42. There are no direct equalities implications of this report, however an awareness of the Council's obligations with respect to these duties should form part of the consideration of this report.

43. Where are decisions are made which effect the Council's companies, the equalities implications of these decisions will be considered as part of the decision making process in each case.

44. The Commercial Ventures Executive Sub-Committee shall generally have regard to the obligations of the Equality Act (2010) in conducting its role as the representative of the Council as a shareholder or partner in companies owned or part-owned by the Council.

### **Communication Implications**

45. There are no direct communication implications as a result of this report. However, as identified in the Commercial Governance Framework, the Commercial Ventures Executive Sub-Committee shall have regard for the Local Authorities (Companies) Order 1995, which sets out the rights for authorities and individual Members to receive company specific information.

## **Risk Management Considerations**

46. All commercial ventures and investment activities contain an element of risk, and the Commercial Ventures Executive Sub-Committee shall consider these as part of the decision making process for any future decisions relating to companies owned or part-owned by the Council.
47. In monitoring the performance of companies owned or part-owned by the Council, the Commercial Ventures Executive Sub-Committee has regard to the fiduciary duty the Council owes to its rate and local tax payers, to the public law requirements to exercise the general power of competence for a proper purpose, and the requirements of the Commercial Governance Framework which forms part of the terms of reference of the sub-committee.

## **Policy Framework**

48. The recommendations of this report are consistent with the Council's Policy Framework.
49. All actions undertaken by the Council shall have regard to the objectives of the Council's Corporate Plan and supporting policy framework, unless otherwise specified by statute.